YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**Halakha in the Age of Social Media**

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**Shiur #23:**

**Cyberbullying -**

**Public Humiliation in Halakha**

**Part II**

**An Option to Sacrifice One’s Life?**

Last week, we noted that the Talmud seems to entertain the position that humiliating others is a cardinal sin. Whether this is indeed the Talmud’s intent is a dispute among the Rishonim and the Acharonim, and even among modern authorities. There is, however, a middle position worth exploring.

Rav Aryeh Klapper suggests the following: considering how some cases of humiliation may indeed be life-shattering, perhaps the Talmud’s intent is that one has the **option** to sacrifice his or her life rather than destroy the life of another. This does not mean that all cases rise to that level, but perhaps the Talmud is open to some cases fitting that bill and wants people to be able to choose to sacrifice themselves to protect potential victims.

As we saw last week, social media and the internet in general have created an atmosphere in which a “shame storm” may dog people for years, preventing them from getting jobs or forging healthy relationships, as well as creating a host of other problems. In such a world, a perspective like this has a certain appeal and may be defended on the basis of several positions expressed by Rishonim, Acharonim and Poskim*.*

**Obligation or Permission**

In general, there is a dispute between the Rishonim whether the “big three” are the only sins one for which one is **obligated** to sacrifice his or her life, or the only sins for which one is **permitted** to sacrifice his or her life. According to the latter position, barring cases of *she’at ha-shemad,* a period of persecution when Judaism as a religion is under attack (at which time the rules are different regardless), one is obligated to live rather than sacrifice his or her life to refrain from violating the majority of *mitzvot*.

The latter position is taken by the Rambam who forcefully writes as follows:

It is mandatory upon the whole house of Israel to sanctify this Great Name, for it is said: "And I shall be sanctified among the children of Israel" ([Lev. 22.32](https://www.sefaria.org/Leviticus.22.32)). They are also charged not to blaspheme Him, for it is said: "And ye shall not profane My holy Name" (Ibid.).

How are these commandments to be observed? If an idolater will force an Israelite to transgress one of the commandments of the Torah and threaten him with death for disobedience, it is mandatory that he transgress the commandment and be not put to death, for it is said concerning the commandments: "That which a man may do and live by it" (Ibid. 18.5) — “live by it, but not die for it". Thus, if he chose death and did not transgress, his blood be upon his own head.

Whereat are these words directed? Concerning all other commandments, save idolatry, adultery and blood-shed. For respecting these three commandments, if one will say to him: "Transgress one of the three, or die," he shall die, and not transgress. (Rambam, *Hilkhot Yesodei Ha-Torah* 5:1-2, Glazer translation)

The Rambam rules that one who sacrifices his life in any case other than those mandated by the Torah is essentially committing suicide. A simple reading of the Rambam implies that **not sacrificing** one’s life for the *mitzvot* that are not cardinal sins is a more primary fulfillment of sanctifying God’s name than martyring oneself for the “big three”![[1]](#footnote-1)

Tosafot (*Avoda Zara* 27b, s.v. *Yakhol*), however, rule that one is entitled to sacrifice one’s life for the other sins; one is simply not obligated to.

Rav Daniel Feldman[[2]](#footnote-2) suggests that it is this position that leads Tosafot to understand that humiliating others is a cardinal sin, as one always has the option to sacrifice his life rather than violate a sin. Thus, if the Talmud singles out a specific sin, it must be because that sin carries with it an obligation to give up one’s life.

Rav Yehuda Herzl Henkin (*Responsa Bnei Vanim* 1:41), however, raises a different possibility. Perhaps Tosafot hold that there are three categories:

1. The three cardinal sins for which one must sacrifice his or her life
2. The majority of *mitzvot* for which one is entitled, but not obligated, to sacrifice his or her life
3. *Mitzvot* for which one is encouraged, though not obligated, to sacrifice his or her life

Perhaps Tosafot relegate the sin of public humiliation to the third category; one could suggest, as Rav Klapper does, that this would only be true in particularly egregious cases.

The *Penei Yehoshua* (*Bava Metzia* 59a) suggests a similar formulation within the perspective of the Rambam: even if one thinks, like the Rambam, that for most *mitzvot,* one either is obligated or forbidden to martyr oneself for its fulfillment, perhaps the prohibition of humiliating others is severe enough that one is allowed to give up one’s life, and if one does, it is not considered suicide.

The intent of the above analysis is not to offer practical halakhic guidance. Most Poskim, Rav Shelomo Zalman Auerbach notwithstanding, fully reject the position that this sin of publicly humiliating others requires or permits martyrdom more than any other non-cardinal sin (see the writings of Rav Henkin and Rav Feldman for fuller lists). Rather, this discussion is meant to highlight the severity with which halakhic authorities view public humiliation, understanding, therefore, how critical it is to avoid using the tools of social media which exacerbate the issue to cause such harm.

**Why Is Public Humiliation like Murder?[[3]](#footnote-3)**

As we have seen, the Talmud compares humiliation to murder. What is it, however, that lends it this quality? The Talmud offers a physiological explanation: it causes the blood to drain from one’s face — hence the Talmudic term for humiliation is *halbanat panim,* the whitening of the face.

However, the *Midrash Shemuel* quotes Rav Menachem of the House of Meir, describing a state which, as Rav Daniel Feldman puts it “will be familiar to anyone who has ever been truly been embarrassed.”[[4]](#footnote-4) The *Midrash* *Shemuel* writes:

One who is humiliated, his face first turns red, and then turns white, because due to the magnitude of the shame, his soul “flies away,” as if it wanted to leave the body… once the blood returns to its source, the face turns white, like someone who had died… (*Midrash Shemuel* to *Avot* 3:15, translation from Feldman)

In other words, true, deep shame and embarrassment make someone want to die. As we noted last week, social-media shaming has been linked to increased rates of suicide, further deepening this link in a terrifying way.

**Losing One’s Share in the World to Come**

In a different aggadic passage we have already mentioned, the Gemara suggests that this sin erases one’s share in the world to come, even more so than cardinal sins such as adultery. The context for this is King David’s being shamed by others in the aftermath of the incident with Bat Sheva:

**David said before the Holy One, Blessed be He: Master of the Universe, it is revealed and known before You that if** my tormenters **were to tear my flesh, my blood [*dami*] would not flow to the ground,** due to excessive fasting.

**And moreover,** they torment me to the extent that **even at the time** when **they are engaged** in the public study of the *halakhot* **of leprous sores and tents** in which there is a corpse, i.e., halakhic matters that have no connection to my sin, **they say to me: David, one who engages in intercourse with a married woman, his death** is effected **with what** form of execution? **And I say to them: One who engages in intercourse with a married woman** before witnesses and with forewarning, **his death is by strangulation, but he** still **has a share in the World-to-Come. But one who humiliates another in public has no share in the World-to-Come.** The transgression of you, who humiliate me, is more severe than my transgression. (*Bava Metzia* 59a, Koren translation)

Rabbenu Yona (*Sha’arei Teshuva* 3:141), who believes that humiliating others is a subset of murder and is also a cardinal sin, understands the rationale simply. This is a case of murder in which the sinner will not realize the gravity of his sin. Thus, he will remain an unrepentant murderer.

The Rambam, however, argues that shaming others, when unjustified, is indicative of the lowest of characters:

And they have already mentioned things besides these, that if one does them, he has no share in the world to come: they said ([Bava Metzia 59b](https://www.sefaria.org/Bava_Metzia.59b)), one who whitens the face of his fellow in public and one calls his fellow by his nickname and ([Yerushalmi Chagigah 2:1](https://www.sefaria.org/Jerusalem_Talmud_Chagigah.2a.1)) one who derives honor from his friend's disgrace. Since one would not do from these acts — and even though one might think them to be light sins — except for one with an inferior spirit that does not have wholeness and is not fitting for the world to come. (Rambam, Commentary to Mishna, *Sanhedrin* 10:1, Sefaria translation)

While Rambam himself seems to limit this to habitual violators (see *Responsa Iggerot Moshe* 5:20:14), one could argue the same even for a single violation. To stoop to such a level, without taking into account the destruction it may cause for the lives of others, is representative of callousness.

Rav Feldman notes from the *Midrash Eliyahu* that it may be that this stringency is due to the staying power of humiliation: “Physical death occurs once and is over with, while the emotional pain lasts and reverberates.” (Feldman, p. 17). As we saw from the anecdotes we cited last week, in the digital age, this insight is particularly poignant.

The *Penei Yehoshua* (*Bava Metzia* 58b) offers another possibility in the name of the *Tosafot Yom Tov,* citing *Midrash Shemuel*. Humiliation strips away a person’s sense of dignity. As human beings are created in the image of God, embarrassing others shows that one has no concern for the inherent godliness in all people. Rav Shammai Kehat Gross takes this position as well (*Responsa Shevet Ha-Kehati* 1:361).

**Not Only Verbal**

It should be noted that the prohibition is violated whether or not words are used. Rabbi Eliezer of Metz (*Yere’im* 180 [51 in old printings]) argues that one can violate *ona’at devarim,* hurting people with words, even by “displaying a displeasing countenance” (Feldman, p. 20). The *Sefer Chasidim* (972) goes so far as to argue that a greater scholar should not attend the lecture of a lesser scholar, as it will intimidate him. As Rav Feldman summarizes the consensus of the Poskim*,* “all humiliation is subsumed under the umbrella of verbal oppression, as it inflicts emotional pain.” Thus, it would not matter whether one humiliates using words or by publicizing an embarrassing photo or meme; any such act would cause one to violate the prohibition.

We noted in previous *shiurim* that the Poskim generally assume that the same is true for *lashon ha-ra:* one violates the prohibition regardless of how the information is transmitted.

**In Public**

Is the prohibition only violated in public? If so, what qualifies as “in public”?

Several Poskim assume that the prohibition is equally grave whether the humiliation occurs in front of a crowd or in private. For example, Rav Henkin notes that in several manuscripts of the Tur (*CM* 420) and Rambam (*Hilkhot Chovel U-mazik* 3:7), the phrase is not, as in our Talmud, “*ha-malbin penei chavero be-rabim,”* but rather “*ha-malbin penei chavero bi-dvarim”* — not “one who humiliates his fellow in public,” but rather “one who humiliates his fellow with words.”

Rav Henkin prefers the latter variant*.* However, he notes that even were one to reject this version, the legal conclusion would be the same. He assumes that the Gemara only discusses public humiliation as it is being in the presence of others that usually generates the embarrassment. In private, it is more difficult to embarrass others.

He further notes that even the classic passage with which we began, discussing the actions of Tamar, seems to prove this. Tamar sends her letter to Yehuda privately, which means she could have revealed that he is the father directly without shaming him. The fact that she risks her life rather than embarrass him privately (and even in that case certain Rishonim suggest that this is a cardinal sin) proves that the prohibition is equally binding whether in public or in private. He rejects the possibility that the letter she writes is being read publicly, as there is no indication that this is the case.

The *Peri Megadim* (OC *Eshel Avraham* 156) rules similarly. However, he does think that the sin is worse if an audience in present, and he notes that both points emerge from the rulings of the Rambam. In his introduction to *Hilkhot De’ot,* the Rambam formulates the prohibition *she-lo le-halbin panim,* not to embarrass; he elaborates: “from this we learn that it is forbidden to put an Israelite to shame, needless to say publicly” (6:8). This position is also taken by the *Kol Bo* (67), *Chafetz Chayim* (*Chovat Ha-shemira* 14), and many others (see Feldman, pp. 18-19).

Others, such as the *Semak* (126), do require an audience — but how many? While *rabim* often refers to ten people, most Poskim assume that that is not the intention here. Rather, drawing on the extensive discussions among the Poskim we have seen about the power of three people to ensure that something becomes well (or even universally) known, they assume that this may be the number; any embarrassment that will become known causes enough harm to the victim as to violate this prohibition. Rav Feldman notes that this is the position of the *Peri Megadim* in *Matan Sekharan shel Mitzvot;* of the *Binyan Tziyon;* of Rav Efrayim Greenblatt (*Responsa* *Rivevot Efrayim* 6:453:2); and others. Rav Binyamin Zilber (*Responsa* *Az Nidberu* 8:63) argues that this total includes both the speaker and the victim, so only a single witness makes the act public.

Rav Feldman (p. 19) notes that:

Several authorities suggest an intriguing possibility. It is conceivable that the prohibition exits in full force, regardless of the presence or absence of an audience. However, in order to incur the condemnation discussion in the Talmud, such as forfeiting one’s portion in the world to come as well as the exhortation towards martyrdom, the transgression must be committed in public.[[5]](#footnote-5)

Ostensibly, any social-media shaming that has the effect of public humiliation will thus count as *be-rabim* even according to those who require it and carry the added weight according to those who understand this as a two-tiered prohibition. The uniqueness of social media, and the internet generally, is that even in the privacy of one’s home, one can destroy reputations with a Tweet; a Facebook or Instagram post; or as in Helen Andrews’ case, a diatribe on YouTube.

**Cyberbullying**

As noted above, many Poskim assume that one violates all of these prohibitions whether there or not an audience is present. However, even in a case when no humiliation is caused, one does violate the more general prohibition of *ona’at devarim,* literally oppression with words. While verbalization is implied, the Poskim assume that one violates *ona’at devarim* using any means that can hurt others. The Talmud describes this prohibition as follows:

**MISHNA:** **Just as** there is a prohibition against **exploitation [*ona’a*] in buying and selling, so is there *ona’a* in statements,** i.e., verbal mistreatment. The mishna proceeds to cite examples of verbal mistreatment. **One may not say to** a seller: **For how much** are you selling **this item, if he does not wish to purchase** it. He thereby upsets the seller when the deal fails to materialize. The mishna lists other examples: **If one is a penitent,** another **may not say to him: Remember your earlier deeds. If one is the child of converts,** another **may not say to him: Remember the deeds of your ancestors, as it is stated: “And a convert shall you neither mistreat, nor shall you oppress him”** ([Exodus 22:20](https://www.sefaria.org/Exodus.22.20)).

**GEMARA:** **…How so? If one is a penitent,** another **may not say to him: Remember your earlier deeds. If one is the child of converts,** another **may not say to him: Remember the deed of your ancestors. If one is a convert and** he **came to study Torah,** one **may not say to him:** Does the **mouth that ate unslaughtered carcasses and animals that had wounds that would have caused them to die within twelve months [*tereifot*],** and **repugnant creatures, and creeping animals, comes to study Torah that was stated from the mouth of the Almighty?**

**If torments are afflicting** a person, **if illnesses are afflicting him, or if he is burying his children,** one **may not speak to him in the manner that** the **friends of Job spoke to him: “Is not your fear of God your confidence, and your hope the integrity of your ways? Remember, I beseech you, whoever perished, being innocent?”** ([Job 4:6–7](https://www.sefaria.org/Job.4.6-7)). Certainly you sinned, as otherwise you would not have suffered misfortune. (*Bava Metzia* 58b, Koren translation)

The Gemara outlines many cases: reminding people of their past sinful ways, failing to show sympathy when comforting one who is in pain, and others. The Gemara even includes certain cases of window-shopping, in which one pretends to be interested in buying and wastes the store-owner’s time with no intention to buy. (The implications for those who waste the time of sales representatives while planning to buy the item online should be obvious.)[[6]](#footnote-6)

The Gemara notes that often it is not clear whether the harm is intended, allowing people to get away with their crimes. To forestall this, the Gemara notes:

Verbal mistreatment is not typically obvious, and it is difficult to ascertain the intent of the offender, **as the matter is given to the heart** of each individual, as only he knows what his intention was when he spoke. **And with regard to any matter given to the heart, it is stated: “And you shall fear your God”** ([Leviticus 25:17](https://www.sefaria.org/Leviticus.25.17)), as God is privy to the intent of the heart. (ibid)

The Gemara further notes that as verbal oppression causes emotional pain which affects one’s self, rather than one’s money, and can never be repaid, it is in many respects worse than monetary oppression.

It should be obvious, therefore, that even in cases where humiliation does not occur, cyberbullying of all sorts would be forbidden under the category of *ona’at devarim.* Below is an extensive description of cyberbullying by the US government’s website[[7]](#footnote-7) designed to prevent it:

Cyberbullying is bullying that takes place over digital devices like cell phones, computers, and tablets. Cyberbullying can occur through SMS, Text, and apps, or online in social media, forums, or gaming where people can view, participate in, or share content. Cyberbullying includes sending, posting, or sharing negative, harmful, false, or mean content about someone else. It can include sharing personal or private information about someone else causing embarrassment or humiliation. Some cyberbullying crosses the line into unlawful or criminal behavior.

The most common places where cyberbullying occurs are:

* Social Media, such as Facebook, Instagram, Snapchat, and Twitter
* SMS (Short Message Service) also known as Text Message sent through devices
* Instant Message (via devices, email provider services, apps, and social media messaging features)
* Email

As we have discussed, the reach and durability of information on the internet mean that the sin involved is worse when committed over social media and the like, as noted by the government:

**Special Concerns**

With the prevalence of social media and digital forums, comments, photos, posts, and content shared by individuals can often be viewed by strangers as well as acquaintances. The content an individual shares online — both their personal content as well as any negative, mean, or hurtful content — creates a kind of permanent public record of their views, activities, and behavior. This public record can be thought of as an online reputation, which may be accessible to schools, employers, colleges, clubs, and others who may be researching an individual now or in the future. Cyberbullying can harm the online reputations of everyone involved — not just the person being bullied, but those doing the bullying or participating in it. Cyberbullying has unique concerns in that it can be:

**Persistent –**Digital devices offer an ability to immediately and continuously communicate 24 hours a day, so it can be difficult for children experiencing cyberbullying to find relief.

**Permanent –** Most information communicated electronically is permanent and public, if not reported and removed. A negative online reputation, including for those who bully, can impact college admissions, employment, and other areas of life.

**Hard to Notice –** Because teachers and parents may not overhear or see cyberbullying taking place, it is harder to recognize.

**Conclusion**

While the nature of the prohibitions of *ona’at devarim* and public humiliation may not fundamentally change in the era of social media, the scope of the damage it can cause and the ease with which these crimes can be committed make it more important than ever to understand the gravity of the sin that misuse of these tools may entail.

1. See my article, *“Be-inyan Ya’avor Ve-al Yeihareig”* (*Beit Yitzchak*, Volume 41), where I develop this position. See, however, the other explanations of the Rambam cited there. [↑](#footnote-ref-1)
2. *The Right and the Good* (Yashar Books, 2005). p. 5. [↑](#footnote-ref-2)
3. This discussion is paraphrased from Rav Daniel Feldman, cited above. [↑](#footnote-ref-3)
4. Ibid p. 6. [↑](#footnote-ref-4)
5. See *Responsa Shevet Ha-Kehati* 1:361 and other sources in n. 106. [↑](#footnote-ref-5)
6. For more, see: https://www.yutorah.org/sidebar/lecture.cfm/870328/rabbi-jonathan-ziring/onaat-devarim/. [↑](#footnote-ref-6)
7. Available at: https://www.stopbullying.gov/cyberbullying/what-is-it/index.html. [↑](#footnote-ref-7)