**YESHIVAT HAR ETZION**

**ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)**

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**Halakha in the Age of Social Media**

**Rav Jonathan Ziring**

**Shiur #29:**

**Responsibility for Facilitating Sin -**

***Lifnei Iver* I**

**Introduction**

Over the last few *shiurim*, we discussed the halakhic problems associated with “fake news.” As we noted at the beginning, however, the central question dealt with in the article by the Bais HaVaad is not whether or not fake news is problematic, but rather, assuming that it is, whether Facebook has a responsibility to take steps ensure that its platform is not misused. As they pose the question, “Is a facilitator liable for the actions of others?”[[1]](#footnote-1)

Before we enter into the halakhic discussion, let us first outline the various levels at which this *halakha* is relevant:

1. Are Facebook, Google, Twitter, and similar companies responsible to ensure that their platforms are not misused? To what extent would they be responsible? To attempt to limit it, make it impossible, do nothing at all?
2. If there is moral culpability, does this extend to the **users** of these platforms? Meaning, if we conclude that one is accountable for problematic content posted by others, does having a Facebook account make one a participant in sinful activity?

As we will see, the former question has been dealt with extensively by lawmakers, and the latter by philosophers. There are other questions that have been raised by ethicists and have unique resonance in Halakha:

1. If people post evidence of sinful behavior, is it consider illicit support of that behavior to “like” a picture or offer encouragement, approval, or congratulations?
2. Is one obligated to actively express disagreement with such problematic activities?

The central halakhic category relevant for this discussion is *lifnei iver,* the prohibition of causing others to sin, and its expansions. Several corollary obligations must also be discussed.

**THE GENERAL DISCOURSE**

Before we begin the halakhic discussion, let us consider, as noted above, that several of these questions have become part of the public dialogue and examine that angle. There is a sentiment among many that the technology and social media companies do have some responsibility to ensure that their platforms are not misused, even if people will disagree about what is considered wrong and to what extent the companies must prevent this damage.

**Google in China**

For example, the Google Security Team has taken as a mantra “Do know evil!” (This refers to Google’s one-time directive, “Don’t be evil.”) As Steven Levy records, Google had difficulty living up to its own ideals when it entered into the Chinese market. In his book, *In the Plex: How Google Thinks, Works, and Shapes our Lives* (Simon & Schuster, 2011), Levy details its challenges. Google’s founders did not agree with the censorship that the Chinese government insisted on when it opened in China. They thought it was an “evil.” Nevertheless, they thought it was better to open the world of the internet for the Chinese market somewhat, helping to bring some information and freedom, rather than let the perfect be the enemy the good. Thus, they entered the market and tried to keep within the guidelines which limit encroachments on people’s freedom to search. However, in 2010, they gave up and effectively pulled out. Levy (pp. 267-8) describes the problem:

“DO KNOW EVIL!”

That was the legend on the back of the cool black T-shirts printed by the geeks, scientists, pager-bound technicians, and former break-in artists on the Google Security Team.

But the failure to know evil — or more accurately, the failure to navigate around it without falling into its dark orbit — would come to haunt the company in its most serious moral crisis. When the revelation came that a security breach had compromised the company’s intellectual property and additional attacks had exposed the Gmail accounts of dissidents critical of the Chinese government, Google’s “China problem” became front-page news. After weeks of struggling with the issue, Google’s Executive Committee, including Schmidt, Page, and Brin, finally agreed on the most significant and embarrassing retreat in the company’s history. On January 12, 2010, they changed course in the country with the world’s biggest Internet user base, announcing an effective pullout of their search engine from mainland China. Though the underlying issue of Google’s China pullout was censorship, it was ironic that a cyberattack had triggered the retreat. Google had believed that its computer science skills and savvy made it a leader in protecting its corporate information. With its blend of Montessori naiveté and hubris that had served it so well in other areas, the company felt it could do security better. Until the China incursion, it appeared to be succeeding.

Several salient points should be noted:

1. Google’s founders shared the general sentiment that they were at least somewhat responsible for how their search engine was used.
2. The belief that a company is responsible for its product being used ethically is **independent of the question of what is considered wrong.** Thus, while we will give examples of potential sins that are committed using these products and platforms, the general contours of our arguments do not depend on whether or not one accepts the sinful nature of our example. Additionally, each of those problems needs to be independently grounded, though we will not do that halakhic work here.
3. Attempts at avoiding such ethically compromised situations do not always succeed. While the general media may have not judged Google favorably for the way it handled China, there is clearly a distinction ethically and halakhically between attempting to avoid unethical behaviour and failing, on the one hand, and making no attempt, on the other. However, this distinction is often lost. For example, a recent article was entitled “Google's ‘Don't be evil’ apparently doesn't apply in China,”[[2]](#footnote-2) something which does not seem to do justice to the complexity of the situation. Failure to reign in potential problems should not be equated with participation in evil, and we must be able to distinguish between them and not be caught up in anger.
4. Part of Google’s calculus was that while they did not agree with China’s censorship, they originally entered China believing they could bring about a net-good. They pulled out when they decided that was not the case. What are the halakhic implications of such an assessment — that one is allowing and thereby (albeit hesitantly) endorsing problematic behavior for a greater good? Does that intent make it less problematic?

As noted in our previous *shiurim*, the congressional hearings in which Mark Zuckerberg, founder and CEO of Facebook, was questioned and criticized for not stopping his platform from being misused indicate that there is growing consensus that such companies cannot allow their platforms to be used with abandon. The fact that Facebook has instituted new policies to deal with fake news, for example, suggests that they accept this argument (or are at least afraid of being sued).

**Videos of Children on YouTube**

Another example of the various degrees to which a company can be involved in problematic behavior on its platform became evident in a recent controversy involving YouTube.

YouTube would never allow child pornography on its platform. However, it was recently uncovered that child pornographers who are excited by videos of children in bathing suits and the like make comments on innocuous videos of children to help others who are similarly perverted to use these videos for their fetishes and predatory behavior. YouTube has been attempting to fight this phenomenon, an initiative which is clearly commendable.[[3]](#footnote-3)

However, one can imagine that the level of moral culpability in that case is less than it would be if Google allowed problematic content to be uploaded, rather than failing to successfully prevent perverts from misusing innocuous material. One could argue that the obligation for YouTube to address these concerns is due to the obligation of *lo ta’amod al dam rei’ekha* (not standing by the blood of one’s fellow) and the obligation to protect victims, thus generating a mandate for YouTube to deal with it. This approach would sidestep the *lifnei iver* questions.

Theoretically, we might isolate the question by imagining similar situations without victimized children, and the more universal question would become clearer. Even if we accept that it is problematic to allow illicit/ unethical material to be uploaded to one’s platform, would there be an obligation to ensure that non-problematic material is not misused? This would, under most circumstances, seem to be a high bar.

Would, for example, Facebook be obligated from a halakhic perspective to prevent a woman from posting a picture of herself in a bikini, knowing that she wants men to see her dressed that way, though Halakha would forbid the men from gazing at that picture? While one might accept YouTube’s obligation in the above case, in this toned-down version of the question, I assume that many would assume no similar requirement exists. Is that the case?

**The User**

While most of the legal discussion has revolved around the responsibilities of tech companies, one philosopher takes the question to the level of the user.

Dr. S. Matthew Liao, in an op-ed in the New York Times,[[4]](#footnote-4) notes that Facebook, from his perspective, has enabled many wrongs: causing depression and anxiety among those who compulsively scroll through Facebook, spreading fake news, connecting and spreading the propaganda of white supremacists, spreading other hate speech, etc.

He believes that people who agree that the above are wrong should at least wonder whether they are complicit:

Some people might think that because they mostly share photos of their cats on Facebook, such concerns do not apply to them. But this is not so, for three reasons. First, even if one does not contribute directly to the dissemination of fake news or hang out in echo chambers, simply being on Facebook encourages one’s friends to stay on Facebook, and some of those friends might engage in such activities. This influence on others is known as a (positive) network effect, where increased numbers of people improve the value of a product.

Second, by being on Facebook one serves as a data point for Facebook’s social media experiment, even if one encounters none of Facebook’s experimental manipulations. In doing so, one could be helping Facebook to refine its algorithms so that it can better single out specific individuals for certain purposes, some of which could be as nefarious as those of Cambridge Analytica.

Consider an analogy. When testing the safety and efficacy of new drugs, subjects are randomly assigned either to an experimental group or a control group, and only subjects in the experimental group receive the new drug. Nevertheless, the subjects in the control group are essential to the experiment.

Third, using Facebook is not just an individual action but also a collective one that may be akin to failing to pay taxes. A few people failing to pay taxes might not make much of a difference to a government’s budget, but such an action may nevertheless be wrong because it is a failure to participate in a collective action that achieves a certain good end. In a similar vein, choosing to remain on Facebook might not directly undermine democratic values. But such an action could also be wrong because we might be failing to participate in a collective action (that is, leaving Facebook) that would prevent the deterioration of democracy.

Liao continues to argue that those who are engaged in problematic activities are obviously obligated to leave Facebook (or, I suppose, stop engaging in those activities). Liao, however, argues that “for those of us who do not engage in such objectionable behavior, it is helpful to consider whether Facebook has crossed certain moral ‘red lines,’ entering the realm of outright wickedness.” Meaning, Liao takes it as a given that despite his arguments above, an individual user of Facebook would not be obligated to dissociate from Facebook had the company not engaged in evil. This is surprising, as towards the end of the piece, he writes:

That said, we should not place the responsibility to uphold democratic values entirely on Facebook. As moral agents, we should also hold ourselves responsible for our conduct, and we should be reflective about what we say, react to and share when we are on social media.

As moral agents, however, we should at least consider the moral question as to whether Facebook users would be obligated to leave Facebook if their presence allowed other individuals to be involved in problematic activities. While staying on Facebook would be a lower-level crime, to be sure, this does not mean that it is not problematic at all.

**Endorsements**

Liao notes that there are more active ways in which people on Facebook condone problematic behavior:

Among Twitter users, a common refrain is “retweets are not endorsements.” In a similar manner, one might also think that “sharing” or “reacting to” are not “endorsements.” This is a mistake. By sharing or reacting to a post, even if one explicitly criticizes the post, one is amplifying the message of that post and signaling that the post warrants further attention.

As we will see, Halakha may very well share this intuition — that reacting to or sharing a post is indeed an endorsement, and thus creates halakhic issues when the material shared is that of prohibited activity.

***Lifnei Iver***

As noted above, the majority of the halakhic discussion revolves around the biblical prohibition of *lifnei iver,* its derivatives, and its corollaries. Before getting into the details, it is important to explain how this phrase came to mean what it does.

The Torah (*Vayikra* 19:14) writes “You shall not curse the deaf, and you shall not put a stumbling block before the blind. You shall fear your God; I am the Lord.” Who is this blind person, and what is the stumbling block?

As Rav Elchanan Samet notes (<https://www.etzion.org.il/en/you-shall-not-place-stumbling-block-blind-chazals-metaphoric-approach>), building on the approach of Nechama Leibowitz, there are four possible interpretations:

1. **The literal interpretation**: According to this approach, the blind person is literally someone who cannot see, and the stumbling block is a stumbling block. The Torah is simply prohibiting the tripping of a blind person. The Gemara (*Nida* 57a, *Chullin* 3a) attributes this interpretation to the Kutim, those who reject the rabbinic interpretations of the Torah.
2. **The almost literal interpretation**: This takes slight poetic licence, contending that the “blind person” is simply someone who does not see the obstacle, and the stumbling block is any danger placed in his path.

As Rav Samet writes:

[T]his approach maintains virtually the same interpretation of the term "stumbling block," and only minimally expands the definition of the word "blind," to include a person with operative vision but who cannot see the stumbling block before him. The prohibition thus comes to forbid taking unfair advantage of not only the handicapped, but anyone in a situation where they cannot detect a given threat to their well-being.

Rav Samet notes that the comments of Onkelos to this verse tend in this direction.

1. **“Blind” refers to someone who is unaware of certain information, and one is prohibited from taking advantage of that lack**. This is the position of the *Sifra*. Based on this, the *Sifra* forbids giving bad advice, on both physical and spiritual matters. This position is accepted by the Rambam (*Sefer Ha-mitzvot,* Negative #299; *Hilkhot Rotze’ach* 12:14) and *Sefer Ha-chinnukh* (#232).[[5]](#footnote-5)
2. **The stumbling block is sin, and one is prohibited from enabling someone to sin.** This is the primary usage of this prohibition in Halakha, and it is derived from a passage in *Avoda Zara*.

The Mishna at the beginning of the tractate forbids commerce with idolaters[[6]](#footnote-6) for the three days before their holidays. The Gemara adds that one also may not give animals to these non-Jews during this period. The Gemara offers two reasons for this latter prohibition.

One the Gemara refers to as *harvacha.* Rashi (6a, s.v. *Mishum harvacha*) assumes that this means that the non-Jew will be so thankful to his god for the animal that he will thank his god on his holiday, making the Jew responsible for the invocation of an idolatrous god.[[7]](#footnote-7)

The other possibility raised is that the Jew is violating *lifnei iver* by giving the idolater an animal that can be used for sacrifices on the upcoming holiday. The Gemara proves the existence of such a prohibition from a statement of Rabbi Natan:

**Rabbi Natan said: From where** is it derived **that a person may not extend a cup of wine to a nazirite,** who is prohibited from drinking wine, **and** that he may not extend **a limb** severed **from a living animal to descendants of Noah? The verse states: “And you shall not put a stumbling block before the blind”** ([Leviticus 19:14](https://www.sefaria.org.il/Leviticus.19.14)). (*Avoda Zara* 6a-b, Koren translation)

The *Sifra* already noted that the stumbling block being discussed can be sin. However, as in the first two levels of interpretation, the *Sifrei* limits the prohibition to a case in which the victim is **unaware, hence blind,** of the obstacle. How do *Chazal* extend this prohibition to cases where one enables a **willing sinner** to engage in illicit behavior with **eyes open, literally and figuratively**? The Rambam solves this problem as follows:

Anyone who misdirects a person, blind on any subject, by giving him wrong advice, or encourages a criminal, **who is blind and cannot see the way of truth because of his greedy lust**, is transgressing a prohibitive command, as it is written: "You shall not put a stumbling block before the blind." (Rambam, *Hilkhot Rotze’ach* 12:14).

Meaning, the blindness being discussed is, as the idiom goes, being blinded by passion. Rav Jeremy Weider has suggested that one may extend the Rambam’s description to the third level as well. In other words, one must not put others in a situation in which they are likely to develop an emotional attachment that will make it difficult for them to make the “right” decision, even if no deception is involved.[[8]](#footnote-8)

There is much discussion among the Poskim as to whether the latter two interpretations offered by *Chazal* negate the first two interpretations, as Rav Samet describes as length.[[9]](#footnote-9) However, for our purposes, we will be focusing on the last of the interpretations. Colloquially, it is this level of the prohibition that people refer to, though this approach is not meant to negate the other levels. As noted, it is standard among Poskim to accept the third level, namely the prohibition against offering bad advice, and several prominent halakhic positions accept the binding halakhic nature of the first two interpretations as well, in addition to that presented by the Talmud and *Sifrei*.

Next week, we will return to the Gemara to analyze exactly what the prohibition of *lifnei iver* entails and which cases may be permitted on the biblical level but prohibited rabbinically.

1. Available at: https://www.baishavaad.org/hosting-postings-is-facebook-responsible-for-its-content/ [↑](#footnote-ref-1)
2. Available at: https://www.techrepublic.com/article/googles-dont-be-evil-apparently-doesnt-apply-in-china/ [↑](#footnote-ref-2)
3. Available at: https://www.theverge.com/2019/2/19/18229938/youtube-child-exploitation-recommendation-algorithm-predators [↑](#footnote-ref-3)
4. Available at: https://www.nytimes.com/2018/11/24/opinion/sunday/facebook-immoral.html. [↑](#footnote-ref-4)
5. As Nechama Leibowitz points out, the *Sifrei* provides three examples that indicate three potential categories of bad advice: physical damage, material damage, and spiritual damage. [↑](#footnote-ref-5)
6. The question of whether this refers to all non-Jews or only idolaters inspires an extensive discussion among the Rishonim and the Poskim, which is beyond the scope of this *shiur*. [↑](#footnote-ref-6)
7. Rabbeinu Tam, Ritva, and Meiri have alternative interpretations, both of the Mishna (2a)and the central discussion in the Gemara (6a-b). We will return to these explanations later. [↑](#footnote-ref-7)
8. Available at: <https://www.yutorah.org/lectures/lecture.cfm/890788/rabbi-jeremy-wieder-rabbi-shmuel-maybruch/mental-health-in-dating-a-panel-discussion/> In context, Rav Wieder cautions against waiting to reveal health issues to a potential spouse until the point at which the couple is so romantically involved that it would be difficult to back out of the relationship. [↑](#footnote-ref-8)
9. For some positions not discussed by Rav Samet, see my *shiur*: <https://www.yutorah.org/lectures/lecture.cfm/906733/rabbi-jonathan-ziring/avodah-zarah-6-lifnei-iver-from-pshat-to-halachah-2-6a-b-//> [↑](#footnote-ref-9)