

What Can we Learn from the Laws of Lashon Hara about Negative Campaigning?

Presidential politics in America have always been contentious and often acrimonious. But this current cycle has seen new depths of negativity. While this is enough to dismay any American, those with a sensitivity to Jewish law and values feel particularly stressed. The egregious prohibition against *lashon hara* is well-known and is the source of much harsh condemnation throughout the Torah and all of rabbinic literature, and avoiding this transgression is the focus of so much of Jewish education.

Accordingly, following the path of the presidential election is fraught with challenges. While we are anguished by the discourse that we see playing out in front of us, our role here is not just passive. To what degree can we ourselves take part in the conversation? How can we be responsible participants in democracy if we are not well informed and involved in the discussion? On the other hand, the *lashon hara* directive prohibits us not only from relating negativity, in most circumstances, but even from “receiving” or “accepting” the statements. There are no easy answers to balancing these competing responsibilities, but we can start by looking at a few principles.



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Permitted *Lashon Hara*: Purposeful And Beneficial Speech

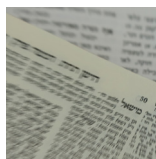
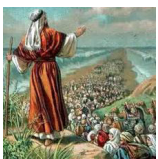
One of the most consequential, controversial, and complex aspects of the laws of *lashon hara* is that known as “*to’elet*” or “purpose.” This notion indicates that when the information is necessary to a third party for that individual’s protection, it is not only permissible to relate the information, but obligatory. More broadly, a general productive purpose, under certain circumstances, may also be considered justification for what otherwise could be termed *lashon hara*.

Consequential, then, in that in the presence of this idea, an action flips from forbidden to mandatory. Controversial, not in its existence, which is undisputed, but in its application. The evaluation of *to’elet* is resistant to generalized legislation and is often dependent on painstakingly considered judgment.

One of the rabbinical court judges in 19th-century Vilna, R. Yisrael Isser Isserlein¹ (1827-1889), wrote that while so many spoke forcefully about the prohibition of *lashon hara*, an equally important issue is neglected: the failure to speak when innocent people are at risk of harm.² Similarly, a contemporary authority, R. Moshe Sternbuch, in his responsa,³ represents rabbinic concern about the issue when he expresses in forceful terms the pressing need to be well-versed in the intricate details of *lashon hara* regulation. As he observes, as severe a prohibition as *lashon hara* is, neglecting to inform when necessary can be a violation of equal or greater severity. Thus, as well, the complexity.

Approaching the notion of *to’elet* at its roots may also call for a reflection upon the two established perspectives. If the prohibition of *lashon hara* is directed at the indulgence of a negative character trait, it might be explained that a statement for *to’elet* is

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simply not *lashon hara*.⁴ As some have noted, such an understanding emerges from one of the scriptural instructions regarding *lashon hara*, “Thou shalt not bear a false report.”⁵ The word translated as false, “*shav*,” actually more often connotes “needless,” thus referring to derogatory information that cannot produce a benefit. By definition then, if there is a benefit, the prohibition would appear inoperative. Motivated by the protection of another, the speaker lacks the malevolence that typifies the transgressor.⁶

Alternatively, if *lashon hara* is defined as an act of putting another at risk through speech, the exception of *to'elet* requires another explanation. The subject is still harmed, even if less so than the listener — or any potential victim — would have been. Thus, the transgression is not absent, only outweighed by a greater need. The Torah obligates protecting others from harm, as it prohibits one to “stand idly by the blood of [his] neighbor.”⁷ This reference to the neighbor’s “blood” is understood to be not only to risking life, but to any type of harm.⁸ Accordingly, *to'elet* would represent the danger to the listener overwhelming the harm to the subject.

This rationale is cited explicitly by the *Chafetz Chaim* as the motivation behind *to'elet*.⁹ Indeed, this structure

flows from a direct reading of another of the primary scriptural references to *lashon hara*, contained in the same verse: “Thou shalt not go up and down as a talebearer among thy people; neither shalt thou stand idly by the blood of thy neighbor: I am the Lord.” The connotation is that while one is generally not to be a tale-bearer, this ideal should not prevent one from acting to save one who is at risk.¹⁰

Thus the license or mandate to speak “purposeful” negative speech about another has two possible models: either such speech is simply not included in the prohibition; or, alternatively, it is included, but the prohibition itself is overridden by the protection imperative.¹¹ There is a major difference between the two: In the second model, as an otherwise forbidden action is being advocated, the decision must rest upon a solid foundation of necessity. In other words, the threshold for justification is higher if one value, protection of the innocent, is outweighing the other, the general abhorrence of negative speech. Alternatively, if *lashon hara* is needless gossip, and “purposeful” speech is simply not in that category, a lower standard may suffice.

In the writings of the *Chafetz Chaim*, it seems that his premise is that “purposeful” speech is permitted because it justifies the offense, not because it is outside of it. Accordingly,

he refers in his formulation of the protection mandate to definite knowledge of potential harm.¹² It is specifically when the risk is definite that the dictum of “do not stand idly by” is understood as an obligation. When the harm is less apparent, “do not stand idly by” presents as a praiseworthy ideal, rather than a mandatory directive that can outweigh conflicting values.¹³

“Accepting” Lashon Hara

One of the most difficult, and at the same time most illuminating areas of study and practice in the realm of *lashon hara*, is the unique prohibition of “receiving” (*kabbalat*) *lashon hara*. The prohibition of malicious speech is extended not only to the speaker, but to the listener as well; the listener is identified by the Talmud¹⁴ as one of three victims of *lashon hara*’s destructive impact, together with the speaker and the subject. In fact, as will be detailed below, receiving *lashon hara* is condemned with a force equal or possibly even greater than the initial act of speaking.

It is here, then, that we find both the difficulty and the illumination. First, the difficulty: how can one be prohibited from “receiving,” a role that is essentially a passive one, and a generally involuntary one at that? And, perhaps even more challenging: even if it is granted that one can control what he “receives,” is it truly desirable to do so? As we have established, *lashon hara* includes the relating of true information that is disparaging. As such, would refusing to “receive” such information not constitute willful self-deception, an act essentially both dishonest and irrational in nature? Understanding the Torah’s directive in this case

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requires both a careful analysis of earlier and later sources and a considered and balanced investigation as to how integrity and intellect can coexist with the injunction.

Understanding what it means to “receive” *lashon hara* goes to the core of understanding the entire concept of *lashon hara*. This is particularly so in light of the fact that receiving *lashon hara* is not considered a secondary or subsidiary violation, but an equal sin to that of the speaker, and possibly the primary locus of the *lashon hara* interdict itself. If so, to understand “receiving *lashon hara*” is to better understand the foundation of *lashon hara* in its totality.

That said, it makes sense to begin the journey with the key Talmudic passage introducing the prohibition. In that passage,¹⁵ R. Sheshet, on the authority of R. Elazar ben Azariah, issues a harsh condemnation of three apparently equal and connected offenses: speaking *lashon hara*; receiving *lashon hara*; and bearing false witness. All of these are attached to one biblical verse (Exodus 23:1): “You shall not accept (“*tisa*”) a false (“*shav*”) report”. As the parentheses indicate, this represents a tentative translation of some Hebrew words that will be seen to be ambiguous.

There are at least two striking aspects to this scriptural derivation. One is that the connotation of the verse appears to be passive (“... shall not accept...”); as such, it would be satisfactory as a source for not receiving *lashon hara*, but less obviously so for not speaking *lashon hara*. In the standard editions of the Talmudic text, this problem is addressed in the passage itself, which further advocates an alternate reading of the word *tisa*, rendered

above as “accept.” In this reading, the word would take on a different pronunciation (*tasi*) and connote “inducing, misleading,” thus reading, “You shall not mislead with a false report.” Alternatively, some commentaries¹⁶ omit that part of the passage, placing the entire burden on the initial, direct reading of the verse.

In either case (and more so in the latter), the basic prohibition against speaking *lashon hara* is being sourced by this passage in the context of receiving *lashon hara*. This is not the structure we would expect; one would think that speaking *lashon hara* is the primary sin, deserving the most attention from Scripture, while receiving is an ancillary activity that deserves secondary mention.¹⁷ R. Sheshet’s formulation inverts that expectation: “receiving” is the primary subject of the verse, and speaking is derived from that. This could potentially redefine our relationship to *lashon hara* as a concept: the main crime is committed by the listener, who is enabled by the speaker, and not the other way around.¹⁸

In that light, it is noteworthy that Maimonides, in his code,¹⁹ identifies receiving *lashon hara* as not merely equal to, but actually worse than, speaking *lashon hara*. This is a surprising formulation, as it exceeds what the Talmud says. Accordingly, much has been written in explanation of Maimonides’ statement.²⁰ Most simply, it may be that if the controlling source is indeed focused on receiving, it follows logically that this act is an even greater transgression than speaking.²¹

The second, equally striking aspect of R. Sheshet’s statement centers on the word rendered above as false, the Hebrew word “*shav*.” If, as we have

repeatedly seen, the transgression of speaking *lashon hara* is inclusive of relating true information, why would the verse refer to a “false” report? Such language would seem to fall short of the mark, as it would fail to address the receiving of true disparaging reports.²²

Indeed, the proper translation of the word *shav* is the topic of debate. The term “false” is consistent with the understanding of many major commentaries,²³ who equate it with the word *sheker*, the general term for falsehood. Nonetheless, there are other possible translations of the term. One possibility, which we discussed above in the context of necessary permitted speech, is that it connotes “useless,” meaning *lashon hara* may be accepted when there is a pressing purpose, but not otherwise. Others see the term as meaning “hated” or “despised,” thus referring to the prohibited and malicious nature of the speech, and not necessarily indicating that the content is factually false.²⁴

If, however, the word is indeed translated as “false” the initial question remains as to how this is consistent with the factual nature of *lashon hara*. One approach, adopted by R. Yonah of Gerondi, is to insert a “possibly” into the verse (by including that modifier in the translation). Thus, the exhortation is not to accept as definitely true a report that *may not* be true. As some have observed,²⁵ this may be the only tenable reading: no one needs to be instructed not to accept a report that they know is false. Rather, the verse is warning against accepting as true a report that may not be. It may be, then, that to accept a report as possibly true rather than definitely true may not be a violation of this principle.

Similarly, the *Sefer HaChinnukh*²⁶ places this prohibition within the context of the Torah's broad aversion to dishonesty. Since falsehood is not only prohibited, but condemned with a more sweeping exhortation to "stay far away,"²⁷ included in this avoidance is a sensitivity to falsehood in the speech of others, and a refusal to participate in the slander even in the passive role.²⁸ Further, the effect of the Torah's commandment to judge others favorably may add to the need to thoroughly consider the possibility that the negative report is false.²⁹

Other possible interpretations are consistent with our earlier discussions about the complex nature of *lashon hara*, which can be factually accurate and yet false at the same time. Accordingly, the *Chafetz Chaim* is concerned that even if the core item is true, false details will be woven in.³⁰ Further, even if all the facts are true, it is still possible to emerge with a false picture of the subject, as we have seen.³¹ Further still, it may be a question not of the facts but of the assessment: even if the item is true, the result that the subject will be diminished in the eyes of the listener, due to some insignificant flaw, is an injustice that is in essence false.³²

In this vein, it is also possible to relate some of the translations of the word *shav* to each other, particularly the notion of "false" and "useless." It is instructive that the same verse is also cited by the Talmud as a prohibition for a rabbinic court judge to listen to ex parte testimony.³³ In that context, both translations are equally compatible with the intent of the prohibition. It can be understood that listening to one party outside the presence of the other yields "false" results, as the speaking party is able to

express his views without the benefits of opposition and correction from the other party. Equally, the translation of "useless" is also appropriate, in that such testimony, lacking the elements of necessary balance, is worthless in a courtroom setting, and thus contributes nothing to the judicial process. As such, it constitutes both a breach of judicial integrity and a violation of *lashon hara*. In that sense the falsity and the uselessness of the reports are essentially products of each other.

It can be suggested, then, that this application to listening to ex parte testimony is quite instructive in its location within the same verse, as a general acceptance of *lashon hara*. It sheds light on the concept of *lashon hara* as a whole, and the nature of factually true statements conveying false impressions. Negative speech that is protected from corrective opposition from the subject is by its nature susceptible to distortion and false impacts, and thus is useless for any constructive purpose. In that sense, the judicial application is reflective of the general application of *lashon hara* and the inherent relationship between unwarranted gossip and falsity.³⁴

All of these factors are relevant considerations as to why a speaker should choose not to share information that he would consider to be true. However, it is possible that there is an even greater concern regarding the listener of such information, and thus there may be particular relevance to the prohibition of *kabbalat lashon hara*. In his book *The Watercooler Effect*, Nicholas DiFonzo describes a study entitled "Why Listeners Hear Less Than They Are Told," conducted by social

psychologist Robert S. Barron and his team, which was undertaken in an effort to understand why people who listen to a story of someone's misdeeds rate that person more negatively than people telling the story do.

As DiFonzo puts it: "... this is known as the teller-listener extremity effect — the listener's rating of the person is more extreme than the teller's. Barron's study makes a convincing case that the culprit behind this effect has to do with the limits of human attention while attending to a disjointed message. The details that people tell one another are often so hard to follow that listeners are only able to process the main storyline; the finer points and subplots are simply missed." He further cites other studies that indicate that listeners, in order to make a story they are hearing simpler and more comprehensible, tend to adapt and conflate details, known as "leveling" and "sharpening."³⁵

The Political Culture and Negative Campaigning

Technically speaking, the prohibition of *lashon hara* does not likely apply to a presidential campaign, or in any situation where the information can be crucial to making a decision on an important matter. It may be, as some have noted, that it is necessary to allow the candidates to go at each other mercilessly in order to guarantee that any potentially relevant information will come out. However, that doesn't change the fact that what does come out can be misleading — and voters ignore that fact at their own risk. It is important for voters to be fully informed as to the positives and negatives of the individuals who seek to lead them. It is thus equally important to correct for factors that

may detract from the accuracy of what presents itself to voters, who come to eventually feel that they are drowning in a sea of slung mud.

Negativity gets an additional edge from the natural inclination to enhance one's self-image at the expense of others. Consequently, the desire to see larger-than-life political figures "cut down to size," coupled with the necessarily "zero sum" nature of a competitive election that can have only one winner, further distorts the picture, skewing in a decidedly negative direction.

Add partisan politics into the mix, and a few other factors also come into play. A pre-existing political view risks confirmation bias, the tendency to interpret all information through the prism of what you already believe. (This bias is on easy display after each debate, when Democrats overwhelmingly assign victory to the Democratic candidate, and Republicans to the Republican candidate.) And the habit of fraternizing with others of like political views gives rise to a polarization effect, the likelihood of members of a group to hold views more extreme than they would if they were alone.

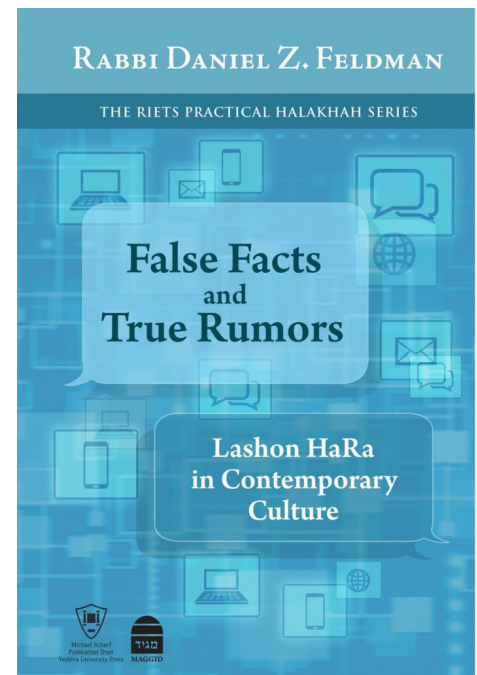
This issue is exacerbated by the fact that politics is about winning elections, and negative advertising is simply considered more effective than positive advertising. It is far more likely to catch the attention of the voter, and consequentially more likely to motivate action on his part. Further, as Andrew Potter notes in his book *The Authenticity Hoax*, in contrast with the commercial realm, politics is a zero sum game. In business, purely negative advertising is less prevalent, as it is less likely to be

beneficial to a company or a product to simply smear one competitor. In politics, however, demolishing one's opponent can often produce a direct gain for the other candidate.³⁶

Clearly, these factors, while possibly very real for the candidates themselves, do nothing to guarantee the accuracy or the fairness of the attacks, and are thus relevant to the laws of *lashon hara*. Even if this is of no concern to the candidates, from an "acceptance" perspective, it should be the concern of the voters.

It is problematic enough that those predisposed to dislike one candidate will be skewed further in that direction by attack politics. What is even more disturbing is a finding described by Dr. Marco Iacoboni in his book *Mirroring People*. In an experiment conducted during the 2004 U.S. presidential campaign, advocates for either John Kerry or George W. Bush registered positive emotions (as measured by neural testing) when shown pictures of their preferred candidates. Several months later, however, after extensive negative campaigning, even supporters failed to display positive emotions in connection with their own presidential preferences.

Dr. Iacoboni, a neurologist at UCLA, theorized that "the campaign had tainted all of the candidates, even for their partisan supporters ... negative ads can create a dangerous emotional disconnect between voters and the leaders who should represent them." He further opines that, "A healthy democracy ... needs mechanisms of empathy and identification between the people and their political representatives. Without these unifying emotions, we run the risk of an ever-growing disenchantment



with the political system that may make people more receptive to other forms of government ... [which] have proved to be much worse than what we have now."³⁷

Endnotes

- 1 *Pitchei Teshuvah*, O.C. 156.
- 2 R. Shlomo Zalman Braun, in his commentary *She'arim Metzuyanim BeHalakhah* to R. Shlomo Gantzfried's *Kitzur Shulchan Arukh* (30:2), places a citation of this comment at the beginning of the laws of *lashon hara*, apparently considering the warning a necessary introduction to the subject.
- 3 *Resp. Teshuvot VeHanhagot*, I, 558. See also R. Shrayah Deblitsky, *Zeh HaShulchan*, p. 62.
- 4 See R. Yitzchak Hutner, *Pachad Yitzchak, Iggerot UKhtavim*, 59. See also R. Ariel Chiyun, in the journal *Torat HaAdam LeAdam* (V, pp. 187-193).
- 5 Exodus 23:1.
- 6 R. Asher Weiss (*Minchat Asher al haTorah*, Lev p. 268) favors this understanding and considers it self-evident. This perspective is also taken in *Kodesh Yisrael*, 15, who notes that the license of "purpose" is not discussed in the early codifications of *lashon hara*, with the *Chafetz Chaim* the first to write about it in

detail and in specificity. He thus assumes that this can be attributed to such speech simply not being included in the definition of *lashon hara*. See also R. Yehudah Herzl Henkin, *Responsa Bnei Banim*, I, 42. R. Elchanan Wasserman (a prominent student of the *Chafetz Chaim*) asserts a broad formulation of *to'elet*, maintaining that it essentially justifies the overriding of any interpersonal commandment, in that they are all, in his understanding, defined by malicious intent, and thus permitted when the purpose is constructive (*Kovetz He'arot to Yevamot*, #70). Regarding this, see R. David Ariav, *LeReakha Kamokha*, II, *biurim*, 13.

7 Lev. 19:16.

8 See *Sanhedrin* 73a, and *Sefer HaMitzvot* of Maimonides, negative commandment 297; *Responsa Radbaz*, V, 218 (1582); R. Yaakov Bruchin, *Responsa Mishkenot Yaakov*, CM 12; see also R. Shmuel David Friedman, *Sdeh Tzofim*, *Bava Kama*, p. 616. See also *Minchat Chinmukh*, 239:6, who applies this mandate to the prevention of spiritual harm as well.

9 *Hilkhos Issurei Rekhilus* 9:1.

10 As expressed by *Sefer Chareidim*, negative commandments, ch. 4, and others; see *Alei Be'er*, 1. See also R. Moshe Shternbuch, *Ta'am VeDa'at* to Leviticus. R. Ovadiah Yosef, *Resp. Yechaveh Da'at*, IV, 60, emphasizes this idea at length.

11 See also the extensive discussion in *Emek HaLashon*, 8-9.

12 See R. Binyamin Cohen, *Chelkat Binyamin* #3 and #6.

13 See also R. Yeruchem Fishel Perlow, commentary to *Sefer HaMitzvot* of R. Sa'adiah Gaon, positive commandment 28. See also *Responsa LeChafetz BaChaim*, III, 5, regarding the interaction of this mandate with the laws of *lashon hara*.

14 *Arakhin* 15b.

15 *Pesachim* 118a. See also *Mishneh Torah*, *Hilkhos Sanhedrin* 21:7.

16 See, for example, *Rashbam*, *loc. cit.*

17 As to whether and under what circumstances accepting is a violation of the

halakhic prohibition of enabling sin (*lifnei iver lo titen mikhshol*), see *Chafetz Chaim*, *Petichah*, *lavin* 4; *Alei Be'er*; *Shevilei Chaim*, #12; *Ohev Yamim*, 4-6; *Birkat Yitzchak*, pp. 14-19; R. Reuven Grozovsky in the journal *Kol Torah*, LV, pp. 54-55; and see also *Chut Shani*, *Shemirat HaLashon*, 1:1 and R. Yehonatan Rozler, *He'arot Rigshei Chaim*, p. 20.

18 One interesting question to consider is to what extent the prohibition of *kabbalah* is a direct correlate of the prohibition of speaking, and to what extent it is an independent concept. In other words, is there a prohibition of accepting any and every time the speaker is subject to a prohibition? Conversely, is there ever a prohibition of accepting even if the speaker is permitted to say what he is saying? See *Chafetz Chaim*, *Hil. Lashon Hara* 6:9, and *Chelkat Binyamin*, *loc. cit.*; *Birkat Yitzchak*, pp. 14-15; R. Yosef Aharon Openheimer, in the journal *Kol HaTorah*, LX, p. 97; *LeRe'akha Kamokha*, p. 153, in *Nir LeDavid*, 2; see also *Chafetz Chaim* 6:3, in note.

19 *Hilkhos Deiot* 7:3.

20 See *Avodat Melekh* and *Chelkat Binyamin*, *lashon hara* 6:3. See also *Minchat Yitzchak* to *Minchat Chinmukh* # 236, #3 who suggests an explanation based on the notion that without acceptance the transgression is incomplete; see also R. Shmuel Aryeh Leib of Bialya, *Rimza DeChakhmata* p. 137, writing from a kabbalistic perspective. *Netiv Chaim*, 6:3, suggests that the acceptor is transgressing more seriously than the speaker because his unjustified reliance on the report may indicate greater irresponsibility than that of the speaker; see also *Da'at UMachshavah* to *Hil. Deiot*. For further suggestions, see R. Menachem Troyesh, *Orach Meisharim*, 8:23, and also *Sha'arei Avraham*, p. 376.

21 See also *Chafetz Chaim*, *petichah*, *lavin*, *Be'er Mayim Chaim* #3, as to whether the recipient is equally susceptible to the affliction of *tzara'at*. See *Zikhron David* pp. 27-28.

22 See R. Yaakov Zvi Meklenberg, *HaKetav VeHaKabbalah* to Exodus.

23 See Rashi and Onkeles to Exodus.

24 See *Yad HaKetannah*, *Hilkhos Deiot*, 9; as well as R. Aharon HaKohen, *Imrei Aharon*, *Parashat*

Mishpatim, p. 62, and R. Shlomo Wolbe, *Alei Shur*, II, p. 534. See also R. Aryeh Lubetsky, *Nachal Kedumim*, to Exodus, pp. 32-33; R. Moshe David Valley, *Berit Olam* to Exodus, pp. 360-361; and R. Tzvi Shlavi, *Nifla'ot MiTorat Hashem Yitborach*, ch. 56, pp. 241-243.

25 See R. Avraham Yitzchak Brazil, *Iyyunei Rashi* (Exodus: *Mishpatim*- *Pekudei*, pp. 176-178).

26 Commandment 74.

27 Ex. 23:7.

28 However, note the comment of *Zera Chaim*, p. 360.

29 See *Chelkat Binyamin*, *klal* 7, #3, and R. Zvi Hertzka, *Ateret Tzvi*, to Exodus.

30 *Petichah*, *lavin*, in *Be'er Mayim Chaim*, 2; see also *Shemirat HaLashon*, ch. 12. See also *Orach Meisharim*, 8:26.

31 See *Sha'arei Avraham*, p. 235, n. 147.

32 See *Chelkat Binyamin*, beginning of *klal* 7, and *Zera Chaim*, p. 362-364.

33 *Shavuot* 31a and *Mishneh Torah*, *Hil. Sanhedrin*, 21:7.

34 A suggestion along these lines is asserted by R. Eliyahu Bakshi Doron in *Responsa Binyan Av*, III, 66. This notion may also be relevant to understanding the position of some authorities that statements made in the presence of the subjects are by definition not *lashon hara*, even if they constitute other offenses.

35 *The Watercooler Effect*, pp. 154-163.

36 See *The Authenticity Hoax*, pp. 192-199.

37 See Iacoboni, Marco. *Mirroring People: The New Science of How We Connect with Others*. New York: Farrar, Straus and Giroux, 2008, ch. 9 and 10. See also the volume, *Going Negative: How Political Advertisements Shrink & Polarize the Electorate*, by Stephen Ansolabehere and Shanto Iyengar (New York: The Free Press, 1995). For more about the advantages and disadvantages of negative campaigning, see Buell, Emmett H. and Lee Sigelman, *Attack Politics: Negativity in Presidential Campaigns since 1960* (Lawrence, Kansas: University Press of Kansas, 2008).



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