



Shabbat Table Discussions

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Yeshiva University
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DO WE NEED TO KNOW EVERYTHING? CONTEMPORARY ISSUES OF PRIVACY

ISSUE #5
MARCH 2011
ADAR II 5771

Israel Hyman uses Twitter to promote his business. He didn't think there was anything wrong with tweeting that he just drove from Arizona to Kansas City. He realized his mistake when he found out that his home was burglarized (source: usatoday.com).

In the age of information, the availability of private information challenges our value of privacy. Some people assume that everyone has the right to know everything about someone else and we may not even be aware of how much personal information is available on the Internet.

Numerous verses in Tanach (Scriptures) highlight the fact that we should respect the privacy of others and protect our own private matters. Our rabbis teach us that valuing privacy is a prerequisite to bringing the presence of G-d into our homes:

"Bilam raised his eyes and saw the Jewish People dwelling according to their tribes." What did he see? He saw that the doors of their tents did not face each other and said "The people are worthy that the Divine presence should dwell among them."
Baba Batra 60a

וישא בלעם וירא את ישראל שוכן לשבטיו מה ראה
ראה שאין פתחי אהליהם מכוונין זה לזה אמר
ראוין הללו שתשרה עליהם שכניה.
בבא בתרא ס.

Let's explore several scenarios:

CASE ONE	While using her mother's computer, Shira couldn't help but notice that her mother received an email from her teacher. Shira was very curious and she could no longer concentrate. What should Shira do? May she open the email and read it, should she discuss with her mother the fact that she noticed the email or should she ignore it?
CASE TWO	Aliza likes to keep her friends in the loop about everything going on in her life, so when she receives an email, she often forwards it to them or places them in the BCC field when she responds. Is this appropriate?
CASE THREE	Chavi and Eli are about to get engaged and Eli wants to surprise her with a proposal followed by a party for friends and family. The email invitations go out and some of Chavi's friends are pretty sure that Chavi would want to be prepared for this once-in-a-lifetime party and would not want to be surprised. May her friends forward the email to her and spoil the surprise?
CASE FOUR	Jeremy is interviewing candidates for a job. Can he use a service that does internet background checks and finds personal and private information about the candidates, such as the types of websites they visit and other information that is not available to the public?

☞ Please consider the following questions:

1. Have you ever found information about others that was not intended for you to know? What did you do with that information?
2. Are there values that are more important than protecting privacy? Does it depend on how private the matter is?
3. Can someone who revealed private information about themselves now ask the people he/she told to keep the information private?

☞ SOURCE BASED DISCUSSION ☞

The primary source for the prohibition against *lashon harah* (slander) is a verse in Vayikra:

<p>You shall not be a tale-bearer among your people. Vayikra 19:16</p> <p>The peddler (<i>rochel</i>) moves around buying from one and selling to another and the tale-bearer (<i>rachil</i>) will reveal to one what he heard from another. Ibn Ezra ad loc.</p>	<p>לֹא-תֵלֵךְ רְכִיל בְּעַמֶּיךָ וַיִּקְרָא יִטְטֹז</p> <p>כי הרוכל מעתיק יקנה מזה וימכור לזה והרכיל יגלה לזה מה ששמע מזה. אבן עזרא שם</p>
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According to R. Avraham Ibn Ezra (and many other commentators), the term "*rachil*" is related to the term "*rochel*." Just like the peddler (*rochel*), the tale-bearer (*rachil*) is consistently looking for new information to "acquire" in one place and "sell" elsewhere.

☞ HOW DOES THIS RELATE TO EXPOSING PRIVATE, THOUGH BENIGN, MATTERS?

☞ CAN YOU THINK OF INFORMATION THAT SOME MIGHT CONSIDER PRIVATE BUT OTHERS WOULDN'T MIND IF IT WAS DISCUSSED PUBLICLY?

Rabbeinu Yonah highlights the connection between tale-bearers and people who don't value privacy:

<p>A person is required to conceal secrets that his friend revealed to him in confidence, even if it is not slander, because revealing a secret can cause damage to its owner and can undermine his plans ... Furthermore, one who reveals secrets violates standards of privacy and the trust of the secret's owner and King Shlomo stated (Mishlei 20:19) "One who reveals secrets goes and slanders." This is to say that someone who cannot control himself from revealing secrets will become a slanderer. Sha'arei Teshuva 3:225</p>	<p>והיבב האדם להסתיר הסוד אשר יגלה אליו חברו דרך סתר אף על פי שאין בגלוי הסוד ההוא ענין רכילות, כי יש בגלוי הסוד נזק לבעליו וסבה להפר מחשבתו ... והשנית כי מגלה הסוד אך יצא מדרך הצניעות והנה הוא מעביר על דעת בעל הסוד, ואמר שלמה עליו השלום (משלי כ:ט): "גולה סוד הולך רכיל", רצונו לומר אם תראה איש שאיננו מושל ברוחו לשמור לשונו מגלוי הסוד, אף על פי שאין במחשופו הסוד ההוא ענין רכילות בין אדם לחברו, תביאהו המדה הזאת להיות הולך רכיל. שיערי תשובה שער ג אות רכה</p>
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According to Rabbeinu Yonah, there are three negative aspects of telling over a secret that one was told in confidence:

1. Damage to the secret's owner.
2. Violating the privacy of the secret's owner.
3. Revealing secrets is a trait that leads one to slander.

About 1000 years ago, Rabbeinu Gershom instituted a number of bans including a ban against reading a letter that was addressed to someone else. The ban was recorded in the responsa of Maharam of Rutenburg:

<p>There is a ban against looking at the writings one person is sending to another without permission. Teshuvot Maharam MiRutenburg (Prague ed. no. 1022)</p>	<p>חרם שלא לראות בכתב חברו ששולח לחברו בלא ידיעתו אסור. שו"ת מהר"ם מרוטנברג (דפוס פראג) ס' אלף כב</p>
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Questions for thought:

1. What was the rule before Rabbeinu Gershom? Was it really permissible to read someone else's letters or was Rabbeinu Gershom trying to prohibit reading someone else's letters in cases where the violation of privacy is not as obvious?
2. Can you think of modern day examples where reading someone else's mail (or email, text messages, etc.) is not necessarily a violation of privacy?

R. Ya'akov Chagiz discusses the tradition to write "פגי" at the top of a letter that contains private matters, an acronym for "*poreitz geder yishchenu nachash*," (literally, one who violates a boundary should be bitten by a snake). This was a term commonly used for someone who violates rabbinic bans and serves as a reminder that the letter is subject to Rabbeinu Gershom's ban. In a responsum, R. Chagiz states:

<p>Question: Is there any legitimacy to the custom of writing "פגי" [Is it necessary to write "פגי" for the ban to be in effect?] Answer: Even without writing it, there is a prohibition against trying to reveal a friend's private matters. What is the difference if one spreads tales to others or to oneself? Teshuvot Halachot Ketanot 1:276</p>	<p>שאלה מה שנוהגין לכתוב ע"ג האגרות ופגי"ן אם יש בו ממש: תשובה בלאו הכי נראה שיש איסור לבקש ולחפש מסתוריו של חברו ומה לי לא תלך רכיל לאחרים או לעצמו. שו"ת הלכות קטנות א:רעו</p>
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According to R. Chagiz, the prohibition against tale-bearing includes revealing private information that is not slanderous, even if it is for your own interest and not to share with others.

HOW DOES THIS APPLY TO CASE 1? What if case 1 was slightly different and Shira received an email and when she began reading, she realized that it was really intended for her mother? Is she allowed to continue reading (even though Rabbeinu Gershom's ban may not technically apply)? What if the roles were reversed and Shira's mother noticed an email of interest that was intended for Shira. Would her mother be justified in reading the email?

HOW DOES R.CHAGIZ'S RULING APPLY TO CASE 2? Is Aliza entitled to share all information she receives by email with her friends? What are some examples of information that is definitely private, definitely not private and questionable? What should one do in a case of doubt?

There is an important exception to the rule regarding the prohibition against tale-bearing:

<p>We are required to refrain from slander as it states "You shall not be a tale-bearer" The idea is that if we hear someone speak badly about a friend, we should not tell him "Someone is saying such and such about you" unless our intent is to prevent harm or to quiet a fight. Sefer HaChinuch no. 236</p>	<p>שנמנענו מן הרכילות, שנאמר לא תלך רכיל. והענין הוא שאם נשמע אדם מדבר רע בחבירו, שלא נלך אליו ונספר לו פלוני מדבר כך וכך, אלא אם כן תהיה כונתנו לסילוק הנזקין ולהשבית ריב. ספר החינוך מצוה רלו</p>
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It is permissible to speak *lashon harah* in order to prevent someone from getting harmed. R. Shaul Yisraeli, *Chavot Binyamin* 2:75, writes that it is likewise permissible to reveal a secret in order to prevent harm to another individual.

HOW WOULD YOU APPLY THIS TO CASE 3? Are Chavi's friends protecting her from harm? Should they first discuss the matter with Eli before taking action?

Case 4 involves finding out information about someone for the purpose of employment. If the information is known by certain people but not the general public, the laws of slander permit asking certain questions to

find out if a potential employee is suitable for the position. R. Yisrael M. Kagan, *Chafetz Chaim* Vol. II, chapter 9, lists a number of criteria that must be met in order to find information about someone for business purposes, including not finding out more than is necessary. If the information is obtained illegally or surreptitiously, it is similar to spying which is only permissible in extraordinary circumstances (see Mishna, *Sanhedrin 67a*).

HOW WOULD YOU APPLY THIS TO CASE 4?

COMPILED BY RABBI JOSH FLUG, DIRECTOR OF TORAH RESEARCH, CJF

BIOGRAPHICAL SKETCHES OF AUTHORS CITED

R. Avraham Ibn Ezra (1092-1167) is most famous for his commentary on the Torah, though he authored numerous works on Jewish Philosophy, Hebrew Grammar, Mathematics and Astronomy. Born in Spain, he spent much of his life wandering from country to country to escape persecution and in doing so was able to spread his ideas to many Jewish communities in Europe, North Africa and Israel.

Rabbeinu Yonah of Gerona (d. 1263) was a Spanish scholar. He is most well known for his ethical works such as *Sha'arei Teshuva* and his *Commentary on Pirkei Avot*. He originally opposed the philosophical works of Rambam, but he viewed the burning of the Talmud in 1242 as a sign that he was incorrect in opposing Rambam's philosophical works.

Rabbeinu Gershom (10th-11th century) was considered the leader of Jewry during his time and for many years following his death. He established a Torah center in Mainz, Germany and students came from different countries to study at his yeshiva. He authored commentaries on the Torah and the Talmud. He is well known for a series of bans that he instituted relating to various aspects of Jewish life.

R. Meir of Rutenberg (c. 1215-1293) was known as the Maharam of Rutenberg. He was one of the later *Ba'alei HaTosafot* and was considered one of the leaders of the generation in Germany. In addition to his contribution to the comments of Tosafot, his rulings are quoted in his responsa as well as other collections. In 1286, Maharam was imprisoned and ransomed for a large sum of money. The Jewish community raised the money, but Maharam ruled that he may not be ransomed out of concern that other rabbis would be imprisoned for ransom. In 1293, he died in prison.

R. Ya'akov Chagiz (1620-1674) was born in Morocco where he began his rabbinic career, but eventually settled in Jerusalem. He wrote numerous works and was heavily involved in dispelling the claim that Shabtai Tzvi was the Messiah.

R. Yisrael Meir Kagan (1838-1933) is known to many as "The Chafetz Chaim" after his famous work on the laws of slander. He spent most of his life in Radin, Belarus, where he established a yeshiva. He authored many works, most notably *Mishna Berurah*, which is considered by many to be the authoritative work on Jewish law relating to daily life.

R. Shaul Yisraeli (1909-1995) was born in Slutzk, Belarus. After the Communist Revolution, he spent time learning in various "underground" yeshivot, but eventually was able to escape to Land of Israel in 1934. He studied in Yeshivat Merkaz HaRav where he eventually became one of its roshei yeshiva. He also served as the rabbi of Kfar HaRo'eh and was a member of the Rabbinic Court of the Chief Rabbinate of Israel. He was an influential leader of the Religious Zionist community.