

# NUMBERS: THE LAWBOOK ON SPEECH MORALITY

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Every Pentateuchal book has its own major theme: Genesis is the book of beginnings: the Creation, the history of early man and the origin of the Israelites. Exodus is the book of redemption, narrating the redemption and transformation of a nation of slaves to a priestly nation that builds a Tabernacle of holiness to God. Leviticus, the Priestly code, is the book of holiness, presenting laws of ritual purity and impurity that comprehensively cover our personal, social and spiritual life. The fifth book, known as the *Mishneh Torah* (Deuteronomy - the second Torah), the book of national sovereign law, presents those Biblical laws that are specially relevant for a people who live in their own land in an ordinary non-miraculous environment, under a centralized monarchical government, with a centralized Temple.<sup>1</sup>

Concerning the fourth book, Numbers (*Bamidbar*), the thesis of this paper is that one of the underlying themes is speech morality. The Book of Numbers presents a comprehensive set of case histories as illustrative examples, from which are derived the Jewish laws that define three categories of forbidden speech: a) *slander* – a true story attributing improper behavior to an individual; b) *malignity* – the fabricated attribution of improper behavior to an individual; c) *gossip* – neutral items about individuals which however, in context, will probably cause them harm. Although the biblical prohibitions against maligning and gossip are found in Deuteronomy 22:13-14 and Leviticus 19:16 respectively, it is in Numbers that we find the incidents that illustrate these laws.

## SLANDER

The extrapolation of laws of oral communication from a case history is eminently exemplified by the incident of Miriam's words about her brother Moses in Numbers 12:1-2. The juxtaposition of the Miriam case study and the subsequent leprosy and isolation of Miriam suggests a causal connection – just as she was punished with leprosy for slandering Moses, so too, in general, leprosy is a punishment for slander. The Masoretic text formats this idea

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in Deuteronomy 24:8-9 as a distinct paragraph, encoding the connection by using surrounding white-space indentation: *Take care regarding the plague of leprosy that you do exactly according to all that the priests, the Levites, shall instruct you, as I commanded them. Remember what the Lord, your God, did to Miriam on the way, after leaving Egypt.*

Jewish leprosy law may be seen as an attempt to rehabilitate the leper from his speech vices.<sup>2</sup> For example (based on explicit biblical passages), Jewish law teaches that the leper must be isolated from the city (Rambam: *Hilkhot Tumat Tzara'at* 11:10). The idea would seem to be that the leper must go through a period of introspection and self reflection. The leper must learn to cure the "urge" to respond to the derogatory mention of any person as well as cure the "urge" to listen to every juicy story about people. Additionally, since his behavior was anti-social, the leper himself must live outside of society.

From the story of Miriam we learn the important principle that even constructive help based on perceived faults must always be expressed with a reservation of doubt and not be inconsistent with the personality of the person we are complaining about. Here, Miriam accused Moses, who separated from his wife, of being haughty. This, despite the fact that the accusation contradicted his essential personality, to which God Himself testified (Num. 12:3). Furthermore, Miriam expressed her criticism of Moses with certainty instead of with doubt. In other words, Miriam was punished with leprosy for describing Moses' behavior in a manner that contradicted Moses' personality and for expressing her opinions with surety.

This classical analysis shows the centrality of the Miriam case study as archetypal for the laws of forbidden speech. In this paper, we go a step further by examining other case histories related in the book of Numbers as showing that Numbers is in fact a legal and exhortative guide to many aspects of speech morality. As we shall see, the case histories presented in this Book cover the major areas of life – marital, social, security, professional, leadership and political-military, individuals as well as sections of society, even the entire nation itself. Although the punishments meted out may be for that specific episode, the general idea of slander resulting in punishment is affirmed.

#### MALIGNITY

Not all slander is malign: the case of Miriam was not based on a malignant

attempt to destroy Moses professionally or as the leader of the children of Israel. Miriam erred in her tactics of criticism. The Book of Numbers, however, relates episodes where the slander is malignant, arising from emotions and motives much more harmful to the victims. And the punishments are immediate and severe. Here are three examples:

The law of the suspected wife (Num. 5:11-31) illustrates maligning in a context of jealousy and strained marital relations; from the laws of the suspected adulteress (*sotah*) we learn the important speech requirement of lack of exaggeration when dealing with possible improper activity. The husband who warned his wife, in front of witnesses, not to seclude herself with another man only has the right to suspect his wife of promiscuous activity if she does so again. Although it may be perfectly socially acceptable for the husband to accuse his wife of infidelity outright under these circumstances – after all, she and the other man were seen secluded together – the slander laws are very clear that he only has the right to express doubt.

From the episode of the spies, who maligning the goodness of the Land of Israel, we learn that slander applies not only to individuals but also to a nation, its land, its produce, etc. The very security of the nation can be compromised by malign slander. For punishment, the entire generation (except for a very few) would not live to enter the Promised Land (Num. 14:21-23).

The Korah rebellion illustrates that malignity can ferment and develop from natural emotions of greed and professional jealousy and disturb the entire society. Punishment by death was executed upon the rebels when the earth swallowed them (Num. 16:31-33). This episode seems like a climax of the intermittent complaints about the lack of food and water, which can be called a slander against God Himself. These complainers died in the wilderness (Num. 11:4-33).

#### GOSSIP

Gossip refers to relating neutral items about individuals which might nevertheless cause them harm. Thus, though engendered in innocence, gossip is a form of slander. Its seriousness is exemplified in the classic example of gossip in the statement by Doeg the Edomite that Nov, the city of priests, gave David food and arms, as told, not in Numbers, but in I Samuel (Chaps. 21-22). Although Doeg did not say anything negative about the city of Nov, his

statement led to the destruction of the city because Saul was jealous of David. Although no mention is made of punishing Doeg, he is immortalized in rabbinic literature as an example of gossip.<sup>3</sup>

#### FROM CASE HISTORY TO HALAKHAH

Rabbi Yisrael Meir Kagan (1839-1933) wrote two popular books on speech morality, *Shemirat ha-Lashon* and *Hafetz Hayyim*. The latter contains a section called *Hilkhot Leshon Ha-ra*. The main body of this book is traditionally called *Mekor Hayyim*. Chapter 10 presents a checklist of seven conditions to satisfy before saying something that may be *leshon ha-ra*.<sup>4</sup> The following section indicates the relationship of biblical case histories to what has become the halakhic attitude toward the speaking of *leshon ha-ra* for good and for ill.

#### THE CHECKLIST FOR REPORTING FAULTS

The checklist items listed below are found in *Hilkhot Leshon Ha-ra, Mekor Hayyim*, 10:2, and repeated in a different order and number in *Hilkhot Rekhlut, Mekor Hayyim*, 9:2. In this section we derive each checklist rule from case histories in Numbers, those analyzed above or others.

Checklist Item #1: "The person reporting the fault should personally know of it through his own experience." This checklist item is illustrated in the confrontation between Moses and the Reubenites-Gadites. Moses accused the Reubenites-Gadites of continuing in their ancestors' tradition of causing doubt in the hearts of the Jewish people. Moses emphasizes personal knowledge: *This is the way your parents' generation behaved when I sent them from Kadesh Barnea* (Num. 32:8).

Checklist item #2: "When reporting faults, one should report with doubt, not surety." We have already seen this checklist item in the case of the suspected adulteress, the *sotah*: The husband expresses certainty about the forbidden seclusion, but doubt about an actual affair (Rashi, Num. 5:14).

This principle is also powerfully illustrated in the Miriam-slander case. "Miriam had good intentions – she wanted to reunite Moses and his wife. She erroneously thought that Moses was only on the prophetic level of the Patriarchs and therefore should not separate from his wife (just as the Patriarchs did not separate from their wives). However, she was punished because she

expressed her criticisms, found in Numbers 12:1-2, in sure as opposed to doubtful language" (*Hilkhot Leshon Ha-ra, Be'er Mayyim Hayyim*, 8:1). Most appropriate is the Sifri's biting inference from this: "If Miriam, a prophetess, who risked her life to watch Moses in a basket go down the Nile, and who spoke about Moses with the intent to reunite him with his wife, was so severely punished for the sin of slander, how much more so will it happen to others who slander" (*Hilkhot Leshon Ha-ra, Be'er Mayyim Hayyim*, 3:2).

Checklist item #3: "Prior to stating the faults of a person, one should attempt to rebuke him softly." An example of discreet rebuke is found in Numbers 32.

After the conquest of lands east of the Jordan, the Gadites and Reubenites owning cattle in great numbers approached Moses with the following request: *The land which the Lord has conquered [Jazer and Gilead] for the community of Israel is cattle country, and your servants have cattle. It would be a favor to us if this land were given to your servants as a holding; do not move us across the Jordan (v. 4-5). . . We will build here sheepfolds for our flocks and towns for our children (v. 16).* After eliciting an agreement from them that they will cross the Jordan when their brother tribes need their help, Moses quietly reprimands them: *Build towns for your children and sheepfolds for your flocks, but do what you promised (v. 24),* reversing the order in verse 16 and showing them that it was inappropriate to emphasize their cattle before mentioning their children (Rashi, Num. 32:16).

The use of discretion is frequently only hinted at by a skillfully placed extra word. For example, Moses, in his initial response to Korah's rebellion and slander, states: [We will reconvene] *in the morning* [when] *God will let us know who belongs to Him* (Num. 16:5). Rashi notes that the word "morning" is possibly a discreet way of Moses suggesting: "Perhaps you are drunk and don't really mean these things. Why don't you sleep it off? If you retract, we can let the whole thing drop."

Checklist item #4: "The statement of faults should not be exaggerated." This checklist item is poignantly illustrated in the case of the ceremony involving the suspected adulteress (*sotah*). The husband had warned his wife not to seclude herself with certain other men and she was subsequently caught doing just that. The Torah, however, is careful to force the husband to be factual: to testify with certainty about the seclusion but to express a lack of

certainty about an affair (Rashi, Num. 5:14). In fact, the purpose of the ceremony is not to punish the woman but to scare her into confessing that there actually was an adulterous affair; and, if no confession is forthcoming, to settle the matter so that the couple can resume a normal life (Rashi, Num. 5:18, and 28).

Checklist item #5: "When reporting faults, one's intention should not be malicious but rather to help the one spoken about and the people." This checklist item can also be inferred from the case of the Korah rebellion mentioned above: Rashi, as noted there, infers a discretion from the word *morning*: Moses's accusation (according to Rashi) that Korah was possibly drunk was not a malicious cut at Korah's character but rather a tactic to delay things – to facilitate retraction of the rebellion.

Checklist Item #6: "If available, other methods (instead of exposing faults) to remedy the situation should be used." This checklist item may also be inferred from the story of the Korah rebellion. Recall, Korah had attacked Moses' and Aaron's professional credentials. Korah explicitly argued that the entire nation (certainly his own associates) possessed both the holiness and the prophetic relation to God necessary to function in the priesthood (Num. 16:3). Moses could have simply exposed Korah's personality faults, thereby refuting his claim that he was equally competent for the priesthood. Instead, Moses chose another method; he explained that the selection of Aaron was achieved through Divine decree (Num. 16:5, 7, 17:23). By invoking a Divine decree, Moses avoided a confrontation with Korah which would have required him to expose Korah's inadequacy.

A similar use of *other methods* is perhaps hinted at in Numbers, Chapters 3 and 4 which present the divinely decreed professional assignments of the various Levite subfamilies. By presenting these assignments as decreed by God (as opposed to deserved by skill and merit) the Bible possibly hoped to minimize what the *Hafetz Hayyim* describes as "the typical griping about 'family blemishes' and 'professional faults' that frequently take place during daily conversations" (*Mekor Hayyim, Petihah, Lavin*, Paragraph 13).

Checklist Item #7: "The report of faults should not cause greater damage than the damage [to the transgressor] that would have resulted if the report was made in a court of law." This checklist item is illustrated by contrasting Moses' humility when his sister slandered him (Num. 12:3) with his anger

(e.g. Num. 16:15) at the Korah rebellion. When Miriam slandered Moses, it was God, not Moses, who complained. Moses understood that Miriam simply wanted him to get back with his wife. Confronting her would have caused her severe social damage disproportionate to the sin she had committed. Consequently, besides not mentioning her sin, Moses actually prayed for her (Num. 12:13). By contrast, Korah rebelled against the authority of God. Therefore Moses was angry and confrontational, unable to find sympathy for a rebellion of such severity that, if proven in a court of law, would in any case have led to Korah's death (e.g. Deut. 17:12).

It should be noted that these seven checklist items are considered technical Jewish laws that are found in compilations of later authorities (*Aharonim*), who cited these laws from the early authorities (*Rishonim*), who in turn derived them

from primary sources such as the Talmud, *Tosefta* and other legal compilations. However, as shown above, all these laws may naturally and directly be derived from analysis of biblical case studies. The study of the original biblical text in the Book of Numbers can thus be considered an additional legal source for these laws.

#### COMPLAINT ETIQUETTE

To dispel any conclusion that the Book of Numbers as a source for Jewish law presents only negative case histories, we should consider the story of the daughters of Zelophehad (Num. 27). The Book of Numbers ends beautifully with an example of how to properly go about making a complaint.

To illustrate the pedagogical value of Numbers 27, consider the following hypothetical situation. Daughters who have just lost their father are upset that the inheritance does not go to them, his daughters, but rather to other male relatives. They declare that this law is sexist and unfair. This would be an example of prohibited speech, since it slanders Jewish law. However, using almost identical language, the complaint is formulated as a legitimate constructive question, not as a slanderous declaration. The daughters in a proper rabbinical setting inquire (to paraphrase Num. 27:3-4): "Our father had no sons. Under present Jewish law, we the daughters cannot inherit. Is there a reason we should lose our father's inheritance? Can you please give us a portion of our father's inheritance?"

Thus, the Book of Numbers, after showing *what not to do* and indicating *how to create proper speech atmosphere*, ends with a demonstration of *how to deal with daily complaints*.<sup>5</sup> There are other passages in Numbers presenting cases of complaint etiquette such as Numbers 9, which presents the complaint of the ritually impure men who did not wish to lose the opportunity of offering the paschal lamb. In light of this, the husband who brings his wife, suspected of adultery, to the Temple priests for an examination may actually be understood as also "gripping" in a legitimate constructive way. He is a) articulating his suspicions but not accusing; b) explicitly identifying his problem – his wife *may* have been unfaithful; and c) asking for a remedy, a Temple examination, which, if she passes, will allow them to resume their marital relationship.

From the point of view of the laws of prohibited speech, the key attributes to emphasize in formulating a proper complaint are: a) lack of exaggeration, b) factual identification of the problem, and c) a request for a remedy. These attributes are consistent with the checklists presented in the classic Jewish legal works on prohibited speech.

## CONCLUSION

We conclude this paper by asking the obvious question: Why? Why does Numbers contain so many episodes dealing with speech morality?

We believe the answer to this is echoed in the passage already cited showing that leprosy is a punishment for slander. Jewish psychology sees poor speech etiquette as a symptom of psychological problems and character flaws. Modern psychology knows of several types of psychological problems. The Torah sees other bad personality traits: arrogance, mistrust, lack of kindness, etc., as expressing themselves in slander. Because of the centrality of speech etiquette as a reflection of negative traits, the Torah devoted much of Numbers to speech morality, exploring both the problems, consequences and remedies to slander. Each of these is explored in detail with a breadth of coverage of causes.

Throughout this essay we have shown how Numbers illustrates speech morality. We advocate its study as an additional legal source guide for the laws of slander, gossip and maligning as well as general speech morality. We believe its proper study can enrich our appreciation of all aspects of ethical and



prohibited speech.

#### NOTES

1. The identification of the Deuteronomy laws as those laws (a) focused on a non-miraculous environment (in contrast to the miraculous environment of the wilderness travels where manna was supplied daily) by (b) a nation with a centralized monarchial government (in contrast to the wilderness travels which had a prophetic based government) was suggested by Rabbi Samson Raphael Hirsch in his commentary on Deuteronomy.
2. Many of the interpretations of these laws may be found throughout the commentary of Rabbi Samson Raphael Hirsch on Leviticus chapters 12 - 16.
3. See for example T.B. *Sanhedrin* 93b and T.J. *Pe'ah* 1:1.
4. *Shmirath HaLashon* (New York: Freedman, 1952) has 2 parts (*halakim*), the first part being divided into three gates (*she'arim*), each gate with chapters and paragraphs. The book entitled *Hafetz Hayyim* (whence the popular nickname for Rabbi Kagan) is subdivided as well. The main body of the book is called *Mekor Hayyim* while the footnotes are called *Be'er Mayyim Hayyim*. The book is divided into an introduction (*Petiḥah*), *Hilkhot Leshon Ha-ra*, and *Hilkhot (Issurei) Rekhilut*. The introduction is further divided into *Lavin*, *Asin*, and *Arurin*. The two legal sections of the book are divided into chapters (*kelalim*) and paragraphs. There is a short section of case histories, *Tziyurim* (hypotheticals), presented after *Hilkhot (Issurei) Rekhilut*. The book also quotes several important responsa. The two books, along with other relevant works (such as *Hovat ha-Shemirah*), can often be purchased as "*Kol Kitvei Hafetz Hayyim Ha-shalem*." The checklist of chapter 10 given here may be found in <http://www.torah.org/learning/halashon/chapter10.html>, a useful summary.
5. I have dwelt on the inquiry in Numbers 27. An almost identical analysis can be made for Numbers 36.

60. My number is 11, as all their numbers who are of us. The Five Pointed Star, with a Circle in the Middle, & the circle is Red. My colour is black to the blind, but the blue & gold are seen of the seeing. 15. For I am perfect, being Not; and my number is nine by the fools; but with the just I am eight, and one in eight: Which is vital, for I am none indeed. The Empress and the King are not of me; for there is a further secret. 16. I am The Empress & the Hierophant. Concerning the fourth book, Numbers (Bamidbar), the thesis of this paper is that one of the underlying themes is speech morality. The Book of Numbers presents a comprehensive set of case histories as illustrative examples, from which are derived the Jewish laws that define three categories of forbidden speech: a) slander--a true story attributing improper behavior to an individual; b) malignity--the fabricated attribution of improper behavior to an individual; c) gossip--neutral items about individuals which, however, in context, will probably cause them harm. Although the biblical prohibition "This book makes a compelling case for the importance of both veracity and freedom of speech for moral agency and progress. Full of insight and with a distinctive moral tone, this is a very significant contribution from one of the field's most distinguished and original participants."--Liam Murphy, New York University. From the Back Cover. "This very important book will be mandatory reading for legal scholars interested in duress, for philosophers and others concerned with lying, and for legal, philosophical, and political theorists who examine questions of freedom of speech. See law-books. Journal Article Critique Example. Quong-The Role of Public Reason. Comments and 3+rispr+dence on +ccession Ninth Edition < \$esiderio P. 3+rado 1. #+estions A %nswes in 'emedial Law econd Edition < 'eyaldo 2. %granBamendeB 5. Criminal Proced+re '+les 11(41!5 % Primer4'e)iewer 3ose L. abio 3r. < edited by Fides %ngeli :. abio 7. =he Law on P+blic Officers and Election Law Fifth edition !(( & by @ector . \$e Leon and @ector ". \$e Leon; 3r 6. Ci)il Code of the Philippines %nnotated 1/ th Edition !((. )ol+me . < Edgardo L. Paras 1(. %dministrati)e Law / th Edition !((/ by @ector . \$e Leon and @ector ". \$e Leon 3r. 11.