



Texas father sues son's classmates for alleged cyberbullying - Associated Press, February 5, 2019

SAN ANTONIO — A San Antonio man is suing his son's classmates and their parents, accusing the students of starting online rumours that the teenager was planning a school shooting. The San Antonio Express-News reports that Derek Rothschild's lawsuit seeks to unmask the unnamed Tex Hill Middle School students who spread the gossip. It's the first lawsuit to invoke David's Law, named for a Texas high school student who killed himself after being cyberbullied. The lawsuit says the students posted on social media in January that Rothschild's 14-year-old son was most likely to shoot up a school and spread rumours about an alleged planned attack. The lawsuit says school officials determined the claims weren't credible. Rothschild says the district didn't clear his son's name or provide him with counselling and resources under David's Law.

Information from: San Antonio Express-News, <http://www.mysanantonio.com>

1. Dr. David Levy, Halacha and Netiquette, <http://databases.jewishlibraries.org/sites/default/files/proceedings/proceedings2014/LevyText2014.pdf>

Netiquette and Halakhah relates to:

- Chafetz Chaim's Hilchot Issurei Lashon Hara;
- the prohibition of motzi shem ra, slander
- causing emotional stress with words, ona'at devarim,
- lo telech rachil b'amecha, tale-bearing
- causing halbanat panim, embarrassment, (which is like murder)

and striving for:

- purity of speech, lashon naki
- derekh erez kadma la'torah
- sanctifying Hashem's name, kiddush Hashem
- respecting all of G-d's creatures, k'vod habriyot
- respecting all Tzelem Elokim and affirming their dignity
- Darkhei Noam

2. Vayikra 19:16 (Alhatorah translation)

לא תלך רכיל רְעֵמִיךָ לֹא תַעֲמִד עַל-יְדֵם רֵעֶךָ אֲנִי יי:

“You shall not go up and down as a slanderer among your people. “You shall not endanger the life of your neighbor. I am Hashem.

3. Or Hachaim to Vayikra 19:16 (Alhatorah translation)

לא תלך רכיל וגוי' – קדמו רז"ל בספר הזוהר הקדוש ודקדקו כפל הדברים, תלך, רכיל, כי אחת הנה, ואמרו דרך סוד יעיין שם דבריהם באדרא (פי' נשא קכה.) ולפי פשט הכתוב נראה שיכוין לומר שלא יגרום הוא הרכילות הנעשה מהזולת על ידו, הא כיצד שלא יגלה דברים אפילו למי שאין בהם רכילות במקום שיש לחוש שהשומעים יוליכו הדברים ונמצא הוא הוליד רכילות זו שרכלו האמצעים. ולדרך זה ידויק אומרו בעמך – פירוש באמצעות עמך אתה מוליד רכיל שאומרים הדברים בפניהם ומתגלגלים מזה לזה ונשמעים הדברים, ואמר אני ה' פירוש אני בוחן הדברים ממי יצאו תחילה ופורע. עוד ירצה שלא יחזיק בידי מדברי לשון הרע שבזה הוא סובב שיוליכו הרכיל ומעלה עליו הכתוב כאלו הוא הוליד רכילות לזה להיותו סיבה.

"Do not go about your people bearing tales." Our sages in the Zohar have already preceded me in drawing attention to the apparent duplication when the Torah speaks both about לא תלך, "do not go," and רכיל, "bearing tales." The latter word implies that one goes from one person to another. So why do we need the words: "do not go?" The Zohar's answer in Nasso subsection Idra Rabbah 128 is of a mystical dimension. I believe the plain meaning of the Torah is a warning to each individual not to become a vehicle for potential defamatory information about a second party. How does one prevent this? By not revealing any information even innocent information in the hearing of anyone who might use this information or part of it and turn it into something defamatory. If that were to happen then the person who merely related the original harmless sounding story shares part of the guilt. The Torah purposely writes בעמך, "amongst your own people," referring to people close to you who are indiscreet and blabber about any confidence they have heard or overheard. G-d adds: "I am the Lord" i.e. I am going to track down whence the defamatory remarks originated. Another aspect of our verse is that the Torah warns that we must not associate with nor tolerate the presence of people who spread evil gossip. Providing such people with a home or otherwise assisting them makes the host an accessory to their sin, part of the cause.

4. Devarim 27:24 (Alhatorah translation)

אָרוֹר מִכָּה רֵעֵהוּ בְּסֵתֶר וְאָמַר כָּל־הָעָם אָמֵן:

‘Cursed is he who strikes his neighbor in secret.’ All the people shall say, ‘Amen.’

5. Vayikra 25:17 (Alhatorah translation)

וְלֹא תוֹנוּ אִישׁ אֶת־עֲמִיתוֹ וְיִרְאתָ מֵאֱלֹהֶיךָ כִּי אֲנִי יי' אֱלֹהֵיכֶם:

You shall not wrong one another; but you shall fear your G-d: for I am Hashem your G-d.

6. Talmud Bavli Bava Metzia 58b (Davidson Edition translation)

א"ר יוחנן משום ר"ש בן יוחאי גדול אונאת דברים מאונאת ממון שזה נאמר בו (ויקרא כה, יז) ויראת מאלקיך וזה לא נאמר בו ויראת מאלקיך ור' אלעזר אומר זה בגופו וזה בממונו רבי שמואל בר נחמני אמר זה ניתן להישבון וזה לא ניתן להישבון תני תנא קמיה דרב נחמן בר יצחק כל המלבין פני חבירו ברבים כאילו שופך דמים א"ל שפיר קא אמרת דחזינא ליה דאזיל סומקא ואתי חוורא אמר ליה אביי לרב דימי במערבא במאי זהירי א"ל באחוורי אפי דאמר רבי חנינא הכל יורדין לגיהנם חוץ משלשה הכל ס"ד אלא אימא כל היורדין לגיהנם עולים חוץ משלשה שיורדין ואין עולין ואלו הן הבא על אשת איש והמלבין פני חבירו ברבים והמכנה שם רע לחבירו מכנה היינו מלבין אע"ג דדש ביה בשמיה

Rabbi Yohanan says in the name of Rabbi Shimon ben Yoḥai: Greater is the transgression of verbal mistreatment than the transgression of monetary exploitation, as with regard to this, verbal mistreatment, it is stated: "And you shall fear your G-d." But with regard to that, monetary exploitation, it is not stated: "And you shall fear your G-d." And Rabbi Elazar said this explanation: This, verbal mistreatment, affects one's body; but that, monetary exploitation, affects one's money. Rabbi Shmuel bar Naḥmani says: This, monetary exploitation, is given to restitution; but that, verbal mistreatment, is not given to restitution. The Gemara relates that the tanna who recited mishnayot and baraitot in the study hall taught a baraita before Rav Naḥman bar Yitzḥak: Anyone who humiliates another in public, it is as though he were spilling blood. Rav Naḥman bar Yitzḥak said to him: You have spoken well, as we see that after the humiliated person blushes, the red leaves his face and pallor comes in its place, which is tantamount to spilling his blood. Abaye said to Rav Dimi: In the West, i.e., Eretz Yisrael, with regard to what mitzva are they particularly vigilant? Rav Dimi said to him: They are vigilant in refraining from humiliating others, as Rabbi Ḥanina says: Everyone descends to Gehenna except for three. The Gemara asks: Does it enter your mind that everyone descends to Gehenna? Rather, say: Anyone who descends to Gehenna ultimately ascends, except for three who descend and do not ascend, and these are they: One who engages in intercourse with a married woman, as this transgression is a serious offense against both G-d and a person; and one who humiliates another in public; and one who calls another a derogatory name. The Gemara asks with regard to one who calls another a derogatory name: That is identical to one who shames him; why are they listed separately? The Gemara answers: Although the victim grew accustomed to being called that name in place of his name, and he is no longer humiliated by being called that name, since the intent was to insult him, the perpetrator's punishment is severe.

7. Mishna Bava Kamma 8:1 (cited in Talmud Bava Kamma 83b) (Davidson Edition translation)

החובל בחבירו חייב עליו משום חמשה דברים בנזק בצער בריפוי בשבת ובושת... בושת הכל לפי המבייש והמתבייש.

MISHNA: One who injures another is liable to pay compensation for that injury due to five types of indemnity: He must pay for damage, for pain, for medical costs, for loss of livelihood, and for humiliation... How is payment for humiliation assessed? It all depends on the stature of the one who humiliates the other and the one who is humiliated.

8. Rosh, Bava Kamma 8:15

ומסתברא דיותר בושת בדברים מבושת של חבלה דאין דבר גדול כלשון הרע ודבה שאדם מוציא על חבירו

And it seems that there is more embarrassment in words than embarrassment from physical wounds, as there is nothing more [damaging] than Lashon Hara and slander that one tells about his friend.

9. Talmud Bavli Bava Kamma 91a (Davidson Edition translation)

רקק והגיע בו הרוק והעביר כו': אמר רב פפא לא שנו אלא בו אבל בבגדו לא וניהוי כי בייש בדברים אמרי במערבא משמיה דרבי יוסי בר אבין זאת אומרת ביישו בדברים פטור מכלום:

The mishna teaches (90a): If he spat at him and his spittle reached him, or if he removed another's cloak, he must give the injured party four hundred dinars. Rav Pappa says: They taught this halakha only in a case where the spittle reached him. But if the spittle landed on his clothing without touching him, he is not required to pay him. The Gemara asks: Why not? Let it be like one who humiliated another with words. The Gemara answers: In the West, Eretz Yisrael, they say in the name of Rabbi Yosei bar Avin: That is to say that if he humiliated another with words alone, he is exempt from paying anything, although he will be held accountable by Heaven for his sin.

10. Shulchan Aruch/Mappah, Choshen Mishpat 420:38-39

רקק בחבירו חייב אבל רקק בבגדיו או שביישו בדברים פטור ויש לב"ד בכל מקום ובכל זמן לגדור כפי מה שיראו ויש אומרי' שמנדין אותו עד שיפייס המבוויש: הגה וי"א דמכין אותו מכת מרדות והמוציא שם רע על חבירו הוי בכלל המבייש בדברים אף על פי שהמבייש בדברים אינו בר תשלומין עון גדול הוא ואין המחיר ומגדף לעם ומביישן אלא שוטה רשע וגס רוח...

If one spit on his friend he is liable [to pay damages], but if he spit on his clothing or embarrassed him with words, he is exempt [from monetary payments]. And the Beit Din of each place and each time should rule and protect according to what it sees fit. And there are those who say that we excommunicate [a person who embarrasses a friend with words] until he asks forgiveness from the person he embarrassed.

Even though one who embarrasses with words is not liable for payment, it is a great sin, and one who curses and speaks badly of [a member of the Jewish] nation and embarrasses them is only a fool, sinner, and egotist...

11. Rambam, Hilchot Chovel Umazik 3:5 (Chabad.org translation)

המבייש את חבירו בדברים או שרקק על בגדיו פטור מן התשלומין. ויש לבית דין לגדור בדבר בכל מקום ובכל זמן כפי שיראו. ואם בייש תלמיד חכם חייב לשלם לו בושת שלימה אע"פ שלא ביישו אלא בדברים כבר נפסק הדין שכל המבייש תלמיד חכם אפילו בדברים קונסין אותו וגובין ממנו משקל שלשים וחמשה דינר מן הזהב שהוא משקל תשע סלעים פחות רביע וקבלה היא בידינו שגובין קנס זה בכל מקום בין בארץ בין בחוצה לארץ:

When a person embarrasses a colleague with words, or he spits on his clothing, he is not liable for a financial penalty. The court should, however, impose appropriate restraints concerning such matters in every place and time. If a person embarrasses a Torah scholar, he is liable to pay him for the full measure of embarrassment, even though he embarrassed him only by verbal abuse. The rule has already been ordained that anyone who embarrasses a Torah scholar, even with mere verbal abuse, is penalized and is required to pay 35 gold dinarim – i.e., the weight of 8 and ¾ sela'im. It is an accepted tradition, that this penalty is exacted in all places, in Eretz Yisrael and in the diaspora.

12. Teshuvot Harosh, 101:9:2

תשובה חמשה דברים נאמרו בחובל נזק צער רפוי שבת בשת וכלן ע"י מעשה הם וכך שנו חז"ל (ב"ק צ"א) ביישו בדברים פטור אמנם נהגו בכל מקומות מושבות ישראל לעשות תקנה וסייג לדבר להטיל חכה בפי בעלי לשון ולקנוס המבייש הכל לפי הענין וכן יעשו בית דין בכל ענין לפי הראוי הכל לפי המבייש והמתבייש.

Answer: There are five [monetary payments] that were said for one who damages – Nezek, Tza'ar, Ripui, Shevet, and Boshet, and all of them [are only paid if the damage was done] through a physical action. And so say our Rabbis (of blessed memory, Bava Kamma 91) "if he embarrassed him with words, he is exempt". However, it is customary in all of the places that Jews settle to make a fence and restraint for this matter, to [punish those who speak ill of others], and to fine the embarrassed according to the case, and so should Beit Din do in all cases, as is fitting, according to the honour of the embarrassed and embarrassee.

13. Rabbi Tzvi Lifschitz, Compensation for Verbal Embarrassment, Techumin 16, page 193

ו. מצד ההלכה קשה להמיר את עונש הנידוי בעונש כספי, קל וחומר שלא ע"י ביד שאינו קבוע.
ז. לאור חומרת הבעיה ולמען השבת כבוד משפט התורה ועטרתו ליושנה יש צורך בתקנה כללית לעניין בושת דברים. אולם כל עוד לא ניתקנה תקנה כזו, הרי שבמקרה הנדון החליט בית הדין שלפניו הובא הענין לקנוס את המבייש בסכום סמלי ולהניעו להתנצל בפני השכנה שנפגעה ולהביע חרטה על המעשה.

6. From a halachic perspective, it is difficult to swap a punishment of excommunication for a monetary punishment, and certainly [it is difficult to do so] if the Beit Din is not [considered] "established".

7. In light of the seriousness of the issue and in order to return the honour of the judgement of the Torah and its crown to [as it was] in the past, there is a need for a general regulation for verbal embarrassment. However, so far, this has not been regulated, and in the case being discussed, the Beit Din here decided to fine the embarrassed a 'symbolic' amount, and to try to motivate him to approach his neighbour and ask for her forgiveness.