



Star Treatment: The Ethics of Rating a Human Being

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I. The Implications of Rating

That Four-Star Rating You Left Could Cost Your Uber Driver Her Job, Caroline O'Donovan, (BuzzFeed News, 11 April 2017)

“The rating system works like this: You start off as a five-star driver,” Don, a San Francisco Lyft driver told BuzzFeed News. “If you drop below a 4.6, then your career becomes a question. Uber or Lyft will reach out to you and let you know that you are on review probation. And if you continue to drop, then you're going to lose your job. They'll deactivate you.” ...

Both data and anecdotes suggest five-star rating systems are subjective, prone to bias, and generally confusing, yet labor marketplaces continue to ask customers to choose from one to five stars to determine who's good at their job and who isn't.

How bad Uber ratings affect drivers' careers and why you shouldn't be scared to report bad behavior, Marissa Miller (MIC, 1 December 2019)

Uber drivers make an average of \$15.97 per ride, while Lyft drivers make an average of \$11.48 per ride; both companies offer employees chances to earn more during surge pricing times and bonus weeks. **Nearly all bonus opportunities include minimum rating requirements to qualify**, however, and so combined with the fact that bad ratings can potentially lead to suspensions — which could affect drivers' ability to support their families and weaken their future job prospects — it's no wonder drivers care deeply about their scores.

II. Rating as *Lashon Hara* (Gossip/Bad Speech)

Drash on Beha'alotcha 5760, Rabbi Mordechai Kamenetzky (21st C, USA)

My grandfather, Reb Yaakov Kamenetzky told the story of the Chafetz Chaim (1838-1933, Belarus) and another Rabbi who were traveling together in Poland. As guests at an inn, they were served a fitting meal. Upon finishing their supper, the proprietress inquired about the quality of the service and the food.

“Excellent,” replied the Chafetz Chaim. The other rabbi nodded in agreement and then said as an afterthought, “the soup could use a bit more salt.”

The Chafetz Chaim turned white. The moment the hostess left the table he turned to his travel partner. “What have you done? All my life I have tried to avoid *lashon harah* and now I regret this entire trip!” “But what did I say?” pleaded the other Rabbi. “All I mentioned is that the soup needed a bit of salt. Otherwise I was as complimentary as you!”

“Don't you understand? There is a poor Jewish widow that is the cook. Right now the owner will complain to the cook who may deny that she did not salt the soup, then there may be a fight. The widow may lose her job! And if you don't believe me, come to the kitchen and see what is happening!”

True to his prediction they entered the kitchen and saw the hostess admonishing the cook. Only the intervention and continued compliments of the rabbis calmed the ire of the hostess and the cook retained her position.

The Torah teaches us an important lesson in considering about whom we speak. Some of us worry about speaking about Hashem's servants. **But the Torah clearly chastises those who speak against Moses, even if he were not “my servant!”** Everyone has a capacity in life and deserves the utmost regard no matter how high or low they are on the social scale.

Chofetz Chayim's Seven Conditions Before Speaking *Lashon Hara*

1. The speaker must have witnessed the incident themselves (hearsay must be verified)
2. The speaker should reflect thoroughly, not hastily concluding that the action in question is truly a violation according to Jewish law.
3. The speaker should first approach the transgressor privately, and rebuke them gently, because perhaps this can have an impact and inspire the person to improve their ways. If the transgressor does not listen, then the speaker should alert the public of the individual's guilt.
4. The description of the transgression should not be exaggerated
5. The speaker must have pure intentions (*toelet*, lit. "purpose")
6. If the purpose of speaking the Lashon Hara (e.g. causing the sinner to repent, warning the community to stay away from such activity) can be achieved in another way rather than speaking Lashon Hara, it is forbidden to speak *Lashon Hara*.
7. By speaking Lashon Hara, the transgressor should not be caused more damage than would be appropriate as determined by a Beit Din reviewing the case. (An example would be if a thief would be obligated to repay the victim \$100, but *Lashon Hara* caused damages of \$500).

Mishlei / Proverbs 11:2

When arrogance appears disgrace follows, but wisdom is with those who are *tz'nuim* (JPS: unassuming).

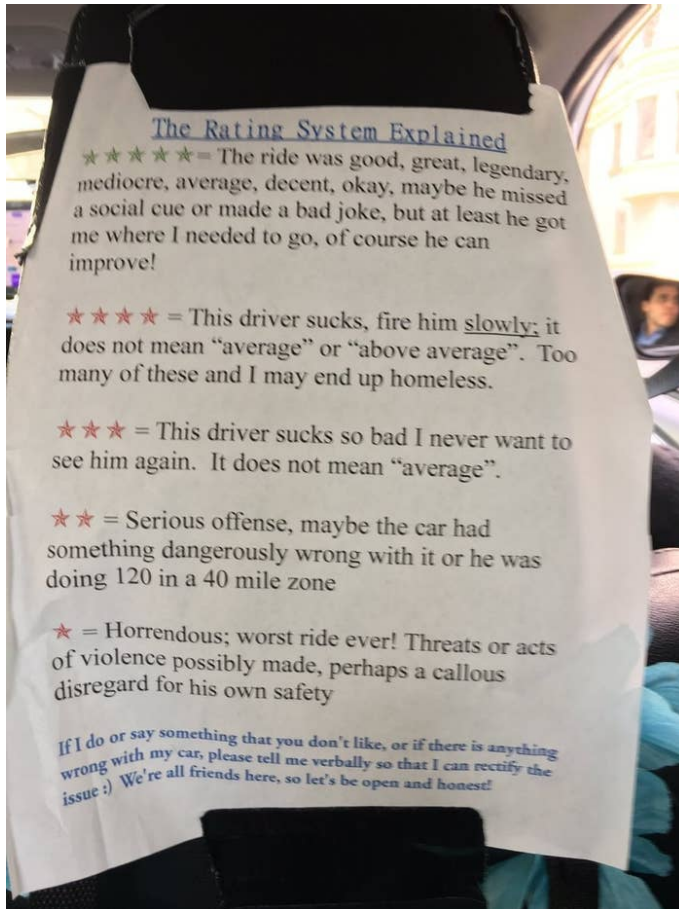
בְּאִזְנוֹן וַיִּבֹא קָלוֹן וְאֶת־צְנוּעִים חִכְמָה:

Rav Wolbe on Chumash, Parashas Tzav, Rabbi Yitzchok Caplan (1914-2005, Berlin)

Rabbeinu Yonah explains that *tzeniyus* is a virtue attributed to the wise, "for they hear and listen, and they do not desire to reveal what lies in their hearts"; they do not feel compelled to reveal everything they have seen and heard. This quality allows them to live a life of *penimiyus*, since they have created for themselves a world that is not dependent on the opinions and desires of others...

We live in the internet generation, where anything and everything is recorded and posted for the world to see. People have a hard time keeping things to themselves. Creating a relationship with Hashem means that one is cognizant of His presence in his life; something inaccessible to a person who perceives the world superficially.

III. Rating as Deceptive



Maimonides, *Mishneh Torah: Laws of Theft 7:1, 12* (1138-1204, Spain & North Africa)

1. If someone weighs out to their neighbor with weights that are deficient by the standards agreed upon by the residents of their state or uses a measure deficient by the agreed standards, they break a prohibition, as it is written: “You must never act dishonestly in judgment, in measures of length or weight or quantity” (Leviticus 19:35).

12. The punishment for unjust measures is more severe than the punishment for immorality, for the latter is a sin against God only, the former against one’s fellow man. If one denies the binding character of the commandment relating to measures, they deny in effect the Exodus from Egypt which was the basis of the commandments; but if one acknowledges the commandment relating to measures, they thereby acknowledge the Exodus from Egypt, which rendered all the commandments possible.

השוקל לתברו ממשקלות חסרות מן המשקל שהסכימו עליו בני אותה המדינה. או המודד במדה חסרה מן המדה שהסכימו עליה. הרי זה עובר בלא תעשה שנאמר (ויקרא יט לה) (לא תעשו עול במשפט במדה במשקל ובמסורה: "... קשה ענשן של מדות החר מענשן של עריות שנה בינו לבין המקום וזה בינו לבין חברו. וכל הפקר במצות מדות ככופר ביציאת מצרים שהיא תחלת הצווין. וכל המקבל עליו מצות מדות הרי זה מודה ביציאת מצרים שהיא גרמה לכל הצווין

IV. *Not Rating as a Kind of Theft / Rating to Protect*

Joseph Caro, *Shulkhan Arukh Choshen Mishpat 228:6* (1488-1575, Spain & Israel)

It is forbidden to deceive a person in purchasing or selling, or engage in *g'neivat da'at* (stealing knowledge), for example: if there is some type of deficiency in the purchase, this information needs to be provided to the purchaser. Even if the customer is a non-Jew one could not, for example, sell non-kosher meat under the premise that it has had kosher slaughter.

אסור לרמות בני אדם במקח וממכר או לגנוב דעתם כגון אם יש מום במקחו צריך להודיעו ללוקח אף אם הוא עכו"ם לא ימכור לו בשר נבילה בחזקת.

Maimonides, *Mishneh Torah: Laws of Injury and Damages 8:11*

Similarly, one who causes difficulty and irritation to the community may be handed over to idolatrous authorities to be beaten, imprisoned and fined. It is, however, forbidden to hand over a person for causing irritation to one individual.

וכן כל המצר לצבור ומצערין מתר למסרו בגד עכו"ם להכותו ולאסרו ולקנסו. אבל מפני צער יחיד אסור לאסרו.

Rabbi Moshe Isserles, gloss on *Choshen Mishpat 388:12* (1530-1572, Krakow)

Regarding someone who engages in forgeries and the like and there is a concern that they damage the public – we warn them not to do so, and if they do not listen, it is permitted to turn them in, (saying that no one else is engaged in such [misconduct] except for them alone).

מי שעוסק בזיופים וכדומה ויש לחוש שיזיק רבים מתרין בו שלא יעשה ואם אינו משגיח יכולין למסרו לומר שאין אחר מתעסק בו אלא זה לבד ...

V. The “Employee, Contractor, User, Manager” Problem

The rating game: How Uber and its peers turned us into horrible bosses,
Josh Dzieza (Verge, 28 October 2015)

Are workers their own bosses, as the companies often claim, or is the platform their boss, policing their work through algorithms and rules? But there’s a third party that’s often glossed over: the customer. The rating systems used by these companies have turned customers into unwitting and sometimes unwittingly ruthless middle managers, more efficient than any boss a company could hope to hire...

In March, when Judge Edward Chen denied Uber’s motion for summary judgement on the California drivers’ class action suit, he seized on the idea that **ratings aren’t just a customer feedback tool — they represent a new level of monitoring, far more pervasive than any watchful boss. Customer ratings, Chen wrote, give Uber an “arguably tremendous amount of control over the ‘manner and means’ of its drivers’ performance.”** Quoting from Michel Foucault’s *Discipline and Punish*, he wrote that a “state of conscious and permanent visibility assures the automatic functioning of power.”

Jewish Employee-Employer Relations, R’ Jill Jacobs (21st C, USA)

Jewish law differentiates between two categories of workers: the *po’el*, the type of worker... who is paid by the hour or by the day; and the *kablan*, a contractor paid for finishing a specific project. The *kablan* is generally described as a skilled worker, such as a carpenter, a repair person or an artisan. This person is less dependent on day-to-day wages than a *poel* and has greater leverage with the employer. A *kablan* whose employer refuses to pay, or pays too little can simply hold on to the item s/he has been hired to make or fix. Therefore, most of the laws protecting workers focus on the category of the *poel*, who is at the mercy of the employer.

Babylonian Talmud *Bava Metzia* 110b-111a

The Sages taught: Concerning one who says to another: Go out and hire workers for me, both of them do not violate the prohibition of delaying (payment of wages). This one, (the employer), is exempt because they did not hire them, and that one, (the middleman), is exempt because his work is not performed for him.

ת"ר האומר לחבירו צא שכור לי פועלים שניהן אין עוברין משום בל תלין זה לפי שלא שכרן. וזה לפי שאין פעולתו אצלו.

VI. Are Uber & Lyft in a Different Category?

Yitzchok Yaakov Weiss, *Minchat Yitzchak* 8:148 (1902-1989, Ukraine & Israel)

(Translation adapted from Rabbi Nechemya Taylor, Torah Mitzion)

If one parks their car in a way that endangers pedestrians; or on the sidewalk which forces pedestrians to walk in the street which is meant for cars and is dangerous for pedestrians; or if a person drives dangerously such as speeding or in a wild way that they would not be able to stop quick enough; or even if they have something in their authority that is dangerous – it is permitted to tell the police in order to protect the public due to “Do not put blood in your home.”

VII. Questions for Going Forward

- Can/should you rate, even if it is true?
- Are there scenarios where you have an obligation to rate?
- Does the very rating system itself pose a problem, and how do you understand your place within it?
- Does your motivation in answering these questions come more from:
 - (a) a sense of personal ethical character development?
 - (b) an understanding of how our texts compel us to act ethically in relationship to those with whom we engage in business?
- How do you understand the nature of the work (e.g. *po'el* vs. *kablan*), and does that influence your sense of responsibility?
- How do you understand the nature of your role (user vs. middle person vs. manager), and does that influence your sense of responsibility?