



KOL HAMEVASER

The Jewish Thought Magazine
of the Yeshiva University Student Body



Kedoshim Tihyu



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of the Yeshiva University Student Body

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KOL HAMEVASER IS A MAGAZINE OF JEWISH THOUGHT DEDICATED TO SPARKING THE DISCUSSION OF JEWISH ISSUES ON THE YESHIVA UNIVERSITY CAMPUS. IT WILL SERVE AS A FORUM FOR THE INTRODUCTION AND DEVELOPMENT OF NEW IDEAS. THE MAJOR CONTRIBUTORS TO KOL HAMEVASER WILL BE THE UNDERGRADUATE POPULATION, ALONG WITH REGULAR INPUT FROM RIETS RASHEI YESHIVAH, YU PROFESSORS, EDUCATORS FROM YESHIVOT AND SEMINARIES IN ISRAEL, AND OUTSIDE EXPERTS. IN ADDITION TO THE REGULAR EDITIONS, KOL HAMEVASER WILL BE SPONSORING IN-DEPTH SPECIAL ISSUES, SPEAKERS, DISCUSSION GROUPS, SHABBATONIM, AND REGULAR WEB ACTIVITY. WE HOPE TO FACILITATE THE RELIGIOUS AND INTELLECTUAL GROWTH OF YESHIVA UNIVERSITY AND THE LARGER JEWISH COMMUNITY.

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UPCOMING ISSUE

HEAR YE! HEAR YE! MEN AND WOMEN, YOUNG AND OLD! WE ARE SEEKING ARTICLES FOR THE PURIM ISSUE OF QOL HAMEVASER! THAT'S RIGHT! YOU CAN WRITE PURIM TORAH, FAUX MAHSHAVAH ARTICLES, SCANDALOUSLY FUNNY RELIGIOUS MANIFESTOS, QEPHIRAH, AND MUCH MORE! PLEASE SEND YOUR ARTICLES TO QOLHAMEVASER@GMAIL.COM, AND MAKE SURE THEY ARE ABSOLUTELY HILARIOUS!

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Editorials

A Note About This Edition

Many of the issues discussed in these pages are sensitive ones. Opinions on them are deeply divided and strongly held. More fundamentally, many may feel that any open, public discussion of these topics is simply inappropriate. We acknowledge these concerns. Nonetheless, we feel that the value of thoughtful, responsible dialogue, guided by intellectual integrity, openness, and *yirat Shamayim*, outweighs these concerns. As always, opinions expressed by individual authors are their own and are not necessarily endorsed by *Kol Hamevaser*.

Over-Sexualized

BY: Gilah Kletenik

How many of us have never watched TV, listened to a pop song, or read a magazine? I'm guessing most of us have; I, certainly, am guilty of all of the above, on multiple counts. It goes without saying that these fixtures of popular culture contain elements that some might describe, at best, as suggestive and inappropriate and, at the worst, *krum* and *pritsusdik*. And yet, in many ways, as a community, we continue to be party to and to even enjoy these accoutrements of the entertainment industry. At the same time, though, we encourage our children to reject these very lifestyles spewed by Hollywood. We expect, even demand, that they successfully sift through popular culture, spurning the sexual and embracing the acceptable – that they be experts at this cultural gymnastic. Is this fair, even possible?

If we choose not to live Satmar-style lives, we must be ready for the consequences of these choices – but are we? How can we demand that our teeny-boppers not hang up posters of scantily-clad men and women and command our teenagers to not be intimate? Indeed, by insisting that our young maintain such high standards of propriety are we setting them up for failure and if so, what message are we sending them?

We all know that despite the admonishments of our parents, teachers, and peers, our high-schoolers are far from innocent. Of course, this all transpires behind closed doors and with guilt. But it happens and we know it does, yet we deny this reality and continue expecting them to adhere to what might seem to be outdated modes of modesty. In so doing, we not only fail to teach them about safe habits and healthy relationships, but we also teach them to be ashamed of their bodies, of themselves. Until we reinstitute early marriage, is it even possible to be *shomer negi'ah*, let alone celibate, until the age of 25? Is such a system sustainable? Moreover, by prohibiting this kind of behavior, are we making it more than it actually might be – are we over-sexualizing sex itself?

The discord between our values and culture, the consequences of our demands and the message we send, are no more evident than in the realm subsumed by the ubiquitous, noxious, and nauseating word “*tсениus*.” We know that modesty is more than just the plunge of a neckline and snugness of a skirt – it is about

self-awareness. It is internal and applies both equally to women and men. All of this is true, but, at the same time, by demanding that our daughters not sport skinny jeans or require that our married women wear *shmatas* on their heads, are we telling them to be ashamed of their bodies, of themselves? Is it hypocritical that we interact daily with women who wear pants and their hair loose and yet demand that our own women cover-up – are we sexualizing that which is no longer sexual? Are we turning our daughters into sexual objects? At what point does upholding our tradition spurn the very values upon which it is founded?

In light of all of this, the easiest solution would be to jettison Halakhah entirely, to surrender to modernity, or to simply climb back into the *shitel* of yesteryear. But there must be another way, and if there is none, we have failed. It is high time that we reevaluate how we teach our youth about sexuality, about self-confidence and self-knowing, and rethink the



Source: www.israelcc.org

feasibility of the expectations we place on our vulnerable young people. It is also necessary for us to examine the message that long skirts and *sheitlech* send to both our women and men. How does this train our women to view themselves? What does it communicate to men about women? At the very least, we must admit that there is a problem and summon the security to address this issue head-on: to recognize the discord between the culture we expose our children to and the *musar* they hear in the classroom; to humbly, but confidently, ask ourselves, have we cheated on our values or have our values cheated on us?

Gilah Kletenik is a senior at SCW majoring in Political Science and is a Managing Editor for Kol Hamevaser.

One Modern Halakhist's Manifesto

BY: Alex Ozar

The Halakhic experience is a multifaceted and variegated one, spanning the gamut from mundane, rote regulation to the most sublime levels of *deveikut* (clinging to God). Halakhah often defines, codifies, and expresses our ideas, values and beliefs. Halakhah can be a vibrant spiritual experience and an engaging, exciting intellectual adventure. But one aspect which remains constant, and which lies at the root of the whole enterprise, is that the halakhic experience is one of obedience. We stand commanded by God to obey His word as given in the Halakhah, and we must dutifully submit to his will. Obedience is not the end or whole of the halakhic experience, but it is certainly its beginning and foundation.

It is the case that Halakhah can, has, and should be affected by our own axiology and real life circumstance. *Kevod ha-beriyot* (human dignity), *ha-Torah hasah al mamonan shel Yisrael* (the Torah had mercy on Jewish property), *tikkun ha-olam* (fixing the world), *ha-galut mitgabber aleinu* (the Exile is overcoming us), *et la-asot la-Hashem heferu Toratekha* (at a time of action for God's sake, they nullified Your Torah), *derakheha darkhei no'am* (its ways are ways of peace), and *yesh ko'ah be-yad Hakhamim la-akor davar min ha-Torah* (the Rabbis have the right to uproot a Torah precept) are all genuine, legitimate halakhic principles. God forbid that Halakhah should ever cease to take into account human dignity, suffering, and moral concern, and so internal to the halakhic system are mechanisms for integrating these factors. There are though significant limitations. It is not the case that “where there is a halakhic will, there is a way.” After all the arguments have been rebutted, and all appeals frustrated, sometimes the Halakhah just says “no.” This will at times result in tragedy and straining moral tension, but the committed halakhist has no choice but to faithfully bow his head in submission to an Authority higher than his own.

I do not accept the dogmatic assertion that our halakhic system is entirely identical to that of Moses. The Halakhah has in fact developed steadily since Sinai. As mentioned, Halakhah has often bent and displayed remarkable flexibility in accommodating changing realities, moral concerns and socio-economic circumstance. This historical fact often needs to be deduced from the content and circumstances of halakhic decisions, but often the guiding hand of extra-halakhic factors is rather transparent. It is also not the case that any layer of the Halakhah represents a completed, fully ideal system. The existence of any rabbinic innovation at all would clearly refute this claim, and we have no shortage of them. “If so,” argues the devil's advocate, “why can we not do as they? If Hazal could abrogate Torah laws, or read their own values into the Torah, why cannot we, when our values and Halakhah conflict,

alter Halakhah in the name of *kevod ha-beriyot*, *derakheha darkhei no'am*, or *et la-asot la-Hashem*?”

Again, Halakhah has often been affected by extra-halakhic axiology, but never, to my mind, was this ever done deliberately. Nothing could be further from the minds and hearts of our sages than purposefully altering the word of God. We may judge, for example, certain of the Tosafists' rulings to be compromises to circumstance, but there can be no question that the Tosafists did not experience it that way. They felt the need to justify their rulings, and valiantly succeeded in doing so, whether or not their answers satisfy us. They were impelled by circumstance to strain Halakhah to its limits, but never would they dare violate it. We shouldn't either.

I do not understand the mechanics of rabbinic exegesis. I cannot imagine two serious intellectuals engaged in vigorous debate, and one convincing the other by pointing to the fact that the word “*ein*” is spelled plene, thus making it resemble the morphologically similar but entirely unrelated word “*ayein*.” I do not understand it, but seems to me that Hazal did, if only because they take it seriously. Hazal's readings were often guided by their values, and I do not know how they justified many of their readings. I am, though, quite certain that they would never deliberately misinterpret God's word. We shouldn't either.

The rabbis of our generation are often criticized for lacking the courage to allow the Halakhah its full freedom, and utilize all the flexibility available to it to face the challenges of our day. “If only we had the Rabbis of yesteryear,” they sigh, “then the Halakhah would be as it should.” In many cases, I agree with this criticism. In my cases, I do not. But in all cases, and though it often frustrates me deeply, I recognize the necessity of maintaining the Halakhah's integrity. The Halakhic system of Rav Moshe or Rav Schachter is not the same as that of Rabban Gamliel or Hillel, and what could work for Hillel may not work in our day. Certainly, we cannot take greater license than Hillel would have allowed.

If we alter Halakhah in the name of our values, we may have a more moral, rational, and acceptable system, but we will not have Halakhah. Halakhah is fundamentally obedience to God's will. Without obedience, we violate God's will, forfeit Halakhah, and lose its spiritual gratification and intellectual excitement too, by the way. And a deliberate compromise on any detail is per force a compromise of the whole. The Halakhah must always be a dynamic, living organism, responsive to circumstance and morality, but it cannot be allowed to change with the wind.

Alex Ozar is a senior at YC majoring in Philosophy and is a Managing Editor for Kol Hamevaser.

Letter to the Editor

Dear Kol Hamevaser,

Ruthie Brafman's mistitled-but-learned article ["Co-education: *le-Khathilah* or *be-di-Avad*," *Kol Hamevaser* 2,3 (2008-2009): 7-8] provides some interesting food for thought, but suffers from a serious methodological flaw: Her thesis that "research demonstrates that all-female academic environments encourage intellectual pursuits, and foster academic achievement, and healthy self-esteem among young women" ignores half the students under discussion. The research cited describes the positive gains females accrue under a single-sex education, while not examining the deleterious effects that such a separation could have on what Ms. Brafman (quite accurately) describes as "wild boys."

As someone who has experienced both mixed and non-mixed classrooms, I can report, at least anecdotally, that co-ed settings were, on the whole, more "serious" – academically and socially. Our most rowdy bouts of rabbi-beard-pulling and in-class snowball fights invariably occurred away from the calming presence of females. I also feel – while admitting I have no scientific evidence to rely upon – that co-ed high schools consistently produce a more emotionally refined product than their single-sex counterparts. [See the same issue for an interview with Rabbi Jeremy Wieder (20-22), where he laments the possibility that "the rigid separation that is enforced during the prior educational stages does not allow young men and women to relate to each other as human beings."] Though these social side effects may be nothing more than a myth or a product of my imagination, they certainly deserve consideration before we condemn our boys to a potentially androcentric, woman-objectifying, and awkwardness-ensuring education.

Finally, any Jewish movement, Modern Orthodoxy included, has some heavy historical inertia to overcome in producing separate-but-equal treatment of females. We would be lying to ourselves if we said that today's all-female Jewish institutions match up in rigor and breadth to parallel mixed institutions, even if, as Ms. Brafman claims, such can be the case in the larger world. Before we decide to keep girls out, let's try letting them in.

Sincerely,
Julian Horowitz
YC/BRGS '10

ⁱ The article is mistitled for two reasons: 1) It implies a halakhic discussion, while the article merely begins within the halakhic framework and quickly leaves it. 2) It implies that Jewish schools would be co-ed due to some exigency of the time. While this may have been true of 1920s Boston, both options are equally viable in the present era. A more appropriate title might have been: "Co-ed and Separate – Separate *Adif*."

In or Out? Menstrual Segregation and Identity

BY: Dr. Shai Secunda

For some time now, anthropologists have interpreted rituals governing menstrual purity as an attempt to control the blurring of boundaries inherent in the physiology of menstruation.ⁱ Accordingly, cultures that practice the segregation of menstruants might be seen as attempting to control the chaotic, leaking bodies themselves and to keep them away from society. On the other hand, recent ethnographies of the actual experiences of segregated menstruants describe impressively vibrant, female-dominated traditions.ⁱⁱ This is not merely a matter of the "inmates" making the best of their "jail-time," but the formation of new cultures. In other words, it appears that menstrual purity practices represent an important site of identity construction.

Although the Mishnah in *Niddah* 7:3 might hint at the segregation of Jewish women in menstrual "huts," it does not seem that this practice became widespread within Judaism. Nevertheless, there were some Jewish communities that came into contact with groups that practiced some form of menstrual segregation. One such encounter occurred in Talmudic Babylonia, which was governed by the Sasanians – an Iranian dynasty that practiced the ancient dualistic religion of Zoroastrianism.

Dr. Yaakov Elman and other scholars researching the Iranian context of the Babylonian Talmud have made it increasingly clear that the *Bavli* was not composed in splendid isolation from Sasanian society, but rather in conversation with Christians, Manichaeans, and Zoroastrians.ⁱⁱⁱ Zoroastrians, like Babylonian Jews, inherited an ancient system of menstrual purity laws from their scriptures – the Avesta. The basic contours of the menstrual laws appear in the sixteenth chapter of the *Videvdad*, an Avestan book composed orally in the earlier half of the first millennium BCE. According to the Avesta and its Middle Persian translation and commentary, the Zand, menstruating women were to remain in a *daštānistān*, or "place of menstruation," for at least four days per month, and do little more than "sit, eat, and sleep." The menstruant was not to leave the structure, and the person who brought her food was to stay at a distance of at least three paces from her. Although there is some debate, most authorities maintain that food should be kept to a minimum and brought in special metal utensils. Regardless of whether or not women enjoyed the time spent in the *daštānistān* away from the pressures of home-life and with the opportunity to create unique social bonds with other women, as again some anthropologists have recently argued, the *daštānistān* undoubtedly acted as a sort of prison – even if a welcome one – that protected the rest of the world from the damaging effects of menstruation.

A Talmudic anecdote describes a *min* (heretic) engaged in conversation with an Amora concerning menstrual segregation. A certain *min* said to Rav Kahana, "You say that

a menstruant woman is permitted to seclude herself with [her] husband. Is it possible for fire to be near flax without singeing it?" [Rav Kahana] responded, "the Torah testifies of us, "Hedged with lilies (Song of Songs 7:3)" – that even like hedges of lilies they will not make breaches among us.^{iv}

Scholars have argued persuasively that the anonymous *min* here could not possibly be a Christian. Instead, he is a Zoroastrian – or at least someone that espouses Zoroastrian views. At root of the debate is *daštānistān*. By employing the second person pronoun ("you say that a menstruant woman is permitted to seclude herself with her husband"), Rav Kahana's interlocutor means to draw a clear distinction between Zoroastrian and rabbinic law. While Zoroastrians banish their wives to menstrual huts, rabbinic Jews do not. The *min*



Source: www.soncino.com

challenges the rabbinic menstrual laws by claiming that without segregating menstruants, husbands and wives will not be able to avoid intimacy. Rav Kahana responds by claiming that the Torah testifies of the Jews that they are compared to hedges of lilies. All Jews, even those as (spiritually) frail as lilies, can be trusted not to have sex while secluded with their menstruant wives.^v

Rabbinic sources from the Land of Israel^{vi} are already concerned with what might happen when men are secluded with their wives during menstrual impurity. Yet, the Rav Kahana anecdote introduces two new elements; (a) the "Zoroastrianization" of the concern by placing it in the mouth of a *min* who espouses Zoroastrian views, and (b) the extreme confidence that Rav Kahana has in the supposed Jewish capacity to withstand temptation. It would appear that Babylonian Amoraim were forced to reexamine older questions in light of their encounter with Zoroastrianism, and in turn they formulated new responses to counter Zoroas-

trians, or more likely, members of their own community who had absorbed Zoroastrian mores.

Still, there appears to me more at work. Despite the clear stringency of the *Videvdad*, other Zoroastrian texts from roughly the same period indicate that the unconditional requirement for menstruant women to remain cloistered in a menstrual "hut" remained far from unchallenged. For example, the third chapter of the *Hērbedestān*, a Middle Persian work devoted to issues of religious education, questions whether a menstruating woman must remain sequestered when other important precepts like pursuing religious study or agricultural work (an important task in Zoroastrianism) require her to leave seclusion. Although not entirely uncommon, this chapter's complicated structure is somewhat rare in the surviving Middle Persian literature. The formal characteristics of the text may indicate that the issue was one that demanded urgent attention. In addition, the very fact that the first opinion cited there so boldly maintains that the menstrual laws may simply be ignored when a woman wishes to perform other important precepts suggests that some kind of "outside" pressure was dictating, or at least encouraging, a rethinking of the Zoroastrian segregation of menstruants.

On the most basic level, the Rav Kahana story seems to reflect a clash with Jews who may have absorbed Zoroastrian sensibilities and thought that the institution of the Zoroastrian menstrual "hut" was worth considering. In this sense, the story connects to a certain rabbinic appreciation of Zoroastrian menstrual laws, and also contains a carefully calibrated response that recognizes the usefulness of the *daštānistān*, but renders it unnecessary in light of the Bible's assurances that all Jews are uniquely equipped to withstand temptation. Yet, further examination of Zoroastrian texts shows us that Jews were not the only people in the region rethinking the place of menstruant women and the role of the *daštānistān*. The involved dialectical passage in the *Hērbedestān* preserves a debate between those who continued to require menstruant women to remain cloistered in the *daštānistān* regardless of various competing values, and those who gave them freedom of movement. Thus, the Rav Kahana tale can now also be read as an articulation of a wider-ranging Sasanian debate regarding the institution of the *daštānistān*. This is not simply the story of some Jews clamoring for the segregation of menstruant women. Rather, it is part of a broad rethinking of the proper place of menstruant women that was taking place within both communities.

Another text which emanates from a later time period further illuminates the (re)consideration of the institution of the *daštānistān* in this region. The tenth century Islamic legal scholar, Hamza al-Sahmi, writes:^{vii} "Aisha [one of Mohammed's wives – S.S.] said, 'I asked the Prophet, God's prayers and peace be upon

him, for permission to build a hut to stay in during my menstrual period, but he did not permit it.”^{vii} During the centuries following the Arab conquest, Islam was engaged in a struggle to persuade Zoroastrians living in newly conquered lands to abandon their old practices, including their particular system of menstrual purity. This is true even of Zoroastrians who had already begun to adopt a Muslim way of life. According to Richard Bulliet’s interpretation, the above-cited *hadith*, an oral tradition about Muhammad, was crafted with this specific goal in mind. Significantly, instead of completely denying the validity of the *daštānistān*, this *hadith* attributes approval of the practice to Mohammed’s favorite wife, Aisha. Subsequently, Aisha’s desire to construct a menstrual hut is denied only by Mohammed’s *lack of permission*, but not outright prohibition. Like the Rav Kahana anecdote, the *hadith* is careful first to acknowledge and only then deny the institution of the *daštānistān*.

Although we do not have the opportunity to do so fully here, the *hadith* may also benefit from a comparison with the *Didascalía Apostolorum*— a third century Christian Syriac text addressed to recent Jewish converts to Christianity who were unwilling to abandon some of their Jewish menstrual purity practices.^{viii} Both the *Didascalía* and the *hadith* refer to converts who had a hard time parting with their native menstrual practices even after some form of conversion had begun, or in the case of the *Didascalía*, had even been formalized through baptism. Both texts testify to the great importance and deep roots of Zoroastrian and Jewish menstrual purity practices in the lives of converts or soon-to-be-converts despite the radical life-changes that they had presumably already made. Although obviously not a “conversion story” of any sort, the Rav Kahana anecdote is concerned with one rabbi’s encounter with, and even acknowledgement of, the menstrual practices of another religion, and it seems to allude to the existence of Jews who indeed flirted with some of these practices. Thus, we can also bring the Rav Kahana source into conversation with these texts.

The *hadith* and *Didascalía* demonstrate the important role of ethno-religious identification that the menstrual laws played. Beyond the larger societal questions that were being raised concerning the proper place of menstruant women in society, and aside from the rabbis’ need to justify the permission granted to a husband and his menstruating wife to seclude themselves, the strong association of the *daštānistān* with Zoroastrian practice may have weighed heavily on the minds of even those Jews who considered adopting stricter segregation of menstruants. It would seem that menstrual purity practices, including segregation, were deeply inscribed with communal identity. It could be that this is one of the reasons that ultimately, the practice of menstrual segregation never gained traction in Talmudic and medieval Jewish society – it was simply too Zoroastrian.

Modern discussions of the merits of *Hilkhot Niddah* often focus on the sexual and/or emotional benefits of these practices. In

other words, they highlight the benefits for an individual, or at least a single couple, without readily acknowledging the way the observation of *Hilkhot Niddah* in a sense represents the joining of one human body with an entire community of bodies. It would seem that the pressure exerted on Jews to abandon *Hilkhot Niddah*^{ix} in our history actually achieved a certain amount of communal cohesion. Pressure to adopt foreign menstrual practices might very well have done the same.

Dr. Shai Secunda is the 2007-2009 Jacob and Hilda Blaustein Postdoctoral Associate at Yale University. He and his wife Daphna are the campus couple at SCW.

ⁱ See, for example, Mary Douglas, *Purity and Danger: An Analysis of the Concepts of Pollution and Taboo* (London and New York: ARK Paperbacks, 1966); *Encyclopedia of Religion*, ed. Mercia Eliade, vol. 12 (New York: Macmillan, 1987), s.v. “purification.”

ⁱⁱ See *Blood Magic: The Anthropology of Menstruation*, ed. Thomas Buckley and Alma Gottlieb (Berkeley and LA: University of California Press, 1988).

ⁱⁱⁱ After a break of over half a century, recent years have seen a surge in publications on this topic. For a representative article, see Yaakov Elman, “Middle Persian Culture and Babylonian Sages: Accommodation and Resistance in the Shaping of Rabbinic Legal Tradition,” in *The Cambridge Companion to the Talmud and Rabbinic Literature*, ed. Charlotte Elisheva Fonrobert and Martin S. Jaffee (Cambridge: Cambridge UP, 2007), 165-197.

^{iv} *Sanhedrin* 37a.

^v It should be noted that this translation and interpretation follows the Yemenite manuscript (MS Herzog), and is at some variance with Rashi’s interpretation. Aside from being the most reliable manuscript of Tractate *Sanhedrin*, only the Yemenite version can account for the connection between this passage and the ones that follow it.

^{vi} See *Shir ha-Shirim Rabbah* 7:3; *Pesikta Rabbati*, *Parashat Ki Tissa* §10; *Avot de-Rabbi Natan* A 2, and *Avot de-Rabbi Natan* B 3.

^{vii} Richard W. Bulliet, *Islam: The View from the Edge* (New York: Columbia University Press, 1994), p. 34.

^{viii} For a full discussion of this text and its cultural context, see Charlotte Fonrobert, *Menstrual Purity* (Stanford: Stanford University Press, 2000).

^{ix} See *Me’ilah* 17a.

A Conceptual Approach to the Laws of Family Purity

BY: Rabbi Aryeh Klapper

Editor’s Note: The following article is a transcription and expansion by Jonathan Ziring of a shiur given by R. Aryeh Klapper and has been reviewed by him. The original recording of the shiur is available online at: www.torahleadership.org/lectures.

No discussion about *Hilkhot Niddah* can begin without pointing out that this topic is, by definition, gendered. *Halakhah* expects men and women to experience sexuality differently. This is especially highlighted by a discussion of *bedikot* (the checking of emissions from the reproductive organs) for *zav*ⁱ or *zavah* (man or woman experiencing unusual emissions) and *niddah* (woman in menstruation). The Mishnahⁱⁱ rules that, “Every hand that increases checking – of women it is praised, but of men it should be chopped off.” While both men and women in Mishnaic times had reason to check, the Gemara warns men to refrain from checking, presumably because it will lead to *hash-hatat zera le-vatalah* (emission of sperm for naught). The result that the Mishnah seems to want is that women should be comfortable with their sexuality, while men should be afraid of theirs.



Source: blog.americanfeast.com

Let us keep this in mind as we begin with a discussion of *harhakot*, the restrictions beyond the *ma’aseh bi’ah* (sexual act) that are placed on a husband and wife when the woman is a *niddah*. *Harhakot* literally means “distancings,” and it is commonly assumed that these prohibitions are intended to distance the couple from any hint of – and thereby prevent any risk of – a sinful *ma’aseh bi’ah* during this time.ⁱⁱⁱ However, many *harhakot* in practice do not fit this purpose, and in fact may enhance, rather than diminish, eroticism.

Let us take a simple example to test the point. One prohibition under *harhakot* is for a husband to pass a saltshaker to his wife. Is passing a saltshaker an intrinsically erotic act? Would anyone not familiar with *Hilkhot Niddah* consider it? Probably not. But it is certainly culturally erotic for Orthodox Jews. To

quote *Mishlei*, (and see *Sanhedrin* 75a, inter alia) “*Mayim genuvim yimtaku*” – things forbidden because of supposed erotic content generally acquire that content. Some of the later *posekim* suggest that a spouse can pass the saltshaker with a *shinnui* (change from the normal mode of an action), which requires him/her to be fully conscious of the potential eroticism of the act of passing. The *Kereti u-Peleti* even suggests that the husband should throw it up in the air, look away, and let his wife run in and catch it. Imagine the absurdity of the scene – if it did not arouse sexual thoughts before, it definitely will now!

If so, what does *shinnui* accomplish? It reminds the couple that the woman is a *niddah*, which in turn means the couple knows there is a boundary they cannot cross. The upshot is that rather than distancing a couple from any hint of sexuality, *harhakot* are meant to create a restrained erotic atmosphere. The discipline of *Hilkhot Niddah* forces the husband and wife not to eliminate but rather to re-channel sexual energy into other aspects of their relationship, to see each other as generally desirable. It thus trains them to relate to each other as full human beings in the face of erotic attraction, and therefore hopefully enables their erotic relationship to have meaning beyond the physical, and to prevent their nonphysical relationship from being overwhelmed during the period of *taharah* (purity from menstruation). Of course, living in such a state for two weeks also heightens the longing for the *leil ha-tevilah* (the night of the *niddah*’s immersion in a *mikveh*, or ritual bath), when the wife returns as a *kallah* (bride), on a monthly basis, to her husband. But I want to emphasize the ways in which it affects the entirety of the relationship.

It is arguable that, in this vision, *harhakot* are primarily intended to enhance the role of wives in the marital relationship. In support of that thesis, we note that the *niddah* period does not end as the result of a natural phenomenon, but rather because the wife says “*tavalti u-tehorah ani*” (I have immersed and I am pure). In other words, it is the wife who has the authority to shift or not shift the relationship from restrained to openly erotic. That this is an intended, rather than accidental, consequence of this halakhah can be demonstrated as follows.

The Gemara in *Ketubbot* 72a rules that a woman is believed to say she is *teme’ah* (impure)^{iv} or *tehorah* because the *pasuk* says “*vesaferah lah*,” which Hazal expound to mean: “‘She shall count for her seven days’ – ‘for her,’ meaning ‘for herself.’” Since, in general, *ed ehad ne’eman be-issurin* – single witnesses are believed with regard to *issurin* (prohibitions) – why do we need a special *limmud* (teaching) for *ne’emanut* (believability) by a *niddah*? Many answers are provided by the commentaries. Some suggest that this verse is the very source for the general rule.^v The *Shulhan Arukh*^{vi} suggests that we need a special verse to tell us she is believed to say *tavalti* be-

A Burning Fire and a River of Tears:

One Day in My Shoes

cause we previously knew her to be *temei'ah* and removing something from a definite status of *issur* is, in general, viewed as more difficult than removing it from a doubtful state. Rama^{vii} answers that she, unlike other single witnesses, is believed even when there is good reason not to believe her. For example, when her garment is full of blood, we believe her claim to be *tehorah* so long as there is some *limmud zekhut*, or justifying argument, for the blood's presence – for example, that she passed through a meat market. In sum, Halakhah goes very far to ensure that wives have control over the end of the *niddah* period.

When one adds the fact that the husband is obligated to fulfill the *mitsvat onah* (requirement of marital relations) on the night of *tevilah*, the result is that the *issur niddah* combines with *ve-saferah lah* to give a wife the ability to control the timing of sexual intimacy. This fits well with *onah* in general being a non-reciprocal *hiyyuv* of the husband toward the wife. I suggest that the prohibition against wives being *tove'ot be-peh* – actively requesting intimate relations – is intended to prevent them from abusing their power in this regard.

The overall halakhic vision presented here is of a world in which wives are deliberately given legal control over the intimate aspects of marriage. This legal control may be necessary to balance the common reality that husbands are physically stronger than wives, and is consistent with the general principle that the *bein adam la-haveiro* (interpersonal) obligations of marriage are imposed on the husband alone. I suggest that the other issues we have raised fit into this theme as well. The practical burden of *Hilkhos Niddah* may be given to women to enable them to maintain their control, and training husbands to develop erotic self-control is critical to enabling the regulation of the intimate aspects of marriage by legal authority rather than by physical power.

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ⁱ In the times of the Mishnah, the laws of *zav* were still relevant practically, and thus both men and women had reason to check. This is not true, however, today.

ⁱⁱ *Niddah* 2:1. All translations follow those R. Klapper used in his *mekorot*.

ⁱⁱⁱ See *Va-Yikra* 18:19 for the prohibition against sexual relations with a *niddah*.

^{iv} *She'eilot u-Teshuvot Ranah*, 45.

^v See, for example, *Tosafot to Gittin* 2a, s.v. "ed."

^{vi} *Yoreh De'ah* 185:1.

^{vii} *Ibid*.

Editor's note: This article was submitted anonymously to protect the student's identity and allow him to discuss the topic openly. If you would like to contact him privately, he can be reached at bluejew12@gmail.com.

I wake up to a buzzing alarm clock signaling the arrival of another day and head out to *daven*. I concentrate as hard as I can and ask Hashem for help to face another day. I am the typical YU student. I go to morning *sefer*, lunch, *shiur*, and then my secular classes. I am still the typical YU student. I sit down for supper, go to night *sefer*, and then to *Ma'ariv*. Am I really the typical YU student? I spend my nights studying for the next day of classes; I work hard for my grades, but still find some time to spend with my friends. But as I get ready to put my head down for the night, exhausted from a trying day, I know that I am not the typical YU student; Hashem has given me the challenge of challenges, a challenge that leaves me muffling my cries on a tear-stained pillow as I slowly fall asleep.



Source: www.kcrg.com

Each of us has a challenge in the world, a roadblock on the highway of life that challenges us to become the best we can be. We are given these tests to help shape our character and to become masters of our desires, whatever they are. Whether the test is keeping Shabbat or learning afternoon *sefer* between classes, we are all given a test in life. My own challenge keeps me up at night, preoccupies my thoughts during the day, and leaves me feeling like I am walking down a somber road in a lonely world: I am a religious Jew, living in the observant Jewish world, faced with the challenge of being a homosexual.

The Torah in two placesⁱ tells us that the act of homosexuality is an abomination, and under no circumstance is one to perform this act, even when faced with death as the only alternative. This is because the act of homosexuality is likened to that of bestiality and adultery and is looked upon in the most severe of manners. There is little reference otherwise

to homosexuality in the Torah and Talmud, although at the end of *Masekhet Kiddushin*, on *daf* 82a, we are told that two men are prohibited from sleeping under the same blanket for fear of possible homosexual relations taking place. The Gemara there, however, states that this ruling no longer applies, as such acts were practically unheard-of during that era. Little other halakhic information is available from these early sources on this topic, although some stories are related in the Gemara and several biblical Midrashim.

Before homosexuality started to become an acceptable alternative lifestyle in modern society, as is so visibly flaunted today, the idea of permitting homosexuality within Judaism was unheard of. Despite the fact that homosexuality is clearly labeled by the Torah as an abomination, some people have, within the last several years, started making arguments to try to find loopholes for its permissibility. Homosexuality is labeled by the Torah as an abomination and there are no infallible arguments against it. "How can Hashem expect us to live

or to a woman, is not always something that one can control. The fact that I have certain desires – which I would purge from my life in a second if I had the ability – is something that I cannot change. They leave me with feelings of solitude, despair, depression, and, alas, excitement.

Am I an abomination? Does Hashem look at me with disgust and loathing, as I feel so many people would if my struggle should become known and as so many people do, in fact, look at "open" religious Jewish homosexuals today? When one looks closely, the verse in *Va-Yikra* labels the homosexual act as an abomination – but only the act. The perpetrators are people, people who are challenged and who do not know how to control their desires – desires that so many of them pray they never had. British Chief Rabbi Sir Jonathan Sacks explains clearly that the Torah "does not condemn homosexual disposition, because the Torah does not speak about what we are, but what we do."ⁱⁱⁱ

However, within the Orthodox Jewish context, few people recognize this. While many today have corrupted general society, leaving it with the notion that once someone is gay, he/she will eventually "come out" and live an "alternative lifestyle," this is impossible for an Orthodox Jew to accept. As such, I have hidden throughout my lifetime – today I do and in high school I did. I hid in fear that I would be ostracized and excommunicated from the Jewish community. I stood alone as a frightened fifteen-year-old boy, avoiding acting on my desires, yet also unable to call out and ask for help to rid myself of them. I stood frightened and did not know where to turn. I always wanted to find a wife and raise a family as an Orthodox man. I did not know how I would ever be able to do that, but I knew, and still know, that that is the life I am destined to live. I knew that one day I would need to tell someone about my feelings, step out from my hidden world of shadows, and ask for help.

It took me five years to gain the courage to reach that petrifying moment. After many months of praying and introspecting, I eventually reached the point not where I wanted to tell someone, but where I was prepared to do so. That moment had been the most horrifying and dreaded thought in my mind for so many years. I had prepared for the worst possible outcome, no doubt because of Hollywood's portrayal of the heroic homosexual being shunned by a once-loving family. I readied myself to be thrown away by a towering figure pointing out in the distance with anger and fury on his face – to watch my life disintegrate before my eyes, collapsing like a building whose structure finally gave out after years of pressure or like a house of cards falling from the force of a gust of wind. But through all this I never faltered in my determination to live a life committed to Judaism. I told myself that it did not matter what happened in my life and how anyone reacted; I was raised a *frum* Jew, which

is my true life and real identity, and no matter what anyone said or did to me, nothing could weaken who I was.

I was not sure how my rebbe from yeshivah in Israel would react. I just expected to be sent home from the yeshivah in shame, looked upon like I was some sexual deviant. I told myself in my heart, however, that no matter how anyone reacted – even if I was told to leave my yeshivah and thrown out of my house – I was never going to act upon my desires, nor was I ever going to turn away from God. I thank Hashem every day for the strengths He has given me. I thank Him for the rebbe He sent me, who, instead of rejecting me, stood by my side, helping me through the most awful time of my life. I thank Him for the stamina He gave me to fight a depression that nearly led me to commit suicide.

My path is unclear and even though I still stand alone, I stand armed with the will to live another day and fight to keep my beliefs alive. No matter the support I get, I stand on trial every day of my life. I do not know where my future will lead, nor how I can change my feelings. I live with a sense of frustration, knowing the goal I want to reach but lacking the tools to arrive there. What must I do to be able to marry a woman? What must I share with my future partner? How can I even bring myself to tell her this hidden secret? I do not know if it is fair to ask someone to live with me under these conditions, or whether I will truly be able to be happy in such a relationship. All I know is that I want to one day make marriage to a woman work – to love her and have her love me back. I want to watch her walk down to the *huppah* in the most beautiful wedding dress, with tears of happiness and joy in her eyes, as I know there will be in mine. I know that I want to stand with her, supporting her through the hard times that we will go through, and be there for her always. I see this vision in my future, but I have so many questions that have no answers.

I know that I have a goal that I hold onto every day, but I live trying to cope with an everlasting sense of guilt, even though I understand that these feelings are not my fault and that this is the way my life was divinely ordained to progress. I have read through so many different experimental ideas about the root of homosexual attractions. But to me, that is all they are – ideas, possibilities that I do not think can really help in ridding me of my challenge. In fact, I do not think that I will ever be able to fully rid myself of these feelings, even when I marry and raise a family. Such knowledge is endlessly frustrating. I know where my path will lead, but I do not know how to get there. I see hope at the end of the road, but the path to it is covered by a screen of smoke and fog.

And I still live in fear. I have told a handful of people about my challenge. The results have sometimes been incredibly painful. I have had to pull away from people I had once called friends because of pain and embarrassment. I have been forced to sever relationships with close friends because of their lack of understanding and because of the hurt and confusion I have caused them. I watch my friends begin

to date and to marry and question what my future holds. Will I find someone to share my life with? Will I ever really be completely happy with my decision? Am I destined to live a life alone? I want to tell my friends, to cry out to them, but I know I cannot. I know that the path that has been laid before me is one of solitude.

Rabbi Dr. Lamm once wrote that “Judaism allows for no compromise in its abhorrence of sodomy, but encourages both compassion and efforts at rehabilitation.”^{iv} I have told you my story and have given you a glimpse at my challenge. I do not ask you to cry with me or accept me; I only ask you to realize that I am out there. Realize that not everyone who is challenged with homosexuality is parading or protesting for equal rights. I beg you to realize this – that I, too, am a *frum* Jew, trying to live a *frum* life like everyone else. I stand with you in the elevators of Belfer, Furst, Muss, Morg, and Rubin. I eat lunch at your table and sit with you in class; you call me a friend. And I am not one person; I am the courageous voice that has spoken for a group that lives isolated and in hiding.

The Mishnah in *Pirkei Avot* 2:5 tells us to never judge someone before one has walked in his shoes. I have let you see a peek of the trial I will face for the rest of my life, and ask that you do not judge me; I ask you to understand me. I stand next to you, even if you will never know my identity and my challenge. There is a fire within me, which will always burn, urging me to fight and complete my destiny, which I must hide from the world. I stand next to you, even if you will never know my identity and my challenge. Many tears have flown from my heavy eyes and there will be many more. One day in my shoes, a trial that will last a lifetime.

ⁱ *Va-Yikra* 18:22 and 20:13.

ⁱⁱ Rabbi Dr. Norman Lamm, “Judaism and the Modern Attitude to Homosexuality,” in *Jewish Bioethics*, ed. Fred Rosner and J. David Bleich (New York: Sanhedrin Press, 1979), 209.

ⁱⁱⁱ Chief Rabbi Sir Jonathan Sacks’ foreword to Rabbi Chaim Rapoport, *Judaism and Homosexuality: An Authentic Orthodox View* (London; Portland, OR: Vallentine Mitchell, 2004), ix.

^{iv} Lamm, 217.

“Wife for a Day:” Jewish Polygamy in the Talmudic Era

BY: Rena Wiesen

The concept of polygamy is unnatural, even offensive, to our minds. The only people we know who practice this odd custom in the United States are the Mormons in Utah. Yet, the Bible is filled with stories of people who had many wives. Abraham, David, Solomon – some of our greatest biblical heroes – had no qualms about marrying more than one woman.

Surprisingly, even the Babylonian Talmud, late as it is, is replete with stories of polygamy.ⁱ Lest we think that it was just a rare occurrence among some minority sect, the Talmud tells a shocking story, which has been the subject of much controversy. By its account, two of the most famous Amoraic sages, Rav and R. Nahman, used to travel to the cities of Dardeshir and Shekhannetsiv, respectively, and advertise: “Who will be (my wife) for a day?”ⁱⁱⁱ



Source: www.abc.net

Sages and scholars alike have struggled with this tale. Can it be that these great men, whom we know to be pious and learned leaders of their generation, actually practiced polygamy so ostentatiously, seemingly in contradiction to all of our Jewish values?

The explanations regarding this behavior vary in the extreme. The two main positions on this matter acknowledge the presence of polygamy. One position asserts that the Jewish community in Babylonia was actually monogamous and that polygamy was an aberration, practiced by a certain few, which was widely disapproved of by the Rabbis. The second position maintains that polygamy was completely acceptable in Jewish society. This second group asserts that polygamy is merely one illustration of the pervasive influence of the Persian culture in Babylonia on the Jewish practices at that time.

The disagreement begins with Tannaitic sources discussing marital legislation which contain conversations based on the assumption that the relationships debated in the Mishnah are polygamous.ⁱⁱⁱ While this can be cited as a proof for polygamy, opponents protest that these cases are merely taught academically by

the Rabbis, with no thoughts of actual practical application. This position is reinforced by the fact that the Babylonian and Palestinian Talmuds have divergent opinions and traditions on the matter, and the whole manner of discussion is relayed in a completely theoretical style.^{iv}

Midrashic literature, these same opponents say, also supports monogamy. *Be-Reishit Rabbah*^v describes a king clandestinely visiting his concubines, as if he was ashamed and embarrassed to be doing so, despite the fact that he was supposed to uphold this practice. Job is similarly praised as following Adam’s example, held desirable by God, of leading a monogamous life.^{vi} Elkanah is not extolled as highly, because he had two wives;^{vii} neither was Lemekh, whose taking of two wives was seen as the “carnal degeneration” of the generation of the flood.^{viii} While it may have been

technically permissible, polygamy was clearly frowned upon by these Rabbinic authorities.

In the same vein, the stories in the Talmud of polygamous marriages are the exceptions that prove the rule. Because most people were monogamous, the stories of those who were not are glaringly and obviously troubling to the Rabbis of those centuries. Moreover, it was only certain members of society that were practicing polygamy – the upper and the ruling classes. One of Agrippa II’s governors, whose observance of Halakhah is apparent from the questions he asks R. Eli’ezer, was married to two women at the same time, one in Tsippori and one in Tiberias.^{ix} Tosafot^x say that this was one of the cases in which the Rabbis tolerated polygamy because of tradition, but it was not a practice of which they approved.

How, then, do they explain our troubling story of Rav and R. Nahman traveling from town to town soliciting wives? To understand this passage, we must look at their family lives^{xi} and the opinions they espoused on marriage in general.

Rav’s wife was an unusual woman who aggressively antagonized him. The Talmud relates^{xii} that she would ask him which type of

soup he desired and then give him the other kind. According to Beit Hillel, a much lesser offense than this is reason enough to divorce a woman^{xiii} and yet Rav chose not to divorce his wife. In fact, Rav, in many places, expresses his unhappiness in his marriage and resentment of his wife, with such exclamations as “Any evil – but not a mean wife!”^{xiv} He advised his son: “When you marry, descend a step (in the social scale) for your wife.”^{xv} His translation of the verse “I will provoke them with a vile nation (*goy naval*)”^{xvi} in Deuteronomy as a “bad wife who has a great *ketubbah*,”^{xvii} perhaps indicates the reason that he and his wife did not divorce. The daughter of an aristocratic family, his wife brought social connections which would be impossible to sever, as well as a huge dowry that would be impossible for Rav to repay as mandated by her *ketubbah*. His marriage was clearly an unhappy one from which he could not escape, and he could only advise others to avoid similar snares.

R. Nahman’s situation was not much different. His wife, Yalta, had a quick and fiery temper that was triggered by even minor insults, and could result in the breaking of many barrels of wine.^{xviii} The Talmud records that she was proficient in halakhic matters. Ambitious and proud, with a quick and sharp tongue, she often embarrassed her husband and interfered in his academic studies.^{xix} From R. Nahman, too, we can find expressions of bitterness towards women, generated from his personal suffering: “When a woman speaks, she weaves/spins.”^{xx} Spoken in the context of the story of Abigail and David, this phrase “denotes falseness and disloyal wit”^{xxi} of women, who may say one thing but are constantly plotting and planning schemes. This sentiment seems to be attributed to his wife, particularly since he also complains: “Pride (a quality his wife was noted for) does not become a woman well.”^{xxii} This harassed husband was, unfortunately, trapped in a “marriage of convenience” to the daughter of the Exilarch. He could only make subdued and repressed complaints in a vague, almost passive-aggressive fashion.

The marital trials and tribulations of these rabbis are most likely the source for the aforementioned tale. When the abuse from their wives became intolerable, they threatened to utilize their legitimate rights and take another wife.^{xxiii} However, for this threat to have any credibility, they would have to “choose a wife” from a city that was not as strictly monogamous as the rest of the Jewish communities in Babylonia. Dardeshir and Shekhannetsiv were the perfect candidates. Dardeshir was only three or so miles away from Mehoza, the capital city known for its gluttony, sensuality, extravagance, wealth, and other such characteristics. Hence, it was ideal for Rav to go there to make his announcement. R. Nahman, though, who was the head of the academy at Mehoza for a while, had to choose a different city. He selected Shekhannetsiv, a place unknown to his wife, but which was notorious for breeding people of poor moral character. Hence, the city was the perfect setting for polygamous scenarios and would therefore make sense as a suitable location for finding

another woman. Based on this, scholars, such as Lowy, believe that the two rabbis truly believed in monogamous marriages; they simply used the possibility of polygamy as leverage in their unhappy marriages.

While the theory recounted above, discussed by Professor S. Lowy, is certainly an interesting and plausible interpretation of the texts, it seems to be rather forced. To deny the prevalence of a practice that is mentioned many times throughout the Talmud does not strike me as reasonable. The argument also largely ignores the surrounding cultural and social environment in Babylonia and how they affected Jewish thought and customs.

Scholars who have studied the era and the surrounding Persian culture during Talmudic times in Babylonia note the influences of Zoroastrianism, the official religion of the Persian Empire during this period.^{xxiv} Its doctrines – which are predicated on creation by a benevolent and omniscient god named Ohrmazd and include the fight against evil, Heaven and Hell, reward and punishment, and judgment – were similar and familiar to practitioners of the Jewish faith. Zoroastrianism’s ethical and ritual systems, like those of Judaism, placed an enormous emphasis on oral transmission of sacred texts and respect for the authority of scholars. These similarities made for a comfortable exchange between the two religions. Indeed, it seems from the Babylonian Talmud that Jewish acculturation to Persian culture, lifestyle, and ideology was high.

With such close proximity and such great interaction between religious communities, the Rabbis needed to take a stand. Would they be “accommodators,” who were relatively open to Persian culture,^{xxv} or “resisters,” who were virulently opposed to it? Not coincidentally, two of the leading “accommodators” were our very own Rav and R. Nahman of the “wife-for-a-day story.” After 850 years of peaceful co-existence, relations between the Jews and their neighbors were good, and Babylonian rabbinic legislation against intermingling was, for the most part, less restrictive than in Palestinian law.^{xxvi} Much of this acculturation was attributable to the location and character of the cities they inhabited. The story about Rav taking a temporary wife occurred near Mehoza, the capital city and a crossroads of trade, religions, and cultures that accommodated all sorts of unsavory characters, as described previously. It is no wonder that, living in this type of environment, acculturation was more likely to occur. R. Nahman’s place of residence boasted similar qualities.

Relationships, and sexuality in particular, seem to have been strongly influenced by Zoroastrianism, though a line was drawn when its practices ran contrary to the Bible. According to Zoroastrian law, adultery is not a capital crime for women; they were merely fined. Additionally, if a man seduced a married woman as he escorted her to a Zoroastrian school to study religious texts, particularly in a city where her husband had influence, it was considered as though the man had the husband’s permission and that he had even done this by the husband’s orders.^{xxvii} Considering the so-

cial mores of the time, and the fact that prominent rabbis were open to this culture, it is no wonder that temporary marriages and polygamy were the norm in Jewish society. Therefore, it was not considered unusual behavior for Rav and R. Nahman to travel to different towns to marry an assortment of wives. This is why their actions did not elicit any criticism or moral condemnation.^{xxviii} Furthermore, as polygamy is permitted by the Torah, having numerous wives was certainly acceptable halakhically and viewed more positively when compared to the outright adultery permitted by the Zoroastrians.

Proponents of the acculturation theory view R. Nahman’s statement about women’s slyness^{xxix} very differently than those who denied the practice of polygamy in Jewish society of the time, as will be explained. They supplemented their position by explaining that verse by using another statement, one that Rav made in *Pesachim*: “Rav [said] to Rav Asi: ‘And don’t marry two [wives, but] if you marry two, marry three.’”^{xxx} According to them – and it seems from Rashi’s commentary on Rav’s words that he understands this way as well – this advice is meant to reflect on the compatibility of multiple wives and their relationship with each other and is not meant as a halakhic statement about how many wives one should have. Two wives will plot together against their husband. However, with three wives, he says, one will surely inform on the other two. It is expected that women will plot against their husbands, in other words. They are sly and untrustworthy by nature and are therefore kept in a permanently subordinate and insecure position via polygamous marriage, wherein they can always be replaced. In fact, R. Akiva, long before this, had permitted divorce for the simple reason that the husband found a more beautiful woman to marry.^{xxxi}

Even the non-elite of Babylonia were influenced by Zoroastrian thought and ritual. R. Zeira states that the “daughters of Israel decided to be very strict with themselves to wait seven clean days after seeing a drop of blood the size of a mustard seed [although according to biblical law they are only required to separate for seven days from the onset of regular menstruation].”^{xxxii} While medieval Talmudic commentaries assume this to be a stringency set by the Rabbis, Rava’s response to R. Papa^{xxxiii} makes it clear that he considers this severity to be a customary, and not an outright, prohibition. It seems likely that the Jewish women’s decision to accept this stringency was due to the influence of the Zoroastrian culture which isolated menstruating women in a windowless hut with only a small amount of food for nine days. Reacting to their neighbor’s criticism that the Rabbinic Jewish law is “easygoing” in regards to menstrual impurity, the Jewish women took it upon themselves to be extra stringent in this area.^{xxxiv}

Polygamy certainly existed in Talmudic times. It may or may not have been widespread; the rabbis may have just used language about polygamy to control or intimidate their wives or to express their frustrations with them. Either way, perhaps the outcry of schol-

ars today over the possibility of polygamy should teach us to be a little more discriminating in the practices we pick up from our Gentile neighbors.

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ⁱ We will only discuss the Babylonian community here. Many say that the Palestinian sages were much less tolerant of polygamy.

ⁱⁱ *Yevamot* 37b; see also *Yoma* 18b.

ⁱⁱⁱ *Yevamot*, ch. 1, and also in the following chapters on the subject of *tsarot* (co-wives): *Ketubbot*, ch. 10, as well as *Kiddushin* 2:6, 3:9, etc.

^{iv} S. Lowy, “The Extent of Jewish Polygamy in Talmudic Times,” *Journal of Jewish Studies* 9 (1958): 115-38, at p. 116, quoting *Yerushalmi Ketubbot* 4:8; *Bavli Sanhedrin* 21a.

^v *Be-Reshit Rabbah* 52:5. See also *Leviticus Rabbah* 1:13; *Yalkut Shim’oni* to Job, 497; etc.

^{vi} *Avot de-Rabbi Natan*, 2nd version, ch. 2 (ed. Schechter, p. 9).

^{vii} *Pesikta Rabbati* 43 (ed. Friedmann, p. 181b). See *I Shemuel* 1:1-2.

^{viii} *Be-Reshit Rabbah* 23:2. See *Be-Reshit* 4:19.

^{ix} *Sukkot* 27a.

^x *Yerushalmi Yevamot* 1:10; *Bavli Yevamot* 15b.

^{xi} Lowy, p. 127.

^{xii} *Yevamot* 63a.

^{xiii} Lowy, p. 126.

^{xiv} *Shabbat* 11a.

^{xv} *Yerushalmi Kiddushin* 4:4.

^{xvi} *Deuteronomy* 32:21.

^{xvii} *Yevamot* 63b.

^{xviii} *Berakhot* 51a.

^{xix} *Kiddushin* 70a-b, *Hullin* 109b, *Niddah* 20b, etc.

^{xx} *Megillah* 14b.

^{xxi} *Gittin* 90a.

^{xxii} *Megillah* 14b.

^{xxiii} Lowy, p.129.

^{xxiv} See Yaakov Elman, “Middle Persian Culture and Babylonian Sages: Accommodation and Resistance in the Shaping of Rabbinic Legal Tradition,” in *The Cambridge Companion to the Talmud and Rabbinic Literature*, ed. Charlotte Elisheva Fonrobert and Martin S. Jaffee (Cambridge, New York: Cambridge University Press, 2007), 165-197, at p. 165.

^{xxv} *Ibid*, p.168.

^{xxvi} *Ibid*, pp.168-169.

^{xxvii} *Ibid*, p. 171, quoting Firoze M. Kotwal and Philip Kreyenbroek, *The Herbedestdn and the Nerangestdn*, § 6.7, pp. 44-45.

^{xxviii} *Yevamot* 37b, *Yoma* 18b.

^{xxix} See note xix above.

^{xxx} *Pesachim* 113a.

^{xxxi} *Mishnah Gittin* 9:10, quoted in Elman, p.172.

^{xxxii} *Berakhot* 31a, *Megillah* 28b, and *Niddah* 66a.

^{xxxiii} *Niddah* 66a.

^{xxxiv} Elman, p.180-181.

Engaged To Be Married: An Anthropological Perspective

BY: Ayol Samuels

It is customary in American culture for a man and woman intending to wed to first get “engaged.” In this event, which usually occurs anywhere from one month to a year before the wedding, the male “proposes” to the female, asking her if she will marry him, and offering her a ring. Traditionally, the male asks and presents the ring while kneeling on one knee. This action is often done after the couple has already discussed marriage and sometimes even after it has started to plan the wedding. Thus, an answer of “yes” is usually expected. Nonetheless, this question is still accompanied by suspense for the bride, groom, friends, and family as the male attempts to “surprise” the female in a romantic and creative fashion that generally requires a significant amount of planning. The way in which he asks this question will be the subject of conversations for decades to come.

Following this event comes a celebration of the engagement with family and friends, in what is referred to as an “engagement party.” People will congratulate the male and female on their engagement and shower them with gifts. The status of the bride-and-groom-to-be is no longer simply that of a couple but rather “engaged,” the woman now sporting a ring as evidence of this new status. In reference to each other, they are no longer referred to as boyfriend and girlfriend, but rather as fiancés. The couple is now free and even encouraged to talk about its upcoming wedding.

This custom of “engagement,” consisting mainly of the proposal of marriage and presentation of the ring, is taken very seriously by American society. My wife and I, for example, had decided to skip this seemingly unnecessary step in the process. We reasoned that we had already decided to marry so there was no point to this formality. Instead, we simply started planning our wedding. Whenever someone learned of this, his or her reaction was almost invariably confusion, anger, disappointment, embarrassment, or even ridicule. Many people, young and old, insisted that what we were doing was “wrong,” but could not articulate why.

Thus, this cultural stronghold is ripe for anthropological explanation. One of the main anthropological theories is Radcliffe-Brown’s theory of structural functionalism. This theory understands cultural phenomena as a means towards maintaining the stability of the societal structure.ⁱ Applying this perspective to the case at hand, we can understand why engagements might have taken such a central role in our society. Engagements make known to society that the now engaged woman and man are off-limits. This is accomplished by the woman wearing a very visible ring and by the public engagement party. The bigger and shinier the ring is, the better, and the bigger and more ostentatious the party is, the better. This publicizing prevents any sort of infidelity since

any potential courter now knows the woman and man are not available and, more significantly, all three parties know that society is aware of this new status. Society has an interest in happy marriages with healthy and well-raised children as well as an interest in decreasing violence and ill-will between members of the society.

An alternative way of looking at this emphasis on engagement is through the lens of Mary Douglas’s theory of structuralism. According to Douglas, a 20th century British anthropologist, humans have a strong drive to categorize and insert order into the world.ⁱⁱ This categorization also applies to relationships between men and women. Rather than seeing these relationships as gradual developments in a continuum, humans want to split them up into stages. They do not suffice with knowing that a couple is very close and will probably get married. People need a point at which the status changes from “boyfriend/girlfriend” to “engaged” and, finally, to “married.”



Source: www.dawngreenfield.co.uk

Douglas calls items that do not fit into the neat categories that people make “anomalous.” She explains that people have very strong, often negative, reactions to these items and feel uncomfortable dealing with them. For example, slime is neither liquid nor solid and therefore, Douglas would say, evokes disgust.ⁱⁱⁱ Thus, when people knew that my wife and I were getting married but were not officially engaged, there was very often awkwardness when they introduced us to others. It was unclear what to call us because we were between boyfriend/girlfriend and married, but they needed a label. Many friends would try to deal with this problem by applying a humorous title, saying, “These are Ayol and Shoshana. They are *not* engaged,” or, “They are *‘getting married,’*” always emphasizing that those were our words, not theirs. This allowed them to compensate for the inability to categorize the stage in our relationship while at the same time

expressing their dissatisfaction with that choice.

The desire to maintain this institution takes on even greater meaning when one looks at the Orthodox Jewish community. As early as the Tannaitic period, there was a distinct stage in the process of marriage which preceded the actual wedding by as much time as a year. During this stage, referred to interchangeably as *kiddushin* or *eirusin*, the woman receives a completely new status and is forbidden to all other men. Later in history, *kiddushin* as a separate stage disappeared and instead became the preamble for the actual *huppah* at the wedding ceremony itself. While this halakhic stage disappeared, the sociological need for it did not. Thus, our community has unconsciously adopted the “engagement” model with gusto. This new model serves many of the functions of the earlier Rabbinic stage, preventing infidelity and allowing for the much-needed Straussian categorization.^{iv}

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ⁱ A.R. Radcliffe-Brown, *Structure and Function in Primitive Society* (London: Cohen and West, 1952).

ⁱⁱ Mary Douglas, *Purity and Danger: An Analysis of Concepts of Pollution and Taboo* (London: Barrie and Rockliff, 1966).

ⁱⁱⁱ Interestingly, one of Douglas’s favorite examples is the attitude towards the “abominable pig” in the Bible. According to Douglas, the fact that the pig does not fit in well to the categories that are created to distinguish kosher from non-kosher animals explains the special title, “*to’evah*” (abomination), attributed to it as well as the subsequent attitudes of Jews to pig.

^{iv} See Claude Levi-Strauss, “The Structural Study of Myth,” *The Journal of American Folklore* 68 (October – December 1955): pp. 68, 428-444.

The Word of Your Body

BY: Shira Schwartz

As Halakhah progresses through the expanse of time and history, it encounters various periods, places, and cultures. With every one of these new encounters, a dialogue sparks between the Halakhah and its new circumstances, one that allows the two to comment on each other. From the perspective of the Halakhah, this dialogue serves as its opportunity to share and spread an eternal message that transcends time and circumstance, to teach and to guide each generation according to an essential divine code that ostensibly has something meaningful to say at every point of history. But time is, by definition, about the exact opposite – time is dynamic and about the constancy of change that comprises the human experience. As Halakhah encounters new cultural vistas, it rarely remains its authentic self. Time brings out new experiences with which Halakhah interacts, teaching us not only new things about humanity, but about the Halakhah. A halakhic position in one era, in one set of circumstances, means something very different from that same ruling 500 years later in a different place with different people. Time morphs the same halakhah into something new, causing it to mean something different in a new situation from what it meant at its original inception. Time redefines Halakhah.

If there is indeed an important value embedded within the Halakhah, how are we to know when it gets lost, as circumstances change and new situations arise? So often we bury our heads in the ancient soil of halakhic ruling instead of pulling together our resources to look honestly and pointedly at life and to find the right ways to redeem it. A fundamental part of the process of *pesak* is the understanding of current and specific circumstances so that Halakhah and life can co-exist in a way that is both “*na’eh la-Makom ve-na’eh la-beriyot*” (pleasant for G-d and pleasant for human beings). So often, the fear of “*na’eh la-Makom*” paralyzes our ability to fulfill our responsibilities as “*beriyot*,” to understand what God wants of us as the godly human beings He created us to be.

If I asked you to tell me why you are *shomer negi’ah* (lit. guarding touch), you probably would answer me in one of two ways. If you are a successful product of “value-based *hinnukh* (education),” you might go on a philosophical exposition – co-authored by Gila Manolson and Rabbi Orlofsky – on the “Jewish Approach to Marriage and Relationships,” that in truth is not actually sourced in anything Jewish, but is aimed at proving that Halakhah imbues our lives with only the best values of the culture around us – romance, family, and stability, all in one package. Alternatively, if you are a *Litvak* at heart (or intellect), you might tell me, because it is the Halakhah – the action-oriented halakhic system that cares about what you *do* – completely ignoring that these halakhot are laws about relationships, relationships that involve action, thought, and

feeling and were ostensibly created to bring out the best of what relationships can offer to a God-serving person. Either way, I believe the answer falls short.

We need to ask ourselves: why is touch wrong? The answer “because it is the Halakhah” is not the answer. If it is a Halakhah about a relationship, it is meant to guide that relationship; hence, there is an actual reason we must understand that it is sourced in, something it is aimed at accomplishing. The answer “because touch is so special you should only experience it with one person in your entire life” is not the answer because as people we have many different relationships and touch is an important component of seeing those out and living them; people do not typically marry the first person they date, nor should they, and part of relating to a person, giving to a person, and knowing a person is actually feeling a person. The answer “because it is inappropriate and immoral – impure if you will – unless you are married” is not the answer because it is simply untrue. Can you honestly say that every desire you have ever had to touch someone you were not married to was impure? Why do we tell ourselves that? We talk so much about not touching so that we do not form a narrowed, skewed concept of the other person, in order to focus on the *real* person. But I ask: is that not the real person? Is excluding one’s physical being from a relationship not also narrowed and skewed? Excluding touch from a relationship limits and distorts our interaction with the other. People are not just souls – we are very, concretely, bodies. We express who we are sometimes more honestly through touch than through a host of seven-hour “hashkafah dates.” *Yedi’ah*, in the biblical sense, is knowing someone physically.

If we are going to talk honestly about Halakhah and *negi’ah*, then let us. We have come to adopt the perspective, frequently in our contemporary period, that Halakhah is solely about adherence to command and “obeying” as a way of combating the wanton worship of the self that we see around us. But the bottom line is that Halakhah is not just about “obeying.” And *pesak Halakhah* (halakhic decision) *should* be about values, about meaning, about connection with a Higher Being and with the people and elements in our lives. But so often, the two – Halakhah and values – do not come together. We are comfortable saying that biblical polygamy was not the ideal way of life, but not comfortable saying the same about a set of rabbinic rules that teaches us that physical contact is only appropriate with a member of the opposite sex who you have stood before the community and committed the rest of your life to. How is that not a contradiction? Despite the assumed difference between “*aseh*” (positive commandments) and “*lo ta’aseh*” (negative commandments), calling any part of Halakhah into question admits an awareness of imperfection in the system, which should in turn cause us to reflect on the assumption we hold about the relationship between Halakhah, values, and God. The Torah permits polygamy. Accordingly, there should be something Godly in it. And it is simply untrue that touch only has

a pure origin in marriage. The more we train ourselves to think that extremely about our desires, the more we make them that.

And that is only an example. But ask yourself – how many times and in what circumstances do you excuse the Halakhah in the name of values? Or values in the name of Halakhah? Where do those values come from? I am not saying that the values we adopt as Godly (at times from secular culture), are not; I am only saying that we must recognize them for the ascribed values that they are. Only then can a meaningful conversation about Halakhah and values begin. Only then can we understand what we are defending and when we should be defending it.



Source: www.h2dj.com

I, for one, am tired of the word “change” being synonymous with heresy, of serious approaches to pressing issues being cast as “Conservative” or “Reform” – as “anti-Torah” and “anti-God” and therefore not worth anyone’s time. We need to stop thinking and acting in those kinds of terms, because they, in and of themselves, are historical constructions. Things are not wrong automatically because they involve the word “change.” Throughout our history, things have changed, time and time again. The question is never “if,” but rather “what, when and how.”

If a system or set of rules is truly divine and kerygmatic, it must redeem and uplift the lives it touches and guide them towards “*hayashar ve-ha-tov*” (the just and the good). The halakhot of *negi’ah* were written in a time when the sexual urge could be quickly satisfied by marriage, as marriage followed closely after puberty. But that is not our world. There is a delay of six years to a lifetime between the time a person desires to touch the other, until the Halakhah permits him or her to. That is not a rectification of instant gratification – as modern-day Jewish Ethicists might propose; that is just insane. We are so used to saying to ourselves and each other that this is the way it is supposed to be – so used to making excuses for Halakhah until we ourselves have betrayed its very own definition by ascribing non-authentic, foreign meanings to it that stem from the society around us. But when do we stop rewriting, and when do we stop apologizing? When have we sacrificed too much on the altar of “*minhag avoteinu be-yadenu*” (the custom of our ancestors is our own)? When does the time come for a different sort of *korban* (sacrifice), of “*et la’asot la-Hahem, heferu*

Toratekha” (at a time of action for God’s sake, they nullified Your Torah)? Throughout history, there have always been times when what was once “Halakhah” has been changed to save something far more important. At what point have we cut ourselves off from the essence of our humanity – from seeing the image of God clearly? How much of what *is* important do we ignore in the name of “Halakhah?” When does the Halakhah turn into an *avodah zarah* (idol)?

We walk around with an arrogant sense of us vs. them: that is how the world does relationships and sex, and we just do it better, the right way – God’s way. And it is understandable – how else could a never-been-kissed 27-year-old feel self-validated in a world where an eighteen-year-old virgin is queer? But do we really “do it better?” The answer is not “check the divorce rates.” Are we happy this way? In a world where people date for years and years, are those years satisfying – are they “*tov*” (good)? Are they making us the people that God wants us to be? Are the values we inherit today through *shemirat negi’ah* truly intended? In a world where marriage is not predominantly economic and practical, where it is not even necessary in order to live, why is it still our only answer to puberty? Why must we assign such narrow quarters to a most fundamental and yet complicated aspect of the human personality – touch? How can we expect from ourselves and from each other to figure that all out with one person, and only after we have married them? As a married friend of mine once voiced, out of all of her friends who claimed to have been *shomer negi’ah* while dating, there is only one couple she actually believes – and she worries about them.

Sometimes I fear that we have strayed so far from the Living God that we have learned to silence Him before He even speaks inside us. That we have learned from too young an age, too consistently, that natural urges are meant to be risen above – that they are the *yetzer ha-ra* (evil inclination), not God. That we have learned as Orthodox Jews to distrust ourselves from too young an age, to be able to do what is required of us in order to actually hear Him in the most natural quarters of our existence. That, crippled, we lack the courage necessary to become bold servants of God.

There are tough choices to be made, positions to be taken. What are the values that we are holding onto so dearly and calling them halakhic values? Are we actually saving the system, or destroying its aim? We have come to ascribe values that more often than not emerge from our encounter with the society and circumstances within which we exist, when the Halakhah itself was determined to fit a very different set of social circumstances. This is nothing new. We are familiar with the answer of “*minhag avoteinu be-yadenu*.” If we indeed believe that Halakhah is meant to institute values, what values, in comparison to the social norms of its times of construction, did it come to comment on and alter? What, indeed, was it trying to teach? And is worship of “*minhag avoteinu be-yadenu*” actually accomplishing that?

The Tony Award-winning Broadway musical, *Spring Awakening*, tells the all-familiar story of adolescence, centered around a group of young teenagers, growing up and discovering their identity and sexuality within a world carefully constructed and constricted by the rigidity of adult uniformity. The world of *Spring Awakening* – set in Germany and built carefully on order, appearance, sterility, and obedience – takes us on a vivid and compelling journey back to the age of puberty, a journey whose emotive capacity is only outshined by its intelligence: one that makes you not only feel about sexuality, but think about sexuality.

The children’s lives are so absent of feeling and human touch that they aim for pain as a way of simply “feeling something.” They are trained to view sexuality, their most natural desire for the other, as “guilty” and *thus* come to view it that way. But the mantra of the show, “haven’t you heard The Word of your body,” forces the children, and us, to really look at the essence of their story – of our story, of where sexuality and the desire for the other truly comes from. The play’s victory emerges through young Vendla, the quintessential innocent, who refuses to let the story of her relationship with her lover be told as anything but what it truly was, making love. The children’s disbelief in themselves, “and who can say what dreams are?...And who can say what *we* are?” and their defeated chant, “and now our bodies are the guilty ones, who touch,” is answered and rectified through Vendla’s conviction: “And he touched me, and I let him love me, so let that be my story.”

What would happen if we taught our children, from a young age, that the desire for touch is beautiful? What if we taught them that it is Godly? What if kids grew up respecting themselves and their desires? Would it not teach them to respect each other and to think about their actions even more carefully? Is that not the ultimate goal? Would it not force us to distill and understand where our desires come from, and, with a permissible outlet, take action on the “good” ones? What if we learned to see them for what they are and listened to the “Word of our Bodies?” Would we not produce people who are even more resilient? What, just what, if we touched?

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Ethics and Exegesis: Rabbinic Exegesis and the Supremacy of Ethics in Interpersonal Relationships

BY: Emmanuel Sanders

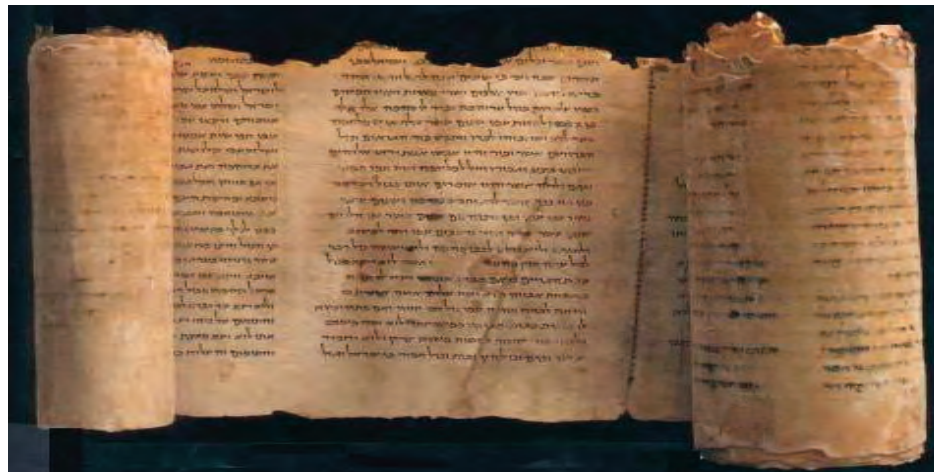
It is understandable that the laws pertaining to sacrifices within Jewish law may, at times, be beyond the understanding of the human mind, for sacrificial law is, by definition, a category of legislation that involves the relationship between Man, on the one hand, and God, a Being who is Himself beyond the human threshold of comprehension, on the other. However, it would seem more compelling that interpersonal relationships, as they are defined and delineated within the Jewish Legal system, should be governed by morals and ethics that are clear and acceptable to the human mind. For example, it would not seem altogether strange if the Torah decreed that every tenth calf born to a cow was to be set aside for sacrificial use. However, that every tenth child born to its human mother be sacrificed would seem unethical and unjust – what did the child do to deserve such treatment? Nevertheless, there are a number of instances in which ritual law, as presented in the text of the Torah, does seem to override or contradict what we would normally consider to be ethical and moral treatment in interpersonal relationships. In the following discussion, I wish to explore a few of these instances and point out how, in each case, Rabbinic legislation and interpretation seeks to maintain the primacy of ethics and morality in interpersonal relationships, even, at times, at the cost of losing the simple meaning of the text.

Reading Verses Ethically

In my first example, I will deal with the prohibition of a son having sexual intercourse with the wife of his father. Although this law appears in four places in the Torah,ⁱ we will refer only to Leviticus 20:11, which is the only place in which the punishment for this act is mentioned in addition to the prohibition: “If a man lies with his father’s wife, it is the nakedness of his father that he has uncovered; the two shall be put to death – their bloodguilt is upon them.”ⁱⁱ This verse clearly pertains to a case in which a son has intercourse with the wife of his father. What remains unclear is whether or not this intercourse is consensual. From merely reading the plain words of the verse, one cannot determine whether or not the wife consented to this illicit relationship. However, the Rabbinic viewⁱⁱⁱ is that this verse refers only to such a case in which the woman consents.

One might justifiably observe that although no explicit mention of consent is made in the text, it is clear that this is what the Torah means in prohibiting this act: why should someone be held accountable for that which he or she did not willingly commit? Clearly, one might conclude, the Rabbinic understanding of this verse is the only viable one.

That this is not the only way this verse is to be understood, however, is made quite clear when one looks at the account of Reuben’s sin with Bilhah,^{iv} his father’s wife, in the Book of Jubilees, a pseudepigraphic work which claims falsely to be authored by Moses, fragments of which have been found in the caves of Qumran. The account of Reuben’s sin in that book can be split into two parts: the first is an expansion of the biblical version and the second is an explanation as to why Reuben and Bilhah were not punished with death despite the biblical legal passages forbidding a son from having sexual relations with his father’s wife. In the first part, it is clear from the expansions that Bilhah did not consent to have intercourse with Reuben. The book describes how, one day, while Bilhah was bathing, Reuben looked on and became aroused. However, she clearly never intended for him to watch, for she made sure to bathe in “a private place.”^v Further-



Source: www.johnpratt.com

more, according to Jubilees, Bilhah was asleep during the act of intercourse and only awoke afterward, at which point she grabbed Reuben’s garment and screamed out. Obviously, Bilhah was not a consensual partner in this illicit affair.^{vi}

However, despite the fact that Bilhah did not consent to this unholy union, it seems that this was not enough to exonerate her for violation of the law found in Leviticus. The legal portion of Jubilees continues:

They are not to say: “Reuben was allowed to live and (have) forgiveness after he had lain with the concubine-wife of his father, and she also, while she had a husband, and while her husband – his father Jacob – was alive.” For the statute, the punishment, and the law had not been completely revealed to all but (only) in your time as a law of its particular time and as an eternal law for the history of eternity. (Jubilees 33:15-16)^{vii}

In other words, Reuben and Bilhah were not punished for this union simply because the Torah and its laws had not yet been given. But why does the narrative even need to justify why Bilhah was not punished? Should a

woman who was raped be punished for being raped? It seems that non-consent would not be reason enough to save Bilhah from death, in the eyes of the author of Jubilees. Apparently, he understood Leviticus 20:11, and the death penalty therein, as pertaining even to cases where there is no consent on the part of the wife to sleep with her stepson. It is this real possibility of interpretation, I would suggest, that the Rabbis implicitly reject when they interpret this verse as referring to two consenting individuals.

The Ethics of Counter-Reading

Not only do the Rabbis interpret ambiguous verses so that morality and ethics have primacy in interpersonal relationships, but they reread verses as well – even skewing the simple sense of the verse completely at times. At the beginning of Chapter 24 of Deuteronomy,

ing of the Sages. According to them, the words “she has been defiled” are not to be understood within the context of the verse at hand. Rather than referring to the general instance of a wife remarrying her first husband after having been married to a second man, the verse, in their view, refers only to the specific instance in which the wife is suspected of having cheated on her husband – the “defilement” of which the verse speaks. In attempting to explain this seemingly strange interpretation of the simple text, the Tosafists^{viii} suggest that it was necessary, in this instance, to counter-read, since it would not be ethical to refer to a woman who got married in full accord with Halakhah to a second husband as having been “defiled” by doing so. That is, rather than understanding a verse in the simplest fashion, but risking that such an understanding would promote ritual stigma at the cost of ethics, the Sages chose to counter-read the verse, thus ensuring the supremacy of ethics in interpersonal relationships.^{ix}

Stuck with the Mamzer

There are times, however, when counter-reading becomes difficult or even impossible, for a text can only be stretched so far and remain true to its original message. How, then, are the Rabbis to react when biblical verses speak about the *mamzer*?

To review, a *mamzer* is an individual born of a biblically-prohibited union such as incest or adultery. Though the *mamzer* himself commits no wrong, the Torah, in no unclear terms, prohibits him from entering into marriage with a regular Israelite: “No one misbegotten (a *mamzer*) shall be admitted into the congregation of the Lord; none of his descendants, even in the tenth generation, shall be admitted to the congregation of the Lord.”^x It seems quite impossible for the Rabbis to limit this verse’s applicability. But in what situation is it right for an unborn child to be held accountable for the sins of his parents?

Unable to limit this law through exegetical means, the Rabbis struggle greatly with this statute. In fact, the Rabbis interpret a particular passage in Ecclesiastes in light of the difficulty the Rabbinic conscience has with this law, revealing to us their inner turmoil: “So I returned and considered all the oppressions that are done under the sun. And behold the tears of the oppressed, and they had no comforter. And on the side of their oppressors there was power, but they had no comforter.”^{xi} *Leviticus Rabba*, in attempting to uncover the identity of “the oppressed” mentioned above, puts forth a number of interpretations, ending with that of Daniel the Tailor:

“Behold the tears of the oppressed.” Their fathers sinned, but what has it to do with these insulted ones? The father of this one went to a woman who was forbidden to him, but how did

the central biblical verses pertaining to divorce appear, the Torah, in verse 4, presents a situation in which a man divorces his wife, who then goes on to remarry a second husband who divorces her as well. In such a case, the Torah prohibits her first husband from remarrying her, using the following language: “Then, the first husband who divorced her shall not take her to wife again, since she has been defiled – for that would be abhorrent to the Lord.”

The Talmud, in Tractate *Yevamot* 11b, records a Tannaitic dispute concerning the interpretation of the above verse. The first opinion recorded is that of R. Yosei ben Kippai. He understands the verse as teaching that while a woman may remarry her first husband if her betrothal to the second husband is dissolved, she may not do so if the marriage to her second husband is consummated. In other words, R. Yosei understands the words “she has been defiled” as referring to the “defilement” which occurs with the consummation of her marriage to the second husband. Such an interpretation would seem to fit very well into the simple meaning of the text.

Such, however, was not the understand-

the child sin, and how does it concern him? They “had no comforter,” but “on the side of the oppressors there was power.” Those are the hands of the Great Sanhedrin, which move against them with the authority of the Torah and remove them from the community because it is written: “A *mamzer* shall not enter into the congregation of the Lord.” “And they had no comforter.” Therefore says the Holy One: “It is upon me to comfort them.” In this world there are those among them who are unworthy; but regarding the messianic era, Zechariah prophesied: “Behold I see them all like pure gold”; for this is symbolized by his vision: “I saw and behold, it was an oil lamp of pure gold.” (*Leviticus Rabba* 32:8)^{xiii}

Here, the internal struggle of the rabbis is clear. On the one hand, they are the codifiers of God’s law, and, as such, see what they do as God’s work. On the other hand, they see themselves as the oppressors of the *mamzer*, an individual punished for sins he did not commit. Furthermore, God is both the giver of the statute of the *mamzer*, as well as a figure who comforts him. It seems that the whole concept of the *mamzer* brings to light this struggle within the Rabbinic conscience and within Torah itself – between the supremacy of ethics on the one hand, and the simple meaning of the text on the other.^{xiii}

Despite being unable to exegetically limit the law of the *mamzer*, the Rabbis in the Talmud attempt to do so in the legal application of this law. A number of rabbis are of the opinion that once a family’s lineage becomes hidden (i.e. it becomes forgotten by the general public that they have “impure” elements in their lineage), it should remain so.^{xiv} And, in fact, this is the position which is codified in the halakhic works.^{xv} Thus, although unable to limit the biblical verses through exegesis, the law of the *mamzer* is circumscribed through the Rabbinic enterprise.^{xvi}

Conclusion

It should be clear that it was of vast importance for the rabbis of the Talmud to ensure the victory of ethics over ritual stigma in interpersonal affairs. They read, counter-read, and circumvented verses in the Torah in order to achieve this end. However, at the same time, it should be noted that this in no way indicates some sinister attempt on the part of the Rabbis to pervert the original intent of the laws. The Rabbis believed that this triumph of ethics was, in origin, a value of the Torah. This is evidenced in the piece from *Leviticus Rabbah* referenced above. There we see that God is both the commander of the law as well as the comforter of the *mamzer* affected by it. In other words, God is both the writer of the verses and the plain meaning they convey, as well as the one providing the impetus for the Rabbis to intentionally read and counter-read these verses. How such an internal struggle on God’s part is to be resolved is beyond the scope of this discussion, but it is important to keep in mind the divine origin of the struggle and to embrace this struggle on the road to truth.

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ⁱ The four places are: Leviticus 18:8, 20:11, Deuteronomy 23:1, and 27:20.

ⁱⁱ All biblical translations in this article are from *JPS Hebrew-English Tanakh: The Traditional Hebrew Text and the New JPS Translation* (Philadelphia: Jewish Publication Society, 1999).

ⁱⁱⁱ Otherwise, if she does not consent, she has the status of an “*anusah*” (forced, unwilling partner). See *Nedarim* 27a for the general rule of “*anus, Rahamana patreih*” (Hashem acquits the forced).

^{iv} See *Be-Reshit* 35:22 for the biblical account of this story.

^v Jubilees 33:2.

^{vi} Michael Segal, *The Book of Jubilees: Rewritten Bible, Redaction, Ideology and Theology*, (Leiden; Boston: Koninklijke Brill, 2007), p. 74.

^{vii} *Ibid*, pp. 78-79. The translation and emphasis are his.

^{viii} Tosafot ad loc, s.v. “*le-rabbot sotah she-nisterah*.”

^{ix} Eliezer Berkovitz, “The Nature and Function of Jewish Law,” in Berkovitz, *Essential Essays on Judaism*, ed. David Hazony (Tel Aviv: Top Print Ltd., 2002), pp. 43-44.

^x Deuteronomy 23:3.

^{xi} Ecclesiastes 4:1.

^{xii} The translation is that of Berkovitz, pp. 69-70.

^{xiii} *Ibid*, pp. 69-70.

^{xiv} *Kiddushin* 71a.

^{xv} See *Mishneh Torah, Hilkhos Melakhim* 12:3, as well as Rama to *Shulhan Arukh Even ha-Ezer* 1:5.

^{xvi} Berkovitz, pp. 70-71.

Genesis of Conscience

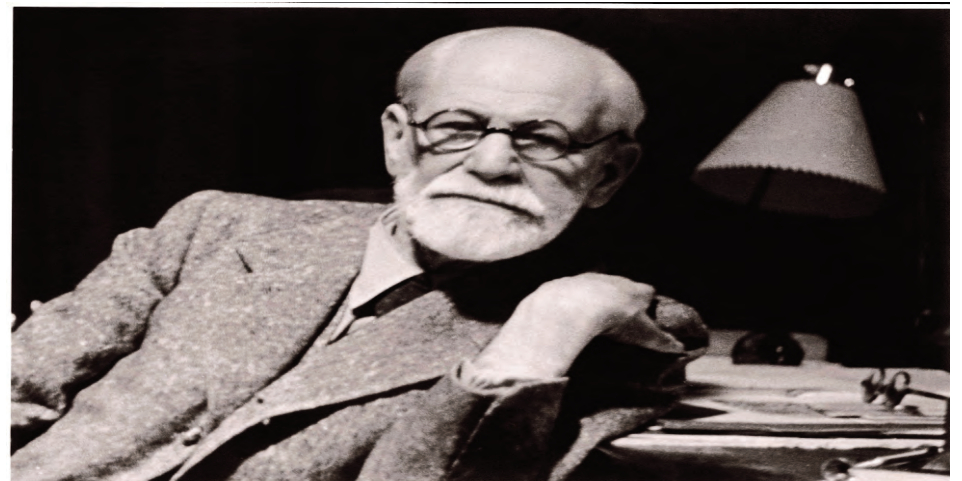
BY: Jake Friedman

Freud’s theory of psychosexual development associates the characteristics of the adult psyche with a childhood progression through stages of sexual development. These landmarks of the growing-up process represent critical points in the maturation of the individual and give expression to the elemental components of the fully-grown psyche – id, ego, and superego. While Freud is credited as a pioneer in this field, he was not actually the first to trace human behavior back to its roots in early development.

A much earlier author was concerned with exposing the underlying truths of human behavior. In his book, he writes a history of the beginnings of human existence and civilization. This history surrounds the social and psychic problems of early humanity and

bidden him: “And God said: ‘Behold, I have given you every herb... and every tree... to you it shall be for food.’”ⁱⁱ Just like the newborn child, the earliest stage of humankind’s development is permeated with uninhibited oral pleasure.

The Bible describes Adam in his early, unrestricted state: “Male and female He created him.”ⁱⁱⁱ The Talmud in *Berachot* records a pair of dissenting opinions regarding the anatomical configuration of this non-gendered human.^{iv} Rising beyond the gross anatomy, just as we have done with Freud’s theory, the discussion in the Talmud takes on a different character. At that primitive point in anthropological infancy, there were no two identities among humankind; the human identity was in some state antecedent to the gender-distinct identities we know so well. Man existed in total unawareness of individuality. Only later in the



Source: blog.syracuse.com

foreshadows many of the problems humanity will face as it grows to cover the earth and build cultures and nations. The Book of Genesis is written with a message of the primordial essential principles that underlie the complex dynamic state of the individual and collective human mind.

Permitting a departure from the strictly anatomical nature of Freudian theory, replacing the literal meanings of Freud’s sexual anxieties with the concepts they symbolize, the Bible had much to say that coincides with Freudian psychoanalysis. Genesis contains a record of the psychosexual development of the human race.

The earliest stage of psychosexual development, lasting from birth through infancy, is the oral stage. During these early months of a child’s life, his primary pleasure is that of nursing, and he gains this pleasure through his mouth.ⁱ This stage is characterized by the undefined quality of the child’s ego. The ego is a framework that provides the structure of identity its stability; the neonatal ego is so undeveloped it allows for almost no perception of difference between internal self and external world. In the Bible’s first description of Adam’s Edenic condition, the infamous Tree of Knowledge of Good and Evil was not for-

chapter, in the context of the prohibition against eating from the Tree, the first restriction ever emplaced on man, is separateness introduced. The eventual arrival of individual identity is part of the progression of the oral stage; although id is predominant during the oral stage, the ego also begins to develop.

After declaring the Tree of Knowledge off-limits, God reflects, “It is not good that Man should be alone.”ⁱⁱ Here, God makes that statement that the undifferentiated state in which Man exists cannot persist. Man is “alone”, or “only”, as long as “other” does not exist, but when the Tree was forbidden, when Adam’s world split from a single, unlimited realm into distinct realms of permitted and unpermitted, “other” entered the scene. Freud writes the same of the baby and the eventual, inevitable absence of his mother’s breast; along with the experience of separation from his source of nourishment comes the baby’s first inkling of himself as a discrete entity among others.^{vi} Awareness of the external demands a mediator between the internal impulses and external reality – the ego emerges to play this role.

In light of the differentiation of “self” from “other,” the second chapter of Genesis continues with Adam naming the animals,^{vii} an

act symbolic of his separateness from the animal kingdom and a further darkening of the lines that define the unique human identity. The chapter ends with a new account of the creation of woman,^{viii} this time, significantly, as a separate person. This new perspective, woman as an other, different human being, is a result of man's evolving ego. The awakening of the latent ego indicates that the oral stage is well underway, and from this point on, Man is no longer "alone."

The developments of the oral stage culminate with the baby's weaning, seeking food from external sources. By seeking sustenance beyond the isolated realm of his mother's bosom, the child begins a relationship with the external. Genesis' third chapter resolves the Biblical oral stage with man's exit from the Garden into his new home, the outside world.

Adam and Eve's stay in Eden ended when they took food from that which was forbidden, apart, external. In response to their action, God, besides issuing their eviction notice, informed Eden's ex-residents that eating from the Tree had some very serious consequences. As warned,^{ix} one consequence of eating was the advent of mortality; man's own body became his adversary. God also said, you may try to take it easy, but nature will not be hospitable, "In toil shalt thou eat of [the ground]; thorns and thistles it shall bring forth to thee."^x Finally, the aftermath of the Tree incident meant the beginning of competition between man and woman, "[A]nd [Woman's] desire will be toward him, but he will rule [her]."^{xi}

"We are threatened with suffering from three directions: from our own body... doomed to decay... from the external world... with overwhelming and merciless forces of destruction; and finally from our relationships to other men."^{xii} Freud's three sources of external opposition directly parallel the Bible's three plights: bodily frailty, antipathetic nature, and social conflict.

Humanity's oral stage is divided among the first three chapters of Genesis. Chapter one portrayed the utter simplicity of the neonate, chapter two the infant schism of self from other, and chapter three the post-oral formation of an internal-external relationship and of factors acting in conflict with the agenda of the instinct. Freud outlines the three external sources of opposition; so does the Bible.

The Bible shifts its focus from Adam and Eve to Cain and Abel as the psychosexual development of mankind shifts from the oral phase to the anal phase. Freud claims that two potential extremes of personality lie in the balance during the resolution of the anal stage: the anal-retentive and the anal-expressive.

Cain and Abel personify these opposing personality types. Cain, by choosing the agricultural profession with its numerous obligations, bound himself to the system and confines of a schedule and homestead. Abel avoided any such anchors; as a shepherd, Abel found himself with a near-total lack of structure, spending his days and nights following his flock, living an unfettered life. The story of their conflict is the story of the progression of humanity through its anal stage.

Because he is an embodiment of the process of anal inhibition, a process in which the child-parent conflict is inherent, it comes as no surprise that Cain grapples with the first moral dilemma recorded in the Bible. Cain was aware of the conflict between his will and that of God. Unlike his mother who "saw that the Tree was good for food" and "took of the fruit thereof and did eat, and she gave also to her husband, and he did eat,"^{xiii} all in one hasty, run-on sentence of single-minded transgression, Cain dwelled on his decision. Over the course of several verses, he experienced the emotions of both shame and anger,^{xiv} and received an admonition from the Divine^{xv} before acting on his urges to kill his brother.^{xvi}



Source: www.americanpapist.com

Freud interprets the long-term consequences of inhibiting man's anal instincts:

"Other instincts besides anal erotism are induced to displace the conditions for their satisfaction...this process coincides with that of sublimation...it is what makes it possible for higher physical activities, scientific, artistic or ideological, to play such an important role in civilized life."^{xvii}

It is no wonder, then, that Cain, the inhibited, is the inventor of religious sacrifice. As Freud predicted, the inhibition of instinct demands sublimation of that instinct in other pursuits. For Cain, that energy was redirected in the form of religious service, "And it was after a time, that Cain brought of the fruit of the ground an offering to God."^{xviii} However, Cain's sacrifice was ultimately not accepted, and his sublimation was stymied; his frustrated energies were channeled in another direction –

violence. Cain's murder of Abel, the end of humanity's anal stage, exposes the aggressive forces lying at the heart of civilization.

These unattractive beginnings to civilization clearly illustrate the volatile nature of the anal stage. The ability to repress urges, to dissociate oneself from the id's messages, lies in the dissociative power of Thanatos. This power enabled Cain to step away from the world of unstructured prehistory and into his role as the patriarch of civilization. The name of Cain's eldest son and the city he built, Enoch, is a form of the Hebrew for "training," which is exactly the concept Cain stood for: the guided cultivation of human potential, instead of the undirected approach of his brother, Abel. Cain

The phallic stage is the last stage of psychosexual development before the child enters a period of developmental latency. Development in the phallic stage begins with the awakening of pleasurable sensations in the sex organs. A young boy quickly learns that these sensations can be procured manually at will, and seizes this opportunity. The boy's mother, deeming this behavior inappropriate, will chastise him and threaten punishment, even to the extent that she would threaten confiscation of the object of his offense. Usually the mother will name the father as the agent through which her threats will be carried out. The mounting threat against the child's emergent infatuation with masturbatory pleasure manifests as a "castration complex" – an actual fear of being deprived of his new favorite organ.^{xxiii}

Following the tragic fratricide of chapter 4, chapter 5 of Genesis fast-forwards through two-millennia with a simple series of "begets" before arriving at the first two verses of chapter 6, "And it came to pass, when men began to multiply on the face of the earth... the sons of God saw the daughters of men that they were fair; and they took them wives, whomsoever they chose." Like the baby boy and his immature, indiscreet masturbation, early man was captivated by the intoxicatingly pleasurable use of his penis and became indiscriminate in gratifying his sexual desires. Before the first section of Genesis draws to a close, the Bible makes a final comment about the sexual castrating of the *benei elohim* with the *benot ha-adam*^{xxiv} and concludes with God's dismay: "I will blot out mankind... it repenteth me that I have made them."^{xxv} God would not tolerate this kind of behavior from man, and reproof is issued in the form of the Deluge. Like the mother's recourse against her son's immodesty, God brought a flood in response to mankind's inappropriate sexual behavior.

The suggestion that humanity underwent serious post-flood castration anxiety is a near-certainty, and it is supported by Noah's necessity for reassurance from God that the world is a safe place and by the reluctance of mankind to fulfill God's charge to, "Spread out in the earth and populate it."^{xxvi} Noah is shown the rainbow as a sign from God that he will not bring another apocalyptic storm,^{xxvii} and, even then, the human community insists on staying local. Instead of covering the earth as they had in antediluvian chapter 6, "They found a plain in the land of Shin'ar, and they dwelt there."^{xxviii}

The settlement in Shin'ar, composed of the world's entire population, united to build the Tower of Babel. The story surrounding the construction of this towering phallic symbol is the main event of the Biblical phallic stage.

The object of sexual interest to the boy in the phallic stage of psychosexual development is his mother. Her breast being the first object of his sexual desire, the connection he has to his mother starts from birth and is compounded over the years as she continues to take care of him.^{xxix} The child's love affair comes into direct conflict with the relationship of the parents to each other and pits the son against his father in competition for the attention of the

personally built the world's first city,^{xix} and his progeny followed his lead in laying the groundwork for future civilization and culture. The great-great-grandsons of Cain revolutionized economics, art, science: Yaval was the first to pen animals for ranching, Yuval originated the music of the harp and pipe, and Tuval-Cain invented brass and iron tools.^{xx} Unfortunately, the sublimations of Thanatos also generate violence and murder as they did for Cain and for his great-grandson, Lemekh, who "killed a man for a wound and a child for a bruise."^{xxi}

The Bible's ambivalent account of humanity's "sadistic-anal stage,"^{xxii} mirrors Freud's evaluation of its double nature. Sadistic because it is rooted in violence, but essential to development because becoming civilized requires a sustained aggression against uncivilized human urges.

mother. The son-father rivalry coupled with the son's natural admiration for the superior strength and respect commanded by the father causes the son to both imitate the father and try to replace him.^{xxx}

"And God formed man of soil from the earth and blew into his nostrils the soul of life."^{xxxi} The imagery in that verse, God as impregnator of the fertile soil, suggests Heavenly Father and Mother Earth as the parents of mankind. Adam's food in Eden was not the celestial manna of Exodus, produced directly from God; instead, Adam ate from the fruits of the earth, his symbolic mother. Following the Freudian line of reasoning, Man's first sexual object was Earth, his provider. God serves, counter to Earth, as a father figure, he metes out punishment and impairs Man's ability to live harmoniously with Earth by banishing him from her bosom, the Garden. The Tower of Babel was mankind's attempt to take Mother Earth for themselves, driving away God by creating an earthbound stronghold where they could be perpetually secure from divine interference.

Construction starts, and, in true Freudian form, the tower-builders make sure to imitate the creative method of the father while trying to usurp him, "Come, let us make bricks... Come, let us build a city and a tower with its top in heaven."^{xxxii} Compare this to Genesis 1:26, "Let us make man..." and Genesis 1:11, "Let the earth sprout grass." Man's creative plan is worded with marked similarity to God's creation. Even the use of bricks mirrors God's creative actions, "Imitating God's creation of man out of the dust of the ground, the human race begins its own creation by firing and transforming portions of the earth."^{xxxiii}

The Babel Project was ultimately suppressed by an act of divine preemption in which God diffracted the single dialect of humanity into many languages resulting in a world full of diverse and competing cultures. After the failure at Babel, humankind finally spread out across the earth, as God intended from the onset. This time, however, they were steeped in the complex awareness of self and other, of constructive destruction, and of the potency of the sex drive. This time, they set out with a mature psyche, fully aware of the potential of their powers. From here, the Bible stops its discussion of mankind as a whole and focuses very specifically on a line of Abrahamic ancestry. This marks the end of the Bible's psychosexual discussion.

Freud presented the phenomena of psychosexual development as prehistoric, but accidental, conditions. His stories of early humanity were not metaphors for universal truths but actual events to which he ascribed the historical origins of modern human behavior. While he saw these events as representative of significant epochs in the evolution of the human psyche, to him they were merely circumstances that influenced that evolution from without. The lessons of the Bible differ significantly. By identifying God's involvement in the development of the human psyche, the Bible is claiming that the human condition it describes is not just prehistoric, but ahistoric.

As presented in the Bible, the complexes and internal conflicts that human beings face are an elemental part of our composition; they possess a transcendental significance, shedding light on mankind's true ethos.

Jake Friedman is a sophomore at YC and is, as yet, Undecided.

ⁱ Sigmund Freud, *An Outline of Psychoanalysis*, transl. by James Strachey (New York: W. W. Norton & Company, 1963), p. 10.

ⁱⁱ Genesis 1:29.

ⁱⁱⁱ Ibid. 1:27.

^{iv} *Berakhot* 61b.

^v Genesis 2:18.

^{vi} Sigmund Freud, *Civilization and its Discontents*, transl. by James Strachey (New York: W. W. Norton & Company, 1989), p. 14.

^{vii} Genesis 2:19.

^{viii} Ibid. 2:21-2:24.

^{ix} Ibid. 2:17.

^x Ibid. 1:16-1:17.

^{xi} Ibid. 1:18.

^{xii} Freud, *Civilization and its Discontents*, p. 26.

^{xiii} Genesis 3:6.

^{xiv} Ibid. 4:5.

^{xv} Ibid. 4:6-4:7.

^{xvi} Ibid. 4:8.

^{xvii} Freud, *Civilization and its Discontents*, p. 51.

^{xviii} Genesis 4:3.

^{xix} Ibid. 4:17.

^{xx} Ibid. 4:20-4:22.

^{xxi} Ibid. 4:23.

^{xxii} Freud, *An Outline of Psychoanalysis*, p. 11.

^{xxiii} Ibid, pp. 46-47.

^{xxiv} Genesis 6:4.

^{xxv} Ibid. 6:7.

^{xxvi} Ibid. 9:7.

^{xxvii} Ibid. 9:13-9:17.

^{xxviii} Ibid. 11:2.

^{xxix} Freud, *An Outline of Psychoanalysis*, p. 45.

^{xxx} Ibid, p. 46.

^{xxxi} Ibid. 2:7.

^{xxxii} Ibid. 11:3-11:4.

^{xxxiii} Leon R. Kass, *The Beginning of Wisdom: Reading Genesis* (Chicago: University of Chicago Press, 2003), p. 223.

How Halakhah Approaches the Issue of Wife-Beatingⁱ

BY: Meira Zack

From the beginning of time, woman was cursed. This is not a feminist statement; it is a historical fact seen clearly in the Torah: "And to the woman He said: 'I will greatly multiply your pain and your travail; in pain you shall bring forth children; and your desire shall be to your husband, and he shall rule over you.'"ⁱⁱ Rashiⁱⁱⁱ and others explain the phrase "and he shall rule over you," in connection with the phrase "and your desire shall be to your husband," to mean that man will rule over woman with regard to sexual desires and that woman will not have the courage to pursue her own inclinations but will be subject to those of her husband. While this approach is understandable, I am perplexed that many did not look at the phrase in a more *peshat*-oriented way and explain literally that "man will rule over woman."

The key to retaining a stable government is a strong standing army. This has been clear since the beginning of organized rule, and is no surprise to us in this day and age where there are a good number of militant countries, and others that are constantly in civil war because there is no one collective entity with the majority of power and loyalty. To rule another means to have physical power over him or her. I believe Ibn Ezra (ad loc) follows this thought process and succeeds in explaining the *peshat* of our phrase by interpreting "he shall rule over you" to mean that woman must listen to man and do all that he commands and fulfill his desires because she is in his "domain." This connotes rule over woman through physical force, which seems to be a precursor for domestic violence, particularly wife-beating.

A primary concern of the Torah, and theological codes in general, is to help mankind conquer its *behemiyut*, its animalistic instincts, in order to become *benei adam*, human individuals. The question then arises: How does Halakhah deal with this natural instinct of man to victimize woman and physically beat her? Factors considered in the halakhic discourses include the reasons for beating, warning from the *beit din*, and beating as grounds for divorce. Interestingly enough, it seems that there are extreme differences in hashkafic outlook and halakhic ruling based on where each *posek* who discusses these matters lived. We shall start with the common ground of the Mishnah, move on to the extremely "conservative" views of the *Hakhmei Sefarad*, and the more "leftist" views of the *Hakhmei Ashkenaz*, and finish with the particularly revolutionary measures taken by German *posekim*.

The halakhic controversy over whether or not a man may beat his wife emerges from a Mishnah in *Ketubbot*: "These are the tasks a woman must do for her husband: grinding

(flour), baking (bread), laundering, cooking, nursing her child, preparing his bed for him, and working with wool (making clothes)."^{iv} Some would say that a wife's failure to fulfill such tasks constitutes grounds for beating. Three Geonic responses to this Mishnah lay out the three different modes of dealing with wife beating. R. Yehudai Gaon of Pumbedita clearly takes a violently supportive stance, as he states in a comment on *Ketubbot*: "A woman must respect her husband, nurse her children, feed her husband – even from her hand to his mouth – launder and cook. As the sages said: a woman grinds and bakes. When her husband enters, a woman must stand up, and she is forbidden to be seated until her husband sits down. She has no right to raise her voice at him, and even if he beats her, she should remain silent, as is the way of modest women."^v

A different, anonymous, Babylonian Gaon writes in response to a halakhic question:

"Regarding your questions about a man who beat his wife and caused her injury, the law is as follows: He is fined according to his ability and his assets and he shall give the money to his wife, who may use it as she pleases, as long as she does not give it as a gift to someone else without his consent; and they shall come to a compromise, but he shall not be compelled to grant a divorce."^{vi}

This Gaon clearly differs from Rav Yehudai in that he does not encourage wife-beating and even rules that engaging in such behaviors incurs punitive consequences.^{vii} However, it is hard to argue that he completely disagrees with it. For one, he specifies that these measures are only taken if the husband "beat his wife and caused her injury." What if he abused her but did not cause injury? Is that acceptable behavior? Furthermore, while he agrees that the husband is obliged to pay his hurt wife for the injury, he specifically states that said injury does not hold as grounds for the wife to demand a divorce.

Rav Paltai Gaon, also of Pumbedita, rules that wife beating *can* be grounds for divorce, but only if the violence is frequent. He writes: "In places where disputes took place continuously...if he started, she receives all the money under it [the marriage contract]." From the opinions of these three Geonim, we can see that *pesak* on wife-beating in that era ranged from encouraging the practice to declaring it grounds for divorce, but only in specific circumstances. Regardless of what stance the majority of Geonim took on this continuum, wife beating was, apparently, a common occurrence at this time in Jewish history.

It is important to note that the Jews of Sefarad lived under Muslim rule which was blatantly violent towards women. This could very well have affected the way *posekim* viewed

and determined rulings on such issues. The first opinion we have on such matters comes from the book *Ben Mishlei*, by Spaniard Shemuel ha-Naggid (995-1056). He writes: “Hit your wife if she dominates you as a man and raises her head.”^{viii} Avraham Grossman comments that “this may simply be poetic license [to beat one’s wife], but since the motif appears a number of times in the same work [*Ben Mishlei*] it probably reflects an established point of view.”^{ix}

The next major Sefaradic authority to comment on the topic was R. Yosef ibn Avitur (turn of the 11th century). He writes:

“Let it be known that if there are witnesses that he beat her once or twice, the Bet Din must warn him about it and tell him: ‘Know that you are not allowed to hit her, and if you repeat this evil act of yours, the woman will get a divorce with the rights of her marriage contract.’...And even if it is found to be true that he beat her once and again, as you have explained, we do not compel the husband to give her a bill of divorce with her rights under the marriage contract until he has been warned by the Bet Din and the community’s elders who tell him...and he receives the warning and is left at home with a trustworthy person; if the latter testifies that he repeated his evil deed, she is paid the money due to her by the marriage contract.”^x

This opinion evidently condemns wife beating since it agrees that such an act is grounds for divorce. However, the parameters are very strict. The only way to receive a divorce is to find witnesses, trudge through the court system to get an official warning, and then experience the violent act once more which, again, must be witnessed. If a man knows this to be the ruling, will he not be careful to beat his wife when there are no witnesses around?

The opinion of Rambam (1135-1204), who lived in Spain and then Egypt, is even more perplexing. On the one hand, he sympathizes with the plight of the beaten woman, stating that “a husband who harmed his wife must immediately pay her all the injury, shame, and sorrow. Everything belongs to her, and the husband derives no benefit, and if she wants, she may give the money to another person; thus instructed the Geonim.”^{xi} Yet, with regard to compelling a woman to do the housework she is supposed to do as stated in the Mishnah in *Ketubbot*, he not only condones violence, but even encourages it: “Any woman who refrains from doing work of the kind that she is obliged to do is forced to do it, even by means of whipping.”^{xii} Furthermore, Rambam does not even mention the concept of divorce resulting from beating, and this is most likely because he did not recognize it.

The views of R. Yosef ibn Avitur and Rambam seem to represent the general stance of Sefaradi rabbis on the issue of wife beating. It is carried through the generations and seen very clearly in the rulings of Rashba who lived in Christian Spain (1235-1310). In cases where the woman was beaten for not doing her work, the husband is not condemned. However, if her husband continually beat her for no

real purpose, she is granted a divorce. It could even be said from the way Rashba words his rulings that he tends towards the side of non-violence. A responsum of Rashba reads as follows: “A husband who beats his wife every day until she needs to leave his home and go to her father’s home, tell me what is the law. Response: The husband may not beat his wife...on the contrary he must honor her more than his own body. And the court asks and inquires who is responsible.”^{xiii}

It is also important to note that there were Sefaradic *posekim* opposed to wife beating even in cases where the wife did not perform the tasks required of her by the Mishnah. Among such *posekim* was R. Yosef bar Meir mi-Gash.

Interestingly, the best-case scenarios for beaten wives in Sefarad were the worst-case scenarios for ones in Ashkenaz. There were *posekim* like R. Yisrael Isserlein of Austria (1390-1460) who allowed husbands to beat their wives if the wives had cursed their husbands’ parents and treated them with con-



Source: www.jwi.org/af

tempt. However, starting with Rabad of Posquieres (1120-1198), who vehemently opposed Rambam on this issue, most Ashkenazi *posekim* had little tolerance for wife beaters. Rabad made a number of statements, such as: “I have never heard of chastising women with rods” and “I have never heard of whipping wives.” This idea is followed up by Meiri of Provence (1249-1315) who was asked “whether a husband was permitted to beat his wife with a stick during her menstrual period,” since, according to Jewish law, he is forbidden to touch her in that state. His answer was that although the rules regarding menstruation do not forbid it, since the husband does not actually touch her, in principle he is forbidden to beat his wife for any reason whatsoever.

This Ashkenazi position was not only embedded in halakhic texts but also put into action as punishment for wife-beaters. This was particularly so in Germany (as opposed to France). Maharam of Rothenburg (1215-1295) states in his Responsa: “The beater must be boycotted and excommunicated, beaten and punished with all sorts of beatings, and his hand should be cut off if it is used to beat her.” Furthermore, not a single Ashkenazi posek denies the right of a beaten woman to demand a divorce.

There are a number of reasons that can be

attributed to the stark difference between the Sefaradic and Ashkenazic stances on wife beating. As mentioned above, it might have to do with influence of the surrounding non-Jewish neighbors. It could also be based on the socioeconomic situations of these different areas. I would like to suggest, however, that it is based on neither, but instead on the way women were valued.

Women were not complete equals in either society, but degree of equality could have a large impact on the way with which wife beating was dealt. How so? Halakhah sets down laws that prohibit one man from harming another. Hence, the more a woman was perceived as equal, the more those laws extended to protect her, and the less she was perceived as inferior. This goes vice versa as well: the less a woman was perceived as equal, the less those laws extended to protect her. This discrepancy in perception could explain why *posekim* such as Rambam required husbands to pay their beaten wives only if they were harmed, and would not permit divorce on those grounds. To

those of the Sefaradic tradition, women were not seen as equal to men; they were under the rule of men, so only the bare minimum of Halakhah extended to them. The halakhot of damage from one man to another have to do with causing actual damage, and therefore the halakhot that pertain to instances of a violent husband and a beaten wife only apply when there are physical consequences to the abuse. From this point of view, Halakhah is being followed, since man may not physically strike woman, but there is still room for man to subdue woman verbally.

The Ashkenazic standpoint differs in how it views the relationship between a man and his neighbor, versus the relationship between husband and wife. Maharam of Rothenburg expresses this in his Responsa: “As for a man who hits his wife, I have received (by tradition) that he must be dealt with more severely than a person who hits someone else, since he does not have to respect others, whereas he must respect his wife.”^{xiv} Here, Halakhah apparently goes beyond the strict letter of the law, asking fundamental questions about the nature of man: Does not a person by nature love his children, his own flesh and blood, more than random people he meets on the street? How much more so should a person love and respect the person with whom he builds his life and

raises those children?

“When R. Meir of Rothenburg expressed his disgust at wife-beating in Jewish society he described it as ‘the way of the gentiles’ and ‘the custom of the world’s nations.’”^{xv} This extra step taken by Ashkenazic authorities exemplifies the Torah’s purpose (as stated in the introduction) in raising man up from the minimal state of keeping his animalistic tendencies in check, to the level where he behaves with humanistic empathy in the most just and appropriate manner. In this way, he truly fulfills the verse: “*Kedoshim tihyu, ki kadosh Ani, Hashem Elokeichem – You shall be holy, because I, the Lord your God, am holy.*”^{xvi}

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ⁱ In writing this article, I relied heavily on the following: Avraham Grossman, “Medieval Rabbinic Views on Wife-Beating, 800-1300,” *Jewish History* 5, 1 (March 1991): 53-62; and idem, *Pious and Rebellious: Jewish Women in Medieval Europe*, transl. Jonathan Chipman, (Waltham: Brandeis University Press, 2004).

ⁱⁱ Genesis 3:16. The translation is from *JPS Hebrew-English Tanakh: The Traditional Hebrew Text and the New JPS Translation* (Philadelphia: Jewish Publication Society, 1999), slightly modified by me.

ⁱⁱⁱ Rashi ad loc, s.v. “*ve-el ishekh teshukatekh;*” “*hu yimshol bakh.*”

^{iv} *Ketubbot* 5:5.

^v *Halakhot Ketsuvot*, published by Y. Miller in *Achter Bericht* (Hochschule, Berlin, 1890). Emphasis mine.

^{vi} *She'eilot u-Teshuvot ha-Ge'onim* (Koronil edition, Vienna, 1871), *siman* 44.

^{vii} This idea is taken from a Tosefta that deems domestic violence as a criminal act: “A person who harms his wife, whether he himself or others did so, will be deprived of property, which will be used to buy land and he will have the usufruct thereof.”

^{viii} Shemuel ha-Naggid, *Ben Mishlei*, ed. S. Abramson (Tel Aviv: Mahbarot le-Sifrut, 1948), p. 117, *siman* 419.

^{ix} Grossman, “Medieval Rabbinic Views,” p. 56.

^x *Sha'arei Tsedek*, vol. 4, 4:42.

^{xi} *Mishneh Torah, Hilkhhot Hovel u-Mazzik* 4:16.

^{xii} *Mishneh Torah, Hilkhhot Ishut* 21:10.

^{xiii} *She'eilot u-Teshuvot ha-Rashba*, 7:477.

^{xiv} Grossman, “Medieval Rabbinic Views,” p. 58. Meiri’s position is found in *Beit ha-Behirah to Niddah*, edition of A. Sofer (New York, 1949), p. 279, and in *Beit ha-Behirah to Ketubbot*, edition of A. Sofer (New York, 1947), p. 24.

^{xv} *She'eilot u-Teshuvot Maharam* (Prague edition), *siman* 81.

^{xvi} *Ibid*, *siman* 291.

^{xvii} Grossman, “Medieval Rabbinic Views,” p. 58.

^{xviii} Leviticus 19:2.

The Reverberations of Elitism

BY: Marlon Danilewitz

Finding a partner that one intends to spend the rest of one's life with is a profound and monumental decision. Moreover, the decision of a child to marry a particular individual is also an intense ordeal for the associated families. The sociological history of marriage in modern Jewish history is characterized by elitist tendencies, where potential partners are evaluated under a set of specific parameters to bolster the economic and social standing of the families. While the contemporary phenomenon of dating and *shiddukhim* is starkly different from its counterparts in the previous centuries, certain vestiges of the elitist mentality continue to afflict the practice of meeting one's soul mate, or *bashert*.

Because of the profundity and centrality of marriage as a Jewish institution, it may be possible to infer that the effects and reverberations of the ideals used to determine a potential spouse impact contemporary traditional Jewish society's mentality in areas such as the Orthodox Jewish interaction with cognitive disability. There is a tremendous amount of hesitancy and remonstrance amidst many Jewish schools and individuals at the prospects of integrating individuals with intellectual disabilities into day schools and yeshivot. This response is particularly alarming in light of the attitude of much of general society to swiftly adopt integrative programs in the spirit of the very Jewish ideals of social justice and equality. This negative attitude is rooted in the unfounded belief that individuals with intellectual disabilities will somehow negatively affect the other "normal" students, despite the fact that studies have illustrated that positive effects are associated with normal students who are part of normalizing educational programs. May it be possible to suggest that generations of elitist-based tendencies associated with marriage have grossly affected Orthodox Jewish attitudes towards cognitive disability?

It is the intention of the first part of this essay to primarily explore trends in traditional Jewish society in finding a potential spouse and the possible ramifications of these tendencies. The latter portion of this essay is dedicated to an analysis of inclusive education within the Jewish community, and an evaluation of noted hesitancy among Jewish schools and the community at large to invoke greater social justice and equality by facilitating integrative educational facilities for individuals with intellectual disabilities.

Trends in Jewish Marriage

The practice of *shiddukhim* is an age-old Jewish practice dating back to biblical history. In fact, the Torah describes the episode of Abraham sending his servant Eliezer to find a suitable wife for his son Isaac.¹ It is significant to note that Eliezer constructs a test to see who, when prompted to pour him some water, would

have the kindness and moral virtue to also pour water for his flock of sheep. It is evident from this story that the values and morality of Rivkah's character proved to Eliezer that she deserved to marry Isaac.

Jewish matchmaking in 18th century Europe, however, had a decidedly different character. ChaeRan Freeze, a prominent historian of Eastern European Judaism, notes in her work, *Jewish Marriage and Divorce in Imperial Russia*, that "arranging marriage was one of the most critical decisions that a Jewish family faced: the outcome often affected not only the couple but also their families, especially parents."ⁱⁱ Traditionally, the critical factors for choosing a spouse weighed heavily on "family lineage, family wealth, male's learning and the female's commercial talents."ⁱⁱⁱ Furthermore, what emerges from a comprehensive study of Jewry in 18th century Eastern Europe is that "marriage was understood as an (economic) alliance between families and was under strict parental control."^{iv} Unlike the aforementioned



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biblical description, where the central criterion for ascertaining a potential spouse concerned character, the practice in Ashkenaz was economically driven with distinct elitist tendencies.

The combination of Jewish society's appraisal of *talmud Torah* as an attribute of great importance and the intense commitment required by prospective *talmidei hakhamim* helped to cultivate an elitist marriage market where a man of great Talmudic potential was coupled with a wealthy wife, whose family could actualize the husband's endowed potential. The Jewish historian Immanuel Etkes posits that "the institution of arranged marriages was mobilized to subsidize the studies of young men."^v Etkes notes the manner in which the husband's financial obligation to his family were obviated in order to allow him to achieve his potential as a great sage through the dowry, the *kest* (period in which the wife and husband would live with the wife's parents

who would provide for the couple, as well as the capacity for the wife to work and subsequently provide for the family and her husband's Torah study).

As the times changed, the practice of choosing a spouse also changed. "From the mid-nineteenth century, however, other factors gradually began to have an impact, a reflection of the growing influence of the bride and groom but also medical science, secular education (especially for women), new cultural trends, and changing social and economic realities."^{vi} In other words, in light of the discoveries of science, in particular the knowledge of diseases and the biological complications associated with interbreeding, the criteria for choosing a spouse shifted. Moreover, because of the forces of assimilation, the personal morality of the potential wife became a critical criterion. Freeze notes that as a result "unmarried girls who accidentally lose their virginity were to report the incident to the *beit din* so as to avoid any questions about their

virtue later."^{vii}

Although the values and criteria currently ascribed to the choosing of a potential spouse are starkly different from that of previous generations, certain tendencies continue to pervade. The advent of genetics, in particular genetic testing and screening, has culminated in a consciousness in the Orthodox Jewish community, a society in which hereditary diseases like Tay-Sachs are at a higher prevalence than in the general population. Awareness of genetics has resulted in profound consequences to the nature in finding a spouse. The genetic makeup of the potential spouse and of the family, as a result, has arguably become a prominent factor in selecting a spouse. A rise in the stigma associated with carriers of particular inheritable disorders and/or families with cases of particular diseases has accompanied this new wave of technology. More generally, information like mental illness in a family within the Orthodox community has been shown to be

a grave blemish to a family, and in fact often inhibits these individuals from seeking proper mental health. Greenberg and Witztum, two psychiatrists studying ultra-Orthodox mental health, note that "a history of mental illness is a major blot on a family pedigree. One family member with a psychiatric record affects the marriage prospects of everyone else in the family. For this reason, a family will try to hide a psychiatric problem... Everything is done to avoid making the existence of mental disorder public knowledge."^{viii}

Integration of Individuals with Intellectual Disabilities in Jewish Schools

As public school classrooms around the country seek to implement normalization and integration based curricula and programs, their Jewish counterparts lag behind. Yeshiva University's Dr. Jeffrey Glanz, Raine and Stanley Silverstein Chair of Professional Ethics and Values at Azrieli, argues: "Too many Jewish schools, in particular, exclude the 'non traditional' student possessing different learning needs and requiring special educational services. Many Jewish day schools and yeshivot are not philosophically committed to inclusive pedagogy, nor have they been able to commit sufficient resources, financial and otherwise, to support such initiatives organizationally."^{ix}

In the mid-1980's, the Regular Education Initiative (REI) recommended "fundamental changes in the way in which educate students with disabilities, including those categorized as mentally retarded"^x which helped pave the way for the rise in mainstreaming and inclusion based educational approaches. Generally speaking, the term mainstreaming refers to the physical integration of an individual with intellectual disabilities, by placing them in general education classrooms. However, inclusion connotes more than basic integration. The notion of inclusion is "predicated on the idea that students with disabilities are welcomed and embraced as participating and contributing members of the general education classroom."^{xi}

Notwithstanding the hesitancy towards inclusion, the case for inclusive education is rooted in both secular philosophy and Jewish thought. The philosopher John Rawls in his political philosophy work *Theory of Justice*, outlines the framework for educational inclusion. Rawls understands justice as being grounded in human respect, and includes the development of different relationships grounded in mutual respect and treating each other justly. Moreover, justice is founded on the notion of equity, in the Aristotelian sense. In education, equity and justice are established by ensuring that every student has the educational help and assistance he needs to succeed. To treat people equally means to treat people with equity, evenhandedly ensuring what each person needs is allotted to him. In Jewish thought, the

notion of *tsedakah* parallels the aforementioned idea of justice and equity. The obligation for *tsedakah* is to provide in accordance with the person's needs. This idea is exemplified by the story in which Hillel ha-Zaken bought a horse and slave for a previously wealthy person who had become destitute.

Inclusive education is a process that helps achieve social justice for individuals with disabilities.^{xii} Alternate methods of education which separate those individuals with intellectual disabilities from the remainder of the class are purported to be not as effective as inclusive settings, which has been shown to increase academic achievement of both the able and disabled.^{xiii}

At the heart of the resistance to inclusive education rest a number of stigma and false beliefs fuelled in part by hints of elitist tendencies. Glanz cites a typical discussion concerning a principal looking to facilitate a more inclusive educational program at his school and a parent. In response to principal's desire to integrate individuals with intellectual disabilities, the parent retorted, "I don't want that kind of child in the same class with my child." Another parent declared, "My child is normal. These other kids have problems. They'll slow down the learning of my child."

Many Jewish schools themselves remain uncommitted to integration and/or consequently fail to dedicate serious resources and efforts to implementing these programs. Glanz similarly conveys another telling scenario that represent this reality. The scenario concerns a girl named Sarah who experienced problems with retention of information and had trouble learning as many *pesukim* as her fellow classmates. As the situation deteriorated, Sarah began to grow frustrated. She said that, "I hate my school; the kids tease me and they call me dummy." Despite a special tutor at home the problems persisted. In the course of meeting with the principal, he stated, "It's unfortunate, but we simply can't accommodate your child's peculiar learning style." Shocked by the principal's reaction, the parents decided to move Sarah to a local public school which provided inclusion class options.

Conclusion

It is not possible nor is it the intention of this article to definitively argue that there is single cause for the seeming hesitancy of the many Jewish schools and communities to foster inclusive educational practices, whether it be elitist marriage tendencies or not. This is not to say that the issues are by any means separate from one another. Rather, the "I don't want that student in the same class as mine" or more extreme comments of that nature speak to a deep-rooted predisposition in the traditional Jewish community. It is a virtue to praise excellence in Talmudic wisdom and secular knowledge, but not at the loss of social justice and equality. Failure to do so ignores the innate humane dignity that binds all of human kind together as equals.

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ⁱ See Genesis, chapter 24.

ⁱⁱ ChaeRan Freeze, *Jewish Marriage and Divorce in Imperial Russia* (Hanover: Brandeis University Press, 2002), p. 12.

ⁱⁱⁱ Ibid, p. 25.

^{iv} Ibid. See also *The YIVO encyclopedia of Jews in Eastern Europe*, ed. Gershon David Hundert (New Haven: Yale University Press, 2008).

^v Immanuel Etkes, "Marriage and Torah Study among the *Lomdim* in Lithuania in the Nineteenth Century" in *The Jewish Family, Metaphor and Memory*, ed. David Kraemer (New York, Oxford, 1989), 153-178.

^{vi} Freeze, p. 25.

^{vii} Ibid, p. 36.

^{viii} David Greenberg and Eliezer Witztum, *Sanity and Sanctity: Mental Health Work Among the ultra-Orthodox in Jerusalem* (New Haven: Yale University Press, 2001), pp. 228-9.

^{ix} Jeffrey Glanz, *The Ethics of Exclusion: Pedagogical, Curricular, Leadership and Moral Imperatives for Inclusive Practice in Jewish Schools* (New York: Yeshiva University, 2008).

^x *Mental Retardation: An Introduction to Intellectual Disabilities*, eds. Mary Beirne-Smith, James M. Patton, and Shannon H. Kim (Meril, 2006), p. 362.

^{xi} Ibid.

^{xii} Artiles, Harris-Murri, & Rostenberg, "Inclusion as social justice: Critical notes on discourses, assumptions, and the road ahead," 2006, p. 261.

^{xiii} Artiles, Kozleski, Dorn & Christensen, "Learning in Inclusive Education Research: Re-mediating Theory and Methods with a Transformative Agenda," in *Inclusion and Diversity in Education*, vol. 2, ed. Peter P. Hick and Gary Thomas (Sage Publication Ltd, 2008).

Opening Doors

BY: Rabbi Steven Greenberg

When *Kol Hamevaser* asked me to write a piece about my journey, I was pleasantly surprised. I was asked by one of the editors to reflect upon my experience at Yeshiva and my struggles to continue to find a home in the Orthodox community. Perhaps contrary to what might be expected, my initial experience at YU was, for the most part, wonderful. This was for two reasons. The first was that I loved the learning, the city, and my teachers at JSS. The second was that I was deep in denial.

I had come to Yeshiva as a naïve *ba'al teshuvah* from Columbus, Ohio with not a whit of gay self-awareness. This is not say that there were not inklings. At the age of ten, I remember having a nagging sense that there was something dangerous about my feelings. However, there were no words for this. "Faggot" and "homo" were words were words reserved for the boys hounded for being passive and unathletic. Neither one said anything about sexual attraction. When I was twelve, I remember being mesmerized by the handsome teenage son of distant cousins at family *sedarim*. Later in my early teens, I vaguely recall my head once turning sharply in the high school locker room toward a boy two grades older than me. At the time, I noticed my body's involuntary movement, but I could not name it. There were no categories for this experience, no way to explain the jerking around of my head, the warm sensation on my face, or the flutter in my chest.

A few years later, the arrival of the hormonal hurricane left me completely dumbfounded. Just when my body should have fulfilled social expectations, it went completely mute. I still had no conscious response to boys, but despite the great expectations, I also had no physical response to girls. By this time already religiously observant, my saving grace was *negi'ah*, the religious prohibition to embrace, kiss, or even touch girls until marriage. The premarital sexual restraint of the tradition was a perfect mask, not only to the world, but to myself. While it gave me religious cover for my active self-exclusion from the world of teenage romance and sexual exploration, it even more importantly allowed me to not know what I knew. I would hang out with friends on Friday nights, attend parties without breaking Sabbath rules, and drink beer and laugh at the sexual exploits of my peers. I did not share with my buddies the mix of jealousy, fear and moral superiority that the topic of "fooling around" with girls raised in me.

It was a relief, therefore, to find myself in yeshivah, first at YU and then at Yeshivat Har Etzion. I was welcomed into a monastic world of sorts, where hundreds of twenty-something men studied and debated in pairs for twelve hours a day. The emotional and intellectual intensity of yeshivah, the male camaraderie, physical affection, and mental sparring was wonderful. But, over time, as my sexual repression wore thinner every year, male close-

ness itself became a strange frustration, and the consciousness of desire bubbling up from inside me became undeniable.

On one desperate occasion, beset with an increased awareness of my attraction to a fellow yeshivah student at Gush, I visited the sage, Rav Yosef Shalom Elyashiv. I told him what I felt, at the time, was the truth. "Master, I am attracted to both men and women. What shall I do?" He responded, "My dear one, my friend, you have twice the power of love. Use it carefully." I was stunned. I sat in silence for a moment, waiting for more. "Is that all?" I asked. He smiled and said, "That is all. There is nothing more to say."

Rav Elyashiv's words calmed me, permitting me to temporarily forget the awful tensions that would eventually overtake me. His trust and support buoyed me above my fears. Of course, I was not asking for permission to act upon my feelings, nor was he offering any. I needed to understand what my sexual desire for men meant. From his words, I understood that strong desire was not to be feared – that it was evidence of a great potential for loving. In an amazing turnaround, I began to feel that this piece of my soul might actually make me a better rabbi. As a bisexual, I could have a wider and richer emotional life – and, perhaps, a deeper spiritual life than is common – and still marry and have a family.

I came back to New York City in 1978 to finish college, start RIETS, and get married. At the age of twenty-two, half of my friends were engaged or married, and I was eager to join their ranks. I dated women regularly during this period, but I had no clue what specifically I was supposed to feel. In one of my hopeless attempts at inducing passion, I brought a woman to the most romantic spot on Roosevelt Island, where in 1984 I was a congregational rabbi. The lighthouse on the northern end of the Island was quiet and secluded. The sound and smell of the river's swirling at its tip was the perfect setting for what I had planned to be the violation of the tradition with my first kiss. That kiss never happened.

The next week, I was a wreck. The humiliating failure to feel any desire for a woman I cared so much for left me confused and depressed. At one moment that week, on my way back to the Island on the tramway, I saw a very handsome young man looking at me. At that moment, I let myself fully feel the electric power of his gaze and was overwhelmed by my repressed desire. I turned away to catch my breath.

For the next decade, my life was a ticking time bomb. I was thrilled to be working as an Orthodox rabbi and educator by day and torn apart by the realities of my heart and body by night. On Yom Kippur, every year, I would listen to the verse read in the *Minhah kerit'ah*, and sob with my *tallis* over my head. One Yom Kippur, I decided that I could not cower any more. I wanted to have the *aliyah* for the reading of those very verses. I arranged with the *shamash* that I would have the proper *aliyah*,

and, when it was time, I went up to the *bimah* in the center of the *shul*. My heart was pounding as I climbed the steps to the *shulhan*. I felt as if I was standing on the top of a mountain in a thunderstorm. I said the blessing and heard the verse, “Thou shalt not lie with a male as one lies with a woman – it is an abomination.” To my surprise, hearing the words this time, I no longer felt fear, pain, or even accusation. I was strangely empowered. I felt that in my willingness to be vulnerable to the text, it became vulnerable to me and everyone like me. The full ramifications of these verses cannot be fully appreciated until those who interpret the verses hear our stories. Until the people who bear the weight of these texts – whose hearts, spirits, and bodies have been broken by them – are asked to give their testimonies, how can rabbis claim to have done their work?

I began to write in the summer of 1992, while still in the closet. “Gayness and God” was published in 1993 in *Tikkun Magazine* under a pseudonym, Rabbi Yaakov Levado. The article began with a bold statement: “I am an Orthodox rabbi and I am gay.” It was a confession and a plea for understanding and dignity. During the few months following the publication of the article, I received a number of letters forwarded to me through the magazine. I heard from gay and lesbian Jews, most of whom had left Orthodoxy years before. The letters were my first taste of support and encouragement as I ventured, under cloak, outside the closet.

During the next six years, I slowly shared my secret with friends and family, and finally, in 1999, after finishing a fellowship in Israel, I decided the time had come. But how does an Orthodox rabbi come out of the closet? I had become involved during my two years in Jerusalem with a group of activists trying to build a GLBT (gay/lesbian/bisexual/transgender) community center. By the time I was leaving, we had secured a space that was being renovated. Friends were pressing me to come out just before the grand opening of the Jerusalem Open House. I did nothing. As Providence would have it, on the flight home, sitting next to me was the Weekend Feature Editor of *Ma’ariv*. In March of 1999, I came out publicly in an article entitled, “*Le-Shem Zugiyut*” (In the Name of Partnership). The next week, *The Forward* picked up the news and published an article describing me as the first openly gay Orthodox rabbi. I had expected a barrage of verbal and written attacks. To my surprise, nothing of the sort happened. Yes, there were a few harsh voices, but nearly all my friends were wonderfully supportive. A number of my rabbinic colleagues called up to offer their support, calling my move “gutsy,” but asking not to be quoted.

During the next five years, I kept writing and, by 2004, I had finished a book entitled *Wrestling with God and Men*, which, I am proud to say, won the Koret Jewish Book Award in 2005 for Philosophy and Thought. However, I am even happier to say that it has served to help families reconcile and it has offered a way for many gay people to hold on to their trust of Torah and their faith in God.

In the book, I offer two arguments. The first one is for gay people who hunger for an interpretation of Scripture that doesn’t mark them as rightly hated by God because of the ordinary desire for love and companionship. The second argument is for Orthodox congregations to open their doors. It is a halakhic argument that justifies a community’s desire to make room for its gay members.

While most Orthodox synagogues are not up to the challenge, a few Orthodox rabbis over the past few years have begun to welcome gay people into their *shuls*. Based loosely on the few synagogues which have in practice integrated gay and lesbian congregants, I have discerned three principles which I think describe a “welcoming” Orthodox congregation:

No humiliation. Rabbis will agree not to humiliate or demean gay and lesbian people from the pulpit and will work to prevent such humiliation in their congregations.

No public advocacy. Gay and lesbian members will acknowledge the limits of the halakhic process and not presume the Orthodox synagogue will adopt the social agenda of the gay and lesbian community.

No lying. Gay and lesbian members will be able to tell the truth about their relationships and their families.

The first stipulation is a given. A rabbi who feels that he must deliver polemical jeremiads in regard to homosexuality will not provide a welcoming home for gay people. Such diatribes help no one and do a good deal of harm. In every Orthodox community, there are closeted gay Jews, parents of lesbian daughters, sisters of gay brothers, and young people terrified of a nameless secret.

The second stipulation is challenging for many gay people. Orthodox synagogues cannot be a platform for gay liberation. However, we can expect that our rabbis be willing to offer a degree of humility and compassion.

A well-known YU rabbi and scholar, who prefers not be named, once publicly said that when he was first asked about Judaism and homosexuality, he knew what to say: he easily recited chapter and verse of the standard ruling. Over time, as he met the people at his *shul* who were gay or lesbian or whose children had come out to him, he became more conflicted. He tells gay people now that he is humbled by their stories and cannot imagine what it is like to walk in their shoes. While he cannot permit, he also no longer feels in a position to condemn. He simply encourages gay folks to come to his *shul* and be a part of his congregation. For those gay and lesbian people who want to feel fully supported by their synagogue community, this sort of partial welcome may not be comfortable. Nonetheless, many people who want the unique vibrancy and intensity of traditional Jewish communities are respectful of halakhic limitations and know that whatever change in attitude is possible will come about because we have not walked away.

The last stipulation is the most important for gay Jews and the most difficult for rabbis and congregations. “Welcoming Synagogues” can not require us to lie. This stipulation is re-

ally the heart of the matter. Our honesty is surely the most unsettling demand, but communities must understand that, above all else, we cannot tolerate the lies that were required of us in order to pass. Our self-hatred and shame were products of those lies. In some Orthodox *shuls*, gay people are tolerated if they are discreet and single. Couples, and surely couples with kids, are visible in their difference and so pose a more difficult challenge. A “Welcoming Synagogue” will be one that slowly learns to be at ease with its gay members who have found partners and created families. As difficult as it is to find love in the world, when we do, we ought not to be exiled from the very communities that can help us grow as families.

Rabbi Shlomo Riskin, at the recent Limud Conference in England, argued that he favors greater acceptance of gay and lesbian people in Orthodox synagogues. As someone who has gotten to know Orthodox gay and lesbian people, he says, “I don’t object to gay-lesbian parents bringing a child into this world, as long as they do so responsibly.” “The synagogue is meant to accept any Jew. I must love the foreigner, as well as those who are different. Our role as parents is to love our children, and the rabbis’ role is to love the members of their congregation.”

It is my fervent hope that, in time, congregations will find ways to navigate their principles and set aside their fears, and that gay and lesbian people will find the courage to risk their hearts for the sake of coming home. Many of us are ready to be woven back into the life of the community, to share its joys and sorrows, its burdens and delights, if only a door is left open and a light is left on.

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Continuing the Conversation

Devarim she-Yesh la-Hem Shiur, or a Case of Sheer Opportunity

BY: Ben Greenfield

Editor's Note: The following article is the second installment of a piece entitled "Shiur Hadash, or a Case of Shiur Innovation" which was published in the last edition of Kol Hamevaser (December 2008) on Jewish Education.

So: good or bad? Until this point, I attempted to maintain some semblance of neutrality, refraining from normative statements. True, I claim the centrality of shiur is innovative, but that betrays neither commendation nor condemnation — the question of merit remains. The answer, I believe, hinges on two broader questions: why shiur and why now? In other words, what motivates the radically central position of shiur and what vaulted it into our particular time period? I imagine that even the slightest exposure to shiur answers the first query: we like it.

More specifically, shiur provides for a learning experience easier and more enriching. It supplies a guided structure for one's learning, converts discussion from Aramaic to the vernacular, organizes the covered material, supplements it with brilliant and erudite insights, and fosters an "on the same page" intellectual community providing ideas and support. *Talmud Torah* without shiur shifts the burdens of planning a course of study and organizing the fruit of a day's learning from teacher onto student. Why accept that yoke when a seasoned veteran volunteers to help? Furthermore, few students would consciously eschew the insights of a maestro or the creative dialogue of peers: Shiur as the principle form of *talmud Torah* makes good sense.

Yet, shiur's allure only intensifies the next question: why only now? First and foremost, we can afford it. A modern economy and the establishment of the State of Israel grant Jewish communities unprecedented wealth. Besides financing myriads of Torah learners — more perhaps than all previous generations combined — we can even equip them with *maggidei shiur*. Fashioning a shiur requires time and effort, which our generation is uniquely situated to sponsor. Second, changes in the student population make shiur more necessary. Expanding the palace of Torah study — surging from yeshivot of three hundred to three thousand — engenders a lower standard of student. The elite corps of yore may have enjoyed less of a need for shiur or, as tomorrow's knights of Torah were expected to struggle through without it. In contrast, the contemporary yeshivah scene embraces a class of *talmidim* fully capable of high-level learning, yet still relatively dependent upon the succors of shiur.ⁱ Lastly, and on a different note, the task of Talmud study has changed over the years, finally landing upon a mission that encourages the prominence of shiur. Today's assignment differs from our ancestors: Rashi's generation strug-

gled over the plain meaning of the text, a noble assignment we now take for granted. The Tosafists identified and addressed talmudic inconsistencies — so successfully, in fact, that if a modern student "discovers" a new contradiction, he can presume it is addressed in the aged literature or, alternatively, begin questioning his assumptions. Various Rishonim tendered competing readings of the Gemara, until a new duty emerged — selecting one approach as halakhically authoritative. The popularity of the *Shulhan Arukh* satisfied that need, but produced a demand to critique or modify controversial rulings. The sheer effectiveness of our predecessors, combined with a conservativeⁱⁱ esteem for precedent, means no one today considers rewriting Rashi or challenging an accepted article of *Shulhan Arukh*.

We face a new challenge — an immense



Source: www.yu.edu

and expanding corpus of texts in dire need of sorting. Ours is to organize. Ours is the age of the *Entsiklopedyah Talmudit*, the *Kovets Hakirov*, and the shiur. Just as Rambam catalogued *Shas* in his *Mishneh Torah*, we are embarking on a mission to organize *Shas* and its commentators. From a Gemara, a Ramban, a Rif, and a Shakh emerges — in the hands of a skilled lecturer — one concise but thorough shiur.ⁱⁱⁱ Curious once again about the topic at hand, a student can dispense with the search for relevant sources, with the struggle to understand each opinion, and with the question of if and how each document relates to the other: He simply "learns" his shiur notes. Numerous and unorganized texts have finally become one complete whole. The current mission of *talmud Torah* lends itself to the shiur format, where we rather proudly intend to create a new primary source.

The question of good or bad is really one of how successfully we accomplish this epic task.^{iv} Writing a new Torah text is an ambitious project with powerful repercussions. Future generations depend on us: We bequeath to the *tinokot shel beit rabban* (schoolchildren) an exciting new text and, for the glory of the Torah and sanity of its lovers, let it be a *Mishneh Torah 2.0* and not a re-invention of the *Mordekhai*. If inadequately organized or poorly written, then anticipate disregard for our creations, or, more tragically, much energy wasted on a wave of "*Shiurei Rav X al Shiurei Rav Y.*" We must recognize our mission and appreciate our opportunity: We must "write" shiur well. On the most micro of levels, a *Ram's* presentation of a particular *sugya* must

be clear and engaging. Announce and summarize each new step, repeat key sentences, clearly name all citations,^v encourage clarifying questions. To aid in preparation, include in the *daf mekorot* (source sheet) the exact questions to be addressed. In former times, when shiur served a less central role, students might suffer filtering and decoding the words of their master. If anything, they could rely on at least understanding the texts studied in *hakhanah*. However, with shiur playing the principal part in today's Torah study, proper pedagogy is paramount. A barely intelligible shiur means a *sugya* lost forever. It means an hour of *talmud Torah* sublimating into near *bitul Torah*. On a personal note, I rarely confront an *ivyun* idea utterly beyond my comprehension or a secular class so complex as to stymie a significant percent of its audience. Unfortunately, I have experienced shiurim that do just that, wrapping already difficult ideas in a delivery that begs improvement.

Apart from clear conveyance of specific points, shiur must also be organized. In other words, even an excellent and explicit speaker should order his items in a smooth, logical progression. All too often, shiurim include fascinating but tangential discourses, inspired by a brief reference or partial similarity. If reduced to an outline, the bullet points would resemble a conversation instead of an essay. This past summer, I transmuted the contents of three shiurim into Wikipedia pages. (They have since been removed.) Despite the clarity of their original presentation, I was surprised by the quantity of material that only indirectly related to the lecture's topic. New stages in the argument were introduced with loosely related discussions; foundational notions were reserved for the shiur's end; independent themes were homogenized under one heading — in sum, it took hours to untangle the knotty web of information and convert it into a Wikipedia page. But it should only take minutes; they should have the focus and organization necessary to pass this "Wikipedia test."

Lastly, on the broadest plane, individual shiur sessions should link together in a semester-long chain. Many shiurim — even those particularly clear and well-organized — arrange their topics in accordance with their sequence in the Gemara. Within the span of a few weeks, the lectures cover a range of unrelated and randomly ordered topics. However, an ideal shiur "text" erects an elegant semester-long structure, with daily shiurim forming weeklong sub-units that all connect with a larger whole. It might commence with a broad introduction to the semester's grand topic and proceed to explore pivotal aspects of the subject, before finally engaging detailed cases in a pre-arranged progression.^{vi} In other words, shiur should include a syllabus, guiding the student towards an ever more detailed knowledge base and contextualizing each day's learning into a complete picture. He should be

able to peer back at weeks passed, recalling the slow development of a truly impressive, truly cohesive acquisition of Torah. Clarity on three counts — pedagogical lucidity, cogent outlines, and a syllabus — galvanizes shiur's latent powers and enables it to fuel the next revolution in *talmud Torah*.

These are monumental times. We are witnessing a break from previous modes of Torah study, a metamorphosis in method and emphasis. This nontraditional approach belies a more radical and philosophical transformation, where the construct we call Torah is reassembled and redefined. We are uniquely suited to nurture this revolution, ready to accept a new mission in the chain of Torah development. Hundreds, if not thousands, of paid professionals devote their hours to organizing and elucidating the enormous corpus we call *Torah she-be-Al Peh*. If we fail in our duty, they and their students will still produce the greatest quantity of *talmud Torah* ever to grace this planet. But if we embrace our awesome responsibility, if we accept our role as the Torah's organizers and approach her as such, we do ourselves and succeeding generations an immeasurable kindness. The Torah, too, delights in our triumph, rewarding our service with the only gift she knows. For if we succeed, we enter that pantheon so mythic and most high, placing our lot with those sweet scholars of Israel, melting ourselves into the very text of her being, and achieving an immortality as ancient and mysterious as He who created her.

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ⁱ Once established — and with yeshivot built around them — even elite students would have little reason to not attend shiur.

ⁱⁱ Definitely lower-case.

ⁱⁱⁱ One might even define the Brisker program as just that — no more production of Rishon-like opinions, no more critical evaluation of them, no more clarifying their depths through the use of *pilpul*: Come, let us organize. Let us use the tool of *hakirah*-abstraction to connect disparate sources into a single line of thought or summarize multiple arguments into one grand debate.

^{iv} For an increasingly desperate appeal to greater digitalization and group cooperation in this process, see the author's article entitled "WikiTorah" in *Kol Hamevaser* 1,5 (February 2008), p. 4.

^v Personally, my notes are riddled with citations like "*Bava Kamma* 20a (or was it 120a?)"

^{vi} For convenience's sake, *Mishneh Torah* supplies ample organizational inspiration. On yet another personal note, I have begun studying *sugyot* based on their order in the *Yad ha-Hazakah*; it is refreshing, to say the least.

Continuing the Conversation

GPATS' Response to "A Man's Perspective"

BY: Ariella Schwartz

As I walked to my *makom* in the Stern Beit Midrash one Tuesday morning, I could not help but overhear my fellow "GPATS-ers" discussing the article written by Michael Kurin in *Kol Hamevaser's* December edition.¹ Indeed, his articulate and resolute words sparked deep and meaningful conversations amongst our group, as I am sure it has in many other circles of readers. Subsequently, we, the women of GPATS, felt it was appropriate to share our view of the very pertinent and personal issues presented in the article. Before I offer a rebuttal of Mr. Kurin's claims, I must acknowledge his thought-out views, and thank him for opening the door for this discussion.

Mr. Kurin begins his article by questioning whether advanced Talmud study for women is indeed reflective of "ideal *avodat Hashem*," and "if such a pursuit is the best option for young women." Instead, he recommends that post-college Orthodox women ought to dedicate their time to pursuits such as *hesed*, *parnasah*, child rearing, and "*tikkun olam*."

While one cannot deny the significance of these values in Judaism, I believe that *talmud Torah* for women does not preclude the fulfillment of any of these ideals. A woman learning (any Torah subject) for a few years before beginning her profession, her graduate study, or before and while raising children, can and will contribute to the Jewish community in ways that extend beyond classroom teaching. Yes, a number of girls who choose to learn indeed want to pursue a career in *hinnukh*, but even those who will not be full-time teachers will grow to become deliverers of Torah in their own ways. Years from now, it is the women who spent the time immersed in Torah study who will give *shiurim* to others in their community, who will be capable of studying all realms of Torah with their children, who will advise their less-educated peers in *Hilkhot Shabbat*, *Kashrut*, and *Taharat ha-Mishpahah*. It is these women who will present philosophical and Torah-based arguments to keep those around them on the correct *derekh* in spite of whatever doubts the world presents. Through our Torah study, we are *metakken olam*. By giving Orthodox women the leeway and comfort to uncover their heritage, to understand *Hashem Elokeinu*, to stand up and demand an answer to the question, "Why do I believe in God?" we are strengthening our people and will ultimately contribute to our "*mamlechet kohanim ve-goy kadosh*" (kingdom of priests and holy nation).

Am Yisrael is composed of two genders.

Both must perform *mitsvot bein adam le-haveiro* (interpersonal commandments) and involve themselves in *hesed*, *tsedek*, *u-mishpat* (kindness, righteousness, and justice). Both must contribute to this world and allow God's *Shekhinah* (Immanent Presence) to dwell amongst us. Both must contribute to the upbringing of their children and the guidance of their family *be-derekh Hashem* (in the way of God). These are roles of women as well as men. And our ultimate goal in this life is to serve God; to know Him and become close to Him. This is our goal as a nation and as individuals – both men and women. Some men feel closest to their Creator when they are reading *Tehillim*, and some women feel closest to God when they are uncovering the complexities of



Source: www.yu.edu

a *masekheta*. To each, his or her own. As long as our actions fall within the realm of Halakhah and fulfill the *retson Hashem* (Will of God), then we may allow God in, in whatever way we can.

On a personal note, I attended a secular college. Some of my friends retained their Orthodox identities by becoming Hillel leaders or by organizing Israel-awareness programs or *hesed* projects. For me, that was not the way. For me, my connection to God was found in the *beit midrash*, in the pages of the *Gemara*, the *Mishnah Berurah*, the *Tanakh*. Yes, I will see God in my child-rearing, in my *hesed*, and in my *Shabbat* preparations, but I also see Hashem in His Torah.

It is true that learning practical halakhah is useful, and, of course, a purpose of *talmud Torah* is to learn to perform *mitsvot*. But one of the most beautiful things about *talmud Torah* is that it is an end as well as a means. *Torah lishmah* (Torah for its own sake) is a unique value that stands independent of an obligation to "become a *talmid hakham*" or to "complete YU *semikhah*." I am sure that if you ask many of the young men who choose to learn for a

few years full-time after college, they will reveal that their motivations are not for a degree, an honor, or an obligation, but that their hearts are in these pages – that their love is for God. Do we women need another reason to learn besides seeing it as an expression of our love for God? It is an indisputable fact that Torah is a fundamental part of our religion, of our service of God. Do we need any other excuse to "sacrifice" this time for something not visibly "practical?"

Toward the end of his article, Mr. Kurin argues that women's "post-college" study of Talmud is a slippery slope potentially leading to "greater involvement of women Jewish leaders" and ultimately a "community-wide crisis." Firstly, as Shoshana Samuels estab-

women follow blindly. We question, we think, we want to learn and discover. We want to know God; not grope blind-folded through this complex world. If you keep women blind-folded, if you are too afraid to teach them Torah because there is always the lurking danger that they will "overstep their bounds," then you will lose the brightest minds and most dedicated hearts amongst us. *Talmud Torah* will not lead to careless regard for Halakhah. It will not lead to Conservative Judaism. *Le-hefekeh* (just the opposite) – it creates a love for our *masorah*, a passion for *deveikut ba-Hashem* (clinging to God), and a desire to follow in His ways.

In conclusion, *Am Yisrael* needs men and women who can spread the word of God. The distinction between pre-college Torah and post-college Torah is arbitrary. We must always be growing in our relationship with God. And if, for me, God is in the *Gemara*, then it is my prerogative and my obligation to seek Him there. With these years of *limmud* forever a part of me, I will serve as an *or la-goyim* (a light unto the nations). I will build a world of *hesed* and *ahavat Hashem*, I will fulfill all of my obligations. But I will do it with knowledge, skill, and with my *sefarim* to guide me.

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¹ Michael Kurin, "Women's *Talmud Torah*: A Man's Perspective," *Kol Hamevaser* 2,3 (2008-2009): 14-15.

lished, and Mr. Kurin confirmed, one cannot presume to know another's intentions. All of the women that have passed through the gates of GPATS are of purest motivation and commitment to Halakhah. That, I can assure you.

Additionally, might I suggest that it is an even more slippery slope to deny women with a thirst for Torah the opportunity to form a true and thoughtful relationship with their religion? In a world where women can achieve heights in all realms of secular study, dare we prevent them from seeking answers to why they are observant Jews? Standing in the way of the pursuit of Torah for women would itself cause the greatest crisis our religion can know.

In college, my Christian and Muslim classmates who were not well versed in their religious texts were most likely to fall for the atheistic pursuits of university life. But the Orthodox men and women who conducted daily *havrutot* emerged as strong Torah leaders. Torah is what binds us to Judaism. It does not tear us away from the *mitsvot* and ordinances of Hashem. Our world, the world of New York Jewry, of YU, of *shanah ba-Aretz* (the year in Israel), is not a world where Jewish men and



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