

Sexual Ethics for Rabbis: A Return to the Source

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Let's face it: sexual misconduct happens. Sometimes it is criminal and other times it "merely" damages a community without being prosecutable. Sometimes it is the result of mental illness and other times it is the result of overblown ego and insufficient self-control. The Jewish community has joined religious institutions across the US in implementing technical fixes to safeguard against misconduct real or alleged: schools instruct teachers to give brief "side-hugs," camps tell counselors never to be alone with campers, rabbis leave their doors open during counseling. These solutions may or may not be helpful, but they are certainly not sufficient; real adaptive change,¹ which examines our most deeply held values and assumptions, is called for. As a robust religious tradition, Judaism has a contribution to make to the public discussion of sexual ethics, in the form of texts and tools that guide and help us when we fall short of our ideals.

Traditional *halakha* has a straightforward answer: the laws of *yichud*, "aloneness," which dictate under what (limited) circumstances a man and a woman who are not married to each other may be alone together. Non-Orthodox Judaism has largely ignored or dismissed this area of *halakha*, but with a crisis abrew it is worth returning to the classical sources to see what they offer. Two equal yet different impulses motivate this examination. From an ideological standpoint, there is the desire not to cede any part of Jewish tradition, *yichud* included, to Orthodoxy,

¹ On the distinction between technical and adaptive problems and solutions, see the work of Ron Heifetz and Marty Linsky, e.g., *Leadership on the Line: Staying Alive Though the Dangers of Leading*. Harvard Business School Press: Boston. 2002.

but rather to see how it can be reclaimed for the liberal Jewish world. From a practical standpoint, it's very difficult to talk about one's own sex drive in a professional context; even writing the word "arousal" is uncomfortable. Having classical sources as constructs or lenses can help us ease into the ethical conversation that sorely needs to be had.

The basic rule of *yichud* is presented in Mishnah Kiddushin 4:12; the Babylonian Talmud's discussion of the mishnah, on pages 80b-81b, builds on it with a combination of legal debates and stories about rabbis and their romantic woes. Taken as a coherent unit (a *sugya*), this piece of Talmud is driven by the following question: to what extent is the sex drive² a natural (instinctual and unstoppable) impulse, and to what extent can it be socially circumscribed? In its original milieu, as a text written by men for men in a patriarchal world, the *sugya* clearly is addressing male sexuality;³ it comes down on the side of impulse and imposes strict rules—inspired by fear of the powerful sex drive—that are the only way to cope with it. When we take an egalitarian lens to the *sugya*, however, and read it as being about human sexuality of any gender, we find that it contains the raw materials on which we can hang a more modern sexual ethic, one based on humility rather than fear.

² The Talmudic term for "sex drive" is the Hebrew phrase "*yetzer ha-ra*," generally translated as "evil impulse" or "evil inclination." It is problematic in both English and Hebrew. *Yetzer* is from the root meaning "to form," indicating that it is something deeply a part of the human being and not simply an inclination. Its identification as evil, which makes it opposed to a good inclination (*yetzer ha-tov*), is part of the rabbinic dualism that generates so much trouble (as will be shown below). To help get us out of such dualism, this paper uses more neutral English terms. I am grateful to my classmate Sara Meirowitz for pointing out this terminological issue. My appreciation also goes out to Rabbi Ebn Leader for teaching the class that led to this paper and helping to structure my thinking.

³ Many thanks to classmate Avi Strausberg for bringing this distinction to my attention.

To understand the *sugya*, we must start with the mishnah:

A man may not be alone with two women, but one woman may be alone with two men. Rabbi Shimon says a man may even be alone with two women so long as his wife is with him, and he may sleep with them in a hotel, because his wife guards him. A man may be alone with his mother and his daughter, and may sleep with them skin-to-skin (i.e. under one blanket). If [the daughter] has grown, she sleeps in her blanket and he sleeps in his blanket. (M. Kid. 4:12)

The basic, underlying fear seems to be that a man faced with sexual temptation will succumb. Certain social conditions mitigate this fear: the presence of another man (who could deter him), the presence of his wife (a safe outlet for sexual energy), a close family relationship (relying on innate taboos—though even here, the mishnah makes a distinction between a young daughter and a grown one). These are all riders, however, on the general prohibition, which seems to come down to this: the rabbis of the mishnah fear the power of the male sex drive and do not believe social niceties are a sufficient barrier to men's misconduct.

In searching for a second datum that will help us construct the arc of the *sugya*, we are drawn to the story of Flimo. (Kid. 81a-b) This is because, in the midst of several stories about rabbis and *yichud*, we encounter one that is not about sex; given the tight, purposeful editing of the Talmud, its placement here raises our antennae and calls for interpretation. Briefly, the story is thus: Satan had had enough of Flimo saying every day, "An arrow in Satan's eye," so he appears at Flimo's door in the guise of a sick, poor man and asks to be fed. After disturbing the festive meal with his rude behavior and gross illness, he dies at the table. A hue and cry, "Flimo has killed a man!" makes Flimo flee to the public latrine. The corpse follows him there and confronts him, saying, "You ought to have said, 'May God

rebuke you, Oh Satan.” (Apparently “an arrow in Satan’s eye” was less respectful.) How do we make sense of this bizarre tale? One way to read it is as an allegory about the tension between natural impulses—to keep the dying poor man outside and continue the joyful meal—and social pressures, such as the desire to appear charitable and in charge.⁴ While the social pressure initially seems stronger, Flimo ultimately rebukes the poor man and then bolts from the house; he is unable to overcome his natural impulse towards revulsion and fear. Secondly, Flimo opens the question of what happens when we tempt fate, a topic we will return to below. Both of these understandings color how we read the *sugya* about sex.

With these two pegs in the ground, as it were, we can draw an arc that encompasses the whole *sugya*. Each debate or story speaks to the question of whether sex, as a natural impulse, responds to various social pressures. In addition to family relationships, among the factors discussed are life circumstances (such as mourning), categories of people (those known to be “kosher,” wild, or sages), and settings (traveling vs. at home). In the last legal section (81a), before moving on to stories, the Talmud asks if different physical configurations, such as an opening to public space, constitute *yichud*. Intriguingly, this is one place where the Talmud seems to be somewhat more lenient—for instance, if the woman’s husband is in the city, then there is no suspicion about her *yichud* with another man. Looked at another way, though, this too is reasoning from fear, just a displaced fear: instead of fear of the overpowering sex drive, it is fear of being suddenly discovered by the husband coming home unexpectedly.

⁴ I am indebted to my hevruta, Scott Roland, for this framing of the Flimo episode.

In the narrative part of the *sugya*, the power of the sex drive takes on often superhuman dimensions meant to underscore how irresistible it is. Rav Bibi comes to visit an old female friend, who is married to Rav Yosef, and has them remove the ladder from the loft where he spends the night so he is not tempted by her—even though Rav Yosef himself is in the house. Rav Amram, whose story we will examine in more detail below, returns to its place a massive ladder that ordinarily took ten men to lift because he was so allured by a woman in his loft—a redeemed captive, no less, a woman at the bottom of the social pecking order. Rabbi Akiva and Rabbi Meir each take heroic efforts to reach Satan, who is disguised as a woman, and are only deterred when Satan disappears. And Rabbi Hiyya bar Ashi, after years of suppressing his sex drive and not sleeping with his wife, can no longer control himself when she appears in his garden in the guise of a famous harlot. Even though she is his wife, he castigates himself afterwards for *intending* to sin and takes himself to an early grave. In each of these cases, it seems that the rabbis experience sex as a stark dualism: there is either complete nonarousal or an overpowering need that must be satisfied immediately. For these rabbis, there is no sublimating sexual energy or directing it towards their wives; there is certainly no release of sexual tension through masturbation (a behavior forbidden, but no more so than adultery). This is part of the all-or-nothing approach created by the frame of *yetzer ha-ra* (evil inclination) vs. *yetzer ha-tov* (good inclination); to give in to the sex drive even the tiniest bit is to give in to evil.

Put another way, this *sugya*⁵ seems to regard men as being addicted to sex. That is to say, like an alcoholic in a bar, the mere presence of a possible sex partner is (nearly) impossible to withstand; the addict is compelled to take what he wants and has no capacity for self-regulation. Such a conception of sex is understandably frightening and requires the strictest of boundaries, like those an alcoholic in recovery must observe. But not all people who drink are alcoholics, and it is our understanding today that most people are not addicted to sex. Having everyone relate to sex out of fear makes no more sense than enacting Prohibition to protect the alcoholics among us. Moreover, not all people who have sex are male. This point, though blindingly obvious, becomes the key to reinterpreting this *sugya*.

When we shift the focus from male sexuality to human sexuality, from a patriarchal world to an egalitarian⁶ one where women are equal partners in relationships, the *sugya* is transformed in two major ways. First of all, coming to the text as men and women who have egalitarian relationships with members of the other gender, we have vastly more life experience to draw from than the generations of men who read the Talmud in male-only spaces. This familiarity with the opposite gender takes some of the fear out of the system. Secondly, this shift

⁵ It is important to acknowledge that this is not the only paradigm with which the Talmud discusses the sex drive. For instance, there is the famous story in BT Yoma 69b about how the Jews imprisoned the *yetzer ha-ra* and held it captive for three days. During those three days, however, no chicken laid an egg; they realized that the world could not endure without the *yetzer*, so they blinded it and released it. This positive view, however, is expressed in a minority of Talmudic discussions about sexuality; moreover, it is highly relevant that here, in the *sugya* of *yichud*, this is the narrative the Talmud has chosen to tell.

⁶ “Egalitarian” here is meant in the broad sense, not the narrow religious sense of men and women both counting in a *minyán*. One can be an Orthodox Jew and still have egalitarian relationships—and one can be a non-Orthodox Jew who preserves nonegalitarian gender dynamics.

calls on us to plumb the Talmud more deeply in search of clues or nuances that prior generations might not have caught. We can bring these clues to bear in pursuit of a modern sexual ethic grounded in classical sources.

Our egalitarianism and daily life in mixed-gender spaces often leads us to believe that we are absolute masters of our sexuality. (I'm a straight man who spends all day with women and never once feels inclined to rape them; I must be more advanced than those poor barbarians back in the Talmud, right?) This kind of arrogance is part of what backfires and leads people to slip up. We see this in the stories of Rabbi Akiva and Rabbi Meir, who used to taunt (sexual) sinners and then found themselves enraptured and entrapped. (So too Flimo.) The subconscious is tricky and sometimes unpredictable, and we may find ourselves unexpectedly attracted to people we never expected to be attracted to, or unexpectedly the object of attraction. We see this also in Rabbi Hiyya bar Ashi, who thought he was so in control that he could repress his sex drive permanently. The human machine is not built that way, though; the sex drive is powerful stuff, to be ignored at our own peril. Yet we are capable of walking a middle path, neither so afraid of the sex drive that we impose draconian rules on it nor so laissez-fair that we let it ambush us. A healthy self-awareness and humility provide the basis for an early-warning system should a dangerous situation come up.

And make no mistake, "dangerous" sexual situations do arise. During times of emotional intensity, for instance, our feelings or physical reactions may get the better of us. In these same moments of fragility, our self-control is likely not at its best. This is how we might interpret and apply the brief, cryptic Talmudic reference

to “that case with the woman who took him out and something happened.” (Kid. 80b) The medieval commentary Tosafot, in the name of Rabbenu Hananel, elaborates upon the episode as follows:

There was a woman who was crying and mourning over the grave of her husband, and there was a man there who was guarding a hanged man at the king’s command. He went to the woman and seduced her, and she agreed. When he returned to the hanged man, he could not find the body, and he was very distraught and afraid of the king. The woman said to him, “Don’t worry, take my husband from his grave and hang him in place of the other one.” And so they dug up her husband and hanged him. Behold! Even in the hour of mourning, her *yetzer* overcame her!

Tosafot (and the Talmudic sages who bring this example) intend to demonstrate that the sex drive is so powerful that it is not affected by grieving. (This is one of those moments when the men of the Talmud imagine female sexuality, and they are not charitable about it.) If we read with a sympathetic eye towards the woman, however, we realize that this poor widow, alone in the throes of grief, is suddenly approached by a man who offers comfort or distraction. In this sort of compromised state, she might easily make a decision that she would ordinarily never make and would later regret. Ignoring this possibility or imagining ourselves to be above it will not solve the problem, but awareness in advance might help.

Another dictum we can reclaim is the Talmudic assertion “*nashim da’atan kalot*”—women’s minds/judgment are light/weak. (Kid. 80b) This is the Talmud’s first answer to the question of why the mishnah established rules about *yichud*. Taken at face value, it appears to be simple misogyny. A search through the corpus of rabbinic literature, however, reveals that this phrase occurs only in two other places, and the context there sheds new light on it. The first is in the Babylonian Talmud, Shabbat 33b, where the story is told of Rabbi Shimon bar Yochai and his

son hiding from the Romans after criticizing the empire. Initially, they hid in the *beit midrash*, and his wife brought them bread and water every day. When the Roman hunt intensified, however, Rabbi Shimon said to his son, “*Nashim da’atan kalot*. Perhaps they will torture her and she will reveal us.” And so, they went and hid in a cave, where God miraculously provided for them. In this case, it is not that women are inherently weak or foolish, but simply that she was at risk for confessing under torture. The second instance relates to the Akedah. Midrash Tanhuma⁷ VaYera 22 portrays Abraham in a bind on whether to tell Sarah about God’s command to sacrifice Isaac or not. If he tells her, she won’t allow him to go through with it; if he doesn’t tell her, she’ll kill herself when she finds out, because *nashim da’atan kalot*. In other words, she won’t be able to bear the awfulness of the situation. In both cases, the concern is that she will buckle under severe psychological or physical strain.

When we read this understanding back into the mishnah through the patriarchal lens, it helps us explain why one man and two women still constitutes *yichud*; presumably, if the man started to behave inappropriately, the women would be unable to stand up for themselves. With the egalitarian lens, though, we ask ourselves: is it only women who buckle under psychological strain? No! Everyone breaks down sooner or later, if you apply sufficient pressure. For rabbis and others in caretaking roles, this becomes a warning that we are the ones in the stronger position. Congregants coming to us for counseling may be emotionally compromised

⁷ Tanhuma is a rabbinic homiletical midrash probably written between the redacting of the Mishnah (c. 200) and the Babylonian Talmud (c. 600). See H. L. Strack and Gunter Stemberger, *Introduction to the Talmud and Midrash*, 2nd Ed. Fortress Press: Minneapolis, MN. 1991. p. 305.

and unable to bring their full, usual mind or self-control to bear. It is our responsibility to be on guard against transference and counter-transference and to seek help if a situation appears to be veering out of control.

This brings us to the story of Rav Amram. Of the six vignettes related in our *sugya*, his most closely approximates the condition of a modern rabbi and thus deserves a closer look. Here is the story in the Talmud's words:

There were some female [Jewish ex-]captives who came to Nehardeah. They were brought up to the house of Rav Amram the Pious, to the loft, and the ladder was taken away. One of them was pacing and a beam of light fell on her face. Rav Amram took the ladder, which ten men couldn't lift on their own, and replaced it. He started to go up. When he got halfway up, he braced his legs and raised his voice: "Fire in Amram's house!" The rabbis came and said, "You shamed us!" He said, "Better you should be ashamed of Amram's house in this world than in the world to come." Then he adjured [his sexual impulse] to leave him, and it left him as a pillar of fire. He said to it, "I see that you are fire and I am flesh, but I am better than you." (BT Kid. 81a)

Four elements distinguish the set-up of this story from the others. First, it is the only one in which the women are real women (not Satanic apparitions) whom the rabbi does not already know personally. Second, he is placed into a position of responsibility for them, approximating the role of modern rabbis vis-à-vis congregants. Third, it seems they were brought to his house because the community trusted him, as indicated by his title of *Hasida* (the Pious) and the reaction of the other rabbis when they arrive. Fourth, the rabbis' shame indicates that Amram has a sort of symbolic exemplar⁸ status; his community holds him to a professional standard and expects him to meet it.

⁸ cf. Jack Bloom's *The Rabbi as Symbolic Exemplar: By the Power Vested in Me*. Haworth Press; Binghamton, NY. 2002.

In turn, we as modern rabbis can learn four things from the story. First, it is a chance event—the way the light falls on her face—that inflames Amram with unexpected passion. We should not be so arrogant as to think this can't happen to us; even the most pious or grounded are not immune to the vicissitudes of the subconscious. Second, he moves the heavy ladder. It is possible that the story from this point on should be read as his fantasy (especially given the appearance of the sex drive as a pillar of fire later on), but real or imagined, it highlights how a wild impulse can make us do things we would never consider in our right minds. Third, he is self-aware enough to realize he is in trouble and stop himself. Halfway up the ladder or not, Amram demonstrates that one can think a lascivious thought or experience an unwanted sexual attraction and not act on it. In this way, he breaks partially free of the dualism we have seen so far. Fourth, he calls for help. He is humble enough to admit he needs reinforcement from an outside source, and he is willing to bear a little embarrassment now to avoid a greater tragedy later.

Questions remain, of course. Was he really able to adjure his sex drive to leave him? Did it never come back? Perhaps the story means that in that moment he was able to cool himself down—or perhaps, in a broader sense, he was able to get some perspective and realize that he had within him both temptation and the ability to control it. What happened the next time redeemed female captives came to town, or when his contract was up for renewal? Was Rav Amram considered more trustworthy than ever, since he had controlled his impulse, or was he considered a bad risk because he did, after all, allow himself to get halfway up the ladder? What was Amram's home life like; was he married, and if so was his marriage sexually

fulfilling? There is no indication that he was an ascetic like Hiyya bar Ashi, which is precisely why he is such a good example for us. He's an ordinary "kosher" guy, doing his best in the world, and when he is caught off-guard, he is humble enough to realize he can't handle it alone.

Over the course of this paper, we have taken an important step. Starting from understanding the *sugya* in its original context, where men in a patriarchal system impose rules about *yichud* on themselves out of fear of their sexual impulses, we have moved to a more modern, egalitarian stance and seen how that shifts the discourse. Despite a different time and society, we found the *sugya* useful in constructing a professional sexual ethic that is based on self-awareness and humility and takes into consideration the power dynamics that exist between rabbis and their congregants. The Talmudic stories were particularly useful, as we can use them to talk about ourselves in a way that feels less revealing and uncomfortable.

One question that remains is whether the egalitarian discourse as laid out here is sufficiently broad to include the gay and gender-queer communities. On the one hand, I have striven for inclusive language. Modern sexuality is complex, and certainly the experience of unexpected attraction can occur regardless of gender. On the other hand, the Talmud speaks in a heterosexual idiom that is hard to get away from. Perhaps in our retelling we might reverse gender roles and preserve the story: would the story hold together if the captives in Rav Amram's house were male? Alternately, we could look two *mishnayot* later in the chapter (M. Kid. 4:14), to where Rabbi Yehudah rules that two bachelors should not sleep under the same blanket. Although the majority of the sages disagree with him ("Jews are not

suspected of this!”), it’s clear that gay attraction was on at least one rabbi’s radar. Perhaps a different set of stories and debates will prove more useful on that front. More work remains to be done on this question, but as a starting point for a modern Jewish sexual ethic, it’s clear that *yichud* is not an irrelevant halakhic category.