

**From Prostitution to Marriage and Back Again:
An Interpersonal Sexual Ethic from Rabbinic Sources**

By Jennie Rosenfeld, PhD

When you're out with a feller in the pale moonlight.
You don't have to look in a book to find out
What he thinks of the moon and what is on his mind.
That comes naturally (that comes naturally)...

Grandpa Bill is on the hill
With someone he just married.
There he is at ninety-three,
Doin' what comes naturally (doin' what comes naturally).

Irving Berlin, "Doin' What Comes Naturally"

Several years ago, while in the throes of writing my dissertation "Talmudic Re-readings: Toward a Modern Orthodox Sexual Ethic" on the conflict faced by Orthodox Jewish singles between the halakhic restrictions in the sexual realm and the cravings of the human soul, and the need to articulate a sexual ethic which could help them to navigate this conflict, I had a conversation with a non-Jewish colleague at work. In trying to explain to her the unique conflict faced by Orthodox Jewish singles, she cut me off to say that the Orthodox and the Jews and the singles are not the only ones in need of a sexual ethic and that as a married non-Jew and atheist she knows she would benefit from a sexual ethic—just because the sexual ethic was based in Jewish tradition didn't mean that it had nothing to say to her. And so, with a bit of trepidation and her voice in my head, I begin...

The sexual revolution of the 1960's and 1970's abandoned all the old laws—religious and social—relating to sexuality. Today, more than forty years later, there are no new laws. However, though people may not want laws, they are still searching for guidance on how to order their sexual lives. And, with the lack of guidance in this context, individuals are left to struggle alone with their sexual decision making, perhaps wanting to make moral choices, but lacking any moral compass to help them in this difficult endeavor.

One of the social ills which have emerged in the aftermath of the sexual revolution has been the complete void of guidance related to sexual decision-making; the "antiquated" guidelines of religion have been overturned and no new guidelines have been written. People are therefore left floundering in search of a meaningful framework in which to locate their sexual decisions. This void often leads people into sexual behaviors which are risky—physically, medically and emotionally. And sexuality often remains apart from the rest of the person's identity because people don't hold themselves to the same standards of behavior that they would demand from themselves in other realms.

Judith Plaskow, a Jewish feminist theologian and professor of religious studies, articulates the problem as follows: "The simplest is the gap—indeed, one might say the abyss—between contemporary practices and traditional sexual mores" ("Decentering" 23-4). Plaskow argues that it cannot be that the majority of Jews feel abandoned by tradition in this critical area of life; the tradition must respond and we must search to hear a voice from tradition that will resonate with life today.

Plaskow continues:

The enormous variety in forms and values in human sexual expression cross-culturally points to the need for frameworks within which people can think and make decisions about sexuality. Despite what the old song says, sex is not just a matter of "doing what comes naturally." We always require, and indeed always find ourselves in, some context within which we negotiate this area of our lives. As things now stand, however, many Jews who try to integrate their Judaism into their daily experience don't even make the attempt when it comes to sexuality. This means that they are left without meaningful guidance from tradition in a significant area. It also means that at least some of the large numbers of synagogue members who find themselves or their children living at odds with traditional norms feel ashamed, and/or angry, and/or isolated. They experience themselves as abandoned by institutions that ought to serve as sources of sustenance. (24)

Plaskow claims that individuals need frameworks within which to negotiate their sexual decision-making. And while Plaskow writes as a Jew, the crisis of the gap between tradition and practice of which she writes is

not just a Jewish crisis—it is really a crisis for the larger Western world: “Although our culture is saturated with sexual images, there is an enormous gap between media fixation on sexuality and pressures toward sexual activity, and the capacity for individuals to speak comfortably about and claim responsibility for their own sexuality” (*Lilith* 174). These various gaps—the gap between tradition and practice, the gap between a hypersexual culture and personal comfort with sexuality, and the gap between the ideal and the real—all serve to create confusion in Jew and non-Jew alike about the role of sexual values in their lives.

Empirical evidence on the void of sexual values, and the ensuing confusion which that serves to create, is hard to come by as sexuality surveys focus more on practice than on beliefs. However, in the margins of public debate, the issue of sexual values looms large. In *Invented Moralities: Sexual Values in an Age of Uncertainty*, Jeffrey Weeks—an academic in the fields of history and sociology with a focus on sexuality and also a gay activist in Britain—argues that

...values have shot to the top of the political agenda on both left and right. As traditional ways of life fragment under the revolutionary changes of our times, as social identities are reshaped and remade, as well-established political alignments collapse and new alliances are painfully constructed, as the public sphere is redefined, and the boundaries between public and private shift, as epidemic disease returns to haunt the imagination of the postmodern world, and as the flame of love flickers in the cold drought of various forms of hate, debates over values encapsulate our uncertainties about how we should live (ix).

One example of this is in the debates which raged in the United States during the George W. Bush administration over abstinence-only versus comprehensive sexual education. Both sides of the debate grappled with questions of values and the disconnect between Christian standards of morality and modern experience, while differing on how to deal with them. Weeks continues:

We live in a world of uncertainty, where good guides and firm guarantees that we can reach any particular destination are in short supply, and where the goals themselves are cloudy and indeterminate. Nowhere is this uncertainty more acute than in the domain of sexuality, which has been the subject in the recent past of apparently endless panics, controversies, anguished moralizings and the rebirth of the value issue... Today, the question of values has reached the centre of the political and cultural agenda, with sexuality as the magnetic core (4)

Weeks writes about the prevalence of confusion and uncertainty in the postmodern world—the postmodern world is a place where choice is glorified, and yet we are given no guidance in how to choose. In such circumstances choice becomes more of a burden than a freedom: “Choice has become the ruling morality both of the political right (at least in economic matters) and of the liberal left” (28)—“Yet how, and with what criteria, we should choose is less clear. Is it surprising then that a sense of ending, the closure of narrative certainties, presages ethical confusion?” (28)

It is this “ethical confusion” which motivates me to write, and to bring to the fore a taste of Judaism’s rich offerings in the realm of sexual ethics. The Talmudic text—when read beyond the level of law—contains a wealth of sexual values which can speak to even the most ardent hedonist.

I believe that a return to the Talmudic text, along with a reading of the Talmudic text which seeks to appropriate it in ways that are relevant in the postmodern world, can provide redemption from the “ethical desert” (Weeks 29) which presides over sexuality today. In so doing, Jew and non-Jew alike can find the tools—which will lead to different results in different individuals—that will empower them to make positive choices in their sexual lives.

Beginnings of a Jewish Response

I believe that looking to the Jewish tradition for sexual values can help to provide a meaningful framework for all people and not just Jews. When focusing exclusively on the legal side within the rich Jewish tradition of law and lore, the teaching may be more particularistic to the community that observes these laws. However, exploring the ethical teachings within our tradition, which can stand independently of the law,¹ has the potential to speak more broadly.

In this paper, I wish to explore two passages from the Babylonian Talmud which focus on the interpersonal realm and how to treat the other in the midst of a sexual encounter and in the broader relationship (Menahot

¹ See Lichtenstein, who discusses the complex relationship between Halakhah and ethics.

44a, Kiddushin 81b). I believe that the sexual ethic which emerges from this reading can have universal relevance², though it is certainly not a comprehensive sexual ethic. There are dozens of other relevant Talmudic passages which would need to be analyzed in order to address the totality of sexual ethics and what follows is only a beginning. Reading these two stories makes a point about the way an interpersonal sexual ethic can be relevant in relationships of different natures; from the casual sexual encounter to marital sexuality.

My reading of these rich and multivalent sources is quite focused; my goal is to mine texts for contemporary relevance, and I therefore aim towards appropriation, and not historical reconstruction of the sources. I am influenced by a literary approach and will sometimes use various avenues of literary theory (i.e. deconstruction), when they help further my goal of allowing this ancient text to speak to modern ears.

A word about “The Talmud” is perhaps in order before I begin: The Talmud is a multi-vocal text which presents many different and contradictory voices, often without adjudicating between them. I don’t believe that the Talmud has one view of sexuality or sexual ethics, though some would have it that way. The Talmud contains hundreds of discussions of sexuality in both law and lore. While I don’t wish to claim that the narratives which I will read are representative of the Talmud as a whole, neither are they all that exceptional or unique. Nevertheless, the present analysis stems from my desire for a literary appropriation of the Talmudic text to the current moment, rather than an attempt to reconstruct the “original intent” of the authors.

While marriage is certainly the desired norm within the Talmudic framework,³ the Talmudic literature certainly did not ignore situations involving non-marital sexual relationships.⁴ [Similarly, while the story of the married rabbi depicts asceticism within marriage which is not encouraged—as sexual relations are part of the husband’s marital duty to his wife—many Talmudic stories valorize scholars who leave their homes and their wives for extended periods of sexual abstinence in order to travel to a center of Torah scholarship.⁵]

a. Between Subject and Object: Respecting the Other

In searching for an ethic of interpersonal interaction, we will examine two Talmudic stories of intimate male-female relationships, whose striking differences make a universal point about what it means to be in an ethical relationship. One story involves illicit sexuality in the context of prostitution and the other involves licit sexuality within the marital context;⁶ but seen side by side it emerges that sometimes the “forbidden” relationship is the one that deserves to last, since it is more ethical.

The first story (Menahot 44a) involves a Torah scholar whose only given identifying information is his scrupulosity in performing the mitzvah of *tzitzit* (fringed garments), and revolves around his assignation with a particular prostitute.⁷

² In choosing to focus on the ethical, rather than Halakhic, imperatives contained within these texts, I am not seeking to deny the halakhic implications but rather to draw out a different aspect of the text which can have wider relevance. And, in general, the ethical messages which emerge will serve to enhance, rather than to contradict the halakhic imperatives, for those readers who live their lives according to the mandates of Jewish law.

³ The Talmud Kiddushin 29a lists marrying off his children as one of the obligations which a father has to his sons. And in the continuation of the discussion (Kiddushin 29b-30a), the rabbis make it very clear that marriage is a desideratum—and young marriage at that—only debating the ideal age of marriage. The Talmud Yevamot 62b laments the man who lives without a wife as one who lives without joy, blessing or good in his life; and again reiterates the idea from Kiddushin that one who marries off his children close to the age of puberty will know peace in his home.

⁴ Perhaps the most famous story of non-marital sexuality in the Talmud is that of R. Elazar b. Dordia who is said to have visited every prostitute in the world before his eventual repentance and death (Avodah Zarah 17a). There too (as in our story in Menahot 44a) the epiphany leading to his repentance occurs in the prostitute’s chamber, though there it is in the midst of the sexual encounter itself. See also Kiddushin 81a-b, for a series of stories of illicit sexual desire which precede the story that I analyze below; Included are the story of R. Amram the Pious, who was placed in charge of women taken to captivity who were being returned to their husband’s, and almost sins with them, and several other stories of rabbis who initially mock sinners, until they themselves are nearly lured into sin before the Satan looses his hold on them at the last moment. See also Yoma 18b for the strange practice of a “wife for a day” which would be taken by Rava and R. Nachman when they travelled. And see the advice of R. Ilai the Elder in Hagigah 16a for one who is overcome by sexual desire; namely, that he should don black clothing and travel to a place where he will be anonymous before acting upon his desires.

⁵ See the extended discussion in Ketubot 62b-63a of the lengthy periods for which Torah scholars would leave their wives and the ill effects this sometimes had on the wives. This discussion emerges in relation to the Mishnah Ketubot 5:6 which discusses the frequency *onah*, which is the biblical obligation of the husband to provide for his wife’s sexual fulfillment. The required *onah* is calculated based on the husband’s profession, though the ensuing Talmudic discussion is all about how the rabbis often ignore this requirement, preferring to travel to the house of study for lengthy periods, returning home as infrequently as once every few years. See Boyarin’s discussion of the “married monk” in his chapter “Lusting After Learning: The Torah as ‘the Other Woman’” (134-166).

⁶ I use the terms licit and illicit to refer to the halakhic perspective towards the given relationship: marriage is licit in that it is sanctioned by Jewish law, while prostitution is illicit in that it violates Jewish law. The perspective of Jewish law is important in reading the stories comparatively, though I don’t seek to make a value judgment by use of the terms licit and illicit.

⁷ There are several recent readings of this story which should be mentioned: Harvey has a short literary reading of this story in which he focuses on what is comic about it and reads the prostitute as hero and the student as “first and foremost a comic figure” (261); Kosman reviews previous readings

מעשה באדם אחד שהיה זהיר במצות ציצית, שמע שיש זונה בכרכי הים שנוטלת ד' מאות זהובים בשכרה, שיגר לה ארבע מאות זהובים וקבע לה זמן. כשהגיע זמנו, בא וישב על הפתח. נכנסה שפחתה ואמרה לה: אותו אדם ששיגר לך ד' מאות זהובים בא וישב על הפתח, אמרה היא: יכנס, נכנס. הציעה לו ז' מטות, שש של כסף ואחת של זהב, ובין כל אחת ואחת סולם של כסף ועליונה של זהב, עלתה וישבה על גבי עליונה כשהיא ערומה, ואף הוא עלה לישב ערום כנגדה, באו ד' ציציותיו וטפחו לו על פניו, נשמת וישב לו ע"ג קרקע, ואף היא נשמטה וישבה ע"ג קרקע. אמרה לו: גפה של רומי, שאיני מניחתך עד שתאמר לי מה מום ראית בי. אמר לה: העבודה, שלא ראיתי אשה יפה כמותך, אלא מצוה אחת ציונו ה' אלהינו וציצית שמה, וכתוב בה +במדבר ט"ו+ אני ה' אלהיכם שתי פעמים, אני הוא שעתיד ליפרע ואני הוא שעתיד לשלם שכר, עכשיו נדמו עלי כד' עדים. אמרה לו: איני מניחך עד שתאמר לי מה שמך ומה שם עירך ומה שם רבך ומה שם מדרשך שאתה למד בו תורה, כתב ונתן בידה. עמדה וחילקה כל נכסיה, שליש למלכות ושליש לעניים ושליש נטלה בידה, חוץ מאותן מצעות, ובאת לבית מדרשו של ר' חייא. אמרה לו: רבי, צוה עלי ויעשוני גיורת, אמר לה: בתי, שמא עיניך נתת באחד מן התלמידים? הוציאה כתב מידה ונתנה לו, אמר לה: לכי זכי במקחך, אותן מצעות שהציעה לו באיסור הציעה לו בהיתר, זה מתן שכרו בעה"ז, ולעה"ב איני יודע כמה.

There was an incident with a man who was very scrupulous about the commandment of *tzitzit* (wearing fringes):

He heard of a certain harlot in one of the towns by the sea who accepted four hundred gold [coins] for her hire, and he sent her four hundred gold [coins] and made an appointment with her. When the day of his appointment arrived, he came and waited at her doorway, and her maid came and told her, 'That man who sent you four hundred gold [coins] is here and waiting at the door'; to which she replied 'Let him come in.' He came in and she prepared for him seven beds, six of silver and one of gold; and between one bed and the other there were steps of silver, but the last were of gold. She then went up to the top bed and sat down upon it naked, and he too went up to sit next to her naked⁸—but the four fringes [of his garment] struck him across the face, whereupon he escaped and sat upon the ground, and she too slipped off and sat on the ground. She said to him, 'By the love of the Romans,⁹ I will not leave you until you tell me what blemish you saw in me.' He replied, 'By the [Temple] service, I [swear] I have never seen a woman as beautiful as you are, but there is one precept that the Lord our God has commanded us and it is called *tzitzit*—and with regard to it *I am the Lord your God* is written twice, signifying that I am He who will exact punishment in the future, and I am He who will give reward in the future—and now [the *tzitzit*] appeared to me as four witnesses [testifying against me].' She said to him, 'I will not leave you until you tell me your name, the name of your town, the name of your teacher, and the name of your school where you learn Torah.' He wrote it down and handed it to her. Then she arose and divided all of her possessions; one third to the government, one third to the poor, and one third she took with her in her hand, in addition to the bedclothes. She then came to the house of study of R. Hiya, and said to him, 'Master, give instructions about me that they make me a convert.' He replied, 'My daughter, maybe you have fallen in love with one of the students?' She thereupon took out the note and gave it to him. He said to her, 'Go and enjoy your acquisition!' The same bed-clothes which she had spread for him for an illicit purpose she now spread for him lawfully [on their marriage bed]. This was that man's reward in this world and as for the reward in the world to come I do not know how much.

The story is strange on a number of levels, not least of which is the unlikely marriage between Torah scholar and prostitute. After hearing that there is a prostitute who demands four hundred gold coins as her price and after premeditating the sin to the point of even sending the money in advance and setting an appointment, in the moment of truth the Torah scholar is unable to actualize his fantasy.¹⁰ After the voyage and the extravagant expenditure, and as he is climbing to the highest of the seven beds, while taking off his clothes, suddenly he reaches his *tzitzit* and he stops mid-action and falls to the floor. Any hope of a sexual encounter is over, and yet the student sits on the floor. Reading the story, I would have expected him to run right out of the room once he realizes what he was about to do and decides that he is not going to do it. There is nothing that mandates that he stay, and caution would dictate that he leave as quickly as possible.

However, by sitting down on the floor, the man simultaneously indicates that their intended sexual congress is over while also making it clear that something has been left unfinished. He cannot simply leave the prostitute naked and alone on the top bed. Until this point there has been no direct communication between the man and the prostitute, though the context of their encounter has been laden with meanings for both; on his side, premeditation, advance payment and the journey into a fantasy, and on her side the receiving of

of the story and presents the story in a more balanced light, viewing the prostitute and student as equals. See especially Berkovits's discussion of this story, which has points in common with my discussion (115-121).

⁸ The version of this story in Sifre Bamidbar (#115, s.v. "*lema'an tizkeru*") makes it clear that they were about to engage in the sexual act.

⁹ As per Sokoloff (297, #3) this oath is by the goddess Isis of the Romans.

¹⁰ Berkovits sees in these details and the premeditation (and the fact that *tzitzit* was the specific commandment which the student was most zealous about) the fact that this is not all just a "momentary temptation" (117).

these attentions and the need to justify her reputation. And the scholar just can't leave; he needs conversation and closure, and he wants to speak, feeling that he owes it both to himself and to her to give an explanation.¹¹

The conversation which ensues is completely unexpected in the retinue of standard communication between man and prostitute; it is fairly unique that the Torah scholar and the prostitute engage in conversation beyond negotiating a price.¹² And here, there is no haggling over money, nor any bawdiness or banter. The couple speaks, face to face, whether naked or clothed the text does not say. The scholar speaks to the prostitute—human being to human being—and shares with her the epiphany which brought him running to the floor. Naked, the prostitute hears the words of Torah that can speak to this man from within the throes of desire, and can keep him doing what he feels is right even as his desire for her remains. He tells the prostitute about the mitzvah of *tzitzit*, about the concepts of divine reward and punishment and about the way in which the *tzitzit* appeared to him as witnesses of his actions. He shares the Torah with her as he might share it with a learned study partner. In that moment of speech, of revelation, of sharing, the differences between them are erased and all that remains is the basic humanity of each.¹³ This woman revealed herself to him and he owes her an explanation. She is not Jewish and not learned, she is a prostitute who routinely agrees to the objectification which sex for money entails and who routinely reveals herself in this manner, she swears by a Roman deity and she is naked—and yet, he owes her an explanation and shares with her the motivating force that is closest to his heart. And she learns his name; we who read the story never learn his name, though the prostitute does. She has the discretion to conceal it. The fact that there is open conversation between them defines the encounter and relationship as one of individuals—of subjects communicating with one another through speech, rather than a subject using an object for a limited purpose.

The story has a fairytale ending of the prostitute's conversion and marriage to the student, and life happily ever after with the same beds that she suggested to him illicitly now being used as the sanctified marital bed.¹⁴ It is a marriage of integrity. Both the scholar and the prostitute felt desire and had a forbidden encounter on some level; and rather than turn away from that past due to shame, they embrace it while transforming it. The events of the story and the rabbi's relationship with the prostitute are ethical from both sides. The prostitute treats the rabbi as a human being when she gets off the bed and sits with him on the floor as an equal. And the rabbi treats the prostitute as a human being in speaking with her, face to face, and in giving her his name, breaking the anonymity of prostitute and client. There is an ethical relationship throughout, despite the elements of transgression contained within it; the context of transgression in no way impacts the ethical treatment that they give to each other, as it potentially could.¹⁵ We will return to this point after examining a very different type of story.

Elsewhere, the Talmud (Kidushin 81b) tells the story of a married rabbi who ends up having an illicit sexual encounter with his own wife:

רבי חייא בר אשי הוה רגיל כל עידן דהוה נפל לאפיה, הוה אמר: הרחמן יצילנו מיצר הרע. יומא חד שמעתינהו דביתהו, אמרה: מכדי הא כמה שני דפריש ליה מינאי, מאי טעמא קאמר הכי? יומא חדא הוה קא גריס בגינתיה, קשטה נפשה חלפה ותנייה קמיה. אמר לה: מאן את? אמרה: אנא חרותא דהדרי מיומא, תבעה, אמרה ליה: אייתי ניהליה להך רומנא דריש צוציתא, שוור אזל אתייה ניהלה. כי אתא לביתיה, הוה קא שגרא דביתהו תנורא, סליק וקא יתיב בגויה. אמרה ליה: מאי האי? אמר לה: הכי והכי הוה מעשה, אמרה ליה: אנא הואי. לא אשגח בה, עד דיהבה ליה סימני, אמר לה: אנא מיהא לאיסורא איכוני. כל ימיו של אותו צדיק היה מתענה, עד שמת באותה מיתה.

¹¹ In this context he views the prostitute as a human being rather than as a sexual object. This is quite unique as Stampfer points out that the prostitute was not regarded as a person (80n26).

¹² Contrast with the story of R. Elazar b. Durdia (Avodah Zarah 17a) where the prostitute speaks to him in a very real way regarding his spiritual status, and he doesn't respond to her directly, but instead leaves and shares his concerns with the various facets of nature. Contrast also with the extended conversation between Judah and Tamar in Genesis 38 whose exclusive focus is on negotiating the payment, but never gets beyond that during the actual encounter.

¹³ Berkovits writes eloquently about this encounter in light of Martin Buber:

They sit there, still naked, but no longer in the nudity of lust and desire, but in the nakedness of their frail humanity, amidst the ruins of their human dignity. And now, *mima'amakim*—from the depths—to use a phrase of the Psalmist, they call to each other. “She said to him” and “he said to her” and so again and again...

It is one of those revelational I-Thou encounters about which Martin Buber has taught us and which have within themselves the mystery of sudden transformation. It is redemption from impersonality. She comes out of it a changed human being. And so, we assume, does he. (118)

¹⁴ In Christian materials there is a trope of the prostitute who becomes celibate as a form of repentance. The prostitute here stands in contrast to this trope as her repentance occurs through moving from prostitution to sanctified marriage within Judaism.

¹⁵ As I will soon discuss, in regard to the next Talmudic story, sometimes the transgressive nature of an act has the ability to cause the individuals involved to lose sight of ethics and become either absorbed in the sin or self-absorbed in their own feelings of guilt. However, this mentality does not enter the picture in the above story.

R. Hiya b. Ashi¹⁶ was in the habit of saying ‘May the Merciful One save us from the evil inclination,’ every time he fell upon his face [for the prayers of supplication]. One day his wife heard him and said, ‘Since it has already been so many years since he has separated from [having sexual relations] with me, what is the reason that he says this [prayer]?’ One day, while he was studying in the garden, she adorned herself and repeatedly walked back and forth before him. He said to her, ‘Who are you?’ She said, ‘I am Heruta and have returned today.’¹⁷ He solicited her [for sex]. She said to him, ‘Bring me that pomegranate from the top of that tree’; he jumped up, went, and brought it to her. When he returned to his house his wife was firing the oven, and he ascended and sat in it. She said to him, ‘What does this mean?’ He told her what had happened. She said to him, ‘It was me [and you therefore did no wrong]’; but he didn’t believe her until she gave him proof. He then said to her, ‘Nevertheless, my intention was to sin.’ That righteous man fasted all his life, until he died from it.

This story is about licit sexuality and asceticism gone awry. We see here a Torah scholar, R. Hiya b. Ashi, engage in an illicit sexual relationship with his wife. After several years of avoiding intercourse with his wife¹⁸ and praying about it daily, he finally succumbs to her advances when she dresses up and pretends to be a prostitute. From the outset, the relationship between R. Hiya b. Ashi and his wife is cast in secrets, suspicion and guesswork, rather than open and clear communication.

The story opens with the wife overhearing her husband praying for salvation from the evil inclination; we don’t know how long he has been reciting this prayer and neither does she. Instead of confronting him directly, the wife questions his actions in her own mind—if he hasn’t slept with her for years, then why does he need this type of prayer?—and takes matters into her own hands. She connives to trick R. Hiya b. Ashi into having sex with her, presumably to test whether his evil inclination is at all present and whether she still has the power to arouse him, which she does. Only after he returns home and sits in the oven remorsefully, do they first speak to each other directly as man and wife; until now, we have never seen the couple communicate as a married couple, as the very limited verbal exchange between them occurs only when R. Hiya b. Ashi is still under the assumption that he is dealing with Heruta the prostitute, and is negotiating a price with her.

Though, to his credit, R. Hiya b. Ashi’s remorse and confession of his “adultery” to his wife, is immediate, there is still a wide gulf between them. The real communication about their relationship, about why this happened, about why R. Hiya b. Ashi hasn’t had sex with his wife in years despite his virility and/or desire, about the wife’s feelings in being denied the intimacy to which marriage entitles her—is absent. And though she finally convinces him that it was her whom he slept with, the wife doesn’t succeed in assuaging her husband’s guilt or in reigniting their sexual relationship, as he fasts in penance for the rest of his days until death brings him respite.

Though this relationship is a sanctified marriage which is never actually violated through illicit sexuality, there is something disturbing about the level and type of interaction between husband and wife. In all that is barely said, in all the deception, guesswork, and loneliness, there is something lacking in this relationship. There is something which the prostitute and the student of the previous story had which this rabbi and his wife do not; while R. Hiya b. Ashi can remain celibate within marriage for years without a word on the subject to his wife (from what we see in the text), the student feels a moral obligation to explain to the prostitute, whom he has just met, why he cannot go through with their planned sexual encounter. While R. Hiya b. Ashi is ascetic to the point that he can’t even forgive himself for a sin which was never actually committed and move forward in the relationship with his wife, the student is aware enough of his own humanity to forgive himself and be able to build a life with his partner in sin. At its root, open communication is about respecting the other, and respecting the divine spark (*tzelem Elokim*) within them. Being aware of the divinity within the other at all times, including during the sexual act itself, mandates honesty and direct communication.

b. Between Wives and Prostitutes: Practical Implications

¹⁶ Note that R. Hiya b. Ashi of this story is not the same individual as R. Hiya of the previous story: R. Hiya b. Ashi is a 2nd/3rd generation Babylonian *amora*, while R. Hiya lived several generations earlier in the transition between the tannaitic and amoraic periods.

¹⁷ According to Rashi (s.v. “*ana*”), Heruta was a well-known prostitute in that town, and her name also means freedom; a just name for one of that profession. See however, the article by Naeh, which locates the significance of the name Heruta within the usage of that word in Syriac literature, where aside from the meaning of freedom/ licentiousness, Heruta also could imply freedom from sexual desire in “ascetic celibacy” (76-83). Naeh argues that the entire story centers on this “word belonging to a foreign culture” (85) and thus situates the story as a “polemic against the Syriac Christian ideal of celibacy” (89). While Naeh’s reading is linguistically interesting, in what follows I will be focusing primarily on a literary reading of the husband-wife relationship.

¹⁸ Naeh points out that R. Hiya b. Ashi’s battle against sexual desire by attempting celibacy within marriage is unique in rabbinic literature (85). While rabbinic models exist for asceticism within marital sex (such as that of R. Eliezer, husband of Ima Shalom, Nedarim 20b), or the study of Torah keeping husbands at a geographical distance from their wives for years at a time (Ketubot 62b-63a), we never hear of another conscious attempt at celibate marriage amongst the rabbis. See also n4 above.

Reading these two stories in conversation with each other opens up aspects of an interpersonal sexual ethic that neither story would yield when read alone; and, pushing the limits of interpretation will yield even more. In one instance, the Torah scholar views the prostitute as a human being and is able to see his future wife within the prostitute. In the other, the married rabbi sees the prostitute within his wife and is therefore unable to relate to her as a full human being. The communication between the Torah scholar and prostitute in Menahot 44a is more open and real than the communication between husband and wife in Kidushin 81b—seeing the two juxtaposed, the differences are striking. Another point which this brings out is that being in an ethical relationship doesn't always correlate to the halakhic legitimacy of the relationship. The Talmud itself shows that just as a relationship between spouses can be unethical and dehumanizing¹⁹ so too can a forbidden relationship be ethical and uplifting, though it remains forbidden.

The ethics of interpersonal relations are never an absolute and are not susceptible to the same clear lists of rules and regulations that define a body of law. Ethics always needs conflict to be interesting and can never be spelled out to the same extent as law can. The sexual ethic which emerges from these stories is grounded in certain broad guidelines, such as maintaining awareness of the divine spark of the other person and treating both oneself and the other with the dignity which that entails. Ethics is about a real respect for the other person even when circumstances and differences in rank and station and religion might have us think otherwise—each and every human being is created in the image of God and that fact overrides all others. Ethics is about treating the other as a subject and not as an object—the image of God within elevates the status of each individual. Ethics is about open communication, about giving a person the answers they deserve to be able to move forward in life—our words can have the power to make or break those people who are intimately connected with us. Ethics is about the face to face encounter with the other—the vulnerability that it engenders and the respect and care that are therefore mandated.

The French Jewish philosopher Emmanuel Levinas writes:

“Thou shalt not kill” or “Thou shalt love thy neighbor” not only forbids the violence of murder: it also concerns all the slow and invisible killing committed in our desires and vices, in all the innocent cruelties of natural life... even in the haughty obstinacy of our objectifying and our thematizing...
(*Time of the Nations* 110)

This passage points the way towards an ethical imperative to treat the other as a subject at all times, as “objectifying” and “thematizing” the other are alike forms of murder; the ethical obligation to the other entails seeing him or her as a human being to whom we have a responsibility. However, the details of the actions that correspond to this ethical awareness need to be determined in the situation and in the moment. There is no blanket ethical behavior, for what is ethical in one situation may be its antithesis in another. Especially within the context of violation where boundaries of different types are being blurred, determining the ethical course of action may not be easy to navigate or to pin down. However, I think that if these two stories can serve as the voices in our head when entering a sexual encounter—be it with a lifelong partner or with an anonymous stranger—the characters within will help guide us in the hard work of navigating situational ethics. Respect can mean different things in different contexts, but treating the other as a subject, as an equal, and as a “Thou” in Buber’s language, can go a long way in terms of shaping our sexual decision-making as well as our treatment of the other in any given sexual encounter.

The Torah scholar in the first story goes so far in his concern for the other as to come close to forgetting himself in the process. In sitting down in the prostitute’s bedroom at a point when he has decided not to pursue the encounter, the scholar puts his religious values in jeopardy. In staying in that space, he remains at risk of being re-seduced. And yet, he takes that risk without batting an eyelash, because what stands on the other side—what would happen if he just left—is the humiliation of the prostitute. As a subject and as an equal, she deserves answers for his behavior, even though giving her an answer simultaneously brings him closer to her. It is decisions like that which involve putting the other first and occasionally jeopardizing one’s own selfish interests—what Levinas calls our “infinite” or “unlimited” responsibility toward the other and the stranger—which stand at the heart of an interpersonal sexual ethic.

In light of the above and despite my belief that ethics cannot be quantified I will nevertheless end with a few very practical implications:

1. Even within a long-term marriage, the sexual relationship cannot be taken for granted. Ongoing communication is essential in order to maintain the relationship over the years and through changing circumstances. Simply getting married does not guarantee respect or satisfaction, and to make it work over time, a marriage requires work!

¹⁹ One may note that in the marital relationship portrayed here, the husband also violated the halakhah of *onah* (engaging in regular sexual activity with his wife). However, I would argue that even in a marriage where the halakhic requirement of *onah* is fulfilled and there is regular sexual activity, the potential still exists for the relationship (sexual or otherwise) to be unethical and dehumanizing.

2. Even within a short-term relationship or a “one night stand,” respect for the other and treating the other as a subject rather than an object are important. Respect and clear communication have the power to transform what could otherwise become a commercial relationship into something deeper, and into a potentially life-changing encounter. While I don’t wish to imply that the Talmud is encouraging or condoning prostitution or casual sex,²⁰ I do think that the story of the prostitute teaches us that even within the context of prostitution, the potential exists of moving beyond money into a relationship of “I-Thou.” By extension, I would argue that the Talmudic mandate to always treat the other as fully human exists equally in any type of sexual relationship—from the committed to the casual. However, I do recognize that this reading is not the only one, and that one can legitimately argue the story the opposite way as well; namely, that the very fact that the scholar refrained from sex with the prostitute was precisely because he recognized their relationship as one of “I-Thou” and that such a relationship by its very definition would preclude a commercial sexual encounter.
3. As an outside observer to other people’s relationships one can never really pass judgment, since as an outsider one doesn’t know the intimate nature of a couple’s relationship and its meaning for them.²¹ While some may smile upon marriage (assuming that simply being married indicates that one is in an ethically sound relationship) and frown upon non-marital sexuality, the stories above challenge our ability to be sanguine about an assumption that marriage or the lack thereof is an indicator of the ethics of the relationship. In an era in which many people are forming less committed relationships, it is essential that we do not ignore this reality and articulate an ethical formulation that speaks to the human need for dignity and validation. And while such relationships may be proscribed by Jewish law, the outsider still should not pass judgment, and those who are involved in a relationship of any type (be it marriage or not), need to work to make that relationship as ethical and respectful as possible.

* * *

Safer sex, despite the well-known hazards, difficulties and ‘backslidings’ that make it often problematic, can be taken as symbolic of a wider need for a sense of caring responsibility that extends from sexual behaviour to all aspects of social life. Love as responsibility means accepting that we are not isolated monads, sufficient unto ourselves. Our humanity is dependant on our caring and responsible involvement with others. This in turn means respecting the other (Weeks 182).

Incorporating Jewish values into the public discourse can transform the nature of how we view and do sex. The values which underlie the aforementioned Talmudic stories—such as treating the other in the sexual relationship with respect, whether one is with them for an hour or for a lifetime—have the potential to give people of all backgrounds the beginnings of a meaningful framework for this most important realm of human experience.

²⁰ One of the most amazing aspects to the Talmud is its ability to speak to real life in all of its richness and complexity. While there certainly is an ideal within the halakic system, there is also a real—and the Talmud is able to simultaneously lay the groundwork for the ideal, while acknowledging that often the ideal lies beyond our grasp and therefore also giving guidelines for a *b’di’eved* (non-ideal) situation.

²¹ By “outside observer” I refer to a member of the general public; be it a friend, family member, acquaintance, or passerby on the street. In such contexts, there are a myriad of Jewish teachings (beyond the purview of this article) which speak about the importance of not judging others. However, I don’t mean to make the more radical statement that no one (including legislators and theologians) can form an opinion about anyone or anything, for such would negate the foundations of society.

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