

The unconscionable physical and verbal violence against women in Beit Shemesh and elsewhere have degraded the religious concept of *tzeniut* by associating it with misogyny and oppression. Some Orthodox condemnations of that violence, by objecting to means while acknowledging shared ends, have added to that degradation. My purpose here is to directly reject the ends, in other words to offer a vigorously Orthodox and rigorously halakhic understanding of the purposes and parameters of *tzeniut* that opposes the goals and not just the means of those who seek to use *tzeniut* as a weapon to subordinate women or intimidate them out of the public square.

Here are two key initial points:

- a) *Tzeniut* is a broad Jewish value whose practical expression is opposition to unnecessary and meretricious self-exposure, whether of the body or of the soul. It relates to all people, male and female alike, and all of life. Reducing it to a code for women's dress and actions reflects an unhealthy obsession, equivalent to reducing love to an expression of (exclusively male) lust.
- b) *Tzeniut* is one value in the complex web of Jewish values, which must constantly negotiate its place in that web. It can be trumped, or attenuated, when it comes into conflict with other Jewish values. From the halakhic perspective, once *tzeniut* is correctly defined as *unnecessary* self-exposure, it becomes clear that it should not be applied mechanically, but rather on the basis of a sensitive and dynamic understanding of the necessary.

The distortions of *tzeniut* under discussion here are therefore very parallel to the unfortunately common misunderstanding that *lashon hora*, the prohibition against unnecessarily speaking evil of others, forbids the exposure of corruption or abuse by communal servants.

With that background, I think it is reasonable to posit two fundamental purposes for *tzeniut*:

- a) *Tzeniut* is intended to preserve and expand the domain of intimacy. Intimacy is constructed by exclusivity of exposure, by sharing things about oneself that one does not share broadly. People with inadequate emotional boundaries are incapable of achieving relationship through emotional sharing, and people with inadequate physical boundaries are incapable of achieving relationship through physical intimacy.
- b) *Tzeniut* is intended to preserve the integrity of personal space – physical, emotional, mental, and spiritual. People who “spill” emotionally compel others to respond to them – to feel pity when they express suffering, anger when they express betrayal, and the like. This legitimately feels like a violation. The same is true of unwanted touch.

It should be clear that excessive *tzeniut* can be pathological. People who never share their emotions do not experience ultimate intimacy, but rather intractable loneliness. People who never react to others' emotions do not become fully developed selves, but rather stunted and selfish. The goals of *tzeniut* can only be fulfilled in a society that fosters intimacy and empathy.

This is also true, *mutatis mutandum*, in the erotic realm. That is, *tzeniut* is intended to maximize the space for marital intimacy, not to make husbands and wives chary of each other's bodies. *Tzeniut* is intended to give people autonomous control of their sexuality, not to disassociate them from their physical selves.

With these understandings in hand, we can approach the question of how the value of *tzeniut* should play out in halakhic practice with regard to women's public dress, voice, etc.

My starting point is a Talmudic passage in Tractate Taanit 23b. The Talmud records that a delegation of rabbis observed a set of peculiar practices of the great but enigmatic Abba Chilkiyah, grandson of Choni

the Circlemaker. Among these was that when he returned from laboring in the fields, his wife would go out to the city gate to greet him in her best Shabbat clothing. When the rabbis asked Abba Chilkiyah why she behaved so, he responded "so that I will not look at other women".

Now the subtext of the story, the implicit challenge of the rabbinic delegation, is why Abba Chilkiyah justifies his wife's behavior rather than reproving her for being immodest. After all, while preventing him from looking at other women, is she not causing other men to look at her?

The answer is that Mrs. Abba Chilkiyah has the right, perhaps even the obligation, to do what is necessary for her own marriage, regardless of the effect on other men. In this regard she is not the halakhic exception, but rather the rule: all wives have the right and obligation to make themselves attractive to their husbands, even though this will inevitably increase their attractiveness to other men as well.

But why should this be so? Here we need to recognize that Halakhah does not directly obligate women to dress or behave modestly, however that is defined<sup>1</sup>. Rather, such obligations emerge from laws

- A. regulating whether people, male or female, can perform a set of ritual acts, such as making blessings or studying Torah, in the presence of people, male or female, who are exposing parts of their body that are defined halakhically as *ervah*.
- B. regulating whether people, male or female, can perform a different but largely overlapping set of ritual acts in environments that are likely to stimulate them to erotic fantasizing
- C. permitting men to divorce without paying the *ketubah* (marriage contract), or forbidding men from remaining married to, women whose immodest behavior suggests the likelihood of adultery
- D. forbidding people, male or female, to enter or remain in situations that are likely to result in illicit sexual liaisons
- E. forbidding men to enter or remain in situations that are likely to result in a purposeless seminal emission
- F. requiring at least men, and possibly women, to study Torah whenever possible

Modesty regulations are generated only via the obligation *v'lifnei iver lo titen mikshol* – "you must not place a stumbling block before the blind" (Vayikra 19:14). In other words, they are generated by the covenant of mutual responsibility that binds all Jews, with the specific consequences that Jews are responsible not to create circumstances that preclude the performance of ritual obligations, cause violation of prohibitions, or distract from the study of Torah. Each of these consequences is readily conceptualizable as an obligation to respect the others' space.

Now *lifnei iver* is always a potentially dangerous weapon. Here is an illustration: The Talmud states that *lifnei iver* forbids fathers to give corporal punishment to grown children (Moed Qatan 17a), because this will cause the children to rebel and therefore violate their obligations to treat their parent with honor and reverence. But what if children will rebel even when asked to perform minor household chores? Worse, what if children learn this halakhah, and then give preemptive notice that they will disobey any parental command – does this effectively bar any exercise of parental authority? If I tell my neighbor that if she ever cooks broccoli again, I will be driven to eat a cheeseburger – can I control her diet by claiming potential spiritual injury?

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<sup>1</sup> With the possible exception of an obligation (probably for married women) to cover (or braid or tie up) their hair, which requires a separate analysis, as does the prohibition against crossdressing.

The answer is of course not – Halakhah does not allow one person to take advantage of the covenant of mutual responsibility so as to prevent another from living a normal fulfilling human life. By the same token, Halakhah does not allow men to use erotic lifnei iver to prevent women from living normal fulfilling lives.

Now what constitutes a normal fulfilling life? It should be clear that this is a sociologically dependent category. In some societies it may be necessary to jog in public, but not in others; in some societies it may be necessary to sing in mixed company, but not in others; and so on. It is likely that in each society, whatever is done habitually will have minimal erotic impact. None of these societies is intrinsically preferable halakhically, so long as they take the obligations listed above with great seriousness, and recognize both of the primary purposes of tzeniut.

Balancing these values is easiest in a homogeneous society, where expectations of dress, behavior, and fulfillment are largely made by consensus. It becomes much harder in a heterogeneous society, and harder still at the intersection of sharply distinct homogeneous cultures, where each side has difficulty even imagining why the other might see a particular behavior as an assault on psychological space, or conversely, as an infringement of normal human fulfillment.

People of good will negotiate such situations while making every effort to find solutions that serve everyone's interests. Thugs beat up their opponents and try to make them leave or hide. No one who properly understands tzeniut could believe that physical, psychological and emotional assaults are viable means of implementing the values behind it. The thugs in Beit Shemesh should be condemned by all those who hold tzeniut dear, not because they are overzealous, but because they are warped.