

CENTER FOR MODERN TORAH LEADERSHIP

Center for Modern Torah Leadership



חרות ואחריות

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"Taking Responsibility for Torah"

WEEK 6 SBM SUMMARY -

WE ALLOW THE WORST (BECAUSE YOU MIGHT DO SOMETHING WORSE)

By Jacob Klein, edited by Rabbi Aryeh Klapper

Shulchan Arukh EH 23:1 writes:

אסור להוציא שכבת זרע לבטלה
ועון זה חמור מכל עבירות שבתורה.

It is forbidden to emit semen for no purpose (*levatalah*)
and this sin is more severe than all the transgressions in the
Torah.

Rabbinic rhetoric of this sort may be hyperbolic. For example, Talmud Bavli Nedarim 32a states that circumcision is given weight equivalent to all the other mitzvot of the Torah, while Tosefta Avodah Zarah 4:3 says exactly the same about settling the Land of Israel, and Talmud Yerushalmi Berakhot 1:5 records Rebbe as saying exactly the same about Shabbat. These statements are mathematically incompatible (unless all mitzvot are weightless). Moreover, substantially identical statements are made in other texts and times about other mitzvot: consider things you've heard said about lashon hora, or the three mitzvot one must die rather than transgress, desecration of the Divine Name, and so forth.

Contemporary mental health experts advise strongly against overweighing the sin of emitting semen *levatalah*. They argue that some degree of masturbation is inevitable and normal, especially for adolescent males, and that emphasizing this halakhah risks turning sexuality into a source of shame and neurosis. Poskim and mechankhim need to take this advice with great seriousness.

We also need to avoid caricaturing our ancestors as hopelessly hobbled and harried by sexual shame. Rabbi Klapper suggests that modern ideas about mental health both reflect and require different attitudes toward sex, shame, and communication. It's hard to know how past generations were affected by shame that ordinary individuals mostly didn't discuss, or at least didn't discuss in ways we can retrieve.

The question is whether the inclusion of this statement about emitting semen *levatalah* in Shulchan Arukh gives it specifically halakhic weight.

The standard 17th century commentary *Chelkat Mechokek* cites *Sefer Chasidim* as follows:

אם א' מתירא שלא יכשל בא"א או באשתו נדה ח"ו –
טוב לו להוציא זרע לבטלה משיכשל ח"ו באיסור א"א או בנדה
רק יתענה מ' יום בימי הקיץ או ישב בקרח בימי החורף.

If a person is afraid lest he stumble with a married woman or
his *nidah* wife G-d forbid -

It is better for him to emit semen than to stumble G-d forbid in
a prohibition of adultery or *nidah*
just he must fast for forty days in the summer, or he must sit in
snow during the winter.

Advising men to commit the sin of emitting semen *levatalah* in order to forestall a different sin implies that the different sin is more severe, and thus that Shulchan Arukh's statement is either rejected or else hyperbolic. The second edition of *Beit Shmuel*, the other 17th century standard commentary on Shulchan Arukh section Even HaEzer, adopts the second approach. After quoting *Chelkat Mechokek*, it adds:

According to this,
what is written in the Zohar and here (in Shulchan Arukh)
that the sin of emitting semen is more severe than all other
transgressions –
is not precise.
לפ"ז
מ"ש בזוהר וכאן
דעון מוציא ש"ז חמיר מכל עבירות –
לאו דוק.

However, the first edition of *Beit Shmuel* had included an alternative.

Alternatively, one can say that this sin is more severe than
having sex with one of the *arayot* –
that applies with regard to having sex without emitting semen
as we hold that one is liable (for sex with one of the *arayot*)
from the moment of penetration
but if he emitted semen (during that sex) –
that is also considered emitting semen for no purpose
(and therefore it is certainly worse than masturbation)
א"נ י"ל עון זה חמור מבא על עריות –
היינו לענין אם בא ולא הוציא זרע

דקי"ל משהער' בערוה חייב
אבל אם הוציא זרע –
היינו נמי הוצאת זרע לבטלה.

It is not clear why this explanation, which preserves the status of emitting semen as absolutely the most severe sin, was excised for the second edition.

In the 19th century, Rav Shlomo Kluger (*Chokhmot Shlomo* to Shulchan Arukh Even haEzer 23a) offered two very different ways of reconciling the Zohar with the Sefer Chasidim.

In my humble opinion, it is not necessary to force-interpret the words (as hyperbole),

rather it is certainly more severe than all (other) sins,
just that when there are two transgressions that one must
choose between, this or that –

it is better to nullify the prohibition against emitting semen,
which includes a permitted case, namely when done for the
sake of procreation,

as opposed to (the) other sins (mentioned in Sefer Chasidim,
i.e. adultery and sex while *niddah*)

that do not include a permitted case . . .

We can further explain the matter.

Since emitting semen is permitted in order to raise
descendants,

and “the descendants of the righteous are (their) good deeds”,
and if a person is passive and does not transgress a
transgression –

they give him reward as if he has done a mitzvah,
if so,

when a matter of transgression comes to (his) hand, such as
adultery or sex with a *niddah*, and he refrained from doing it –

this is considered as if he has done a mitzvah,

and the doing of a mitzvah = (having) descendants,
and to raise up descendants – it is permitted to emit semen,
therefore it is permitted for him to emit semen for this
purpose...

for the purpose of not transgressing a (different) sin

ולפענ"ד א"צ לדחוק בזה,

דודאי הוא חמור מכל עונות,

רק היכי שיש ב' עבירות לבחור, זה או זה –

אז מוטב לבטל עון ש"ז,

כיון דהותר מכללו לפ"ו,

משא"כ שאר עבירות - לא הותרו מכללן . . .

ויש להסביר הדבר יותר.

כיון דש"ז הותר להעמיד תולדות,

והרי תולדותיהן של צדיקים הוי מע"ט,

והרי ישב אדם ולא עבר עבירה –

נותנין לו שכר כעושה מצוה,

וא"כ, בבא לידו דבר עבירה, כגון א"א או נדה, ולא עשה - הרי נחשב

לו כעושי מצוה,

ועשה מצוה הוי תולדות,

והרי להעמיד תולדות הותר להוציא ש"ז –
לכך מותר לו להוציא ש"ז עבור כך
לכך מותר עבור מניעת עבירה

Rabbi Kluger's second approach seems far into the world of *derush*, but may have radical halakhic implications. It seems to say that accomplishing any mitzvah whatsoever, or for that matter avoiding any transgression, is sufficient to justify emitting semen, or at least to ensure that doing so will not be considered doing so *levatalah*.

Rabbi Kluger's first approach shakes up our nations of value and severity. Emitting semen *levatalah* is the worst sin, but it belongs to a category of 'weaker' sins. Therefore, one should emit semen *levatalah* rather than commit a less severe sin that belongs to a 'stronger' category. Is this true with regard to any sin whatsoever in the 'stronger' category? I cannot tell from Rabbi Kluger.

Regardless of whether one paskens like the apparent implications of *Beit Shmuel*'s first edition or *Chokhmot Shlomo*, there seems to be a consensus in support of accepting *Sefer Chasidim*'s ruling. This provides yet another illustration of a procedure for resolving conflicts of values that seems to straddle the line between halakhah and not-halakhah. (We've seen many over the past few weeks, including but not limited to *chatei bishvil shetizkeh*, desecrate one Shabbat so as to allow him to observe many Shabbatot, and *aveirah lishmoh*.) How can it not be halakhah if it is quoted with approbation by many commentators on Shulchan Arukh? Yet how can it be halakhah if one is required to atone for following it? That paradox is central to SBM's theme this summer – stay tuned for the 2023 SBM Sh'aylah (or sh'aylot), coming soon in this space!

Shabbat shalom!