

## TZNIUT – A RESPONSE TO RABBI KLAPPER’S ESSAY

by Miriam Gedwiser

It is by now a sad truism that the battle for the public sphere in Israel has a way of being waged over women's bodies. Equally predictable is the rush of Sensible People to rescue both their own credibility and that of the Torah by disclaiming the “extremists.” But I cannot help but wonder whether these problems are really “theirs” alone. Are the restrictions that I observe – on what I may wear, on where I may sit – different in kind, or just in degree, from the repression everyone seems to love to hate?

Several rabbis, including teachers and friends of mine, have thrown in their two cents about what tzniut “really” is and how the desire for invisible women shared by spitting zealots and their better-mannered sympathizers is not Torah-true. My teacher, Rabbi Aryeh Klapper, for example, attempts to show that tzniut is a “dynamic” value meant to limit unnecessary self-exposure and to preserve intimacy and the integrity of personal space, but is not to be used by one person to prevent another “from living a normal fulfilling human life.” I appreciate his and others' efforts, but have been uniformly left with the feeling that they are asking the wrong question (“why is spitting on girls not in comportment with true tznius?”), and thus arriving at an unsatisfying answer. In this response to Rabbi Klapper's essay, I hope to show how I think this conversation should be redirected.

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As a teenager my typical shabbat morning involved davening at the hashkamah minyan and then learning in the beit midrash until the main minyan finished. I sat in the main section of the beit midrash, which was well-lit and full of books, rather than the women's annex, which was neither. One day a *kippah-srugah*-clad man approached me. He neither asked my name nor told me his, but he did tell me I should be behind the mechitzah. Did I not know that men were forbidden from praying before immodestly clad women? Taken aback, I retorted with a garbled version of a *teshuvah* I had recently learned that allowed a woman to pray with men without a *mechitzah* under certain circumstances. (See Igrot Moshe, Vol. 8, O.H. 5:12b.) I did not think to ask him what about my elbow-knee-and-neckline-covered self he found immodest. Eventually he took his complaint to our shul's rabbi, who rebuffed him, but it was months before I could sit down to learn without anxiety. That was the first time someone asking me to be invisible.

Unlike the zealots this fellow was civil and not terribly persistent. But his strict equation of noticeable female presence with immodesty, and his assumption that he should be able to tell a girl what to do, should sound familiar. And so rather than marshal sources showing the absurdity of spitting on little girls in the name of “modesty,” and rather than ask “what is tzniut, really?” I think we should begin by asking two descriptive questions: First, is there something about our tradition that leads men, even only a small subset of them, to equate the mere presence of females with immodest exposure? Second, is there something about our tradition that prompts men of no particular communal stature to tell women and girls where they can be?

I believe the answer to both questions is yes. Without entering the polemical battles of attempt to prove, through extensive citations, what "the Talmud" or "the Rabbis" thought about "women's issues," I offer some relevant examples from the learning I happened to be doing while the Beit-Shemesh media frenzy was going on.

The first text is from Yevamos 113a, which I ran across with my gemara chavrusa tangential to an unrelated sugya: Rav Malchiu allowed a deaf man, who was not biblically obligated to provide a ketubah, to write a valuable one nonetheless, presumably since otherwise his prospective wife would have been uninterested. "Raba remarked: Who is so wise as R. Malchiu who is indeed a great man (gavra rabbah). He held the view: Had he wished to have a maid to wait upon him, would we not have allowed one to be bought for him? How much more, [then, should his desire be fulfilled] here where there are two."<sup>1</sup> In this moment of little or no practical import, we just get a sense of how Rava - himself a "gavra rabbah" in countless talmudic discourses - thinks of a wife: as a maid with benefits.<sup>2</sup>

Reading Rava's quip I felt like a seminary girl who had finally secured a coveted invitation to the sage's house, only for him to open with the joke that so amused my male classmates in middle school: "What do you do when the dishwasher breaks? Slap her!" Of course, most of the readers of this text are men, many of them boys learning and living in all-male environments. What do texts like this encourage such a boy, and later man, to think about what to expect from women and wives? Does it make him more or less likely to think of women as beings whose right to a "normal fulfilling life" provides serious counterbalance to his own material and sexual desires?

Or turn to the laws of Rosh Chodesh, which came up as I taught an introduction to halacha class on the basics of the Jewish calendar. First, one understanding of the specifically female exemption from work on Rosh Chodesh (OH 417) is not that women are prohibited from anything, but that they have a permissive "day off" on which their husbands may not compel them to do work. (See, e.g., Ba"ch *ad loc.*). The implication, of course, is that on other days husbands *may* compel their wives to do work. A problem arises, because Tosafot (Megillah 22b s.v. "ve-ein bahen bitul melakhah...") use the exemption of women from work on Rosh Chodesh to explain why the gemara (Megillah 22b) says an extra aliyah in Rosh-Chodesh torah reading will not cause "bitul melacha." Why, a contemporary maggid shiur at YU asks, should the exemption of women from work matter to what happens in shul? It's not like Rashi and Tosfos' wives were running Torah reading! The rabbi gave his own explanation, apparently unaware that Rashi and Tosfos' wives may very well have been attending shul regularly. (See, e.g., <http://jwa.org/encyclopedia/article/medieval-ashkenaz-1096-1348>.)

And then we get to Kiddush levanah. One explanation for the practice of women not to say the prayer, which we learn on Sanhedrin 42a is equivalent to greeting the *shechinah*, is that it would be un-tznius for women to congregate outside. (See Minchas Yitzchak 8:15) Does the near-universal agreement of

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<sup>2</sup> I am not taking issue with the idea that a wife performs domestic chores per se. The issue is rather with the equation of a spousal relationship with a hierarchical master-servant one.

contemporary orthodox women not to say Kiddush levanah mean that they have, then, rejected Rabbi Klapper's attempt at a balanced approach to tznius for a maximalist position that bars them from congregating in the street even to pray? Not necessarily. Perhaps today's women are instead following the Mishnah Berurah (OC 426:1) and others, who explain, following the Shela"h, that, although women perform many timebound mitzvot on a voluntary basis, they do not say kiddush levanah because "they caused the diminution of the moon."

Husbands compel wives. Women don't go to shul. Women should be perpetually embarrassed by Eve's primordial sin. I was not out to investigate gender in the Talmud when I ran across these statements. I was simply learning, and these are the sort of comments that every man who spends time learning runs across frequently, usually without giving them much thought. The question, therefore, is not (just) what we can do to make these texts less troubling. It is what these texts actually do to people who are not thinking about whether the texts are troubling.

Learning mishnah Niddah, for example, one might get the impression that the most interesting and important question regarding first intercourse with a prepubescent girl is its effect on her niddah status. M Niddah 10:10. (More graphically, the detailed discussion in the gemara on Niddah 64b regarding exactly how much such a girl would be bleeding to indicate that her "wound" had not healed and that therefore intercourse was still permitted!) One might "defend" the text itself by pointing out that this halachic question is a valid one, and is not to the exclusion of any questions about the case from other perspectives. But can we defend the system in which men are trained to think about the situation primarily or only in halachic terms, and to have no terms for thinking about the other consequences for such a (hypothetical) girl's own subjective "personal integrity"? And can we be surprised when the men who are trained this way prefer to see a nine-year-old girl with bare legs through the lens of "ervah" rather than through the lens of kindness or human dignity?

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Rabbi Klapper does not engage with the problematic texts or the ways that they affect the men who learn them. Rather, he begins with what I take it he thinks is a more favorable text in the story of Abba Chilkiya, his wife, and a delegation of rabbis on Taanit 23b.

מאי טעמא כי מטא מר למתא נפקא דביתהו דמר כי מיקשטא? אמר להו: כדי שלא אתן עיני באשה אחרת.

[The rabbis asked] "Why, when Master arrived at the city, Master's wife came out adorned? He said to them, so that I not place my eyes on another woman."

Rabbi Klapper uses this story, along with a discussion of the principle of *lifnei iver*, to conclude that "Jewish law does not allow men to use erotic *lifnei iver* to prevent women from living normal fulfilling lives." But Abba Chilkiya's wife is not dressed to have a "normal fulfilling live" in a general sense. She is dressed to attract her husband, lest he "place his eyes on another." She is dressed, in other words, to respond to the male gaze. The "chiddush," if there is any, of the story, is that there are male gazes to which women may say "yes," even in public. What is missing from the story is any indication that a woman's dress might be driven by something other than the eroticized male gaze – that the quest for

"normal" nonsexual "fulfillment" might permissibly lead women to say neither "no" nor "yes" to their male onlookers, but rather to just get dressed.

Further, the story of Abba Chilkiya reflects exactly the male assumption of control over what women do in public that we see (albeit taken to further extremes) among today's zealots. Men in the story discuss and judge women's dress based solely on what that dress does to men themselves. Abba Chilkiya's response to "Why does she dress like that?" is not "Mind your own business."

I admit that Rabbi Klapper's view of tzniut as "preserv[ing] the integrity of personal space," a "dynamic" value that must be balanced with others, is appealing, and his reading of that view into the Mrs. Abba Chilkiyah story is at least plausible. But I must confess that after learning quite a bit of rabbinic material relating to women and marriage, I have never come to the independent conclusion that halakhah values "the integrity of [women's] personal space," – indeed, it often seems the contrary.<sup>3</sup> So it requires more than a merely plausible reading of a single text to convince me. In the absence of engagement with either the directly problematic texts or the overall attitude they foster, then, I believe Rabbi Klapper's apologetic comes off as too weak to do the difficult work of reclaiming tznius from the zealots.

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<sup>3</sup> I am not taking issue with the idea that a wife performs domestic chores per se. The issue is rather with the equation of a spousal relationship with a hierarchical master-servant one.

<sup>3</sup> The most disturbing example that comes to mind is from Nedarim 20b, including:

ההיא דאתאי לקמיה דרבי, אמרה לו: רבי, ערכתני לו שלחן והפכו! אמר לה: בתי, תורה התירתיך, ואני מה אעשה לך. ההיא דאתאי לקמיה דרב, אמרה לו: רבי, ערכתני לו שלחן והפכו! אמר: מאי שנא מן ביניתא .

Perhaps ironically, this actually reflects the "permissive" position on sexual behaviors generally preferred by contemporary women's advocates. But the point is not about the ultimate halachic ruling (which is itself phrased in very problematic terms of what a man may do to his wife based on what "he wants"). Rather, the point is that the way Rabbi and Rav speak to the women is not the way someone speaks when they see softer considerations of women's "personal integrity" as serious counterbalances to the technical halacha of what men may, must, or may not do to women.