

Issurei Biah - Chapter 21

By Rabbi Moshe ben Maimon ("Maimonides"); translated by Eliyahu Touger

SHOW CONTENT IN:

English Both Hebrew

1 Whoever shares physical intimacy with one of the *arayot* without actually becoming involved in sexual relations or embraces and kisses one of them out of desire¹ and derives pleasure from the physical contact should be lashed² according to Scriptural Law. This is derived from Leviticus 18:30 which states: "To refrain from perform any of these abominable practices," and *ibid.*:6 which states: "Do not draw close to reveal nakedness." Implied is that we are forbidden to draw close to acts that lead to revealing nakedness.³

א כָּל הַבָּא עַל עֲרוּה מִן הָעֲרִיּוֹת דֶּרֶךְ אַבְרִים, אוֹ שֶׁחִבֵּק וְנִשְׁק דֶּרֶךְ תֵּאֲוָה וְנִהְנֶה בְּקִרְוֹב בְּשֵׁר - הָרִי זֶה לֹקָה מִן הַתּוֹרָה, שֶׁנֶּאֱמַר "לְבִלְתִּי עֲשׂוֹת מַחֲקוֹת הַתּוֹעֵבֹת" (ויקרא יח, ל); וְנֶאֱמַר "לֹא תִקְרְבוּ לְגִלּוֹת עֲרוּה" (ויקרא יח, ו), כְּלוּמָר לֹא תִקְרְבוּ לְדַבָּרִים הַמְּבִיאִין לִידֵי גִלּוֹי עֲרוּה.

2 A person who engages in any of the above-mentioned practices is considered likely to engage in forbidden sexual relations. It is forbidden⁴ for a person to make motions with his hands or feet or wink with his eyes to one of the *arayot*, to share mirth with her or to act frivolously with her.⁵ It is even forbidden to smell her perfume⁶ or gaze at her beauty. A person who performs any of these actions intentionally should be given stripes for rebellious conduct. A person who looks at even a small finger of a woman with the intent of deriving pleasure is considered as if he looked at her genitalia. It is even forbidden to hear the voice of a woman forbidden as an *ervah* or to look at her hair.

3 These matters are also forbidden with regard to women with whom relations are forbidden on the basis of merely a negative commandment. It is permitted to look at the face of an unmarried woman and examine her features whether she is a virgin or has engaged in relations previously to see whether she is attractive in his eyes so that he may marry her. There is no prohibition in doing this. On the contrary, it is proper to do this.⁷ One should not, however, look in a licentious manner. Behold Job 31:1 states: "I established a covenant with my eyes; I would not gaze at a maiden."

ב וְהַעֲשֶׂה דָּבָר מַחֲקוֹת אֵלּוּ, הָרִי הוּא חָשׁוּד עַל הָעֲרִיּוֹת. וְאָסוּר לְאָדָם לְקַרֵּץ בְּיָדוֹ וּבְרַגְלָיו אוֹ לְרַמֵּז בְּעֵינָיו לְאַחַת מִן הָעֲרִיּוֹת, וְכֵן לְשַׁחֵק עִמָּהּ אוֹ לְהַקְלִי רֹאשׁ. וְאִפְּלוּ לְהַרְיֵחַ בְּשָׂמִים שְׂעָלֶיהָ, אוֹ לְהַבִּיט בְּיָפֶיהָ - אָסוּר. וּמִכֵּין הַמִּתְכַּבֵּן לְדַבֵּר זֶה מִכַּת מִרְדּוֹת. וְהַמִּסְתַּכֵּל אִפְּלוּ בְּאַצְבָּע קִטְנָהּ שֶׁל אִשָּׁה, וְנִתְכַּבֵּן לְהִנּוֹת - כְּמִי שֶׁנִּסְתַּכֵּל בַּמָּקוֹם הַתָּרֵף. וְאִפְּלוּ לְשִׁמַּע קוֹל הָעֲרֻוָּה אוֹ לְרְאוֹת שְׂעָרֶיהָ - אָסוּר.

ג וְכָל הַדְּבָרִים הָאֵלּוּ אָסוּרִין בְּחִיבֵי לְאוּיָן. וּמִתֵּר לְהִסְתַּכֵּל בְּפָנֶי הַפְּנוּיָהּ וּלְבַדְקָהּ, בֵּין בְּתוֹלָה בֵּין בְּעוֹלָה - כְּדִי שְׂיִרְאָהּ אִם הִיא נָאָה בְּעֵינָיו, יִשְׁאַנָּהּ, וְאִין בָּזָה צַד אָסוּר. וְלֹא עוֹד, אֲלֹא רְאוּי לַעֲשׂוֹת כֵּן. אֲבָל לֹא יִסְתַּכֵּל דֶּרֶךְ זִנוּת, הָרִי הוּא אוֹמֵר "בְּרִית כְּרַתִּי לְעֵינֵי וְמָה אֶתְבּוֹנֵן עַל בְּתוֹלָה" (איוב לא, א).

4 It is permitted for a person to gaze at his wife⁸ when she is in the *niddah* state⁹ although she is an *ervah* at that time. Although his heart derives satisfaction from seeing her, since she will be permitted to him afterwards, he will not suffer a lapse. He should not, however, share mirth with her or act frivolously with her lest this lead to sin.

5 It is forbidden for a man to have any woman - whether a minor or an adult, whether a servant or a freed woman - perform personal tasks for him, lest he come to lewd thoughts. Which tasks are referred to? Washing his face, his hands, or his feet,¹⁰ spreading his bed in his presence,¹¹ and pouring him a cup. For these tasks are performed for a man only by his wife.¹² A man should not send greetings to a woman at all, not even via a messenger.¹³

6 When a man embraces or kisses any of the women forbidden to him as *arayot* despite the fact that his heart does not disturb him concerning the matter,¹⁴ e.g., his adult sister, his mother's sister, or the like, it is very shameful. It is forbidden¹⁵ and it is foolish conduct. This applies even if he has no desire or pleasure at all. For one should not show closeness to a woman forbidden as an *ervah* at all, whether an adult or a minor, except a woman to her son and a father to his daughter.¹⁶

ד ומתיר לאדם להביט באשתו כשהיא נדה, ואף על פי שהיא ערוה, ואף על פי שיש לו הנאת לב בראייתה; הואיל והיא מתרת לו לאחר זמן, אינו בא בזה לדבר מכשול. אבל לא ישחק ולא יקל ראש עמה, שמא ירגיל לעברה.

ה אסור להשתמש באשה כלל, בין גדולה בין קטנה, בין שפחה בין משחררת - שמא יבוא לידי הרהור. באיזה שמוש אמרו? כגון רחיצת פניו ידיו ורגליו, והצעת המטה בפניו, ומזיגת הכוס - שאין עושה לאיש דברים אלו, אלא אשתו בלבד. ואין שואלין בשלום אשה כלל, ואפלו על ידי שליח.

ו המחבק אחת מן העריות שאין לבו של אדם נוקפו עליהן, או שנשק אחת מהן - כגון אחותו הגדולה, ואחות אמו, וכיוצא בהן - אף על פי שאין שם תאוה ולא הנאה כלל, הרי זה מגנה ביותר. ודבר זה אסור הוא, ומעשה טפשים הוא. שאין קרבין לערוה כלל, בין גדולה בין קטנה, חוץ מהאם לבנה והאב לבתו.

7 What is implied? A father is permitted to embrace his daughter, kiss her, and sleep with her with their bodies touching¹⁷ and a mother may do the same with her son as long as they are young. When they grow and become mature¹⁸ with the girl's body becoming developed,¹⁹ they should each sleep in clothing.

If the daughter is embarrassed to stand before her father naked or she married,²⁰ and similarly, if the mother was embarrassed to stand before her son naked, even if the children are minors, when one reaches the point when one is ashamed of being naked in their presence, they should sleep together only when clothed.²¹

8 Lesbian relations are forbidden. This is "the conduct of Egypt" which we were warned against, as Leviticus 18:3 states: "Do not follow the conduct of Egypt." Our Sages said:²² What would they do? A man would marry a man, a woman would marry a woman, and a woman would marry two men.

ז בַּיָּצֵד? מִתֵּר הָאָב לְחַבֵּק בִּתּוֹ וּלְנִשְׁקָהּ, וְתִישָׁן עִמּוֹ בְּקֶרֶב בְּשָׁר, וְכֵן הָאִם עִם בְּנָהּ - כָּל זְמַן שֶׁהֵם קְטַנִּים. הַגְדִּילוּ וְנִעְשָׂה הֵבֶן גָּדוֹל וְהִבַּת גָּדוֹלָה, וְהוּא שְׂיִהְיָ "שְׂדֵיִם" נִכְנֹו וּשְׁעָרָךְ צִמַּח" (יחזקאל טז, ז), זֶה יִישָׁן בְּכִסּוּתוֹ, וְהִיא יִשְׁנָה בְּכִסּוּתָהּ.

וְאִם הִיָּתָה הַבֵּת בּוֹשָׁה לַעֲמֹד בְּפָנֶי אָבִיהָ עֶרְמָה, אוֹ שְׁנִישְׂאָתָה, וְכֵן אִם הָאִם בּוֹשָׁה לַעֲמֹד בְּפָנֶי בְּנָהּ עֶרְמָה, אָף עַל פִּי שֶׁהֵן קְטַנִּים - מִשְׁהֲגִיעוּ לְהַכְלִים מִהֶן, אִין יִשְׁנִים עִמָּהֶם אֲלֹא בְּכִסּוּתָן.

ח נָשִׁים הַמְּסוּלָּלוֹת זֹו בָּזוּ - אֲסוּר, וּמִמַּעֲשֵׂה מִצְרַיִם הוּא שֶׁהִזְהִרְנוּ עָלָיו, שֶׁנֶּאֱמַר "כְּמַעֲשֵׂה אֶרֶץ מִצְרַיִם... לֹא תַעֲשׂוּ" (ויקרא יח, ג). וְאִמְרוּ חֲכָמִים: מָה הָיוּ עוֹשִׂים? אִישׁ נֹשֵׂא אִישׁ, וְאִשָּׁה נֹשֵׂאָה אִשָּׁה, וְאִשָּׁה נִשְׂאָת לִשְׁנֵי אָנָשִׁים.

Although this conduct is forbidden,²³ lashes are not given for it, for it is not a specific prohibition²⁴ and there is no intercourse at all. Therefore such women are not forbidden to marry into the priesthood as *zonot*, nor does a woman become prohibited to her husband because of this,²⁵ for this is not considered harlotry. It is, however, appropriate to give them stripes for rebellious conduct²⁶ because they performed a transgression. A man should take precautions with his wife with regard to this matter and should prevent women who are known to engage in such practices from visiting her and her from visiting them.

9 A man's wife is permitted to him. Therefore a man may do whatever he desires with his wife. He may engage in relations whenever he desires, kiss any organ he desires,²⁷ engage in vaginal or anal intercourse or engage in physical intimacy without relations, provided he does not release seed in vain.²⁸ Nevertheless, it is pious conduct for a person not to act frivolously concerning such matters and to sanctify himself at the time of relations, as explained in *Hilchot Deot*.²⁹ He should not depart from the ordinary pattern of the world. For this act was given to us solely for the sake of procreation.³⁰

אף על פי שמעשה זה אסור, אין מלקין עליו - שאין לו לאו מיוחד, והרי אין שם ביאה כלל. לפיכך אין נאסרות לכהנה משום זנות, ולא תאסר אשה על בעלה בזה - שאין כאן זנות. וראוי להכותן מכת מרדות, הואיל ועשו אסור. ויש לאיש להקפיד על אשתו בדבר זה, ולמנע הנשים הידועות בכך מלהכנס לה ומלצאת היא אליהן.

ט אשתו של אדם, מתרת היא לו. לפיכך כל מה שאדם רוצה לעשות באשתו, עושה - בועל בכל עת שירצה, ומנשק בכל אבר שירצה, ובא עליה בין כדרךכה, בין שלא כדרךכה, בין דרך אברים. ואף על פי כן, מדת חסידות שלא יקל אדם את ראשו לכך, ושיקדש עצמו בשעת תשמיש, כמו שבארנו בהלכות ידעות, ולא יסור מדרך העולם ומנהגו, שאין דבר זה אלא כדי לפרות ולרבות.

10 A man is forbidden to engage in relations by candlelight.³¹ If, on the Sabbath,³² he did not have another room and there is a light burning, he should not engage in relations at all.³³ Similarly, it is forbidden for a Jew to engage in relations during the day, for this is brazen conduct. If he is a Torah scholar, who will not be drawn after this, he may create darkness with his garment and engage in relations. One should not, however, adopt this measure unless there is a great need.³⁴ It is the course of holy conduct to engage in relations in the middle of the night.³⁵

11 Our Sages do not derive satisfaction from a person who engages in sexual relations excessively and frequents his wife like a rooster. This reflects a very blemished character; it is the way underdeveloped people conduct themselves. Instead, everyone who minimizes his sexual conduct is praiseworthy, provided he does not neglect his conjugal duties³⁶ without the consent of his wife. The sole reason while originally it was ordained that a person who had a seminal emission should not read from the Torah until they immerse themselves³⁷ was to minimize sexual conduct.

וְאָסוּר לְאָדָם לְשֹׁמֵשׁ מִטָּתוֹ לְאוֹר הַנֵּר. הָרִי שֶׁהֵיטָה לֵיל שַׁבָּת, וְלֹא הָיָה לוֹ בֵּית אַחֵר, וְהָיָה הַנֵּר דּוֹלֵק - הָרִי זֶה לֹא יִשְׁמַשׁ כָּלָל. וְכֵן אָסוּר לְיִשְׂרָאֵלִי לְשֹׁמֵשׁ מִטָּתוֹ בַּיּוֹם, שְׁעֻזוֹת פָּנִים הֵיא. וְאִם הָיָה תַלְמִיד חֶכֶם, שְׂאִינוּ בָּא לְהַמְשִׁיךְ בְּכָךְ - הָרִי זֶה מֵאֲפִיל בְּטִלְיָתוֹ וּמִשְׁמַשׁ, וְאִין נִזְקָקִין לְדַבֵּר זֶה אֶלָּא מִפְּנֵי צָרָה גְדוֹלָה. וְדֶרֶךְ קִדְשָׁה לְשֹׁמֵשׁ בְּאֶמְצַע הַלֵּילָה.

יא אִין דַּעַת חֲכָמִים נוֹחָה מִמִּי שֶׁהוּא מְרַבֵּה בְּתַשְׁמִישׁ הַמִּטָּה, וְיִהְיֶה מְצוּי אֶצְלֵ אִשְׁתּוֹ תָּמִיד כְּתִרְנַנְגוּל, וּפְגוּם הוּא עַד מְאוּד, וּמַעֲשֵׂה בּוּרִים. אֶלָּא כָּל הַמִּמְעֵט בְּתַשְׁמִישׁ, מְשַׁבֵּחַ. וְהוּא, שְׁלֹא יִבְטֹל עוֹנָה אֶלָּא מִדַּעַת אִשְׁתּוֹ. וְלֹא תִקְנוּ בְּרֵאשׁוֹנָה לְבַעֲלֵי קְרִיאִין שְׁלֹא יִקְרְאוּ בְּתוֹרָה עַד שְׁיִטְבְּלוּ, אֶלָּא כִּדִּי לְמַעַט בְּתַשְׁמִישׁ הַמִּטָּה.

12 Similarly, our Sages³⁸ forbade a person from engaging in relations with his wife while his heart is focused on another woman. He should not engage in relations while intoxicated, nor while quarreling, nor out of hatred. He should not engage in relations with her against her will when she is afraid of him.³⁹ Nor when one of them is placed under a ban of ostracism. He should not engage in relations with his wife after he made the decision to divorce her. If he does so,⁴⁰ the children will not be of proper character. There will be those who are brazen and others who are rebellious and sinful.

13 Similarly, our Sages said⁴¹ that whenever an audacious woman demands relations verbally, a man seduces a woman for the sake of marriage, he had the intent of having relations with his wife Rachel and instead, engages in relations with his wife Leah, or a woman does not wait three months after the death of her husband and gives birth to a son whose identity is questionable,⁴² all of the children born in these situations will be rebellious and sinful who will be purified by the sufferings of exile.

יב וְכֵן אָסְרוּ חֲכָמִים שִׁישְׁמֵשׁ אָדָם מִטָּתוֹ וּלְבוֹ מַחֲשָׁב בְּאִשָּׁה אַחֶרֶת. וְלֹא יִבְעַל מִתּוֹךְ שְׂכָרוֹת, וְלֹא מִתּוֹךְ מְרִיבָה, וְלֹא מִתּוֹךְ שִׁנְאָה, וְלֹא יָבוֹא עָלֶיהָ בְּעַל כְּרֹחַהּ וְהִיא יִרְאֶה מִמֶּנּוּ, וְלֹא בְּשִׂיחָהּ אֶחָד מֵהֵן מְנִידָה, וְלֹא יָבוֹא עָלֶיהָ אַחֵר שֶׁגָּמַר בְּלִבּוֹ לְגַרְשָׁהּ. וְאִם עָשָׂה כֵּן - הַבָּנִים אֵינָן הַגּוֹנִים, אֲלֹא מֵהֵן עֵזִי פָּנִים, וּמֵהֵן מוֹרְדִים וּפּוֹשְׁעִים.

יג וְכֵן אָמְרוּ חֲכָמִים שֶׁכָּל אִשָּׁה חֲצוּפָה שֶׁהִיא תּוֹבַעַת תִּשְׁמִישׁ בְּפִיהָ, אוֹ הַמְּפַתָּה אִשָּׁה לְשֵׁם נִשְׁוֹאִין, אוֹ הַמְּתַכּוֹן לָבוֹא עַל רַחֵל אִשְׁתּוֹ וּבָא עַל לֵאָה אִשְׁתּוֹ, וּמִי שֶׁלֹּא שָׁהֲתָה אַחֵר בְּעֻלָּהּ שְׁלוֹשָׁה חֳדָשִׁים וְהָרִי הָבִין סִפֵּק - כָּל אֵלּוּ, הַבָּנִים הַלְּוִדִים מֵהֶם הֵם הַמוֹרְדִים וְהַפּוֹשְׁעִים שִׁסּוּרֵי הַגְּלוּת בּוֹרְרִין אוֹתָן.

14 It is forbidden for a man to engage in relations with his wife in the marketplaces, streets, gardens, or orchards. Instead, a couple should be physically intimate **only in a home, so that they will not appear as licentious relations and will not habituate themselves to licentious relations.**⁴³ When a man engages in relations with his wife in such places, he should be given stripes for rebellious conduct. Similarly, when a man consecrates a woman via sexual relations,⁴⁴ consecrates her in the market place or consecrates her without there being an engagement beforehand, he is given stripes for rebellious conduct.⁴⁵

15 A visitor is forbidden to engage in relations until he returns home. Our Sages⁴⁶ forbade a man from dwelling in his father-in-law's home,⁴⁷ for this is brazen conduct. Nor should he enter a bathhouse with him.

16 A person should not enter a bathhouse with his father, his sister's husband, nor with his student.⁴⁸ If he needs his student to assist him, it is permitted. There are places where people followed the custom that two brothers would not enter a bathhouse at the same time.

יד ואסור לאדם לבוא על אשתו בשוקים וברחובות או בגנות ופרדסין, אלא בבית דירה - שלא יראה בזנות, וירגילו עצמם לידי זנות. והבועל אשתו במקומות אלו, מבין אותו מכת מרדות. וכן המקדש בביאה, והמקדש בשוק, והמקדש בלא שדוך - מבין אותו מכת מרדות.

טו ואכסנאי אסור בתשמיש המטה עד שיחזור לביתו. וכן אסרו חכמים על האיש שידור בבית חמיו, שזו עזות פנים היא, ולא יכנס עמו למרחץ.

טז וכן לא יכנס אדם למרחץ עם אביו, ולא עם בעל אחותו, ולא עם תלמידו. ואם היה צריך לתלמידו, מתר להכנס עמו. ויש מקומות שנהגו שלא יכנסו שני אחים באחד למרחץ.

17 Jewish women should not walk in the marketplace with uncovered hair. This applies to both unmarried⁴⁹ and married women. Similarly, a woman should not walk in the street with her son following her. This is a decree, enacted so that her son not be abducted and she follow after him to bring him back and she be molested by wicked people who took hold of him as a caprice.

18 It is forbidden to release sperm wastefully.⁵⁰ Therefore a person should not enter his wife and ejaculate outside of her.⁵¹ A man should not marry a minor who is not fit to give birth.⁵² Those who, however, release sperm with their hands, beyond the fact that they commit a great transgression, a person who does this will abide under a ban of ostracism. Concerning them, it is said: "Your hands are filled with blood." It is as if they killed a person.

19 It is forbidden for a person to intentionally cause himself to have an erection or to bring himself to sexual thoughts. If a sexual thought comes to his mind, he should divert his heart from profligate and destructive matters to the words of Torah⁵³ which are "a beloved hind, arousing favor."⁵⁴ For this reason, it is forbidden for a person to sleep on his back with his face upward,⁵⁵ Instead, he should turn to the side slightly so that he will not develop an erection.

יז לא יהלכו בנות ישראל פרועי ראש בשוק, אחת פנויה ואחת אישת איש. ולא תלך אשה בשוק, ובנה אחריה - גזרה שמא יתפסו בנה ותלך אחריו להחזירו, ויתעללו בה הרשעים שתפסוהו דרך שחוק.

יח אסור להוציא שכבת זרע לבטלה. לפיכך לא יהיה אדם דש מבפנים וזורה מבחוץ, ולא ישא קטנה שאינה ראויה לילד. אבל אלו שמנאפין ביד, ומוציאין שכבת זרע - לא די שהוא אסור גדול, אלא שעושה זה בנדוי הוא יושב; ועליהם נאמר "ידיכם דמים מלאו" (ישעיהו א, טו), וכאלו הרגו נפש.

יט וכן אסור לאדם שיקשה עצמו לדעת, או יביא עצמו לידי הרהור. אלא אם יבוא לו הרהור - יסיע לבו מדברי הבאי והשחתה, ויפנה לדברי תורה שהיא "אילת אהבים ויעלת חן" (משלי ה, יט). לפיכך אסור לאדם לישן על ערפו ופניו למעלה, עד שיטה מעט כדי שלא יבוא לידי קשוי.

20 One should not look at animals, beasts, and fowls at the time the males and females are coupling. It is, however, permitted for a breeder of livestock to insert a male animal's organ in a female's. Since he is working in his profession, he will not be motivated to sexual thoughts.

21 Similarly, it is forbidden for a man to look at woman while they do laundry. It is even forbidden to look at the colored⁵⁶ garments of a woman one knows,⁵⁷ lest one be motivated to sexual thoughts.

22 When a person encounters a woman in the street, it is forbidden for him to walk behind her.⁵⁸ Instead, he should hurry and position himself so that she is at his side or behind him. Whoever walks behind a woman in the marketplace is one of the frivolous of the common people.

It is forbidden to pass the entrance of a harlot without distancing oneself four cubits, as Proverbs 5:8 states: "Do not come close to the entrance of her home."

כ ולא יסתכל בבהמה חיה ועוף בשעה שמזדקקין זכר לנקבה. ומתיר למרביעי בהמה להכניס במכחול בשפופרת, מפני שהן עסקין במלאכתן ולא יבואו לידי הרהור.

כא וכן אסור לאדם להסתכל בנשים בשעה שהן עומדות על הכביסה. ואפלו להסתכל בבגדי צבע של אשה שהוא מכירה - אסור, שלא יבוא לידי הרהור.

כב מי שפגע באשה בשוק - אסור לו להלך אחריה, אלא רץ ומסלקה לצדדין או לאחוריו. וכל המהלך בשוק אחורי אשה, הרי זה מקלי עמי הארץ.

ולא יעבר אדם על פתח אשה זונה, עד שירחיק ארבע אמות, שנאמר "אל תקרב אל פתח ביתה" (משלי ה, ח).

23 It is forbidden for an unmarried man to extend his hand to his testicles, lest he be stimulated to sexual thoughts. Indeed, he should not extend his hand below his navel, lest he be stimulated to sexual thoughts. If he urinates, he should not hold the shaft of his organ while urinating. If he is married,⁵⁹ this is permitted. Whether he is married or not, he should not extend his hand to his organ at all, except when he has to urinate.⁶⁰

24 One of the pious men of the early eras and the wise men of stature prided himself in that he never looked at his male organ. Another said with pride that he had never contemplated his wife's physical form.⁶¹ For their hearts would be diverted from profligate matters to the words of truth which take hold of the hearts of the holy.

25 Among our Sages' commands is that a person should marry off his sons and daughters close to the time they reach physical maturity.⁶² For were he to leave them unmarried, they may be motivated to promiscuity or sexual thoughts. Concerning this was applied the verse Job 5:24: "Scrutinize your dwelling and you shall not sin."⁶³ It is forbidden to marry a woman to a minor, for this is comparable to promiscuity.⁶⁴

כג ואסור למי שאינו נשוי לשלח ידו במבושיו, שלא יבוא לידי הרהור. ואפלו מתחת טבורו - לא יכניס אדם ידו, שמא יבוא לידי הרהור. ואם השתין מים - לא יאחז באמה, שלא יבוא לידי הרהור. ואם היה נשוי, מתר. ובין נשוי ובין שאינו נשוי - לא יושיט ידו לאמה כלל, אלא בשעה שהוא צריך לנקביו.

כד חסידים הראשונים וגדולי החכמים - התפאר אחד מהם שמעולם לא נסתכל במילה שלו, ומהן מי שהתפאר שלא התבונן מעולם בצורת אשתו. מפני שלבו פונה מדברי הבאי לדברי האמת, שהן אוֹחוֹזוֹת ללב הקדושים.

כה מצות חכמים להשיא אדם בְּנֵיו וּבָנוֹתָיו סמוך לפרקן - שאם יניחון, יבואו לידי זנות או הרהור, ועל זה נאמר "ופקדת נוד ולא תחטא" (איוב ה, כד). ואסור להשיא אשה לקטן, שזה כמו זנות היא.

26 A man is not permitted to abide without a wife.⁶⁵ He should not marry a barren woman or an elderly woman who is not fit to bear children.⁶⁶ A woman is permitted not to marry at all or to marry a eunuch.⁶⁷ A young man should not marry an elderly woman, nor an elderly man, a young woman, for such conduct leads to promiscuity.⁶⁸

27 Similarly, a person who divorced his wife after they were married⁶⁹ should not live in the same courtyard as she, lest this lead to promiscuity.⁷⁰ If he was a priest, he should not dwell in the same lane as she.⁷¹ A small village is considered as a lane. If he owes her a debt, she should appoint an agent to demand payment from him.⁷²

When a divorcee and her ex-husband come to court for a judgment, we place them under a ban of ostracism or subject them to stripes for rebellious conduct.⁷³ If, however, a woman was divorced merely after consecration, she may summon him to court and dwell near him.⁷⁴ If they shared extensive familiarity, this is forbidden even if they were divorced merely after consecration.

Who is forced to move? She is forced to move because of him.⁷⁵ If the courtyard belongs to her, he is forced to move because of her.

כו ואין האיש רשאי לישוב בלא אשה, ולא ישא עקרה וזקנה שאינה ראויה לילד. ורשות לאשה שלא תנשא לעולם, או תנשא למי שאינו מוליד או לסריס. ולא ישא בחר זקנה, ולא ישא זקן ילדה - שדבר זה גורם לזנות.

כז ובן מי שגרש את אשתו מן הנשואין - לא תדור עמו בחצר, שמא יבואו לידי זנות. ואם היה כוהן, לא תדור עמו במבוי; וכפר קטן גדון כמבוי. היה לה מלוה אצלו, עושה שליח לתבעו.

וגרושה שבאה עם המגרש לדין - מנדין אותן או מכין אותן מכת מרדות. ואם נתגרשה מן הארוסין, מתרת לתבעו בדין ולדור עמו. ואם היה לבו גס בה, אף מן הארוסין אסור.

ומי נדחה מפני מי, היא נדחית מפניו. ואם היתה החצר שלה, הוא נדחה מפניה.

28 A person should not marry a woman with the intent to divorce her, as alluded to by Proverbs 3:29: “Do not devise evil against your loved one, one who dwells securely with you.” If he notifies her at the outset that he is marrying her only for a limited time, it is permitted.⁷⁶

29 A person should not marry one woman in one country and another woman in another country, lest this situation continue for a long time and ultimately, a brother may marry his sister, the sister of his mother, or the sister of his father and the like without knowing.⁷⁷

If the man with two wives is a person of stature whose name is known and whose descendants are well known and celebrated, it is permitted.⁷⁸

30 A man should not marry a woman from a family of lepers, nor from a family of epileptics, i.e., that it has been established on three occasions that the descendants of this family have this malady.

כח אָסוּר לְאָדָם לְשָׂא אִשָּׁה וְדַעְתּוֹ לְגֵרָשָׁה, שֶׁנֶּאֱמַר "אֲלֹ תַחְרֹשׁ עַל רֵעֶךָ רָעָה וְהוּא יוֹשֵׁב לְבֶטֶח אֶתְּךָ" (משלי ג, כט). וְאִם הוֹדִיעָה בַּתְּחִלָּה שֶׁהוּא נוֹשֵׂא אוֹתָהּ לְיָמִים, מִתָּר.

כט וְלֹא יִשָּׂא אָדָם אִשָּׁה בְּמַדִּינָה זוֹ, וְאִשָּׁה בְּמַדִּינָה אַחֶרֶת - שָׂמָא יֵאָרִיכוּ הַיָּמִים, וְנִמְצָא בֶן נוֹשֵׂא אֶחָתוֹ, וְאַחֹת אָמּוֹ, וְאַחֹת אָבִיו, וְכִיּוֹצֵא בָהֶן, וְאֵינוּ יוֹדְעִים.

וְאִם הָיָה אָדָם גָּדוֹל שְׂשֻׁמוֹ יְדוּעַ, וְהָרִי זֶרְעוֹ מִפְּרִסְמִין וִידוּעִין - הָרִי זֶה מִתָּר.

ל לֹא יִשָּׂא אָדָם אִשָּׁה לֹא מִמְּשֻׁפָּחַת מִצְרָעִים, וְלֹא מִמְּשֻׁפָּחַת נִכְפִּין. וְהוּא, שֶׁהַחֲזָקוֹ שְׁלוֹשָׁה פְּעָמִים שֶׁיָּבוֹאוּ בְּנֵיהֶם בָּךְ.

31 When a woman was married to two husbands and they both died, she should not marry a third man.⁷⁹ If she did marry, she need not be divorced.⁸⁰ Indeed, even if he merely consecrated her, he may consummate the marriage. An unlearned⁸¹ Israelite should not marry the daughter of a priest. For this is comparable to the desecration of Aaron's seed. If they marry, our Sages said⁸² that their marriage will not be propitious. Instead, they will die without children, either he or she will die in the near future, or there will be strife between them.⁸³ When, by contrast, a Torah scholar marries the daughter of a priest, this is attractive and praiseworthy, joining the Torah and the priesthood as one.

32 A person should not marry the daughter of an unlearned person. For if he dies or is exiled, his children will grow up unlearned, since their mother is not knowledgeable regarding the crown of Torah.⁸⁴ Nor should he give his daughter to an unlearned person in marriage. For anyone who gives his daughter to an unlearned person is like one who bound her and placed her before a lion. He will strike her and engage in relations and has no shame. A person should sell everything that he has so that he can marry the daughter of a Torah scholar. For if he dies or is exiled, his children will grow up as Torah scholars. And he should marry his daughter to a Torah scholar for there is no shameful conduct or strife in the home of a Torah scholar.

לא אִשָּׁה שֶׁנִּשְׂאָת לְשְׁנֵי אָנָשִׁים וּמָתוּ - לְשָׁלִישִׁי לֹא תִנָּשֵׂא. וְאִם נִשְׂאָת, לֹא תֵצֵא; וְאִפְּלוּ נִתְקַדְּשָׁה, יִכָּנס. לֹא יִשָּׂא יִשְׂרָאֵל עִם הָאָרֶץ בּוֹהֶגֶת, שְׂזָה כְּמוֹ חִלּוּל לְזִרְעוֹ שֶׁל אֶהְרֹן. וְאִם נָשָׂא - אָמְרוּ חֲכָמִים: שְׂאִין זְוֹנֵן עֹלָה יָפָה, אֲלֹא מֵת בְּלֹא בָנִים, אוֹ מֵת הוּא אוֹ הִיא בְּמַהֲרָה, אוֹ קִטְטָה תִהְיֶה בִּינֵיהֶם. אָבֵל תִּלְמִיד חֲכָמִים שֶׁנִּשְׂאָ בּוֹהֶגֶת, הָרִי זֶה נָאָה וּמִשְׁבַּח, הָרִי תוֹרָה וְכֹהֵנָה כְּאַחַד.

לב לֹא יִשָּׂא אָדָם בֵּת עִם הָאָרֶץ - שְׂאֵם מֵת אוֹ גָּלָה, בָּנָיו עֲמִי הָאָרֶץ יִהְיוּ; שְׂאִין אִמָּן יוֹדַעַת כֶּתֶר הַתּוֹרָה. וְלֹא יִשָּׂא בֵּתוֹ לְעַם הָאָרֶץ - שְׂכָל הַנּוֹתֵן בֵּתוֹ לְעַם הָאָרֶץ, כְּמִי שֶׁכִּפְּתָהּ וּנְתָנָה לִפְנֵי הָאָרִי; מִכָּה וּבֹעֵל, וְאִין לוֹ בִּשְׁת פָּנִים. וְלַעֲזוֹלָם יִמְכֹּר אָדָם כָּל מָה שֵׁישׁ לוֹ וְיִשָּׂא בֵּת תִּלְמִיד חֲכָמִים - שְׂאֵם מֵת אוֹ גָּלָה, בָּנָיו תִּלְמִידֵי חֲכָמִים. וְכֵן יִשָּׂא בֵּתוֹ לְתִלְמִיד חֲכָמִים - שְׂאִין דְּבַר מְגֻנָּה וְלֹא מְרִיבָה בְּבֵיתוֹ שֶׁל תִּלְמִיד חֲכָמִים.

FOOTNOTES

1. Compare to Halachah 6.
2. As evident from Halachah 3, although such acts are forbidden whenever sexual relations are prohibited, lashes are given only when the woman is one of the *arayot* (*Maggid Mishneh*).
3. The verse teaches that not only is undesirable sexual conduct itself forbidden, but also preliminary acts that lead to such conduct.
This teaching is significant from a theoretical perspective. Our Sages (*Avot* 1:1) teach: "Make a fence around the Torah," i.e., enact prohibitions to safeguard Scriptural prohibitions and prevent them from being violated. Our Rabbis, however, question if there is a concept of "making a fence" in Scriptural Law itself, i.e., are there Scriptural prohibitions that exist solely to prevent one from violating more severe prohibitions?
It would appear that this prohibition would fall into that category (see Halachah 4). Why are these acts of closeness forbidden? Because most likely they will lead to intimacy. One may, however, explain that these acts of closeness are, in and of themselves, "abominable practices," and hence, forbidden.
The above discussion is relevant according to the Rambam's approach. The Ramban [*Hasagot to Sefer HaMitzvot* (negative mitzvah 353) differs and does not consider the prohibition mentioned here of Scriptural origin. Instead, he views it as a Rabbinic safeguard, "a fence" instituted by the Rabbis to protect Scriptural Law.
4. The *Maggid Mishneh* considers the following as Rabbinic safeguards. The *Beit Shmuel* 21 :2 mentions opinions which consider some as having a Scriptural source.
5. As *Avot* 1 :5 teaches: "Mirth and frivolity habituate a person to immorality."
6. In his Commentary to the Mishnah (*Sanhedrin* 7:4), the Rambam quotes the *Pesikta Rabati*, ch. 25, which interprets the commandment *lo tinaf*, as "Do not take forbidden pleasure with your nose."
7. For if a person does not look at a woman before he marries her, he may have an unpleasant surprise afterwards (*Kiddushin* 41a). The Ra'avad suggests that a pious person should rely on the opinion of others rather than looking at his intended himself, but the *Shulchan Aruch* (*Even HaEzer* 21:3) quotes the Rambam's view.
8. Indeed, a woman may adorn herself during this time so that she will not appear unattractive to her husband (Chapter 11, Halachah 19).
9. This applies only to portions of her body: which are usually revealed. He should not look at those portions that are usually covered (Ra'avad).
10. This applies even if the woman does not actually touch him [*Shulchan Aruch* (*Even HaEzer* 21 :5)].
11. Implied is that outside one's presence, this is permitted.
12. For they all suggest a certain measure of intimacy. Compare to Chapter 11, Halachah 19.
When commenting on the quotation of these laws by the *Shulchan Aruch*, the *Rama* mentions certain leniencies, e.g., if the tasks are performed in a public place, if there is no indication of closeness involved.
13. Our translation is based on the gloss of the *Maggid Mishneh* who explains that it is permitted to inquire concerning a woman's welfare.
14. I.e., he has no fear that this closeness will lead to intimacy.

15. Nevertheless, if one has no pleasure or desire, the act is not punished by lashes [the Rambam's Commentary to the Mishnah (*Sanhedrin* 7:3)].
16. The *Chelkat Mechokek* 21:10 adds that one may show physical closeness to one's granddaughter and to one's infant sister.
17. I.e., even unclothed.
18. In *Hilchot Keriat Shema* 3:19, the Rambam mentions that the children must also have reached the age of majority, thirteen for boys and twelve for girls. In our translation, however, we have focused on the physical characteristics, because as emphasized by the *Chelkat Mechokek* 21:12 this is what is of primary importance.
19. The Rambam borrows the wording of *Ezekiel* 16:7 which literally means "her breasts are developed and her hair has grown."
20. The *Maggid Mishneh* states that this applies even if she is merely consecrated.
21. Even when children reach the stage when they and their parents are required to sleep together while clothed, their parents are still allowed to embrace them and kiss them (*Beit Shmuel* 7:15).
22. *Sifra*, commenting on the above verse.
23. By Scriptural Law. The verse is not merely cited as support for a Rabbinic injunction.
24. As stated in *Sefer HaMitzvot* (negative commandment 353), this is a general prohibition, including all types of forbidden sexual behavior. As stated in *Hilchot Sanhedrin* 18:2-3, lashes are not given for the violation of prohibitions that are of a general nature.
25. As would apply were this to be considered as adultery.
26. This represents a change of opinion from his statements in his Commentary to the Mishnah (*Sanhedrin* 7:3) where he writes that even according to Rabbinic Law, no punishment should be given.
27. The *Beit Shmuel* 25:1 quotes many authorities who forbid a man from kissing his wife's genitalia.
28. See Halachah 18.
29. In *Hilchot Deot*, ch. 3, the Rambam elaborates on the concept that all of a person's actions, even his sexual conduct, must be for the sake of heaven. In Chapter 5, Halachot 4-5, the Rambam elaborates on refined habits of sexual conduct.
30. In his Commentary to the Mishnah (*Sanhedrin* 7:3), the Rambam writes:

The intent of sexual relations is the preservation of the species and not only pleasure. The aspect of pleasure was introduced only to motivate the created beings toward that ultimate goal...

The proof of this is that desire and pleasure cease after ejaculation; this was the entire goal for which our instincts were aroused. If the goal were pleasure, satisfaction would continue as long as man desired.
31. The point of the laws mentioned in this halachah is that one should not look at one's wife while engaging in relations.
32. When it is a mitzvah to engage in relations.
33. If one can cover the light or create a partition in front of it in a manner permitted on the Sabbath, there is no prohibition [*Chelkat Mechokek* 25:4; Rama (*Orach Chayim* 240:11)].
34. I.e., one feels very aroused (*Magen Avraham* 240:25).

35. In *Hilchot Deot* 5:4, the Rambam gives a rationale that at this time a person's food will have been digested and yet, he will not be overly hungry. The commentaries to *Nedarim* 20b explain that in this manner, the man and his wife will have forgotten all their daytime concerns and will be able to focus their attention on each other and the holiness of the experience.
36. See *Hilchot Ishut*, ch. 14, which explains the frequency of the conjugal duties a husband has to his wife. This factor is dependent on the nature of the husband's work and the manner in which it taxes him.
37. See *Hilchot Kriat Shema* 4:8 which explains that originally, Ezra enacted such a decree for the reason mentioned by the Rambam. Afterwards, our Sages checked and saw that this decree had never fully spread throughout the Jewish community. Hence they nullified it
38. *Nedarim* 20b.
39. See *Hilchot Deot* 5:4-5 which states:
[Relations should be conducted] with their mutual consent and joy. He should converse and dally with her somewhat, so that she will be relaxed. He should have intercourse [with her] modestly and not boldly... Whoever conducts himself in this manner [may be assured that] not only does he sanctify his soul, purify himself, and refine his character, but furthermore, if he has children, they will be handsome and modest, worthy of wisdom and piety.
40. I.e., exhibits any of the undesirable behaviors described above. The rationale is, as explained in *Iggeret HaKodesh* and other sources, a person's intent at the time of sexual relations has a major effect in determining the character of his children.
41. *Nedarim*, *foe. cit.*.
42. As stated in *Hilchot Gerushin* 11:16, whenever a woman is divorced or widowed, she should wait 90 days before remarrying, so that the identity of her child's father will be clearly established.
43. For surrendering oneself to one's desires without control within the context of marriage may lead one to surrender oneself to one's desires outside the context of marriage.
44. According to Scriptural Law, a person may consecrate his wife by engaging in relations with her. Nevertheless, our Sages forbade such a practice because of its immodest nature (*Hilchot Ishut* 3:21).
45. As *Hilchot Ishut* 3:22 continues, the latter two practices were forbidden as a safeguard to lewd conduct. Our Sages feared that if women would be consecrated in this manner, the people would look at marriage and intimacy in a much baser manner.
46. *Kiddushin* 12b.
47. For an extended period of time. Needless, to say, there is no difficulty with making a short visit.
48. Lest this arouse undesirable thoughts [Rashi, *Pesachim* 51a; see Rama (*Even HaEzer* 23:6)].
49. I.e., a widow or a divorcee. A woman who never married may wear her hair uncovered (*Chelkat Mechokek* 21 :2).
50. When stating this prohibition, *Shulchan Aruch* (*Even HaEzer* 23:1) adds: "This transgression is more severe than any of the sins in the Torah."
51. See the commentaries to Genesis, ch. 38, which relate that this was the sin of Judah's two sons: Er and Onan. They married Tamar, but did not desire that she become pregnant. Hence they did not release their sperm within her. Their sin angered God and He caused them to die.

52. For in essence, whenever the couple engage in intercourse, he will be releasing sperm without purpose, because she is not old enough to become pregnant. Niddah 13b states that those who marry minors hold back Mashiach's coming. It must be emphasized that if a man does marry a minor, he is permitted to engage in relations with her [Rama (*Even HaEzer* 23:5)]. Similarly, relations are permitted in other instances where they will not lead to pregnancy: e.g., when the woman is already pregnant, directly after birth, or she is past menopause. Since a man has conjugal duties to his wife, he is not allowed to ignore them even though she will not become pregnant.
53. See Chapter 22, Halachah 21. See also *Avot D'Rabbi Nattan* 20:1 which implies that this is not merely a matter of will power and mind control. Instead, directing one's attention to the Torah awakens spiritual influences which prevent a person's attention from focusing on sexual thoughts.
54. This analogy for the Torah is taken from Proverbs 5:19.
55. Needless to say, it is forbidden for one to sleep on his belly.
56. Our translation follows the authoritative manuscripts and early printings of the *Mishneh Torah*. This also follows the text of Avodah Zarah 20b, the Rambam's apparent source. The standard printed text of the *Mishneh Torah* employs a slightly different version.
57. When quoting this law, the *Shulchan Aruch* (*Even HaEzer* 21:1) clarifies that it applies even when the woman is not wearing the garments. The clothes themselves may prompt the man's imagination.
58. For watching her body might arouse him.
59. Even if his wife is not together with him (*Beit Shmuel* 23:4).
60. See *Shulchan Aruch* (*Orach Chayim* 3:14) which grants a man permission to hold himself below the corona of his organ, for this does not stimulate him sexually.
61. See Shabbos 118b, 53b.
62. I.e., directly after a youth becomes thirteen (*Chelkat Mechokek* 1:3).
63. I.e., having foresight with regard to one's children's sexual behavior will prevent sin. See the conclusion of *Hilchot Sotah* where the Rambam cites the same verse in a different - although somewhat related - context.
64. According to Scriptural Law, a man cannot consecrate a woman until he reaches the age of thirteen and demonstrates signs of physical maturity. Hence, if a couple are married beforehand, all relations are comparable to promiscuity. See *Chelkat Mechokek, loc. cit.* and *Beit Shmuel* 1 :4 who discuss certain views that maintain that it is permitted to marry beforehand.
65. Lest he be prompted to sexual thoughts.
66. This certainly applies before the man has fulfilled the obligation to be fruitful and multiply (i.e., he fathered a boy and a girl). Even after he has fulfilled that mitzvah, he should marry a woman capable of bearing children [*Hilchot Ishut* 15:7, 16; *Shulchan Aruch* (*Even HaEzer* 1 :8)]. In the latter situation, however, there is room for certain leniencies.
67. For she is not bound by the commandment of procreation.
68. We assume that the difference in age will lead to a lack of sexual harmony and cause the man and/or woman to seek fulfillment outside of marriage.

69. If, however, the woman was merely consecrated, the couple will not have shared familiarity and there is less grounds for suspicion, as mentioned at the conclusion of the halachah.
70. In the Talmudic era, the custom was to build blocks of homes that opened up to a communal courtyard. Several of these courtyards would open up to a single lane. If a man and his divorcee would dwell in a single courtyard - and even in a single lane - they would meet each other on a frequent basis. In such a situation, we fear that the familiarity that they shared in the past might lead them to be intimate.
- Rav Moshe HaCohen and others question the Rambam's ruling, noting that as long as the woman has not remarried, there is no prohibition against relations between the couple. They cite the standard text of *Ketubot 27b* which reads "A woman should not marry in his neighborhood." They maintain that the prohibition applies only when the woman remarries. She and her new husband should not dwell near her previous husband lest this lead to adultery.
- The *Shulchan Aruch (Even HaEzer 119:7)* quotes the Rambam's wording. The Rama, however, mentions that if a woman remarries, she should not dwell in the same lane as her ex-husband even if he is not a priest.
71. Since he is also bound by the prohibition against relations with a divorcee, there are more severe restrictions.
72. Rather than demand payment herself. In this way, they will share less contact.
73. For one of them should have appointed an agent so that they would avoid meeting each other.
74. Since they never lived together, we do not fear that meeting each other will lead to intimacy.
75. This applies if the home belongs to the husband and even if the woman also owns a home in that courtyard or the couple's home was rented (*Chelkat Mechokek 119:27*). *Ketubot 28a* explains that it is more difficult for a man to leave his home than it is for a woman.
76. In this instance, she is not "dwelling securely," because she was informed of the temporary nature of the relationship from the outset. See *Yevamot 37b* which gives the example of several Sages who would marry women for brief periods of times after informing them beforehand.
- See also the *Chelkat Mechokek 119:1* and the *Beit Shmuel 119:1* which debate whether it is proper for a man to engage in relations with his wife in such a situation. For as stated in Halachah 12, a man should not engage in relations with his wife if he intends to divorce her.
77. Since they live apart from each other, it is possible that they will not know of the other's existence. If they visit that other locale, they may marry a relative without knowing of the family connection.
78. For then, it will be unlikely that his descendants will intermarry unknowingly.
79. For we fear that he will die as they did. See the Rama (*Even HaEzer 9:1*) who mentions certain leniencies concerning this situation.
80. The commentaries cite the Biblical narrative concerning the marriage of Judah's sons to Tamar (Genesis, ch. 38) as proof of these laws. At the outset, Judah did not want her to marry his third son. After he had relations with her, however, he married her and continued living with her as man and wife.

81. The term *am haaretz* which we translated as "unlearned" has broader implications. As indicated by the following halachah, it also has the connotation of one who is not careful in the observance of the mitzvot and whose character is unrefined and underdeveloped.
82. *Pesachim* 49b.
83. The commentaries note that *Pesachim, op. cit.*, states "it will lead to poverty." Some resolve the differences by explaining that poverty will lead a family to strife.
84. I.e., we can assume that his wife will return to her family and that the children will be raised according to the prevailing atmosphere in that home. From the statements of Rama (*Even HaEzer* 2:6), we can conclude that if an unlearned person is precise in his observance of the mitzvot, these words of caution do not apply.

By Rabbi Moshe ben Maimon (

Rabbi Eliyahu Touger is a noted author and translator, widely published for his works on Chassidut and Maimonides.

Published and copyright by Moznaim Publications, all rights reserved.

To purchase this book or the entire series, please [click here](#).

The text on this page contains sacred literature. Please do not deface or discard.

Vowelized Hebrew text courtesy Torat Emet under CC 2.5 license.

[More from Maimonides](#)

© Copyright, all rights reserved. If you enjoyed this article, we encourage you to distribute it further, provided that you comply with Chabad.org's copyright policy.