

SEXUALITY AND JEWISH LAW

IN SEARCH OF A BALANCED APPROACH IN TORAH

VOLUME ONE

HALACHIC POSITIONS

WHAT JUDAISM REALLY SAYS

ABOUT PASSION IN THE MARITAL BED

AN OUTLINE, ANALYSIS AND CANDID DISCUSSION

YAAKOV SHAPIRO

EXPANDED EDITION

Dedicated to our Creator,
Who fashioned husband and wife from the dust,
breathed into them of His own spirit,
and then commanded them to become one flesh
through the pleasure of sex

Genesis 2:24; Sanhedrin 58b, Rashi: Shelo Cedarcah

The Talmudic sage, Rav Cahana, once hid under the bed of his master, Rav, and listened as he talked and laughed with his wife and performed his sexual needs.

Rav Cahana exclaimed: “Such talk? It sounds as if the master has never tasted sex in his life!”

Rav responded: “Cahana, get out of here! This is uncivilized!”

Rav Cahana answered back: “This, too, is part of Torah, and I need to learn it.”

Talmud, Tractates Brachos 62a, Hagigah 5b

In all these matters [variety in sexual positions] it all follows the personal tastes of husband and wife.

And if a man has found a good wife who is of same mind with him in these matters, to him applies the verse in Proverbs (18:22): “He who has found a wife has found goodness, and has elicited favor from the Lord,” and the verse in Ecclesiastes (9:7): “Go, eat your bread with joy and drink your wine with a merry heart, for G-d has already approved your deeds.”

Rabbi Yehudah the Pious, Sefer Chasidim 509

Preface to the Third Edition

The first edition of this book was released in November 2015, after eleven long years of research and writing. This third edition incorporates one additional year of study and discussion, before focus shall be turned to other important projects that beckon, including volume two of the *Sexuality and Jewish Law* series.

As noted in the original introduction, it was always in the plan to continue to refine and expand this work. Immediately after publishing the first edition, two revised editions were updated and made available in December 2015, followed by an official second edition in January 2016. All major revisions up to and including those in the second edition were made available to the public at SexualityandJewishLaw.com. This expanded, third edition includes additional elucidation and an index, both of which shall be made available for public reference at the said website as well. The original pagination has been maintained throughout all editions, so that the index is consistent with them all.

I would like to take this opportunity to recommend to readers two additional important Hebrew works that came to my attention over the past year, both by Orthodox rabbinic writers and both addressing the subject of marital harmony and sexual intimacy. They are *Es Lifrosh v'Es Le'ehov* by Rabbi Simcha Feuerman (Hadaf, 2016), and *Ladaat Le'ehov* by Rabbi Avraham Shmuel (second edition, 2015).

Most importantly, this past September the author of *Ladaat Le'ehov* brought to my attention two remarkable Hebrew halachic works about the laws of marital sexual intimacy, namely, *Simchat Habayit v'Birchato* by Rabbi Eliezer Melamed of Yeshivat Har Brachah in Israel (second edition, 2015), and *Harchavot l'Simchat Habayit v'Birchato*, written under Rabbi Melamed's guidance by a student of his, Rabbi Maor Kayam (2015). I believe these are quite literally the best practical halachic works out there on the subject that I am aware of to date, and it is my hope that they will soon be translated into English. Throughout this third edition, I've added references to corresponding discussions by Rabbi Melamed and Rabbi Kayam in these two works.* They are available for order in Israel on the

* One important correction brought to my attention by these two works relates to the identity of the medieval rabbinic authority referred to in *Shitah Mekubetzes*, *Nedarim 20b*, by the acronym, "Re'em." In previous editions, I mistakenly wrote that this referred to Rabbi Eliyahu Mizrahi (c.1455-c.1525). In the course of studying these two works, I was made aware that it refers to Rabbi Eliezer of Metz (12th century author of *Sefer Yeraim*).

Yeshivat Har Brachah website, and you can contact the online store manager, there, for overseas orders. In my humble opinion, both volumes are must haves for every Orthodox husband, wife and mature adult – in addition to the two Hebrew works I’ve already recommended to readers in previous editions of this book, namely, the anonymously authored online treatise, *Dvar Seser*, and Rabbi Yehuda Henkin’s *Bnei Banim vol. 4, responsa 16-17-18*.**

It remains my sincere hope that this study will continue to contribute to a healthy reexploration of Torah sources, and to a positive – and immediate – reexamination of cultural norms, so that halachic individuals and couples may be granted “new eyes to see and new ears to hear” the realistic down-to-earth wisdom hidden between the lines of ancient sacred text, resulting in deeper understanding and acceptance of themselves, deeper vulnerability and bonding between spouses, and deeper appreciation of, and identification with, the Creator.

January 22, 2017
24 Tevet, 5777

** See below, pp. 210-212. I would also like to bring to readers’ attention that in this edition correction has been made to an inadvertent misquote of Rabbi Henkin’s discussion about the meaning of the term “*paam achas*” found in *Rabeinu Yeruchem, Nesiv 23*. The relevant correction has been made to endnotes 268 and 613, and the precise textual revision may be found at SexualityandJewishLaw.com.

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Introduction

Jews and sex can appear to have a love-hate relationship.

Judaism generally gets better reviews than some other religions when it comes to sex, by virtue of the fact that it ascribes holiness to the act when performed lovingly between husband and wife, and because it obligates, rather than prohibits, its clergy to marry. This positive attitude is an extension of Judaism's overall view that this world and its pleasures are not intrinsically evil, but rather the physical is a neutral gift from G-d that can be used by man for curse or for blessing. That being said, delving into the actual rabbinic sources on the matter of Jewish marital intimacy, this seemingly positive approach can get obscure rather quickly.

On the one hand, there are authoritative sources that look approvingly upon sex as the opportunity for husband and wife to share complete vulnerability, to bare their whole selves to one another – psychologically, emotionally, spiritually, physically, erotically.¹ On the other hand, there are sources that see “G-dliness” in the conjugal act only if it is done for “noble” purposes, such as the wife's gratification or simple procreation. G-d forbid the husband should get carried away and enjoy it too much... G-d forbid things might get a little too...sexy.² And then there are those who display a combined approach, denigrating sexual indulgence philosophically, while acknowledging from a legal standpoint G-d's empathy and acceptance of human erotic nature as expressed within marriage.³

Such paradox is especially evident in rabbinic teaching in the area of sexual technique and positions within marriage, the main focus of this book. There are sources that can be understood to permit any sexual technique or position a couple might find curious or enjoyable, while other sources collectively predict physical or spiritual harm upon them, or their offspring, for anything more adventurous than “missionary style.”

Since ancient times, then, Judaism has offered a wide range of approaches on the matter of sexual expression within marriage, reflecting a wide-range of interpretation and sensibility, and theoretically enabling each and every couple to tailor the law of this most intimate, private part of life to the unique physical and spiritual dimensions of their relationship.

But a study of the sources reveals a trend in the last few hundred years to downplay, or even deny, Torah's embrace of sexual exploration within marriage, generally revealing to the masses only its most puritanical approach – an approach that is today presented by many Ultra-Orthodox Chasidic-Charedi¹ rabbis in their

¹ The two titles, “Chasidic” (*those who are pious*) and “Charedi” (*those who tremble before the word of G-d*), are used in modern times to refer to the Ultra-Orthodox demographic within Jewish society. While this is not the place to explore their differences in history and etymology, for the purposes of our study the former refers specifically to those who ascribe to the spiritual teachings of the 18th century Chasidic movement, whereas the latter refers to wider groups that generally support the strictest interpretations and implementations of Jewish law and philosophy.

pre-marriage lessons and in their ritual “family purity”ⁱⁱ or marital intimacy guides as the *only* Torah approach. The result is a widespread extremely pietistic, overly spiritualized attitude toward sex – and by sex, I mean marital sex – and a belief system that is not only false, but unhealthy.

Why I Wrote this Book

When I attended Jewish “family purity” classes shortly before my own marriage, the sincere and well-meaning Chasidic teacher taught us a very one-sided ultra-pietistic approach to physical intimacy according to which anything other than husband-on-top/face-to-face/face above the “waist”ⁱⁱⁱ was forbidden and/or would result in the physical deformity of one’s children.ⁱⁱⁱ

While the ancient texts and commentaries we shall be exploring are held sacred by the modern, or centrist, streams of Orthodoxy as well, such streams are already more open to acknowledging, and implementing, the liberal approaches within Jewish thought. For that reason, throughout this study we generally address the trends within Chasidi-Charedi literature and society specifically.

ⁱⁱ The term “family purity” generally refers to Judaism’s laws about abstinence from sex during the wife’s menstrual cycle (see below, footnote to page 22). But many publications and classes dedicated to the subject discuss the laws of permitted marital sexual behaviors as well.

ⁱⁱⁱ Let it be noted from the outset that there will be certain elements of belief touched upon in this study that many in the Ultra-Orthodox community itself already – quietly – find questionable, even unhealthy. But healing will not come by covering up such beliefs from the outside world or pretending in one’s own life they don’t exist.

Healing in this respect requires identifying and clarifying confusing legal, philosophical and/or mystical notions about physical pleasure in general and sexual pleasure in particular, as well as related beliefs about reward, punishment and perfectionism. And enough is already known among non-Jewish circles, and has already been revealed in the media before the eyes of the entire world, about sexual difficulties in the Ultra-Orthodox community resulting from religious puritanism. The said community has thus already been cast into the spotlight.

Therefore now, its contributing role as a “light unto the nations” arguably includes leading the charge in reevaluating extreme beliefs in light of the new insight G-d reveals in each generation – as the Sanhedrin had power to do even in certain areas of Jewish law (see *Mishneh Torah, Sefer Shoftim, Memrim 2:1*, to be explored further in volume two of this series) – until G-d reveals His ultimate absolute truth to all in the Messianic Age. Indeed, judging by the direction of things, the eventual return of the Sanhedrin to Jewish life will not just be the realization of an ancient prophecy, but a simple necessity for achieving and sustaining a dynamic, balanced, holistic Judaism into the future. But the Ultra-Orthodox community need not, and arguably cannot afford to, wait until such a legal body is restored before it fundamentally reevaluates some of the extreme expressions found in its non-canonical literature with an eye toward providing greater psychological-emotional-physical-spiritual balance to its men, women and children.

And so I place this book before you, as one who has lived and breathed among you, as a contribution toward that healing.

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Having done some rudimentary research of my own into the matter prior to the class, I asked our teacher to share with us one of the more permissive sources I already knew to exist.⁴ But his response made it unclear if he were even aware of such a source. And when I pulled out the book and showed it to him, he pointed to the interpretation of one commentary⁵ that minimizes that source's leniency – an interpretation considered erroneous by other equally weighty authorities (authorities which, perhaps, our teacher was unaware of at the time).⁶

Subsequently, in discussion with friends, I discovered that they, too, or their spouses, had been taught by their Chasidic pre-marriage mentors a similarly puritanical, and threatening, approach to sexual exploration within marriage, and that many, if not most, available Chasidic-Charedi “family purity” and marital intimacy guides do the same. Not only do the vast majority of these publications denigrate or forbid most sexual positions and techniques, they put forward the claim that most vile is the act of “wasting seed in vain” – which they interpret to mean ejaculation of the husband's seed anywhere outside the wife's vagina.^{IV}

In broaching the topic with others, I also began to hear painful stories of marital discord resulting from one or both spouses' misinformation in this very sensitive area of domestic life, in at least one case exacerbated by an embarrassment to approach pious rabbinical authorities for further clarification.

And yet a healthy, balanced approach was right there, bouncing off the pages of Jewish law!

As for the few I met who had not only been taught a stringent approach, but a more “liberal” one as well, it was clear that even they had not actually been given the whole picture of what is permitted, nor had they been given to understand the underlying sources and reasoning behind the two approaches of “letter” versus

^{IV} For a preliminary exploration into the subject of “wasting seed in vain” according to Jewish law, see *Encyclopedia Talmudis vol. 11, entry: Hashchatas Zera; Otzar HaPoskim Even Haezer 23* (volume 9 in the *Otzar HaPoskim* series); Rabbi Schneur Zalman of Lublin, *Shaalos uTeshuvos Toras Chesed, vol. 2, Responsum 43; Jewish Law and The New Reproductive Technologies* by Rabbi Dr. Emanuel Feldman and Rabbi Dr. Joel B. Wolowelsky (Ktav 1997), pp. 120-123 and endnotes thereon.

An in-depth analysis of the subject will be covered in volume two of this series. Of particular importance will be a serious reexploration of the heretofore rabbinical approach to masturbation – a matter that has historically caused, and continues to cause, untold sexual anxiety in Orthodox boys and men. In the meantime, see below, pp. 91-92, 118-122, 123-129, 132-168 (and footnotes to pages 134 and 144), 190, and endnotes 335, 343, 518, 524, 553, 563-565, 567, 569, 591-593, 594, 633, 718, 818.

And see the professional essay of Orthodox sex therapist Talli Rosenbaum, explaining how male masturbation anxiety, or, if we may, “wasting seed in vain anxiety,” profoundly affects the sex lives of wives as well – available online at <http://tallirosenbaum.com/en/node/201>.

Volume two of our series will also explore rabbinic statements in regard to female masturbation.

“spirit” of the law.^v This information is paramount for husbands and wives to learn not only what is “technically permitted” by G-d according to Torah, but also

^v In fact, based on discussions with others, and as we shall see from the results of our analysis below, it appears that many pre-marriage classes and many “family purity” and marital intimacy guides are (knowingly or unknowingly) teaching the spirit or stringency of Jewish sex as baseline law, and its baseline law (if they teach it at all) as if it were leniency.

Some have said to me that in Chasidic-Charedi circles the pious spirit of the law is always strived for, so such classes and publications are justified in this approach even where it is intentional. But to borrow the teaching of *Ethics of our Fathers* 2:5: “Ignorance does not lead to piety” (*ein am haaretz chasid*).

Firstly, the ultimate purpose of the spirit of the law is that one should *choose* to follow it as a voluntary choice as part of one’s individual spiritual maturing process. The value of having the spirit of the law forced upon an adult, without he or she even knowing it is spirit, is debatable.

Secondly, when people are not informed about the baseline law of Jewish marital sex, or when they are taught its spirit or stringency as if they were baseline law, this itself can lead people to question the wisdom of Torah – the wisdom of G-d – as being out of touch with the reality of human nature. This, as a matter of consequence, can breed doubt about Torah – and G-d – and thoughts and feelings and actions of rebellion in the bedroom. And when one cannot reconcile G-d in the bedroom, it is only a matter of time before one begins to push Him out of other areas of life as well. Thus, ignorance of the actual distinction between law versus spirit, or baseline law versus stringency, can not only keep people far from piety, it can ultimately distance them from the law itself (and see endnote 10).

[This is also the response to those who have said to me that “crass” people will do what they want anyway, they don’t need such a book, so we should not spoil the innocent minds of those who want to do “the right thing” by revealing such information. But what right do we have to sacrifice the souls of the “crass,” especially when they are no more than normal human beings among us? And why are we infantilizing the “innocent” – or continuing to pretend they are so innocent in the first place?

A related school of thought that has been argued to me goes like this: It is best to first give young couples as little information as possible about what is permitted in the marital bed, and when they later have “issues” in the bedroom they will go back to their rabbi or teacher and the rabbi or teacher will then permit for them more. The cruelty of such an approach needs no elaboration. And it is simply not acceptable in my book to wait until couples come crawling back to their rabbis or teachers in shame, anxiety and dysfunction before considering them worthy of receiving the “secret” of what G-d actually permitted them all along. Supporters of the said approach are also assuming couples will actually have the courage to come back to their pious rabbis or teachers with such questions. It is equally likely that they will simply begin to ignore (read: rebel against) what they were taught was law rather than suffer such embarrassment. And if they find out from other sources that there was more that was permitted them than these rabbis or teachers originally taught, why would they continue to trust these rabbis or teachers at all, about anything?]

Thirdly, the question of spirit or stringency in the area of sex is not equivalent to the question of spirit or stringency in other areas of Jewish life, such as Sabbath observance or kosher dietary laws (to name just two). In the case of sex, what one teaches people about what is allowed or not allowed (or “disgusting”) in the eyes of G-d is not just a technical matter of “dos and don’ts,” it has profound ramifications in how they will perceive themselves psychologically, emotionally, physically and spiritually.

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compassion, understanding and acceptance of each other's differing needs when it comes to sex, as well as to approach the wider concept of physical intimacy in a more natural balanced manner, counteracting the messages in certain literature or by certain teachers that over-think and over-spiritualize it.

And so I continued to research deeper into the subject, sharing my findings with grateful friends, who insisted I share it with the wider public.

Who this Book is For

Now let it be stated clearly from the outset that this research is about Jewish sexual law **within marriage**. Any application of its findings to any other form of relationship is solely the reader's interpretation and responsibility, and is inconsistent with the intention of this book.

That being said, the Jewish spiritual leadership in every generation is expected – nay, obligated – to address the unique needs of its time.⁷

Childish naiveté in matters of sex in general, and stringency in marital sex in particular, may have helped keep people of past centuries “in line” or “closer to G-d.” But in present – and dare I say, future – generations, with sexual awareness at unprecedented heights, continuing to perpetuate such naiveté and impose such stringency can have the exact opposite effect.

With all the sexual awareness the world lays at their bedroom doorstep, a Jewish couple needs to know now more than ever that G-d understands, accepts and loves them even with their expanded sexual consciousness and curiosities. To give them any impression otherwise is to further stoke the flames of inner turmoil that are the challenge of many a 21st century Jew.

And even for curious teenagers who seek to understand Torah's views on marital sex earlier on, the strictest opinions are generally the only ones they will find their way to, they being the most widely circulated. These young adults are thus given the impression that a variety of natural sexual curiosities puberty arouses within them are, from the standpoint of Judaism, abnormal and sinful –

Finally, I have had some people say to me that their teachers did in fact teach them that “everything” is permitted between husband and wife in the marital bed. But even those who teach that all is permitted are not necessarily making clear that all is also medically safe and will not physically or spiritually harm the couple or their children. And what I have found is that when I proceed to ask such people to explain what “everything is permitted” means, they will then qualify it by saying that they were in fact taught that there are exceptions, such as oral sex or extra-vaginal ejaculation. Or they do not really know upon what halachic grounds such a statement is based. Therefore, I do not believe such will be convincing to one who is learned and who knows the many sources that contradict it. To the learned student such an approach will most likely appear to be nothing more than a teacher's inability to reconcile the actual sources with human nature and/or the condition of modern sexual awareness – in other words, a desperate attempt to curb adultery. It is therefore especially for such learned students that our present study will be of value.

even if controlled, locked away and saved for future exploration within marriage. Just as these young men and women's hormones are beginning to rage, they are left to grapple developing a meaningful adult relationship with a G-d who – as it appears from the Torah sources available to them – does not seem to understand the natural human sex drive He Himself fashioned.⁸

The conscientious, intelligent reader must therefore recognize that as “unholy” influences grow greater, more attractive, and more accessible in the outside world, reclaiming sexual exploration within marriage as something holy⁹ may just prove a key factor in preserving Judaism into the next generation – and beyond.¹⁰ Thus, I believe it is high time this material be made available to the public¹¹ – to enable married couples who respect and take Torah seriously to choose for themselves between basic law and strictest piety as appropriate to the unique spiritual and physical dimensions of their relationship, and to provide adolescents and single adults a more balanced, healthy view – according to Torah, G-d's view – of their individual sexuality.

Of course, I do not claim to be the first to “discover” all or any of the sources that follow, nor will I be the first to argue the critical need for shifting the Chasidic-Charedi world's sexual consciousness back to such sources in order to restore balance of mind, body and spirit. My utmost respect and admiration goes to those rabbis, teachers and mental health professionals who have already blazed such trails in their personal spheres of influence. But if there is a book that provides this critical information to the wider public,¹² and in English, I have yet to find it. And so I offer this work as a personal contribution.^{VI}

I also cannot testify to having encountered and analyzed all the Torah sources out there on this very deep and sensitive subject, nor to having avoided all human error. As anyone who has ever studied Torah (or any other wisdom) knows, you can never really claim to know it all, and certainly not perfectly. I therefore beg my readers to bring to my attention any errors or omissions in source or logic they may find, which I shall consider for correction in future editions – and which, in

^{VI} The basic findings of this study were delivered as a video lecture on January 25, 2015, entitled, *Halachic Positions Your Rabbi Never Told You: What Judaism Really Says about Passion in the Marital Bed*, and posted online to Youtube.com on February 20, 2015.

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the meantime, I shall post online at SexualityandJewishLaw.com. I thus encourage my readers to periodically check this website for updates.^{vii}

Finally, I cannot predict where the implications of this research and analysis will ultimately lead, either in the short or long term. I can only trust truth to lead us where it will – trusting also that truth is the ultimate concern and goal of my readers. But the halachic positions^{viii} you will find on the following pages stand upon sufficiently firm and holy ground to warrant the Ultra-Orthodox Chasidic-Charedi Jewish world's attention.

And if there be some modest, pious individuals out there, men or women, who do not openly approve of this information being made available to the public, I do hope they will be responsible enough, and scrupulous enough, to actually read the book in its entirety before passing judgment on its content, and that even they will be thankful in their heart of hearts... and perhaps even in the bedroom.

^{vii} It has been said to me that were I to publish this study without rabbinical approbation, or were I to make even a single important unintentional omission in presentation or error in analysis, it would be rendered worthless in the eyes of the Chasidic-Charedi community. Perhaps. But I trust that the same community will then begin to apply the same standard of criticism to many, if not most, of the other works already out there on the subject, some authored by well-known rabbinic authorities and/or bearing eminent rabbinical endorsement, that feature important human errors or omissions which have most certainly led couples to implement unnecessary strictures in marital sexual life, and which have thereby engendered painful confusion, anxiety and marital discord. For in such a delicate matter as marital sex, erring on the side of stringency is just as damaging as erring on the side of leniency – if not more so. And see below, *Appendices: Jewish "Family Purity" and Marital Intimacy Guide Reviews*.

^{viii} Deriving from the Hebrew "*halachah*" – Jewish law.

I never wished to elaborate on such matters [of physical intimacy] at length, and it would have been better not to write about them at all. But because there are those who are mistakenly lenient or stringent, the result of which, G-d forbid, is the lack of [marital] peace and love that are so necessary, I said to myself: It is Torah, and I am required to write about it.

Rabbi Moshe Feinstein

Igros Moshe, Even Haezer 4, Responsum 66

Who am I to decide [between Torah giants of past generations]...

But if for the sake of establishing peace between husband and wife, G-d allows His own holy Name to be erased, certainly, then, the honor of earlier Torah giants – despite the fact that they were our great masters and world geniuses – cannot hold me back from writing that which appears correct in my own humble opinion according to practical Jewish law.

And may G-d protect us from erring in determining His will.

Rabbi Moshe Feinstein

Igros Moshe, Even Haezer 1, Responsum 63, Paragraph 1

Terminology

Now this is important, so please pay attention!

The reader will find that the wording in this study is of an explicit – though never provocative – nature. When it comes to Jewish law one must speak clearly and unambiguously, even if the subject matter or terminology appear “unclean.”²⁷

As we shall see, much of the divergence of opinion in the realm of Jewish marital sex law, even among the medieval halachic authorities, was a direct result of the Talmud’s own use of “clean” euphemistic language²⁸ – which may have been commonly understood in its day, but whose exact meaning became lost over time, resulting in extremely serious matters of halachic debate through the ages and until today (and undoubtedly contributing to sexual repressions, anxieties, marital strains, infidelities, etcetera). I have therefore chosen to use clear, clinical, but what some Chasidic-Charedi readers may consider “crude,” modern terminology to refer to all things sexual (and such terms shall be repeated as often as necessary, even within single pages, paragraphs or sentences, so that absolute clarity to the reader shall be maintained).

Thus, for example, in translating the halachic sources, I intentionally avoid the use of vague, pristine renditions, such as “marital relations” or “unnatural intercourse,” instead using the English terms that express exactly what they are referring to – in this case, “sex” and “anal sex” respectively.

And while we’re on the topic of anal sex...

In Jewish law and ethics, face-to-face vaginal intercourse with the husband on top – the “missionary position” – is generally considered to be the most preferred method of sexual intimacy between husband and wife.²⁹ But in discussing what other positions may or may not be permitted, the most opposite extreme in Jewish law is considered to be anal intercourse, and more specifically, anal intercourse to the point of the husband’s climax and ejaculation (an issue relating to the concept of “wasting seed in vain,” to be discussed).

Thus, please note that while the halachic discussions we will encounter address a wide variety of sexual technique and positions within marriage, we will find an inordinate amount of discussion in the classical Talmudic-rabbinic sources themselves focusing on anal sex. And an important direct ramification of these discussions about anal sex will be the potential permissibility of other forms of extra-vaginal penile stimulation within marriage, including, but not limited to, a wife’s manual or oral stimulation of her husband’s sex organs – even to the point of his climax and ejaculation.

Another important technical point: There is a precise dialectic in Jewish law, the implications of which can be missed or confused by the uninformed reader. In our case, we will be exploring not only widely permissive halachic views, but also some opinions that reject certain sexual practices even within marriage. But a distinction must be made between that which they “forbid” and that which they

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merely “discourage.” For example, when a halachic authority writes, “It is forbidden to...” the intention is generally a categorical prohibition. But in some cases when the same authority uses milder terminology, “Do not...” it is not prohibiting that action categorically,³⁰ and sometimes it is only discouraging it on moral, pious or health – not legal – grounds. As we investigate and analyze the actual sources, the precision and ramification of this critical distinction will be made clearer.

Finally, it was the style of the ancient sources to discuss Jewish marital sex law in terms of what is permitted or prohibited “for a husband to do with his wife.” Although this might strike the modern reader as sexist, I urge you to set such knee-jerk reactions aside, for when it comes to the laws of sex the Talmud generally also only speaks in terms of the husband’s obligations to his wife in the bedroom. And rest-assured, Jewish law does not allow a man “to do” anything with his wife’s body against her wishes,³⁰ nor does it play ignorant to the fact that women, not just men, have powerful sexual drives and needs. On the contrary, there is infinitely more discussion in Jewish law about a husband’s obligation to fulfill his wife sexually than her obligation to fulfill him.

[Important: Concerning our use of the terms “pure” and “impure” in relation to a woman and her menstrual cycle, see below, footnote to page 22.]

PART ONE
FIRST IMPRESSIONS

Shulchan Aruch, Orach Chaim 240, Laws of Modesty (excerpts)

1. A husband should not excessively frequent his wife for sex beyond what Torah mandates him to do in order to satisfy her sexual needs.

Those who need not worry about earning a living or paying taxes are mandated to satisfy their wives every single day.

Laborers who work in a different city, but return home to sleep each night, are mandated to satisfy their wives once a week. And if they work in their home city, twice a week.

Donkey drivers, once a week.

Camel drivers, once in thirty days.

Sailors, once in six months.

And a Torah scholar is obligated to satisfy his wife every Friday night.

And every man is mandated to satisfy his wife on the night of her [post-menstrual] *mikveh* immersion,^{XIV} and the night before he leaves on a trip abroad – if it is not a trip for the sake of a *mitzvah*.

And if his wife is nursing,³⁴ and he sees that she is actively trying to gain his affection and she is beautifying herself in order to attract his attention, he is mandated to satisfy her.

And even when he is with her, it should not be in his mind about satisfying his own desires, but rather about fulfilling his obligation to satisfy her sexual needs, and about fulfilling the commandment of his Creator to procreate and raise children who study Torah and live according to its commandments amongst the Jewish people.

Similarly, if his intention is to improve the fetus of their unborn child – for during the last six months of pregnancy passionate intercourse between father and mother helps make the child comely and vibrant³⁵ – this is considered worthy.

^{XIV} According to Biblical law, husband and wife may not engage in sexual relations during the “impurity” of the wife’s menstrual cycle, nor even after it is over until she immerses and “purifies” herself in a ritual *mikveh* bath.

While there are to be found in ancient rabbinic records some statements in regard to this impurity that are disturbing to modern sensibilities, it has also been explained that its fundamental nature has nothing to do with a woman being inferior in any way to a man. Rather, the impurity is said to stem from the loss of potential life when each potential for birth is evacuated from the wife’s body – for in Jewish law, where there is loss of life force spiritual impurity fills the void. This is perhaps also why a man is considered by Jewish law to harbor a certain (albeit lesser) degree of impurity after ejaculation.

In any case, we certainly mean no disrespect with our use of the terms “pure” or “impure” in relation to a wife and her menstrual cycle where such is necessary for clarity and analysis of the halachic sources throughout this book.

And if his intention is to guard himself from temptation to sin, because he senses within himself such temptation,³⁶ it would have been better had he ignored his sexual instinct and conquered it, for, as the Sages teach, “There is a small limb in the body of man – when you starve it, it feels satisfied; when you satisfy it, it feels starved.”³⁷

But if a husband doesn’t need sex, and he intentionally arouses himself in order to indulge his pleasures, this is the work of the evil inclination, for from this permissible act he will be led to that which is forbidden...

4. It is forbidden to gaze at the female genitals,^{xv} for one who gazes there displays no shamefacedness and transgresses the prophet’s admonition to “walk modestly with the L-rd.”³⁸ He diminishes whatever shamefacedness he does have, whereas one who has a sense of shame does not readily sin, as the verse states, “[Moses said to the people at Sinai: “Do not fear, for in order to elevate you has G-d come; and] so that awe of Him” – a sense of shame – “shall be upon your faces, so that you shall not sin.”³⁹

What is more, gazing at the female genitals incites the evil urge.⁴⁰

And kissing the female genitals is even worse, for besides transgressing all the above, one also transgresses the biblical commandment, “Do not make yourselves disgusting.”⁴¹

5. Intercourse with him-on-bottom and her-on-top is arrogant.

Intercourse side-by-side is obstinate.

7. Do not⁴² have sex at the beginning of night or at the end of night – that way you will avoid hearing voices from the street and fantasizing about other women. Sex should be in the middle of the night.

8. And you should perform your sexual duty with awe and fear, as it is said⁴³ of the sage, Rabbi Eliezer, [about how he would perform sex with his wife,] that “he would uncover a hand’s-breadth and cover over a hand’s-breadth, and it was as if he were compelled by a demon” – meaning, with the kind of awe and fear (*b’eimah ub’yirah*) one would have if a demon were pressuring him.⁴⁴

^{xv} Regarding why the *female* genitals are singled out, here, see below, pages 33-34 and endnotes 72 and 75 thereon.

Alternatively, some interpret, “he would uncover a hand’s-breadth and cover over a hand’s-breadth” to mean that he would not thrust his penis very much during intercourse (*shelo hayah memarek ha’ever b’shaas tashmish*^{xvi}), so as to minimize his pleasure. And the meaning of “it was as if he were compelled by a demon” is that it was as if he were forced to have sex against his will.

Alternatively, some interpret, “he would uncover a hand’s-breadth and cover over a hand’s-breadth” as referring to a hand’s-breadth of the wife’s genitals, meaning that just as he was uncovering his wife’s body, it was as if he were already covering her back up, for he would not draw out sexual intercourse (*shelo hayah maarich b’oso maaseh*). It was as if he had a fear of a demon and he was terrified, and he would [complete the deed and] pull out – that’s how fast he would engage in sexual intercourse (*col cach hayah mekatzer b’tashmish*).

And some interpret it to mean that “he would uncover a hand’s-breadth” of her breechcloth, for even during intercourse (*af b’shaas tashmish*) he would require her to wear it,⁴⁵ and he would uncover only a hand’s-breadth of it and then cover it over again immediately, in order to minimize his pleasure.

All these interpretations have truth to them,⁴⁶ and someone who is conscientious of his soul should live up to all of them (*v’tzarich baal nefesh lizaher bahem*).

9. Do not speak with her about anything non-sex-related – not during intercourse, nor immediately before it (*lo b’shaas tashmish v’lo kodem lachen*) – so that you will not fantasize about other women.

^{xvi} The Hebrew term “*b’shaas tashmish*” shall be assumed throughout our study of Talmudic, medieval and later rabbinic texts to mean “during sexual intercourse” (as opposed to during sexual foreplay) – as Rabbi Caro clearly intends its use here and throughout his discussion in *Orach Chaim* 240:8, 9, 10. Similarly, the terms “*tashmish*” and “*hamaaseh*” shall be understood to mean “the act of intercourse,” and “*b’shaas maasesh*” to mean “during the act of intercourse.” Our use of the term “sex” (as in “had/have sex”) shall also be equivalent to, or at least shall be meant to include, intercourse (as in “had/have intercourse”).

The Hebrew term for “foreplay,” on the other hand, would be something akin to Raavad III’s phraseology in his *Baalei HaNefesh, Shaar Hakedushah* (pp. 175-176 in the Buchwald edition): “*m’shehuzkaku l’oso maaseh* – when they begin to embrace [with the intention] for intercourse” (but see below, endnote 683). In any case, when we wish to speak of foreplay, we shall refer to it specifically.

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If you did converse with her [about other such matters], and then immediately had sex with her, it is of this behavior that they [sages⁴⁶] said the prophet was referring when he declared, “G-d recounts to man what his words were”⁴⁷ – [they explained that the prophet meant to caution that] “Even the light-headed talk between husband and wife will be recounted to him on the Day of Judgment.”

10. If he displayed anger toward her it is forbidden for him to have sex with her until he appeases her. And he may speak words of appeasement to her immediately before having sex with her.

Shulchan Aruch – Initial Analysis

If one were exposed only to the above excerpts of Jewish sexual law, as many young Chasidic-Charedi men and women are, one could not be blamed for walking away with the following impressions of G-d's will:

- During sex, a husband's focus must be entirely on his wife's sexual needs or benefits to their unborn child. His own sexual needs are unimportant and in fact deplorable.
- A husband's curiosity to explore his wife's genitals is un-Jewish. It is not only forbidden to do so, it is a kind of insult to G-d.
- Kissing the female genitals is disgusting and absolutely forbidden.
- Talking is restricted – it might lead the man to think of other women.
- Ideally, the husband should approach the sex act as a matter of obligation, performed hastily and in a state of awe and fear – not love, connection and passion.
- The “missionary” position is probably the only position considered acceptable by G-d.

While other obvious positions such as rear-entry vaginal intercourse⁴⁸ and anal intercourse are left out of the discussion entirely, one might surmise from the fact that the her-on-top and side-by-side positions, while not categorically forbidden, are considered to expose serious character flaws in the couples who perform them, that any positions other than “face-to-face, husband-on-top” are at best deplorable.

Indeed, the fact that rear-entry vaginal intercourse and anal intercourse are not discussed at all could leave a reader thinking that these two positions are not only forbidden, but they are so perverse that Rabbi Caro could not bring himself to even speak of them; or that he assumed a reader would know on his or her own not to even ask about them; or that he never imagined a Jew would ever entertain the thought of them.

- Although the only kissing discussed, and forbidden, is kissing of the female genitals, the fact that the man's instinctual desires are so deplored can easily leave the impression that he should not allow himself to indulge his instincts to kiss anywhere else too “sexy” either.

We will now turn our attention to a second section of Rabbi Caro's *Code of Jewish Law*, his *Even Haezer-Laws of Marriage*.

Mind you, many, if not most, Chasidic-Charedi Jews I have asked – learned and unlearned alike – are entirely unaware that the *Code of Jewish Law* has another (somewhat) detailed section dedicated to the laws of sexual conduct

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between husband and wife. Most turn to the *Laws of Modesty* in the *Orach Chaim-Laws of Daily Living* section of Rabbi Caro's code, quoted above, and innocently assume they have found all there is to know on the subject.

Although Rabbi Caro does not add much in the way of new perspectives in his *Even Haezer-Laws of Marriage*, an important gloss-note, there, by the foremost annotator of the *Code of Jewish Law*, Rabbi Moshe Isserles (1520-1572), will open the floodgates of an entirely refreshing, and widely forgotten, liberal Jewish approach to marital sexual intimacy.

Shulchan Aruch, Even Haezer 25, Laws of Marriage (excerpts)

1. A person should habituate himself to extra holiness, purity of mind and proper focus, to save himself from stumbling into fornication...

2. He should not act light-headedly with his wife, nor make his mouth vulgar with vain talk⁴⁹ even when he is alone with her. Behold, the prophet states, “G-d recounts to man what his words were.” Sages,⁴⁹ of blessed memory, explained: “Even the light-headed talk between husband and wife will be accounted for on the Day of Judgment.”

And he should not converse with her during intercourse, nor immediately before it, so as not to fantasize about other women.

And if he did converse with her and then immediately had intercourse with her, to him applies the verse, “G-d recounts to man what his words were.”

But if it is sex-related, it is permitted for him to talk to her in order to increase his passion (*c’dei l’harbos taavaso*).

Or if he displayed anger toward her and he needs to appease her, he may speak to her in order to appease her.⁵⁰

And he should not excessively frequent his wife for sex, for this is extremely deficient behavior, the behavior of a crass boor. Rather, minimizing sex as much as possible is to be praised, so long as he does not shirk his Torah mandate to satisfy his wife’s sexual needs – at least not without her permission.

And even when he is having sex with her according to Torah’s mandate, it should not be in his mind about satisfying his own desires, but rather about discharging an obligation, in this case his obligation to satisfy her needs, and about fulfilling the commandment of his Creator to procreate and raise children who study Torah and live according to its commandments amongst the Jewish people.

3. One should not have sex at the beginning or end of night, but in the middle of night.

As noted, Rabbi Caro does not add much, here, that we don’t already know from his *Laws of Modesty* – though it is now expressly permitted for a husband to speak words that will increase his, and presumably also his wife’s, erotic passion.

But here is the game-changing gloss by the foremost annotator on the *Code of Jewish Law*, Rabbi Moshe Isserles:

25:2. And he may do with his wife anything he desires: he may have intercourse with her any time he desires,^{xvii} and he may kiss any part of her body he desires, and he may penetrate her vaginally or anally or between limbs [i.e. in, against or between any other parts of her body], so long as it does not lead to “wasting seed in vain” [i.e. ejaculation outside the vagina].

And some are lenient and say that anal sex is permitted even to the point of [intra-anal] ejaculation if he desires it randomly [in the heat of passion] (*b'akrai*) but does not make a habit of it.

And even though all these things are permitted, whoever sanctifies himself in that which is permitted shall be called ‘holy.’⁵¹

According to Rabbi Moshe Isserles, then:

- G-d acknowledges, empathizes with and legitimizes *all* of a man’s (and woman’s) sexual desires and permits them within marriage.
- Husband and wife may have intercourse “any time” they mutually want – meaning, even in excess of Torah’s mandate upon him to satisfy her (or, as we shall see, perhaps regardless of what kind of conversation they may be having or may have had just prior⁵²).
- It is natural, and acceptable before G-d, for a man to desire to kiss every part of his wife’s body, including her genitals, and to actually do so.
- Although he does not speak of the her-on-top or side-by-side positions, from the fact that Rabbi Isserles permits anal sex as well as penetration “between limbs” (i.e. in, against or between any other parts of his wife’s body) we may surmise that the former two positions are not as categorically objectionable as one might have believed from Rabbi Caro’s discouragement of them in *Orach Chaim*.

And if anal intercourse is permissible, rear-entry vaginal intercourse is presumably permitted as well.

^{xvii} Though certainly not during her impure menstrual state (see above, footnote to page 22). And according to generally accepted opinion, not with the lights on at night nor during the daytime unless the room is darkened or the couple covers themselves with a blanket. An in-depth analysis of Jewish law’s approach to sex at night with the lights on or during the day in the daylight will be the topic of a dedicated essay in a future volume of this series. In the meantime, see below, pages 95-96 and endnotes 833, 844, 845.

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- We are given a key distinction between that which is categorically “forbidden” or “permitted” versus that which one may choose to strive toward as voluntary “sanctification.”

We must now address a few glaring questions:

How could such opposed approaches to marital sex – the approaches of Rabbi Caro and Rabbi Isserles – derive from one and the same Torah? Or are they perhaps not so mutually exclusive?

Rabbi Isserles presents an extremely permissive stance compared to Rabbi Caro on the matter of variety in sexual technique and positions. But why does he tell us of it only in the *Laws of Marriage*, where Rabbi Caro does not discuss technique or positions at all, and not in the *Laws of Modesty*, where Rabbi Caro does discuss them at least partially?

And why does Rabbi Caro, in his *Laws of Modesty*, entirely ignore the discussion of anal intercourse and intercourse between limbs? By virtue of their fundamental difference in form from any vaginal sex position they should have been afforded special mention apart from his discussion about the her-on-top or side-by-side positions?

We shall seek to clarify these questions, and more, as we embark on our journey into the original Talmudic sources and medieval commentaries from whence Rabbis Caro and Isserles derived their respective rulings.

PART TWO
DECONSTRUCTING THE CODE

Babylonian Talmud, Tractate Nedarim 20ab

A Tanna⁵³ taught in a *braisa*⁵⁴:

Never accustom yourself to making vows, because you might ultimately transgress them.

Do not frequent an ignorant person, because he might ultimately give you un-tithed produce to eat.

Do not frequent an ignorant priest (*kohen*), because he might ultimately feed you sanctified food [permitted only to priests].

And do not unlimit your conversation with a woman,^{xviii} for it will ultimately lead to adultery.

Rabbi Acha [Achi]⁵⁵ son of Rabbi Yoshiyah⁵⁶ says:

Whoever makes a habit⁵⁷ of looking around⁵⁸ at women [in order to sexually fantasize⁵⁹ about them] will ultimately come to [actual] sin, and whoever gazes^{xix} at the heel of a woman [in order to derive sexual satisfaction from it⁶⁰] will ultimately have uncouth children.⁶¹

Rav Yosef⁶² said:

And this refers [even⁶³] to [the heel of] one's own wife during her [forbidden] menstrual period.

Rabbi Shimon ben Lakish⁶⁴ said:

'Heel' refers to the private place,⁶⁵ which is opposite the heel.

It was taught in a *braisa*:

^{xviii} Literally: "*al tarbeh sichah im ha'ishah*" – One should not prolong-extend-protract conversation with a woman other than one's own wife.

However, this teaching is also brought in regard to conversation with one's own wife, such as in *Ethics of the Fathers 1:5* and in *Avos D'Rabbi Noson 7:2-3*. Being that the latter source gives a specific example of "*al tarbeh sichah*" within marriage, namely, that a husband should not inform his own wife of an episode that will diminish his respect in her eyes, we have chosen to translate the phrase as "do not unlimit conversation" – for the message in that context is clearly that even husband and wife should not feel the obligation to reveal all to one another in the name of "sharing everything" if such sharing will ultimately compromise their closeness. And how much more so with another member of the opposite sex, where unlimited conversation and familiarity can lead to illicit behavior.

The entire topic of "*al tarbeh sichah im ha'ishah*" will be explored more fully in a future volume of this series. And see below, endnote 695.

^{xix} The term "gaze" in all discussions in this book refers to **steady intent looking**, as opposed to simply seeing or glancing in passing. See also *Ezer Mekudash to Shulchan Aruch, Even Haezer 25:2:Hagaah*.

[Moses said to the people at Sinai: “Do not fear, for in order to elevate you has G-d come; and so that awe of Him shall be upon your faces, so that you shall not sin.”⁶⁶

The *braisa* elucidates the verse:]

“So that awe of Him shall be upon your faces” – to instill a sense of shame [read: dignity^{XX}].

“So that you shall not sin” – this teaches that a sense of shame fosters fear of sin.

Based on this [*braisa*’s interpretation of the verse,] there are those who say that a sense of shame is a sign of good character.

Others say that anyone who has a sense of shame does not readily sin. And if someone has no shamefacedness, it can be assumed that his ancestors were not among those who stood at Sinai.⁶⁷

[The anonymous compilers-editors of the Talmud bring a loosely related teaching on the subject of gazing at one’s own wife’s body]

Rabbi Yochanan ben Dahavai⁶⁸ [a sage known for his extreme piety⁶⁹] said:

The ministering angels told four things to me:

1. Why are some [children⁷⁰] lame?

Because they^{XX*} [the fathers^{70*}] “overturn the table”⁷¹ [i.e., they do not engage in the normal sex position of “face-to-face, husband-on-top”].

2. Why are some [children] mute?

^{XX} See below, pp. 187-188, where we argue that the intention, here, in extolling the virtues of “shame” and “shamefacedness” is not to glorify a sense of embarrassment, timidity or bashfulness, but a sense of *dignity* – which *manifests* as shame and shamefacedness when one has not lived up to one’s own expectations of oneself and/or the respectable expectations of others, including, and first and foremost, the expectations of the Almighty.

[As for why, then, as the Talmud continues, only “some say” that dignity is a sign of good character, the intention appears not to be that others disagreed about the worthiness of dignity, but only that others expressed its worth in a different manner (“Others say that anyone who has a sense of shame does not readily sin...”). If, however, the Talmud did mean to say that others did not laud the trait of dignity, perhaps it was because dignity easily degenerates into ego.

In any case, those who would insist on the latter manner of reading the Talmud, and who would also insist on interpreting the term “shame” literally, would also have to contend with the implication that “others” did not consider “shame” to be a worthy or useful trait.]

^{XX*} Ostensibly, “they” could refer to either father or mother. See endnote 70*, addressing this point.

Because they [the fathers] kiss the [mothers'] genitals.⁷²

3. Why are some [children] deaf⁷³?

Because they [the fathers] speak during sex^{XXI} (*shemisaprin b'shaas tashmish*).⁷⁴

4. Why are some [children] blind?

Because they [the fathers] gaze at the [mothers'] genitals (*mistaclim b'oso makom*).⁷⁵

[The compilers-editors of the Talmud ask:] Contrast this [caution of Rabbi Yochanan ben Dahavai against speaking during sex] with the following reported episode:

They asked Ima Shalom, [sister of Raban Gamliel II of Yavneh and] wife of Rabbi Eliezer [ben Hyrcanus]⁷⁶: “How did your children all turn out to be so beautiful?”⁷⁷

She answered them: “My husband speaks⁷⁸ to me [that is, initiates sex with me through speaking] not at the beginning of night nor at the end of night, but only in the middle of night. And as he speaks, he uncovers a hand's-breadth and covers over a hand's-breadth [i.e., as he speaks he performs intercourse]⁷⁹ and it's as if he were compelled by a demon.⁸⁰

“When I asked him the reason (*mah taam*) [for this behavior], he answered me: ‘So that I will not [come to] set my [mind's] eye on [fantasies of] another woman (*c'dei shelo eten es einai b'ishah acheres*)^{81 82} and make our children tantamount to bastards.’”⁸³

[The compilers-editors of the Talmud suggest a resolution to the contradiction between Rabbi Yochanan ben Dahavai's caution against speaking during sex and Rabbi Eliezer's behavior of speaking with his wife during sex⁸⁴:]

This need not be left as a contradiction: [Perhaps] here, [in the case of Rabbi Eliezer's talking,] it was sex-related talk (*mili d'tashmisha*), while there [in the case of Rabbi Yochanan ben Dahavai's caution] it was referring to non-sex-related talk (*mili achronaisa*).

[The compilers-editors of the Talmud now quote a majority opinion that rejected Rabbi Yochanan ben Dahavai's teaching:]

Rabbi Yochanan [bar Napacha]⁸⁵ said:

That was the view of Rabbi Yochanan ben Dahavai.

But the Sages (*chachamim*) said that the law does not follow Rabbi Yochanan ben Dahavai.^{86 87}

^{XXI} See above, footnote to page 24.

Rather, anything a man craves to do with his wife sexually, he may do – no less than the way a man is permitted to eat his [koshered] meat from the butcher in any way he likes: if he craves his meat salted, he may eat it salted; if he craves his meat roasted, he may eat it roasted; if he craves his meat cooked, he may eat it cooked; if he craves his meat stewed, he may eat it stewed.

Similarly, [a man may enjoy his wife any way he and she desire,] just like [he may enjoy] his [kosher] fish from the fish market [any way he desires].

Ameimar⁸⁸ said:

Who were these ‘ministering angels’ [that Rabbi Yochanan ben Dahavai had quoted]?

[The Sages and Rabbi Yochanan bar Napacha must have understood that] they were human rabbis (*rabanan*⁸⁹) – for if you say [that the Sages and Rabbi Yochanan bar Napacha thought] he was quoting actual supernal angels, why would [the Sages and] Rabbi Yochanan [bar Napacha] have said that the law does not follow Rabbi Yochanan ben Dahavai? The angels know more about the science of fetal development (*tzuras havlad*)^{xxii} [than any mere mortal]!

[So if Rabbi Yochanan ben Dahavai’s ‘ministering angels’ were in fact actual supernal beings, the Sages and Rabbi Yochanan bar Napacha would certainly have trusted their knowledge and ruled Jewish law accordingly].

Why, then, did he [Rabbi Yochanan ben Dahavai] call them [these rabbis] ‘ministering angels?’ Because they were distinguished [from the common folk] like ‘ministering angels.’⁹⁰

[The compilers-editors of the Talmud conclude with case precedents proving that Jewish law followed the Sages (and Rabbi Yochanan bar Napacha) on this matter, both in the Land of Israel and in Babylonia:]

^{xxii} **IMPORTANT NOTE:** It must immediately be noted that Ameimar’s certainty about the ministering angels’ proficiency in the *science* of fetal development (*tzuras havlad*) could be understood as referring to their knowledge of natural *physical* factors, natural *metaphysical* factors and/or supernatural *spiritual* factors. Similarly, his recognition of the rabbis’ (*rabanan*’s) **imperfect** knowledge could be referring to their perception of the physical, the metaphysical and/or the spiritual. Therefore, throughout our study we refer to the cautions of Rabbi Yochanan ben Dahavai and his “ministering angels” as “medical cautions,” for regardless of what they had meant the nature of the causes to be – physical, metaphysical or spiritual – the effect they were cautioning about was medical. On this point, see also above, endnote 86, and below, endnote 155.

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A certain woman came before Rebbi⁹¹ [Rabbi Yehudah Hanassi, 2nd century leader of the sages in the Land of Israel] and said to him:

My master, I laid out a 'set table' for my husband, and he "overturned it!" [i.e., she laid herself out for him to be on top, face-to-face with her, but instead he turned her over for a different position of intercourse]⁹²

Rebbi eased her concern:⁹³

My daughter, [as long as it's] with you, Torah permits it.^{94 95 96}

A certain woman came before Rav [Abba Arikha, 2nd-3rd century leader of the sages in Babylonia]^{97 98} and said to him:

My master, I laid out a 'set table' for my husband, and he "overturned it!"

Rav eased her concern:⁹⁹

[A husband's predilections for how he likes his sex are] no more objectionable [in the eyes of G-d] than [how he likes his] fish.¹⁰⁰

[Having quoted the legal ruling of Rebbi – the 6th generation Tanna – above, that a husband may have sex with his wife in any manner he (and she) desire, the compilers-editors of the Talmud mention one pious restriction which Rebbi himself may¹⁰¹ have deduced based upon a biblical verse:]

[The verse states:] "And do not stray after your heart [and after your eyes, after which you whore.]"¹⁰²

From here [from this verse], Rebbi said:

"A man should not¹⁰³ drink from one cup and set his eyes upon another cup [that is, he should not intentionally¹⁰⁴ fantasize of another woman during sex with his own wife.]

[The compilers-editors of the Talmud quote an interpretation of Rebbi's statement given by a sage who lived and taught seven generations – roughly 175 years – later:]

Ravina¹⁰⁵ said:

This [teaching of Rebbi] was only necessary to be taught in a case where [the woman he is having sex with and the woman he is intentionally fantasizing about] are both his own wives. [But there was no need to speak against intentional fantasies of a woman he is not married to, for one should know not to do that even without Rebbi's teaching.]

[Having quoted this teaching and interpretation of Rebbi and Ravina, the compilers-editors of the Talmud quote a related teaching of a sage who lived in the transitional period between the Tannaim and Amoraim – that is, a near contemporary of Rebbi:]

[The verse states:] “I will select from among you those who rebel and those who transgress against me.”¹⁰⁶

Rabbi Levi said:

These [spiritually flawed rebels and transgressors] are the offspring [of parents¹⁰⁷ who conceive children in a state] of nine [or ten^{xxiii} spiritually flawed] conditions of mind or circumstance (*bnei teisha midos*) [represented by the mnemonic] – “Children of A’S’N’T M’Sh’G’I’Ch”:

1. *Bnei Aimah*; *Bnei Anusah* – Children conceived in a state of fear¹⁰⁸; Children conceived in a state of force¹⁰⁹
2. *Bnei Snuah* – Children conceived in a state of hatred¹¹⁰
3. *Bnei Nidoi* – Children conceived in a state of excommunication¹¹¹; [alternatively, *Bnei Nidah* – children conceived in a state of menstrual impurity¹¹²]
4. *Bnei Temurah* – Children of an exchanged woman¹¹³
5. *Bnei Moredes* – Children conceived in a state of rebelliousness;¹¹⁴ [alternatively, *Bnei Merivah* – Children conceived in a state of strife¹¹⁵]
6. *Bnei Shichrus* – Children conceived in a state of intoxication¹¹⁶
7. *Bnei Grushas Halev* – Children conceived in a state of pending divorce¹¹⁷
8. *Bnei Irbuyva* – Children conceived in a state of intentional illicit sexual fantasy¹¹⁸
9. *Bnei Chatzufah* – Children conceived in a state of brazenness [i.e., the wife asks her husband for sex]¹¹⁹

[The compilers-editors of the Talmud challenge the last example of flawed condition listed in Rabbi Levi’s teaching:]

Is this so [that Rabbi Levi is correct in designating a wife who asks her husband for sex as “brazen”]?

^{xxiii} *Nedarim 20b* speaks of nine. *Tractate Callah 10*, to be discussed below, speaks of ten. We therefore refer to them throughout our study interchangeably as the “nine” or “nine-ten” flawed conditions.

But Rabbi Shmuel bar Nachmani¹²⁰ taught in the name of Rabbi Yonasan¹²¹:

Any man whose wife asks him for sex (*tovaato*) will bear children the likes of whom even the generation of Moses did not merit.¹²²

[Here, Rabbi Shmuel bar Nachmani's logic is explained. His proof is from the episode of the matriarch Leah, who, as recounted in Genesis 30:16, verbally asked¹²³ that her husband, Jacob, come to her one night – the same night she conceived a son, Isachar, whose descendants later became intellectual leaders of the Jewish people.¹²⁴

The compilers-editors of the Talmud resolve this challenge:]

That [teaching of Rabbi Shmuel bar Nachmani] was referring to a wife whose intention is to arouse her husband (*d'meratzya artzuyei*).^{XXIV 125}

^{XXIV} Traditionally, rabbinical commentaries have interpreted the conclusion of the compilers-editors of *Nedarim 20b*, here, as curtailing a wife from using any sexually explicit terminology to make her mood known to her husband (or at least from using the actual word “sex,” as in, “Let’s have sex”). And some would seemingly have her not verbalize her wishes to her husband at all, but rather have her rely solely on non-verbal cues.

But the term “*d'meratzya artzuyei*” on *Nedarim 20b* is very similar to the term “*tzarich l'ratzuya*” found on *Hagigah 5b* (to be discussed at length below). This latter term is used to explain that the intention of the sage, Rav, in talking sexually to his own wife was in order to arouse her to the mood for lovemaking. Thus, it is perhaps possible to read the conclusion of *Nedarim 20b*, too, as teaching that it is perfectly acceptable for a wife to lovingly ask her husband for sex directly, or to even lovingly/playfully demand sex from him, so long as her intention is also to please and arouse him – knowing that he will find such strong/confident sexual expressions on her part to be pleasing and/or arousing. But if she knows that he will find such expressions offensive, either because they make him uncomfortable in general or because he is adamantly not in the mood on a particular occasion, then her persistence to express herself so assertively would be categorized as “chutzpah” (*chatzufah*). See endnote 125 for an in-depth analysis of the plausibility of this suggested interpretation.

In any case, the emphasis, here, appears to be in regard to a wife *initiating* such overt discussion. But where the husband initiates, or once they are passionately involved in the bedroom, we would not necessarily know from here any restriction upon the wife from verbally, and explicitly, expressing her passion and desires to her husband – especially since such expression could arguably be included under the category of sex-related talk (*mili d'tashmisha*). And see below, pp. 57-58.

Nedarim 20ab – Summary

The compilers-editors of the Talmud on *Nedarim 20a* begin with a discussion in the names of various sages about the emotional-spiritual impact upon a man's children caused by his gazing at certain body parts of forbidden women – perhaps even of his own menstruating wife.

They follow this with a teaching extolling a sense of shame/shamefacedness – read: dignity – as a virtuous, Jewish character trait.

The discussion is then turned to the statement of one sage known for his extreme piety,¹²⁶ Rabbi Yochanan ben Dahavai.

Rabbi Yochanan ben Dahavai cautions in the name of certain “ministering angels” that four sexual behaviors even between husband and wife can, or perhaps will, physically harm a fetus, namely:

- “Overturning the table” causes congenital lameness
- Gazing at the female genitals causes congenital blindness
- Kissing the female genitals causes congenital muteness
- Non-sex-related talk during sex causes congenital deafness

On the next page, *Nedarim 20b*, another sage, Rabbi Yochanan bar Napacha, is quoted ruling in the name of the Sages (*chachamim*) against Rabbi Yochanan ben Dahavai, and declaring instead that, “Anything a husband craves to do with his wife sexually, he may do.”

A late Babylonian Amora, Ameimar, is then quoted definitively asserting that the Sages (*chachamim*) not only rejected Rabbi Yochanan ben Dahavai and his “ministering angels” legally, but also medically. That is, they did not believe Rabbi Yochanan ben Dahavai to be invoking actual spiritual beings to whom the full mysteries of creation were revealed. Rather, they believed him to be quoting mortal human rabbis (*rabanan*). And because the Sages believed these human rabbis' cautions to be invalid medically, they therefore also believed them to be invalid halachically.

The compilers-editors of the Talmud conclude with stories of two Talmudic sages, Rebbi (Rabbi Yehudah Hanasi) of the Land of Israel and Rav (Abba Arikha) of Babylonia (Rabbi Yochanan bar Napacha's master and elder colleague, respectively), who each permitted “overturning the table” in line with this ruling of the Sages.¹²⁷

The discussion then turns to nine spiritually flawed conditions of mind or circumstance during sex that one sage taught could have negative psychological-emotional-spiritual impact upon one's children.¹²⁸

Mesechtos Callah

Before delving any deeper into our analysis of *Nedarim 20ab*, we will briefly explore alternate versions of its Talmudic discussion as found in two early works of obscure origin,¹²⁹ both of which focus on the topics of marital sex law and ethics: *Tractate Callah* and *Callah Rabti*.

The two texts, *Tractate Callah* and *Callah Rabti*, form a kind of “Braisat-Talmud” synthesis, with the latter elucidating the former in pseudo-Talmudic style. Combined, they offer an alternate version of the entire Talmudic discussion on *Nedarim 20ab* from beginning to end, albeit in a different order and format.

That being said, there are numerous contradictions and textual variations to be found between these two works themselves, as there also are to be found between the two of them combined when compared to *Nedarim 20ab*.

We shall not analyze in depth the ramifications of all these discrepancies, although the summary, as well as the endnotes, will bring to attention some of the more important difficulties they raise.¹³⁰ But exploring key excerpts of these two works will provide the reader a clearer perspective on, and appreciation of, the gravity of the problem of contradictory textual traditions and/or interpretations that we touched upon in our Introduction. It will also introduce additional marital sex positions into the discussion.¹³¹

After exploring these two works we shall pick up again our analysis of *Nedarim 20ab*.

Note that chapter and passage references to *Tractate Callah* and *Callah Rabti* throughout this book correspond to the scholarly edition of Dr. M. Higger (*Mesechtos Callah*, New York, 1936).

Mesechtos Callah – Summary

While there are numerous discrepancies between *Tractate Callah* and *Callah Rabti* versus *Babylonian Talmud, Nedarim 20ab*, some of the most important ones are the following:

Tractate Callah

1. *Tractate Callah 8* states that gazing at a forbidden woman's heel causes one's children to be physically maimed, while *Nedarim 20a* quotes certain sages saying only that it causes one's children to be spiritually uncouth.
2. *Tractate Callah 8* states that children are born blind, dumb, mute or deaf due to the father forcing the mother (i.e., his wife) into sex. *Nedarim 20b* says that such force results in spiritually rebellious children.

Callah Rabti

1. *Callah Rabti 1:14* strongly implies that Rabbi Yochanan ben Dahavai's "ministering angels" were actual spiritual beings with perfect knowledge of the science of fetal development, whereas *Talmud, Nedarim 20b* definitely understands them as being pious human rabbis (*rabanan*) with imperfect knowledge of this science.
2. *Callah Rabti 1:14* definitely understands that the Rabbis (*rabanan*) admitted to Rabbi Yochanan ben Dahavai that the four behaviors he cautioned against, while not legally forbidden, do cause the four congenital illnesses he warned about, whereas *Talmud, Nedarim 20b* definitely understands that the Sages (*chachamim*) did not admit such a thing, but rather they considered the medical predictions of Rabbi Yochanan ben Dahavai and his rabbis (*rabanan*) to be invalid.

According to Ameimar as quoted in the Talmud, it was specifically *because* these rabbis (*rabanan*) were mere mortals and thus not expert in the science of fetal development that the Sages (*chachamim*) ruled the law against them. In other words: because the Sages deemed these human rabbis' cautions to be invalid medically, they therefore also deemed them to be invalid halachically.

3. Notwithstanding the previous point, *Callah Rabti 1:13* explains that even Rabbi Yochanan ben Dahavai himself considered his own cautions to be valid only if a child is conceived during the same sexual encounter in which one of the four behaviors he cautioned against are performed. But if no child is, or can be, conceived during that sexual encounter, then there should be no fear of medical repercussion to anyone if a husband, with his wife's permission, were to "overturn the table," talk during sex (*Tractate Callah* and *Callah Rabti* make no distinction between sex-

related talk and non-sex-related talk, even regarding Rabbi Yochanan ben Dahavai's opinion), or gaze at or kiss the female genitals.¹⁸⁵

4. *Callah Rabti 1:14* suggests that Rabbi Yochanan ben Dahavai considered the four sexual behaviors to also be legally forbidden, though it is unclear whether he believed them to be so at all times or only during sexual encounters in which conception could possibly occur – that is, only when he also considered them to be unsafe.
5. *Callah Rabti 2:11* takes it for granted that Rabbi Eliezer could not have encouraged “seductive talk” during marital sex, because of the caution against any talk during sex by Rabbi Yochanan ben Dahavai (Rabbi Eliezer's junior by at least two generations).

But this contradicts *Talmud, Nedarim 20b*, which maintains that Rabbi Yochanan ben Dahavai himself embraced “sex-related talk” during sex, as proven by the behavior of none other than Rabbi Eliezer himself, and which according to some commentaries we shall see¹⁸⁶ would logically include the kind of “seductive talk” spoken of in *Tractate Callah/Callah Rabti* in the name of the same Rabbi Eliezer.

It is possible, however, that when the authors of *Callah Rabti 2:11* stated, on account of Rabbi Yochanan ben Dahavai's teaching, that Rabbi Eliezer could not possibly have encouraged a husband to talk seductively with his wife *in order to succeed in conceiving a child* (“What should a man do so that he will have offspring”), it was not because they believed such talk to be *forbidden* by the Sages or Rabbi Eliezer, but because it believed such talk to still be *dangerous* to the child even according to the Sages and Rabbi Eliezer *if performed during the same sexual encounter in which conception occurs*.

[One difficulty with this last suggested approach would be that in Ima Shalom's account on *Nedarim 20b*, it is somewhat implied that her husband's intention *was* to conceive a child on the same nights that he would speak to her during sex.]

Tractate Callah and *Callah Rabti* also introduce four new sex positions into the discussion – sitting, standing, wife-on-top and side-by-side – which they denounce on pious or health, but not legal, grounds.

[*Babylonian Talmud, Tractate Gitin 70a* also discusses sex in the sitting and standing and wife-on-top positions, which it also cautions against only on health grounds.]

We will now return to our analysis of *Nedarim 20ab*, which shall also shed further light on what we've just seen from *Tractate Callah* and *Callah Rabti*.

The Definition of “Overturning the Table”

Among the medieval commentaries there are four approaches on how to define the term “overturning the table.”

Note, again, that whichever position a medieval commentator chose as the correct definition, that is the position he understood the Sages, Rebbi, Rav and Rabbi Yochanan bar Napacha as permitting:

Rear-Entry Vaginal Intercourse²¹⁸

1. *Tractate Callah 9*^{218*}
2. Rabbi Avraham ben Dovid, *Raavad III, Baalei HaNefesh, Shaar Hakedushah*²¹⁹
3. Rabbi Avraham of Montpellier (*Avraham min Hahar*), *Nedarim 20a*
4. Rabbi Yaakov ben Asher, *Tur, Orach Chaim 240:2-4, Even Haezer 25:8-10*
5. Rabbi Yaakov ben Yehudah Landau, *HaAgur, Hilchos Tefilas Arvis, 336*

Anal Intercourse²²⁰

1. *Tosfos, Nedarim 20a*
2. *Tosfos, Sanhedrin 58b*
3. Rabeinu Yitzchak, *Tosfos, Yevamos 34b*
4. *Tosfos Yeshanim, Nedarim 20ab*
5. *Tosfos Yeshanim, Yevamos 34b*
6. *Tosfos Talmid Rabeinu Tam Al HaTorah, Manuscript, Genesis 38:9*²²¹
7. Rabeinu Nissim of Gerona, *Peirush HaRan, Nedarim 20b; Chidushei HaRan, Sanhedrin 58b*
8. Rabeinu Yonah of Gerona, *Sanhedrin 58b*
9. Rabbi Yeshayah of Trani I, *Tosfos Rid, Yevamos 12b*
10. Rabbi Yeshayah of Trani II, *Riaz, Kuntres Harayos, Sanhedrin 58b*²²²
11. Rabbeinu Asher ben Yechiel, *Peirush HaRosh, Nedarim 20a*²²³; *Tosfos HaRosh, Nedarim 20b, Yevamos 34b; Rabeinu Asher to Yevamos 34b* (no longer extant, but preserved in *Hagahos Habach to Rosh, Yevamos 34b*, in *Yam Shel Shlomoh to Yevamos 34b*, and in *Beis Yosef to Tur, Orach 240:2-4:4*)
12. Rabbi Yaakov ben Asher, *Tur, Orach Chaim 240:2-4*

13. *Talmidei Rabeinu Peretz, Nedarim 20b*
14. Rabbi Yisrael Alnaqua, *Menoras Hamaor, Perek Nisuei Ishah*^{223*}
15. Rabbi Betzalel Ashkenazi, *Shitah Mekubetzes, Nedarim 20b*²²⁴
16. Rabbi Avraham of Montpellier (*Avraham min Hahar*), *Nedarim 20b*
17. Rabbi Yeruchem ben Meshulam, *Rabeinu Yeruchem, Nesiv 32*
18. Rabbi Alexander Suslin, *Sefer HaAgudah, Nedarim 20a, Sanhedrin 58b, Yevamos 34b*
19. Rabbi Mordechai ben Hillel, *Mordechai, Hilchos Nidah 731-732*
20. Rabbi Menachem Ibn Zerach, *Tzeidah Laderech, Maamar 3, Clal 4, Chapter 14*²²⁵
21. Rabbi Yitzchak of Corbeil, *Sefer Mitzvos Katan, Positive Commandment 285*

Wife-on-Top²²⁶

1. Maimonides, *Commentary to the Mishnah, Sanhedrin 7:4*
2. Rabbi Yom Tov ben Avraham Asevilli, *Ritva*²²⁷
3. *Tosfos Yeshanim, Nedarim 20a*
4. *Tosfos Talmid Rabeinu Tam Al HaTorah, Manuscript, Genesis 38:9*²²⁸
5. *Talmidei Rabeinu Peretz, Nedarim 20b*

Rear-Entry Vaginal Intercourse with Wife-on-Top²²⁹

1. Rabeinu Peretz, *Nedarim 20a*²³⁰

Mefaresh, Nedarim 20a

The foremost medieval commentator on the Talmud was Rabbi Shlomoh Yitzchaki (1040-1105), commonly known by the acronym of his name, “Rashi.” However, it is today generally understood that the commentary traditionally printed on the Talmudic page of *Nedarim 20ab* as “Rashi” was not actually penned by him, but by an unknown writer, referred to in rabbinic literature as “*Mefaresh* – the Commentator.”^{230*}

The precise intention of the *Mefaresh* commentary, here, is somewhat obscure, for when it interprets the term “overturning the table” on *Nedarim 20a* it mentions three different positions in tandem, and in the following order:

“Face-to-back” (*panim c’neged oref*) – which in rabbinic literature always refers to rear-entry vaginal intercourse (unless otherwise specified).

“Unnatural intercourse” (*shebaim al neshoseihem shelo cedarcan*) – which in rabbinic literature always refers to anal intercourse (unless otherwise specified).

“Her-on-top, him-on-bottom” (*hee l'malah v'hu l'matah*).

When the *Mefarash's* three comments are combined, the result is: rear-entry vaginal or anal intercourse, with the wife on top and her back to the husband.²³¹

Alternatively, the *Mefarash* may have been offering two separate, but equally valid, interpretations of the term “overturning the table”: rear-entry anal intercourse²³² or wife-on-top.

Or, it may have simply meant to explain that “overturning the table” is a general all-inclusive term²³³ that could refer to any position other than standard face-to-face, husband-on-top, vaginal intercourse.²³⁴

Maimonides, *Commentary to the Mishnah; Mishneh Torah*

Maimonides, in his *Commentary to the Mishnah, Sanhedrin 7:4*, first defines “overturned laying” (*mishkav hafuch*) as “man-on-bottom, woman-on-top,” but he later includes “anal intercourse” and “intercourse between limbs” (a term to be defined below, in Part Three) in the permissive ruling of Rebbi and/or Rav as quoted on *Nedarim 20b* in regard to “overturning the table.”

And in his *Mishneh Torah, Sefer Kedushah, Isurei Biah 21:9*, he lists only anal intercourse and intercourse between limbs by name.

Thus, Maimonides, too, may have understood “overturning the table” as a collective term referring to any form of creative sexual congress, which is permitted for married couples.^{234*}

The Sages' Reasoning

We've established what a majority of medieval commentators understood the Sages on *Nedarim 20b* as permitting in the realm of sexual exploration within marriage. But let us also understand the underlying reasoning *why* the Sages permitted it.

There are four general approaches among the medievals:

1. G-d did not establish His law on sex only for the pious few, but for the majority of normal human beings. Because G-d knows His creations, He permitted a husband and wife to do anything they crave sexually together. But this was only out of consideration for the animalistic side of their natures. Ideally, G-d would like to see man and woman (gradually) transcend the animal within themselves and learn to perceive the divine purpose in all things, including sex.²⁶³

2. The Sages' analogy of "kosher meat from the butcher" explained:

Meat is forbidden to be eaten by Jews until it is prepared properly in a "kosher" manner according to Jewish law. But once it is prepared properly it becomes permissible to enjoy in any way a person may crave, without guilt.

So too, sex is completely forbidden for Jews until the relationship between man and woman is properly prepared.²⁶⁴ But once the relationship is established on "kosher" grounds, man and woman become completely permissible to one another, to enjoy each other sexually in any way they mutually agree.²⁶⁵

3. In what the Sages understood to be a biblical reference to the technical legal/spiritual mechanics of the binding of marriage, the verse in Deuteronomy 24:1 describes it as a form of "acquisition" in which the husband accepts upon himself the obligations to support, respect and protect her, and to provide her sexual fulfillment to the best of his abilities, and in which she grants him exclusive rights to enjoy an intimate spiritual-physical relationship with her.

Accordingly, the couple is granted by G-d permission to enjoy each other sexually in any way they mutually agree.²⁶⁶

4. The biblical verses in Leviticus 18:22 and 20:13 speak of "*mishkevei ishah* – a woman's *places* of intercourse."

The plural tense of "places" implies that, according to G-d, a woman has two recognized places of intercourse, the vagina and the anus, and intercourse in either of these two places is forbidden when the nature of the relationship is illicit.²⁶⁷

However, when a proper relationship has been established, such as through marriage, the man is permitted, and perhaps even expected by nature to crave, penetration in both places.^{268 269}

DECONSTRUCTING THE CODE

Note that while the first three approaches could justify the enjoyment of all four behaviors cautioned against by Rabbi Yochanan ben Dahavai, the fourth approach only justifies “overturning the table,” and only as defined to mean anal sex.

Three Small Words Every Man and Woman Needs to Hear

We will conclude our analysis of *Nedarim 20ab* with three small, but revolutionary, words of commentary in two medieval sources – perhaps the three most important words that will be encountered in this book.

As we've just seen, the Sages' permissive approach to marital sexual exploration could be understood as coming only to pacify the animalistic sides of man and woman, but not to welcome human erotic nature as something "holy," even within marriage.

However, directly upon the Sages' ruling that a husband and wife may do anything they crave sexually together, *Tosfos Yeshanim* and Rabbi Eliezer of Metz (12th century author of *Sefer Yeraim*)²⁷⁰ comment:

V'ein chisaron kedushah – And there is no lack of holiness.²⁷¹

We will now turn to our second Talmudic text: *Hagigah 5b*.

“Good Sex”

We have just now seen the halachic approach of Maimonides to marital sex, distinguishing between that which is “permitted” versus that which is “sanctified” and “beloved” by G-d.

We’ve already seen earlier (page 68) the statement of *Tosfos Yeshanim* and Rabbi Eliezer of Metz (Re’em), that according to the Sages on *Nedarim 20b* a husband and wife may do all they crave sexually together, “and there is no lack of holiness.”

We will now conclude our chapter with one last fundamental nuanced approach of the medieval period, that of the ascetic Rabbi Yehudah Hachasid of Regensburg, “Rabbi Yehudah the Pious” (1150-1217).⁴²⁵

Rabbi Yehudah the Pious, *Sefer Chasidim* 509

Although the Sages teach that humans, fish and snakes have intercourse face-to-face because the Divine Presence spoke to them, nevertheless, the sage, Rav,⁴²⁶ said that a man’s wife is permitted to him however he desires.^{XLIV}

On the night of her ritual immersion, it is not appropriate other than with him on top and her on bottom, because the wife has no pleasure if he is on bottom (sic) . . . But on all other nights, he should do whatever gives him pleasure (*c’fi hanaaso*), so that he should not lust to do it with other women.⁴²⁷ But it must be with his wife’s permission . . .

In all such matters, it all follows the personal tastes of husband and wife. And if a man has found a *good wife* who is of same mind with him in these matters, to him applies the verse in Proverbs (18:22): “[He who has found a wife has found goodness,⁴²⁸] and has elicited favor from the Lord,” and the verse in Ecclesiastes (9:7): “[Go, eat your bread with joy and drink your wine with a merry heart, for] G-d has already approved your deeds.”⁴²⁹

^{XLIV} The clear implication is that Rabbi Yehudah the Pious understood Rav as permitting marital sex “face-to-back.” It is not clear, however, if he understood this to mean only rear-entry *vaginal* intercourse or also rear-entry *anal* intercourse. In any case, he does go on to permit a husband to enjoy with his wife, with her permission, “*whatever* gives him pleasure.”

PART THREE
THE LETTER OF THE LAW

And Now, the Letter of the Law...

We have seen above that even some of the most permissive halachic approaches to marital sex do not disregard the concept of elevating the act, either by putting one's spouse's needs first or striving for more altruistic intentions.

As discussed, this is all part of the concept encouraged in the Talmud to “sanctify oneself during sex” and the more general Jewish principle to “sanctify yourself in that which is permitted to you.”

However, being that most Jewish “family purity” and marital intimacy guides I have seen focus on the “sanctification” aspect and do not give due attention to “that which is permitted,” we focus in this book, and particularly in the present section, on the latter, trusting that those seeking methods of higher sanctity have ample sources to turn to.

We will now outline the baseline permissive legal opinions on the matter of Jewish marital sex law according to categories of sexual behavior, technique and position.

Note that under each behavior, technique or position we will list those opinions who clearly and explicitly permit it, as well as those who can reasonably be believed to permit it by logical inference. In the case of the latter, we will succinctly explain how such deduction is made or refer back to an earlier discussion explaining it.^{XLIV*}

^{XLIV*} As noted above, page 59, whichever sexual position a medieval commentator chose as the correct definition of “overturning the table” on *Nedarim 20ab*, that is the position he understood the Sages, Rebbi, Rav and Rabbi Yochanan bar Napacha as permitting within marriage.

Talk During Sex

The topic of talk during sex is discussed in *Babylonian Talmud, Nedarim 20ab* and *Hagigah 5b*.⁴³⁰

Nedarim 20ab distinguishes between “sex-related talk” (*mili d’tashmisha*) and “non-sex-related talk” (*mili achronaisa*). According to the compilers-editors of the Talmud, there, non-sex-related talk is cautioned against by one sage, Rabbi Yochanan ben Dahavai (in the name of certain “ministering angels”) both immediately before or during intercourse, while sex-related talk is perfectly acceptable to Rabbi Yochanan ben Dahavai immediately prior to intercourse, and presumably even during intercourse. But the Sages quoted on *Nedarim 20b* reject Rabbi Yochanan ben Dahavai, and thus, according to key commentaries, even non-sex-related talk is perfectly acceptable by Jewish law both before and during intercourse.

On *Hagigah 5b*, the compilers-editors of the Talmud posit a distinction between “mood-related talk” (*tzarich leratzuyah*) that is necessary prior to intercourse (during foreplay) to arouse one’s wife to the mood for lovemaking versus “excess light-headed talk” (*sichah yeseirah/sichah kalah/sichah kalah yeseirah*) that is “non-mood-related” because the wife is already in the mood for sex and therefore such light-headed talk is unneeded. The latter, they theorize, was cautioned against by the sage, Rav, in a statement recorded in his name that G-d will call a man on the Day of Judgment to justify the “excess light-headed talk” he had with his own wife. *Hagigah 5b* does not explain exactly what might be objectionable about such “excess light-headed talk” within marriage, nor do its medieval commentaries.

A second version of *Hagigah 5b* perfectly accepts any kind of “excess light-headed talk” between husband and wife *before* intercourse, during foreplay, mood-related or not – presumably because G-d understands human nature and that man and wife cannot be expected to be held responsible for everything that comes out of their mouths during the throes of passion. But “excess light-headed talk” *after* intercourse – i.e., during non-sexual moments of daily life – should be avoided.

The Stringent Views

According to Raavad III, Rabbi Yaakov ben Asher and Rabbi Yosef Caro, all talk immediately before intercourse should only be “sex-related,” unless “non-sex-related/mood-related talk” is necessary prior to intercourse to arouse the wife to the mood for lovemaking. But “sex-related talk” itself is understood to include even (non-illicit) talk that is intended to intensify the husband’s or wife’s sexual arousal.⁴³¹ And it is arguable that such “sex-related talk” would be permitted by these sources even mid-intercourse.⁴³²

The Permissive Views

The following sources permit even “non-sex-related talk” both during foreplay and intercourse^{433 434} (the topic of *Nedarim 20ab*):

1. *Tractate Callah 9*^{434*}
2. *Callah Rabti 1:13-14*⁴³⁵
3. Rabbi Avraham ben Yitzchak of Narbonne (Raavad II), *Sefer HaEshkol, Hilchos Tznius*⁴³⁶
4. Maimonides, *Commentary to the Mishnah, Sanhedrin 7:4; Mishneh Torah, Sefer Kedushah, Isurei Biah 21:9; Mishneh Torah, Sefer HaMada, Deos 5:4*⁴³⁷
5. Rabbi Avraham Hayarchi, commentary to *Callah Rabti*⁴³⁸
6. Rabbi Avraham of Montpellier (*Avraham min Hahar*), *Nedarim 20b*
7. Rabbi Yitzchak ben Yosef of Corbeil, *Sefer Mitzvos Katan, Positive Commandment 285*⁴³⁹
8. Rabbi Betzalel Ashkenazi, *Shitah Mekubetzes, Nedarim 20b*

The following sources relegate restrictions on “excess light-headed talk” (the topic of *Hagigah 5b*) only to the *spirit* of the law:

1. Maimonides, *Mishneh Torah, Sefer Kedushah, Isurei Biah 21:9; Sefer HaMada, Deos 5:4*⁴⁴⁰
2. Rabbi Menachem Meiri, *Beis Habechirah, Hagigah 5ab*⁴⁴¹

Note that those medieval commentators who reflect Maimonides’ rulings in marital sex law could presumably agree with him on the matter of talk during sex as well.^{441*}

Gazing at the Female Genitals

Gazing at the naked genitals of one's wife is discussed on *Nedarim 20ab*.

It is permitted within marriage according to the following commentaries:

1. *Tractate Callah 9*^{441**}
2. *Callah Rabti 1:13-14*⁴⁴²
3. Rabbi Avraham ben Yitzchak of Narbonne (Raavad II), *Sefer HaEshkol, Hilchos Tznius*⁴⁴³
4. Maimonides, *Commentary to the Mishnah, Sanhedrin 7:4; Mishneh Torah, Sefer Kedushah, Isurei Biah 21:9*⁴⁴⁴
5. Rabbi Avraham of Montpellier (*Avraham min Hahar*), *Nedarim 20b*
6. Rabbi Yitzchak ben Yosef of Corbeil, *Sefer Mitzvos Katan, Positive Commandment 285*⁴⁴⁵
7. Rabbi Betzalel Ashkenazi, *Shitah Mekubetzes, Nedarim 20b*
8. Rabbi Eliezer Melamed, *Simchat Habayit v'Birchato*^{445*}

Gazing at the female genitals would possibly also be allowed by all those who allow cunnilingus (see next section). The logic for this is that Rabbi Avraham ben Dovid of Posquières, Raavad III, the original medieval source for all who forbid cunnilingus,⁴⁴⁶ states that it is worse to kiss the female genitals than it is to gaze at them.⁴⁴⁷ Thus, assuming this conviction is universally shared, all those who permit kissing the female genitals can be believed to permit gazing at them as well – especially since, practically speaking, the former often involves the latter.^{XLIV**}

^{XLIV**} **Added note to the third edition:** See Rabbi Eliezer Melamed's *Simchat Habayit v'Birchato* (second edition, 2015), bottom of page 63, asserting that there are no restrictions on a wife gazing at her husband's genitals.

Cunnilingus

Discussed on *Babylonian Talmud, Nedarim 20ab* as “kissing that place,” cunnilingus – oral sex performed on the vagina^{XLV} – is expressly permitted within marriage by the following sources:

1. *Tractate Callah* 9^{447*}
2. *Callah Rabti* 1:13-14⁴⁴⁸
3. Rabbi Avraham ben Yitzchak of Narbonne (Raavad II), *Sefer HaEshkol, Hilchos Tznius*⁴⁴⁹
4. Maimonides, *Commentary to the Mishnah, Sanhedrin 7:4; Mishneh Torah, Sefer Kedushah, Isurei Biah 21:9*
5. Rabbi Yisrael Alnaqua, *Menoras Hamaor, vol. 4, Perek Nisuei Ishah*⁴⁵⁰
6. Rabbi Yitzchak ben Yosef of Corbeil, *Sefer Mitzvos Katan, Positive Commandment 285*⁴⁵¹
7. *Col Bo, Hilchos Ishus, Siman 75*⁴⁵²
8. Rabbi Menachem Ibn Zerach, *Tzeidah Laderech, Maamar 3, Clal 4, Chapter 14*⁴⁵³
9. Rabeinu Yaakov of London, *Etz Chaim, Hilchos Piryah Vrivyah, Chapter 3*⁴⁵⁴
10. Rabbi Aharon Hacoen of Lunil, *Orchos Chaim, Hilchos Kesubos, Siman 7*⁴⁵⁵
11. Rabbi Moshe Isserles, *Rema, Shulchan Aruch, Even Haezer 25:2*⁴⁵⁶
12. Rabbi Mordechai Yoffe, *Levush, Even Haezer 25:2*⁴⁵⁷
13. Rabbi Yechiel Michel Epstein, *Aruch Hashulchan, Even Haezer 25:11*⁴⁵⁸
14. Rabbi Eliezer Melamed, *Simchat Habayit v’Birchato*^{458*}

Permission for cunnilingus quoted by:

1. Rabbi Yaakov ben Asher, *Tur, Even Haezer 25:2*⁴⁵⁹

^{XLV} For the letter of the law about fellatio, oral sex performed on the penis, see below, this chapter, “Intercourse between limbs,” pp. 123-129.

And about cunnilingus or “intercourse between limbs” performed in a lit room, see above, page 96, and endnotes 369, 845.

Wife-on-Top

Referred to in rabbinic writing as “her-on-top, him-on-bottom” (*hee l’maalah, hu l’matah*), there are early sources that discourage the “wife-on-top” position on health or pious – but not legal – grounds.⁴⁶⁰

As far as the letter of the law is concerned, many commentaries specifically define “overturning the table” on *Nedarim 20ab* as “wife-on-top,”⁴⁶¹ which they would therefore understand the Sages, Rebbi, Rav and Rabbi Yochanan bar Napacha as permitting.

The following commentaries expressly permit “wife-on-top”:

1. Maimonides, *Commentary to the Mishnah, Sanhedrin 7:4*
2. *Tosfos Yeshanim, Nedarim 20a*
3. *Mefaresh, Nedarim 20a*
4. *Tosfos Talmid Rabeinu Tam Al HaTorah, Manuscript, Genesis 38:9*⁴⁶²
5. Rabbi Yehudah HaChasid, *Sefer Chasidim 509* (but not on the wife’s *mikveh* night⁴⁶³)
6. Rabeinu Peretz, *Nedarim 20ab*⁴⁶⁴
7. *Talmidei Rabeinu Peretz, Nedarim 20b*
8. Rabbi Yom Tov ben Avraham Asevilli, *Ritva*, quoted by Rabbi Betzalel Ashkenazi in *Shitah Mekubetzes, Nedarim 20b*
9. Rabbi Alexander Suslin, *Sefer HaAgudah, Nedarim 20b*
10. Rabbi Yeruchem ben Meshulam, *Rabeinu Yeruchem, Nesiv 32*
11. Rabbi Mordechai ben Hillel, *Mordechai, Hilchos Nidah 731-732*
12. Rabbi Chaim Yosef Dovid Azulai, “*Chida*,” *Kisei Rachamim, Tractate Callah 3:3*
13. Rabbi Elazar Azikri, *Sefer Charedim, Chapter 64* (in the name of Rashi^{464*})
14. Rabbi Yom Tov Lipman Heller, *Lechem Chamudos, Tractate Nidah, Ch. 2, Comment 10*
15. Rabbi Yechiel Michel Epstein, *Aruch Hashulchan, Even Haezer 25:10-11*⁴⁶⁵
16. Rabbi Eliezer Melamed, *Simchat Habayit v’Birchato*^{465*}

Rabbi Avraham Hayarchi, in his commentary to *Callah Rabi*,⁴⁶⁶ permits “overturning the table” in a manner that involves intra-vaginal penetration and ejaculation. He could thus be presumed to permit her-on-top under these conditions.⁴⁶⁷

Side-by-Side, Sitting, Standing, On the Floor

Like the wife-on-top position, side-by-side intercourse – in rabbinic terminology, “both thrusting at once” – is also discouraged on health or pious, but not legal, grounds.⁴⁶⁸

Sitting and standing positions are also discussed by the Talmud, *Tractate Callah* and *Callah Rabti* as being unhealthy to the couple themselves.⁴⁶⁹ But not one of them – not the Talmud, not *Tractate Callah* and not *Callah Rabti* – nor any of the commentaries I’ve seen on them,⁴⁷⁰ ever label these positions as “forbidden.”

Sex on the floor is cautioned against on health grounds, because it supposedly could cause a fetus’s neck to become elongated.⁴⁷¹ But it, too, is not prohibited by any of the major codifiers – and is in fact not even mentioned by them at all.

And it is implied by Maimonides’ all-inclusive permissive approach in his *Commentary to the Mishnah, Sanhedrin 7:4*, that all these would be perfectly allowable according to the letter of the law.

“Animal-style”

Referred to in rabbinic writing as “face-to-back” (*panim c’neged oref*) or “animal style” (*maaseh b’heimah*), rear-entry vaginal intercourse⁴⁷² is permitted by the following sources^{XLV*}:

1. *Tractate Callah* 9⁴⁷³
2. *Callah Rabti* 1:13-14^{474 475}
3. Rabbi Avraham ben Dovid, Raavad III, *Baalei HaNefesh, Shaar Hakedushah*⁴⁷⁶
4. Rabbi Avraham of Montpellier (*Avraham min Hahar*), *Nedarim* 20a
5. Rabbi Yaakov be Asher, *Tur, Orach Chaim* 240:2-4, *Even Haezer* 25:8-10⁴⁷⁷
6. Rabbi Yaakov ben Yehudah Landau, *HaAgur, Hilchos Tefilas Arvis*, 336⁴⁷⁸
7. Rabbi Eliyahu de Vidas, *Reishis Chochmah*, 16:29 (in the name of Rashi^{478*} and Rabeinu Asher^{478**})
8. Rabbi Elazar Azikri, *Sefer Charedim, Chapter 64* (in the name of Raavad III)
9. Rabbi Yitzchak Lampronti, *Pachad Yitzchak, Entry: Arbaah devarim amru li malachei hashares*
10. Rabbi Eliezer Melamed, *Simchat Habayit v’Birchato*^{478***}

Rabbi Avraham Hayarchi, in his commentary to *Callah Rabti*,⁴⁷⁹ permits “overturning the table” in a manner that involves intra-vaginal penetration and ejaculation. He could thus be presumed to permit “animal-style” intercourse under these conditions.

Rabbi Yehudah the Pious, in his *Sefer Chasidim* 509, says that marital sex that is not “face-to-face” is permitted. He does not specify if he meant only rear-entry vaginal intercourse or also rear-entry anal intercourse, but there can be little doubt that at the very least he meant the former.

Note also that the rear-entry vaginal position can reasonably be presumed to be permitted by all those who permit anal sex (to be discussed next), for anal sex is considered by Jewish law to be the more-strictly-dealt-with position of the two.

^{XLV*} See above, footnote to page 110.

Anal Sex

Referred to in rabbinic terminology as “*biah shelo cedarcach*,” generally translated as “unnatural intercourse.”^{XLV**}

A brief re-introduction and additional elaboration are in order here:

As mentioned earlier, the Talmud on *Nedarim 20ab* rules that a sexual position called “overturning the table” is permitted. Though the commentaries disagree on the exact definition of this term, a majority understands it to mean anal sex. The Talmud on *Sanhedrin 58b* clearly states that anal sex is permitted. However, the Talmud on *Yevamos 34b* maintains that the two biblical sons of Judah, Er and Onan, were both killed by the hand of Heaven for the “sin” of anal sex, for it involves “wasting seed in vain” through extra-vaginal ejaculation.⁴⁸⁰

Tosfos on *Yevamos 34b*, in the name of Rabeinu Yitzchak, offers two explanations to resolve the contradiction between *Nedarim* and *Sanhedrin* with *Yevamos*:

- a) Anal sex is permitted only without intra-anal ejaculation. The sin of Er and Onan was that they went so far as to ejaculate intra-anally.
- b) Anal sex is permitted even with intra-anal ejaculation from time to time, randomly in the heat of passion for the sake of the husband’s sexual fulfillment (*b’akrai b’alma umisaveh lavo al ishto shelo cedarcach, shari*), just not as an intentional and constant means of halachically-unsanctioned birth control. The sin of Er and Onan was that they intentionally used anal sex as a regular means to avoid pregnancy.^{XLVI}

As we shall see in a moment, most medieval commentators who weigh in on the question of intra-anal ejaculation endorse the *second* approach of Rabeinu Yitzchak, and they therefore permit anal sex for married couples even to the point of the husband’s climax. As for those who permit it only *without* ejaculation, they all do so upon the authority of Maimonides, who, in his *Mishneh Torah, Sefer Kedushah, Isurei Biah 21:9*, permits “vaginal intercourse, anal intercourse and intercourse between limbs, as long as no seed is wasted in vain.” According to this wording of Maimonides, his view would match that of Rabeinu Yitzchak’s *first* approach: that anal intercourse is permitted only without intra-anal ejaculation.

It must be stressed again that all the other medieval authorities we find forbidding anal sex to the point of the husband’s climax merely restate verbatim, or practically verbatim, the wording of Maimonides, and it is thus reasonable to

^{XLV**} As for those latter day “family purity” or marital intimacy guides that suggest “*shelo cedarcach*” refers to rear-entry vaginal intercourse, see below, p. 166 and endnotes 645*, 647.

^{XLVI} Note that birth control is not categorically forbidden by Jewish law. Readers seeking practical guidance are encouraged to consult a halachically-competent rabbi. And see *Contraception in Contemporary Orthodox Judaism*, by Gedalia Meyer and Henoah Messner, available online at: <http://finkorswim.com/wp-content/uploads/2012/06/Contraception.pdf>.

believe that they forbade it largely, if not entirely, relying upon the weight of his authority. This being the case, there is reason to believe that had Maimonides permitted anal sex to the point of the husband's climax, like Rabeinu Yitzchak's *second* approach, few, if any, of his halachic supporters would have argued otherwise.

In fact, there are modern scholars of Maimonides who do believe that the concluding restrictive phrase, "as long as there is no seed wasted in vain," was not penned by Maimonides himself, but rather by a copyist, for it is not found in most handwritten manuscripts of *Mishneh Torah*, including those universally acknowledged as among the most reliable, those preserved by the Yemenite Jewish community.⁴⁸¹

Thus, Maimonides' opinion can be equally understood as matching that of Rabeinu Yitzchak's second approach, that anal sex to the point of ejaculation is permitted occasionally for the sake of sexual fulfillment between husband and wife. It is only forbidden even within marriage if performed constantly as an intentional means of unsanctioned birth control.⁴⁸²

This, in fact, is most certainly how Rabbi Meir ben Yekusiel Hacoheh of Rothenburg (c.1260-1298), author of *Hagahos Maimonios*, understood Maimonides' opinion, for he comments on Maimonides' ruling in *Isurei Biah 21:9* permitting anal sex:

This means only randomly in the heat of passion, not as a regular practice, as *Tosfos* explains on *Yevamos 34b*.

As we know, *Tosfos* on *Yevamos 34b* speaks of "random anal sex" only in the context of permitting intra-anal *ejaculation*.^{482*}

[Parenthetically, two of Rabbi Meir Hacoheh's contemporaries and fellow disciples under the famous Rabbi Meir "Maharam" of Rothenburg, namely, Rabeinu Asher ben Yechiel (Rosh) and Rabbi Mordechai ben Hillel, both permit occasional intra-anal ejaculation for married couples, and neither one references Maimonides as forbidding it.]

In fact, it is not only *equally* likely that Maimonides' true opinion matched that of Rabeinu Yitzchak's second approach, it is arguably *more* likely, for in his earlier parallel ruling in his *Commentary to the Mishnah, Sanhedrin 7:4*, where he also permitted anal intercourse, as well as intercourse between limbs, he did not add a single cautionary word or stipulation against ejaculation – not in regard to frequency and not even in regard to intention. Thus, it could actually be argued that Maimonides' opinion goes much farther than Rabeinu Yitzchak's second approach discussed above, and that it surpasses even the opinion of Rabbi Yeshayah of Trani I (listed below), who does not stipulate any limitation on the *frequency* of intra-anal ejaculation, only on the *intention* that it be for pleasure, not unsanctioned birth control.⁴⁸³

In any case, in light of Maimonides' presentation in *Commentary to the Mishnah*, even if we were to accept the authenticity of the restrictive phrase against "wasting seed in vain" in *Mishneh Torah*, it is perhaps possible to argue that the very *definition* of "wasting seed in vain," there, as Maimonides himself intended it, referred *only* to intra-anal ejaculation that is performed *as a means of constant and intentional unsanctioned birth control*. Thus, occasional intra-anal ejaculation with one's wife as a means of sexual fulfillment could perhaps still be permitted even according to the restrictive textual reading of *Mishneh Torah*.⁴⁸⁴

[Note also that later in the very same chapter of *Mishneh Torah*, in *Isurei Biah 21:18*, when Maimonides formally defines the concept of "wasting seed in vain" for the first time, he does not give intra-anal ejaculation or ejaculation between limbs as examples of "wasted seed," but only coitus interruptus – an undeniably intentional form of birth control.⁴⁸⁵]

But here is what the sources expressly permit^{XLVI*}:

Anal sex – without intra-anal ejaculation

(Based on a questionable manuscript of Maimonides)

1. Rabbi Avraham of Montpellier (*Avraham min Hahar*), *Nedarim 20b*⁴⁸⁶
2. R. Aharon Hacohen of Lunil, *Orchos Chaim, Hilchos Kesubos, Siman 7*⁴⁸⁷
3. *Col Bo, Hilchos Ishus, Siman 75*⁴⁸⁸
4. Rabbi Moshe of Trani, *Kiryas Sefer, Isurei Biah 21*
5. Rabbi Yaakov Emden, *Hagahos Yaavetz, Sanhedrin 58b*,⁴⁸⁹ *Commentary to Siddur, Mitas Hakesef, chapter 7, section 2:2*
6. R. Yaakov Meshulam Orenstein, *Yeshuos Yaakov, Orach Chaim 240:5:4*

Anal Sex – intra-anal ejaculation unspecified or undetermined⁴⁹⁰

1. Maimonides, *Commentary to the Mishnah, Sanhedrin 7:4; Mishneh Torah, Sefer Kedushah, Isurei Biah 21:9*
2. *Mefaresh, Nedarim 20a*⁴⁹¹
3. *Tosfos, Nedarim 20a*
4. *Tosfos Yeshanim, Nedarim 20ab*
5. Rabeinu Nissim of Gerona, *Peirush HaRan, Nedarim 20b*,⁴⁹² *Chidushei HaRan, Sanhedrin 58b*⁴⁹³
6. Rabeinu Yonah of Gerona, *Sanhedrin 58b*⁴⁹⁴

^{XLVI*} See above, footnote to page 110.

7. Rabbi Alexander Suslin, *Sefer HaAgudah, Nedarim 20b*
8. Rabeinu Yaakov of London, *Etz Chaim, Hilchos Piryah Vrivyah, Ch. 3*⁴⁹⁵
9. Rabbi Menachem Meiri, *Beis Habechirah, Nedarim 20b*
10. Rabbi Netanel ben Yeshaya of Yemen, *Maor Ha'afelah, Parshas Acharei*;⁴⁹⁶ *Parshas Kedoshim*⁴⁹⁷
11. Rabbi Yitzchak of Corbeil, *Sefer Mitzvos Katan, Positive Command 285*⁴⁹⁸

Anal Sex – with intra-anal ejaculation; no limit mentioned on intention or frequency

1. Rabeinu Meyuchas ben Eliyahu, *Commentary to Genesis*⁴⁹⁹
2. Rabbi Yisrael Alnaqua, *Menoras Hamaor, Perek Nisuei Ishah*^{499*}

Anal Sex – with intra-anal ejaculation, as long as it is for sexual fulfillment (not intentional unsanctioned birth control); no limit mentioned on frequency

1. Rabbi Yeshayah of Trani I, *Tosfos Rid, Yevamos 12b*⁵⁰⁰
2. Rabbi Yeshayah of Trani II, *Riaz, Kuntres Harayos, Sanhedrin 58b*⁵⁰¹

Anal sex – with intra-anal ejaculation, as long as it is for sexual fulfillment (not intentional unsanctioned birth control) and the majority of ejaculations are intra-vaginal

1. *Tosfos, Sanhedrin 58b*

Anal sex – with intra-anal ejaculation, as long as it is for sexual fulfillment (not intentional unsanctioned birth control) and it occurs “randomly” in the heat of passion (*b'akrai*), not as a regular habit

1. Rabeinu Yitzchak, *Tosfos, Yevamos 34b*
2. Rabeinu Asher ben Yeziel, *Peirush HaRosh, Nedarim 20a*,⁵⁰² *Tosfos HaRosh, Nedarim 20b, Yevamos 34b; Rabeinu Asher, Yevamos 34b* (no longer extant but preserved in *Hagahos Habach to Rosh, in Yam Shel Shlomoh to Yevamos 34b, and in Beis Yosef to Tur, Orach 240:2-4:4*⁵⁰³)
3. *Tosfos Yeshanim, Yevamos 34b*
4. *Tosfos Talmid Rabeinu Tam Al HaTorah, Manuscript, Genesis 38:9*⁵⁰⁴
5. *Talmidei Rabeinu Peretz, Nedarim 20b*
6. Rabeinu Yeruchem ben Meshulam, *Rabeinu Yeruchem, Nesiv 32*

7. R. Menachem Ibn Zerach, *Tzeidah Laderech*, *Maamar* 3, *Clal* 4, *Ch.* 14⁵⁰⁵
8. Rabbi Alexander Suslin, *Sefer HaAgudah*, *Sanhedrin* 58b; *Yevamos* 34b
9. Rabbi Mordechai ben Hillel, *Mordechai*, *Hilchos Nidah* 731-732
10. Rabbi Yaakov ben Asher, *Tur*, *Orach Chaim* 240:4; *Even Haezer* 25:2^{505*}
11. Rabbi Shlomoh Luria, *Yam Shel Shlomoh*, *Yevamos* 34b
12. Rabbi Moshe Isserles, *Rema*, *Shulchan Aruch*, *Even Haezer* 25:2
13. Rabbi Mordechai Yoffe, *Levush*, *Orach Chaim* 240:4; *Even Haezer* 25:2
14. Rabbi Yom Tov Lipman Heller, *Lechem Chamudos*, *Tractate Nidah*, *Chapter 2*, *Comment* 10⁵⁰⁶
15. Rabbi Meir Eisenstadt, *Panim Meiros* vol. 2, *Responsum* 158⁵⁰⁷

Anal sex – with intra-anal ejaculation, as long as it is for sexual fulfillment (not intentional unsanctioned birth control) and it occurs “occasionally” (*I’paamim*), not as a regular habit

1. Rabbi Betzalel Ashkenazi, *Shitah Mekubetzes*, *Nedarim* 20b⁵⁰⁸

The following post-medieval authorities, while mentioning that one should consider avoiding intra-anal ejaculation for halachic and/or kabbalistic reasons (to be discussed at length in Part Four of our study), do not categorically “prohibit” it if it is done occasionally for the sake of a couple’s sexual fulfillment within marriage. And they certainly do not prohibit anal penetration in-and-of-itself.^{XLVI}**

1. Rabbi Yosef Caro, *Beis Yosef*, *Tur*, *Even Haezer* 25:2⁵⁰⁹
2. Rabbi Yehoshua Falk, *Drishah*, *Tur*, *Even Haezer* 25:2⁵¹⁰
3. Rabbi Eliyahu Spira, *Elyah Rabah*, *Levush*, *Orach Chaim* 240:4:10
4. Rabbi Yechiel Michel Epstein, *Aruch Hashulchan*, *Even Haezer* 25:11
5. Rabbi Moshe Leima, *Chelkas Mechokek*, *Tur*, *Even Haezer* 25:2
6. Rabbi Gur Aryeh HaLevi, *Gur Aryeh*, *Tur*, *Even Haezer* 25:2
7. Rabbi Yehudah Ashkenazi, *Be’er Heitev*, *Tur*, *Even Haezer* 25:2
8. Rabbi Yaakov Meshulam, *Yeshuos Yaakov*, *Even Haezer* 25:2:2

^{XLVI**} **Added note to the third edition:** Additional post-medieval authorities who permit occasional intra-anal ejaculation include R. Yosef Messas in *Mayim Chaim*, *Resp.* 97, R. Avraham Yitzchak Kook in *Ezrat Cohen* 35, 37 (in *Shmoneh Kovtzim* 6:99 he permits at least anal penetration), and R. Eliezer Melamed in *Simchat Habayit v’Birchato*, page 60. Credit goes to R. Eliezer Melamed and R. Maor Kayam for bringing these sources in Rav Kook’s works to my attention – see below, endnote 555.

“Intercourse Between Limbs” (Outercourse and Fellatio)

Here, too, brief introduction and analysis are in order:

The term “intercourse between limbs” is generally understood as referring to stimulation of the husband’s penis in, against or between any part of the wife’s body other than inside her vagina or anus.⁵¹¹ This would include the wife’s oral⁵¹² or manual⁵¹³ stimulation of the husband’s sex organs.⁵¹⁴

The question of whether or not this is permitted even to the point of *ejaculation* between limbs is an important one.

A number of medieval commentaries that discuss and permit “intercourse between limbs” stipulate that it must not result in “wasted seed.” It must be noted, however, that, just like in the case of intra-anal ejaculation (discussed in our previous section), the medieval sources who forbid ejaculation between limbs all merely restate the wording of Maimonides in *Mishneh Torah, Isurei Biah 21:9* – who, as we saw before, permits “vaginal intercourse, anal intercourse, or intercourse between limbs, as long as no seed is wasted in vain.”

But again, as explained above, there are modern scholars of Maimonides who believe that the concluding restrictive phrase, “as long as no seed is wasted in vain,” was not penned by Maimonides himself, but rather by a copyist, for it is not found in most handwritten manuscripts of *Mishneh Torah*, including those universally acknowledged as among the most reliable, those preserved by the Yemenite Jewish community.⁵¹⁵ Thus, as we said, on the matter of anal sex it is arguably most reasonable and most likely that Maimonides held the same approach as his European contemporary, Rabeinu Yitzchak, that anal sex is permitted even to the point of ejaculation if done for the sake of the husband’s (or couple’s) sexual fulfillment – just not as a means of constant intentional unsanctioned birth control. And Maimonides brought the case of intercourse between limbs in conjunction with anal intercourse in order to permit *both* to husband and wife even to the point of ejaculation.⁵¹⁶

Support for this reading of *Mishneh Torah* can again be brought from Maimonides’ own *Commentary to the Mishneh, Sanhedrin 7:4*, where he also discusses marital anal intercourse and intercourse between limbs in tandem, yet nowhere does he caution against ejaculation resulting from either one of them. In fact, Maimonides, there, states that anal intercourse and intercourse between limbs were *both* included in the permissive ruling of Rebbi and/or Rav for “overturning the table” as quoted on *Nedarim 20b*. And the implication of the Talmud, there, is that Rebbi and Rav were both invoking the ruling of the Sages quoted earlier on the very same Talmudic page,⁵¹⁶ that “Anything a husband craves to do with his wife sexually, he may do” – the very principle which Rabeinu Yitzchak invokes as his basis for permitting intra-anal ejaculation for couples.

In Rabeinu Yitzchak’s own words (*Tosfos, Yevamos 34b*):

It [intra-anal ejaculation] is not considered similar to the act of Er and Onan unless his [the husband's] intention is to destroy seed [by preventing pregnancy] and he [therefore] accustoms himself to do it constantly.

But if it is merely done randomly [in the heat of passion] (*b'akrai b'alma*) and he desires to come upon his wife anally (*umisaveh lavo al ishto shelo cedarcah*), it is permitted, as we are taught in *Nedarim*: “Anything a man craves to do with his wife sexually, he may do...”

Therefore, if Maimonides' true opinion did match the second approach of Rabeinu Yitzchak, and he equated anal intercourse and intercourse between limbs as *both* being included in the permissive ruling of Rebbi and/or Rav (and the Sages) on *Nedarim 20b*, then it is perfectly understandable, and expected, that he would permit *both* to the point of ejaculation.⁵¹⁷ And being that Maimonides in his *Commentary to the Mishnah* issues no warning or stipulation whatsoever against intra-anal ejaculation or ejaculation between limbs for married couples – not in regard to frequency, and not even in regard to intention – Maimonides' view could be said to surpass that of Rabeinu Yitzchak and even that of Rabbi Yeshayah of Trani I (who gives no limit on *frequency* of intra-anal ejaculation, only on *intention*) not only in regard to intra-anal ejaculation, but even in regard to ejaculation between limbs.

But assuming Maimonides would at least stipulate that a couple's intentions and actions in these cases be only for occasional sexual fulfillment, not constant intentional unsanctioned birth control, both in regard to intra-anal ejaculation and ejaculation between limbs, still, logically speaking, both could potentially be permitted by him in every instance where avoidance of conception is not an issue – such as when the wife is pregnant, post-menopause, or where birth control is sanctioned.⁵¹⁸

Now, as far as Rabeinu Yitzchak's or Rabbi Yeshayah of Trani I's own personal opinions about intercourse and ejaculation between limbs, they themselves do not spell it out for us. But in not one, but two, places in his *Drishah* commentary to *Tur, Even Haezer*,⁵¹⁹ Rabbi Yehoshua Falk (a disciple of Rabbis Moshe Isserles and Shlomoh Luria) unequivocally states that Rabeinu Yitzchak permitted ejaculation between limbs as a logical extension of intra-anal ejaculation – and he possibly implies that this is how Rabbi Yaakov ben Asher himself understood Rabeinu Yitzchak's opinion as well.^{520 521}

How Rabbi Falk himself decided the law in regard to intra-anal ejaculation and ejaculation between limbs is unclear, as he seems to be assuming the role, here, of interpreter, not decisor.⁵²² He does quote a halachic caution (though not prohibition) of Rabbi Yosef Caro against intra-anal ejaculation – to be discussed below, in Part Four – though he does not clearly endorse it.⁵²³ But Rabbi Falk is confident in his logic that Rabeinu Yitzchak himself would permit occasional ejaculation between limbs for the sake of sexual fulfillment within marriage –

which would, by definition, include a wife's oral or manual stimulation of her husband's sex organs, or his stimulation in, against or between any other part of her outer body (as discussed above, page 123, and endnotes 511-514 thereon).

[It should make no difference in the eyes of halachah whether such stimulation occurs through his thrusting against her body or her moving her body against him, for in the case of the permitted wife-on-top sex position the husband's body is generally more-or-less stationary while she stimulates him through her movements.

But whether or not it would be permitted for a husband to self-masturbate in the presence of his wife so long as the final stimulation that results in ejaculation is caused by a part of her body requires further investigation.^{524]}

That being said, the same stipulation Rabeinu Yitzchak applies to intra-anal ejaculation would apply to ejaculation between limbs as well, namely, that it is only permitted occasionally – “randomly” in the heat of passion (*b'akrai*) – for the sake of the couple's sexual fulfillment, but not as a regular means of intentional unsanctioned birth control⁵²⁵ (which, again, logically speaking, could potentially not be of any concern during the nine months of pregnancy, post-menopause, or where birth control is in fact sanctioned).

[Along this line of reasoning, according to *Tosfos, Sanhedrin 58b*, the husband would need to ejaculate intra-vaginally only a *majority* of the time – even in regard to intercourse between limbs.]

See also Rabbi Yechiel Michel Epstein, in his *Aruch Hashulchan, Even Haezer 25:11*, whose wording applies Rabeinu Yitzchak's permission of occasional intra-anal ejaculation for couples to occasional ejaculation between limbs as well – though Rabbi Epstein, too, mentions, and even appears to endorse, Rabbi Yosef Caro's halachic caution (though not prohibition) against intra-anal ejaculation (to be discussed below, in Part Four).^{525*}

[Note, however, that in regard to Rabbi Yaakov ben Asher in *Tur, Even Haezer 25:2*, Rabbi Moshe Isserless in *Shulchan Aruch, Even Haezer 25:2*, and Rabbi Mordechai Yoffe in *Levush, Even Haezer 25:2*, it is not objectively clear that they understood Rabeinu Yitzchak as halachically equating intra-anal ejaculation and ejaculation between limbs. In all three of their presentations on the subject, they first quote (the version available to them of) Maimonides' ruling in *Mishneh Torah, Isurei Biah 21:9*, permitting anal intercourse and intercourse between limbs only without extra-vaginal ejaculation, followed by Rabeinu Yitzchak's ruling permitting occasional intra-anal ejaculation. Whether or not they agreed with Rabbi Yehoshua Falk's assertion in *Drishah* that Rabeinu Yitzchak's permission of occasional intra-anal ejaculation encompassed a permission of occasional ejaculation between limbs remains undetermined.]

Now, there is, in fact, a medieval source that explicitly reflects this attitude of legal permission of ejaculation between limbs alongside pious denigration of it:

Rabeinu Meyuchas ben Eliyahu was a medieval scholar about whom little is known – even when and where he lived is a matter of conjecture among academics. The consensus assumption is that he lived in Greece. But some place him as early as the 12th century, as a contemporary of Maimonides, while others place him as late as the 15th century, as a near-contemporary of Rabbi Eliyahu Mizrahi (Re'em).⁵²⁶

His biblical commentary style is said to be unique in its manner of blending literal and halachic interpretation. On pages 8-9 of his commentary on Genesis, published by A. W. Greenup, Rabeinu Meyuchas writes:

And He [G-d] said: “Be fruitful and multiply.”

The literal connotation is that this is a blessing [not a command] . . .

And our rabbis expounded in the *Mishnah* that it connotes an actual command and obligation, implying that one should engage in [sex in a manner that is conducive to] fulfilling the commandment of procreation, not for other purposes (*lo l'inyan acher*).

This teaches us that it is forbidden to ejaculate seed in vain (*l'hotzi tipas zera l'vatalah*), but rather [one should ejaculate] only for the sake of procreation.

And even though one who has sex with his wife at a time that she cannot get pregnant is “wasting his seed” (sic), [G-d in His] Torah permits him to do so for the sake of [fulfilling his obligation to provide his wife] her joy of sexual fulfillment.

But a husband who has anal sex with his wife . . . and she does not derive the joy of sexual fulfillment from it, he certainly “destroys his seed” (*vadai mashchis zaro*) and Torah's spirit is not at ease with him (*v'ein ruach haTorah noach heimenu*).

Similarly, one who rubs [his penis] against his wife's [other] body parts (*derech eivarim*), and one who fondles her (*maaseh chidudim*) and becomes erect but does not have intercourse, causes himself to “waste seed,” and it is “evil in G-d's eyes” [a reference to the biblical story of Er and Onan – see above, footnote to page 89; but see endnote 335].

Rather, a man should only cause himself to become erect for the sake of intercourse for the purpose of procreation or the joy of his wife's sexual fulfillment – and this fulfills the commandment of the Torah and is the way of the pious (*midah chasidus*), and his children will be holy.

And even though a man's wife is permitted to him in all ways (*v'af al pi she'ishto muteres lo b'chol inyan*), nevertheless, the spirit of the rabbinic court is not at ease with him (*ein ruach beis din nochah heimenu*). It can be compared to one who eats kosher-slaughtered meat – even though it is permitted to be eaten in any manner [*lit.* with any food

– *bchol maachal*], still, the Sages’ spirit is not at ease with one who eats it in an unrefined manner [*lit.* abnormal manner] (*shelo c’derech erez*).

The four illuminating points we take from Rabeinu Meyuchas’s words:

1. He implies that even intra-vaginal ejaculation with one’s own wife during pregnancy is considered “wasted seed,” it is only that G-d permits it.
2. He first implies that Torah *commands* a husband to only ejaculate for the sake of procreation or his wife’s sexual fulfillment, but he then later calls this a matter of *piety*, and he concedes that baseline Jewish marital sex law permits to husband and wife intra-anal ejaculation, ejaculation between limbs, and “heavy petting” without intercourse.⁵²⁷
3. When he speaks against intra-anal ejaculation, he does so on the assumption that the wife does not derive pleasure from it. The implication of this would be that if a wife *were* to enjoy it, it would be perfectly acceptable even for a “pious” couple despite the issue of “wasting seed in vain” – just like he says it is permitted to “waste seed in vain” with one’s wife through intra-vaginal intercourse for the sake of her pleasure even at times when they know she will not become pregnant. And from the flow of his argument it would seem that the same would hold true in regard to ejaculation between limbs or “heavy petting” if the wife derives personal pleasure from them.
4. His presentation echoes that of Maimonides’ in *Commentary to the Mishnah, Sanhedrin 7:4* in two ways:
 - a. He distinguishes between that which is permitted and that which sets G-d (and the rabbis) at ease.
 - b. He sets no actual legal limit on the frequency or intention of intra-anal ejaculation or ejaculation between limbs within marriage.

It also must be noted that Rabeinu Meyuchas’s emphatic concern about the Torah’s (i.e., G-d’s), rabbinic court’s and/or Sages’ lack of ease caused by such sexual behavior within marriage must be reevaluated according to the circumstances of the times, for what may have caused such “lack of ease” in one generation cannot be assumed to do so in all others.

Case in point: In the 21st century, and dare I say in future generations, with sexual awareness at unprecedented heights and growing – even within Orthodox and Chasidic-Charedi Ultra-Orthodox communities – it is reasonable to believe that a husband and wife expressing all their sexual needs and desires with one another in a loving, devoted marriage would most certainly bring rabbinic courts and/or sages, and most of all, G-d Himself, infinitely more “ease of mind and spirit” than perpetuating restrictions that were possibly based on ancient assumptions (see above, point 3) and that arguably increase the risk of couples

today, and in the future, fantasizing about, and G-d forbid seeking, sexual fulfillment outside the home.

This is without even getting into the argument that modern understandings of human sexuality must also be brought into the Jewish halachic-philosophical dialogue in order to help individuals, and communities, achieve more healthy balance, physically and spiritually.

Thus, while this is not the place for a lengthy discourse on this angle of the Jewish sexual discussion, let it be noted that the same conscientiousness we have just touched upon in regard to Rabeinu Meyuchas's view must arguably be applied as well to any strong philosophical and/or halachic attitude expressed by any other rabbinic thinker, old or new.

But I digress...

Getting back to the legal view of Maimonides, let it be added that, as we suggested above (pp. 119-120) in regard to intra-anal ejaculation, in light of Maimonides' presentation in *Commentary to the Mishnah*, even if we were to accept the authenticity of the restrictive phrase historically printed in *Mishneh Torah, Isurei Biah 21:9* against "wasting seed in vain," it is perhaps possible to argue that the very *definition* of "wasting seed in vain," there, as Maimonides himself intended it, referred *only* to intra-anal ejaculation and/or ejaculation between limbs that are done *as a constant means of intentional unsanctioned birth control*. Thus, occasional ejaculation between one's wife's limbs as a means of sexual fulfillment within marriage could perhaps still be permitted even according to the restrictive textual version of *Mishneh Torah*.⁵²⁸

In any case, in light of the strong evidence that Maimonides himself meant to permit ejaculation between limbs, we must reevaluate the views of those commentators who merely quoted verbatim the prohibition of it disseminated in his name.

And let it be noted that in the 1574-1576 Venice edition of *Mishneh Torah*, as well as in subsequent editions, Maimonides' permission of intercourse between limbs for married couples in *Isurei Biah 21:9* was censored completely.⁵²⁹ The impact of this omission upon rabbinic attitudes and/or silence on the matter over the following four centuries cannot be underestimated.

But here are the actual sources and what they legally permit as baseline law:

Intercourse between limbs – without ejaculation

(Based on a questionable manuscript of Maimonides)

1. Rabeinu Yaakov of London, *Etz Chaim, Hilchos Piryah Vrivyah, Chapter 3*⁵³⁰
2. *Col Bo, Hilchos Ishus, Siman 75*⁵³¹

3. Rabbi Aharon Hacoheh of Lunil, *Orchos Chaim, Hilchos Kesubos Siman 7*⁵³²
4. Rabbi Yehuda Henkin, *Bnei Banim, vol. 4, Responsum 18*⁵³³

Intercourse between limbs – ejaculation unspecified/undetermined⁵³⁴

1. Maimonides, *Commentary to the Mishnah, Sanhedrin 7:4; Mishneh Torah, Sefer Kedushah, Isurei Biah 21:9*
2. Rabbi Yaakov ben Asher, *Tur, Even Haezer 25:2*
3. Rabbi Moshe Isserles, *Rema, Shulchan Aruch, Even Haezer 25:2*
4. Rabbi Mordechai Yoffe, *Levush, Even Haezer 25:2*

Intercourse between limbs – with ejaculation

1. Rabeinu Meyuchas ben Eliayhu, *Commentary to Genesis*⁵³⁵ (though, according to the spirit of the law, he discourages any extra-vaginal ejaculation even within marriage)
2. Rabbi Yehoshua Falk, *Drishah, Tur, Even Haezer 23:1:1, Even Haezer 25:2:5-6* (interpreting the view of Rabeinu Yitzchak – though Rabbi Falk also references Rabbi Yosef Caro’s halachic caution in *Beis Yosef, Even Haezer 25:2*, against any extra-vaginal ejaculation even within marriage)
3. Rabbi Yechiel Michel Epstein, *Aruch Hashulchan, Even Haezer 25:11* (though Rabbi Epstein also endorses Rabbi Yosef Caro’s halachic caution in *Beis Yosef, Even Haezer 25:2*, against any extra-vaginal ejaculation even within marriage)

Note that nearly all the opinions that speak of intercourse between limbs being permitted speak of cunnilingus being permitted as well.⁵³⁶ Thus, they would presumably also all permit the two techniques being performed in tandem – such as a husband and wife simultaneously stimulating each other’s genitals orally or manually.⁵³⁷ XLVII

^{XLVII} About cunnilingus or “intercourse between limbs” performed in a lit room, see above, page 96, and endnotes 369, 845.

Added note to the third edition: See Rabbi Eliezer Melamed’s *Simchat Habayit v’Birchato* (second edition, 2015), bottom of page 63, asserting that there are no restrictions on a wife kissing her husband’s genitals – though it is not specified if fellatio is permitted to the point of ejaculation. And see Rabbi Maor Kayam’s *Harchavot l’Simchat Habayit v’Birchato* (2015), pages 183-184, discussing ejaculation between limbs for married couples.

PART FOUR
HALACHAH MIMICS KABBALAH

Rabbi Caro's Bottom Line

And here, after all the analysis of *Beis Yosef*, *Bedek Habayis* and *Shulchan Aruch*, is where the most important point must be made:

Nowhere in any of these three major halachic works does Rabbi Caro actually “forbid” anal sex or occasional intra-anal ejaculation for the sake of sexual fulfillment within marriage.

Yes, Rabbi Caro does caution twice against the latter – in *Beis Yosef* and in *Bedek Habayis*. Yes, he does twice leave out discussion of either of them – in *Shulchan Aruch*, *Orach Chaim* 240 and *Even Haezer* 25. But never does he ever forbid them.

Let us remind ourselves what Rabbi Caro wrote in both of his comments upon the *Tur*:

Beis Yosef, Even Haezer 25:2

And it is difficult to permit one to stumble in “wasting seed in vain” even randomly, and *one who is conscientious of his soul will distance himself from it and the like.*

Bedek Habayis, Even Haezer 25:2

And if Rabeinu Yitzchak had seen the punishment the *Zohar* forewarns for the “wasting of seed in vain,” that it is greater than that of any other sin in the Torah, *he would not have written what he did.*

Very strong language. But in both places Rabbi Caro stops short of issuing a simple clear-cut prohibition.

No less an authority than Rabbi Moshe Feinstein (1895-1986) acknowledges that the wording of Rabbi Caro's cautions in both places is reserved and is not equal to a full-fledged prohibition.⁵⁷²

And Rabbi Feinstein was not the first to point this out.

Rabbi Avraham Dovid Wahrman of Buczacz (1770-1840), in his *Ezer Mekudash* commentary to *Shulchan Aruch, Even Haezer*, also notes in regard to Rabbi Caro's caution in *Beis Yosef*:

The wording of *Beis Yosef* implies somewhat that in actuality it [intra-anal ejaculation] is permitted, only that it is fitting for one to scrupulously guard oneself against it.⁵⁷³

This would explain, then, why in his *Shulchan Aruch* Rabbi Caro never categorically forbade anal sex of any kind, not even to the point of intra-anal ejaculation.^{573*}

[And note that when Rabbi Caro cautioned against intra-anal ejaculation in his *Beis Yosef*, he ended off: “And one who is conscientious of his soul will distance himself from it *and the like*” – an apparent reference to ejaculation between limbs, which he thus also perhaps discouraged, but possibly never legally forbade.]

Thus, we may reasonably conclude that concerning the practical letter of the law regarding anal sex and intra-anal ejaculation, not even Rabbi Caro and Rabbi Isserles are at odds!⁵⁷⁴

Accordingly, the only real difference of opinion between Rabbis Caro and Isserles on this matter was whether or not the permittedness of anal sex and/or intra-anal ejaculation for married couples had an appropriate place in *Shulchan Aruch*, a halachic memorization device for the masses.^{14*}

In this light, we must call attention to the fact that Rabbi Moshe Leima in his *Chelkas Mechokek* commentary and Rabbi Yehudah Ashkenazi in his *Be'er Heitev* commentary, both to *Shulchan Aruch, Even Haezer 25:2*, as well as Rabbi Yechiel Michel Epstein in his code of Jewish law, *Aruch Hashulchan, Even Haezer 25:11*, all mention Rabbi Caro’s halachic caution in *Beis Yosef* – and Rabbis Ashkenazi and Epstein don’t just quote it, they appear to endorse it – but not one of them goes so far as to issue a clear-cut prohibition. And of the three, only Rabbi Ashkenazi quotes Rabbi Caro’s kabbalistic caution from *Bedek Habayis* (the more strongly worded caution of the two).⁵⁷⁵ Rabbis Leima and Epstein do not.

Nor does Rabbi Yehoshua Falk in his *Drishah* commentary to *Tur, Even Haezer 25:2:5-6*. Instead, immediately after quoting Rabbi Caro’s halachic caution from *Beis Yosef* (the caution Rabbi Falk’s own master, Rabbi Isserles, most certainly was aware of – yet disregarded as a matter of baseline law), he goes on to insist that Rabeinu Yitzchak permits for married couples even occasional ejaculation between limbs.⁵⁷⁶

^{14*} **Added note to the third edition:** See Rabbi Eliezer Melamed’s *Simchat Habayit v’Birchato* (second edition, 2015), page 64, paragraph four of footnote 21, suggesting that Rabbi Caro may have in fact permitted cunnilingus – that Rabbi Caro’s “prohibition” of cunnilingus in *Shulchan Aruch, Orach Chaim 240*, may have only been in the realm of holiness and modesty (*kedushah utznius*), whereas because he knew that baseline law ultimately permits it, he did not include a legal prohibition against it in *Shulchan Aruch, Even Haezer 25*.

According to this line of reasoning, then, Rabbi Caro and Rabbi Isserles did not differ either about a husband being permitted to kiss (or gaze at) his wife’s genitals.

Rabbi Moshe Isserles and Other Permissive Authorities

Rabbi Moshe Isserles (1520-1572) is widely recognized as having been Rabbi Yosef Caro's European counterpart and halachic equal, and he was the foremost annotator of Rabbi Caro's *Shulchan Aruch*.^{LIII} Despite the "new kabbalah" of the *Zohar*, Rabbi Isserles held fast to the full permissive legal approach to marital sex of the majority of medieval writers, ruling in his gloss to *Shulchan Aruch, Even Haezer 25:2* according to both Maimonides' and Rabeinu Yitzchak's liberal legal views, while gently encouraging the striving for sanctity.^{638 639}

As for why he brought this liberal approach only in *Even Haezer* and not in *Orach Chaim*, perhaps it was because Rabbi Caro had changed the name of *Orach Chaim 240* from "Laws of the Nighttime and the Husband's obligation to Sexually Please his Wife," as it had been named by Rabbi Yaakov ben Asher in the *Tur*, to "Laws of Modesty." Perhaps Rabbi Isserles did not append his ruling to Rabbi Caro's version of *Orach Chaim 240* out of recognition of Maimonides' fundamental principle that the permissive *letter* of Jewish marital sex law is not necessarily equivalent to its modest *spirit*.

In any case, a disciple of Rabbi Isserles, Rabbi Mordechai Yoffe (1530-1612), in his halachic code, *Levush*,⁶⁴⁰ as well as a later codifier, Rabbi Yechiel Michel Epstein (1829-1908), in his *Aruch Hashulchan*,⁶⁴¹ quote and rule the letter of the law as Rabbi Isserles does – according to Maimonides and Rabeinu Yitzchak, permitting anal sex, intra-anal ejaculation and the (gazing at or) kissing of the female genitals for married couples.

Rabbi Epstein's wording in fact applies the permissive ruling of Rabeinu Yitzchak also to ejaculation between limbs within marriage. And although Rabbi Epstein quotes, and appears to even endorse, Rabbi Caro's halachic caution against intra-anal ejaculation (and therefore also against ejaculation between limbs), he stops short of forbidding it. Nor does he mention Rabbi Caro's kabbalistic caution against it.

The distinguished contemporary of Rabbi Isserles (and Rabbi Caro), Rabbi Shlomoh Luria (1510-1573), ruled the letter of the law according to Rabeinu Asher, permitting occasional intra-anal ejaculation for married couples,⁶⁴² as did a major 17th century authority, Rabbi Yom Tov Lipman Heller (c.1579-1654), in his *Lechem Chamudos* super-commentary to Rabeinu Asher's halachic summary of the Talmud.⁶⁴³

And as already discussed at length, Rabbi Yehoshua Falk (1555-1614), a disciple of both Rabbi Moshe Isserles and Rabbi Shlomoh Luria, in his *Drishah* commentary to *Tur*, significantly expanded the liberal approach of Rabeinu Yitzchak as permitting not only occasional intra-anal ejaculation for married couples, but occasional ejaculation between limbs as well.

^{LIII} To generalize, Sefardic Jews may be more likely to defer to Rabbi Caro's opinions, while Ashkenazic Jews may be more likely to defer to Rabbi Isserles.

Rabbi Falk, too, quotes Rabbi Caro's halachic caution against intra-anal ejaculation. But not only does he not personally forbid it, he immediately goes on there to expand Rabeinu Yitzchak permissive view, as stated. And he, too, makes no mention of Rabbi Caro's kabbalistic caution.

But these opinions of Rabbis Luria, Isserles, Yoffe, Falk, Heller and Epstein are for the most part unrepresented in Chasidic-Charedi guides to "family purity" and/or marital intimacy.

Misrepresentations of Rabbi Isserles

The first edition of *Shulchan Aruch* to feature the glosses of Rabbi Moshe Isserles was printed in Cracow in 1578, six years after the author's demise.

For clarity's sake, let us again see the full quote of Rabbi Isserles's gloss to *Even Haezer 25:2*, knowing what we know now, that he is quoting the opinions of Maimonides and Rabeinu Yitzchak:

25:2. And he may do with his wife anything he desires: he may have intercourse with her any time he desires, and he may kiss any part of her body he desires, and he may penetrate her vaginally or anally (*shelo cedarcah*) or between limbs (*derech evarim*), as long as it does not lead to "wasting seed in vain."

And some are lenient and say that anal sex is permitted even to the point of [intra-anal] ejaculation, if he desires it randomly [in the heat of passion] but does not make a habit of it [as an intentional means of unsanctioned birth control].

And even though all these things are permitted, whoever sanctifies himself in that which is permitted shall be called 'holy.'⁶⁴⁴

Barely a generation passed before attempts were made to censor or alter Rabbi Isserles's views here – some of which, it must be noted, may have been under pressure of non-Jewish censors.

The 1594, 1619 and 1632 Venice editions of *Shulchan Aruch* included an erroneous marginal note by an unknown author, stating that Rabbi Isserles's use of the term "*shelo cedarcah*," here, was not meant to refer to anal sex, but only to rear-entry vaginal intercourse.⁶⁴⁵ This claim ignored the fact that the term "*shelo cedarcah*" in every other place in Talmudic-rabbinic literature refers exclusively to anal intercourse (unless otherwise specified), and that Rabbi Isserles was merely restating the wording of Maimonides (whom all understand as permitting anal sex). And to say that Rabbi Isserles understood his other source, Rabeinu Yitzchak in *Tosfos* to *Yevamos 34b*, as permitting only rear-entry vaginal intercourse, would be to imply that he also understood Rabeinu Yitzchak as presenting the sin of Er and Onan itself as rear-entry vaginal intercourse – an extremely difficult notion.^{645*}

This marginal note, which was actually quoted by at least one major commentary⁶⁴⁶ to *Shulchan Aruch, Even Haezer 25:2*, was ultimately definitively disproven by Rabbi Meir Eisenstadt in his *Shalos uTeshuvos Panim Meiros*,⁶⁴⁷ referenced in *Pischei Teshuvah* to *Shulchan Aruch* there.

A 1754 edition cut out the phrase "intercourse between limbs," as well as Rabbi Isserles's final ruling, "And even though all these things are permitted, whoever sanctifies himself in that which is permitted shall be called 'holy.'"⁶⁴⁸

Finally, on Rabbi Isserles's ruling permitting the kissing of "any part of her body," Rabbi Shmuel ben Uri Shraga Feivush (1640-1700), in his *Beis Shmuel* commentary to *Shulchan Aruch, Even Haezer 25:2*, comments that it is permitted for a husband to kiss any part of his wife's body *other than the vagina*. Rabbi Feivush points to the Talmud (*Nedarim*) and Raavad III (*Baalei HaNefesh*), to prove his point.

[Other commentaries to *Shulchan Aruch, Even Haezer 25:2* quote Rabbi Feivush, such as *Be'er HaGolah* and *Be'er Heitev*.]

Now, it is possible that Rabbi Feivush was merely stating his own personal opinion on the matter – and he is certainly entitled to such an opinion.

[Subsequently in his *Beis Shmuel* commentary to *Even Haezer 25:2*, Rabbi Feivush clearly understood Rabbi Isserles as quoting the ruling of *Tosfos* permitting anal sex – even though, until now, it has generally been believed among halachic commentaries that Raavad III forbade anal sex, based on his interpretation in *Baalei HaNefesh* of the term "overturning the table" as rear-entry vaginal intercourse.⁶⁴⁹ Therefore, if Rabbi Feivush had understood Rabbi Isserles as rejecting Raavad III's perceived restriction on anal sex, why, then, would he have insisted on Rabbi Isserles accepting Raavad III's restriction on cunnilingus? This perhaps supports the notion that Rabbi Feivush was not coming to interpret Rabbi Isserles's opinion on cunnilingus, but merely to express his own.]

But if, as some commentaries have understood, he was coming to *interpret* Rabbi Isserles, such an interpretation would be highly questionable, for Rabbi Isserles was merely restating the view of Maimonides, and nobody interprets Maimonides the way *Beis Shmuel* would then have been interpreting Rabbi Isserles.⁶⁵⁰

*Bayis Chadash*⁶⁵¹ and *Lechem Mishneh*⁶⁵² both state clearly that Maimonides believed the Sages on *Nedarim 20b* to have permitted all four of the behaviors cautioned against by Rabbi Yochanan ben Dahavai, including the kissing of the actual female genitals – and *Biur HaGra*⁶⁵³ comments that this is how Rabbi Isserles himself understood the Sages as well.

*Beis Yosef*⁶⁵⁴ and *Darchei Moshe*⁶⁵⁵ also understood Maimonides as permitting the kissing of the female genitals, as evident from the fact that they contrast Maimonides' view in *Mishneh Torah, Isurei Biah 21:9* with that of Raavad III in *Baalei HaNefesh, Shaar Hakedushah*.

And *Rosh Pinah-Ikvei Habayis*⁶⁵⁶ and *Atzei Arazim*⁶⁵⁷ call out *Beis Shmuel* directly on what they understood to be an erroneous interpretation of Rabbi Isserles's words.^{658 659}

If any further proof were needed, see Maimonides' own words in his *Commentary to the Mishnah, Sanhedrin 7:4*:

There was already one sage [Rabbi Yochanan ben Dahavai] who wanted to establish that it was unbecoming for a husband to engage in these sexual activities with his wife or to perform various sexual positions with her as the common folk do in order to fulfill their excessive sexual appetites – such as her-on-top, *kissing certain parts of the body*, and other such things.

But those who opposed *this view* stated the opinion of the Sages, that whatever a husband craves to do with his wife sexually, he may do.

And the Talmud rules according to the Sages.

Clearly, Maimonides understood the Sages on *Nedarim 20b* as permitting the kissing of the actual female genitals (i.e., the part of the body that Rabbi Yochanan ben Dahavai himself had cautioned against), and we have no reason to question that this was his intent in *Mishneh Torah, Isurei Biah 21:9* as well. Consequently, there is no reason to believe that Rabbi Isserles, in quoting Maimonides' ruling in *Mishneh Torah* verbatim, meant anything else.

Nevertheless, there are Chasidic-Charedi pre-marriage teachers and publications that continue to point to this comment of *Beis Shmuel* to silence those who might invoke Rabbi Isserles's permissive view about cunnilingus.

PART SIX
SUMMARY AND CONCLUSION

Summary

The key points that emerge from the critical research are as follows:

The Sages

In *Babylonian Talmud, Nedarim 20a*, Rabbi Yochanan ben Dahavai warns that four sexual behaviors between husband and wife can cause congenital illness in children: “overturning the table” can cause lameness, non-sex-related talk during sex can cause deafness, gazing at the female genitals can cause blindness, kissing the female genitals can cause muteness.

On *Nedarim 20b*, the Sages are quoted rejecting Rabbi Yochanan ben Dahavai, ruling instead that “Anything a husband craves to do with his wife sexually, he may do.”

There are four approaches among the legal authorities as to how to understand and apply this ruling of the Sages:

- According to Ameimar as quoted on *Nedarim 20b*, as understood by Maimonides and most medieval commentaries,⁷⁴¹ the Sages rule that all four sexual behaviors cautioned against by Rabbi Yochanan ben Dahavai are not only legally permitted, they are also medically safe for the unborn child, even if performed during the same sexual encounter in which conception occurs.⁷⁴²

A variety of interpretations are given for the permitted position called “overturning the table,” including anal intercourse, rear-entry vaginal intercourse, her-on-top, or possibly any combination of the three.

- According to Ameimar as quoted on *Nedarim 20b*, as understood by Raavad III in his *Baalei HaNefesh, Shaar Hakedushah*, the Sages ruled only that one of these four sexual behaviors, “overturning the table,” is both legally permitted and medically safe. And Raavad III interprets “overturning the table” as rear-entry vaginal intercourse.

According to Raavad III in *Baalei HaNefesh, Shaar Hakedushah*, the other three behaviors – non-sex-related talk during sex and gazing at or kissing the female genitals – are still forbidden on some level by the Sages. But it is unclear if Raavad III still believed them (all) to be medically dangerous to the fetus. And even if he did still consider these behaviors to be dangerous, it is unclear if he understood them as being dangerous if performed *any* time or *only* if performed during the same sexual encounter in which conception occurs.⁷⁴³

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However, Raavad III remains silent in his glosses to *Mishneh Torah*, where Maimonides permits both anal sex and the kissing of the female genitals in *Sefer Kedushah, Isurei Biah 21:9*. He probably had to concede that anal sex is permitted based upon the ruling of Rava in *Sanhedrin 58b*. But his silence, there, about the kissing of the female genitals suggests he ultimately conceded to Maimonides that according to a straightforward reading of the Sages' ruling on *Nedarim 20b*, the kissing of the female genitals is also permitted by the letter of the law⁷⁴⁴ – which would, in turn, suggest that gazing at the female genitals would be permitted by him as well.⁷⁴⁵

- According to Tractate Callah 9, the Sages legally permitted all four of the behaviors cautioned against by Rabbi Yochanan ben Dahavai. It does not comment on the Sages' view about their safety.⁷⁴⁶

Some versions of *Tractate Callah 9* interpret “overturning the table” as rear-entry vaginal intercourse specifically.

- According to Rava as quoted by Callah Rabti 1:13, Rabbi Yochanan ben Dahavai himself only warned about congenital illnesses resulting from these four behaviors if they are performed during the same sexual encounter in which conception occurs. At any other time, however, even Rabbi Yochanan ben Dahavai himself would consider them to be medically safe.

According to Callah Rabti 1:14, Rabbi Yochanan ben Dahavai also considered these four behaviors to be legally forbidden – though it is not clear if he considered them to be forbidden at all times or only during a sexual encounter in which conception is possible to occur (that is, when he also considered them to be medically dangerous for a potential child).

According to Callah Rabti 1:14, the Sages conceded to Rabbi Yochanan ben Dahavai that all four behaviors are medically dangerous to a child conceived during the same sexual encounter in which they are performed. But the Sages rejected Rabbi Yochanan ben Dahavai's legal prohibition in regard to all four, and thus the Sages permit all four at all times – even if performed during the same sexual encounter in which conception is possible to occur.^{746*} And where conception cannot occur, the Sages would consider all four behaviors to be both legally permitted and medically safe.

Some versions of *Tractate Callah 9* interpret “overturning the table” as rear-entry vaginal intercourse. Rava himself, in *Talmud, Sanhedrin 58b*, permits even anal intercourse – though he may have considered that, too, to be dangerous to a fetus if performed during the same sexual encounter in which conception occurs.

The Medieval Authorities

- Among the medieval authorities we have found, there is a majority who reflect the opinion of Maimonides in *Mishneh Torah, Sefer Kedushah, Isurei Biah 21:9*, permitting a man to do anything he craves sexually with his wife, including (gazing at or) kissing the female genitals, vaginal intercourse, anal intercourse, and intercourse between limbs.⁷⁴⁷
- There are a number of medieval authorities who permit anal intercourse, but do not clearly express their opinion in regard to intra-anal ejaculation.
- The majority of medieval authorities we have found who do weigh in on the question of intra-anal ejaculation endorse Rabeinu Yitzchak's second approach quoted in *Tosfos to Yevamos 34b*, that it is permissible as long as it's intended to satisfy the couple's occasional sexual fulfillment, not as a constant means of intentional unsanctioned birth control.⁷⁴⁸

Rabeinu Yitzchak is understood by two post-medieval authorities – Rabbis Yehoshua Falk and Yechiel Michel Epstein (see below: *The Post-Medieval Authorities*) – as permitting not only occasional intra-anal ejaculation for couples, but occasional ejaculation between limbs as well.⁷⁴⁹

- Rabbi Yeshayah of Trani I, and his grandson, Rabbi Yeshayah of Trani II, both permit intra-anal ejaculation for married couples as long as the intention is for sexual fulfillment, not birth control. They mention no restriction on frequency of such ejaculation.
- *Tosfos, Sanhedrin 58b* permits intra-anal ejaculation for married couples as long as the majority of intercourses (or at least the majority of ejaculations) are intra-vaginal – for this adequately demonstrates that the couple is not intentionally avoiding pregnancy (where such avoidance is unsanctioned).
- Most ancient manuscripts of Maimonides' *Mishneh Torah, Isurei Biah 21:9*, including those among the Yemenite Jewish community (which are universally considered to be among the most precise), make no mention of any restriction on intra-anal ejaculation or ejaculation between limbs for married couples – not even in regard to intention or frequency of such ejaculation.

In Maimonides' *Commentary to the Mishneh, Sanhedrin 7:4*, as well, no restriction is given on intra-anal ejaculation or ejaculation between limbs for married couples – not even in regard to intention or frequency of such ejaculation.

- One medieval source (perhaps unknown to many others), Rabeinu Meyuchas, in his commentary on Genesis, explicitly permits intra-anal

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ejaculation and ejaculation between limbs for married couples according to the baseline letter of the law. And he, like Maimonides in *Commentary to the Mishnah*, issues no legal restrictions upon them in terms of intention or frequency.⁷⁵⁰

- The minority of medieval authorities we have found who expressly permit anal intercourse only *without* intra-anal ejaculation base their stringency on a questionable manuscript version of Maimonides' *Mishneh Torah, Sefer Kedushah, Isurei Biah 21:9*, featuring a potentially forged restriction against intra-anal ejaculation for couples.⁷⁵¹
- The medieval authorities we have found who expressly permit intercourse between limbs only *without* ejaculation base their stringency on a questionable manuscript version of Maimonides' *Mishneh Torah, Sefer Kedushah, Isurei Biah 21:9*, featuring a potentially forged restriction against ejaculation between limbs for couples.^{751*}

Rabbi Yosef Caro versus Rabbi Moshe Isserles

- Rabbi Yosef Caro, in *Shulchan Aruch, Orach Chaim 240* and *Even Haezer 25*, quotes only the view of Raavad III from *Baalei HaNefesh, Shaar Hakedushah* against non-sex-related talk during sex and gazing at or kissing the female genitals. He denigrates, but does not forbid, sex with the wife on top or side-by-side with her husband. And he does not rule for or against anal sex, intercourse between limbs or rear-entry vaginal intercourse.
- Rabbi Moshe Isserles, in *Shulchan Aruch, Even Haezer 25:2*, rules according to the combined views of Maimonides in *Mishneh Torah, Sefer Kedushah, Isurei Biah 21:9* and the second approach of Rabeinu Yitzchak in *Tosfos, Yevamos 34b*,⁷⁵² thus permitting by the letter of the law (gazing at or) kissing the female genitals, anal intercourse, intercourse between limbs and occasional intra-anal ejaculation.

The Post-Medieval Authorities

- Rabbi Mordechai Yoffe in his *Levush, Even Haezer 25:2* and Rabbi Yechiel Michel Epstein in his *Aruch Hashulchan, Even Haezer 25:11* rule the letter of the law according to (Maimonides and Rabeinu Yitzchak and) Rabbi Isserles. And although Rabbi Epstein quotes, and endorses, Rabbi Caro's halachic caution against even occasional intra-anal ejaculation within marriage, he nevertheless does not actually forbid it.⁷⁵³
- Rabbi Shlomoh Luria in his *Yam Shel Shlomoh, Yevamos 34b* and Rabbi Yom Tov Lipman Heller in his *Lechem Chamudos, Tractate Nidah*,

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Chapter 2, Comment 10, rule according to Rabeinu Asher, permitting occasional intra-anal ejaculation for married couples.

- Those post-medieval authorities who rule against Maimonides' permission for anal intercourse (even without intra-anal ejaculation) apparently base themselves on:
 - The virtually lone opinion among the medieval scholars of Raavad III in *Baalei HaNefesh, Shaar Hakedushah*, which is contradicted by Raavad III's own silence in his glosses to Maimonides' *Mishneh Torah, Isurei Biah 21:9*.⁷⁵⁴
 - The 1574-1576 censored Venice edition of *Mishneh Torah, Sefer Kedushah, Isurei Biah 21:9* in which Maimonides' permission of anal intercourse was omitted entirely.⁷⁵⁵
 - The 1598, 1617 and 1632 Venice editions of *Shulchan Aruch*, which included an erroneous marginal note by an unknown author stating that Rabbi Isserles's use of the term "*shelo cedarcah*" in *Even Haezer 25:2* was not meant to refer to anal intercourse, but only to rear-entry vaginal intercourse.
- Those post-medieval authorities who rule against Rabeinu Yitzchak's permission of occasional intra-anal ejaculation within marriage (and who thus also rule against the permission of it by Rabeinu Asher, Rabbi Yaakov ben Asher and the majority of other medieval authorities who weigh in on the question of intra-anal ejaculation), do so as a result of:
 - A questionable manuscript-version of Maimonides' *Mishneh Torah, Sefer Kedushah, Isurei Biah 21:9*, featuring a potentially forged restriction against intra-anal ejaculation for couples.
 - The halachic caution – but not prohibition – of Rabbi Yosef Caro based on *Nidah 13a* – though it is unclear if *Nidah 13a*'s context was ever meant to apply to occasional intra-anal ejaculation performed between husband and wife for the sake of sexual fulfillment within marriage.⁷⁵⁶
 - The kabbalistic caution – but not prohibition – of Rabbi Yosef Caro based on the *Zohar* – though it is unclear if the *Zohar*'s context was ever meant to apply to occasional intra-anal ejaculation performed between husband and wife for the sake of sexual fulfillment within marriage.⁷⁵⁷
 - Rabbi Yosef Caro's omission of any discussion about anal sex in his *Shulchan Aruch, Orach Chaim 240* and *Even Haezer 25* – which does not prove his opinion on the matter either way.

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- The kabbalistic teachings of Rabbi Yitzchak Luria in regard to “wasting seed in vain,” which are, in turn, based on the teachings of the *Zohar* (see point above).
- The difficult Talmudic arguments of Rabbi Eliyahu de Vidas in *Reishis Chochmah* and of Rabbi Elazar Azikri in *Sefer Charedim*.⁷⁵⁸
- Rabbi Yeshayah Horowitz’s endorsement in *Shnei Luchos Habris* of *Reishis Chochmah* and *Sefer Charedim*.⁷⁵⁹
- The 1594, 1619 and 1632 Venice editions of *Shulchan Aruch*, which included an erroneous marginal note by an unknown author stating that Rabbi Isserles’s use of the term “*shelo cedarcah*” in *Even Haezer 25:2* was not meant to refer to anal intercourse, but only to rear-entry vaginal intercourse.⁷⁶⁰
- Rabbi Yehoshua Falk, in his *Drishah* commentary to *Tur, Even Haezer 23:1:1* and *25:2:5-6*, insists that Rabeinu Yitzchak’s permission of occasional intra-anal ejaculation for couples encompasses also occasional ejaculation between limbs – and he possibly implies that this is how Rabbi Yaakov ben Asher himself, in the *Tur*, understood Rabeinu Yitzchak.⁷⁶¹

Rabbi Yechiel Michel Epstein, too, in his wording of *Aruch Hashulchan, Even Haezer 25:11*, appears to apply the permissive ruling of Rabeinu Yitzchak about occasional intra-anal ejaculation for couples to occasional ejaculation between limbs as well.

But, arguably, no mature halachic discussion was ever allowed to develop among the post-medieval authorities about the permissibility of ejaculation between limbs due to:

- The 16th-17th century rabbinic forces against anal sex and intra-anal ejaculation (listed above).
- A questionable manuscript-version of Maimonides’ *Mishneh Torah, Sefer Kedushah, Isurei Biah 21:9*, featuring a potentially forged restriction against ejaculation between limbs for couples.
- The 1574-1576 censored Venice edition of *Mishneh Torah, Sefer Kedushah, Isurei Biah 21:9*, as well as subsequent censored editions, in which Maimonides’ permission of intercourse between limbs was omitted entirely.⁷⁶²
- A 1754 censored edition of *Shulchan Aruch, Even Haezer 25:2* in which Rabbi Isserles’s permission of intercourse between limbs was omitted entirely.⁷⁶³

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- The obvious possibility that many rabbinic authorities since the time of Rabbi Falk were simply unaware of his interpretation of Rabeinu Yitzchak.
- The probability that most rabbinic authorities were simply unaware of Rabeinu Meyuchas's view on the matter.⁷⁶⁴
- Those post-medieval authorities who rule against Maimonides' permission for cunnilingus, base themselves on:
 - The virtually lone opinion among the medieval scholars of Raavad III in *Baalei HaNefesh, Shaar Hakedushah*, whose Talmudic arguments, there, are debatable, and who ultimately remained silent in his glosses to Maimonides' *Mishneh Torah, Isurei Biah 21:9*, where Maimonides permits cunnilingus.⁷⁶⁵
 - The ambiguous view of Rabbi Yaakov ben Asher in his Tur, where he never makes his final ruling on the matter clear.⁷⁶⁶
 - Rabbi Yosef Caro in *Shulchan Aruch, Orach Chaim 240*, relying upon Raavad III and Rabbi Yaakov ben Asher.⁷⁶⁷
 - Rabbi Shmuel Feivush's comment in his *Beis Shmuel* commentary to *Shulchan Aruch, Even Haezer 25:2* – which is either his own personal opinion or a disproven interpretation of Rabbi Isserles's words.⁷⁶⁸
 - *Callah Rabti 1:14*, which, in direct contradiction of Ameimar on Talmud, Nedarim 20b, has the Sages believing that the four congenital illnesses *do* result from the four sexual behaviors cautioned against by Rabbi Yochanan ben Dahavai, including cunnilingus.

But *Callah Rabti 1:14* also has the Sages *legally permitting all four* according to the letter of the law.

And *Callah Rabti 1:13* insists that even according to Rabbi Yochanan ben Dahavai himself, the four congenital illnesses are only a risk if the four behaviors are performed during the same sexual encounter in which conception occurs. Therefore, where conception is not possible, *Callah Rabti* would understand the Sages as considering all four behaviors, including the kissing of the female genitals, to be both legally permitted and medically safe.

Incomplete Presentations of *Callah Rabti* and/or Raavad III

- One medieval authority, Rabbi Yitzchak of Corbeil, in his *Sefer Mitzvos Katan, Positive Commandment 285*, appears to rule according to *Callah*

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Rabti, legally permitting all four behaviors cautioned against by Rabbi Yochanan ben Dahavai, but still mentioning the risk of danger to a fetus in regard to all four.

But he leaves out *Callah Rabti's* qualification that the risk of danger is only if these behaviors are performed during the same sexual encounter in which conception occurs. At any other time, all four behaviors would be perfectly permissible and perfectly safe even according to *Callah Rabti*.

- Important post-medieval authorities, such as the authors of *Chochmas Adam*, *Kitzur Shulchan Aruch*, *Mishnah Berurah-Biur Halachah* and *Kaf Hachaim*, offer varying presentations of Jewish sex law that endorse and/or combine the views of *Callah Rabti* and/or Raavad III, without clarifying the complexities of these two sources nor reflecting the majority of medieval written opinion we (now) know of – thereby (unintentionally or intentionally) leaving their readers with varying degrees of erroneously harsh impressions of the law.⁷⁶⁹

In light of all the above, even if one were to tally a majority of latter-day rabbinical authorities or modern-day family purity/marital intimacy guide authors who categorically forbid anal sex or intra-anal ejaculation, or intercourse between limbs or ejaculation between limbs, or gazing at the female genitals or kissing the female genitals, the argument that one should follow the majority of latest rabbinic opinion *even in post-Talmudic times*⁷⁷⁰ would arguably not apply, for the grounds upon which they are based in this regard are extremely debatable, and the widespread acceptance among the masses of these rulings until now can be attributed to an equally widespread (perhaps unintentional) lack of education about the complexities of these points of debate.⁷⁷¹

Behold: Even G-d Himself allows – nay, demands – that His own Holy Name be erased for the sake of restoring peace and harmony and sexual intimate life between husband and wife.⁷⁷² Do we not, then, have the obligation to clarify and correct incomplete (and arguably unhealthy) understandings about marital sex promulgated in His Name – however venerated their sources may be?

And concerning the opinion of the *Zohar* in particular, Rabeinu Yitzchak's dismissal of the problem of "wasting seed in vain" in regard to occasional intra-anal ejaculation within marriage – which encompassed, according to Rabbi Yehoshua Falk, a dismissal of the problem of "wasting seed in vain" in regard to occasional ejaculation between limbs within marriage as well – could apply equally to every discussion in the *Zohar* on the topic.⁷⁷³ Consequently, there would be no halachic or kabbalistic problem of "wasting seed" at all where sexual fulfillment and bonding are the main intentions of loving and vulnerable husband and wife.⁷⁷⁴

If the codifiers [of Jewish law] had thought that their works would cause the masses to abandon the Talmud entirely and instead rule straight out of their codes [of Jewish law], they would never have written them in the first place.

For it is more worthy and appropriate to rule Jewish law from the Talmud itself. And even though this carries the risk that one might not discern the path of truth, and one might not rule the law according to its truth to instruct others according to its truth, nevertheless a wise person is only expected to discern what his [G-d-given] intellect gives him to understand from the Talmud.

And if his understanding and wisdom mislead him, he is nevertheless beloved by G-d, may He be blessed, by the very fact that he rules according to how his [G-d-given] intellect sees true.

For “a judge must only judge according to what his own eyes see” – and he is better than one who rules straight out of a code [of Jewish law] without knowing the underlying premises at all, for the latter is like a blind man walking the road.

*Rabbi Yehudah Loew, Nesivos Olam
Nesiv HaTorah, Chapter 15*

Those who walked in darkness now see a great light.

Isaiah 9:1

This refers to those who delved into the Talmud and saw great light, for G-d enlightens their eyes in that which is forbidden and that which is permitted.

Midrash Tanchuma

Conclusion

As you can now see, there are long lists of compelling sources – and where needed, solid logic – to permit much more in the marital bed than your family purity/marital intimacy guide or pre-marriage teacher might have told you.

I hope you've enjoyed this brief journey, and that despite some unresolved (and even disturbing) questions and concepts we've encountered along the way, it has given you new faith in Torah as a revealed (and yet-further-to-be revealed) source of compassionate, realistic, down-to-earth divine wisdom for the human condition.

Of course, I have not come to argue that Judaism does not extol constant spiritual growth and refined sensitivity, including in matters of sex. As we've seen, most permissive liberal approaches that accept from a legal standpoint all of a man's or woman's sexual desires within the covenant of marriage immediately add that there is also the path of the pious, the spirit of the law, which seeks to focus on giving pleasure rather than on receiving it, and on fulfilling the Creator's own higher purposes.^{LV}

Thus, in short, G-d's message concerning marital sex is this: Do not be afraid to express all your sexual vulnerabilities and to fulfill all your sexual curiosities and desires and needs together with your loving spouse. But do not resist either how your approach to sex will naturally change and refine itself as you mature spiritually.

^{LV} For more on Judaism's approach to psychological-emotional-physical-spiritual balance in general, see Maimonides' *Introduction to Ethics of the Fathers, Shmoneh Perakim, Chapters 4-5*.

APPENDICES

Vaginal Massage

A personal friend of mine was told by his Chasidic pre-marriage teacher that it is forbidden for a husband to insert his finger(s) into his wife's vagina.

Referred to by some as “vaginal massage,” the technique can be beneficial during foreplay to arouse both husband and wife, and it can even be used to satisfy the wife's need for climax when, for whatever reason, the husband is unable to perform intercourse.

And such massage is not only effective inside the vagina, but on the outer vulva as well.

Such a “prohibition” against vaginal massage does not feature in any biblical, Talmudic or medieval sources I have found, and it appears to trace mainly to a passage in the *Lechem Mishneh* commentary of Rabbi Avraham de Boton (c.1560-c.1605).

I was first made aware of this passage in *Lechem Mishneh* in reviewing the modern-day marital intimacy guide, *Ufakadata Navecha*, by Rabbi B. Fink.⁷⁷⁵ Rabbi Fink offers a brilliant proof that it is permitted to touch one's wife's genitals from a story told in *Babylonian Talmud, Shabbos 140b*. The Talmud, there, relates that the sage, Rav Chisda, advised his daughters to increase their husbands' sexual arousals by first allowing them only to play with their breasts, and only after teasing them in this way to allow them to play with their vaginas (see the interpretation of Rabbi Shlomoh Yitzchaki, Rashi, there).

This clearly implies that a husband's touching of his wife's genitals – not only for the sake of her arousal, but even for the sake of his own – is perfectly permitted (and, if we may be so bold, not only permitted, but encouraged).

Rabbi Fink notes that *Lechem Mishneh to Mishneh Torah, Sefer Nashim, Ishus 15:18* reads an interpretation into this Talmudic passage that *assumes* vaginal touching by the husband to be forbidden. And while *Lechem Mishneh* does not distinguish between touching the inside or outside of the female sex organ, Rabbi Fink in any case references Rabbi Chaim Yosef Dovid Azulai (Chida) in *Birchei Yosef, Even Haezer 25:3*, who dismisses *Lechem Mishneh's* interpretation entirely.

Thus, we have a solid Talmudic source permitting vaginal massage – certainly the outside vulva, and there is no reason whatsoever to believe that massaging the inside should be any different.

Now, the only source I personally stumbled across asserting this “prohibition” (which Rabbi Fink discusses as well) is a 1913 book on “family purity” and piety by a certain Rabbi Yisrael Yitzchak Yanofsky, entitled *Taharas Yisroel*.

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Rabbi Yanofsky writes:

Putting one's hand on the private parts of a woman is a great perversion and it carries a prohibition.⁷⁷⁶

Note that Rabbi Yanofsky, too, does not differentiate between touching the outside vulva or the inside vagina.

But in his source-notes, there, he points to the medieval work, *Rabeinu Yeruchem Nesiv* 32 – which, in actuality, states this “prohibition” in regard to fondling not one's own wife, but *another married woman!*⁷⁷⁷

Now, we must certainly give Rabbi Yanofsky the benefit of the doubt and attribute his wording, here, to a mere typographical oversight or error. But this is still a telling example of how erroneous reporting of sources – unintentional or otherwise – can cause innocent, trusting grooms and brides to endure not just sexual unfulfillment, but needless inhibition, anxiety, guilt or shame (if not straight out infidelity⁷⁷⁸), possibly over an entire lifetime.

Sex Above the Covers

It is commonly taught that sexual intercourse if done naked must only be performed under the covers – ideally up to the neck, but at least from the waist down.

But this “law” is not stated in any medieval works I have seen, save one, nor in any of the major codifiers.

One medieval authority calls it an act of “sanctification.”⁸⁰⁸

Another considers it unhealthy.⁸⁰⁹

And one modern-day “family purity” guide refers to it as a “custom.”⁸¹⁰

I first had my doubts about this “legal requirement” in researching the various definitions of the term “overturning the table” on *Nedarim 20ab* (*hafichas shulchan*).

As we’ve seen above, in addition to the Talmud’s clear ruling on *Sanhedrin 58b* permitting anal sex, according to most medieval commentaries⁸¹¹ “overturning the table” also refers to anal sex – implying rear-entry anal intercourse specifically (in contrast to anal intercourse with the wife on her back, facing her husband). Rear-entry vaginal intercourse is certainly permitted even by the most stringent medieval view, Raavad III in *Baalei HaNefesh, Shaar Hakedushah*,⁸¹² while others permit wife-on-top.⁸¹³ One opinion, Rabeinu Peretz, defines “overturning the table” as vaginal intercourse with the wife on top and facing away from her husband. The *Mefaresh* commentary to *Nedarim 20a* may be describing the same position as Rabeinu Peretz, extending it to include anal penetration.⁸¹⁴ And then there are the sitting and standing positions, both permitted by the letter of the law.⁸¹⁵

Thus, the obvious question: Can all these positions honestly be done with the covers on? Even half on? Can we honestly believe the commentaries imagined them to be done so? Is that really even the pleasure the husband craves in all this – the position without the “view”?

Even in the case of rear-entry anal intercourse, where it is possible for the wife to lie flat down with both her and her husband completely under the covers, Rabeinu Asher in his *Peirush HaRosh to Nedarim 20a* – who himself interprets “overturning the table” as anal intercourse – clearly describes the position as causing the woman “inconvenience upon her knees” (*shematriach osah al arkevosehah*). Obviously he understood her to be up on all fours, which is not conducive to covering by a blanket.

So I started researching the sources, and this is what was found:

As is commonly known, the original source of the notion that naked sex should be performed under the covers is from the midrash, *Vayikra Rabah 21:8*:

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Rabbi Shimon ben Yochai said:

There are four whom G-d abhors, and even I do not love them:

1. One who grasps hold of his shaft while urinating;⁸¹⁶
2. One who has naked uncovered sexual intercourse (*meshamesh mitaso arum*);
3. One who divulges to others the private [sex] talk he had with his own wife;
4. One who enters a house, even his own, entirely unannounced.

Let it be noted immediately that G-d's alleged "abhorrence" of something in no way implies His "prohibition" of it, as Maimonides states unequivocally in his *Commentary to the Mishnah, Sanhedrin 7:4*, in the very context of sexual conduct within marriage.⁸¹⁷ Indeed, if Rabbi Shimon ben Yochai had intended these behaviors to be "forbidden" by Torah law, he could have easily made his intentions perfectly clear.⁸¹⁸ And if he were merely adding extra measure of "abhorrence" upon actual prohibitions, there are certainly much more heinous and "abhorrent" halachic crimes that could have been listed – first and foremost, the three cardinal sins of idolatry, murder and adultery?

Let it also be noted that all commentaries understand the phrase "naked uncovered sexual intercourse" as referring to sex *without the blankets on*, not sex without clothes on, for it is actually considered appropriate for husband and wife to make love skin-to-skin. In fact, if a husband insists against his wife's will on having sex only with clothes on, it is deemed as justifiable grounds for her to demand divorce.⁸¹⁹

And Rabbi Shimon ben Yochai speaks specifically about naked uncovered sexual *intercourse*, which would not necessarily include naked uncovered *oral* sex.

Now, an alternate version of this teaching is found in the Talmud, in *Babylonian Talmud, Tractate Nidah 16b*:

It is written in the *Book of Ben Sira*:⁸²⁰

There are three I abhor, and four I do not love:

1. An official who frequents the pubs – and some say one with a loose tongue; and some say one who loses his temper
2. A Torah scholar who [haughtily] sets up his lessons in a place where all passersby will notice him
3. One who grasps hold of his shaft while urinating
4. One who enters the house of his friend unannounced; Rabbi Yochanan said, "This includes entering even one's own house"

Rabbi Shimon ben Yochai said:

There are four behaviors which G-d abhors, and I do not love them.⁸²¹

1. One who enters his house unannounced, and it goes without saying the house of his friend
2. One who grasps hold of his shaft while urinating
3. One who urinates naked next to his bed
4. One who has sex in front of others

The first thing the reader should take note of, here, is how similar the teachings of Ben Sira and Rabbi Shimon ben Yochai are. While it is possible that the two merely disagreed on the matter, it is also perhaps possible that one original teaching had evolved into two divergent versions over time.⁸²² This point becomes even more stark considering that Rabbi Shimon ben Yochai himself, in both places, in *Midrash Rabah* and in *Tractate Nidah*, is not only quoted as listing things he didn't like, but as listing a precise number of them. This further suggests that these two sets of teachings in the name of Rabbi Shimon ben Yochai were originally one and the same and had somehow become divergent, or that Rabbi Shimon ben Yochai himself had changed his mind on the matter at some point. Not to mention that the Talmud elsewhere, on *Pesachim 113b*, lists three entirely different behaviors that G-d is said to abhor. Clearly there was much disagreement or ambiguity about how many, and which specific, activities G-d "abhors," yet does not "forbid."

Thus, our first reaction should arguably be circumspect about implementing restrictions on behaviors that do not appear in both versions of Rabbi Shimon ben Yochai's teaching and about which we have no innate moral instinct to abhor ourselves. For while any sensitive individual would presumably abhor, or at least "not love," someone who reveals the private discussions he or she held in confidence with their spouse, or someone who urinates right next to their own bed, we have no reason to abhor or denigrate sex done naked and uncovered when such is done consensually and lovingly within marriage in complete privacy behind closed doors.⁸²³ Therefore, even if this teaching were meant to reveal some sort of "prohibition," it could be classified as a *suspect rabbinic prohibition*, and when there is doubt concerning a rabbinic prohibition there is precedent to rule leniently (in the spirit of *safek d'rabanan l'kulah*).

In any case, *Tosfos* to *Nidah 17a* comments:

Some versions of the Talmud, here, include "naked uncovered sexual intercourse" [in place of "urinating naked next to the bed"].

This is also the version in *Vayikra Rabah* [21:8].

And the reasoning behind it is that one should conduct oneself modestly during sex, as discussed in *Nedarim* [20a].

In light of *Tosfos'* comment, our argument, above, to be circumspect about accepting the authenticity of the caution against “uncovered naked sexual intercourse” is possibly weaker, because it is, according to some textual versions, actually included in both places where Rabbi Shimon ben Yochai’s teaching is reported – both in *Vayikra Rabah* and in *Talmud, Tractate Nidah*.

But nevertheless, according to *Tosfos*, Rabbi Shimon ben Yochai’s teaching about G-d’s “abhorrence” of naked uncovered sex is equivalent to Rabbi Yochanan ben Dahavai’s implication about G-d’s lack of love for “overturning the table,” gazing at or kissing the female genitals, and non-sex-related talk during sex. In that case, being that the Sages, Rebbi, Rav and Rabbi Yochanan bar Napacha on *Nedarim 20b* all rule against Rabbi Yochanan ben Dahavai, saying instead that G-d Himself ultimately allows a couple to engage in any sexual activity they crave to explore together, and that such exploration is not considered “immodest” according to the letter of G-d’s law, perhaps only according to its spirit, then Rabbi Shimon ben Yochai’s teaching, too, must arguably be relegated only to the spirit of the law.

Accordingly, naked uncovered sex should be legally permitted.

And indeed it appears to be.

A perusal of Maimonides’ *Mishneh Torah*, Rabbi Yaakov ben Asher’s *Arbaah Turim*, and Rabbi Yosef Caro’s *Shulchan Aruch* will reveal that not one of them forbade naked uncovered sex in their chapters on Jewish marital sex law.⁸²⁴

Only one medieval authority I have found, Rabbi Yisrael Alnaqua (d. 1391), in his *Menoras Hamaor*, used the word “forbidden” (*asur*) in conjunction with it.⁸²⁵

Two centuries earlier, Rabbi Avraham ben Issac of Narbonne, Raavad II (1110-1179), in his *Sefer HaEshkol, Hilchos Tznius*, categorized it as a matter of “sanctification.”⁸²⁶

And the medieval author of *Likutei HaPardes* suggested it is unhealthy.⁸²⁷

The post-medieval Rabbi Eliyahu de Vidas (1518-1592), in his *Reishis Chochmah*, calls it a matter of “sanctification”⁸²⁸ as well as a matter of avoiding “chutzpah.”⁸²⁹

Rabbi Yaakov Emden (1697-1776), in his commentary to the prayer book, insists that a naked couple be covered with a blanket during intercourse even at night in the dark. But he does not say that to do otherwise is “forbidden” – a term he does use in seven subsequent laws there.⁸³⁰

Rabbi Chaim Yosef Dovid Azulai (Chida, 1724-1806), in his *Midbar Kedemos, Zayin:11:Zivug*, mentions that because even permitted marital sex can be prone to

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unholiness, one should “sanctify oneself very much, with trembling and sweat, and to cover oneself.”

Rabbi Yisrael Meir Kagen (1839-1933), in his *Mishnah Berurah, Orach Chaim 240:8:36* echoes *Tosfos* that it is an issue of “modesty,” but does not specify if it is obligatory.

And as mentioned, one modern-day “family purity” guide calls it just a “custom.”⁸³¹

Again, even if we are to accept Rabbi Shimon ben Yochai’s teaching about that which G-d abhors, we need only look back to Maimonides’ *Commentary on the Mishnah, Sanhedrin 7:4*, where, in discussing the Sages’ definite preference for “sanctified” sexual behavior within marriage, he still maintains that:

This does not contradict the principle of the Sages that we opened with, that anything a husband craves to do with his wife sexually he may do, because the question of what is forbidden versus permissible is not the same as the question of what is distasteful versus pleasing and beloved and how one should strive for the path of modesty and extreme moderation.⁸³²

See also Rabbi Yehuda Henkin’s *Bnei Banim, vol. 4, Responsum 17:5*, that based on the *Hakdamas HaZohar* even Rabbi Shimon ben Yochai himself could be said to permit naked sex completely uncovered so long as it’s performed in a dark room.⁸³³

Now, there are those who will counter that according to another teaching brought in Jewish law, we are told not even to dress or undress at any time outside the covers, so as not to reveal any normally covered skin. How, then, they might argue, could it possibly be permitted to have sex entirely naked without any blanket on at all?

The answer:

Firstly, as discussed at length above, there are many things that are permitted during physical intimacy of husband and wife that may not be permitted, or at least not encouraged, at other times, such as “excess light-headed talk” needed to arouse a spouse to the mood, all kinds of arousing behaviors for both husband and wife, and even certain cases of extra-vaginal ejaculation.

But quite aside from all that, the notion of not dressing or undressing outside the covers is, again, not a matter of law, but of piety.

We can actually deduce this from Rabbi Shimon ben Yochai’s own teaching above – for if nakedness in general were in fact “legally forbidden,” there would have been no need for him to tell us about G-d’s alleged “abhorrence” of naked uncovered sex specifically.

But logical deductions aside, the actual source for this notion is *Babylonian Talmud, Tractate Shabbos 118b*, where Rabbi Yossi is quoted saying: “My entire life, the walls of my house did not see the seams of my shirt.” Rabbi Shlomoh Yitzchaki, Rashi, explains this to mean that he would cover himself with his blanket when removing his shirt so as not to expose any normally covered skin – this, Rashi tells us, as a matter of “modesty.”

Now, before examining how this teaching is discussed among the later legal authorities, we must first be clear about its context in the Talmud itself, for it is brought back-to-back with another quote of Rabbi Yossi: “My entire life I never gazed at my membrum.” Rashi, on this quote of Rabbi Yossi, says clearly that this was an expression of his “extreme modesty,” and Maimonides presents the quote in similar context when he writes:

*One of the great sages and original pious ones prided himself in having never gazed at his own membrum.*⁸³⁴

Rabbi Yosef Caro, in his *Shulchan Aruch*,⁸³⁵ repeats Maimonides’ wording.⁸³⁶

And Maimonides maintains this context of piety even in regard to Rabbi Yossi’s comment about dressing or undressing under the covers, for he writes:

*Torah sages accustom themselves to extreme modesty . . . they do not uncover their heads or bodies.*⁸³⁷

Maimonides clearly does not expect such modesty from the average individual.

Even in the *Tur*⁸³⁸ and *Shulchan Aruch*⁸³⁹ where Rabbi Yossi’s comment about dressing or undressing under the covers is brought, it is never stated as an obligation. It is apparently one of those cases we described in our introduction⁸⁴⁰ where the legal codifiers carefully chose their words, precisely saying “*Do not get dressed in a sitting position...*” rather than “*It is forbidden to get dressed in a sitting position...*”

Thus, the reader must be aware that Rabbi Yossi’s teaching about not dressing or undressing outside the covers is coming from a pietistic, individualistic source, not a baseline legal one for the masses.

Rabbi Schneur Zalman of Liadi, in his revised *Code of Jewish Law* known as *Shulchan Aruch HaRav*, provides two editions of this law.

Chapter 2 of his first edition reads:

1. Because a person is obligated to have the awe of his Creator upon himself at all times, he should be modest in all his ways, for modesty and shame (*boshes*) foster submission before G-d.

Therefore, if someone sleeps naked without an undershirt, when he arises *it is good to be careful (tov lizaher)* not to first sit and then put on his undershirt...⁸⁴¹

Rabbi Schneur Zalman says, here, only that avoiding uncovered nakedness is “good,” not that it is “obligatory” – and this in spite of his extollation of both “modesty” and “shame,” and what he calls an “obligation” to keep the awe of the Creator upon oneself at all times.

In Chapter 2 of his second edition, Rabbi Schneur Zalman writes:

1. The trait of modesty is praised in Scripture in many places, and the Sages *instructed* all people to be modest in all their ways (*vachachamim tzivu l'chol adam lihiyos tzanua b'chol orchosav*) . . .

Therefore, one should not reveal even a little skin that is normally always covered in clothing, and even when he is sleeping in bed at night all his [normally covered] skin should be covered by a sheet (*lachen, lo yegaleh es bsaro, va'afilu me'at col mah shedarco lihiyos mechuseh b'begadim l'olam, va'afilu c'sheyashen al mitaso balailah yechaseh col besaro basadin*) . . .

2. Similarly, when he removes his clothes and undershirt to sleep naked in bed, he should be careful (*yizaher*) to cover each part of his skin with the sheet before he undresses it, such that once he does undress that part it is already covered by the sheet, and thus not even a single part of his [normally covered] skin will be revealed *for no reason* (*shelo letzorech*) even for a single moment.

(So too, one who does not sleep naked, but only without pants (sic), he should first cover his legs with the sheet and then remove his pants under the sheet.)

And similarly, when he gets up in the morning, he should put on his undershirt little by little underneath the sheet while he is still laying down, such that even a small amount of his [normally covered] skin will not be revealed even for a single moment *for no reason* . . .

(So, too, with our pants: he should put them on little by little underneath the sheet in order not to reveal his legs – for in these countries [i.e., 18th-19th century Eastern Europe] it is customary that they are always covered, for people do not go barelegged ever, even in summer.)⁸⁴²

In this edition, Rabbi Schneur Zalman no longer writes that it is only “good to be careful” not to reveal normally covered skin. But now his preliminary statement in regard to nakedness in general, that “the Sages instructed all people to be modest in all their ways,” does not appear to have a known source:

The footnotes added in by later publishers, which point to *Babylonian Talmud, Tractate Brachos 8b* and *62a* appear to be unclear, for no such rabbinic “commandment” is found on those pages, only more stories of the *personal* extreme modesty of the Sages themselves. *Brachos 8b* does not even discuss the

Sages' own acts of modesty, but rather only one particular sage's predilection for certain "modest" customs of the *Persians*.

[And see *Talmud, Kesubos 48a*, mentioning the Persian custom to only have sex while fully clothed, and denigrating it as a practice that is contrary to Torah's – G-d's – way for the average couple.]

In both editions, the footnotes to this law that were penned by Rabbi Schneur Zalman himself, or by his scholarly brother, Rabbi Yehudah Leib, make reference only to *Talmud, Tractate Shabbos 118* and *Tur, Orach Chaim 139*, which we already know are both in the context of Rabbi Yossi's extreme level of modesty beyond that of the average person.

And even where Rabbi Schneur Zalman explains in detail how to avoid revealing even the minutest amount of skin for even a single moment, he adds that one should not reveal such skin "*for no reason.*" But in the case of sexual intimacy between husband and wife, there are behaviors that are not always conducive to being covered by a blanket – such as oral sex and a variety of sex positions – that are permitted by G-d to accommodate the natural human sex drive He Himself created. In other words, this temporary nakedness IS for a reason: to provide both husband and wife their sexual needs and fulfillment, and their resulting vulnerability and bonding, within the context of a loving devoted marriage.

Finally, and most importantly, see Rabbi Yosef Teomim, in his *Pri Megadim, Mishbetzos Zahav*, to *Shulchan Aruch, Orach Chaim 2:1*, who states clearly that this entire teaching about dressing or undressing under the covers applies only to Torah scholars, who practice extreme modesty, but not to average human beings, who are not careful about nakedness in general and for whom "**there is no such prohibition**" (*mashma she'ar adam misgalim gufam . . . mashma gam kein lachasidus, u'she'ar col adam ein isur*).

See also Rabbi Moshe Feinstein, *Igros Moshe, Yoreh Deah 3, Responsum 68:4*, page 316:

The concept of modesty for men, to go out in public [only] with their bodies fully covered, does not stem from a matter of legal prohibition, but from a [pious] ideal and care (*eino mei'isurim eleh maaleh u'zehirus*) to be fully dressed even in private stemming from an awareness that one is always in the presence of G-d . . .

For the same reason, when they were accustomed to sleeping naked at night, covered only by a sheet, this ideal would necessitate removing one's shirt under the sheet . . . and putting one's shirt back on under the sheet . . . And so must one take care to do if he is able to.

But [in public,] the rule of [halachically required] dress [for men] follows the local accepted norms . . .

But it is forbidden [for a man] to go with genitals exposed [in front of other men at times other than when he is bathing], for even when bathing in the river it is good to cover [one's genitals outside the water] when he is facing others, in a manner that he does not actually touch them [his genitals] with his hands, as discussed in *Talmud, Shabbos 44*. And in his bedroom, even with no one else around, he must cover them, such as to go around with underwear. And there is also a prohibition [to go with them uncovered even in private] because then one cannot dwell on thoughts of Torah. But for medical purposes even this [to go completely naked in private] is permitted.⁸⁴³

According to Rabbi Feinstein, then, when one is in private there is no prohibition to change one's clothing outside the covers; the only possible legal prohibition would be to sit or walk around with one's genitals exposed. But even this prohibition is only on account of concerns about Torah study – which arguably does not apply to a woman most of the time, and arguably does not apply to either husband or wife during sexual intimacy ever. And in any case, for the sake of health – which, if we may be realistic about human nature and frailty, should include psychological-emotional-physical-spiritual balance resulting from the sexual fulfillment of either spouse, and the resultant health of their marriage and general family life as a whole – complete nakedness during sexual intimacy should arguably be permitted for those who feel the honest need for it.

However, this entire discussion about naked sexual intercourse above the covers is presuming it is done in the darkness of night or in a darkened room during the day.⁸⁴⁴ But if the room is lit up at night or by day, a couple would perhaps be required to darken it or keep their bodies partially or entirely covered, or perhaps avoid sexual intercourse altogether.^{845 LVI*}

Look for our future study on that topic, and additional topics, in upcoming volumes of this series.

^{LVI**} **Added note to the third edition:** See the ruling of Rabbi Yosef Messas (1892-1794) in his *Mayim Chaim, Responsum 97*, that with modern advances in matters of hygiene, it is permissible **on occasion, randomly in the heat of passion (b'akrai)**, for any husband and wife who desire the sight of each other's bodies during intercourse to have sex during the day or night in a perfectly lit room, even without covering themselves head to toe – on the logic that such is certainly no worse than intra-anal ejaculation, which, Rabbi Messas says, is also permitted within marriage on occasion, randomly in the heat of passion. Rabbi Messas does not specify if the genitals, or any other specific body parts, must be covered for foreplay or intercourse on such an occasion. Credit goes to Rabbi Eliezer Melamed for bringing this source to my attention in his *Simchat Habayit v'Birchato* (second edition, 2015), page 64, end of footnote 21. See also pp. 55-57, there, and footnote 16 thereon.

And see Rabbi Maor Kayam's *Harchavot l'Simchat Habayit v'Birchato* (2015), page 148, concluding as well that a blanket covering during intercourse, at least in a dark room, is a pious custom rather than a legal obligation.

A Word about Rabbinic Fallibility

In the course of our study, we have seen predictions, or cautions, reported in the names of certain ancient sages attributing severe congenital illnesses in children to common sexual behaviors between loving spouses within marriage.

My sincere apologies go to my readers for having had to endure reference to such predictions/cautions repeatedly in the course of our study – and especially to parents who have valiantly raised children suffering such conditions, and most of all to those who have courageously and heroically lived with such conditions themselves.

As we have seen, most of the Talmudic and medieval sages did not believe in these predictions/cautions.

At the same time, I do not believe that rabbinic fallibility in matters of science in particular need create any fundamental crisis of faith in Torah. There are ample sources in medieval rabbinic writing that admit the Talmudic sages did not possess perfect scientific knowledge, but rather, much like rabbis today, they sometimes consulted the science of the day in their conception of the natural universe and its interface with Jewish law and philosophy.^{LVI}

On this topic, I would recommend all readers explore the erudite studies of Rabbi Nathan Slifkin available online at RationalistJudaism.com, and especially the *Introduction* and *Chapter 16: The Spontaneous Sweat Louse of his Sacred Monsters* (Zoo Torah, 2007-2011). See also his essay, *The Sun's Path at Night*, which he has made available for viewing online.⁸⁴⁶

And see Rabbi Yehudah Levi's *The Science in Torah: The Scientific Knowledge of the Talmudic Sages* (Feldheim 2004).

To add some possible additional angles **for further research and discussion**, let us borrow an analogy from civil law:

If a rabbinic judge makes a ruling in a legal case based upon the evidence and testimony before him, and then the next day new evidence comes to light, or a flaw is found in the prior evidence, or one of the witnesses is suddenly found to be false, the judge would presumably change his ruling – and his doing so would create no fundamental crisis of faith in the truth of Torah. On the contrary, the fact that Torah – G-d – would obligate him to do justice and alter his previous ruling is a confirmation of Torah's – G-d's – interest in truth at all costs, even if it means the judge having to exhibit the humility to recognize that, for whatever reason, G-d in His great mysterious wisdom chose to withhold all the facts from him in the past.

^{LVI} And who is to say that the science of today, which has been applied to modern questions of Jewish law and philosophy, and even mysticism, will not be found to be incomplete tomorrow.

Still, the judge himself did everything correctly in line with G-d's, and our, expectations of him: he issued his original ruling based on a faithful analysis of the evidence before him at the time. But when all is said and done, by Torah's – G-d's – own acknowledgment, a proper analysis of the available information, and a valid conclusion issued based upon it, does not always equal an **absolutely true** ruling – at least not when new evidence comes to light, when evidence is subsequently disqualified, or when witnesses are subsequently proven false. In such cases, once the facts come to light the ruling must be changed.

Similarly, if we may be so bold, Torah sages throughout history sought the testimony of science – the science of their day – to help them apply Torah's wisdom in all its facets – legal, ethical and/or mystical. Thus, as science refines its “testimony” – proving that its past evidence was incomplete, incorrect, or that it was provided by “false witnesses” – G-d arguably expects Torah scholars to take that new testimony into account, evaluate it, and, if truth be their goal, revise the law or philosophy that was built upon it.^{LVII}

^{LVII} Perhaps another way of expressing this: In the way G-d has interacted with His creation throughout history, it is evident that He Himself chooses to make a distinction between that which might be the **absolute truth (that is, the absolute comprehension) of reality and Torah** and that which might be His interim will for an individual, a community, the Jewish nation, or the world as a whole **to believe in and/or obey for a given time and in a given place**. G-d manifests this interim will by means of limiting or expanding the amount of information He makes available to the living Torah scholars of each generation and the degree of insight He bestows upon them (as well as the practical ability He grants them to articulate, communicate and/or disseminate that information/insight). This cycle continues until G-d is ready to reveal His absolute truth of reality and Torah to the whole of humanity in the Messianic Age (see below, endnotes 847, 848; and see our next point in regard to the prophets).

As for why G-d would do such a thing, to allow absolute truth to go unknown for so long, and even among the keepers and teachers of His Torah, such a question would be no different than any of the other great mysteries of the human condition. Indeed, the same question would have to be asked as to why G-d allowed the whole world to go without Torah itself for over two thousand years between Adam and Moses.

And to expand the question into other areas of Jewish law:

The one commandment in the Torah that supersedes all others is the saving of human life. Yet for the vast majority of human history, G-d, in His mysterious ways, chose to keep scholars of all nations, including those of the Jews, unaware of the medical secrets that would have allowed them to perform this commandment effectively. And with all the medical intelligence He has bestowed upon mankind today, He still withholds more.

In regard to the fallibility of the Sanhedrin itself, see *Talmud, Tractate Horayot*. And see *Rabbinical Authority and Personal Autonomy* (Rabbi Isaac Elchanan Theological Seminary, 1992), Chapter One by Lawrence Kaplan, *Daas Torah: A Modern Conception of Rabbinic Authority*, pp. 28-46.

And note that the Talmud does not hide the fact that not every Talmudic sage had access even to the entire gamut of the Oral Torah tradition before being authorized to teach it. See, for example, *Zevachim 96b*, the episode of Rabbi Yitzchak bar Yehudah and Rami bar Chama.

But let us take this argument yet further.

Even if the Talmudic sages' statements on science were spoken out of some learned derivation from Torah or some direct divine revelation by angels or the Creator Itself, by no means would this necessarily make their statements on such matters clear articulations of absolute truth either.

Maimonides writes that when the Sanhedrin derives the details of Jewish law by way of *interpreting* biblical verse, their derivations are not absolute and can be superseded by the understanding and interpretation of a later Sanhedrin (see *Mishneh Torah, Sefer Shoftim, Memrim 2:1* – to be explored further in volume two of this series). If such is the case in regard to the Sanhedrin's interpretations in matters of practical Jewish law – i.e., G-d's will – it should arguably also be the case, and even more so, in regard to statements of the Talmudic sages about science or metaphysics (or philosophy or psychology or history, etcetera) that they based on biblical interpretation.

As far as divine revelation is concerned, Maimonides explains that, other than Moses himself, the prophets did not necessarily see their prophecies with perfect clarity, but rather they experienced dreams or visions of parables requiring interpretation – and such prophecies included not just predictions of the future, but knowledge of the science of creation as well (see *Mishneh Torah, Sefer Hamada, Yesodei HaTorah 7*). Although Maimonides states that G-d helped the prophets interpret the messages of their visions, it is not clear at all that this meant they understood all the detailed historical facets that would unfold in their predictions or that they fathomed the absolute profundity of all the math, biology, chemistry or physics (or metaphysics) underlying their elevated perceptions of reality.⁸⁴⁶ This is especially so considering that whatever G-d might have revealed to any given prophet in matters of the natural world would have been comprehended by him or her, and expressed by them, according to the limits of their own frames of reference and vocabulary.^{LVIII}

^{LVIII} See Rashi's commentary to Numbers 30:2, quoting *Sifri 153*, acknowledging the difference in perception/articulation between Moses' prophecies and those of all other prophets (see the explanation of Rabbi Eliyahu Mizrachi on this, referenced in the Mosad HaRav Kook *Toras Chaim* edition of Numbers 30:2, Rashi, footnote 6).

Add to this the rabbinic principle that “G-d speaks in language that man relates to” (*dibrah Torah c'lashon bnei adam*) – that even G-d's own choice of wording is tailored to be meaningful to each prophet in his or her time and place.

And see *Mishneh Torah, Sefer Shoftim, Melachim 12:1* for a further angle relevant to this point.

Added note to the third edition: See also the medieval commentary of Rabbi Levi ben Gershon (“Ralbag,” 1288-1384) to the Book of Job, beginning of Chapter 40, *Biur divrei hamaaneh*, where in the midst of a long discussion Ralbag asserts that if a prophet has a preconceived false belief about the nature of reality, that false belief is liable to color his prophetic vision:

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Additionally, the fact that a certain specific prophecy might have elevated a certain individual prophet's perception of the natural universe in no way means that in that one revelation G-d had communicated to him or her the totality of the secrets of creation or even the totality of one field of science.

The implication of all this is that neither the predictions nor the scientific (or metaphysical) outlooks of the prophets were necessarily perfectly perceived or articulated by them – and how much more so the predictions or scientific (or metaphysical) outlooks of the Talmudic sages (and Torah scholars thereafter), whom we have no reason to believe ever attained the level of divine perception of the prophets. Rather, just as we must rely on the unfolding of human history, including non-Jewish history in all its facets, for us to properly unravel the complete meaning of G-d's messages to the prophets and Talmudic sages in the realm of prediction, so too must we rely on the unfolding of human inquiry, including non-Jewish scientific discovery, to come to a complete understanding of G-d's revelation to the prophets and Talmudic sages in the realm of the nature of reality.

We might say, then, that G-d intentionally gave the keys of scientific wisdom into the hands of the non-Jewish nations (*chochmah bagoyim taamin*) while He entrusted the principles of divine wisdom into the hands of the Jewish people, so that they would all one day come to realize their need for, and dependence upon, one another – and most importantly, they would actualize their united mission and purpose within creation: to marry their G-d-given wisdoms together in the pursuit of truth, the knowledge of G-d,⁸⁴⁷ the new Torah revelations of the Messianic Age.⁸⁴⁸

. . . V'yoser zar mizeh, shecvar yagia l'navi davar cozeiv b'eis hanevuah b'mah she'ein lo mitzad shehu navi, mitzad hadeos asher lo b'inyonim hahem, c'mo ha'inyan b'Yechezkel, shehigiya lo b'nevuah c'ilu hagalgalm mechadshim kolos b'tnuasam, mipnei shehaya maamin shehagalgalim yechadshu kolos b'tnuoseihem, c'mo shezachar haRav haMoreh. . .

Credit goes to Rabbi Simcha Feuerman for bringing this source in Ralbag's commentary to my attention.