

## *Is Handshaking a Torah Violation?*

By: YEHUDA HENKIN

### Touching

As opposed to any touching at all between husband and wife when she is in a state of *niddah*, which is explicitly forbidden in the *Shulchan Aruch*,<sup>1</sup> no such blanket prohibition is found in relation to other 'arayot. Thus, while the *Shulchan Aruch*<sup>2</sup> forbids numerous forms of interaction with 'arayot, including winks and gestures and pleasurable gazing, simple touching without intention of affect is not one of them. As our generation's *Sheurei Shevet haLevi* on *Hilchot Niddah*<sup>3</sup> writes:

[He may] not touch her [i.e., his *niddah* wife]: that is to say, even without intention of desire and affection, while [in their absence] even a rabbinical prohibition does not apply in [touching other] 'arayot.

So, too, the *Taz*<sup>4</sup> mentions: "... his friend's wife [with whom] he is forbidden to sleep in one bed, but touching is permitted."

A graphic example of rabbinic permission for even extended touching between men and a married woman, in circumstances not reflecting "desire and affection," can be found, according to a number of *risbonim*, in *Beitzah* 25b. There R. Nachman permitted his wife Yalta to "go out on an *alonki*." Rashi explained that a man

<sup>1</sup> *Yoreh Deah* 195:2: "[He may] not touch her, even [with his] little finger" (or, "...even [on her] little finger").

<sup>2</sup> *Even haEzer* 21:1.

<sup>3</sup> By R. Shmuel Vozner, 3<sup>rd</sup> edition (5758), p. 252.

<sup>4</sup> *Orach Chayim* 615:1. The *Taz* takes for granted that about which Resp. *Pnei Yehoshua*, pt. 2 no. 44, wrote "it is possible" (*efshar*).

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placed his hand on his partner's shoulder and his partner placed his own hand on the first's shoulder, thus forming a place to sit for a third person who sat "on his chair on their arms," and according to this it is at least possible that Yalta sat on a chair carried by men without direct physical contact between them.<sup>5</sup>

Meiri,<sup>6</sup> however, explained that he sat directly on their arms without a chair, and such is the implication of R. Chananel who explained *alonki* as being a "shoulder saddle" without mention of a chair. Moreover, the *Aruch*,<sup>7</sup> after quoting R. Chananel, added that "a woman is afraid lest she fall, [and] for that reason she was permitted to shoulder (*lekatef*) by supporting herself with her hands on their heads, and [so] she did not fall."<sup>8</sup>

All this, of course, does not constitute permission for members of opposite sexes to casually touch each other prior to marriage. Particularly in our society and particularly among the young, the tendency, if not the inevitability, of one thing leading to another is too great to allow for any breach by unmarried couples of a rigid policy of *shomer negi'ab*, under the rubric of *sechor sechor amrinan l'nezira, l'carmecha lo tikran*.<sup>9</sup>

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<sup>5</sup> This may be the source of the custom at weddings to lift the chair on which the bride is seated, even by men. It can also explain R. Acha's carrying a bride on his shoulders, in *Ketuvot* 17a. Granted that R. Acha was a saint for whom the bride was like a "wooden beam," still, what gave him the idea to do such a thing in the first place? If, however, it was accepted practice to lift the bride on a chair, he simply took things a step further and carried her without a chair.

<sup>6</sup> *Beitzab*, *loc. cit.* It should be noted that Meiri, in *Avodab Zarab* 17a, follows the opinion of Rambam concerning *lo tikrevu* (discussed below).

<sup>7</sup> S. v. *alonki*.

<sup>8</sup> For further discussion of this *sugya*, see my *Bnei Banim*, vol. 4 no. 11, p. 39.

<sup>9</sup> A Talmudic idiom for not leading oneself into temptation, literally: "Go around, go around" we say to the Nazirite [who is forbidden to drink wine], 'don't approach your vineyard!'"

## Lo Tikrevu

Rambam famously applied a Torah prohibition not only to sexual relations but also to pre- and proto-sexual behavior such as kissing and hugging; actual relations are prohibited under penalty of  *karet*, while kissing etc. is an infraction of a negative commandment, punished by the lash. This is based on the language of *Vayikra* 18:6 concerning *'arayot* in general, and of 18:19 concerning a *niddah*: Instead of simply prohibiting relations with them, the Torah warns “*lo tikrevu*” (pl.) in the first verse and “*lo tikerav*” (sing.) in the second, meaning “you shall not come close” i.e., foreplay. I use the term “foreplay” in its widest sense—action or even speech of a sexual nature, of the sort that serves as a preliminary to or accompaniment of sexual relations.

This proviso precludes social handshakes from being subsumed under the *lo ta'aseh*, since a handshake is not a preliminary to relations. This is so even if the handshake includes an element of affection or pleasure; affection alone without the feature of desire is not a Torah violation. The *Shach*<sup>10</sup> already wrote this when he stipulated “the way of desire and affection of intercourse” (*derech taavah v'chibat biah*) rather than simply “affection.”

There is clear proof of this distinction in *Sefer haMitzvot* of the Rambam<sup>11</sup> in R. Chaim Heller's translation, also found word-for-word in the *Sefer Mitzvah* of *Sefer haBatim*<sup>12</sup>:

We are warned not to come close to any of these *'arayot* even without intercourse, such as hugging and kissing and that which resembles them from among the promiscuous activities (*mipe'ulot hazenu*).<sup>13</sup>

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<sup>10</sup> *Yoreh Deah* 195:20 and in greater detail in 157:10: "משמע דאף הרמב"ם לא קאמר אלא כשעושה חיבוק ונישוק דרך חיבת ביאה...וכן כתב הסמ"ג והכתר תורה שם אלמא דלא לוקה אלא בדרך תאוה וחיבת ביאה, וזהו דלא כבית יוסף..." See languages of Rambam, below; see also Resp. *Lev Chayim* (Palaggi), pt. 2 no 4, "נגיעה בעלמא לא שמענו".

<sup>11</sup> *Lo Ta'aseh* 353.

<sup>12</sup> Written by R. David Kochavi in the 14th century. His works are based on those of Rambam.

<sup>13</sup> Or, "*mima'asei habit'alsut* (from the acts of lovemaking)"—R. Yosef Kapach, *Sefer Kedushah*, p. 21, note 41.

In fact, Rambam used similar language in his *Mishneh Torah*, *Hilchot Sanhedrin* 19:4<sup>14</sup>: “One who comes close (*hakarev*) to ‘*arayot* in any of the ways of promiscuity (*midarbei hazenut*)...” Certainly, handshaking is not counted among *pe’ulot* or *darbei hazenut*. Moreover, in both *Sefer haMitzvot*<sup>15</sup> and *Hilchot Issurei Biab*<sup>16</sup> 21:1 Rambam stresses that the *lo ta’aseh* proscribes activities that customarily lead to sexual relations. Handshaking is not one of these.

Further evidence comes from the *Trumat haDesben*,<sup>17</sup> in explaining the Rambam, distinguishing between “other distances (*perisbot*), that he not touch her” and “huggings and kissings,<sup>18</sup> which [people] have pleasure from as from relations (*d’nehenim meibem k’mo metashmish*).” A handshake is not in the category of *k’mo metashmish*.<sup>19</sup>

<sup>14</sup> No. 162; Rambam there lists *lo tikrevu* as one of the 207 Torah prohibitions incurring *malkot*.

<sup>15</sup> “...לשון ספרא, כאילו יאמר לא תקרבו שום קירוב שיביא לגלות ערוה.”

<sup>16</sup> “כל הבא על ערוה מן העריות דרך אברים או שחיבק ונישק דרך תאוה ונהנה מקירוב בשר הרי זה לוקה מן התורה, שנאמר...לא תקרבו לגלות ערוה, כלומר לא תקרבו לדברים המביאים לידי גילוי ערוה.”

Resp. *Igrot Moshe*, EH 1:56 and 2:14 (dated eight days apart) defines the *lav*, too, as דבר המביא לידי גילוי ערוה, דבר המביא לידי גילוי ערוה etc. However, he is equivocal regarding handshakes; see 1:56 (end) ומה שראית שיש מקילין אף מיראי ה' ליתן יד לאשה כשהיא מושיטה, אולי סוברין דאין זו דרך חבה ותאוה אבל למעשה קשה לסמוך על זה. And see below, n. 22.

<sup>17</sup> *Trumat haDesben*, *Teshuvot* no. 250. See also *Sefer Raban*, no 334.

<sup>18</sup> See Radba’z in *Metzudat David*, *Mitzvah* 160, who writes, “hugging, kissing and embracing (*qifuf*).”

<sup>19</sup> Neither, apparently, is handholding in dancing. See *Bnei Banim*, vol. 1, no. 37 (8–9) that among major early *achronim*—Resp. *Mahardach*, *Binyamin Z’ev* and others who forbade mixed dancing, none explained that dancing while holding hands can itself constitute a violation of *lo tikrevu*. Compare the pamphlet *Geder Olam* from 5650 by a rabbi in Warsaw (later mislabeled as being by the *Chafetz Chayim*) who wrote, in conclusion (p. 39): “It is common that one also violates, as a result of the dance, the *lav* of *lo tikrevu*; sometimes they kiss and hug one another during the dance because the evil inclination burns within him and violates this *lav*”; according to this, without the added factor of kissing and hugging the *lav* is not violated. (Contrast Resp. *Igrot Moshe*, *Even ha Ezer* pt. 2, no. 13—unless the reference is to ballroom dancing, which involves embracing.)

## The Controversy

In the community, nevertheless, handshaking between men and women remains controversial. Some rabbis will shake a woman's hand when extended to them, while others demur even at the cost of embarrassing the woman. The reason for the latter practice is usually given<sup>20</sup> as follows:

*Bet Yosef*<sup>21</sup> cites a *teshuva* of the Rashba<sup>22</sup> concerning taking the pulse of one's menstrual wife, which begins "it is possible that all coming close (*kreivah*) is forbidden by the Torah." Presumably, this refers to the Rambam's opinion. Yet taking the pulse of one's wife certainly does not indicate *chibat biah!* According to this understanding, Rambam prohibits by Torah law all physical contact with an *ervah*.

How this accords with the wordings of the Rambam himself—specifically cited by *Shach* as his reason for disagreeing with the *Bet Yosef*—remains unexplained.

However, in *Bnei Banim*<sup>23</sup> I demonstrated that the Rashba was probably referring not to Rambam but to Rabbeinu Yonah, Rashba's primary teacher. R. Yonah is the one major *rishon* to have explicitly written that any touching at all of an *ervah* violates *lo tikrevu* and is

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<sup>20</sup> See *Bet Shmuel*, *Even haEzer* 20:1; *Torat haShlamim*, *Yoreh Deah* 195:15; *Sdei Chemed*, section *Chatan, Kalah v'Chupah* chapter 12. See note 22, below.

<sup>21</sup> *Yoreh Deah* 195.

<sup>22</sup> *Teshuvot haRashba Hameyuchasot laRamban*, no. 127, originally attributed to Ramban (Nachmanides). The *teshuva* itself does not mention Rambam (Maimonides), but *Bet Yosef* assumed that it was stating Rambam's position. *Bet Shmuel* even wrote that the *teshuva* mentions Rambam by name ("v'katav bateshuva"), and needlessly rejected the *Shach*, who had rejected *Bet Yosef* on account of Rambam's own language in *Sefer haMitzvot* and *Hilchot Issurei Biab*. Following the *Bet Shmuel*, *Torat haShlamim*, *Sdei Chemed*, and others wrote that the *teshuva* mentions Rambam (which it does not).

Resp. *Igrot Moshe* in *EH* 2:14 first wrote that the *teshuva* mentions Rambam, but in *YD* 3:54:2 (nine years later) noted that the Ramban (i.e., the Rashba) doesn't mention Rambam; see there for argumentation, and see below.

<sup>23</sup> Vol. 1 *loc. cit.*

*yeibareg ve'al ya'avov.*<sup>24</sup> There are no grounds to interpret Rambam in the same fashion. In my opinion, those who wish to be stringent following R. Yonah may do so—but not claim that such is basic Halacha. ❧

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<sup>24</sup> *Igeret haTeshuvah, Yom Bet*, quoted in *Orchot Chayim* pt. 2, *Hilchot Biot Asurot* (p. 112).