



## Does the Torah Permit Prostitution?

### Is the Mitzvah Observing Community Less Promiscuous?

In our time, sexual promiscuity runs rampant. One of my students, from Mexico, reported that her school began to teach about protection and give out condoms already in grade 6. I would think that the growing trend of pre-marital sex does not apply to the Torah observant community. However, a recent study among Jewish adolescents in Israel found that religious status was unrelated to compulsive sexual behavior ([Efrati, 2018](#)). Nevertheless, the findings on the whole in a larger body of research links religion to greater self-regulation, more self-control, and lower levels of impulsivity ([McCullough & Willoughby, 2009](#)). Thank G-d! Yet, the difference in sexual activity between Orthodox Jewish men and the world at large is less than what I would have expected. Although current Orthodox affiliation and being raised Orthodox were both associated with lower levels of problematic sexual behavior, these associations were beneath the threshold of statistical significance. Yet, religious individuals tend to experience significant guilt, shame, and general distress when engaged in such activities, leading to poor psychosocial outcomes. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6440048/> The sages of the Talmud recognized that sexual desire is one of the most difficult desires for people to deal with. They said, “A man of twenty who has not married spends all his days in thoughts of sin” (*BT, Kiddushin 29b*). The Talmud draws a halachic line “between what is ethically preferred and what is legally permitted. Prostitution would seem to fall into the second category as the following story testifies: “Rabbi Il’ai said that if a man’s urges overcome him, he should go to a place where he is unknown, wear black and cover himself in black, and do what his heart desires, so that he does not publicly profane G-d’s name” (*BT, Moed Katan 17a; BT, Kiddushin 40a*).

### Does the Torah Permit Frequenting a Prostitute?

While it seems that the abovementioned Talmudic statement condones prostitution, various commentaries explain that this policy is meant as a preventive measure and not as blanket permission. It is only *bedieved*, (de facto), after a man is greatly tempted, unable to overcome his desire and would otherwise come to waste seed. He should do what he desires in a different city where he is not known, and so the name of Heaven will not be publicly desecrated (*Tosafot, Chagiga 16a*). According to Rabbeynu Chananel, the permission is a suggestion- only, to help him overcome his urges, but it doesn’t grant permission to go to a prostitute. According to those views that permit going to a prostitute in extenuating circumstances, the prostitute must have immersed in a mikvah, as it is not permitted to engage in sexual relations with a woman who is a *niddah*, ([Vayikra 18:19](#)). Rambam clearly states that visiting a prostitute is forbidden: “Before the Torah was given, when a man would meet a woman in the marketplace, and he and she desired, he could give her payment, engage in relations with her wherever they desired, and then depart. Such a woman is referred to as a *kedesha* (harlot). When the Torah was given, [relations with] a harlot became forbidden, as it states: ‘There shall not be a harlot among the children of Israel’ ([Devarim 23:18](#)). Therefore, a person who has relations with a woman for the sake of *zenut* (lust), without *kiddushin* (Jewish marriage ceremony, literally sanctification), receives lashes as prescribed by the Torah, because he had relations with a harlot” (Rambam, *Hilchot Ishut 1:4*).

### What About Using a Non-Jewish Prostitute?

Prostitution is commonly referred to as “the world’s oldest profession,” one that has endured to our present day, but which is clearly frowned upon by the Torah. While it was recognized that prostitution could lead to pitfalls like incest and ritual impurity, it seems that many still believe that visiting a prostitute is permitted as a last resort, preferably with a non-Jewish prostitute. The *Shulchan Aruch* (and many additional halachic sources beyond the scope of this article) disprove this view: “A Jew who has sexual relations with a non-Jew in the context of marriage or a Jewish woman who has sexual relations with a non-Jew receive lashes according to Torah as it states in (*Devarim* 7:3). Others disagree. However, someone who has sexual relations with a non-Jew not in the context of marriage and not in a fixed relationship receives lashes according to Rabbinic edict because of idolatry, and prostitution... If he is a Kohen, then even if they have a transient relationship, he gets lashes according to the Torah because of prostitution” (*Vayikra* 21:7); *Shulchan Aruch, Even Haezer* 16:1). “Concerning someone who has sexual relations with a non-Jew – if the zealots don’t punish him and he also doesn’t get lashes from the beit din – then his punishment is *karet* as stated clearly in the Bible, ‘From the man who commits it, Hashem shall cut off one of acuity or erudition from the tents of Ya’acov...’ (*Malachi* 2:11-12)... However, if he publicly has sexual relations with a non-Jew the halacha is that zealots can kill him as is stated in *Choshen Mishpat* 425. Thus, this transgression is included in *arayot* (sexual transgressions) and one is required to suffer martyrdom rather than transgress it as it states in *Yoreh Deah* 157” (*Ibid.* 16:2).

### How Could a Hero Like Yehuda Use the Service of a Prostitute?

Clearly Yehuda’s turning to Tamar was an exception, rather than the rule, in order to allow the soul of Mashiach to be conceived. Some explain that he came to her in *kiddushin* (the sanctification of marriage), when she asked him, “what will you give me?” She intended, “with what will you sanctify me?” She requested his stamp, which was the ring that he would use as his signature stamp. Thus, she became sanctified by the ring (*Ba’alei HaTosfot, Bereishit* 38:17). Rabbeinu Bachaya adds that she asked for three particular items, in order to allude to the three things a man obligates himself to provide for his wife: 1. “Your stamp,” this is *onah* (marital intimacy) alluding to the sign of the holy brit considered a stamp. 2. “Your string” is clothing, 3. “Your staff” refers to sustenance as in “when I have broken the staff of your bread” (*Vayikra* 26:26). Likewise, *Siftei Chachamim* explains that he married her by money, by a *sh’tar* (a signed document) or he consummated the marriage by intercourse. Without explaining that Yehuda actually married Tamar, there are other possible ways to exonerate Yehuda, although, I would hope that men will not take advantage of the following argument from the Midrash, to excuse their selfish sexual escapades: “Rabbi Yochanan said, Yehuda wanted to pass on. Then Hashem sent an angel which was in charge of physical desire. He said to him: Yehuda where are you going, where are kings standing and from where do the great come forth AND HE TURNED TO HER ON THE WAY – against his will” (*Midrash Bereishit Rabbah* 85:8). This midrash comes to explain the unusual word used in the verse describing how Yehuda availed himself of Tamar’s services. Rather than the regular *vayavo* – ‘he came,’ used in numerous places with reference to intimacy, the Torah writes the word *vayet* – ‘he turned aside’ in reference to Yehuda’s encounter with Tamar (*Bereishit* 38:16). This deviation of language gives rise to the midrashic explanation that Hashem compelled him to turn to her against his will. Yehuda had to choose between falling into the sin of spilling seed, forbidden even to B’nei Noach, or coming to a prostitute, which was permitted before *Matan Torah*. He preferred the permitted way, especially since his sons were killed due to the sin of spilling seed (R. Yosef Shani, *Iyunimin b’Megilat Ruth*). When Yehuda felt the greatness of his desire and the inclination burning within him to be with her, he realized

that he was unable to overcome it. Knowing himself to be a complete tzaddik, who never would be involved in illicit sexuality, he understood that there must be a reason that Hashem's fire suddenly burned within him with the power of desire. It must be in order that something great should be born from it. Therefore, he said to her *"Let me please come upon you"* Meaning an invitation to urge her to prepare herself in *kedusha*, for the matter is not simple, and "accidents don't happen to Tzaddikim" (*Sefer Avodat Yisrael*). Later, when Yehuda comes to collect his pledge, Hashem put the words in the mouth of the people of the place exclaiming, "There was never a prostitute here" (*Bereishit 38:21*).

### Is it Permitted to be a Prostitute? What is the Halachic Definition of Prostitution?

The Torah makes it clear that it is prohibited to prostitute a Jewish girl: "Do not prostitute your daughter, to cause her to be a harlot, lest the land fall to harlotry, and the land become full of lust" (*Vayikra 19:29*). This includes one who gives his unmarried daughter to another man not for the purpose of marriage, and so too a woman who gives herself to a man not for the purpose of marriage (*Sifra, Kedoshim 3:7*). Based on this Sifra, Rashi explains that our verse refers to a person who hands his unmarried daughter over to have intimate relations not for the sake of marriage (Rashi, based on *Sanhedrin 76a*). Likewise, Rambam clarifies, "If, a person leaves his unmarried daughter accessible for anyone to engage in relations with her, this will cause the entire earth to be filled with sexual immorality... When a person has his daughter act in this manner, she is considered a harlot...When a girl prepares herself [for relations] either on her own initiative or on that of her father, she is a harlot. The prohibition against harlotry applies both to a virgin and a non-virgin" (Rambam, *Hilchot Na'arah Betulah 2:17*). Rashi defines a harlot in his commentary on the verse, "There shall not be a harlot..." (*Devarim 23:18*) as מופקרת מקודשת ומזומנת לזנות / *mufkeret, mekudeshet umezumenet lezenut* – one who engages in promiscuous sexual behavior. Rabbi S.R. Hirsch adds that this prohibition applies to every premarital and extramarital intercourse. Similarly, Rabbi Aryeh Kaplan explains in *Waters of Eden* that according to the Torah's definition, harlotry includes all forms of premarital sex, and has nothing to do with payment for the act. Thus, the definition of prohibited prostitution is much broader than merely referring to 'sex workers' as the term is defined in our time. Overcoming the various sexual temptations is one of the greatest challenges of all times, especially today. While few people have an urge to murder or worship idols, most grapple with sexuality. Our Sages explain that the greatest mark of righteousness is the ability to control one's sexual temptations. Yet, "according to the difficulty is the reward" (*Pirkei Avot*, Chapter 5, Mishna 22). It is specifically sexual rectification that brings about our final redemption. This is because kabbalistically, sexuality corresponds to the ninth sefirah, Yesod, which precedes the tenth and final sefirah of Malchut, 'Kingdom.' Thus, the final generation before Mashiach operates within the cosmic sefirah of Yesod. Therefore, when the world has rectified sexuality (Yesod), then Mashiach can establish Hashem's kingdom (Malchut) on earth. May it be soon!