**On the Antiquity of the Virginity Blessing**

Introduction

*Sefer Halakhot Gedolot* describes a marriage ceremony where the groom displays a blood-stained sheet confirming the bride’s virginity. Afterward, three blessings were recited: one on the wine, one on the fragrant herbs, and a special one on finding proof of virginity:

When he brings out the sheet [stained with the blood of virginity], we require him to recite a blessing. If wine and spices are available, he recites ‘who creates the fruit of the vine’ and ‘who creates fragrant trees’ over them. Then he recites the blessing ‘who placed the walnut in the Garden of Eden, the lily of the valley so that no stranger shall have dominion over the sealed spring; thus, the loving doe preserved her purity and did not break the law. Blessed are You, Lord, who chooses the descendants of Abraham.[[1]](#footnote-1)

A wide variety of sources support the claim that different versions of the virginity blessing were recited throughout all the Jewish communities during the Middle Ages. Despite its widespread use, the virginity blessing, and confirmation ritual are not mentioned in the Mishnah and Talmud, and the wording of the blessing is first mentioned only in *Sefer Halakhot Gedolot*.[[2]](#footnote-2) The absence of this blessing in earlier texts can be considered from two alternative perspectives. The first is that the blessing was composed after the Mishna and Talmud were canonized. Alternatively, it was indeed an early blessing, but it was practiced in circles that operated outside the *beit midrash* mainstream. In light of the importance of virginity in Jewish and Mediterranean society, Ruth Langer preferred the second possibility and argued that the virginity blessing was an ancient and esoteric tradition in the Land of Israel that only became widespread in other Jewish communities in the Middle Ages.[[3]](#footnote-3)

This study will adopt Langer’s position that the blessing originated in the Land of Israel. It will be shown, however, that this blessing could not have been recited in ancient times and that it must have been a later development. To support this, we note the late mention of the blessing in *Sefer Halakhot Gedolot,* so we cannot attribute it to a time that’s much earlier.

Roots in the Land of Israel

Evidence of an existing ritual confirming a bride’s virginity without details of the contents can be found in a book that was published with the title *Tosefta Atikta*. This work presents a *halakhah* practiced in the Land of Israel that differs from the Talmudic norm: ‘When the woman first engages in intercourse and the blessing (*kiddush*) is recited on virginity.’[[4]](#footnote-4) The term ‘*kiddush* over virginity’ derives from the fact that some versions of the blessing’s closing phrase refer to the sanctity of Israel and virginity: ‘Bl[essed] a[re You], oh Lord, who sanctifies Israel and virginity.’[[5]](#footnote-5) As we have seen in *Halakhot Gedolot,* the virginity blessing was said over a glass of wine similar to the *kiddush* of *Shabbat*. In addition to this evidence, Langer identified a number of linguistic characteristics in the virginity blessing unique to the Land of Israel.[[6]](#footnote-6)

The blessing opens with a mention of the walnut tree – symbolizing the woman’s virginity – which God planted and presented in the Garden of Eden:[[7]](#footnote-7) ‘אשר צג אגוז בגן עדן.’[[8]](#footnote-8) The Hebrew word *‘tsag’* comes from the root ‘*yatsag’* (presented). The grammatical form of the word is in simple form, without the letter *yod* is a classic linguistic feature of a *piyyut* composed in the Land of Israel.[[9]](#footnote-9) Moreover, the blessing includes multiple motifs in the closing. For example, we find the following: ‘Who chooses Abraham our father, and his descendants, and sanctifies the daughters of Israel, and purifies them, and makes them very fertile.’[[10]](#footnote-10) This is in contrast to the Babylonian norm, which uses a single theme in closing a blessing.[[11]](#footnote-11) Likewise, different versions of the virginity blessing use a wide variety of allusions but do not explicitly mention virginity. The use of allusions is a distinctive feature of *piyyut* composed in the Land of Israel.

Beyond that the *genizah* has yielded one text, titled *kiddush betulim*, which is in the style of a classic Palestinian *piyyut*: four-lined, rhymed stanzas, three beats per line, and a full alphabetic acrostic. The *piyyut* treats merrily issues of fertility and purity and alludes to the Deuteronomic scenario of the public presentation of the bloody sheet.[[12]](#footnote-12)

Moreover, even the most standard form of the blessing in the *genizah* indicates the possible use of the ceremony among Jews from the Land of Israel. We can also point to a possible Byzantian influence on Jews from the eastern Mediterranean. Marriage contracts preserved from the Greco-Egyptian world indicate that there was a shift in the sixth century CE to include moral obligations in the civil marriage contract. The primary innovation was that a bride was accepted only after her virginity was confirmed.[[13]](#footnote-13)

The Importance of Virginity

To understand the importance of virginity, one must understand the structure of agricultural society in the ancient world. That society was comprised of family-owned ancestral estates in which the members of an extended family worked together in pursuit of the family’s political and economic interests. A significant variable affecting a family’s strength was the number of people it could muster, and marriage meant acquiring procreation rights, with children belonging to the man’s estate, not the parents as a couple. Lack of virginity might indicate the children came from a previous relationship, which would complicate the ties between the woman and childand her husband’s family.[[14]](#footnote-14)In time, the ancestral estate structure gave way to the nuclear family, and virginity became a symbol of purity and proof that there was no forbidden sexual intercourse. This would entitle the bride to the full *ketubah* price of two hundred *zuz*. In general, these values were common to all Jewish communities. However, there was a significant difference between the Land of Israel and Babylonia with regard to verifying the bride’s virginity.

The Geonic text lists the differences between Palestinian and Babylonian customs [for verifying the bride’s virginity] as follows: ‘The eastern Jews perform the initial penetration with the penis, in the manner for which it was created, but the Palestinian Jews use a finger.’[[15]](#footnote-15) This Palestinian custom of manual defloration of the bride may have had various motivations. For example, such a method would allow a more precise determination of the bride’s virginal state. Additionally, if the bridegroom discovered lack of virginity after intercourse and annulled the marriage, he would already have committed the sin of illicit cohabitation. It seems, then, that the blunt Palestinian custom stems from a deep halakhic controversy between the communities.

Before we present the controversy between the Babylonian and Jerusalem Talmud, let us start with a short preface. According to Jewish law, establishing a family unit requires two separate actions. At betrothal, the wife grants her husband exclusive conjugal rights and is henceforth a married woman forbidden to other men. However, she is not yet permitted to engage in intercourse with her husband. Only after the marriage ceremony under the canopy (*nisu’in*), are the couple permitted to live together as husband and wife and set up a household. The gap between the betrothal and the marriage is generally one year.

If it turns out that the bride is not a virgin at the time of the marriage, it is not clear whether the sex took place before or after the betrothal. According to the Babylonian Talmud in Tractate *Ketubot,* a husband may remain married to his non-virgin bride if he chooses to do so because of double uncertainty: One who says I found an open opening …creates a double uncertainty: Either she had sexual intercourse while she was betrothed or before she was betrothed, either it was against her consent or with her consent.’ [[16]](#footnote-16) It is possible that the bride engaged in sexual intercourse before betrothal, and thus did not commit adultery, and is therefore permitted to remain with her husband. Even if the intercourse took place after the betrothal, the bride may have been raped, and forced intercourse does not require the dissolution of the marriage. This does do not negate the groom’s right to divorce without paying the agreed compensation for the termination of the marriage as agreed upon in the marriage contract (*ketubah*). The husband is absolved of his obligation to fulfill the marriage contract as a consequence of the bride’s dishonesty in presenting herself as a virgin.[[17]](#footnote-17)

In contrast to the scenarios raised in the Babylonian Talmud, the parallel discussion in the Palestinian Talmud includes the claim that the likelihood of rape is nil since people will hear about it. Absent knowledge of such an event, the only possibility is that the bride had consensual sex in the past. Therefore, the only uncertainty is whether sexual intercourse took place before or after the betrothal, and the bride must be regarded as a possible adulteress, ‘a wayward wife’, who is forbidden to her husband:

R. Ila said in the name of R. Eleazar, If one has found the entry open [so that the women are not a virgin], It is forbidden to maintain the marriage, because there is a doubt as to the woman’s having been faithless as a wayward wife.

Why not take into account the possibility that she had been raped?

If a girl has been raped, everybody knows about it.[[18]](#footnote-18)

It is worth emphasizing that despite this ruling, the Jerusalem Talmud tended to favor the bride on concerning the financial arrangements, and ruled that if the woman could offer an explanation of her lack of virginity she would still be entitled to the payment of the *ketubah*, even though she is forbidden by her husband:

R. Jonah in the name of R. Qerispa [said], A mature woman is regarded as an open vessel [and may not be subject to a claim against her virginity],

That which you have said serves so as not to deprive her of payment for her marriage contract [should she be found not to exhibit signs of virginity]. But as to keeping the marriage going ‘the husband is not permitted to do so by reason of the possibility that she has been wayward.[[19]](#footnote-19)

It emerges from here, that according to the prevailing *halakhic* norm in the Land of Israel, a bride who is not a virgin is forbidden to her husband. In light of this view, the need to confirm virginity is understandable, and the blessing that confirms the validity of the marriage should be seen against this background.[[20]](#footnote-20) The connection between the blessing and the concern that she committed adultery is explicitly stated in one version of the virginity blessing which quotes the verse from the Biblical portion (*Bamidbar*, 5:28) describing the test of the suspectedwayward wife **(***sotah*) which praises the woman who has cleared herself of suspicion: ‘therefore this beloved doe who has kept her purity shall be gifted with holy seed [ie, with child] because she did not violate the statute, as it is writ[ten] ‘if the woman has not defiled herself and is pure, she shall be unharmed and able to retain seed.’ Blessed are you, oh Lord, Who sanctifies Israel and virginity.’[[21]](#footnote-21)

In contrast, the Babylonian Talmud challenged the need for displaying a stained sheet, stating that most grooms’ first intercourse doesn’t damage the hymen: ‘Most grooms are knowledgeable about penetrating at an angle… and why have a clean sheet to preserve the evidence of the bride’s virginity?’[[22]](#footnote-22) It appears that behind this assertion that ‘most grooms are knowledgeable about penetrating at an angle’ lies the fact that in any case the bride would not be considered an adulteress.

Another fact that created the gap between the communities is the age of marriage. In Babylonia, the norm was for girls to marry around the age of sexual maturity, thus eliminating the fear that the bride is not a virgin. This is in contrast to the relatively later age of marriage in the Land of Israel.[[23]](#footnote-23)

**The Early Halakhah**

The fear of adultery in the *halakhah* of the Land of Israelisbased on two facts: the length of time between betrothal and marriage, and the postponement of sexual contact between the bride and groom until the wedding night. It appears that in the Land of Israel there existed an early conception of betrothal as a full relationshipfor all intents and purposes, that marked the beginning of both the economic and physical partnership. Only the later *halakhah* which first gained a foothold in the Galilee forbade marital relations during the betrothal period and postponed the economic commitment until the formal marriage (*nisu’in*). In the following, I present the sources that validate this line of thinking.

In primitive societies, A marital bond is generated through sexual intercourse. This is how the establishment of the family is described in the Bible: ‘When a man shall take a wife and have sexual intercourse with her.’[[24]](#footnote-24) Cultural development brought about a transition wherein the physical act was replaced by a symbolic and legal act. As part of this transition, abstract methods were also instituted in Jewish law, generating therelationship, by means of acquisition through money or a contract. Nevertheless, the ancient law that based the marriage on the physical act of sex continued into the Mishnaic period: ‘A woman is acquired in three ways… with money, or with a document, or through marital relations.’[[25]](#footnote-25)

We may assume that after a betrothal was generated by intercourse, the couple would be allowed to maintain the physical bond between them. It is not reasonable to suppose that sexual intercourse was initially permitted between two strangers and then forbidden after the betrothal. The validity of sexual intercourse as a means of betrothal in the *Mishnah* thus indicates that sexual intercourse was regarded as acceptable during the betrothal period. It is worth emphasizing that anthropological research shows permissive norms were prevalent in ancient agricultural societies, where girls working in the field and pastures could not be supervised. In this context, we can suppose that marriages by sexual intercourse were often the post facto validations of an existing sexual relationship that presumably continued during the period of betrothal.[[26]](#footnote-26) This supposition can be supported by explicit evidence from Tannatic sources.

According to the Mishnah in *Ketubot*, betrothed couples would commonly be secluded in Judea but not in the Galilee. If the groom visited the bride’s household, the groom could not make a claim protesting the bride’s lack of virginity on their wedding night unless the visit was explicitly chaperoned: ‘One who eats with his father-in-law in Judea … may not claim virginity because he was secluded with her.’[[27]](#footnote-27)

The presumption of intimacy between betrothed couples in Judea also gave rise to the law that a Judean widow whose husband died while she was still just betrothed was nevertheless was required to wait three months before remarrying to avoid uncertainty as to the identity of the father of a child who was born soon after.[[28]](#footnote-28) Similarly, a betrothed woman in Judea who was divorced was forbidden to live in the vicinity of her former husband to prevent them from possibly renewing their sexual relations.[[29]](#footnote-29)

It is worth noting that the very existence of the custom in Judea, regardless of how prevalent the practice was, proves that the early conception of betrothal was different from that which later became accepted as the *halakhah*. However, as we shall see, there are other, later sources on *halakhic* practice in the Land of Israel showing that there was physical intimacy during betrothal and that it was not limited to Judea alone. As a rule, the *Mishnah* and the *Tosefta* were edited from a Galilean perspective, where sexual intercourse only began with *nisu’in*. Accordingly, an unattributed passage in the *Mishnah* assumes that a dispute regarding the bride’s virginity could only occur the day after the *nisu’in*. Moreover, a betrothed woman who gets divorced is eligible to receive a virgin’s *ketubah*. However, the following text is an example of a source that survived systematic editing and reflects the reality of cohabitation during the betrothal period.[[30]](#footnote-30) The *halakhah* distinguishes between a betrothed woman who commits adultery and would be executed by stoning and a married woman who would be executed by strangulation. The *Tosefta* states that if the engaged woman lives together with her fiancé she is executed as a married woman: ‘She who receives her husband while in her father’s house… he who has a sexual relationship with her is put to death through strangulation.’[[31]](#footnote-31)This source does not show a negative attitude towards intimacy during betrothal, and living together is not perceived as an unusual local custom. It is possible that limiting the phenomenon to Judea in particular is a late attempt to reduce the scope and prevalence of the phenomenon.

Evidence of betrothed couples living together also emerges from the Palestinian Talmud. This source objected to the phenomenon and linked it to the Roman decree that gave a Roman soldier the right to the first night. However, it is later acknowledged that the practice occurred in the homes of the great rabbis after the revocation of the decree as well:

‘In the past, the [the Roman] decreed this form of persecution in Judea… So they went and subjugated them and raped their daughters, They decreed that a soldier should enjoy the right of the first act of intercourse [with Israelite girls who were to be wed ], Accordingly [sages] decreed that the girl’s husband should have sexual relations with the bride while she was still in her father’s house… Even though the persecution came to an end, the custom did not come to an end, The daughter-in- law of R. Hoshaiah came to the marriage canopy already pregnant.’[[32]](#footnote-32)

This early *halakhah* continued to exist into a later period, and evidence of betrothed couples cohabitating emerges from *Sefer Hama’asim* (Book of Acts) which dates from the sixth and seventh centuries. The following ruling prohibits a pregnant woman from remarrying until the child is weaned at the age of two. *Sefer Hama’asim* rules that if a pregnant woman is betrothed she must swear not to have sex with her fiancé for two years:

If someone died and left behind a pregnant or breastfeeding wife, she must wait twenty-fourmonths from childbirth until the child is weaned… But if she does become betrothed within twenty-four months, she must swear they will not live together until twenty-four months have passed.[[33]](#footnote-33)

This source indicates that betrothed couples cohabiting was a recognized practice, and only a woman who was breastfeeding was prohibited from doing so. This is reflected in other laws in *Sefer Hama’asim* as well*.*[[34]](#footnote-34)

Anecdotal proof for this claim from another literary source can be found in a marriage contract from the Cave of Letters in the Judean desert**.** One clause in the document describes a couple who lived together before they were formally married: ‘Yeshua the son of Menahem … acknowledged of his own free will that he has taken Salome … to live with her as also before this time.’[[35]](#footnote-35)

Sustenance During the Betrothal Period

The obligation of a husband to provide for his wife is a significant economic consequence of marriage in Jewish law. The man commits to covering all of his spouse’s expenses. The Jerusalem Talmud mentions three stages in the historic development of a bride’s right to be provided for by her husband. Initially, this right began at the time of her betrothal. Afterward, a one-year waiting after the betrothal was instituted. In the final stage, the right to sustenance was contingent upon *nisu’in.*

As a rule, the couple could decide between themselves on the framework in which the sustenance was provided. The Jerusalem Talmud focused specifically on the case of the wife of a *kohen* who receives her sustenance from his *terumah* (the heave-offering – the portion of produce grown in the Land of Israel that is allocated to the priests) because of the strict rules that forbid an outsider from eating *terumah,* which take the decision out of the couple’s hands.

For it has been taught: Earlier they ruled that an Israelite girl who is betrothed [to a priest] eats food from the heave-offering… Then they retracted the ruling and decided [that she can only eat from the heave-offering] after twelve months when he becomes legally obligated to feed her.

The court which came at the end ruled that under no circumstances does a woman eat the heave-offering until she enters the marriage canopy.[[36]](#footnote-36)

There seems to be a correlation between the obligation to provide sustenance and permission to have sexual intercourse. This makes sense from the assumption that if the marital relationship begins at the betrothal stage there is no reason to distinguish between the economic and physical aspects of the marriage. It is also likely that legitimate married life involved a financial commitment.[[37]](#footnote-37) It is noteworthy that there is no geographical distinction made regarding the obligation to provide sustenance, which strengthens our claim that cohabitation of betrothed couples existed also outside Judea. It is also clear from the discussion in Jerusalem Talmud that the early halakha regarded betrothal to be the same as *nisu’in* for all intents and purposes. The decline in the status of betrothal in the context of both the right to sustenance and the legitimacy of sexual relations prior to *nisu’in* is a late development.

The Late Dating of the Betrothal Blessing

The reality of intimacy during the betrothal period undermines the ritual confirmation of the bride’s virginity the day after the wedding night**.[[38]](#footnote-38)** The ritual and the blessing recited as part of it are consistent with the late Galilean law forbidding cohabitation during the period of betrothal. Only when there was a prohibition against cohabitation, and a lengthy period of betrothal between the betrothal and the *nisu’in*[[39]](#footnote-39) was there concern that a bride might commit adultery. As we have seen, while the Jerusalem Talmud does express an objection to the cohabitation of betrothed couples, it also reveals an awareness of the existence of the practice even among the rabbinical elite. The Babylonian Talmud, in contrast, does not express concern about this possibility at all and did not attach strict legal significance to the absence of proof of virginity. The legitimacy of the cohabitation of betrothed couples still exists in the *Sefer Hama’asim* which dates to the sixth and seventh centuries.[[40]](#footnote-40) One must therefore conclude that the ceremonial confirmation of a bride’s virginity developed at a later time and could not have made its mark in Talmudic literature. This ritual matches the late Galilean *halakhah* which became the binding norm and the ritual should not be understood as a ritual belonging to an esoteric offshoot. It is in this context that we should understand the widespread dissemination of the confirmation of virginity ceremony in the medieval period. It also seems related to urbanization trends that reduced the family to a smaller, nuclear unit, and which called for stricter supervision of the couple by outsiders.[[41]](#footnote-41)

1. *Halakhot Gedolot*, ed. Ezriel Hildesheimer, Jerusalem: Mekize Nirdamim, 1980, vol. II, p. 226. [↑](#footnote-ref-1)
2. Israel M. Ta-Shma, ‘A Maimonides Responsum on the Virginity Blessing’, *Maimonidean Studies* 2 (1991), pp. 9-12. Nissan Rubin, *The Joy of Life: Rites of Bethrothal and Marriage in the Talmud and Midrash*, Tel-Aviv: Hakibbuts Hameuchad, 2004, p. 258 (Hebrew). Ruth Langer, ‘The Birkat Betulim: A Study of the Jewish Celebration of Bridal Virginity’, *PAAJR* 61 (1995), pp. 72-84.

   Langer and Ta-Shma argue that although the blessing was recited in Ashkenazi communities, no public ceremony took place. The following source from Worms points out that during the Middle Ages the stained sheet was presented to women, and then a public banquet was held.

   The mother of the bride – or, if she has no mother, the matron of the house where she resides – shows (the sheet with the blood of) her virginity to the rabbi’s wife or other pious women as proof that she was a virgin. And the night after the consummation of the marriage, the bridegroom purchases fish and hosts a feast to which he invites his kinsmen and the family of the bridegroom and whoever he wishes to, and this serves as proof that she was a virgin (*Wormser Minhagbuch des R. Jousep (Juspa) Schammes*, ed. Binyamin S. Hamburger and Eric Zimmer, Jerusalem: Machon Yerushalayim, 1988, vol. II, pp. 59-60).

   For similar evidence from the Italian region, see: Roni Weinstein, *Marriage Rituals Italian Style: A Historical Anthropological Perspective on Early Modern Italian Jews,* Leiden: Brill, 2004, pp. 384-387, 391-398. [↑](#footnote-ref-2)
3. See: Langer, ‘The Birkat Betulim’, pp. 55, 67-72. See also: Rubin, *The Joy of Life*, pp. 259, 261, 305, 314. [↑](#footnote-ref-3)
4. Tosefta Atikta, ed. Chaim M. Horowits, Frankfurt a. M. 1890. P. 41, see also: pp. 7-8. On the attribution of this text to an extra-rabbinic group representing authentic popular custom from the land of Israel, see: Shaul Lieberman, *Shkiin*, Jerusalem: Vaherman, 1970, p. 22 (Hebrew).

   Yedidya Dinary, ‘The Impurity Customs of the Menstruate Woman — Sources and Development’, *Tarbiz* 49 (1980), pp. 305, 310 (Hebrew). [↑](#footnote-ref-4)
5. TS NS 235.190. Other similar versions, see: Langer, ‘The Birkat Betulim’, pp. 87-94. [↑](#footnote-ref-5)
6. Langer, ‘The Birkat Betulim’, pp. 87-94.

   Langer, ‘The Birkat Betulim’, pp. 59, 69-71 [↑](#footnote-ref-6)
7. The symbolism of the walnut, with its multiple layers of shell guarding the meat is particularly apt for the virgin bride whose hymen has guarded her virginity, see: Langer, ‘The Birkat Betulim’, p. 57. Ta-Shma, ‘A Maimonides Responsum on the Virginity Blessing’, p. 10 n. 4. [↑](#footnote-ref-7)
8. Halakhot Gedolot, vol. II, p. 226. [↑](#footnote-ref-8)
9. Joseph Yahalom, The Poetic Language in the Early Piyyut, Jerusalem: Magnes, 1985, pp. 86-96. [↑](#footnote-ref-9)
10. Ms. Cambridge Or. 1080 1/2, p. 9. [↑](#footnote-ref-10)
11. Ruth Langer, *The Impact of Custom, History, and Mysticism on the Shaping of Jewish Liturgical Law*, Ph.D. diss., Hebrew Union College – Jewish Institute of Religion, 1994, pp. 124-125. [↑](#footnote-ref-11)
12. The piyyut is in Ms. Oxford 2701/9, Bodleian Library Heb. e. 25, pp. 64b-65a. See: Langer, ‘The Birkat Betulim’, pp. 90-93. [↑](#footnote-ref-12)
13. See: Jack Goody, *The Oriental, the Ancient and the primitive: Systems of Marriage and the Family in the Pre-Industrial Societies of Eurasia*, Cambridge: Cambridge University Press, 1990, p. 328. Keith Hopkins, ‘Brother-Sister Marriage in Roman Egypt’, *Comparative Studies in Society and History* 22 (1980), pp. 341-342. Langer, ‘The Birkat Betulim’, p. 71. [↑](#footnote-ref-13)
14. Conrad B. Kottak, *Anthropology*, New York: Random House, 1974, pp. 309-313. Raymond Firth, ‘The Family in Tikopia’, *Comparative Family Systems*, ed. M. F. Nimkoff, Boston: Houghton Mifflin, 1965, pp. 105-129. Rubin, *The Joy of Life,* pp. 255-256. Tikva Frymer-Krensky, ‘Israelite Law: Personal Status and Family Law’, *Encyclopedia of Religion*, VII, pp. 471-472. Alice Schlegel, ‘Status, Property, and the Value on Virginity’, *American Ethnologist* 18 (1991), pp. 719- 734. [↑](#footnote-ref-14)
15. *The Differences Between Babylonian and Palestinian Jews*, ed. Mordecai Margulies, Jerusalem: Unknown publisher, 1938, p. 160.This practice is repeated in other sources from the Land of Israel to which Margulies refers [↑](#footnote-ref-15)
16. bKetubot, 9a. [↑](#footnote-ref-16)
17. bKetubot, 11b. [↑](#footnote-ref-17)
18. yKetubot, 1:1, 24d. [↑](#footnote-ref-18)
19. yKetubot, 1:1, 24d-25a. [↑](#footnote-ref-19)
20. Ta- Shma argued that the Jerusalem Talmud which required a blessing after ‘consummation of marriage by sexual intercourse’ (Berakhot, 9: 3, 14a) refers to the virginity blessing. However, Langer notes that the Jerusalem Talmud refers to blessings for performing an action, which in principle are recited before the act, in contrast to the virginity blessing which is recited after the act.See: Langer, ‘The Birkat Betulim’, p. 55 n. 8. Ta-Shma, ‘A Maimonides Responsum on the Virginity Blessing’, p. 11 n. 6. [↑](#footnote-ref-20)
21. TS NS 235.190. In other versions there are allusions to Biblical chapter regarding the wayward wife. See: Langer, ‘The Birkat Betulim’, pp. 61-65, 69, 87-88. Langer linked the mention of the wayward wife chapter to liturgical motifs of the blessing. However, in our opinion, the fear that the non-virgin bride may have committed adultery is a clear halakhic matter. Langer also insisted that the allusions to the wayward wife were preserved in genizah passages rather than in printed versions. In our opinion the fear of the wayward wife does not exist in Babylonian law and the language change is understandable. [↑](#footnote-ref-21)
22. bKetubot, 6b. See: Rubin, *The Joy of Life,* pp. 256-257. [↑](#footnote-ref-22)
23. See: Adiel Schremer, *Male and Female He Created Them: Jewish Marriage in the Late Second Temple Mishnah and Talmud Periods*, Jerusalem: Shazar Center, 2003, pp. 108-111, 113-125 (Hebrew). The Differences Between Babylonian and Palestinian Jews, ed. Margulies, pp. 161-162. It is worth noting that there is a possibility that the mention of the virginity blessing in *Halakhot Gedolot* and other Babylonian sources is a late gloss and the first mention of the confirmation of virginity in the Babylonian Talmud is in the responsum of Hai Gaon. See: Langer, ‘The Birkat Betulim’, pp. 68 n. 40, 72. Hai Gaon began writing responsa when he was appointed *Av Beit Din* in 986 until his death in 1038. These data reinforce the assumption that the the virginity blessing did not originate in Babylonia. [↑](#footnote-ref-23)
24. Deuteronomy, 24 1. See also: Jacob Neubauer, *The History of Marriage Laws in Bible and Talmud*, Jerusalem: Magnes Press, 1994, p. 58 (Hebrew). Raphael Patai, *Sex and Family in the Bible and the Middle Eest*, New York: Doubleday & Company, 1959, pp. 63-65. [↑](#footnote-ref-24)
25. mKiddushin,1:1. [↑](#footnote-ref-25)
26. Rubin, *The Joy of Life*, pp. 117-119, 122-123, 257. [↑](#footnote-ref-26)
27. mKetubot, 1:5. [↑](#footnote-ref-27)
28. mYevamot, 4:1. [↑](#footnote-ref-28)
29. yGittin, 8:9, 49d. *Midrash Tannaim*, Deuteronomy, 24:1, ed. David Zvi Hoffmann, Berlin: Itskowski, 1908, p. 155. [↑](#footnote-ref-29)
30. mKetubot, 1:1-2. Shmuel Safrai, Ze’ev Safrai & Chana Safrai, *Mishnat Errets Israel: Tractate Ketubot – A*, Jerusalem: Liphshits Publishing, 2013, pp. 94-98, 101, 201. [↑](#footnote-ref-30)
31. tSanhedrin, 10:10, ed. Moshe Shmuel Zuckermandel, Jerusalem: Bamberger & Wahrmann, 1970, p. 431. [↑](#footnote-ref-31)
32. yKetubot, 1:5, 25c. [↑](#footnote-ref-32)
33. Hillel I. Newman, *The Ma’asim of the People of the Land of Israel: Halakhah and History in Byzantine Palestine, # 11*, Jerusalem: Yad Ben-Zvi, 2001, p. 136. [↑](#footnote-ref-33)
34. *Sefer Hama’asim* discusses a betrothed woman who committed adultery and ruled that the child is a bastard. The reasoning for the ruling is bacause there was no evidence of the betrothed couple’s cohabiting, it could not be assumed that the child was the result of sexual intercourse between legal partners. It follows that the beit din considered that a husband and a fiancé are legally the same, and it only rejected the child’s legitimacy because the fiancé claimed: ‘She is betrothed and was found to be pregnant. She claims it was her fiancé, but the fiancé says I do not know what she is talking about…’ Because there are no witnesses that that they cohabited, the child is a bastard since they are betrothed. However, had d they been married, the child would have been legitimate since in most instances the wife is with her husband. (*Sefer Hama’asim*, p. 204). In another case, *Sefer Hama’asim* discusses the marriage of a woman who can neither hear nor speak, and rules that marriage can be performed vis sexual intercourse. ‘[In the case of] a girl who cannot hear…or see… or speak… one who wishes to marry her should put [money for marriage] in her hand in front of witnesses, fondle her and embrace her.’ (Ma’aseh Yad, p. 140). Here too there is legitimacy for a sexual relationship at the beginning of the engagement. [↑](#footnote-ref-34)
35. Papyrus Yadin 37- Marriage Contract’, *The Documents from the Bar Kokhba Period in the Cave of Letters: Greek Papyri*, ed. N. Lewis, Jerusalem: Israel Exploration Society, 1989, p. 132. See also: T. Ilan, ‘Premarital Cohabitation in Ancient Judea: the Evidence of the Babatha Archive and the Mishnah (*Ketubbot* 1.4)’, *HTR* 86 (1993), pp. 247-264. [↑](#footnote-ref-35)
36. yKetubot, 5:3, 29d. See also: Enoch Albek, ‘Betrothal and Bethrothal Writs’, *Studies in Memory of Moses Schorr*, eds. Louis Ginzberg & Abraham Weiss, New York: The Professor Moses Schorr Memorial Committee, 1944, pp. 12-24. [↑](#footnote-ref-36)
37. Neubauer, *The History of Marriage Laws in Bible and Talmud*, pp. 132-135. [↑](#footnote-ref-37)
38. It seems that when a couple got married via sexual intercourse there was no need to verify virginity. The main reason is the lack of fear that she committed adultery since she was single before they had sex. Moreover, the existence of marriage through sexual intercourse is explained according to two contradictory anthropological models of ancient agricultural societies. According to one model, the patriarchy, which held complete control over ancestral estate, enforced the legal concept that sexual intercourse was a means for the couple to bond. Ownership of the bride, after paying the bridal price, enabled her to be brought to her designated groom in the interests of the family. This had nothing to do with the free and spontaneous marital relationships. According to the second model, the marriage via sexual intercourse stems precisely from permissive norms prevalent in ancient agricultural societies in which the girls working in the field and pasture could not be supervised. Against this background, marriage via sexual intercourse was often considered legitimate for an existing sexual relationship.

    See: Rubin, *The Joy of Life*, pp. 35, 108-110, 115-119, 167-168, 122-123, 257, 312. According to both models there was no need for confirmation of virginity or a link between the virginity blessing and the marriage blessing.

    See: Langer, ‘The Birkat Betulim’, p. 83. [↑](#footnote-ref-38)
39. Langer insisted that the explicit allusions to the Biblical chapter on the wayward wife disappeared from the wording of the blessing during the Middle Ages. This, she said, stemmed from the unification of the engagement and marriage ceremonies, which removed the fear of adultery.See: Langer, ‘The Birkat Betulim’, pp. 63-64. [↑](#footnote-ref-39)
40. The practice of cohabitation during betrothal continued into later times in Byzantium, which is subject to the halakhah of the land of Israel and the Gaonic period. See: Saul Lieberman, Tosefta Ki-Fshuṭah, New York: The Jewish Theological Seminary of America, 1962, V, p. 1182 n. 83. Rubin, *The Joy of Life*, pp. 165, 379 n. 83. [↑](#footnote-ref-40)
41. See: Rubin, *The Joy of Life*, pp. 164-165. [↑](#footnote-ref-41)