**Family Purity Reframed**

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| In the course of this chapter, many of the concepts regarding the Jewish laws that govern sexual intimacy will be presented and explained. However, a very short description of the basic structure of the *halakhot* governing sexual intimacy is necessary at the outset:When a woman menstruates (or experiences any significant uterine bleeding), she and her sexual partner (spouse), become prohibited from engaging in sexual relations until the bleeding ceases and the woman counts seven days during which she is clean of blood, culminating with her immersion in a ritual bath known as a *mikvah*. Until the menstruating woman counts clean days and immerses, she is colloquially referred to as a *niddah* (this will be explained more fully below). Throughout the seven days of counting, women are expected to vaginally inspect themselves to be certain that the uterine bleeding has stopped. At the end of the seventh day, around nightfall, they begin to prepare for immersion in the *mikvah*. This requires a detailed inspection of her body from head to toe to ensure that the immersion will be free of any impediments separating any part of her body from the water.Intercourse is not the only restriction during this period. In order to ensure the de-sexualization of the sexual relationship, a series of laws known as *harkhakot* (literally, “laws that distance”) evolved to protect the couple from falling prey to base sexual desire, reminding them consistently throughout this time that they are prohibited. These include an absolute restriction on all forms of touch, separate beds, increased modesty in dress and language, limitations while eating together, and refraining from handing things to one another. |

*Niddah* laws are often grouped with Shabbat and *kashrut* as the central tenets of a halakhically observant way of life. At the same time, they are fundamentally different in several ways.
First, for men and women who have grown up keeping *halakhah*, praxis from a young age brings familiarity with key traditions and practices and instills meaning into rituals that are performed most often within families and communities. *Niddah*, in contrast, has long been the subject of a sense of opaque silence and a taboo topic. It is largely left undiscussed until marriage since sharing information requires opening up conversations around menstruation, female anatomy, and sexuality, topics that are avoided out of a sense of modesty and a feeling that such discussions are irrelevant in a society that espouses strict celibacy before marriage. For this reason, *niddah* laws are most frequently referred to as laws of *Taharat Ha-Mishpacha* or Family Purity Laws. This euphemism, which began to appear in the 19th century, removed the uncomfortable concepts of uterine blood, purity/impurity, and sexuality, even implicitly, from the terminology. In contrast to other *mitzvot* which are publicly performed, children often have no awareness that their mothers immerse in a *mikvah*. At most, towards the end of high school, girls are given some minimal education about the *halakhot*, which may include a trip to the *mikvah* to introduce some of the concepts and familiarize them with a ritual that will be theirs to practice in the future. While such a trip could potentially provide an opportunity to engage in the issue of Judaism and sexuality, these classes do not usually foster a safe environment for students to ask personal questions. In addition, the subject matter is nearly always presented in a romantic and positive way, without any nuance that could potentially imply that couples, and specifically women, struggle with keeping these laws. No framework prepares young women for what lies ahead in their not-so-distant future. For boys, the situation is even more dire. Introduction to this topic in any sort of comprehensive, educationally coherent way is virtually non-existent.[[1]](#footnote-1) Furthermore, while brides are usually given information beyond the halakhic dos and don’ts, including detailed explanations about physiology, anatomy, and sexuality, grooms are not educated in a similar manner. At most, they are taught about the laws of *niddah* rather than prepared for a more realistic understanding of women’s bodies. This is a terrible oversight since there is no way to ignore the direct implications that these laws have on women’s bodies as the couple begins their sexual experience together. No other *mitzvot* require such meticulous examination of bodily fluids and intimate probing within the body. Furthermore, the laws do not only have repercussions for women’s sexuality and fertility (as will be explained below) but directly affect the sexual experiences of men who are equally prohibited from sexual interaction until their wives immerse. Religious couples are well aware that willful transgression leads the couple to suffer the severe punishment of *karet—*being “cut off” from the people. This heightens their sense of religious responsibility when considering whether to keep these laws scrupulously or not. *Karet*, or “severance” is the consequence of transgressing one of 36 prohibitions, including, for example, eating on Yom Kippur, eating leavened bread on Passover, eating the blood of an animal or a man dying without being circumcised. These transgressions are synonymous with a betrayal of God’s covenant, extending conceptually above and beyond the actual transgression; hence the punishment is severance from the nation commanded to adhere to holiness in order to mimic God who is holy.[[2]](#footnote-2)

Women who have complicated relationships with their bodies and sexuality due to religious education, body shaming, life-long avoidance of their vulva (because of religious instruction or cultural taboos), or sexual trauma of any sort, may already be undergoing an intense journey towards healthy sexuality as they approach marriage. The added stress of laws forcing them to directly interact with the source of their anxiety – often without any therapeutic process before they begin to learn of the halakhic requirements – can complicate the transition. Some women in the religious world have been told never to touch or insert anything, including tampons, into their vaginas to protect their virginity, an instruction that exhibits gross ignorance of female anatomy.[[3]](#footnote-3) Suddenly, on the eve of the wedding, they are instructed to go where they have never gone before. The idea of the halakhic internal exam known as a *bedikah*[[4]](#footnote-4) can be terrifying, let alone the thought of actual penetration.

For other women who have an affirmative relationship with their sexuality and their bodies, this kind of halakhic intervention about a natural biological process can feel primitive, coercive, or misogynistic. I have heard even these women express the uncomfortable sense that the rabbis are “in their bodies,” particularly since all of the texts about *niddah* laws, until very recently, were authored only by men, and the detailed attention paid towards this most intimate part of their body can feel invasive. This type of reflexive response by some women has led to a cacophony of voices, especially on social media, demanding a reevaluation of traditional sources that speak about women’s bodies.

It must be stated clearly however, that there are also many women who feel that these laws foster respect for women, their bodies, menstrual cycles and sexual needs by indicating that sexual relations are not the only medium for intimacy and mandating regular breaks from sexual interaction. For many women, immersion in the *mikvah* connects them to their female ancestry dating back thousands of years, from the period of the Bible and Talmud onward. Heroic stories have been passed on about women who immersed in adverse conditions and endured hardships – at times under terrible persecution – with a sense of tremendous responsibility towards ensuring the purity of the Jewish family. The *mikvah*, it should be noted, traditionally is said to be the first building built in a Jewish community as a sign of its commitment to the sanctity of sexuality within marriage and continuity through childbearing. Many women feel very empowered by a *mitzvah* that is exclusively a “woman’s *mitzvah*” being directly tied, as it is, to the female cycle and life-bearing potential of their bodies.

In short, women are simultaneously demanding greater agency over their bodies in this area of law, as well as seeking deeper meaning in how to integrate these rituals into their marital intimacy in a positive and inspiring way.

Given the hundreds of thousands of *niddah*-related questions that come to the Nishmat hotline (which is only a statistical reflection of the myriad questions that come to male and female halakhic authorities on the topic outside of the hotline), it is clear that there is heightened awareness of the centrality of keeping these laws, along with acute relief in finding an outlet for asking individual questions. As someone who answers questions daily, I am often moved by women who are, on the one hand, committed to keeping these laws and, on the other hand, urgently want to be sexually permitted, whether they are newlyweds or approaching menopause. They call with the fervent hope that within the halakhic system there will be a solution, a way of rendering them permitted to their husbands despite the uterine bleeding that they fear will make them prohibited. Often, I am able to help them, and their subsequent gratitude, which, at times, is fervent and quite emotional, is touching to witness.

**The Laws of *Niddah***

The laws that define the status of uterine blood are complex and rest on the foundation of two different religious-legal contexts in the Bible; the regulations of purity/impurity prescribed for those wishing to enter the Tabernacle and later the Temple, and the code of sexual prohibitions. The duality assigned to the status of this blood, and those that come into contact with it, is the primary challenge in understanding the laws of *niddah*. The two aspects are intertwined in rabbinic discussion with few attempts to analyze each structure independently, despite the seeming irrelevance of purity/impurity once the Temple has been destroyed.

The biblical text most central to the *niddah* laws that relate to sexuality is found in Leviticus 18:19, where the prohibition to have sexual relations with a *niddah* is stated.

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| Leviticus 18:19Do not come near a woman during her separation of impurity (menstruation) to uncover her nakedness. | ויקרא פרק יח **יט** וְאֶל־אִשָּׁ֖ה בְּנִדַּ֣ת טֻמְאָתָ֑הּ לֹ֣א תִקְרַ֔ב לְגַלּ֖וֹת עֶרְוָתָֽהּ׃  |

**Sexually Prohibited Relationships**

The laws in Chapter 18 begin with the prohibition of incest and sexual relations between family members. Adultery, bestiality and sexual relations between two men are included in the list as well. This chapter is seen by many as a prelude to Chapter 19 which opens with a call to holiness: “Speak to the whole Israelite community and say to them: You shall be holy, for I the Lord your God, am holy.”

The paradigm of “holiness” is not only for a select few, but for the entire nation. In imitating God’s holiness, we make holiness our objective. Unlike impurity which occurs involuntarily from within our bodies, holiness is achieved by voluntarily choosing to follow in God’s way. It is an ongoing process, an act of partnership between the Israelite nation and God. Holiness is realized by engaging only in permitted behaviors and refraining from the prohibited, including restrictions on the food we eat, our daily activities, and, central to our discussion, sexual behavior. These boundaries are essentially what distinguishes us from the other nations, a fundamental aspect of our relationship with God who has chosen to distinguish us from others. So significant are the laws regulating sexual behavior that the medieval Bible commentator Rashi writes at the opening of Chapter 19, that the laws of sexual prohibition which appear in Chapter 18 comprise the essence of holiness:

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| Rashi, Leviticus 19:2You shall be holy. Separate from sexual prohibition and from [sexual] transgression for everywhere you find a fence against sexual prohibition, you find holiness. | רש"י ויקרא פרק יט **ב** קדשים תהיו. הוו פרושים מן העריות ומן העבירה, שכל מקום שאתה מוצא גדר ערוה אתה מוצא קדושה.  |

In Chapter 20, the topic of sexual boundaries is revisited with the related punishments for each transgression presented; the punishment of *karet* is assigned to the man and woman who deliberately engage in sexual relations while the woman is menstruating.

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| Leviticus 20:18 If a man lies with a woman in her infirmity and uncovers her nakedness, he has laid bare her flow and she has exposed her blood flow; both of them shall be cut off from among their people.  | ויקרא פרק כ**יח** וְאִישׁ אֲשֶׁר יִשְׁכַּב אֶת אִשָּׁה דָּוָה, וְגִלָּה אֶת-עֶרְוָתָהּ אֶת מְקֹרָהּ הֶעֱרָה, וְהִוא, גִּלְּתָה אֶת-מְקוֹר דָּמֶיהָ וְנִכְרְתוּ שְׁנֵיהֶם, מִקֶּרֶב עַמָּם.  |

Sanctified sexuality is thus an intrinsic part of the covenantal relationship and symbolic of what is demanded of us as we aspire to integrate the Divine spirit into our lives. It affects not only prohibited relationships but also permitted ones. It is noteworthy that the *niddah* is a fundamentally permitted sexual relationship. This sets her apart from other sexual prohibitions mentioned, including adultery, incest, and bestiality. She is a woman who is sexually permitted, except during times of uterine bleeding when a man may not “uncover her nakedness.”

**Impurity Resulting from Uterine Blood**

In order to fully comprehend the concept of the *niddah* woman referred to in Leviticus 18:19, one needs to refer back to Leviticus Chapters 12-15. It is here that the Bible introduces the boundaries of purity and impurity that include uterine blood among other sources of impurity. These impure persons are barred entry into the sanctum of the Tabernacle and later, the Temple. Impurity mandates distance from the world of ritual sacrifice. Additionally, these biblically mandated sources of impurity are highly “contagious,” demanding utmost caution and awareness of one’s bodily state, particularly for the priestly community. This situation is not, in its essence, about moral culpability or transgression, nor is it about spiritual distance from God. Both men and women who are in a state of ritual impurity are obligated to keep the commandments, duties, and obligations found in the Torah. Ritual impurity precludes them only from partaking in rituals and sacrifices within the Temple precinct. In the next section, five bodily states of impurity stemming from discharge from sexual organs will be presented.

**Birth and Other Sources of Uterine Blood**

Chapter 12 opens with a woman who “seeds” and gives birth.

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| Leviticus 12:1-8The LORD spoke to Moses, saying: Speak to the Israelite people thus: When a woman at childbirth bears a male, she shall be impure seven days; she shall be impure as at the time of her *niddut*.— On the eighth day, the flesh of his foreskin shall be circumcised.— She shall remain in a state of blood purification for thirty-three days: she shall not touch any consecrated thing, nor enter the sanctuary until her period of purification is completed. If she bears a female, she shall be impure two weeks as during her menstruation, and she shall remain in a state of blood purification for sixty-six days. On the completion of her period of purification, for either son or daughter, she shall bring to the priest, at the entrance of the Tent of Meeting, a lamb in its first year for a burnt offering, and a pigeon or a turtledove for a sin offering. He shall offer it before the LORD and make expiation on her behalf; she shall then be clean from her flow of blood. Such are the rituals concerning her who bears a child, male or female. If, however, her means do not suffice for a sheep, she shall take two turtledoves or two pigeons, one for a burnt offering and the other for a sin offering. The priest shall make expiation on her behalf, and she shall be clean. | ויקרא פרק יב**א** וַיְדַבֵּר ה' אֶל-מֹשֶׁה לֵּאמֹר.**ב** דַּבֵּר אֶל-בְּנֵי יִשְׂרָאֵל, לֵאמֹר, אִשָּׁה כִּי תַזְרִיעַ, וְיָלְדָה זָכָר--וְטָמְאָה שִׁבְעַת יָמִים, כִּימֵי נִדַּת דְּו‍ֹתָהּ תִּטְמָא**ג** וּבַיּוֹם, הַשְּׁמִינִי, יִמּוֹל, בְּשַׂר עָרְלָתוֹ.**ד** וּשְׁלֹשִׁים יוֹם וּשְׁלֹשֶׁת יָמִים, תֵּשֵׁב בִּדְמֵי טָהֳרָה; בְּכָל-קֹדֶשׁ לֹא-תִגָּע, וְאֶל-הַמִּקְדָּשׁ לֹא תָבֹא, עַד-מְלֹאת, יְמֵי טָהֳרָהּ.**ה** וְאִם-נְקֵבָה תֵלֵד, וְטָמְאָה שְׁבֻעַיִם כְּנִדָּתָהּ; וְשִׁשִּׁים יוֹם וְשֵׁשֶׁת יָמִים, תֵּשֵׁב עַל-דְּמֵי טָהֳרָה.**ו** וּבִמְלֹאת יְמֵי טָהֳרָהּ, לְבֵן אוֹ לְבַת, תָּבִיא כֶּבֶשׂ בֶּן-שְׁנָתוֹ לְעֹלָה, וּבֶן-יוֹנָה אוֹ-תֹר לְחַטָּאת--אֶל-פֶּתַח אֹהֶל-מוֹעֵד, אֶל-הַכֹּהֵן.**ז** וְהִקְרִיבוֹ לִפְנֵי יְהוָה, וְכִפֶּר עָלֶיהָ, וְטָהֲרָה, מִמְּקֹר דָּמֶיהָ:  זֹאת תּוֹרַת הַיֹּלֶדֶת, לַזָּכָר אוֹ לַנְּקֵבָה.**ח** וְאִם-לֹא תִמְצָא יָדָהּ, דֵּי שֶׂה--וְלָקְחָה שְׁתֵּי-תֹרִים אוֹ שְׁנֵי בְּנֵי יוֹנָה, אֶחָד לְעֹלָה וְאֶחָד לְחַטָּאת; וְכִפֶּר עָלֶיהָ הַכֹּהֵן, וְטָהֵרָה. |

The birthing woman is immediately described as *niddah*: “She shall be *impure* as at the time of her *niddut* (Leviticus 12:2). This is somewhat confusing to the reader since the introduction to and laws about the *niddah* are only to be found in Chapter 15. At this point, we know nothing about menstrual impurity or the purification process for the *niddah*. In addition, the birthing woman uniquely has two periods of purification: the first is like the *niddah* which lasts for seven days (double for birthing a girl); the second stage lasts for 40 days (or 80 days, again double, for a girl) in which she experiences what is defined as “pure” blood. Only at the end of the second phase is she allowed to return to God’s sanctuary and bring sacrifices that include a sin offering and a burnt offering.

These laws seem to underscore the fact that a sin offering serves a different purpose in the context of purity/impurity than the classic sin offering which is brought as penance for a transgressive act.[[5]](#footnote-5) Normally, sin is a manifestation of our ability to make choices freely, for right or for wrong. In the world of purity/impurity, the physical manifestations of the body are involuntary and are not subject to the exercise of free will, and yet they still mandate a sin offering.

It stands to reason that the Torah placed birth as the first example of impurity resulting from bodily emissions, although it belongs more naturally in Chapter 15, in order to pre-empt negative associations with impurity. The act of birthing a human being into the world is essential in order to ensure the continuity of the human race. It is the first commandment imposed upon the newly created Male/Female in Genesis 1. Moreover, in rabbinic texts, the newborn child is considered to emerge out of a partnership between man, woman and God.[[6]](#footnote-6)

**Leviticus Chapter 15: Seminal emissions and Uterine bleeding as Root Causes of Impurity**

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| Leviticus 15:1-31The LORD spoke to Moses and Aaron, saying: Speak to the Israelite people and say to them: 1 (v. 2-15). When any man has a penile discharge, he is impure. The impurity from his discharge shall mean the following—whether there is flow from his penis or it is stopped up so that there is no discharge, his impurity means this…Any bedding on which the one with the discharge lies shall be impure, and every object on which he sits shall be impure. …When one with a discharge becomes clean of his discharge, **he shall count off seven clean days, wash his clothes, and bathe his body in fresh water; then he shall be pure.** On the eighth day, he shall take two turtledoves or two pigeons and come before the LORD at the entrance of the Tent of Meeting (Tabernacle) and give them to the priest. The priest shall offer them, one as a sin offering and the other as a burnt offering. Thus the priest shall make expiation on his behalf, for his discharge, before the LORD. 2 (v. 16-18). When a man has an emission of semen, he shall bathe his whole body in water and **remain impure until evening.** All cloth or leather on which semen falls shall be washed in water and remain impure until evening. And a woman who lays with a man who ejaculates, they shall bathe in water and remain impure until evening. 3 (v. 19-24). When a woman has a discharge, her discharge being blood from her body, **she shall remain in her impurity seven days;** whoever touches her shall be impure until evening. Anything that she lies on during her impurity shall be impure; and anything that she sits on shall be impure. Anyone who touches her bedding shall wash his clothes, bathe in water, and remain impure until evening; …**And if a man lies with her, her impurity is communicated to him; he shall be impure seven days, and any bedding on which he lies shall become impure.** 4 (v. 25-31). When a woman has had a discharge of blood for many days, not at the time of her menstruation, or when she has a discharge beyond her menstrual period, she shall be impure, as she would be at the time of her menstruation, for as long as her discharge lasts. …When she becomes clean of her discharge**, she shall count off seven days**, and after that, she shall be pure. On the eighth day, she shall take two turtledoves or two pigeons, and bring them to the priest at the entrance of the Tent of Meeting (Tabernacle). The priest shall offer one as a sin offering and the other as a burnt offering; and the priest shall make expiation on her behalf, for her impure discharge, before the LORD. You shall put the Israelites on guard against their impurity**, lest they die through their impurity by defiling My Tabernacle which is among them**. | ויקרא פרק טו**א** וַיְדַבֵּר ה' אֶל-מֹשֶׁה וְאֶל-אַהֲרֹן לֵאמֹר.**ב** דַּבְּרוּ אֶל-בְּנֵי יִשְׂרָאֵל, וַאֲמַרְתֶּם אֲלֵהֶם:  אִישׁ אִישׁ, כִּי יִהְיֶה זָב מִבְּשָׂרוֹ--זוֹבוֹ, טָמֵא הוּא.**ג** וְזֹאת תִּהְיֶה טֻמְאָתוֹ, בְּזוֹבוֹ:  רָר בְּשָׂרוֹ אֶת-זוֹבוֹ, אוֹ-הֶחְתִּים בְּשָׂרוֹ מִזּוֹבוֹ--טֻמְאָתוֹ, הִוא.**ד** כָּל-הַמִּשְׁכָּב, אֲשֶׁר יִשְׁכַּב עָלָיו הַזָּב--יִטְמָא; וְכָל-הַכְּלִי אֲשֶׁר-יֵשֵׁב עָלָיו, יִטְמָא.**יג** וְכִי-יִטְהַר הַזָּב, מִזּוֹבוֹ--וְסָפַר לוֹ שִׁבְעַת יָמִים לְטָהֳרָתוֹ, וְכִבֶּס בְּגָדָיו; וְרָחַץ בְּשָׂרוֹ בְּמַיִם חַיִּים, וְטָהֵר.**יד** וּבַיּוֹם הַשְּׁמִינִי, יִקַּח-לוֹ שְׁתֵּי תֹרִים, אוֹ שְׁנֵי, בְּנֵי יוֹנָה; וּבָא לִפְנֵי יְהוָה, אֶל-פֶּתַח אֹהֶל מוֹעֵד, וּנְתָנָם, אֶל-הַכֹּהֵן.**טו** וְעָשָׂה אֹתָם, הַכֹּהֵן--אֶחָד חַטָּאת, וְהָאֶחָד עֹלָה; וְכִפֶּר עָלָיו הַכֹּהֵן לִפְנֵי יְהוָה, מִזּוֹבו.ֹ **טז** וְאִישׁ, כִּי-תֵצֵא מִמֶּנּוּ שִׁכְבַת-זָרַע--וְרָחַץ בַּמַּיִם אֶת-כָּל-בְּשָׂרוֹ, וְטָמֵא עַד-הָעָרֶב.**יז** וְכָל-בֶּגֶד וְכָל-עוֹר, אֲשֶׁר-יִהְיֶה עָלָיו שִׁכְבַת-זָרַע--וְכֻבַּס בַּמַּיִם, וְטָמֵא עַד-הָעָרֶב.**יח** וְאִשָּׁה, אֲשֶׁר יִשְׁכַּב אִישׁ אֹתָהּ שִׁכְבַת-זָרַע--וְרָחֲצוּ בַמַּיִם, וְטָמְאוּ עַד-הָעָרֶב.**יט** וְאִשָּׁה כִּי-תִהְיֶה זָבָה, דָּם יִהְיֶה זֹבָהּ בִּבְשָׂרָהּ--שִׁבְעַת יָמִים תִּהְיֶה בְנִדָּתָהּ, וְכָל-הַנֹּגֵעַ בָּהּ יִטְמָא עַד-הָעָרֶב.**כ** וְכֹל אֲשֶׁר תִּשְׁכַּב עָלָיו בְּנִדָּתָהּ, יִטְמָא; וְכֹל אֲשֶׁר-תֵּשֵׁב עָלָיו, יִטְמָא. **כד** וְאִם שָׁכֹב יִשְׁכַּב אִישׁ אֹתָהּ, וּתְהִי נִדָּתָהּ עָלָיו--וְטָמֵא, שִׁבְעַת יָמִים; וְכָל-הַמִּשְׁכָּב אֲשֶׁר-יִשְׁכַּב עָלָיו, יִטְמָא.**כה** וְאִשָּׁה כִּי-יָזוּב זוֹב דָּמָהּ יָמִים רַבִּים, בְּלֹא עֶת-נִדָּתָהּ, אוֹ כִי-תָזוּב, עַל-נִדָּתָהּ:  כָּל-יְמֵי זוֹב טֻמְאָתָהּ, כִּימֵי נִדָּתָהּ תִּהְיֶה--טְמֵאָה הִוא.**כח** וְאִם-טָהֲרָה, מִזּוֹבָהּ--וְסָפְרָה לָּהּ שִׁבְעַת יָמִים, וְאַחַר תִּטְהָר.**כט** וּבַיּוֹם הַשְּׁמִינִי, תִּקַּח-לָהּ שְׁתֵּי תֹרִים, אוֹ שְׁנֵי, בְּנֵי יוֹנָה; וְהֵבִיאָה אוֹתָם אֶל-הַכֹּהֵן, אֶל-פֶּתַח אֹהֶל מוֹעֵד.**ל** וְעָשָׂה הַכֹּהֵן אֶת-הָאֶחָד חַטָּאת, וְאֶת-הָאֶחָד עֹלָה; וְכִפֶּר עָלֶיהָ הַכֹּהֵן לִפְנֵי יְהוָה, מִזּוֹב טֻמְאָתָהּ.**לא** וְהִזַּרְתֶּם אֶת-בְּנֵי-יִשְׂרָאֵל, מִטֻּמְאָתָם; וְלֹא יָמֻתוּ בְּטֻמְאָתָם, בְּטַמְּאָם אֶת-מִשְׁכָּנִי אֲשֶׁר בְּתוֹכָם. |

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As seen in the text brought above, both men and women are subject to states of impurity.

The first case is that of a man with an unnatural discharge from his sexual organ (verses 2-15). He is known as the *zav* (meaning one who has a discharge) and his discharge causes severe impurity for a lengthy period; he becomes pure only after seven clean days without discharge, followed by immersion in a *mikvah* and the sacrifice of sin and burnt offerings.

The second case is that of a man who discharges *zera* (seed/semen) (verses 16-18) in a natural way. He remains in a state of impurity until nightfall after immersing in water. If the seminal emission took place in the context of sexual relations with a woman, she, too, becomes impure and requires immersion.

The third example is the *niddah* or menstruant woman, who is impure for seven days (verses 19-24). If a man has sexual relations with her at this time, incurs the same degree of impurity as the woman (7 days). In this context, the Torah does not present this as a transgressive act, and he does not have to bring a sin offering in order to become pure.

The fourth example presents a woman who experiences uterine bleeding not at the time of her menses or, beyond the 7 days allotted for normal menstruation (verses 25-30). She is known as *zavah*, the feminine noun form of the word *zav* in Hebrew, and like the *zav*, her purification requires seven clean days without discharge, immersion and sacrifices.

We thus see that the natural physical states of seminal emission and menstruation — both of which are necessary to create life — cause states of impurity and are bracketed by the more stringent forms, *zav* and *zavah*, which seem to be indicative of something unnatural. Immersion in water is necessary in all cases to transition from impurity to purity.[[7]](#footnote-7) In addition, the *zav* and *zavah* must bring sacrifices, including a burnt offering and sin offering to complete the purification process. As was explained above with regard to the birthing woman, there is no wickedness or improper behavior associated with impurity. It affects men and women equally and it occurs involuntarily from within the physical body. It is not about bodily cleanliness in the classic sense. A person can be hygienically clean but impure, while another person can be filthy and pure. Impurity is a consequence of being human, with certain divine limitations imposed upon the individual who cannot engage with God’s presence in the Tabernacle/Temple at this time.

God does not warn the nation to avoid impurity with “Thou shall not” language in contrast to most of the Torah’s prohibitions. At the end of Chapter 15, God tells Moses and Aaron to warn the nation to stay away from the Tabernacle when in a state of impurity, upon pain of death.

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| Leviticus 15:31You shall warn the Israelites against their uncleanness, lest they die as a result of their uncleanness by defiling My Tabernacle which is among them. | ויקרא פרק טו**לא** וְהִזַּרְתֶּם אֶת-בְּנֵי-יִשְׂרָאֵל, מִטֻּמְאָתָם; וְלֹא יָמֻתוּ בְּטֻמְאָתָם, בְּטַמְּאָם אֶת-מִשְׁכָּנִי אֲשֶׁר בְּתוֹכָם. |

Proximity to God’s direct presence in the Tabernacle/Temple requires utmost vigilance.

Note: Some women today recoil from the language of impurity and from the idea that a natural occurrence in their body causes them to be impure. For this reason, it is important to study these chapters in the context of Leviticus and note that men's and women’s bodies are equally subject to impurity. The practical implication of this status is being barred from the Temple precinct and sacrificial worship while impure. It does not bar an impure person from the normal daily and weekly rituals that make up our covenantal relationship with God.

Thus, there are three biblical categories of impurity due to uterine blood which, based on the verses brought in Leviticus 18 and 20, also render women prohibited women from sexual contact with their partners. In the case of uterine blood, impurity equals sexual prohibition and purity equals sexual permission. This overlap between the worlds of purity/impurity laws and sexual prohibition laws will require close re-examination, particularly as we move towards the era following the destruction of the Second Temple.

**Birthing Woman**. A woman after childbirth is subject to a two-tiered system that first includes a period of time in which she is impure and sexually prohibited (7 days after the birth of a boy and 14 days after the birth of a girl). Subsequently, any blood that the birthing woman discharges until 40 days after the birth of a boy or 80 days is defined as “pure” blood and she is permitted to engage in sexual relations during this time. Only at the end of this period may she bring sacrifices to the Temple.

***Niddah.*** A menstruating woman is obligated to wait seven days from the onset of bleeding until immersing in the *mikvah*. Today this is referred to as biblical *niddah*.

***Zavah.*** Describes non-menstrual uterine blood that discharges from the woman’s body over a period of three days. A *zavah* must wait until uterine bleeding ceases and then count seven “clean days,” i.e., days in which there is no bleeding. If she wants to go to the Temple, she is required to bring sacrifices.

**One final note**: Rabbinic interpretation added an additional category for women with one or two days of non-menstrual uterine bleeding***.*** This category was termed *zavah ketanah***(**literally, mini***-****zavah***)**[[8]](#footnote-8)sincethe biblical text defines a z*avah* as a woman “who bleeds for many days, not at the time of her *niddut* or menses.” The rabbinic sages understood this to mean at least three days of bleeding. However, if a woman bleeds for one or two days (which is not biblically significant), she might, without awareness, bleed for three days, at which point she would definitely become a z*avah.*  This led to the formulation of the mini-*zavah:* If a woman saw one or two days of non-menstrual uterine blood, she had to wait one clean day in order to prove that she was not becoming a full-fledged z*avah* and then immerse herself in a *mikvah*.

Understanding this last category will help explain how a shift was made away from the biblical categories and towards one uniform rabbinic law.

**Laws of Impurity After the Temple was Destroyed**

After the Temple was destroyed, adherence to the complex system of purity/impurity laws became redundant. However, the verse cited from Leviticus 18:19, that links the prohibition of sexual relations with a *niddah* to the laws of impurity could not be ignored. Moreover, the language in the verse cited from Leviticus Chapter 20 threatening the punishment of *karet* to both men and women who engage in sexual relations when impure with uterine blood applies to all three states described above. Although the language of purity/impurity and the ritual requirements of sacrifice were no longer relevant to practical life, its overall structure vis a vis the *niddah* (and *zavah*) remains inextricably intertwined with permitted and prohibited sexual space.

At the end of the Tannaitic period (circa. 200 CE), Rabbi Judah the Prince began the process of conflating the status of niddah with that of zavah into a uniform halakhic system.[[9]](#footnote-9)

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| Niddah 66aRav Yosef said that Rav Yehuda said that Rav said: Rabbi Judah the Prince decreed that in the fields (rural areas), if she saw blood for one day, she must sit six days. If she experiences bleeding for two days, she must sit six days. If she experiences bleeding for three days she must sit seven clean days. | מסכת נידה סו עמ' אאמר רב יוסף אמר רב יהודה אמר רבהתקין רבי בשדות ראתה יום אחד תשב ששה והוא שנים תשב ששה והן שלשה תשב שבעה נקיים. |

Rabbi Judah presented three rulings for women living far from rabbinic courts (“the fields”).

1. A woman with one day of bleeding should wait six additional days before immersing. In other words, she should treat all bleeding as if she were a *niddah* although the duration of bleeding does not resemble a menstrual period. While one day of bleeding would not normally turn her into a *niddah* (women’s periods are on average 4-6 days), Rabbi Judah ruled stringently.
2. If a woman experienced two days of bleeding, Rabbi Judah reasoned that the first day of bleeding could theoretically be non-menstrual. If it was non-menstrual uterine blood, it could not count be included in the *niddah*’s seven days of counting. However, the second day could potentially be menstrual. Thus, according to his ruling, *niddah* blood would only be counted from the second day on. A woman would need six days from the second day of bleeding (rather than five days as would rationally be expected) to complete the seven *niddah* days.
3. If a woman experienced three days of bleeding, Rabbi Judah the Prince ruled that she should always regard herself as a *zavah* and requires seven days clean of blood before immersing.

Looking at this last ruling, it is clear that Rabbi Judah took an enormous step toward conflating biblical *niddah* with *zavah*. For most women, three days or more of uterine blood is most often due to their normal menstrual cycle. According to Torah law, they would only have to wait a total of seven days, including the days of bleeding, before they could immerse in a *mikvah* and become permitted to their husbands. Rabbi Judah required seven clean days in response to three or more days of uterine bleeding regardless of whether the blood rendered the woman a *zavah* by Torah law. While Rabbi Judah’s ruling was originally applicable only in rural areas, it essentially determined that biblical parameters of *niddah* should be ignored and menstruating women should be equated with *zavah* for the sake of clarity.

Equally extreme were his first and second rulings regarding one or two days of bleeding. Before Rabbi Judah the Prince’s ordinance, a woman would become a mini-*zavah* if she saw blood for two days not at the time of her period and would be allowed to immerse after one clean day. Now, these women were required to wait six clean days following their short flow.

In practice, Rabbi Judah’s ordinance meant adding 3-7 extra prohibited days to any given experience of uterine bleeding, depending on its duration. Some women would wait six clean days and some women would wait seven. This certainly had the potential to become confusing given the absence of a clear anchor in biblical law. It is hardly surprising that in the next line of Talmud, we have the famous statement of Rabbi Zeira who lived circa 300 CE, which completely integrated the *niddah* structure into that of *zavah* for all women.

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| Niddah 66aR. Zeira said: The daughters of Israel took it upon themselves to be stringent. Even if they saw a drop of blood the size of a mustard seed they would abstain for seven clean days. | נדה דף סו עמ' אאמר ר' זירא: בנות ישראל החמירו על עצמן שאפילו רואות טפת דם כחרדל יושבות עליה שבעה נקיים. |

Rabbi Zeira declared that it was the daughters of Israel who chose to wait for seven clean days after observing even the smallest amount of uterine blood. It is worth noting that R. Zeira’s statement added only one more day to what Rabbi Judah had enacted for women in the fields, as explained above. Most significantly, this statement expanded the ruling to all women, not just presumably less educated women living far from centers of learning. Finally, the statement “a drop of blook the size of a mustard seed” is more of a rhetorical exaggeration than a halakhically accurate statement. A mustard seed size of blood does render a woman prohibited unless other significant halakhic criteria are met.[[10]](#footnote-10) Nonetheless, for thousands of years there has been a valorization of the pious daughters of Israel who are credited with influencing the shift from biblical to rabbinic *niddah*.[[11]](#footnote-11) On one hand, this narrative gives halakhic agency to women, crediting them for having a hand in halakhic practice when choosing stringency in order to clarify their own intimate practice. On the other hand, this narrative has caused frustration in the modern era for some women who feel they would be better served by the biblical models of *niddah* and z*avah* which distinguish between menstruation and other forms of uterine bleeding. For this reason, it is important to understand that Rabbi Judah was far more influential in setting up a uniform structure for the purposes of clarity in transmission of these *halakhot,* than R. Zeira’s later claim about the “daughters of Israel.”[[12]](#footnote-12)

This is reinforced in the words of the famous 14th century Talmudist, Menachem ben Solomon Meiri, in his commentary to tractate Berakhot 31a:

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| The daughters of Israel later adopted an additional stringency…Moreover, they felt it would be more convenient if the counting were the same for all women, so one woman would not be counting six days, and another woman seven. The committed women said to each other, “There’s not such a big difference between six and seven,” so they established for themselves that each time they saw blood, they would treat it like deﬁnitive *zavah*, and even if it were only the size of a mustard seed, which is clearly from a closed womb, not an open one. |

This shift towards uniformity is cited in the Talmud as a seminal example of “conclusive *halakhah*”[[13]](#footnote-13) and for 2000 years has remained unchallenged as the foundation for how *niddah* laws are practiced in the post-Temple era. It is all the more interesting that in the 21st century there has been a grassroots movement, led by women, advocating a return to the biblical differentiation between *niddah* and *zavah*. While this has been met with complete and total rabbinic resistance, some couples who identify as Orthodox are nonetheless gravitating toward this practice. In the next section, the developments that have led to this movement will be outlined.

**Fertility Awareness Method and Biblical *Niddah***

A major advancement in the last fifty years has seen increased interest in women proactively tracking their fertility and seeking greater understanding of their sexuality. This trend reflects the overall increase in information and resources on female sexuality, along with the feminist movement and the sexual revolution, both of which led women to seek more agency over their bodies.

Within the observant community, this trend led to the shocking realization that some women were not becoming pregnant because of *niddah* laws. As explained above, women are sexually prohibited for approximately of 11-13 days per cycle. For a woman trying to get pregnant, the timing of sexual intercourse to coincide with ovulation is crucial. Contemporary books on the laws of *niddah* often emphasize the wondrous timing of *mikvah* immersion to coincide with the most fertile days of the month. This is generally true for women who have cycles of 26 days or more. However, some women miss ovulation by a day or two either because they bleed for more than six days and/or their cycles are shorter than 26 days. Simply put, it has been proven that abiding by *halakhah* actually prevents a small minority of women from becoming pregnant! Looking back at *responsa* literature over the last 2000 years, one cannot help but wonder if some of the women who were divorced by their husbands due to infertility[[14]](#footnote-14) were unable to have children solely because of the extended rabbinic structure of seven clean days.

Once this phenomenon was discovered, the initial halakhic response was to work with doctors who would administer high doses of hormones for a few days in order to push off ovulation. This maintained fidelity to the rabbinic structure and helped women become pregnant. The conflict began when women’s awareness of the negative impact of hormones led doctors and observant women to ask why they were being administered potentially harmful medical treatment to resolve an issue that was halakhic in nature.

Senior ob/gyn Dr. Daniel Rosenak,[[15]](#footnote-15) himself an Orthodox Jew with a thriving practice in an ultra-Orthodox neighborhood, was one of the driving forces in upsetting the status quo. He published a paper with four other doctors, which subsequently was expanded to a book,[[16]](#footnote-16) suggesting that pre-coital ovulation accounted for infertility in a significant number of religious couples. He also questioned the need to inject hormones for non-medical reasons. This unleashed a firestorm of debate around the sustainability of rabbinic *niddah* in the face of possible “halakhic infertility,” given the centrality Judaism places on the *mitzvah* of procreation.[[17]](#footnote-17) Rosenak also argued that we should return to biblical *niddah* for its more accurate reflection of female sexuality and fertility. Women’s libidos, for instance, increase incrementally during the seven days after menstruation, as they move towards ovulation. It begins to decrease in the days that follow. The rabbinic *niddah* structure significantly eliminates sexual relations on some of these most sexually charged days.

Outside of very carefully controlled leniencies given in cases of true halakhic infertility, rabbis were quick to condemn any suggestion that we return to biblical *niddah*. Two *yoatzot halakha*, Dr. Deena Zimmerman, M.D. and Professor Tova Ganzel, Ph.D., carried out a serious assessment of Rosenak’s claim and concluded that his numbers were greatly inflated. While some women were indeed suffering from pre-coital ovulation, a larger number who were claiming halakhic infertility were being too stringent with their practice of *niddah* laws. Better education on how to accurately count clean days, a major focus of the *yoetzet halakhah* community, helped many women immerse without resorting to a restructuring of rabbinic law. For example, some women were waiting an extra day or two after the menstrual bleeding actually stopped before beginning to count their seven days because they thought, incorrectly, that clean days required an absence of any color on the internal examination cloths. This unnecessary stringency was what was causing them to miss ovulation, rather than the rabbinic structure itself.

In addition to the uproar around halakhic infertility, another major factor in the debate around biblical vs. rabbinic *niddah* has been increased interest over the last decade in the fertility awareness method (FAM). The FAM campaign in Israel was spearheaded by Michal Schoenbrone, who learned the technique in the United States and brought it back to Israel 30 years ago. In 2006, she began training other women to teach this method. Since then, the number of women interested in FAM has risen steadily into the thousands. To become proficient, a woman must spend several months with a trained professional learning how to assess the signs of ovulation accurately. She learns to identify the signs of fertility through the hormonal imprint that changes as she moves towards and away from ovulation, opening her eyes to the beauty of the body’s design. In this way, using natural methods, a woman can gain control over her fertility and sexuality. For couples who are trying to become pregnant, it allows them to pinpoint the fertile days and increase the statistical probability of pregnancy by having sexual relations at the most potentially fertile time. For couples who want to prevent pregnancy, this method allows the woman to limit the use of contraception to fertile days only, which are 5-6 days a cycle. Women who are attracted to this method feel alienated by the *halakhah’s* inflexible and uniform structure which has little to do with their biology, fertility, and sexuality.

Furthermore, the internet has made information more accessible. Today there are public forums where mini-communities of observant couples have decided together to keep biblical *niddah*. I have taught couples who come to learn with me before marriage and state that they are choosing biblical *niddah*, rather than the required rabbinic structure of seven clean days. A small number of religious married women have also revealed to me that they reverted to biblical *niddah* because they were simply unable to uphold the longer rabbinic structure. Finally, some Orthodox rabbis encourage the seven-day biblical model for non-religious couples interested in keeping a semblance of *niddah* laws but are unable to entertain the longer, more complicated rabbinic structure.

This movement towards biblical *niddah* has come about because of women’s greater awareness of their sexual needs and fertility, as well as an overall suspicion as to whether rabbinic authority has their best interests in mind. This conversation is no longer on the periphery as it has grabbed the attention of the mainstream religious community that rejects the trend. However, it is undeniably a significant crack in the smooth façade of *Taharat Ha-Mishpahah*, which purported to promise marital sexual bliss to those who follow the prescribed two-week separation and immerse in the “Waters of Eden.”[[18]](#footnote-18)

To conclude, I will end with one important anecdote that illustrates the broader contours of the meta-halakhic discussion. For several years Dr. Rosenak went on a speaking tour around the country as both a medical professional and Orthodox Jew advocating for a return to biblical *niddah*. He was usually joined by a prominent rabbi from the national-religious community who participated in order to set a halakhic framework for this position. I both attended and subsequently moderated one of these sessions. Both times the sessions were packed with couples eager to hear Dr. Rosenak’s views. It was clear from the questions, that the majority were not suffering from halakhic infertility. Rather, there was an eagerness to hear a position that championed shortening the rabbinic structure of *niddah* and easing some of the challenges to intimacy that the halakhic system presented. The rabbinic position upheld by the accompanying rabbis, which was meant to temper Dr. Rosenak, reaffirmed religious commitment to *Taharat Ha-Mishpahah* as it has been practiced for 2000 years but did acknowledge room for leniency in cases of halakhic infertility. Still, it was clear that such a limited answer was not what the audience was looking for. Rather, they were looking for a broader answer to their unspoken struggles with the rabbinic structure and the significant impact it has on the sexuality of religious couples. It was an interesting illustration of a generation that is interested in observance but unafraid to challenge rabbinic authority.

**The Perpetual Honeymoon?**

In the 20th century, a romantic reframing of the *niddah* laws promoted family purity laws as the key to eternal sustainability of the Jewish marriage, distinguishing it “from the hedonistic world of free, meaningless, self-indulgent sexual relationships promoted by secular liberal culture as the individual’s right.” In the 1960s, at the height of the sexual revolution, Rabbi Dr. Norman Lamm, president of Yeshiva University, wrote his famous pamphlet, *Hedge of Roses*, in which he explained that these laws inculcate a positive yet modest attitude towards sexuality.

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| The laws of *niddah* create monthly repetitions of this engagement-honeymoon experience… Without such a regulated sexual rhythm, sex would become mechanical, a kind of ‘I-It' relationship. The sexual revolution attempts to promote sexual pleasure by liberating Eros from its traditional bonds, but it actually produces the very opposite effect: erotic boredom and exploitation. The laws of family purity, by contrast, enhance eroticism and create a genuine ‘I-Thou’ relationship between partners. Because of these laws, Orthodox Jewish marriage enjoys a high degree of sexual intensity, that seemingly most contemporary and secular of erotic values. Jewish law is the key to the door of erotic fulfillment, paradoxically slammed shut by the sexual revolution. (Norman Lamm, *Hedge of Roses*, pp.?) |

Many subsequent works continue to endorse the “perpetual honeymoon” theory with the intent to make *niddah* laws more directly relevant and meaningful to the modern observant couple. The biblical text, however, promises no such rewards. As was seen above, the laws of *niddah* first appear in the Bible as part of the section of laws on states of purity/impurity. The prohibition of sexual relations with a woman who is a *niddah* appears separately, among the laws of sexual prohibitions. Neither passage promises rewards for keeping these laws, although severe punishment is incurred with transgression.

In the 2nd century CE, Rabbi Meir seems to be the first rabbinic sage to suggest a greater meaning to the practice.

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| מסכת נדה דף לא עמ' בתניא, היה ר"מ אומר: מפני מה אמרה תורה נדה לשבעה - מפני שרגיל בה, וקץ בה, אמרה תורה: תהא טמאה שבעה ימים, כדי שתהא חביבה על בעלה כשעת כניסתה לחופה.  | Niddah 31bRabbi Meir used to say: Why does the Torah state that a woman retains her *niddah* status for seven days? Because he becomes accustomed to being with her and becomes repulsed by her. The Torah said: Let her be forbidden to him for seven days so that she will be as dear to her husband as when she entered the *huppah*. |

Rabbi Meir suggested that the prohibited days served as a sort of aphrodisiac for the husband, preventing familiarity that might turn into contempt. It is noteworthy that he referred to a total of seven days of separation; in other words, his statement predated the shift to the more stringent requirement for seven clean days after the menstrual bleeding has ceased. Forbidden fruit is always sweeter, says the author of Proverbs, and Rabbi Meir suggested that the Torah’s approach encouraged sexual fidelity and satisfaction on the part of the husband.

Gender notwithstanding, Rabbi Meir (and later, Rabbi Lamm) was insightful in recognizing that sexual desire can erode due to familiarity and boredom, and that the sexual relationship is an important, even central piece in fostering intimacy and love. In a similar way, well-known psycho-therapist Esther Perel’s bestselling book *Mating in Captivity*[[19]](#footnote-19) explores the paradoxical union of domesticity and sexual desire, giving various insights on how to maintain passion in a long-term monogamous relationship.

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| Love enjoys knowing everything about you; desire needs mystery. Love likes to shrink the distance that exists between me and you, while desire is energized by it. If intimacy grows through repetition and familiarity, eroticism is numbed by repetition…love is about having; desire is about wanting…too often, as couples settle into the comforts of love, they cease to fan the flame of desire.  |

On the face of it, the structure of *niddah* laws, with clearly defined boundaries of sexual and non-sexual space, should foster greater sexual desire and passion by the distancing it requires throughout a couple’s married life. However, while *niddah* laws can potentially infuse sexual intimacy with greater meaning, the reality is that the laws of *niddah* are far from a magical panacea guaranteeing that sexual intimacy based on these laws will ensure sexual pleasure or save troubled relationships.[[20]](#footnote-20) Most Orthodox couples are committed to keeping *niddah* regardless of whether the laws are meaningful or beneficial to their sexual intimacy. For some couples, these laws do add tremendous value to aspects of their sexual and non-sexual relationship, particularly when there is a disparity between the sexual needs in the relationship. For instance, structured sexual and non-sexual spaces, as regimented by *niddah* laws, can be helpful in developing a healthy balance using different “love languages”[[21]](#footnote-21) to express intimacy and connection. For a spouse who prefers non-physical and/or non-sexual communication, *niddah* laws can create a natural “break” from sexual expectation and allow for alternative expressions of love without rejecting the overtures of their more physical/sexual partner. Commitment to these laws does result, for some, in greater sexual passion, although sometimes this “benefit” can take years until the laws are appreciated for the added value that they bring.

It is my experience that *niddah* laws are most successful when the couple honestly acknowledges the impact these laws will have on their particular relationship. Thinking sensitively about one another’s needs as they enter and exit the sexual and non-sexual spaces determined by *niddah* laws will help a couple set realistic expectations of what they can anticipate from and give to one another. Ultimately, couples who can articulate healthy goal setting for both sexual and non-sexual spaces can help foster the closeness they are working to build and maintain in their marriage with *niddah* as part of that process.

It is essential to acknowledge that for some couples, the laws of *niddah* never provide the advantage that they have been promised by religious convention. Not infrequently, *niddah* laws create tension, highlighting either the disparity in sexual needs between the couple or leaving one or both feeling lonely and alienated from one another. I have heard many women express gratitude for the childbearing years when *mikvah* does not factor into their lives at all. In that vein, the following story exemplifies a reality that is very rarely mentioned when teaching *niddah* laws and illustrates some of what was described above. A woman called me with a question. She had switched to a hormonal IUD and had gone for seven years without menstruating. Confronted with the possibility of becoming *niddah* due to some breakthrough (uterine) bleeding, I jokingly suggested that maybe it was time for a break. She earnestly responded that she would be happy if she never needed the *mikvah* again. The *niddah* laws had never been beneficial for her marital intimacy or the couple’s relationship. She had, luckily for her, found a solution that removed *niddah* and *mikvah* completely from the equation. This woman, who is not particularly unique, challenges the perpetual honeymoon theory that asserts that all couples need to replenish libidinal reserves in order to enjoy sex in a monogamous relationship. For couples for whom sexual and physical intimacy is central to their interaction, removing it is like removing oxygen, leaving them straining to infuse emotional intimacy into their marriage during the non-sexual days.

Rabbinic authorities are becoming more aware of the stress that structured sexuality can place on the needs of a couple. Some are advising women to double and triple pack their prescribed contraceptive pills (once they are given rabbinic permission to be on the pill) to avoid becoming prohibited.[[22]](#footnote-22) This strategy exposes how tenuous, and, in extreme cases, fraudulent, the romanticizing of *niddah* laws can feel to couples who struggle to find meaning or benefit in their application.

**Forbidden Touch**

Given the rabbinic integration of *niddah* into *zavah* as described above, the mandated non-sexual space lasts, on average, 11-13 days a cycle. However, intercourse is not the only restriction during this time. In order to govern the de-sexualization of the relationship, a series of laws known as *harkhakot* evolved in order to protect the couple from falling prey to base sexual desire, reminding them consistently throughout this time that they are prohibited. These include an absolute restriction on all forms of touch, separate beds, increased modesty in dress and language, limitations while eating together and refraining from handing things to one another.

While the restriction on intercourse certainly requires self-control, what is often more challenging for couples is the halakhic ban on all physical interaction during this period. No one talks about the sense of loneliness couples can feel when they are living together but cannot touch. Many find the absence of touch more difficult than that of sexual relations, for touch is the way human beings feel connected, nurtured and contained. As a primary love language, touch informs us that from the moment of birth we are cherished and cared for. Studies have shown that humans have brain pathways that are specifically dedicated to detecting affectionate touch in order to communicate that we are safe, loved and not alone.[[23]](#footnote-23) Removing it can be bewildering, frightening and alienating. This is why I am most often asked about possible halakhic leniencies to permit affectionate touch. This attitude — that there must be more than one halakhic opinion on the matter — comes from a familiarity with *halakhah* that often has a spectrum of positions regarding almost everything.

As will be shown below, in a short presentation of halakhic sources, there is little to no consideration in the halakhah for the role physical touch plays in conveying love, affection and support within the marital relationship. The only concern is that touch can, and will, become sexual. This might reflect a more androcentric approach that considers touch solely as a conduit to sexual relations. Fear of the sexual permeates every aspect of the halakhic discussion. It even underlies the analysis as to whether a healthy man can give physical support to his sick wife, since *his* sexual urge is unimpaired and could potentially lead him to sin. There is almost no room for nuance or leniency.

To illustrate (and this is only one of many similar stories), a woman struggling with infertility contacted me. She was trying to get pregnant although chances were slim. She had suffered several miscarriages and after the most recent one, found herself suffused with sadness and depression. She was crying regularly. Since she was a *niddah* after the miscarriage (as are all women), her husband could not touch her, and they would not touch without rabbinic permission, despite her emotional desperation.

I called two different rabbis whom I trusted, both renowned halakhic authorities in *niddah* as well as in other areas of Jewish law, to consult about the case. One allowed touching but only with gloves and not with full-body contact. At most, a hand on her upper arm to let her feel his presence would have to be sufficient. This leniency was based on the principle of *shinui* which means that there is enough of a change to the prohibited act to remove it from the category of biblical prohibition so that although rabbinically prohibited, in light of the circumstances, it could be permitted. The other rabbi was less restrictive, allowing touch without gloves and without defined boundaries, as long as the couple could be trusted to avoid sexual touch. He relied on the ruling of the 19th century Rabbi Avraham David Wahrman in his *Ezer Mikodesh* who considers affectionate non-sexual touch to be rabbinically rather than biblically prohibited.[[24]](#footnote-24) He concluded that in extenuating circumstances such as this one, rabbinic law could be waived. Both of their approaches relied on sources that prohibit sexual touch but leave open (although somewhat reluctantly) the possibility of a lenient ruling in extreme circumstances for non-sexual and possibly, emotional touch. As we will see below, there is room to permit such touch without consulting a rabbi for a dispensation. However, couples are rarely taught to make a decision like that on their own and rely on the rabbinic authority to determine the severity of their need.

**What Kind of Touch is Prohibited?**

The sources below relate to married couples when they are sexually prohibited (in the aftermath of uterine bleeding such as menstruation, miscarriage, birth and so forth). However, many of the same prohibitions apply for unmarried couples which is where the term *shomer negiah* or literally, “one who observes [the prohibition of] touch,” applies. From the moment a girl menstruates for the first time until she immerses in the *mikvah,* she is defined as a *niddah*. A man is prohibited from touching a woman who is a *niddah,* with the exception of first-degree relatives and professional situations (medical professionals, hairdressers and so forth). Married women immerse in the *mikvah* and regularly become permitted to their husbands while an unmarried woman is barred from the *mikvah* and cannot be touched by a male until marriage (see chapter ? on *Shomer Negiah*).

It is important to note that all of the halakhic sources are focused on male sexuality. There is a great deal of trepidation regarding male sexual desire in the Talmud, where it is often referred to as the *yetzer hara* — the evil inclination. This *yetzer* is a potential source of distraction that can turn a man away from his religious obligations, including prayer, Torah study and a meaningful connection with the Divine. Even within a permitted, sanctified marital relationship, there is concern that men will be unable to control their sexual desire at times when their wives are prohibited. Avot D’Rabbi Natan goes as far as to suggest that women should deliberately make themselves unattractive in order to protect their husbands.

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| Avot D’Rabbi Natan A, Chapter 2 **-** What “fence” has the Torah made to its words? It says “Do not come near a woman during her period of uncleanness.” (Lev. 18:19). Then, may the man hug her, kiss her, or have idle chat with her [short of intercourse]? The verse says: “Do not come near!” Then, may the woman sleep with him on one bed with her clothes on [short of being naked]? The verse says: “Do not come near!”Can it be that she may wash her face and put on eye shadow? The Torah says: “in her menstrual infirmity” (Lev. 15:33). All of the days of her *niddah*, she should be shunned.From here they said, all women who intentionally make themselves repulsive while in their period of *niddah* will be blessed and all who adorn themselves during their *niddah*, the sages are displeased with them. | מסכתות קטנות מסכת אבות דרבי נתן נוסחא א פרק באיזהו סייג שעשתה תורה לדבריה? הרי הוא אומר: וְאֶל-אִשָּׁה בְּנִדַּת טֻמְאָתָהּ--לֹא תִקְרַב, יכול יחבקנה וינשקנה וידבר עמה דברים בטלים? ת"ל לֹא תִקְרַב. יכול תישן עמו בבגדיה על המטה ת"ל לֹא תִקְרַב. יכול תרחץ פניה ותכחול [את] עיניה ת"ל וְהַדָּוָה בְּנִדָּתָהּ. כל ימים שבנדתה תהיה בנדוי. מכאן אמרו כל המנולת עצמה בימי נדתה רוח חכמים נוחה הימנה וכל המקשטת עצמה בימי נדתה אין רוח חכמים נוחה הימנה: |

This suggestion, that women defile themselves in order to neutralize their husbands’ sexual desire is raised as a possibility in the Talmud, but is subsequently rejected by Rabbi Akiva.

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| מסכת שבת דף סד עמ' ב כדתניא: וְהַדָּוָה בְּנִדָּתָהּ, זקנים הראשונים אמרו: שלא תכחול ולא תפקוס ולא תתקשט בבגדי צבעונין. עד שבא רבי עקיבא ולימד: אם כן אתה מגנה על בעלה, ונמצא בעלה מגרשה. אלא מה תלמוד לומר וְהַדָּוָה בְּנִדָּתָהּ - בנדתה תהא עד שתבא במים.  | Shabbat 64bAs we learned in a Tannaitic source: “in her menstrual infirmity.” The early authorities said that she may not apply makeup nor put on colorful clothes. [That was] until Rabbi Akiva came and taught: If you hold this view you will soon make her unattractive to her husband and eventually he will divorce her. So how shall we understand “in her menstrual infirmity” [according to R. Akiva]? In her state of separation until she immerses in water. |

The “early authorities” cited here seem to be reflective of the source in Avot D’Rabbi Natan. This position is rejected by Rabbi Akiva who astutely notes that if a woman makes no effort to groom herself, she may indeed end up becoming repulsive to her husband, resulting in divorce. It appears that Rabbi Akiva understood that the marital relationship is fundamentally a sexual one and that desire cannot be denied so totally that a man cannot stand to look at his wife. Sexual attraction must exist on a continuum, even when prohibited, or it will lead to an untenable situation within the marriage in which the man will come to revile his wife as a sexual partner. The discipline to desexualize the interaction will have to come from elsewhere and not at the expense of a woman’s attractiveness.

**Sexual touch - Biblical or Rabbinic?**

It is agreed unequivocally that sexual touch is transgressive when it occurs between any two people who are prohibited to one another. However, there is disagreement, in the early rabbinic sources as to whether sexually touching a *niddah* is prohibited on a biblical or a rabbinic level. The *midrash halakhah* on Leviticus, Sifra, analyzes the verse that appears in Leviticus 18:19.

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| Leviticus 18:19Do not come near a woman during her period of uncleanness to uncover her nakedness.  | ויקרא פרק יח **יט** וְאֶל אִשָּׁה בְּנִדַּת טֻמְאָתָהּ לֹא תִקְרַב לְגַלּוֹת עֶרְוָתָהּ. |

It considers the words “do not come near” to indicate a more stringent prohibition, above and beyond the prohibition of intercourse.

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| Sifra *Aharei Mot* Chapter 13“Do not come near a woman during her period of uncleanness to uncover her nakedness” (Lev. 18:19). I only know that intercourse is forbidden. From where do we derive that any intimacy is forbidden? It is written: “Do not come near.” I only know this regarding a menstruating woman. How do I know it applies to all forbidden liaisons? It is written: “None of you shall come near anyone of his own flesh to uncover nakedness: I am the LORD.” | ספרא, אחרי מות פרק יגוְאֶל אִשָּׁה בְּנִדַּת טֻמְאָתָהּ לֹא תִקְרַב לְגַלּוֹת עֶרְוָתָהּ.אין לי אלא שלא יגלה, מנין שלא יקרב?תלמוד לומר לֹא תִקְרַב. אין לי אלא נידה בל תקרב בל תגלה, מנין לכל העריות בל תקרבו ובל תגלו? תלמוד לומר: לֹא תִקְרְבוּ לְגַלּוֹת...אֲנִי ה'. אני נאמן לשלם שכר. |

It is noteworthy that Sifra does not explicitly define what the prohibition entails. However, Avot D’Rabbi Natan, using the same literary structure as Sifra, goes into specific detail about what is prohibited. These details will later be reflected in the laws codified by Maimonides.

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| Avot D’Rabbi Natan A, Chapter 2 - What “fence” has the Torah made to its words? It says “Do not come near a woman during her period of uncleanness.” (Lev. 18:19). Then, may the man just hug her, kiss her, or have idle chat with her [short of intercourse]? The verse says: “Do not come near!” Then, may the woman sleep with him on one bed with her clothes on [short of being naked]? The verse says: “Do not come near!” | מסכתות קטנות מסכת אבות דרבי נתן נוסחא א פרק באיזהו סייג שעשתה תורה לדבריה? הרי הוא אומר: וְאֶל-אִשָּׁה בְּנִדַּת טֻמְאָתָהּ--לֹא תִקְרַב, יכול יחבקנה וינשקנה וידבר עמה דברים בטלים? ת"ל לֹא תִקְרַב. יכול תישן עמו בבגדיה על המטה ת"ל לֹא תִקְרַב.  |

Avot D’Rabbi Natan specifies hugging, kissing and sleeping in one bed even while wearing clothing as violating the biblical command “do not come near.” This, together with the Sifra text, seems to be the sources used by Maimonides to prohibit sexual touch as a biblical commandment in both Sefer Hamitzvot and the Mishneh Torah, Laws of Sexual Prohibitions. Subsequently, this became the dominant halakhic position.[[25]](#footnote-25)

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| Maimonides Sefer Hamitzvot, Negative Precept 353We are admonished not to be intimate with those who are forbidden, even if there is no intercourse, such as hugging and kissing. It is as though the verse says not to engage in any intimacy that would lead to intercourse.  | ספר המצות מצות לא תעשה שנ"גוהמצוה השנ"ג היא שהזהירנו מקרוב לאחת מכל אלו העריות ואפילו בלא ביאה. **כגון חבוק ונשיקה והדומה להם מפעולות הזנות**. והוא אמרו יתעלה באזהרה מזה: אִישׁ אִישׁ אֶל-כָּל-שְׁאֵר בְּשָׂרוֹ, לֹא תִקְרְבוּ לְגַלּוֹת עֶרְוָה. כאילו יאמר לא תקרבו שום קירוב שיביא לגלות ערוה. |

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| רמב"ם הל' איסורי ביאה, פרק כא**א** כל הבא על ערווה מן העריות דרך אברים, או **שחיבק ונישק דרך תאווה ונהנה בקירוב בשר**--הרי זה לוקה מן התורה. שנאמר: לְבִלְתִּי עֲשׂוֹת מֵחֻקּוֹת הַתּוֹעֵבֹת, **Error! Hyperlink reference not valid.**ונאמר: לֹא תִקְרְבוּ לְגַלּוֹת עֶרְוָה. **Error! Hyperlink reference not valid.**כלומר, לא תקרבו לדברים המביאין לידי גילוי ערווה.  | Maimonides *Isurei Biah*, 21:1**Anyone who performs a sexual act short of intercourse with one of the forbidden relationships, or who hugs and kisses in a sexual way and takes pleasure in physical intimacy**, receives lashes for a biblical transgression, as it says (Lev. 18:30), “Do not do any of these abominable customs etc.,” and it says (Lev. 18:6), “Do not approach to uncover nakedness,” which is to say do not approach acts which might bring you to transgressing sexual prohibitions. |

In the highlighted text, Maimonides writes that in order to violate a negative prohibition there must be two qualifying conditions: There must be both intent and sexual pleasure derived from the act. The examples he brings are explicitly sexualized. In addition, he refers to this kind of touch as biblically prohibited in all sexually prohibited relationships, not just between husband and wife when the wife is a *niddah*.

Nonetheless, hundreds of years after Maimonides, two major rabbinic authorities commenting on the Shulhan Arukh, disagreed over the scope of his codified biblical prohibition. The Shakh, Rabbi Shabbatai ben Meir HaKohen, understood that non-sexual touch does not violate a biblical prohibition, based on Maimonides’ language.[[26]](#footnote-26) He explained that intent is the critical factor in determining whether touch is biblically prohibited or not. The Beit Shmuel, Rabbi Samuel ben Uri Shraga Phoebus, on the other hand, took a stringent position that seems to redefine the language of Maimonides, arguing that even non-sexual touch, without any affection or intent, is prohibited on a biblical level.[[27]](#footnote-27)

The Shakh’s understanding of Maimonides’ code reflects the majority halakhic position so that intent to benefit sexually remains the major determinant in violating biblical law. Nonetheless, there remains an inflexible attitude towards any form of touch – even if it is non-sexual – because of the looming biblical prohibition relating to sexual touch.

Other early Talmudic scholars took issue with Maimonides’ determination that sexual touch is a violation of a biblical prohibition, the most well-known being Nahmanides.

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| Nahmanides - Comments to Maimonides’ Sefer Hamitzvot, Negative Precept 353Maimonides cited an explicit *baraita* text, a respected authority upon whom to base his opinion, but upon scrutiny of the Talmud it is not so. Acts such as hugging and kissing do not violate a Negative Precept of the Torah, but rather a Rabbinic prohibition…an *asmakhta*. Although the sages linked their precautionary measure to a Torah verse, but they did not intend to interpret the biblical verse as literally referring to intimate acts. | השגות הרמב"ן לספר המצוות להרמב"ם מצות לא תעשה שנ"גוהנה הרב מצא הברייתא הזו המפורשת ותלה דבריו באילן גדול. אבל כפי העיון בתלמוד אין הדבר כן שיהיה בקריבה שאין בה גלוי ערוה כגון חבוק ונשוק לאו ומלקות. ...נבין מהם כי אצלם זה האיסור מדרבנן... אבל אין זה עיקר מדרש בלאו הזה אלא קרא אסמכתא בעלמא.  |

In contrast to Maimonides, Nahmanides understands that sexually touching a prohibited woman is a rabbinic prohibition and only the “uncovering of nakedness” (the biblical euphemism for intercourse) violates a biblical commandment. He brings evidence for this from the Talmud, in which Rabbi Pedat is cited as limiting the biblical prohibition to sexual relations only.

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| מסכת שבת דף יג עמ' א איבעיא להו: נדה, מהו שתישן עם בעלה היא בבגדה והוא בבגדו?…תא שמע:  אֶל-הֶהָרִים, לֹא אָכָל, וְעֵינָיו לֹא נָשָׂא, אֶל-גִּלּוּלֵי בֵּית יִשְׂרָאֵל; וְאֶת-אֵשֶׁת רֵעֵהוּ לֹא טִמֵּא, וְאֶל-אִשָּׁה נִדָּה לֹא יִקְרָב. מקיש אשה נדה לאשת רעהו. מה אשת רעהו - הוא בבגדו והיא בבגדה אסור, אף אשתו נדה - הוא בבגדו והיא בבגדה אסור. שמע מינה. ופליגא דרבי פדת, דאמר רבי פדת: לא אסרה תורה אלא קורבה של גלוי עריות בלבד, שנאמר: אִישׁ אִישׁ אֶל-כָּל-שְׁאֵר בְּשָׂרוֹ, לֹא תִקְרְבוּ לְגַלּוֹת עֶרְוָה. | Shabbat 13a**What is** the *halakhah* with regard to **a menstruating woman? May she sleep with her husband** in one bed while **she** is **in her clothes and he** is **in his clothes?...** **Come** and **hear** a different resolution from that which was taught in a *baraita*: It is stated: **“And he has not eaten upon the mountains, neither has he lifted up his eyes to the idols of the house of Israel, neither has he defiled his neighbor’s wife, neither has he come near to a woman in her impurity”** (Ezekiel 18:6). This verse **juxtaposes a menstruating woman to his neighbor’s wife. Just as** lying together with **his neighbor’s wife,** even when **he** is **in his clothes and she** is **in her clothes, is prohibited, so too,** lying with **his wife** when she is **menstruating,** even when **he** is **in his clothes and she** is **in her clothes, is prohibited.** The Gemara comments: **And** this conclusion **disagrees with** the opinion of **Rabbi Pedat, as Rabbi Pedat said: The Torah only prohibited intimacy that** involves **engaging in prohibited sexual relations,** as it **is stated: “A person shall not approach a near relation, to uncover their nakedness”** (Leviticus 18:6).  |

Since the Talmud does not categorically refute Rabbi Pedat – for example, by quoting the Sifra which unequivocally prohibited sexual touch on a biblical level – and even though Rabbi Pedat’s position is ultimately rejected, it was clear to Nahmanides that the prohibition of sexual touch cannot be on the level of a biblical precept. He concludes that sexual touching is rabbinically prohibited, serving as a “fence” or a protective expansion of the biblical law in order to prevent a situation that might ultimately lead to sexual relations. This does not imply that Nahmanides would be casually permissive about sexual touch. However, had his approach become the dominant one, it would certainly have prevented the escalation towards the extreme halakhic attitude that considers that it might be preferable to give up your life rather than touch your wife while she is a *niddah*, a position that we will see below.

**Casual Interaction and Touch**

There is no direct Talmudic discussion around casual non-sexual touch between a man and woman who are prohibited to one another, with two important exceptions (let me see what that is).[[28]](#footnote-28)

The first relevant source is in tractate Kiddushin (81b-82a) which questions whether touch can ever be non-sexual, even between first-degree relatives. Rav Aha bar Abba appears at his son-in-law Rabbi Hisda’s home and takes his granddaughter onto his lap. Rav Hisda is taken aback by this intimacy. Rav Aha reassures him that Shmuel permits physical affection even for those sexually prohibited to one another, like a grandfather and granddaughter, if one’s intentions are pure.

In a similar vein, in his Mishneh Torah, Maimonides permits affectionate touching between parents and children of the opposite sex and grandparents and grandchildren. This has become the accepted *halakhah*.

In contrast, the second source, brought below, expresses great suspicion over casual touch between husband and wife when they are prohibited to one another, regardless of their intent. It was widely quoted in the post-Talmudic era as a prooftext that even the most casual of touch between husband and wife is prohibited. This story might well be the source for the halakhic premise that all touch is extremely transgressive, possibly on a biblical scale.[[29]](#footnote-29)

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| Avot D’Rabbi Natan A, Chapter 2It happened that there was one student who learned much Mishna and learned much Scripture, and spent much time serving Torah scholars, but who died at half his years [at a young age]. His wife would take his Teﬁllin, bring them around to the houses of prayer and the houses of study and say to the people, ‘It is written in the Torah (Deuteronomy 30:20): [To love the Lord your God, to hearken to His voice and to cleave to Him] for this is your life and the length of your days [to dwell on the land which God promised to your ancestors, to Abraham, to Isaac and to Jacob, to give it to them]. My husband, who learned much Mishna and learned much Scripture, and spent much time serving Torah scholars, why did he die at half his days?’ And no one would answer her a thing.Once Elijah may he be remembered for good visited her and said to her: My daughter why are you crying and wailing? She retold the whole story. He asked her: My daughter, during the days of your *niddot*, all of the first three days, what did he do with you?She answered: **God forbid! He did not touch me, even on my little ﬁnger! And he said to me, do not touch anything lest you come to doubtful behavior.**I asked her: During the rest of the days, what did he [do] with you? She answered: I ate with him and drank with him and slept with him in my clothing on the bed and his flesh touched my flesh but did not intend anything else.He said to her: Blessed is the God who killed him, for it is written in the Torah: “Do not come near a woman during her period of uncleanness.”  | מסכתות קטנות מסכת אבות דרבי נתן נוסחא א פרק במעשה באדם אחד שקרא הרבה ושנה הרבה ושמש ת"ח הרבה ומת בחצי ימיו והיתה אשתו נוטלת תפליו וחוזרת בבתי כנסיות ובבתי מדרשות והיתה צועקת ובוכה ואמרה להם: רבותי כתיב בתורה  כִּי הוּא חַיֶּיךָ, וְאֹרֶךְ יָמֶיךָ. בעלי שקרא הרבה ושנה הרבה ושמש ת"ח הרבה מפני מה מת בחצי ימיו? לא היה אדם שהשיב לה דבר. פעם אחת נזדמן לה אליהו זכור לטוב. אמר לה: בתי מפני מה את בוכה וצועקת. אמרה לו: רבי, בעלי קרא הרבה ושנה הרבה ושמש ת"ח הרבה ומת בחצי ימיו. א"ל: כשאת בנדתך כל אותן ג' ימים הראשונים מהו אצלך? אמרה לו: רבי ח"ו שלא נגע בי אפילו באצבע קטנה שלו אלא כך אמר לי אל תגעי בכלום שמא תבא לידי ספק. כל אותן ימים האחרונים מהו אצלך?אמרה לו: רבי אכלתי עמו ושתיתי עמו וישנתי עמו בבגדי על המטה ובשרו נגע בבשרי אבל לא נתכוין לדבר אחר.א"ל ברוך המקום שהרגו. שכך כתוב בתורה וְאֶל-אִשָּׁה, בְּנִדַּת טֻמְאָתָהּ לֹא תִקְרַב. |

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In the story, we are told of the untimely death of a young scholar who spent much time in the Beit Midrash learning Torah and serving Torah scholars. His inconsolable widow tries to find answers to the eternal question of theodicy. In the course of the narrative, she reveals an interesting bifurcation in behavior between the days of bleeding and the seven “clean” days: .[[30]](#footnote-30)

The little finger of a woman is a known trigger for male sexual arousal in rabbinic literature and was discussed at length in earlier chapters on *ervah*. The husband was intensely aware of her nakedness, both literal and figurative, and took great pains to maintain distance. Once the bleeding stopped, although still prohibited from sexual relations, the couple resumed modified intimacy during the seven “clean” days, including sleeping in close proximity to one another (although each in their own coverlet) eating together and allowing their “flesh” to touch without any sexual intention.

Elijah’s response to her story is to thunderously and unsympathetically explain that God did well to kill her husband. The deceased’s transgression, explains Elijah, was intimate interaction while she was still prohibited, even though they had no sexual intent. This story unequivocally views all interaction, even without direct touch, as transgressing a severe biblical commandment that caused God to strike him down (one of the rabbinic suggestions is that the punishment of *karet* is untimely death). It is reminiscent of the text in Leviticus Chapter 15, warning both men and women from approaching God’s presence in the Tabernacle while in a state of impurity on pain of death. Elijah echoes the spirit of that warning in reinforcing the death sentence for those who choose to “approach” the *niddah*.

As mentioned earlier, this is a most seminal rabbinic text in the halakhic discourse of early Talmudic interpretation on the topic of behavior when the couple is prohibited. It buttresses the need for complete physical separation throughout the period of prohibition, with no distinction between days of bleeding and clean days. The question of whether non-sexual touch is prohibited biblically or rabbinically continues to be evaluated in light of the story, which reflects an overall negative and forbidding attitude towards touch.

**Better Death Than Forbidden Touch? - The Beit Yosef**

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| Sanhedrin 74a…With regard to **all** other **transgressions in the Torah, if a person is told: Transgress** this prohibition **and you will not be killed, he may transgress** that prohibition **and not be killed,** **except for** those of **idol worship, forbidden sexual relations, and bloodshed.** | סנהדרין דף עד עמ' א...כל עבירות שבתורה אם אומרין לאדם עבור ואל תהרג יעבור ואל יהרג, חוץ מעבודת כוכבים וגילוי עריות ושפיכות דמים. |

**....**

Rabbi Joseph Karo, author of the Shulhan Arukh, takes the discussion regarding touching a *niddah* to an unprecedented level in his commentary to the Tur, the Beit Yosef.[[31]](#footnote-31) He notes that Maimonides classified sexual touch as a negative commandment defined as an accessory to *arayot*, laws of sexual prohibition, which are binding even when there is danger to life. Sexually touching a forbidden relation — including a man’s *niddah* wife — might very well be the kind of transgression that demands forfeiting one’s life rather than transgressing, suggests Rabbi Karo in the Beit Yosef. This stringency in approach will continue to permeate the halakhic discussion around touch between a husband and his *niddah* wife, even though the premise that the prohibition against touching a *niddah* is so severe as to require giving up one’s life is largely rejected.[[32]](#footnote-32),[[33]](#footnote-33)

There are notable rabbinic authorities like Noda b’Yehudah[[34]](#footnote-34), Pnei Yehoshua[[35]](#footnote-35), Avnei Ezer[[36]](#footnote-36) and Rav Yehuda Herzl Henkin[[37]](#footnote-37) who rule that even full sexual relations with a *niddah*, although resulting in the severe punishment of *karet*, is not to be seen as falling into the grim category of *arayot*/sexual prohibitions. One of the reasons given for this distinction, between the *niddah* and other sexual prohibitions like incest and adultery, is that the child born to a *niddah* is not categorized as *mamzer*, the eternal and terrifying stigma given to a child born out of halakhic adultery and incest. Thus, it cannot result in a prohibition for which one lays down one’s life. While this alleviates some of the severity of transgressive sexual relations with a *niddah* (no *mamzerut*, no laying down one’s life), the prohibition to engage in sexual relations with a niddah remains a transgression for which one is liable to receive *karet*. There is consistent, ongoing reluctance to permit any form of touch, regardless of the category of law it falls into. Nowhere is this more apparent than when dealing with questions of illness while a woman is *niddah*.

**What Happens if Her Husband is Ill and There is No One to Care for Him?**

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| Shulhan Arukh Yoreh Deah 195:15If the husband falls ill, and there is no one to care for him besides his *niddah* wife, she is permitted to care for him. She must take the utmost caution to avoid washing his face, hands and feet and making the bed in front of him. | שולחן ערוך יורה דעה הל' נדה סי' קצה **טו** אם הוא חולה ואין לו מי שישמשנו זולתה, מותרת לשמשו רק שתזהר ביותר שתוכל להזהר מהרחצת פניו ידיו ורגליו והצעת המטה בפניו. |

The Shulhan Arukh permits a woman to care for her husband when he is ill if there is no one to care for him. While he cautions the *niddah* wife to avoid washing her husband’s hands or face or making the bed in his presence, he does not actually prohibit her from carrying out these activities when her husband is ill. It appears that if there is no one else to serve him, she can do what is necessary to alleviate his suffering. There is room to be lenient because the man is weakened and will not actively channel his sexual urges when ill.[[38]](#footnote-38) As we will see, the Shulhan Arukh will be far more restrictive when it is the *niddah* wife who is ill.

**What Happens if His Wife is Ill and There is No One to Care for Her?**

In contrast to the law above regarding the husband, there is no hint of leniency in the language of the Shulhan Arukh when it is the wife who is ill.

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| Shulhan Arukh, Yoreh Deah 195:16If a *niddah* becomes ill, her husband cannot attend to her in a way that involves touch, e.g., to help her into or out of bed. **Rema**: And if there is no one to help her, he is permitted to do everything and this is common practice if she greatly needs assistance. | שולחן ערוך יורה דעה הל' נדה סי' קצה **טז** אשה חולה והיא נדה, אסור לבעלה ליגע בה כדי לשמשה, כגון להקימה ולהשכיבה ולסמכה. [הגה] וי"א דאם אין לה מי שישמשנה, מותר בכל, וכן נוהגין אם צריכה הרבה לכך. |
| Shulhan Arukh, Yoreh Deah 195:17If her husband is a doctor, it is prohibited for him to feel for her pulse. **Rema**: And based on what I wrote above, that we rule leniently if she needs him to care for her, it is certainly permitted for him to feel for her pulse if there is no other doctor, she needs him, and her illness puts her in danger.  | שולחן ערוך יורה דעה הל' נדה סי' קצה **יז** אם בעלה רופא, אסור למשש לה הדפק. הגה: ולפי מה שכתבתי דנוהגין היתר אם צריכה אליו דמשמש לה, כ"ש דמותר למשש לה הדפק אם אין רופא אחר וצריכה אליו ויש סכנה בחליה.  |

The Shulhan Arukh does not mention any moderation to the law, even if there is no one else to care for the wife, as was the case for the sick husband. This is due to the concern that a healthy man cannot be expected to control his sexual urges when his wife is ill. The author of the *Terumat HaDeshen,* Rabbi Israel Isserlein, who lived 100 years prior to Rabbi Karo and is often cited by him in the Beit Yosef, writes that when the husband is ill the wife can care for him although she should assiduously avoid touching him.[[39]](#footnote-39) Should she be forced to do so, it can be understood as lacking sexual overtones since her husband is ill and weakened and will thus be able to control his sexual response. However, when the wife is ill and her husband is well, there is no room for leniency since “his sexual urge may overcome him and he will convince her to submit and there is no deterrent to his having relations with her when she is ill.”

Fortunately, Rabbi Moses Isserles, in his gloss to Shulhan Arukh inserts his opinion on both passages cited above to allow a husband to care for his sick *niddah* wife. Furthermore, he states that it is the common practice. In the first passage, he rules outright that if there is no one else to care for her, her husband may do so, including helping her in and out of bed. In the second passage, Rema assumes that the physician husband is checking her pulse to establish the degree of danger she is in and thus permits it even though the Shulhan Arukh explicitly prohibits it.

It is notable that any qualifying factors relating to the degree of illness, or whether the wife is in danger are absent from both the Shulhan Arukh and Rema. Moreover, Rabbi Karo wrote in the Beit Yosef, that possibly, even danger might not be enough of a reason to permit the husband to touch his *niddah* wife. This led Rabbi Yechiel Michel Epstein, author of Arukh Hashulhan, who lived in the 19th century, to clarify that the difference of opinion between the Shulchan Aruch and Rema is only when the wife’s life is **not** in danger. In a case of clear danger to the woman’s life, he felt compelled to write, Rabbi Karo would absolutely permit a husband to check his wife’s pulse. In a case where there is no danger, he acknowledged, only the Rema would be lenient. He himself endorses the latter practice of leniency:

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| Arukh Hashulhan Yoreh Deah 195:26-27The explanation of the matters above is that the Rema and the author of the Shulhan Arukh both reason that in a case of danger it is permitted and even though the Beit Yosef seems doubtful for perhaps he agreed with the opinion of the Rambam who reasoned that all physical touch in matters of sexual prohibitions from the Torah are prohibited from the Torah and thus may not be permitted even in case of danger. In any event it is clear here that he would permit in case of danger…and certainly a professional doctor can check her “hidden organs” if such is necessary since he is doing his job…And all of these laws and their restrictions are only when there is no danger and therefore, when she is sick, the Beit Yosef prohibited him and the Rema permitted him, since it is not in the category of uncovering nakedness since he is doing it to help her and not out of sexual desire and this is why he wrote “and this is our custom if she needs such help” and did not write only in the case of danger and massaging the pulse, which the Beit Yosef prohibited, was clearly only when there was no danger and the reason the Rema permitted was because he permitted in such a case of no danger. And some say he should place a thin barrier on the skin before measuring… | ערוך השולחן יורה דעה סימן קצה **כו** ביאור דבריהם נ"ל דרבותינו בעלי הש"ע תרווייהו סברי דבמקום סכנה מותר. ואף שרבינו והב"י בספרו הגדול מסתפק דאולי לדעת הרמב"ם דס"ל דכל מין קריבה בעריות אסור מן התורה אין להתיר אפי' במקום סכנה ע"ש מ"מ כאן בש"ע פשיטא ליה כן, דכ"כ הרמב"ן והרדב"ז בתשו'. וטעמו של דבר דאף ע"ג דבס"פ בן סורר ומורה [סנהדרין ע"ה א] אסרו חכמים בכל מין קורבה ואמרו ימות ואל יעבור ע"ש זהו מפני שעבר עבירה והעלה טינא ע"ש ועוד דכל שבמלאכתו עוסק לית לן בה והרי הדבר פשוט להיתר ברופא מומחה שבודק בכל בית הסתרים אם צריך לכך [כרו"פ] משום דעוסק במלאכתו. **כז** וכל דינים אלו מיירי שלא במקום סכנה. ולכן כשהיא חולה אסר רבינו הב"י ורבינו הרמ"א התיר מפני שאין זה בגדר ג"ע כיון שעושה דרך שימוש ולא לתאוה. וזהו שכתב וכן נוהגין אם צריכה וכו' ולא כתב מקום סכנה ובמישוש הדפק שאסר רבינו הב"י מיירי ג"כ שלא במקום סכנה. וזהו שכתב רבינו הרמ"א דמותר כשאין אחר ויש סכנה וכו' כלומר דבזה גם רבינו הב"י מודה שהרי מקורו מהב"י ע"ש. אבל לרבינו הרמ"א אפשר דמותר גם באין סכנה כמו שהתיר מקודם אך שכתב דכ"ש במקום סכנה דלכ"ע שרי [כנלע"ד] ויש שכתבו שיניח דבר דק על מקום הדופק... |

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To summarize, if a woman’s life is in danger, it is agreed by the overwhelming majority of authorities that her husband may do all that is necessary to assist her. The touch being referred to in these cases is service touch, or that which is directly necessary to alleviate physical suffering. However, if she is not in danger, there are conflicting opinions regarding his ability to care for her. Even Rav Elyashiv Knohl, considered a moderate in matters of *niddah*, writes: “One should also try to minimize direct physical contact where possible, using a thick garment or blanket as a barrier when holding or supporting the ill spouse. If these issues arise one should consult a rabbi about how to deal with the situation.”

The end result is a deep resistance on the part of halakhic authorities to permitting any sort of direct contact between husband and wife, even of the most non-sexual nature, when the woman is *niddah*. While Rabbi Knohl’s language, in the quote above, suggests equal treatment regardless of which spouse is ill, he admits in the previous paragraph in his book that there is more room for leniency when the husband is ill, as per the Shulhan Arukh.

A frequent question asked by Orthodox couples today is about the birthing woman and whether a husband is permitted to assist his wife during the process, even after she becomes prohibited, since during birth all women become *niddah* at some point.[[40]](#footnote-40) This touches on the sources brought above regarding a man physically assisting his wife when she is ill. Still, the question of a husband assisting during birth is actually a very contemporary halakhic question, reflecting the modern trend of encouraging men to enter the birthing room. Until the late 20th century, husbands were essentially banned from witnessing their wives’ labor and it was unthinkable that a man would hold his wife’s hand or massage her back as she pushed the baby out. The entire birthing process was overseen by women and/or male doctors. This reality has changed significantly, and husbands are now often encouraged to actively and physically support their wives throughout labor and birth. Rabbinic authorities have responded to this new reality and have done so with a plethora of opinions, running the gamut from lenient to stringent, as often takes place in halakhic decision-making.

One of the first questions that was addressed by rabbinic authorities was whether the husband could be in the birthing room given the prohibition of directly looking at the vulva.[[41]](#footnote-41) While many rabbis permit husbands to be present at birth, they are instructed to remain by the woman’s head to avoid seeing the baby emerge. Rabbi Henkin outlined the various rabbinic positions on the subject that permit and prohibit, with much of the permissibility resting on a man standing away from the woman’s lower body and promising not to look at the baby emerge from the birth canal.[[42]](#footnote-42)

Another question that engenders tremendous debate is whether the husband can continue to touch his wife while she is giving birth, even after she becomes prohibited because of uterine blood flow. When I began to have children in the mid-1990’s, there were no moderate rabbinic voices supporting the halakhic possibility of the husband physically supporting his wife throughout and after birth. However, more recently, there has been a shift and some authorities permit what was once unquestionably prohibited. This relates to the sources brought above about providing services for the wife when she is ill. For example, if the woman needs help to get in and out of bed and there is no one else to assist her, her husband may be called upon to do so. As a result of trying to maintain a more rigorous halakhic standard and not fall back on this default, many religious women hire a doula to provide emotionally supportive touch throughout labor and birth, with the keen awareness that at some point their husbands will no longer be able to help.

It is indisputable that the birthing woman is defined in *halakhah* as one whose life is in danger. Shabbat may be violated in every way necessary to assist her. *Kashrut* laws may be suspended if she has an unnatural craving for unkosher food and she may eat and drink as necessary on Yom Kippur. Maimonides codifies the Talmudic law that a candle may be lit for a blind woman in labor on Shabbat if she requests it in order to give her “peace of mind,” even though the light has no practical purpose. Nevertheless, there is an ongoing controversy regarding the possibility of a husband providing his wife with emotionally supportive touch during and after birth. This is surprising to couples who assume that given the seeming impossibility of having sexual relations with a birthing woman, there should be room for leniency. In halakhic discourse, the question of whether the nature of the touch is sexual is hardly raised. All touch is potentially sexual especially if the man is healthy, even if the couple has no way of having sexual relations.

To illustrate, Rabbi Knohl writes: “Most prenatal courses encourage the husband to massage his wife during labor, but Jewish law prohibits this [once the couple becomes prohibited]. If a woman is terribly anxious before the birth and feels that she will need her husband’s touch to calm her, the couple should consult a rabbi. Obviously, if there is any threat to the woman’s health, then whatever is required to soothe her is permitted. But such situations are extremely rare; normally there is no reason to fear for the woman’s health.”

This statement contains an internal contradiction. On one hand, we treat the woman in labor as if her life is in danger regarding Shabbat (most relevant) and *kashrut* (less relevant today). When it comes to emotionally supportive touch, however, Rabbi Knohl discourages it because her life is not really in danger. This is reflective of the deep discomfort perceived throughout all halakhic discourse on the topic of permitting touch, particularly emotionally supportive touch, at any time. Perhaps this is because there is no concern that violating Shabbat for a birthing woman will lead to a more casual attitude to the laws of Shabbat. In contrast, there is a constant concern that allowing the couple to touch when prohibited will lead to a complete dissolution of boundaries.

**Emotional Touch**

So far, we have referred to two types of touch: Sexual touch which is absolutely prohibited, and non-sexual touch which could be permitted, with reluctance, to provide care in cases of illness and clear physical need. With the birthing woman, we introduced another category that has emerged more recently in halakhic literature known as *derech hibah* – or affectionate/emotional touch – that is neither purely for care nor overtly sexual. This is where many couples find the halakhic restrictions incompatible with their needs for emotional intimacy. They expect that within the sources, surely there must be some latitude regarding affectionate touch. Given the outline presented above, it should be clear that touch is almost always seen as sexual and thus, transgressive, even when it does not trigger any such feelings.

As a result, some Orthodox couples make non-halakhic decisions that reflect their own need for emotional intimacy without any sort of religious guidelines, while others suffer silently, having been told that there are no dispensations to touch.[[43]](#footnote-43)

Unfortunately, it is not surprising that this halakhic wariness translates into a lack of empathy for men and women suffering from depression, anxiety, OCD and other mental disorders, despite studies that show touch is essential in facilitating calm and emotional healing during mental anguish. The removal of touch from the marital relationship for 11-13 days can be crippling for the spouse expressly needing physical closeness during this prohibited time. In contrast to physical illness, where the man or woman can halakhically be defined as physically assisting their spouse when no one else is around to do so, the touch provided to someone suffering from mental anguish is not physical but emotional assistance. As a result, it is very difficult for rabbinic authorities to consider this as a necessary circumstance for which allowances could be made, given the incredible misgivings that surround the entire discussion.

Many rabbis reflexively feel that including depression and anxiety on the list of conditions that allow for emotional touch will give people too much leeway, eroding the fear and trembling that permeates every aspect of this topic in halakhic discourse. Rabbi Yonatan Rosensweig, who has recently extensively researched mental illness and *halakhah,* discovered that mental illness in general has had little real consideration in halakhic sources outside of very primitive boundaries presented in the Talmud. In the course of his writing a book on this topic and bringing psychiatrists into conversation with leading rabbinic authorities in Israel, significant changes in both attitudes and halakhic decision-making took place. Nonetheless, he acknowledges rabbinic resistance to allowing any sort of blanket leniency with regard to touch in situations of mental distress.[[44]](#footnote-44)

**Further Restrictions to Reinforce the State of Separation**

There are several other rabbinic restrictions that are relevant when a couple is prohibited. All of them are meant to remind the couple that they must avoid sexual interaction, yet none of them aggressively separate the couple. These are collectively known as *harkhakot*, acts of intentional distancing between husband and wife during the prohibited period of *niddah*. While in the previous section, I suggested that there was a complete absence of nuance to the halakhic discussion with regard to touch, there is much greater nuance to the rest of the restrictions, which allow a couple to maintain an intimate albeit not physical relationship.

Rabbi Epstein in the Arukh Hashulhan frames the rest of the restrictions very well:

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| ערוך השולחן יורה דעה סימן קצה **א** ידוע שנדה היא ככל העריות שכל העריות הן בכרת וכן נדה היא בכרת ובעניין ההרחקה ממנה איננה שוה לכל העריות יש בדברים שהחמירו בה יותר מבכל העריות כמו ליתן בידה או ליטול מידה וכיוצא בזה כמו שיתבאר לפנינו ויש שהקילו בה יותר כמו שמותר ליהנות בראייתה ובכל העריות פשיטא שאסור אפילו ההסתכלות וכן יחוד דבכל העריות אסור להתייחד ועם אשתו נדה היחוד מותר וכן אמרו חז"ל [סנהדרין ל"ז א] סוגה בשושנים התורה העידה עלינו שאפילו כסוגה בשושנים לא יפרצו בה פרצות כלומר באזהרה קלה ובהבדלה מועטת נפרשים מן העבירה [רש"י ד"ה סוגה] וכשאומרת כשושנה אדומה ראיתי מיד פורש ממנה [תוס' ד"ה התורה]:  | Arukh Hashulhan Yoreh Deah 195:1It is known that the prohibition of the *niddah* is like all of the sexual prohibitions in the Torah that result in *karet,* however with regard to distancing oneself from her, restrictions are different. There are things that are more stringent in comparison to the other prohibitions such as passing things into her hand or taking from her hand and so on as will be explained below and there are many more leniencies in her regard such as permitting him to [sexually] enjoy looking at her in a way that is prohibited for those relatives that are prohibited to him. Likewise, seclusion with his wife during *niddah* is permitted but not with women [such as relatives] who are prohibited to him. As the rabbis said (Sanhedrin 37a), the Torah creates a hedge of roses**. It testifies that we, with only a mild warning and a minimal separation, separate ourselves from sin** and when she says: I have seen red like a rose, he immediately separates. |

A married man is allowed to have sexual thoughts about his wife, even when she is prohibited to him, while sexual thoughts about other women are universally prohibited; he is allowed to be alone with her, even in the bedroom. The challenge of how to desexualize the relationship within the framework of shared living space is what guides the next series of laws.

**Desexualizing the Most Sexual Space: The Bedroom**

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| Shulhan Arukh Yoreh Deah Laws of *Niddah* 195:6He should not sleep with her in one bed, even if each is in their own clothing and they are not touching one another. Rema: And even if each one has their own blanket and even if they are lying in two beds and the beds are touching, this is prohibited.  | שולחן ערוך יורה דעה הל' נדה סי' קצה**ו** לא יישן עמה במטה, אפילו כל אחד בבגדו ואין נוגעין זה בזה. הגה: ואפילו יש לכל אחד מצע בפני עצמו, ואפילו אם שוכבים בשתי מטות והמטות נוגעות זו בזו, אסור. |

As mentioned above, *halakhah* does not require the couple to sleep apart from one another. However, one bed with two blankets as per Rav Pedat’s suggestion (Shabbat 13a) was rejected by post-Talmudic authorities. Although a bed wide enough so that two people could sleep on it without touching remained a viable halakhic option into the Middle Ages, the determinative *halakhah* from the Shulhan Arukh onward is to require two beds with a minimum separation preventing the beds from touching.[[45]](#footnote-45) This separation serves to remind the couple that they are in a non-sexual space while simultaneously preserving intimacy by allowing them to lie side by side, talking, breathing and cohabitating next to one another. This is all the more noteworthy given the palpable fear of transgression felt in the previous section on touch. Perhaps once that bulwark of halakhic restriction was solidly in place, there was no need to fear crossing minimal boundaries anywhere else, including the bedroom.

**Eating Together**

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| Shulhan Arukh Yoreh Deah Laws of *Niddah* 195:3-4He should not eat with her at the same table unless there is some sort of object distinguishing between his plate and her plate such as bread or a pitcher or, each one should eat on their own placemat/tablecloth.**Rema**: And some say that a separation between his plate and hers is necessary specifically when they do not share a plate when she is permitted, but if they eat from one plate when she is permitted, then it is enough that each one eats from their own plate and they do not need any other object to separate them. And this is the practice. And there are some who say it is prohibited for him to eat from her leftovers just as it is prohibited for him to drink from what is left in her cup, as will be explained. He should not drink from what is left in a cup that she drinks from.**Rema**: Only if no person drank from her cup in between or, if the contents of the cup were emptied into another cup, even if it is returned to the original cup [he can drink]; and if she drank and he does not know that she drank from this cup and he wishes to drink from her cup, she does not need to tell him not to drink.And she is permitted to drink from a cup he drank from. And if she drank from this cup, there are some who say that he can drink what is left, since she has already left, there is no intimacy in the act. | שולחן ערוך יורה דעה הל' נדה סי' קצה**ג** לא יאכל עמה על השלחן אא"כ יש שום שינוי שיהיה שום דבר מפסיק בין קערה שלו לקערה שלה ,לחם או קנקן, או שיאכל כל אחד במפה שלו. הגה: וי"א דצריכין הפסק בין קערה שלו לקערה שלה היינו דוקא כשאינן אוכלין בקערה אחת כשהיא טהורה, אבל אם אוכלין בקערה אחת כשהיא טהורה סגי אם אוכלת בקערה בפני עצמה, וא"צ היכר אחר, וכן נוהגין. י"א שאסור לו לאכול משיורי מאכל שלה, כמו שאסור לשתות משיורי כוס שלה, וכמו שיתבאר. **ד** לא ישתה משיורי כוס ששתתה היא.הגה: אם לא שמפסיק אדם אחר ביניהם או שהורק מכוס זה אל כוס אחר אפילו הוחזר לכוס ראשון. ואם שתתה והוא אינו יודע ורוצה לשתות מכוס שלה, אינה צריכה להגיד לו שלא ישתה. והיא מותרת לשתות מכוס ששתה הוא. ואם שתתה מכוס י"א שמותר לו לשתות המותר, דמאחר שכבר הלכה אין כאן חבה.  |

In the same vein as the attention directed towards the bedroom, there is both wariness and nuanced permissiveness at meals. Like the bedroom, minimal boundaries are put in place. The *halakhah* creates a structure in which the couple can eat together with minor reminders that they are prohibited. This was not always the case. One of the few Talmudic references to what we call the *harhakot* is a passage that warns the *zav* from eating with the *zavah* lest they come to sin.

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| Mishnah Shabbat 1:3A *zav* should not eat with a *zavah* lest it lead to sin. | משנה שבת פרק א**ג** לא יאכל הזב עם הזבה, מפני הרגל עבירה.  |
| Rashi: A *zav* should not eat with a *zavah* - and all the more so a healthy man with a *zavah*. Lest it lead to sin – since they are alone together, he may come to have intercourse with a *zavah*, for which the punishment is *karet*. | רש"י מסכת שבת דף יא עמוד א לא יאכל הזב עם הזבה: וכל שכן טהור עם הזבה. מפני הרגל עבירה: מפני שמתוך שמתיחדין יבא לבעול זבה שהיא בכרת. |

There was, indeed, a practice of husband and wife not eating at the same table when prohibited. This is reflected in Raavad’s comment to Maimonides’ ruling in the Mishneh Torah:

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| Mishneh Torah *Isurei Biah* Chapter 11:18-19It is forbidden to a person to embrace his wife during these seven "clean" days. [This applies] even if she is clothed and he is clothed. He should not draw close to her, nor touch her, not even with his pinky. He may not eat together with her from the same plate. The general principle is he must conduct himself with her during the days she is counting as he does in her "days of *niddah*." For [relations with her] are still punishable by *karet* until she immerses herself, as we explained. Raavad: And our practice is that they not even eat at the same table and so wrote Rav Aha [Gaon].A *niddah* may perform any task which a wife would perform for her husband except washing his face, hands, and feet, pouring him a drink, and spreading out his bed in his presence. [These were forbidden as] decrees, lest they come to sin. For this reason, she should not eat with him from the same plate, nor should he touch her flesh, lest this lead to sin. Similarly, she should not perform these three tasks for him during her seven "clean" days. It is permitted for a woman to adorn herself during her "days of *niddah*," so that she does not become unattractive to her husband. | רמב"ם הלכות איסורי ביאה פרק יא**יח** ואסור לאדם שידבק באשתו בשבעת ימים נקיים אלו ואף על פי שהיא בכסותה והוא בכסותו ולא יקרב לה ולא יגע בה אפילו באצבע קטנה, **ולא יאכל עמה בקערה אחת**. כללו של דבר ינהוג עמה בימי ספירה כמו שינהוג בימי נדה שעדיין היא בכרת עד שתטבול כמו שביארנו.כתב הראב"ד ז"ל *אנו נוהגים אפילו על שלחן אחד וכן כתב רב אחא ז"ל.* **יט** כל מלאכות שהאשה עושה לבעלה נדה עושה לבעלה חוץ מהרחצת פניו ידיו ורגליו ומזיגת הכוס והצעת המטה בפניו, גזירה שמא יבוא לדבר עבירה, **ומפני זה לא תאכל עמו בקערה אחת** ולא יגע בבשרה מפני הרגל עבירה, וכן בשבעת ימים נקיים לא תעשה לו שלש מלאכות אלו, ומותר לאשה להתקשט בימי נדתה כדי שלא תתגנה על בעלה. |

Maimonides permits the couple to eat at the same table as long as they do not share a plate, yet Raavad argues in the name of Rav Aha[i] Gaon that they may not eat at the same table. This was presumably at a time in which tables were very small, unlike the tables we use today. The Shulhan Arukh finds a way to synthesize both positions: A couple that is alone may not eat together at the same table unless they put a reminder of their status on the table. Any item that stands out as unusual can be used for this purpose, which is identical to the halakhic requirement when two friends eat milk and meat at the same table. When people dine together, they often eat from each other’s plates. It is a sign of familiarity and connection. By placing an unusual object on the table, it reminds the diners that they are not to eat from one another’s plate. In the case of the couple, it also reminds them they are in non-sexual space, but it does not separate them. They can prepare food for one another and sit down and enjoy the meal together. Slight changes in behavior are enough to allow for normalcy.

Before finishing this section, it is worth noting that Maimonides’s laws around eating together when the woman is a *niddah* are based on a text in tractate Ketubot which includes a series of stories in which wives poured their husbands wine even though this specific activity is prohibited when she is a *niddah*.

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| Ketubot 61aRav Yitzḥak bar Hananya said that Rav Huna said: All tasks that a wife performs for her husband, a menstruating woman may similarly perform for her husband, except for: Pouring his cup, making his bed, and washing his face, hands, and feet.  | מסכת כתובות דף סא עמ' א אמר רב יצחק בר חנניא אמר רב הונא: כל מלאכות שהאשה עושה לבעלה - נדה עושה לבעלה, חוץ ממזיגת הכוס, והצעת המטה, והרחצת פניו ידיו ורגליו. והצעת המטה. |

This first section limits a wife from washing her husband’s hands, feet and face when she is a *niddah,* as well as restricting her from making his bed (in his presence) and pouring him wine. All three are all understood to be acts of intimacy that a wife is required to perform for her husband even if she has many maidservants. For this reason, all three are prohibited while she is a *niddah,* although both making his bed and pouring him wine can, in fact, be done with some slight modification.

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| Ketubot 61aAnd pouring the cup of wine.Shmuel’s wife would switch hands and pour with her left hand. Abaye’s would place it on top of a barrel. Rava’s on his pillow.Rav Pappa’s wife would place it on the bench. | מסכת כתובות דף סא עמ' א ומזיגת הכוס. שמואל, מחלפא ליה דביתהו בידא דשמאלא. אביי, מנחא ליה אפומא דכובא. רבא, אבי סדיא. רב פפא, אשרשיפא.  |

In this series of four vignettes, the Amoraim in Babylonia relate that their wives continued to pour their wine albeit with slight changes. These stories are marvelous examples of attempts to maintain normal interaction between husband and wife through acts of intimacy even during the *niddah* period. The minor changes, like putting the glass on a counter or on a low shelf, rather than directly in front of their husband, reminds both husband and wife that they are prohibited to one another. In a similar way, couples can also continue to perform loving, nurturing acts when eating together but with mindful awareness of the non-sexual space they are in by means of slight changes in behavior.[[46]](#footnote-46)

**Passing from hand to hand**:

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| Tosafot Shabbat 13bAnd Rashi forbade himself from passing a key from his hand to hers (his wife’s) during the days of her *niddut*. | תוספות מסכת שבת דף יג עמ' ב ד"ה בימיורש"י היה נוהג איסור להושיט מפתח מידו לידה בימי נדות. |
| Mahzor Vitri 499It is the law that it is prohibited [for a man] to touch his wife during all the days of her *niddah* time, even her little finger… There are some who are careful even not to pass her any object. And at the very least it is good to be careful not to pass her any kind of food or drink. It is good and proper to be careful not to pass [anything] from his hand to her hand. And the same holds for her clean days, until she immerses. | מחזור ויטרי סימן תצט דין שאסור ליגע לאשתו כל ימי נידתה אפי' באצבע קטנה. ויש נזהרין אפילו להושיט לה שום דבר. ולכל הפחות דבר של מאכל ומשתה טוב ונכון מליזהר שלא יושיט מידו לידה. וכן בימי ליבונה וספירתה עד שתטבול: |

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| Shulhan Arukh Yoreh Deah 195:2And he should not touch her even on her little finger and he should not pass anything from his hand to hers and not accept anything from her hand lest he come to touch her flesh (also, throwing from his hand to hers or the opposite is prohibited). | שולחן ערוך יורה דעה סי' קצה **ב** לא יגע בה אפילו באצבע קטנה, ולא יושיט מידו לידה שום דבר ולא יקבלנו מידה, שמא יגע בבשרה. (וכן על ידי זריקה מידו לידה או להיפך, אסור).  |

People often wonder whether this restriction on directly passing to one another is a stringency or actual *halakhah*. It is a practice that seems to have originated with Rashi, who did not pass keys to his wife. It became codified into the Shulhan Arukh where it is written that a man must not pass an object to his wife lest he brush against her little finger. The reference to the little finger intimates that even inadvertently brushing against the little finger of his *niddah* wife could unleash sexual feelings and must be avoided. This fits well with the analysis presented above, that all touch can potentially become sexual, even if is incurred inadvertently in the most mundane of ways.

For some couples, this restriction borders on the offensive by suggesting that a man’s sexual desire is so unquenchable that the couple must avoid passing things to one another. On a more positive note, it could be reframed so that even the smallest touch can be meaningful and filled with intimacy if treated as such.

I would like to propose a variation to both of the responses presented above. One could look at this law as the ultimate expression of mindfulness, rather than as a deterrent to the male gaze. It takes the act of passing a mundane object, which is utterly insignificant in any and every other prohibited relationship, into something that makes the couple mindful of the non-sexual space they have chosen to create. Multiple times a day, it serves as a reminder for the couple that they are committed to changing the dynamic between them, using different love languages and investing in other forms of connection.[[47]](#footnote-47)

That said, couples should use common sense in this regard. If an object is too heavy to carry alone or an infant is sleeping and there is no one else around, they are permitted to carry something together or hand an item from one to the other, provided of course, that they take care not to deliberately touch.

There are two noteworthy *responsa* that have been written in recent years on this topic that, to my mind, reflect the modern discourse around the application of *niddah* laws in public. Rabbi Moshe Feinstein was asked about easing the restriction on passing objects in a public space where there could be no concern for “breaching of fences,” i.e., getting carried away, and second, to avoid embarrassment, specifically to the woman, if people would realize that she is a *niddah*. Rabbi Feinstein answered strongly in the negative, emphasizing that since women regularly menstruate, it is a frequent occurrence and thus, it should be expected by one and all that a couple be prohibited to one another on a regular basis. He expressed his feeling that there was no reason for this to cause any embarrassment and wrote that the opposite should be true. The couple should feel proud that it is known they are keeping these *halakhot*.

In contrast, forty years later, Rabbi Yuval Cherlow in Israel was asked the same question.[[48]](#footnote-48) His answer is far more nuanced than that of Rav Moshe. Having spoken to women about this specific issue, Rabbi Cherlow shows a more sensitive awareness of women’s feelings in this regard. He cites rabbinic authorities who were lenient about passing things both in public and in the presence of the couple’s children. He also validates the discomfort women feel when their bodies are scrutinized and wonders about the immodesty in granting others knowledge that a couple is prohibited or permitted. Furthermore, he notes that throughout history there were times when menstruating women wore different clothing while prohibited, which marked their status publicly. Today this is not the case, and women are deliberately private about such matters. Finally, he notes that if halakhic authorities are too stringent in this matter, it could potentially have more serious consequences: If couples come to mock this particular *halakhah*, they may eventually reject the other more significant fences in this area of *halakhah*. It is an inverse of the normal fear of the “slippery slope.”

**Summary**:

The rabbinic attitude is that non-sexual touch between two people who are in a sexual relationship can easily lead to sexual touch and therefore must be avoided during the *niddah* period. Even a woman’s little finger might arouse male sexual desire, as noted in multiple sources. If visualization has the potential to be sensual, actual touch will be even more so. This attitude finds expression in the Shulhan Arukh’s (Yoreh Deah 195:2) ruling that a husband may not pass anything to his wife lest he touches her little finger.

Although couples complain that their need for emotional touch is ignored in the halakhic sources, we must also recognize that it is quite commonplace for non-sexual touch to release feelings of arousal unexpectedly. What may start out as purely asexual can very easily cross over into the sexual. I have counseled many couples where one spouse wants only emotional touch and finds it frustrating that their partner responds sexually. There is no way to measure when touch is completely asexual and where the tipping point is, and *halakhah* demands clarity. If one person begins to feel arousal when holding hands but the other does not, is that transgressive? It is easier to eliminate all touch than to navigate the subjective experience of individual men and women. Thus, the *halakhah* is clinical and impersonal in this regard. As we saw above, the only exceptions regard direct threats to life or serious illness, and most sources show little concern for mental or emotional well-being. This can create tremendous dissonance for couples, particularly when touch is a central expression of the intimacy between them. It is important to validate the integrity of *halakhah*, while also recognizing the complexity of removing touch. Couples who respect the halakhic limitations must make mindful choices and feel comfortable with whatever choices they make, without judgment.

**Finding the Right Balance**
*Halakhah* is an intricate religious structure that directs and governs our days, weeks, months and years by interpreting the will of the Divine into human behavioral practice. Just as *kashrut* governs what we eat, the weekly Sabbath and Jewish holidays govern our time, and multiple laws govern our interaction with one another, the laws of *niddah* govern and have the potential to transform one of the most important aspects of our humanity – that of sexuality.

When I counsel couples on matters of *niddah* even before marriage, I advise them to imagine and anticipate what it means not to touch for 12 days. Mindful preparation is important to lay a foundation for the successful incorporation of laws that will so deeply interface with their emotional, physical, sexual and spiritual selves. One year, I was involved in helping three different women in the aftermath of miscarriages, all of whom experienced complications resulting in months of uterine bleeding. Not touching for such a prolonged period in the aftermath of such a physically and emotionally draining experience is not impossible, but it demands great effort and emotional investment from the couple. I never want to mislead a couple that such physical separation will automatically be beneficial for their marriage. As with other aspects of marriage, communication, consideration and patience, along with goal-setting and constant reflection, can help the couple integrate this in a positive way. Still, it is a process that will take time.

Many of the religious couples I counsel tell me that they are planning to keep the *niddah* laws in some capacity but have often decided against full compliance for a variety of reasons. While halakhically these laws are equated with Shabbat and *kashrut*, experientially it is possible to make non-halakhic choices with regard to the *niddah* laws while simultaneously leading a fully halakhic lifestyle in every other way. The shroud of privacy that veils every couple ultimately means that no one really knows what decisions are being made behind closed doors.

Some couples remain very conflicted about their behavior, feeling a sense of guilt, or worse, shame and failure, over their inability to uphold *halakhah* properly. This is particularly acute when the couple’s level of observance suggests scrupulous adherence to these laws. Since in religious education everything about the “sexual” is considered through a “moral” or “immoral” lens, morality is almost reduced to “sexual morality.” Touch at the wrong time is “bad” and at the right time is “good.” Deviation from *halakhah* in this area comes with a cloud of the immoral, creating internal conflict around past and future experiences.

I try to help couples frame the overall structure of *niddah* as a means to building a healthy sexual relationship. I point out that it is inconceivable in a monogamous, consensual and committed relationship, that there is anything immoral or shameful about a married couple’s expression of desire and attraction towards one another, even when it deviates from strict *halakhah*. In Judaism, sexual relations are neither a weakness to be tolerated nor a pleasure to be indulged but a holy activity and a way of serving God. Couples would do well to see themselves in an aspirational relationship both with God and with one another. They should be kind to themselves as they work towards setting beneficial objectives that allow them to achieve religious integrity and a deeper connection within their marriage. Every cycle provides an opportunity for the couple to think about their interaction in sexual space when permitted and in non-sexual space when prohibited.

I emphasize the element of choice. Especially with regard to our bodies and sexuality, it is imperative for people to feel that they have agency over what they do and what is being done to them. Those who choose to keep these laws – out of belief and commitment to religious law and tradition – must strive to find a sense of self, even when *halakhah* challenges them. My overarching aim is to help people think thoughtfully and considerately about these choices and talk openly about how they will manage their relationship as it fluctuates between different types of interaction at different times and stages in their marriage.

To this end, it is important for each of the partners to engage in candid conversations with one another even before marriage – and certainly throughout their marriage – about the impact these laws have on their interactions in and out of the bedroom. Greater sensitivity to their respective individual needs will help them have a greater appreciation for their different “love languages” and how their similarity or diversity will affect them as they transition from being sexually permitted to prohibited and back again.

When a woman menstruates, it marks the onset of non-sexual space. This may come as a relief to one or both spouses if there are intimacy issues or an imbalance in the sexual relationship. On the other hand, this transition may require greater emotional resources if the couple is trying to become pregnant, for example, and the arrival of the woman’s period is a sign of failure to conceive. If the couple is careful to remove all touch from the relationship, it can trigger feelings of loneliness as the husband and wife embark on almost two weeks of constant physical separation.

On the other end of this cycle is *mikvah* night which is presented as the culmination of the sexual yearning experienced by the couple. This can work as an aphrodisiac for some marriages. *Mikvah* night certainly creates a basic framework to incorporate sexual intimacy when it can be easy to overlook, particularly when life becomes overwhelmingly busy with work, children, community and more. Less talked about are those for whom *mikvah* night is rife with tension - over the logistics of the woman going to the *mikvah*, the *mikvah* experience itself which not all women enjoy (and therefore impacts her return home) and the expectations over resuming relations. It is not uncommon for couples to chafe, privately or openly, against the expectation that they move from nothing to everything. Some complain that sexuality is not an on and off switch. I have heard both men and women express frustration over the assumption that sexual relations will be automatically resumed.

One anecdote that stays with me is a conversation I had with a religious man who was extolling the virtues of family purity laws. As we neared the end of the conversation, and after I had presented some of my own personal thoughts, he suddenly paused. Then, almost to his surprise, he reflectively acknowledged that he found it annoying that he was expected to stop everything and come home for his wife’s return from the *mikvah*. This story was particularly interesting because on a superficial level he espoused the traditional rhetoric. Under the surface, however, he was surprised to discover that he had more complicated feelings. This did not detract from his observance or commitment to *halakhah*. This story reinforces my perception that there is a need for more honest dialogue around the individual and collective experiences of those keeping these laws.

Often, simply communicating expectations and incorporating some transitional behavior – a romantic dinner, some quality time talking, the man immersing in the *mikvah*, or similar – can help the couple come together in a more positive, integrated way. *Mikvah* night is not an automatic panacea. Compromise is often essential. Encouraging each person to articulate their “red lines” helps the couple to listen more attentively to one another in order to try to create an atmosphere of connection and respect. When compromise becomes impossible because individual red lines stand rigidly in conflict with one another, couples counseling and/or sensitive pastoral counseling is advisable to help a couple find a direction that will heal rather than harm the tenuous dynamic.

Over the last decade of teaching *niddah* laws in different forums and working with couples before and during marriage, I have found that many people are looking to infuse their sexuality with meaning. This is why the enterprise of family purity laws and the expansion of *mikvah* immersion has created so much energized discourse, shooting out in so many directions. Sometimes, however, the commitment to *halakhah* and the desire to become or remain sexually permitted—come into conflict with one another. Therapists, rabbis, counselors and educators who work in this area must show awareness of the complex interplay between halakhic requirements and individual experience, and develop tools and language to respond adequately to the many-layered issues that arise. To quote Dr. Stephen Snyder, an Orthodox Jew who is a psychiatrist and renowned sex therapist in New York City: These are astonishing times for sex…[People] are interested in relationships. They want to have great sex in a committed relationship. They want sex to be an instrument of sanctification and peace at the center of a loving partnership.[[49]](#footnote-49)

1. Young men are largely warned about the evils of masturbation as the source of severe transgression although religious educational approaches are being developed to normalize the biological aspect of seminal emission even while reinforcing the immutable religious restrictions. [↑](#footnote-ref-1)
2. While transgressions that incur *karet* are often presented as irreparable, in truth, the model of repentance works here as it does for all sin. While eating on Yom Kippur or eating leavened bread on Passover are serious transgressions, people can always find their way back to the holy nation through repentance. The same holds true for *niddah* laws. Unfortunately, in an attempt to ensure compliance, women are told about the grave and permanent spiritual destruction they will bring to their husbands and children if they do not keep these laws scrupulously. Educationally, I believe this does more harm than good. I believe in reinforcing an empowering outlook which reminds the couple that they are in an ongoing aspirational relationship with God that at times challenges all of us. [↑](#footnote-ref-2)
3. The hymen is a thin fleshy tissue found just inside the vaginal opening. It stretches when anything is inserted vaginally, like a tampon or a finger. Sexual intercourse causes it to stretch even more. However, the myth of hymenal bleeding proving virginity must be debunked. Some women never bleed, even with no prior sexual experience, and some women bleed after sexual relations even after many years of experience. The hymen does not tear or disappear and it is actually impossible for a doctor to “know” whether a woman is a virgin or not based on hymenal tissue. [↑](#footnote-ref-3)
4. The internal exam known as a *bedikah* which literally means “examination,” involves inserting a small square of cotton deep into the vagina and moving it into all of the “cracks and crevices” of the vaginal canal in order to check for remnants of uterine bleeding. It is an exam that harkens back to Temple days when women who baked bread or wove curtains for the Temple had to check for possible discharges of *tum’ah* (ritual impurity) that would invalidate their work retroactive to the previous internal check.. [↑](#footnote-ref-4)
5. Sin represents a breach and distance in the covenantal relationship, while repentance (via the sin offering and confession) offers an opportunity to return and regain closeness. There is a similar trajectory through the purity/impurity model and our relationship to God’s presence in the Tabernacle or Temple. When impure, a person has an enforced distance preventing him from bringing sacrifices. Only when pure can he or she return to the Temple. It seems to me this is why the sin offering, which is about bridging distance, might be the appropriate offering even when no sin is actually committed. [↑](#footnote-ref-5)
6. Bavli Niddah 31a. Our Rabbis taught: There are three partners in man, the Holy One, blessed be He, his father and his mother. His father supplies the semen; white substance out of which are formed the child’s bones, sinews, nails, the brain in his head and the white in his eye; his mother supplies the red substance out of which is formed his skin, flesh, hair, blood and the black of his eye; and the Holy One blessed be He, gives him the spirit and the breath, beauty of features, eyesight, the power of hearing and the ability to speak and to walk, understanding and discernment. When his time to depart from the world approaches the Holy One blessed be He, takes away his share and leaves the shares of his father and his mother behind. [↑](#footnote-ref-6)
7. Water is not specifically referenced regarding the *niddah* or the *zavah*. Given that water appears in all purification rituals in some capacity, it is reasonable to conclude from the Biblical text that the references to water in purifying the *zav* and *zera* (semen) are relevant for the *niddah* and *zavah* as well. [↑](#footnote-ref-7)
8. This category became superfluous following R. Judah’s ruling. [↑](#footnote-ref-8)
9. Bavli Niddah 66a. This is a typical halakhic process and does not reflect an ascetic religious outlook but the attempt to streamline the halakhic system. I often compare it to the move to define chicken as meat. In the early rabbinic period there was difference of opinion how to relate to chicken and whether it could be cooked with milk products. Eventually, a final decision was made to place chicken in the same category as meat to make things clearer with regard to kashrut laws. (bring the source on chicken) [↑](#footnote-ref-9)
10. Specifically, *hargashah*, which is a specifically defined sensation that a woman experiences where she feels her uterus or cervix open to release blood. Barring that sensation, according to the Talmud, a woman is not considered a *niddah* on a biblical level. This remains a relevant criterion in contemporary halakhic rulings towards leniency when women see uterine blood lacking the sensation described in the Talmud. [↑](#footnote-ref-10)
11. There were many other elements that went into the uniform way in which *niddah* is practiced. For practical *halakhah*, see Rabbi Knohl’s excellent book or Dr. Deena Zimmerman, etc. See also Charlotte Fonrobert, *Menstrual Purity*: Bring the names and citations and page numbers even better. [↑](#footnote-ref-11)
12. While *dam tohar* – post-partum bleeding – was maintained for some centuries in a number of communities, ultimately birth was treated in the same way. [↑](#footnote-ref-12)
13. Bavli Niddah 31a [↑](#footnote-ref-13)
14. A man can divorce his wife if she is barren for ten years. Bavli Yevamot 64a, Shulhan Arukh Even HaEzer 154:10. [↑](#footnote-ref-14)
15. Haimov-Kochman, Ronit, et al. “Infertility Associated with Precoital Ovulation in Observant Jewish Couples; Prevalence, Treatment, Efficacy and Side Effects.” *IMAJ*, vol. 14, Feb. 2012, pp. 100–103. [↑](#footnote-ref-15)
16. Rosenak, Daniel, *To Restore the Splendour: The Real Meaning of Severity in Applying Jewish Marital Traditions*. [Hebrew] Tel Aviv, 2011. [↑](#footnote-ref-16)
17. Rosenak was joined in his efforts by Rivka Shimon, a Temple Mount activist. She argues that we should return to the biblical structures of *niddah*, *zavah* and *yoledet* in preparation for the rebuilding of the Temple. [↑](#footnote-ref-17)
18. The title of Aryeh Kaplan’s famous book on *mikvah* is *Waters of Eden.* [↑](#footnote-ref-18)
19. Perel, Esther, *Mating in Captivity*, First Harper, 2007. [↑](#footnote-ref-19)
20. The increase in religious sex therapists trained to work with rabbis and advise couples even in the most sexually restricted communities attest to the reluctant acknowledgement that men and women are seeking sexual satisfaction more than ever before. The internet has provided an anonymous platform in which religious men and women – from modern Orthodox to the most restrictive Hassidic communities – are opening up their bedroom doors to expose a frightening lack of information, resources and satisfaction. [↑](#footnote-ref-20)
21. Chapman, Gary, *The Five Love Languages, How to Express Heartfelt Commitment to Your Mate*. Chapman outlines five basic languages used to express love: Touch, words of affirmation, quality time, acts of service and gifts. [↑](#footnote-ref-21)
22. If the woman has been prescribed hormonal contraception by a doctor, she can usually extend the number of permitted days by continuously taking active pills. This does not work for every woman, but it can provide relief when a cycle is extended from four weeks to six, eight, ten and even twelve weeks. There are preparations on the market that are manufactured with 12 consecutive weeks of active pills. Some women who have finished with their childbearing opt for an intrauterine device with hormones which can be left in for up to five years. Once the body adjusts to the IUD (in some cases, immediately and in others after a few months of frequent breakthrough bleeding), women can spend years without any uterine bleeding. I have never heard women complain about the absence of non-sexual space or missing *niddah* in such situations. [↑](#footnote-ref-22)
23. Parker-Pope, Tara. “How to Hug During a Pandemic.” *The New York Times*, 4 June 2020, [www.nytimes.com/2020/06/04/well/family/coronavirus-pandemic-hug-mask.html](http://www.nytimes.com/2020/06/04/well/family/coronavirus-pandemic-hug-mask.html)? [↑](#footnote-ref-23)
24. The *Ezer Mikodesh* Even HaEzer 20:1, is one of the only sources I have come across who distinguishes between sexual affection (*hibat biah*) and physical affection (*hibat ahavah*). Only touch that is meant for intercourse is prohibited from the Torah, he explains in his commentary to Even HaEzer. Affectionate touch, akin to touch between a father and daughter, is rabbinically prohibited between a husband and his *niddah* wife. This acknowledgement of emotional touch as rabbinically prohibited should allow for some latitude in cases of mental anguish. [↑](#footnote-ref-24)
25. Maimonides, however, does not include the restriction on sleeping in a bed while clothed as a biblical prohibition. [↑](#footnote-ref-25)
26. Shakh, Yoreh Deah 195:20. [↑](#footnote-ref-26)
27. Beit Shmuel, Yoreh Deah 195:20. [↑](#footnote-ref-27)
28. Shlomit Ben Shaya, Master’s thesis…. [↑](#footnote-ref-28)
29. Ibid. [↑](#footnote-ref-29)
30. During the Middle Ages, it is documented that women behaved differently during the days of bleeding and the seven clean days to the dismay of many *rishonim*. At some point, women in Ashkenaz even immersed twice — after seven days like a biblical *niddah* and after seven clean days like the *zavah*. Sexual relations would only be resumed after the second immersion, but certain intimate interaction was permitted already after the first immersion. [↑](#footnote-ref-30)
31. Beit Yosef, Yoreh Deah, 195:17. [↑](#footnote-ref-31)
32. Taken to its logical conclusion, it would effectively prevent Jewish men from saving Jewish women who were *niddah* in all life-threatening situations. This is particularly counterintuitive to read into Maimonides since he was a doctor who treated Jewish and non-Jewish women for gynecological and other disorders and illnesses. In other words, Maimonides would certainly permit non-sexual touch between a man and woman in order to save a life. [↑](#footnote-ref-32)
33. Rabbi Moshe Feinstein in the 20th century answers this concern, regarding the ability of Jewish male doctors to treat women.

*Responsa* Igrot Moshe, Even HaEzer Vol. II, 14:

“When one’s wife is a *niddah* and is in no medical danger, her husband [if he is a doctor, for example] may not check her pulse. This is not part of the prohibition against intimacy, applying to forbidden liaisons but rather one of the laws designed to maintain distance between a husband and his wife when she is a *niddah* .”

Rabbi Feinstein elucidates two important points. The first is that the restriction is only if she is not in danger. The second is to clarify that checking the pulse of a woman is not a sexually prohibited act. It is a type of fence, designed to maintain distance between husband and wife. It would not apply for instance to a male doctor treating married women who are forever forbidden to him or a married female doctor treating men. [↑](#footnote-ref-33)
34. Noda b'Yehudah Kamma, Even HaEzer 55. [↑](#footnote-ref-34)
35. Responsa Pnei Yehoshua 2:44. [↑](#footnote-ref-35)
36. Avnei Ezer, Yoreh Deah 461:10. [↑](#footnote-ref-36)
37. *Responsa* Bnei Banim 1:37. [↑](#footnote-ref-37)
38. Terumat HaDeshen 252. [↑](#footnote-ref-38)
39. Terumat HaDeshen 252. [↑](#footnote-ref-39)
40. There are differences of opinion regarding the point in labor at which the couple becomes prohibited. Until the woman is in active labor, as long as there is no flow of blood resembling the flow of menstruation, she can wear panty liners or colored underwear and ignore bleeding. Once she is ten centimeters dilated, according to all opinions, she becomes a *niddah*. This is the stage at which she is ready to push. For clear halakhic guidance, see the books by Dr. Deena Zimmerman or Rabbi Knohl on the topic. [↑](#footnote-ref-40)
41. This prohibition, found in Shulhan Arukh Orah Hayyim 240:4, includes looking at and kissing a woman’s vulva. There are other more lenient opinions on the matter and this restriction has been contested by women (and their partners) seeking greater sexual pleasure, as well as couples who resist the classification of the vulva as something repulsive. For an excellent analysis in Hebrew see: https://www.ve-ahavtem.com/post/2018/01/14. [↑](#footnote-ref-41)
42. *Responsa* *Bnei Banim* 1:33. [↑](#footnote-ref-42)
43. This is true for both married and non-married couples who are unable or unwilling to be *shomer negiah.* [↑](#footnote-ref-43)
44. Rabbi Rosensweig suggests that we view mental illnesses with severe symptoms in the same light as physical illness. Affectionate touch should be seen as service touch, even though it has a strong emotional component. This could include men and women who cannot get out of bed, those who suffer from relentless crying and sadness that results in crippling dysfunction as well as people suffering from obsessive compulsive disorder. In his opinion, allowances based on the Rema et al., can and should be made to alleviate this kind of suffering. He concludes that even if there are those who do not want to be lenient with actual physical touch of flesh on flesh, there is room to permit touch with some sort of barrier, for instance, sleeping in the same bed but with a blanket in between, generating a sense of security and comfort. [↑](#footnote-ref-44)
45. Some couples separate their beds with a small gap while others place a piece of furniture between them. The bed design can be reflective of different approaches to *niddah* and the way in which the couple wants to desexualize their relationship in accordance with their halakhic practice. In Israel, a “Jewish bed” was developed for the religious market, which has a shared headboard and one bed frame but separate mattresses. The frames move to separate the beds to whatever distance is chosen. When the couple is permitted, the bedframes are pushed together so that one sheet can be snugly placed over both mattresses.

Some couples prefer a double bed with one of them sleeping on a trundle bed or mattress on the floor during the prohibited time. Other couples resist having two beds and want to know if there are any halakhic alternatives. If they make the non-halakhic decision to nonetheless buy one large bed, I suggest they act in the manner of couples who find themselves as guests in a hotel or guest bedroom with only one bed while prohibited: Create two spaces in the manner of Rabbi Pedat. Minimally, separate blankets and pillows should be used; if possible, a barrier of sorts should be placed in the middle of the bed. [↑](#footnote-ref-45)
46. One of the biggest concerns for couples is Kiddush, particularly when company is present. There are a few fairly easy and discreet options. One is that wine already be decanted into the guests’ cups, including the cup of the spouse. Another option is that whoever is making Kiddush simply pour from the Kiddush cup into his/her glass and allow his/her spouse to pour wine from the cup into his/her glass. Similar steps can be taken when the couple are guests in a home and one cup is given to the couple; they can each pour into their own glass. Advance planning can often pre-empts the sense of self consciousness. [↑](#footnote-ref-46)
47. Once there are children, particularly infants and small children, using common sense becomes paramount. Never put the baby on the floor of a bus or hood of a car as an alternative to passing from hand to hand! Various *responsa* have been written about passing the baby safely, and it should be clear to all that the baby’s safety takes precedence over the law prohibiting passing things from one to another. [↑](#footnote-ref-47)
48. http://shut.moreshet.co.il/shut2.asp?id=6735 [↑](#footnote-ref-48)
49. Snyder, Steven, *Love Worth Making*, St. Martin's Press (2018), p. 3. [↑](#footnote-ref-49)