

Celebration of the Bat Mitzvah

Rabbi Alfred S. Cohen

The Bar Mitzvah celebration in America has come in for more than its share of ridicule and caricature. Commercialization of this religious milestone and its mindless exploitation have managed to dim the lustre of a very beautiful and ancient Jewish tradition, one admired and encouraged even as far back as the Tannaitic age almost two thousand years ago. A festive meal to mark life's milestones has long been considered appropriate — a *seudah* is prepared at a *Brit Milah*, also for a bride and groom during the seven days after their marriage, and by many persons on the occasion of moving into a new house. Already in the Torah¹ we find mention that Avraham our Patriarch tendered a great feast when his son Yitzchak was weaned. Consequently, the concept of the Bar Mitzvah does deserve our more serious attention to uncover its educational and ethical message.

Moreover, the new popularity of the feminist movement has made celebrations of Bat Mitzvah increasingly favored; even in quite traditionalist circles, it is not uncommon for the Bat Mitzvah date to be taken notice of in some manner. However, a great deal of controversy exists as to the proper or religiously valid and acceptable way to mark this rite, and that is the subject of the present enquiry. To do justice to the topic, we will investigate not

1. בראשית כא:ז

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only the rabbinic teachings about Bat Mitzvah but try also to put it in the context of the broader topic of Bar Mitzvah.

There are a number of questions which need to be explored: First, what is the halachic basis, if any, of making a celebration upon a boy's reaching the age of thirteen. Is it a universally approved tradition of long standing among all classes of Jewish society? Furthermore, since we shall see that indeed the Bar Mitzvah held considerable importance in the eyes of our sages, we have to question why there should be any differentiation in practice between the coming of age of boys and girls. On the face of it, the widespread neglect of marking a girl's passage into adulthood is a practice which requires justification. In addition, there remains the very sensitive issue of whether a Bat Mitzvah celebration, although possibly totally innocuous, might be disallowed because it smacks of imitation of non-Jewish practices or the innovations of non-observant Jews.

Nowhere in the Torah do we find indicated the specific time when a boy or girl reaches majority, the age of religious adulthood and full responsibility. However, the Mishnah² teaches, "The vows of a girl of twelve years and a day are valid and those of a boy older than thirteen years and a day." Rashi comments that, until that time, they are "*ketanim*", legally minors. The Gemara³ also indicates that a girl should begin fasting on Yom Kippur from the age of twelve and boys from the age of thirteen. Before that time, it is the parents' obligation to train them in fasting.

There is no question that throughout the centuries the arrival of a boy at the age of Bar Mitzvah, becoming responsible for his own deeds and full observance of mitzvot, was an occasion of rejoicing. The author of *Kaf Hachaim*⁴ mentions a number of rabbinic texts, including the *Zohar*, who laud the practice of marking the occasion with a festive meal to which were invited the

luminaries of the community. In his gloss to *Shulchan Aruch, Magen Avraham*⁵ rules that it is the religious obligation of a father to tender a festive meal in honor of his son's becoming Bar Mitzvah, just as he ought to do when the son marries.

The extent and lavishness of the Bar Mitzvah celebration, however, have not always been the same. In Europe, the event was commonly marked by the boy's being called to the Torah on a Monday or Thursday morning, and the family's offering a modest collation afterward. By contrast, in America some people have gone overboard in lavishing upon their celebration extravagances of gargantuan proportions. But whether the celebration consists of a modest kiddush of *kichel* and *schnaps* or a tremendous financial undertaking, it is a custom which is virtually universal.

Why should the attainment of full responsibility for mitzvot call for a celebration? We may look for the answer in an exchange recorded in the Talmud:⁶ Rabbi Yosef, who was blind, is quoted as saying that he would make a great party if anyone were able to prove to all the rabbis that a blind person is obligated to perform mitzvot. What was behind his making this fervent offer? The talmudic sages, after considerable debate, had concluded that a person who performs a mitzvah even if he is not required to do so does not receive a reward equal to that of a person who is mandated to do a mitzvah and does it. Although one might argue conversely, that a person who doesn't have to do a mitzvah and does it anyway deserves a greater reward, the rabbis took into account that a person who is required to do something has to overcome the negative pull of his *yetzer hara* (evil inclination) which tries to induce him not to do it; thereby, he merits a greater reward. Rabbi Yosef, as a blind man, was exempt from doing mitzvot; had someone been able to change the rabbinic ruling, the mitzvot that he did would have earned him a greater reward. Therefore, he would have tendered a party to celebrate his new status.

2. נדה מה.

3. יומא מה.

4. ק"ף החיים רכב: יא.

5. מן אברהם או"ח רכב: ד. See באור הלכה תרס"ז about having a *seudah* for the Bar Mitzvah in a succah.

6. תרושין לא.

On the basis of this talmudic discussion, Rabbi Shlomo Luria⁷ rules that the festive meal made for a Bar Mitzvah is itself a mitzvah (the meal is a *seudat mitzvah*), for we are thanking G-d that this child has attained the landmark of becoming obligated to fulfill all mitzvot, being now a true adult. Now that he is under full obligation, he is considered on a higher lever than someone who performs the mitzvah even though he does not have to do so. Furthermore, Rabbi Luria reasons that Rabbi Yosef was going to make a party just to celebrate receiving the news that indeed he, as a blind person, was qualified to merit the same reward as everyone else; then certainly in the case of a child who actually undergoes a change in status, and does not just become informed about it, he would be far more obligated to make a celebration!⁸

Bat Mitzvah

As has been shown, the rationale for making a celebration for a boy who reaches the age of thirteen arises from the fact that a person has to give thanks for achieving a higher level of religious responsibility. Since a girl at twelve undergoes the very same elevation in status, progressing to a level where she has to observe all the mitzvot incumbent upon a Jewish woman, does it not follow that there should be the identical obligation to make a party for her? The historic reality that it is not a widespread custom to do so is perplexing; *Dagul Mirevavah*⁹ succinctly expresses his wonder: "Why, indeed, don't people make a festive meal for a girl?"¹⁰

There is a compelling logic to the argument that a girl's Bat Mitzvah is a significant attainment deserving some notice. As a matter of practice, there are a number of Orthodox communities where this is done. It is reported that many old Jerusalem families have the custom to mark the Bat Mitzvah of their daughters with a small feast; here in the United States, numerous members of the

Washington Heights Jewish community in New York also do make a party. However, some of their spokespersons deny that there is any halachic basis for such a custom, brushing it off as "just a birthday party." The administration of the Beth Rivkah Schools has informed this author in a letter that the Lubavitcher Rebbe has instructed them to make a Bat Mitzvah celebration for their students "at either a *Mesibat Shabbat* or *Melave Malka*."

The former Chief Rabbi of the Sephardic community in Israel, Rabbi Ovadiah Yoseph, fully accepts the logic of the situation:

Accordingly, it is proper that also for a girl who has attained the age of twelve years and a day, and has become responsible for all the mitzvot which are incumbent upon a woman, since she has now become "obligated and does" these mitzvot, it is fitting to celebrate her entry into mitzvot with thanksgiving and a joyful feast, for in this regard there is no difference between a boy or a girl, when they reach [the stage of] obligation in mitzvot.¹¹

He also cites an earlier Sephardic authority, the *Ben Ish Chai*, who wrote that although it was not their custom to hold festivities, it would nevertheless be appropriate for the girl to wear her finest Sabbath attire to mark the importance of the day. In addition Rav Yoseph cites other authorities who consider that there exists the same obligation to accept an invitation to a Bat Mitzvah celebration as there is to attend a *Brit Milah* if invited.

Despite its straightforward logic, his argument has not won total acceptance. Rav Moshe Feinstein viewed the subject differently; in a responsum on the subject, he ruled that a Bat Mitzvah should not be celebrated in a synagogue, for since "it is clearly nothing more than celebration of a birthday, it has no place in a shul."¹² His focus is on disallowing the party in a shul,

7. שם שלמה ב"ק דל"ז.

8. לב אברהם ס"ע.

9. דגול מרבה יור ע"ח.

10. דגול מרבה יור ע"ח. 11. מחנה דעת חלק ב', כ"ט.

12. In an aside, Rav Feinstein went on to offer the observation that if it were in his power, he would put an end also to cognate Bar Mitzvah

emphatically rejects the claim that there is no basis for allowing this innovation. Drawing on the historic precedent of the Beth Jacob girls' schools which represented a radical innovation when they were introduced earlier in this century, he postulates persuasive reasons for introducing a change which he deems vital to our future:

In the generations before us, they did not have to be concerned with education and training of girls, for every Jew then was full of Torah...and every city of Jews was full of the spirit of Judaism. Girls who

forbidden." However, note that the Gemara reports that recitation of *Hallel* on *Rosh Chodesh* was an innovation of the talmudic rabbin (תענית כה:).

See also *ש"ך יורה דא א"א ש"ך חייב ל"ו ס"ק ל"ח*.

In the section there is a long discussion about making modifications in the traditional method of drawing blood by mouth suction from the circumcision incision, due to the modern scientific finding that the many germs in the mouth may cause infection in the cut. (See *קונטרס מצצה כ"ה*). Some approve it, but others are opposed to "changing the form of a mitzvah from the customary and accepted way of generations."

פ"ד discusses a request by butchers in a town to begin *nikur* (withdrawal of certain veins which may not be eaten) in the hind quarters of slaughtered animals, although it had always been their custom not to bother with *nikur* but to discard that portion. Although they had never been accustomed to do it previously, Rabbi Chaim Ozer Grodzenski found nothing objectionable in their undertaking it now.

The question of changing an old custom or instituting a new one occurs in many situations. Most recently, Rav Moshe Feinstein was approached on the issue of women's prayer groups. In the as-yet unpublished letter which he wrote on it, he referred to an earlier responsum of his (*מ"ט*) concerning women donning the *tallit* during prayer. There he had indicated that the crux of the matter was really the motivation of the person who wants to make some innovation in the accepted practice. If women are donning the *tallit* or attending special prayer groups in an implied rejection of Torah values which consider these things unnecessary, or doing it as an act of rebellion against rabbinic rules, then their mitzvah is actually an *aveirah*. On purely intellectual or halachic grounds, he concedes that there is nothing wrong per se with a women's *minyán*. However, he continues, it is difficult to find at these prayer groups many women who are motivated by a sincere desire to be able to pray more effectively; most come out of a sense of rebelliousness or rejection of tradition.

were raised in a Jewish home absorbed the spirit of Judaism without any active deed, almost taking it in with their mothers' milk.

Although once it sufficed for girls to be trained by their mothers to be good Jewish women, now times have changed. The home may no longer be adequate or sufficient to assure that Jewish daughters will be committed to Torah values and observance. Changes have to be made.

Fortunately, the leaders of our people in the previous generation became aware of this and established institutions of Torah and religious strengthening for girls.

Rabbi Weinberg considers the establishment of a network of schools for girls to be "the most magnificent demonstration of our generation." He then proceeds to argue that other changes also must be made in recognition of the radically different status women enjoy today, as compared to previous generations.

Clear logic and principles of pedagogy virtually require equal celebration for a girl when she reaches the age of responsibility for mitzvot.

Moreover he warns of dire consequences if we do not face up to the impact which neglect may have upon girls' attitudes:

The difference which is made in the celebration for a boy and a girl upon reaching maturity makes a very hurtful impression on the feelings of the maturing girl, who has in all other areas attained equality.¹⁸

There is yet another component which carries great weight in

18. However in a responsum a few pages later (י"ז), he rejects the suggestion that a baby be anesthetized prior to circumcision, for this was never done in the past, and "one ought not to denigrate a Jewish custom." Thus we see that he is not prepared to establish innovation as desirable in all circumstances.

our daughters pride and commitment upon their attaining majority; celebration at home is quite clearly not an imitation of the church ritual of confirmation.²⁵

It is very interesting to note that, almost casually, Rabbi Weinberg and Rabbi Hoffman have extended the prohibition of imitating the Gentiles to include imitation of non-observant or even heretical Jews as well; this is quite a leap halachically. Possibly, this reasoning is the implicit basis for Rabbi Feinstein's reluctance to allow a Bat Mitzvah observance in a shul. Rav Ovadiah Yoseph, however, not having to confront this kind of problem in Israel, does not accept the premise. He does not accept these considerations and feels comfortable with a lenient ruling.

Innovation often arouses controversy in Jewish circles, for sad experience has shown that there is always the danger it may have an impure origin or an unfortunate outcome. Even when that great *tzaddik* Rabbi Israel Meir Hacoen, the *Chafetz Chaim*, approved the establishment of a school to teach girls Torah and Judaism, he met with a storm of opposition.²⁶ Nevertheless, the project continued and in the ensuing decades more than proved its essential worthiness. If the impetus to give more importance to a girl's reaching Bat Mitzvah arises from a similarly pure motivation, the verdict over a period of time may affirm its acceptability and importance. At the present it is difficult to give a definitive answer as to the appropriateness of making a major celebration for a girl's reaching Bat Mitzvah. Perhaps we need the experience of time to render the final decision on this vexing halachic question.

25. Rabbi Weinberg recommends to those who are concerned about his ruling, a perusal of the teaching of Rambam, מ"ח סי' כ"ח, פ"ד למשניות, נ"ט סי' כ"ח, פ"ד למשניות.

26. אהרן סורסקי, חולרות החינוך החורגי (בני ברק 1967); ספר חתן עולם דרינה, p. 423

Halacha and Hospice

Rabbi Marc D. Angel

Traditional and Modern Death Scenes

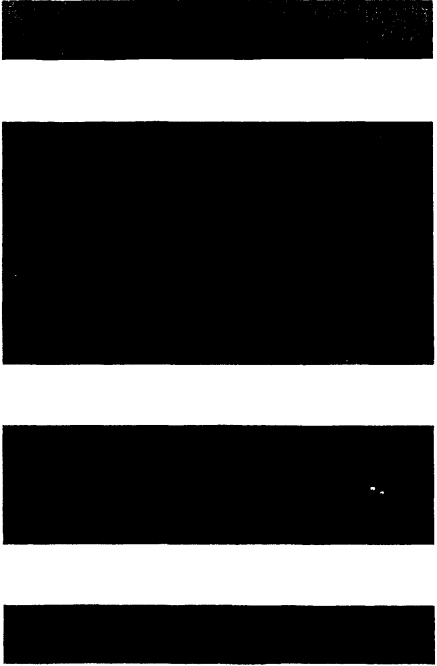
When our forefather Yaacov was about to die, he called his family together and gave his children his final message. The Torah describes this death scene in a straightforward way, without tears or grief. Everyone realizes that death is imminent and inevitable.

This biblical death scene was characteristic of the way families traditionally dealt with death. It was normal for death to take place in the midst of one's family, in one's own home. Philippe Aries, in his classic studies of Western attitudes towards death, has coined the phrase "tamed death." In the pre-modern world, people generally knew that death was coming and prepared themselves for this major event. "Children were brought in; until the 18th century no portrayal of a death-bed scene failed to include children."¹

Aries has argued that the notion of a tamed death "has by now been so obliterated from our culture that it is hard for us to imagine or understand it."² The past fifty years have witnessed

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1. Philippe Aries, *Western Attitudes Towards Death*, Baltimore and London (1974) Page 12.
 2. Philippe Aries, *The Hour of Our Death*, New York (1981) Page 28.
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Gynecological Procedures and Their Interface with Halacha

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Preface

There is often a perception that any gynecological procedure causing a bloody show creates the status of *niddah*. However, it is only when we have an understanding of the medical procedures and of the halachic paradigms that we can evaluate whether or not the status of *niddah* is conferred. This article attempts to offer insights into the relationship between the laws of *niddah* and gynecological procedures/exams. Moreover the aim of this article is to sensitize the reader to various issues, allowing for a more effective interface between modern gynecological practice and the halachic framework of *Taharat ha'Mishpacha*.

There are three fundamental talmudic *sugyot* that must be explored in order to understand the halachic issues concerning gynecological procedures.

Dam Niddah & Dam Makkah

The status of *niddah* occurs in a woman when blood is hormonally released emanating from the *makor*, the halachic location of menstrual blood. That is, the blood must be from the endometrial lining of the uterus or the endocervical canal. (The exact halachic determination of what is *dam min ha-makor* and whether it includes the

endocervical canal will be discussed later.) Blood that originates from other locations (i.e. vaginal area) or from a wound, even in the cervix or uterus, does not create a status of *niddah*. The following talmudic passage provides a list of protocols for determining which blood sources do and do not confer the status of *niddah* upon a woman.

How does a woman examine herself? She inserts an absorbent [cloth into the vagina]. If blood is found on the top of the absorbent, it may be known that it emanated from the source [cervical canal or uterus], and if no blood is found on the top, it may be known that the blood emanated from the sides [and not from the cervical/uterine area. Therefore, the woman is considered *tahor*.] However, if she has a wound in the uterine area [even when the absorbent cloth shows blood on the top], she may attribute the blood to her wound [and is considered *tahor*] . . . However, if [she knows that] the nature of the blood of her wound is different [in pigmentation] from that of the blood that she observes [on the absorbent material], she may not attribute it [to the wound]. A woman is believed when she says I have a wound in the source [cervical or uterine area] from which blood is discharged.¹

The protocols, determining which blood sources create the *niddah* status, are codified in the *Shulchan Aruch*.²

If there is an injury in the uterine area, we assume the blood flow is from the injury. If the blood from an injury is discernibly different from the blood of the menstrual flow, we do not automatically assume the blood is from the injury [rather we look at the

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1. *Niddah* 66a.

2. *Yoreh De'ah* 187:5,6.

pigmentation of the blood – if it looks like menstrual blood, it creates the status of *niddah* and if it is blood of an injury, it does not].³

[Ramo appends] *The above statements are referring to situations when a woman has a regular menstrual flow (veset kevuah), for then we are able to suggest, when she is not expecting her menstrual period, that the blood is from an injury, even though we have not determined with certainty that this wound emits blood. If a woman does not have a regular menstrual cycle [veset she-ena kevuah] and we are undecided from where the blood emanates – from the uterus/cervical canal or from the side [a location from which a flow of blood would not create the status of niddah], we still relegate the flow of blood to the injury; for it is considered a s'fek s'fekah. Maybe the blood does not come from her uterus/cervical canal but emanates from the side [from another part of her body, which has no consequence on the issue of niddah]. Even if it comes from the uterus/cervical canal it may be blood from the injury [which does not create the status of niddah]. However, if you know that it comes from the uterus and the woman does not have a regular cycle even though the woman has an injury in the uterus, you cannot assume that the blood is from the injury unless you are certain that the wound emits blood.*⁴

3. It has been my experience, and I have corroborated this with gynecologists, that the difference between blood of an injury and blood of the uterus/cervix is recognizable. The blood that comes from a fresh wound is often bright red while that which comes from the uterus/cervix is typically brownish red. While this alone does not establish that it is *dam makkah*, in such an instance an exam is recommended to determine where the blood is emanating from.

4. There are *Rishonim* who disagree with the additional

All that has been stated above does not apply during the days she is expecting her menstrual flow, which would normally occur on the thirtieth or the thirty-first day of the month. For if you suggest that on these days it is blood emanating from an injury, she will never be considered a niddah. However if is not a flow that has been seen, rather just a stain, [if there is an injury] you may assume that the stain comes from the injury [even on the thirtieth or thirty-first day], eliminating the need to classify this woman as a niddah.

A woman is believed to state that she has an injury in the location from where the blood is flowing.

Furthermore, she is trusted to state that the flow of blood that is being observed is not coming from the uterus/cervical canal [rather another location that does not create the status of niddah] and remains tehora.

These halachot frequently have a significant impact when they are applied practically. There are many situations in which a woman undergoes a gynecological procedure that leaves her wondering if this has rendered her a *niddah*. Therefore, by ascertaining that the blood is attributed to an injury, or that the blood is not from the uterus/cervical canal (*min ha-makor*), we can assume the woman is not a *niddah*.

Rav Shlomo Zalman Auerbach⁵ explains that the

requirement stated by the Ramo (the need to know that the wound emits blood). They suggest that as long as the woman is certain of a wound, additional proof that the wound emits blood is not required. See the *Rashba Torat haBayit*, *Dinei k'tamin*, *bayit sh'vi-i sha'ar r'vi-i, daf chof-gimel*.

5. *Nishmat Avraham* 187:2; Rav Shlomo Zalman Auerbach states

talmudic definition of blood from an injury includes blood from the uterus (endometrium) or the cervix. In such a case, the woman would not be considered a *niddah*. When the endometrium is somehow compromised by a procedure or injury – even though that same lining is what causes the menstrual flow – what is of critical importance is *what caused the blood to flow* from the lining. If what caused the flow is definitely an injury, then the blood is not *dam niddah*.

Dam niddah is only blood that is discharged due to a woman's hormonal ebb and flow, causing the endometrial lining to slough away from the walls of the uterus. Blood originating from this exact location, which flows due to injury, is considered *dam makkah* and not *dam niddah*.

Rav Wozner⁶ explains that if a woman, during her seven clean days, has a medical procedure which induces blood, if she has already performed a halachically acceptable *hefsek taharah* and a *bedikah* on the first day,⁷ such blood does not compromise the counting of her seven clean days. Once a *hefsek taharah* and a check on the first day have been established, the *chazakah* of *niddah* has been obviated. The blood attributed to an injury even during the seven clean days does not interrupt the preparation to visit the *mikvah*. Therefore, it is possible to have a situation where a woman is bleeding during the seven clean days without contradicting her status of being *tahor*, enabling her to

that the prohibition of *niddah* is limited to blood emanating from hormonal changes, not blood caused through injury.

6. *Shiurei Shevet HaLevi Siman* 187:5 no. 3 *u-mikol makom b'sha-at vestah*.

7. The need for a *b'dikah* on the first day can often be suspended when there are special concerns such as fertility. This must be done in consultation with a *posek* informed on these issues.

attend the *mikvah* after completing these seven days. This is true for blood that may result from a gynecological procedure as well as blood that a woman feels is emanating from an injury.

Often, it is apparent from the placement and pattern of the blood on a *bedikah* cloth that the blood is from an injury. For example, when blood is confined to one limited area on the cloth, it is often due to the fact that a woman has sustained an injury in one location. Thus, when a woman does the *bedikah* and touches her wound, it draws blood and shows up on the cloth in that one specific location. In such a situation, the presence of an injury can be ascertained either by the experience of pain three times in one specific location when doing the *bedikah*, or through undergoing an internal examination in which an injury is seen.

In a situation in which a woman observes blood due to an injury and cannot even establish a *hefsek taharah* or the *bedikah* on the first day, she may go to a gynecologist or skilled nurse and allow them to perform the *bedikah*. By examining the vaginal area, the doctor/nurse can perform a physical *bedikah* without touching the place of injury. The preferred way to accomplish this is for the doctor/nurse to perform a physical internal *bedikah* prior to sunset, taking the place of the *hefsek taharah*. The woman then waits in the office until *tzet ha'kochavim*, and the doctor/nurse performs a second *bedikah*, taking the place of the *bedikah* for the first day.

II. *Ee-efshar P'tichat Kever B'lo Dam*

The Talmud raises the issue of *ee-efshar p'tichat kever b'lo dam*, whenever the uterus is "opened", blood is discharged. Nevertheless, sometimes the uterus is opened (dilated) and no blood is visibly discharged. The Gemara

mentions the case of a woman who miscarries early in her pregnancy. Even if this woman does not see blood as a result of her miscarriage, we assume that a flow of blood accompanies the opening of the uterus once the uterus opens a certain amount.

For it was taught in a *Baraita*, if a woman was in difficult labor for two days and on the third day she miscarried and does not know what she miscarried (whether it was a fetus or something else or whether any bleeding accompanied the miscarriage) . . . R. Yehoshua says she brings an offering and it is eaten, for it is impossible for the uterus to open without blood emerging.⁸

This statement in the Talmud is concretized by the *Shulchan Aruch*:

If one miscarries within forty days [of conception] we do not consider the discharge to be fetal matter (there is no *tumat yoledet*) yet we are concerned with the status of *niddah* even if no blood was observed. [Ramo adds] because *ee-efshar p'tichat kever b'lo dam* – the uterus cannot be opened without the discharge of blood . . .⁹

However, the above comments of the Talmud and the

8. *Niddah* 21b.

9. *Yoreh De'ah* 194:2. This is supported by many of the *Geonim* and *Rishonim*, including: *She'iltot Vayikra* 85, *Tur Shulchan Aruch Yoreh De'ah* 194, *Ravad Issurei Biah* 5:13, *Rosh Niddah* 3:1, *Hagahot ha'Rama* 5:13, *Meiri Niddah* 21a, and *Ramban Hilchot Niddah* 7:15 (printed at the end of the *Chidushei ha'Ramban*). Other *Rishonim* disagree with this conclusion, including: *Rambam Issurei Biah* 5:13, *Rambam's Commentary on the Mishnah, Niddah* 21a, *Magid Mishnah Issurei Biah* 5:13, *Ohr Zerua, Hilchot Niddah* 343; as well as *Rabbeinu Ovadya M'Bartenura, Niddah* 3:1 s.v. *Rebbe Yehudah*.

Shulchan Aruch refer to a situation in which the uterus is opened through an internal stimulus. What happens when the uterus is opened externally through a medical procedure? Is there still a concept of *ee-efshar p'tichat kever b'lo dam*? Perhaps the Talmud's concern is limited to the case where an internal stimulus dilates the uterus and not a medical procedure (external factor). This issue is disputed by rabbinic authorities.

Rav Yechezkel Landau¹⁰ indicates that there is no halachic difference between the uterus dilating due to an internal or an external stimulus. In both cases the law is, *ee-efshar p'tichat kever b'lo dam* – if you open the uterus to some extent, even externally, you create a situation in which blood is assumed to depart from the uterus, even when not visible.¹¹ The Chazon Ish¹² cites opinions that disagree with the *Noda Bi-Yehudah*; and suggest that the idea of *ee-efshar* may only apply if the uterus is opened internally, due to physiological stimuli occurring within the woman. However, when the doctor opens the uterus externally, we do not assume that bleeding automatically ensues. The Chazon Ish is not convinced that every time the uterus is opened externally, blood automatically flows.¹³ Therefore, the Chazon Ish concludes that this issue requires further thought. Nevertheless, Rav Moshe Feinstein¹⁴ rules

10. *Noda bi-Yehudah*, Vol. II *Yoreh De'ah* 120. See also the *Pitchei Teshuva* 194:2 and *Avnei Nezer, Hilchot Niddah, siman* 224.

11. This opinion is supported by many including the *Arukh ha'Shulchan* 188:51, *Avnei Nezer Yoreh Deah* 224, *Har Tzvi Yoreh Deah* 148 & 154, *Da'at Kohen Yoreh Deah* 79.

12. *Yoreh Deah, Hilchot Niddah* 83.

13. Other *poskim* who concur with this approach include Rav Ya'akov Emden, *Sheilat Ya'avetz* 2:5, *Maharsham* IV: 146.

14. *Iggerot Moshe Orach Chaim* 3:100.

according to the opinion stated by Rav Landau in the *Noda Bi-Yehudah* that we assume there is a flow of blood whenever the uterus is opened a certain amount, whether by internal or external forces.

The next question is to define the minimal amount necessary for the uterus to be opened for it to be considered *ee-efshar p'tichat kever b'lo dam*. This issue is widely debated. According to the Rosh,¹⁵ as well as *Shulchan Aruch*¹⁶ as understood by R. Dovid ha'Levi in the *Tur* *Zahav*¹⁷ and R. Shabbetai ben Meir Ha-Kohen in the *Sifte* *Kohen*,¹⁸ as well as the Gaon of Vilna in the *Biur haGra*,¹⁹ any cervical opening of the internal *os*²⁰ (the opening of the cervix into the uterine cavity) above the norm creates the halachic dilemma of *ee-efshar p'tichat kever b'lo dam*. The majority of *poskim*, particularly within the Sephardic community, advocate this approach and therefore any dilation larger than three millimeters is halachically problematic. However, Rav Moshe Feinstein²¹ and others²²

15. *Niddah* 3:1.

16. *Yoreh Deah Hilchot Niddah* 188:6.

17. *Ibid.* *s'if katan* 6.

18. *Ibid.* *s'if katan* 12.

19. *Ibid.* *s'if katan* 23; see *Ohalot* 7:4 and the commentary of Rabbenu M'bartanura on that Mishnah.

20. While there is an argument of whether *p'tichat kever* is when the external *os* is dilated or when the internal *os* is dilated since the entire idea of an external dilation causing *p'tichat kever* is questionable, in these situations we define *p'tichat kever* in the most lenient fashion – namely the dilation of the internal *os*. See *Sheilot u'Teshuvot Beit Yitzchak* (*Hilchot Niddah* 14:9), *Sheilot u'Teshuvot Da'at Kohen* (*Yoreh Deah* 79), *Har Tzvi* (*Yoreh Deah* 152).

21. *Iggerot Moshe*, *ibid.*

present a more lenient opinion, stating that the internal *os* must be opened at least three-quarters of an inch to create a situation of *ee-efshar p'tichat kever b'lo dam*.

The practical difference between the schools of thought is the following: according to Rav Moshe Feinstein's definition, if a woman has a procedure in her doctor's office and receives no anesthesia, she can be assured that the uterus has not been dilated to an extent that would create the halachic dilemma of *ee-efshar p'tichat kever b'lo dam*. However, a woman will occasionally undergo a special procedure (i.e. D&C) which may dilate the cervix (including the internal *os*) more than three-quarters of an inch. In such a case, she would be given some form of anesthesia, local or general, to ease the pain involved in dilating the cervix to such a large degree. Even in the hospital, not all procedures will use a dilator that will expand the cervix to such a degree. One should check with the doctor to inquire as to the type of dilator used to determine if *ee-efshar p'tichat kever b'lo dam*, according to the definition of Rav Moshe Feinstein, was achieved, thereby creating a halachic concern of *niddah*.

Rav Moshe Feinstein's approach is based on a comment in the *She'iltot*.²³ There, *p'tichat kever* is defined as an opening equal to the size of a forty-one day old embryo. That size is approximately 19-21 mm., which is 3/4 of an inch.²⁴

22. See the opinion of Rabbi Avraham Borenstein of Sochatzov (*Avnei Nezer Yoreh Deah* 224). R. Shalom Mordechai Shwadron (*Maharsham* 4:146) is even more lenient, suggesting an instrument the size of two fingers is necessary to create a concern of *p'tichat kever*.

23. *Parshat Tazria* 85.

24. I wish to thank Rabbi Moshe Dovid Tendler for sharing this

III. Defining the Halachic Uterus – *Dam Min Ha'makor*

The definition of *dam niddah*, halachic menstrual blood, is discussed in great detail in the Talmud.²⁵ The understanding of this *sugyah* is a matter of controversy throughout the literature of the *Rishonim* and *Acharonim*.

Many²⁶ state that the definition of *dam niddah* includes any blood emanating from the uterus or the cervical canal ending slightly above the external *os* (the opening of the cervix from the vagina).

Due to the enormous consequence of this issue, we follow this opinion and consider any blood emanating from the uterus up to the external *os* of the cervix as *dam niddah*.

IV. Gynecological Procedures

When a woman goes for a standard gynecological exam,²⁷ the gynecologist will first check the outside of her vaginal area (the vulva) to check for abnormal lesions or signs of infection. Then the doctor will use a speculum to check the external *os* of the cervix and the vaginal walls. The speculum is inserted into the vaginal area and never even touches the cervix. When the speculum is inserted, it may pinch the vaginal walls and draw a little blood. This blood is not from the cervix or the uterus and is therefore not *dam niddah*.

halachic reference with me.

25. *Niddah 41b*.

26. *She'elot u'Teshuvot Bach ha'Chadashot* 34; Encyclopedia Talmudit Vol. 2, column 508 footnote 13a; *Shevet haLevi* 188:3 #4 s.v. *u'L-halacha*.

27. As described by obstetricians and detailed in an article written by M. Sara Rosenthal, "The Pelvic Exam" in *The Gynecological Sourcebook* (Lowell House, 1999).

Yearly, or when the doctor is concerned about the cervix, a Pap smear will be performed. The Pap smear takes a sampling of the outside of the cervix (ectocervix) and from the beginning of the endocervical canal, which is then analyzed by pathology. The instrument used for the Pap smear has guides on it so that the brush used to collect the sampling of cells will not ascend deep into the cervix, the place that we call the "*makor*" – the halachic uterus. However the instrument may cause bleeding/staining. Normally, this blood comes from an area outside the one considered the source of *dam niddah*. Furthermore, even if it is *dam min ha'makor*, the blood emitted during this process is *dam makkah*, blood induced through injury.

If the Pap smear is abnormal or inconclusive, many doctors will perform a colposcopy, a procedure whereby a doctor looks at the outside of the cervix through a colposcope. The doctor is seeking to observe if there is any section of the outside of the cervix which appears to be irregular. A biopsy of that irregular section is taken. Photographs may also be taken. During this procedure, a blind scraping of the endocervical canal is also taken and evaluated. Blood appearing due to this procedure is *dam makkah* and does not create the status of *niddah*.

When a woman has irregular bleeding often, an endometrial biopsy is often required. During an endometrial biopsy, an instrument is placed through the canal of the cervix into the uterus to scrape a sample from the endometrial lining of the uterus. This procedure takes place in the area which is classified as *dam niddah*, but the blood that emanates because of this procedure is *dam makkah*, blood caused by the "wound" inflicted with the gynecologist's instrument – *dam makkah m'oto makom*, and is not halachically problematic. Therefore, it does not create a status of *niddah* or affect the counting of the *shiva n'kiyim*. The instrument used in this procedure is much

smaller than three-quarters of an inch in diameter, so there is no concern of *p'tichat kever*.²⁸

An important caveat: when an endometrial biopsy or a colposcopy is performed, the doctor should check, prior to beginning the procedure, that there is no blood visible within the cervix. This obviates any concern that prior to the procedure there was any blood descending from the uterus/cervix, guaranteeing that all visible blood has been caused by the procedure.

There are situations in which a woman must undergo a D & C (dilation and curettage). A D&C is often performed when there is an irregular endometrial biopsy to remove residual tissue after a miscarriage or occasionally a childbirth, or when a woman is experiencing abnormal menstrual/uterine bleeding and the doctor wishes to affect the lining of the uterus. A D&C procedure dilates the cervix with one instrument and the entire endometrial lining is sampled with another. After this procedure, there is visible blood. While one can dismiss the bloody show due to the fact that it is categorized as *dam makkah*, the dilation of the cervix may create *p'tichat kever*, creating the status of *niddah*. The patient should ask the doctor if the dilation was three quarters of an inch or more. If the response is in the affirmative, the woman becomes a *niddah* immediately. If the D&C is being performed after a miscarriage, and the aborted fetus is more than forty days old, there will be a concern for *tumat yoledet*. This requires a waiting period of fourteen days in which the woman is required to establish a *hefsek taharah* culminating with a visit to the *mikvah* at the conclusion of the waiting period.

28. Even according to *poskim* who consider a smaller dilation to be *p'tichat ha'kever*, there is no concern with this procedure.

V. Infertility Procedures

A similar situation arises when either a laparoscopy or a hysteroscopy is performed to diagnose specific problems of infertility. The doctor checks that the fallopian tubes flow freely into the uterine area. In a laparoscopy, an instrument and camera are placed through the navel, which allows the doctor to see the uterus, ovaries, fallopian tubes as well as the rest of the pelvis and the abdominal area. A dye is inserted into the cervix itself, and the camera follows the dye to see if the fallopian tubes are fully open and functional. Since the woman is under anesthesia when the cervix is dilated, it may be dilated to such an extent that even according to Rav Moshe Feinstein's definition of *p'tichat kever* (a dilation of 3/4 inch or more) a status of *niddah* is created. However, many gynecologists, even when the patient is under anesthesia, do not dilate the uterus to such a large extent, since the dilation necessary for dye to be injected into the cervix does not require a large dilator. Therefore, when a laparoscopy is performed, a woman should inquire to what extent the uterus was dilated to determine if she is considered a *niddah*. When a hysteroscopy is performed, the cervix needs to be dilated to a much larger extent. Although in such a situation there is a significant chance that the dilation will make her a *niddah*, the question should still be asked regarding the size of the dilator and the extent of the dilation that occurred.

VI. Fibroids and Polyps

A fibroid is a growth that is found within the muscle/wall of the uterus or cervix and causes the wall(s) of the uterus to protrude into the cervical or uterine cavity, corpus of uterus. This can create a rubbing of the walls of the uterus or cervix, creating constant bleeding. Approximately twenty to twenty five percent of

reproductive-age women have fibroids with only ten to forty percent of those women experiencing the symptoms mentioned.²⁹

Polyps are growths that begin with a stem from the uterine wall and grow into a mass, which can bleed or can cause bleeding from the polyp rubbing against the wall of the uterus or cervix. While normally such blood can be dismissed as *dam makkah*, there is research that indicates that the presence of a polyp/fibroid and its rubbing against the walls of the uterus/cervix may cause a hormonally induced release of blood.³⁰ Therefore, the lack of clarity in the establishment of the cause of blood, created by the removal of a polyp/fibroid and blood attributed to its existence, creates a status of *niddah* in a woman.

VII. Pregnancy

Often, during the first three months of a woman's pregnancy, one may observe some spotting. This is often due to implantation of the embryo in the uterine wall. If the spotting is limited to less than a *ketem** or if found on colored undergarments, the halachic concern is obviated. However, if the bleeding is more significant or the spotting

* A stain minimally the size of a dime.

29. "Leiomyomata" by Dr. Chad Friedman found in Volume 1 (page 322) of the *Columbus Comprehensive Review Ob/Gyn Review Conference* (Prenatal Resources, Inc. & Reproductive Research & Education Association, 1995).

30. *Principles and Practice of Clinical Gynecology* (page 549) edited by Nathan G. Kase and Allan B. Weingold (John Wiley & Sons, New York 1983); ACOG (American College of Obstetricians and Gynecologists) Technical Bulletin Number 192 (May 1994, Washington D.C.).

happens on white undergarments (i.e. during the *shiva n'kiyim*) and is more than a *gris* (a stain larger than a dime), this blood is considered *dam niddah* – caused by physiological changes in the woman, rendering her a *niddah*.

There are additional situations in the pregnancy in which the placenta can cause *dam niddah*. One example is placenta previa, where the placenta is found in front of the baby, (i.e. between the baby and the cervix) blocking the opening of the cervix. In such a case, the placenta may bleed. The blood emanating from the placenta is considered uterine blood and renders the woman a *niddah*.

Conclusion

As we strive to be the guarantors of Torah, we must insure that halacha's response to contemporary medical issues integrates a familiarity with procedures in question, and an understanding of the *sugyot* in *Shas* and the literature of the *poskim* dealing with the issue in question. It is through our commitment to such integration that the eternity of the covenantal relationship is guaranteed.

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