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WOMEN AND SIFREI TORAH

INTRODUCTION

In recent years there has been extensive discussion concerning the status of women in halakhah. Gradually, many issues have been analyzed with halakhic and hashkafic positions presented thoroughly and sensitively.¹ One such area relates to women and *Sifrei Torah*. Sincere Jewish women have asked for the right to dance with the Torah during their own independent *hakafot*, to kiss the Torah as it passes the *ezrat nashim* and to carry the Torah through their own section in order to feel a greater connection to the Torah itself and more a part of the synagogue service.

Somehow, a tradition has arisen in our communities which deprives women of the right to touch a *Sefer Torah*. Many individuals have expressed to me the belief that women are enjoined from physically having contact with the *Sefer Torah* because they are *niddot* (menstrual women). The subject of our study is to evaluate whether this belief, is, in fact, correct. Our investigation is divided into two sections: first, the tracing of the origin and development of the laws of *tumat niddah* as it is found in the Talmud; second, an analysis of the halakhah of women and *Sifrei Torah* as it appears in halakhic literature. It is hoped that through this study we will be better able to judge the merits of the issue.

I. THE TALMUDIC SOURCES

“Words of the Torah Are Not Susceptible to Tumah”

Our starting point is a *baraita* in *Berakhot* 22a which states:

It has been taught, Rabbi Judah ben Bathyra used to say: The words of the Torah are not susceptible to *tumah* (commonly translated impurity).² It happened that a disciple standing before Rabbi Judah ben Bathyra spoke hesitatingly (evidently because he was *tameh*—being a *ba'al qeri*, one who has had a seminal emission—and thought that he was debarred from uttering words of Torah). He said to him: My son, open your mouth and let your words be clear, for the words of the Torah are not susceptible to *tumah*. For it is said: Is not My word like fire,

says the Lord (Jeremiah 23:29)? As fire is not susceptible to *tumah*, so are words of Torah not susceptible to *tumah*.

Based on the sentence from Jeremiah, this *tannaitic* source concludes that an “invisible wall” surrounds the words of Torah which cannot be penetrated by *tumah*. The Gemara concludes that the halakhah is in accordance with Rabbi Judah ben Bathyra.³ Accordingly, Maimonides states:

All those who are *tameh* are obligated in the recitation of *Shema*, and they recite the blessing before and after *Shema* while they are *tameh*. . . . And all of Israel are already accustomed to read in the Torah and to recite the *Shema* while they are *ba'al qeri*, because the words of Torah are not susceptible to *tumah*. . . .⁴

Similarly: “All those who are *tameh* need only wash their hands (without immersion) . . . and may pray. . . .” And again: “A person who is *tameh* is permitted to recite all of the blessings. . . .”⁵

In the *Laws of Sefer Torah*, Rambam extends Rabbi Judah ben Bathyra’s principle to include the touching of a *Sefer Torah*.⁷ There he states:

All those who are *tameh* and even *niddot* and even a *Kuti*, may hold the scroll of Torah and read from it,⁸ because the words of Torah are not susceptible to *tumah*. All this is permissible with the proviso that one’s hands should not be unclean or dirtied with clay, in which case they should wash their hands and afterwards touch it.⁹

Ba'al Qeri and Niddah

Rambam’s general classification of *tumah* (“all those who are *tameh*,” “a person who is *tameh*”) indicates that he understands Rabbi Judah ben Bathyra’s halakhah to apply to all forms of *tumah*.¹⁰ Although the specific case which precipitated Rabbi Judah ben Bathyra’s halakhah deals with *ba'al qeri*, it would be equally applicable to *niddah*. Indeed, a further analysis of talmudic sources dealing with *ba'al qeri* clearly shows that for the purpose of Torah study and prayer (Rambam would extend the similarity to touching a *Sefer Torah*), *niddah* is treated the same as *ba'al qeri*.¹¹

Biblically, although a *ba'al qeri* is *tameh* (Lev. 15:16), he may pray or learn Torah. After the return from the Babylonian exile, Ezra the scribe attempted to introduce legislation mandating that a process of ritual immersion also be necessary before a *ba'al qeri* could study Torah or pray.¹² Ezra’s additional prohibition was not associated with the laws of *tumah* and *taharah*. If ritual immersion were required for a *ba'al qeri* before praying or studying, it was assumed that people would limit their sexual

activity and would thereby be able to devote their full attention to lofty, spiritual undertakings.¹³ During and immediately after the return from the Babylonian exile, a time when the spiritual purity of Israel was seriously challenged, it was especially important that *takanot* be instituted, whose purpose was to counterbalance the spiritual erosion that had deeply affected Israel during the Babylonian experience.¹⁴

Several *tannaitic* sources, with variant interpretations, outline the *halakhic* consequences of Ezra's ruling. For example:

A *ba'al qeri* recites (the *Shema*) mentally but does not say the benedictions, not before it and not after it. And for food, he says the Grace after it but not benedictions before it. Rabbi Judah says: He says the benedictions before them and after them.¹⁵

Even if Ezra's legislation were accepted permanently, it would have rabbinical status; hence it would only have the power to obviate a rabbinical ordinance. Recitation of *Shema* is of biblical origin and Tanna Qamma maintains that Ezra would have the *ba'al qeri* recite *Shema*, but only "in his heart," not articulating it "with his lips." Blessings preceding and following *Shema*, which were introduced by the rabbis would, however, be cancelled by Ezra's *takanah*. Similarly, Ezra would have the *ba'al qeri* forego the blessings preceding a meal as they are rabbinical, but recite the Grace after the meal which is biblical. Rabbi Judah's divergent opinion indicates that he disagreed with Tanna Qamma how far Ezra extended his *takanah*.¹⁶

Relative to our subject, the key *tannaitic* source is a Mishnah in *Berakhot*.¹⁷ There it states that a *niddah* who expelled seed (presumably from a sexual encounter which preceded the onset of her menstrual cycle), although maintaining her *niddut* status, must, according to Ezra, immerse before praying or studying Torah (since, in effect, she had become a *ba'alat qeri*). This indicates that a *niddah*, who is biblically *tameh* (Lev. 15:19) could even in the time of Ezra occupy herself with Torah and prayer, as the words of Torah are not susceptible to *tumah*. Here, too, Rabbi Judah disagrees with Tanna Qamma, maintaining that Ezra did not extend his *takanah* to this situation where a more inclusive form of *tumah* remains.¹⁸ With the passage of time, Ezra's enactment became virtually obsolete.¹⁹ Precisely how Ezra's *takanah* was cancelled is a subject of dispute.²⁰

II. WOMEN AND SIFREI TORAH: THE HALAKHAH

The Difficult Rama

The position of Rabbi Judah ben Bathyra would appear to permit

anyone to pray, study or touch the Torah. However, a reading of the halakhah as found in *Shulhan Arukh* points to some interesting and important observations. Rabbi Joseph Karo in *Orah Hayyim* offers an historical overview of Ezra's *takanah* and its nullification:

All who are *tameh* read in the Torah and read the *Shema* and pray. Except for one who has had a seminal emission whom Ezra removed from the general category of *temeim* and forbade him to learn Torah, to read the *Shema*, to pray the *Shemoneh Esrei*, until he immerses himself, in order that the Sages should not frequent their wives too often. And afterwards they nullified this enactment and established the matter in accordance with the law, that even one who has had a seminal emission is permitted to study Torah, to read the *Shema* and to pray the *Shemoneh Esrei* without a ritual immersion, and without washing himself in nine *kabim*. And this is the way the custom spread.²¹

However, Rama in his addendum, formulates what appears to be a rather inconsistent position:

There are those who have written that a woman who is in the midst of her menstrual flow may not enter a house of prayer, or pray, or to mention God's name or to touch a *sefer*. And there are those who maintain that all of this is permissible and this is the essential (law). But the custom in our lands is as presented in the first position. And during her clean days (the seven day period between the cessation of the menstrual flow and immersion in the *mikvah*) the custom is to permit. And even in a place where the custom is to be stringent, on the high holy days and (days) like that, when many gather to go to the synagogue, women (who are *niddot*) may go to the synagogue like other women, because it is greatly saddening to them, if all would gather in the synagogue as they stand outside.²²

The inconsistency in Rama's position as followed in his towns is obvious. The status of *tumat niddah* remains even after the cessation of the actual menstrual flow until immersion in the *mikvah*. Why should a woman during her seven "clean days" be permitted to do all that which is forbidden during her flow, if her *tumah* remains in full force, throughout the seven-day period?

Similarly, why does Rama suspend the prohibitions during the high holy days? Can restrictions resulting from *tumat niddah* be obviated by the pain that some women would feel if forced to remain outside during the *Rosh Hashanah—Yom Kippur* service?

There is yet a second place in *Shulhan Arukh* where the issue is discussed. Once again, Rama's position (or lack of position) raises a serious difficulty. In *Yoreh De'ah*, Rabbi Joseph Karo states:

All those who are *tameh*, even *niddot*, may hold the scroll of Torah and read from it. All this is permitted with the proviso that their hands not be unclean or dirty.²³

What is striking is that Rama offers no comment on this halakhah. His lack of reaction seemingly indicates that he is in agreement with the *mehaber*. Yet we know from Rama's statement in *Orah Hayyim* that he in fact disagrees. Why doesn't Rama in *Yoreh De'ah* offer a brief synopsis of his position, which appears to be very different from the view posited by Rabbi Joseph Karo?

Tumah and Uncleanliness: A Conceptual Analysis

Through a brief analysis of the *tumah* concept, we may understand Rama's comments in *Orah Hayyim* and his omission of any statement in *Yoreh De'ah*. It is hoped that this analysis will also explain Rama's position *vis-à-vis* women and *Sifrei Torah*.

Tumah has often been defined as physical uncleanness. If this were true, *taharah*, the antonym of *tumah*, would by implication be synonymous with cleanliness. However, Pinchas ben Yair, in a famous comment which was to contribute the outline of Rabbi Moshe Chaim Luzzatto's *The Path of the Just* said that Torah, precision, zeal, cleanliness, restraint, *taharah*, saintliness, meekness and fear of sin in that order lead to holiness.²⁴ We learn from this statement that cleanliness and *taharah* are two distinct categories. So, too, is physical uncleanness not synonymous with *tumah*.²⁵

There have been many attempts to conceptualize *tumah*.²⁶ Rabbi Aharon Soloveichik, in one of his classic *hashkafah* classes years ago,²⁷ suggested that the meaning of *tumah* may be derived from the sentence in Psalms which says: "The fear of the Lord is *tehora*, enduring forever" (Psalms 19:10). *Taharah* therefore means that which is everlasting and never deteriorates. *Tumah*, the antithesis of *taharah*, stands for mortality or finitude, that which withers away. A dead body is considered a primary source of *tumah*, for it represents decay in the highest sense not only because the corpse itself is in the process of decaying, but also because the living individual who comes in contact with that corpse usually suffers emotionally and endures a form of spiritual fragmentation, a counterpart of the corpse's physical falling away. The *metzora* (leper) whose body is encompassed with skin lesions is also considered in a state of *tumah*. The leper is *tameh* because he is slowly "disintegrating," while those who associate with him decline emotionally as well, as they observe the wasting away of another human being. *Ba'al qeri* and *niddah* may also fall into the same framework as they represent in the strictest sense the loss of potential life.

Rav Aharon's thought may explain conceptually why "words of Torah are not susceptible to *tumah*." Torah represents infiniteness; that which is eternal. *Tumah*, reflective of breakage or dissolution, does not

have the power to penetrate Torah which endures forever.

The Rama: A Possible Explanation

But whatever *tumah* means, one thing remains very clear—it has nothing to do with the physical state of uncleanness. *Tumah* and *likhlukh* (or *tinuf*) are independent conditions and should not be confused. With this in mind, Rama's position on women and *Sifrei Torah* may become clear. Both Rama and Rabbi Joseph Karo agree that the words of the Torah are not susceptible to *tumah*. For this reason, Rama, after stating that women should not enter a synagogue, pray, mention God's name or touch a *sefer*, adds that the correct position is that all of this is permissible. Having taken this position, Rama expresses a different concern relative to his own community; not a concern which relates to *tumah* but one which is associated with physical uncleanness. Rama, therefore, concludes that in his city all was prohibited, as women struggled to maintain their cleanliness during their menstrual flow. But these restrictions were only operative during the actual period of menstruation when the problem of physical uncleanness existed. During the seven clean days the only remaining consideration was *tumah*. However, since the "words of Torah are not susceptible to *tumah*," all was permitted.²⁸ Likewise, on *Rosh Hashanah* and *Yom Kippur* when so many come to synagogue, women would have experienced great sadness if prevented from attending services. Since *tinuf* is the crucial consideration, Rama may be suggesting that the sadness felt could overcome the problem of physical uncleanness.²⁹

In *Yoreh De'ah*, Rama offers no comment because there the *mehaber* added a phrase not at all mentioned in *Orah Hayyim*.

All who are *tameh*, even *niddot*, may hold the scroll of Torah and read from it. All this is permitted with the proviso that their hands are not unclean or dirty.³¹

The particular concern of Rama in *Orah Hayyim* was physical uncleanness. Once the *mehaber* in *Yoreh De'ah* adds the proviso that a *niddah's* hands must be clean, Rama finds no reason to offer an alternative view, for this in fact is his position.³⁰

Women and Sifrei Torah: A Synopsis of Halakhic Sources

It seems, therefore, that for a variety of reasons, women may touch and carry a *Sefer Torah*. First, we follow the view of Rabbi Judah ben Bathyra that words of the Torah are not susceptible to *tumah*.³¹ Second, Rama in *Orah Hayyim* states that the view that *niddot* may enter a syn-

agogue, pray, mention God's name and touch a *sefer* is the correct position.³² Third, Rama's statement that in his cities women in the midst of their menstrual flow did not enter a synagogue, pray, mention God's name or touch a *sefer* is linked to the issue of cleanliness. In a world where far greater hygienic precautions for *niddot* can be taken, it can be presumed that women, even during their menstrual flow, can remain clean and therefore would be permitted to learn, pray or touch a Torah.³³ Fourth, Rabbi Joseph Karo explicitly states that *niddot* can touch a Torah as long as their hands are clean, and Rama (through his silence) agrees.

The essential right of women to touch a *Sefer Torah* is mentioned by many other authorities. Those *poskim* who record that some women do not touch a *Sefer Torah* invariably speak of this practice as being a "mere stringency" or as having "no [real] basis." For example, the school of Rashi states:

There are those women who refrain from entering into a synagogue when they are *niddot* and from touching the *sefer*; this is a mere stringency and they do not have to do this.³⁴

The only *rishon* that I am aware of who *clearly* suggests that it is improper for women to touch a holy book during their days of *tumah* is Or Zarua who explicitly states, however, that this *minhag* is a "mere stringency."³⁵ The later authorities seem to reject the opinion of Or Zarua as evidenced by Rabbi Shneur Zalman of Liadi who states:

And the custom of some women not to mention the name of God while they are *niddot*, or not to touch the *Sefer* . . . this custom has no real basis.³⁶

In our contemporary period this opinion was followed by Rabbi Eliyahu Shmuel Wind (a *posek* of the *eidah charedis* community in Jerusalem) in his work *Sugah BaShoshanim* who writes: "The custom of women who are *niddot* not to touch a *sefer*—this custom has no real basis."³⁷ The preponderance of opinion supports the position that it is in fact permissible for women to touch *Sifrei Torah*.³⁸

CONCLUSION

Our analysis of the laws of *niddut* and *ba'al qeri* indicates that there are no fundamental halakhic barriers that would prevent women from touching a *Sefer Torah*. While one should be sensitive to those women who wish to follow the *humrah* of Rama, equal sensitivity is required for the many women who sincerely feel that holding the *Sefer Torah* would allow them to feel much more a part of communal *tefillah*. Indeed, we

must ask ourselves whether the common practice of banning women from carrying the Torah justifies the numerous benefits that would accrue from adopting this practice.

Prayer is a dialogue, a rendezvous with God. It is a song, a tear, a meditative thought, a joyful smile which helps bridge the tremendous chasm that exists between the mortal human and the infinite God. The distance is not easily spanned. Every fiber of intellectual concentration and emotional strength is needed to achieve that instant when we feel the spark of God and breathe that spirituality into our being. For many, the moment becomes more possible, the experience more intense when carrying, holding, touching, kissing the deepest expression of God's love—the Torah.³⁹ It would be a great disservice to our communities if we would deny men or women the right to have "contact" with the *Sefer Torah*, a "contact" which for many enhances the prayer experience, and a "contact" that has a clear basis in the halakhah.⁴⁰

NOTES

- For example, see David M. Feldman, "Woman's Role and Jewish Law," *Conservative Judaism*, 26, No. 4 (Summer 1972); Saul J. Berman, "The Status of Women in Halakhic Judaism," *Tradition*, 14, No. 2 (Fall 1973); Chana K. Poupko, Devora L. Wohlgeleter, "Women's Liberation—An Orthodox Response," *Tradition*, 15, No. 4 (Spring 1976); Arthur M. Silver, "May Women Be Taught Bible, Mishna and Talmud?" *Tradition*, 17, No. 3 (Summer 1978); Reuven P. Bulka, "Woman's Role—Some Ultimate Concerns," *Tradition*, 17, No. 4 (Summer 1979); Saul J. Berman, "Kol Isha," *Rabbi Joseph H. Lookstein Memorial Volume*, edited by Leo Landman (New York: KTAV Publishing House, Inc., 1980), pp. 45-66.
- There is no precise term that adequately defines *tumah* and its antonym *taharah*. In the course of this article, an attempt will be made to offer a general analysis of these concepts. The two major categories of *tumah* that will be dealt with in this essay are *niddah* (Lev. 15: 19-24) and *ba'al qeri* (Lev. 15:16-18). Since *tumah* and *taharah* have no appropriate English translation, any form of the term *tumah* and *taharah* will be recorded in its original form throughout this article.
- See B.T. *Berakhot* 22a: "Rav Nachman bar Isaac said: It is the general custom to follow these three elders: Rabbi Il'ai, as to first fleec; Rabbi Josiah, as to mixed kinds; and Rabbi Judah ben Bathyra, as to words of Torah." See B.T. *Hullin* 136b for a similar Gemara.
- Maimonides, *Code, Laws of Kriat Shema* 4:8.
- Maimonides, *Code, Laws of Prayer* 4:4.
- Maimonides, *Code, Laws of Blessings* 1:9.
- The precise source of this extension is not at all clear. See *Or Sameah* on Maimonides, *Code, Laws of Sefer Torah* 10:8. There he quotes as a source of the halakhah B.T. *Babba Batra* 19a-20b from which *Or Sameah* deduces that "a *Sefer Torah* is not susceptible to *tumah* and serves as a barrier preventing the spread of *tumah*," and B.T. *Sukkah* 26b from where *Or Sameah* deduces that "one who has had a seminal issue may not *tefillin*." Interestingly, when the issue of women touching *Sifrei Torah* is mentioned in *Shulhan Arukh, Orach Hayyim*, ch. 88, section 1 and *Yoreh De'ah* ch. 282, section 9, it is not associated with Rabbi Judah ben Bathyra's halakhah.
- The change of language in Rambam from "all those who are *tameh*" to "all those who are *tameh*, even *niddot*, and even a *Kuti*" is somewhat strange. It can be suggested that in the case of *Shema, tefilla* and *berakhot*, prayers which women are either obliged or strongly encouraged to recite, that women who are *niddot* are obviously included in the phrase "all those who are

tameh." However, women and for that matter *Katim* are certainly not obligated to touch a *Sefer Torah*. In order to make certain that the reader understands that this halakhah pertains to them, Rambam adds "even *niddah* and even a *Kati*."

9. Maimonides, *Code, Laws of Sefer Torah* 10:8.
10. That Rabbi Judah ben Bathyra's halakhah applies to all forms of *tumah* may be an obvious inference. Otherwise, no one would be able to touch a *Sefer Torah* today as we are all *tamei meit*. See *Sefer HaPardes*, ch. 271, *Laws of Niddah* 3b, Ehrenreich edition p. 3, where the school of Rashi alludes to the same argument. However, see Rabbi Ovadiah Yosef in *Responsa Yechaveh Da'at, Siman 8*, who mentions a *Zohar* in *Shemot* which states that *niddah* is the most stringent *tumah*, but circumscribes its application to one who has had relations with a *niddah*, and not a *niddah* proper.
11. The similarity would indicate that if *niddah* cannot learn, pray or touch a *Sefer Torah* neither can *ba'alei qeri*.
12. See B. T. *Berakhot* 22b, B. T. *Babba Kamma* 82a for Ezra's *takanah*. How far Ezra extended this *takanah* is a subject of controversy.
13. There are different reasons which explain why Ezra introduced this *takanah*. For example, B. T. *Berakhot* 22a suggests that it was an attempt to prevent people from overindulging in sexual activity. In the words of the Talmud, "so that scholars should not be frequently with their wives. . . ." The *Jerusalem Talmud Berakhot* 3:4 suggests that Ezra's *takanah* was introduced to limit sexual activity and thereby allow more time for Torah study.
14. There are numerous examples of Ezra's *takanot* and special provisions. See B. T. *Babba Kamma* 82a, which lists the other *takanot* introduced by Ezra; or the fourth chapter of B. T. *Kiddushin* beginning 69a which discusses Ezra's attempts to maintain the family purity of Israel after the Babylonian exile.
15. B. T. *Berakhot* 20b and *Rashi* loc. cit.
16. B. T. *Berakhot* 22a. Rabbi Judah disagrees with Tanna Qamma, maintaining that Ezra's *takanah* applied only to Torah and not to blessings.
17. B. T. *Berakhot* 26a.
18. B. T. *Berakhot* 26a. According to Rabbi Judah, Ezra only prohibited learning for the *ba'al qeri*, if, through immersion, one could become *tahor*. Ezra's *takanah* would not apply to a *niddah*, who expelled seed, because her status of being *niddah* would still remain after immersion. For a precise synopsis of Rabbi Judah's view here and in *Berakhot* 20b, see *Tiferet Yisrael, Berakhot*, Chapter 3, Mishnah 6, comment 38.
19. *Magen Avraham to Shulhan Arukh, Orah Hayyim*, ch. 88, Comment 1, states that the enactment became nullified because it seriously limited the learning of Torah (rather than immerse, people chose not to learn) or the fulfillment of the *mitzvah* "be fruitful and multiply" (to avoid immersion, individuals opted to refrain from cohabitation).
20. An analysis of Rambam on this issue as it relates to Torah study and *Shema* may be indicative of the importance of Rabbi Judah ben Bathyra's halakhah in the nullification process. Maimonides, *Code, Laws of Kriat Shema* 4:8 states: "and this *takanah* did not spread in all of Israel, and the majority of the community did not have the strength to sustain it, and therefore it became nullified. And it is already the custom of all Israel to read in the *Torah* and to read the *Shema* while they are *ba'al qeri*, because the words of Torah are not susceptible to *tumah* but they eternally retain their *taharah*."

Rambam's formulation of the halakhah is difficult. After Rambam stated that the ordinance was nullified as the majority of the people rejected it, why was it necessary to include the reason of "the words of Torah are not susceptible to *tumah*?" Apparently, without Rabbi Judah ben Bathyra's halakhah it would have been necessary for a subsequent court of greater stature to nullify Ezra's enactment. Such a court never existed. Therefore, Rambam adds that the halakhah of "the words of Torah are not susceptible to *tumah*," was operative during the time of Ezra which may explain why Ezra's attempt to extend the restriction of a *ba'al qeri* to include study and *Shema*, never took hold. Rambam, therefore, uses the expression *batla*, it became nullified, rather than *bitulaha*, it was nullified by another court.

The distinction between *batla* and *bitulaha* is noted by *Kesef Mishne* on this Rambam. Note also that *Kesef Mishne* understands the first two phrases as being interdependent: "and this *takanah* did not spread in all of Israel, because the majority of the community did not have the strength to sustain it, and therefore it became nullified."

However, *Tosafot to Babba Kamma* 82b, s.v. "he came and enacted it even for words of

Torah" suggests that Ezra may never have introduced this enactment; or that the enactment stipulated that anyone who wished to nullify the law might do so, or that the prohibition did not spread to the majority of Israel.

Magen Avraham to Shulhan Arukh, Orah Hayyim, ch. 88, Comment 1 states that no subsequent court was required to nullify the *takanah* because it was not widely accepted by the majority of Jews. For this reason alone, "it never took hold."

See *Tur Shulhan Arukh, Orah Hayyim*, ch. 88, who quotes Rabbenu Hai amongst others, who states that Ezra's *takanah* should still be followed on some level. *Tur* concludes however, that in "all of our places" the *takanah* of Ezra is not followed.

21. *Shulhan Arukh, Orah Hayyim*, ch. 88, Sec. 1.

22. *Rama, ibid.* Rama is reflecting a distinction which was already present in the Gaonic period.

See *Otzar HaGaonim*, edited by Dr. B. Lewin (Haifa, 1928), Vol. 1, Tractate *Berakhot*, Sec. 119 which states that a "*niddah* is permitted to enter a synagogue to pray . . . as long as her clothes have no *dam* (blood)."

23. *Shulhan Arukh, Yoreh De'ah*, ch. 282, Sec. 9.

24. B. T. *Avodah Zarah* 20b. See M. *Sotah* 9:15 and *Jerusalem Talmud Shekalim* 3:3 where the version varies. The text quoted here follows the order of the statement as understood by Rabbi Luzzatto.

25. I first heard this thought from Rabbi Avraham Soloveichik in a *shiur* given at Yeshiva University in the Spring of 1962. Rabbi Norman Lamm in *A Hedge of Roses* (New York: Feldheim, 1977) pp. 43-47, describes the popular association of *niddah* with uncleanness as a "semantic tragedy." As much as we have tried to teach the real meaning of *tumah niddah*, there are still so many who believe that halakhah links *niddah* with that which is dirty. This myth must be shattered, a myth that has made it emotionally difficult for many women, especially those on the religious fringes, to accept the laws of family purity. Commenting on the mistranslation of *tumah* as uncleanness, Rabbi Lamm writes: "No wonder that so many young people reject the whole institution (of Family Purity) offhand: certainly in this scientific age, with our technological progress in hygiene and sanitation, we do not need to abide by ancient ritual regulations in order to keep clean!" Rabbi Lamm then proceeds to beautifully articulate a deeper understanding of *tumat niddah* and *mikvah*.

26. For example, Rabbi Sanson Raphael Hirsch, *Parag* volumes I and II, translated by Dayan Dr. I. Grunfeld (London: The Soncino Press, 1962), paragraphs 222, 420, 442, 447, 464, 717; and Rabbi Norman Lamm, *A Hedge of Roses* (New York: Feldheim, 1977), pp. 79-93.

27. The same *shiur* mentioned in note 25. Although the major idea of relating *taharah* to that which is elevating is Rav Aharon's, the precise application of the concept to a *meit, mesora, ba'al qeri* and *niddah* as it appears here, is not.

28. A similar argument is expressed by Rabbi Yaakov Chaim Sofer in his *Kaf Hachaim to Shulhan Arukh, Orah Hayyim*, ch. 88, comment 11. There he states: "It is important to warn women during the time that *dam* is flowing to cease reading and also to change the cloth, so they be as clean as possible during the time of prayer. . . . Similarly, it is important to warn women not to enter the synagogue when they know that *dam* is flowing, because of the *kvod*."

The concern of *Kaf Hachaim* is clearly for physical cleanliness. Even women who are *tameh*, if they are physically clean, can, according to *Kaf Hachaim*, pray and enter the synagogue.

Rabbi Samuel Turk in *Responsa Kerem Tzvi*, chapter 41, formulates a similar position *vis-à-vis* women touching a *Sefer Torah*.

See *Kesef Mishne* to Maimonides, *Code, Laws of Kriat Shema* 4:8, s.v. "All who are *tameh*;" who distinguishes between physical uncleanness and *tumah*. There he states: In the case of a place which is unclean "we can clearly see the despicable item, or feel its smell and it appears as if the one who is saying Torah there (in this unclean place) is embarrassing the Torah. However, *tumah* of the *temein* is not physically felt but is rather a mental state, and therefore "words of the Torah are not susceptible to *tumah*."

See B. T. *Sukkah* 26b. Our Rabbis taught: "If he forgot and had sexual intercourse in his *tefillin*, he should not seize hold either of a strap (of the *tefillin*) or of a capsule (of the *tefillin*) until he washes his hands to take them off, since hands touch things automatically (and may therefore have touched an unclean spot)." Although we are dealing with a different holy object (the *Sefer Torah*) and a different form of *tumah* (*tumat niddah*), permission to touch *tefillin* is mentioned in the *Talmud* as being contingent upon one being in a state of physical cleanliness.

29. Note that *Magen Avraham to Shulhan Arukh, Orah Hayyim*, ch. 88, comment 3, already extends

the High Holidays to begin with the first day of *Selichot*.

30. Interestingly, Rama in *Shulhan Arukh, Orah Hayyim*, ch. 38, Sec. 3 also states that even those women who wish to don *tefillin* should be prevented from doing so. Commenting on Rama, Magen Avraham in comment 3 says: "Because they require a clean body (in order to wear *tefillin*) and women are not zealous to be careful (on this matter). But if they were obligated they would not be exempt for this reason. . . ."

It seems that Rama's view that women should be prevented from wearing *tefillin* is, according to Magen Avraham, not related to *tumah* but rather to physical cleanliness. One could ask, if cleanliness were no longer a problem, would Rama have arrived at a different conclusion?

Whether women may or may not wear *tefillin* is the subject of great controversy. *Targum Yonatan ben Uziel* (Deut. 22:5) views *tefillin* as a distinctly male garment and hence concludes that women may not "put on" *tefillin*. Maimonides, although silent on the *tefillin* issue, seems to conclude that women may don *tefillin*, but without blessings. See Maimonides, *Code, Laws of Tsitsit*, 3:9 where he says that women may put on *tsitsit* without a *bracha* (probably because they cannot say *vetivenu*—You have commanded us to wear *tsitsit*). From Rabbeinu Tam in B.T. *Rosh Hashanah* 33a, *Tosafot s.v. Hufi*, it appears that women may even wear *tefillin* and receive the blessings (perhaps because *vetivenu* is not a "singular" expression, but rather a term which relates to the community as a whole, of which women are, of course, an equal part).

For a good collection of sources related to this issue, see Rabbi Moshe Meiselman, *Jewish Woman in Jewish Law* (New York: Ktav, 1978), Chapter 21, pp. 147-151.

31. The issue of *Torah metame et hayadayim*—hands which touch a Torah scroll become *tameh* is not problematic. M. *Zabim* 5:12 states that a scroll (of Scriptures) renders *terumah* unfit. The reason being that *terumah* was stored by the priests near the Scroll of the Holy Scriptures. When mice gnawed the *terumah* they also nibbled the Scrolls. To prevent this desecration, it was declared that Holy Scriptures were in the second degree of *tumah* rendering *terumah* unfit. In order to ensure that the Holy Scriptures would not be touched by the bare hands, it was further enacted (M. *Yadayim* 3:2) that hands which touched a Scroll of Scriptures became *tameh* in the second degree and therefore rendered *terumah* unfit. B.T. *Shabbat* 14a, *Megilla* 32a and *Rashi loc. cit.* relate the prohibition of touching a *Sefer Torah* to touching it barehanded. See *Shabbat* 14a, *Tosafot s.v. Haohet* who suggests that the prohibition could be extended to all Holy Writings, citing *Yadayim* 3:5 as proof. *Shulhan Arukh, Orah Hayyim*, ch. 147, Sec. 1 states that it is forbidden to touch a *Sefer Torah* barehanded without a *mitpahat*. Rama extends the prohibition to all Holy Writings and then indicates that the custom is to apply the prohibition only to *Sefer Torah*. Rama concludes that while it is best for one to wash hands before touching one of the Holy Writings, it would nonetheless be forbidden to touch the *Sefer Torah* barehanded even after washing hands. *Chayei Adam* ch. 40, para. 20 states that if one had touched a *Sefer Torah* or *tefillin* or one of the *megillot* written on parchment in the middle of a meal, he would require *netilat yadayim* without a *berakha*h before continuing to eat. *Beur Halakha* on *Shulhan Arukh, Orah Hayyim*, ch. 164 s.v. *lahzore velitol yadv* concludes that if during a meal one touches a *Sefer Torah*, *netilat yadayim* without a *berakha*h would only be required if one wishes to consume *terumah*, however, for regular food an additional *netilat yadayim* would not be required.

As the *Sefer Torah* is touched or carried through the medium of a cloth (the "gartle" or *Torah covering*), *Torah metame et hayadayim* is not a problem. While Magen Avraham in his introductory comments to *Shulhan Arukh, Orah Hayyim*, 147 and Bach in his commentary to *Tur Shulhan Arukh, Orah Hayyim*, 147, s.v. "it is forbidden to hold a *Sefer Torah* without a *mitpahat*" suggest that it is forbidden to hold the handles of the *Sefer Torah* barehanded, most *poskim* maintain it is permissible. See *Mishnah Brura* on *Shulhan Arukh, Orah Hayyim*, ch. 147 comment 2 and *Shaar Tsion, ibid.*, comment 4. Perhaps the whole issue of women touching a *Sefer Torah* becomes academic when bearing in mind that when carrying the Torah, only the covering and *ets chaini*, and not the Torah scroll itself, is handled.

32. Even the first view mentioned by Rama in *Orah Hayyim* that women should not enter a synagogue, or pray, or utter God's name or touch a *Sefer* is understood by Vilna Gaon as a "mere stringency." See Eliyah Gaon, *Beur HaGra* to *Shulhan Arukh, Orah Hayyim*, ch. 88 s.v. "and there are those who say that they are permitted in everything. . . ." The noted commentary *Damesek Eliezer, ad loc.*, states: "and even those who are stringent are only stringent relative to entering a synagogue." According to *Damesek Eliezer*, even those who follow the *humrah* of the Rama, never applied the stringency to touching a *Sefer Torah*. The Gaon, *ibid.*, also refers his readers to *Shulhan Arukh, Yoreh De'ah*, ch. 282, para. 9, where it says that

also refers his readers to *Shulhan Arukh, Yoreh De'ah*, ch. 282, para. 9, where it says that *niddah* may touch the Torah as long as their hands are clean.

Both the Gaon, *ibid.*, and Magen Avraham to *Shulhan Arukh, Orah Hayyim*, ch. 88, comment 3 make reference to the last mishnah of the third chapter of *Berakhot* (B.T. *Berakhot* 26a). *Maachtiy Hashekel* comments on Magen Avraham's reference to this mishnah by stating: "In other words, that there it is explained that certainly the law of *niddah* (Rama's injunction against *niddah*), is a precautionary measure without any real halakhic foundation. For there we learned, if a *zav* became a *ba'al qeri*, or a *niddah* expelled seed, there is a difference of opinion between the first *Tanna* and Rabbi Judah if she needs immersion. Because even if they immerse, they would retain their status of *tumah*, as one would still be a *zav*, while the other would still be a *niddah*. From here we can conclude that if the *niddah* did not expel seed, even in the time of Ezra's enactment, she would be permitted to do everything. Certainly this would be the case today after the enactment was nullified."

Note Magen Avraham to *Shulhan Arukh, Orah Hayyim*, ch. 88, comment 2. Commenting on the first view of Rama he states: "This requires much consideration. For there are those who say that women are biblically obligated to receive grace after meals. If so, how can women be exempt from the performance of a biblical law, by a custom which has no foundation."

33. In addition, if today we follow the view of Rama (in his cities), that women during their flow may not touch *Sifrei Torah*, why should it not be similarly prohibited for these women to enter a synagogue, or pray, or mention God's name. Moreover, Rama, as already indicated, suspends his *humra* on *Rosh Hashanah—Yom Kippur*, days upon which women attended synagogue. Preventing *niddah* from coming to *shul* on the High Holidays would have caused these women great sadness. This emotional sadness had the power to override the issue of physical uncleanness. Today when many women attend public *tefilla* every *Shabbat* and *hag*, would Rama's remain operative on a weekly basis? Would it not be painful for today's *niddah* to remain at home on *Shabbat* or the *hagim*? Note, that when Rama states that his *humra* was cancelled on the high holy days because of the sadness involved, he uses the expression "on the high holy days and (days) like that."
34. *Sefer HaParades*, ch. 271, *Laws of Niddah* 3b, Ehrenreich edition p. 3; note that in *Sefer HaOrah*, vol. 2, ch. 1, in the Buber edition p. 167, and in *Mahzor Vitri*, end of ch. 498, in the Horowitz edition p. 606 the words "and from touching the *Sefer*" do not appear. See also *Issur VeHefer*, ch. 306.

It seems clear from the context of *Sifrei Rashi* that Rashi's closing words *aval makom tahara hu veafek hen osor* (in *Sefer HaOrah* the text is *aval makom tahara hu veafek hen osor*) applies only to entry into a synagogue and not to touching a *Sefer Torah*. This can be fortified by the following Ashkenazic authorities who clearly relate "veafek" to entering a synagogue and make no mention whatsoever of the *Sefer Torah* issue. *Hagahot Maimonit*, ch. 4, *Hilkhot Tefilla*, letter *gimmel*; *Mordechai, Berakhot*, the end of chapter 3, section 86; *Sefer Ha'agur*, ch. 1388; *Ravya, Berakhot* ch. 68. Moreover, the term *makom* (rather than *derekh* or *minhag*) relates more easily to a *beis knesset* rather than a *Sefer Torah*.

35. *Or Zarua*, Part 1, ch. 360 states: "There are women whose custom is not to enter into a synagogue or to touch a holy book during their days of *tumah*, and this is mere stringency, and what they are doing is proper." While the *Or Zarua* does say *veafek hen osor* "what they are doing is proper" he indicates that it is a mere stringency. Whether the term *Sefer* used by *Or Zarua* applies to *Sefer Torah* or all *Sefarim* is unclear. Note Rabbi Eliyah Shmuel Wind in *Sugah BaShoshanim, Laws of Tahara*, ch. 27, *Halakha* 17, note 17. If *Sefer* means all holy books, then one who follows "veafek" with regard to *Sefer Torah* should also not touch any holy book.
36. *Shulhan Arukh HaRav, Orah Hayyim*, ch. 88, sec. 2.
37. Rabbi Eliyah Shmuel Wind in *Sugah BaShoshanim, Laws of Tahara*, ch. 27, *Halakha* 17, note 17. The opinion of some authorities like *Binyamin Ze'ev* ch. 153, quoted in Magen Avraham to *Shulhan Arukh, Orah Hayyim*, ch. 88, comment 2, and Rashal quoted by *Taz* in *Shulhan Arukh, Orah Hayyim*, ch. 88, comment 2, that *niddah* should not look at the *Sefer Torah* when it is shown to the people is understood by Rabbi Wind to be a unique halakhah of *baghdad*, from which no conclusion can be deduced with regard to *niddah* touching a *Sefer Torah*. See *Sugah BaShoshanim, Laws of Tahara*, ch. 27, *Halakha* 18. After stating that *niddah* should not enter a synagogue, look at the *Sefer Torah*, or pray near their friends, *Binyamin Ze'ev* ch. 153 concludes that this is done "out of *khavod* rather than because of a prohibition." Note *Sugah BaShoshanim, Laws of Tahara*, ch. 27, *Halakha* 18, note 15 who states that the custom of

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women not to look at the Torah during *Hagbah* is done "out of *Khavod* rather than because of a prohibition."

38. Rabbi Ovadiah Yosef in *Responsa Yehaveh Da'at*, volume 3, *Siman* 8 states that *niddot* are permitted to be stringent by not entering into a synagogue, and not touching a *Sefer Torah*, and not looking at the *Sefer Torah* when it is shown to the people. Here again, Rav Ovadiah is saying that *niddot* may be stringent, clearly indicating that they need not follow this *humra*. Rav Ovadiah, however, states that *niddot* may not refrain from praying or reciting blessings.
39. It is not at all unusual for the leaders of those seeking greater involvement in synagogue ritual to be observant women (sometimes from Orthodox homes and yeshivah background), who are meticulously concerned with every detail of halakhah. In fact, our synagogues monthly halakhic *tefilla* for women only is primarily coordinated by the more religious and learned women.
40. The *mehitsah* of our new *shul* in Riverdale is built in such a way that when the Torah is carried through the men's section, it is virtually impossible for the women to kiss it. (The *mehitsah* bisects the sanctuary, merging into the walls which surround an elevated *bimah* in the center of the *shul* and an elevated *aron kodesh* against the eastern wall. Both the *bimah* and *aron* are therefore equally placed within the men's and women's sections.) A group of women asked that the Torah be carried through the *ezrat nashim*. They were sincere, sensitive people whose request was deep and real. Since it was felt that it would be immodest for the *Hazzan* to walk through the women's "domain," it was decided that after the Torah is taken through the men's area, that it be transferred to a woman who would then carry the Torah through the women's section.
As expected, the decision promoted much discussion. The intensity of the debate was indicative of the seriousness of the issue and the earnestness of those deliberating the matter. A few women who had never been accustomed to this procedure were upset. Women who were excited by their involvement had difficulty understanding the feelings of those women who were hesitant or even loathe to come near the Torah. The penning of this essay is in part prompted by the need for all involved to clearly understand the halakhic concerns related to this matter.

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