

Niddah, Part 2: Setting Up The System

By Rabbi Ethan Tucker

Last week, we reviewed the Biblical material on our topic and explored a range of motivations for the practice of abstinence during menstruation. We also spent some time reviewing the broader sociological context of *niddah* in the Biblical and classical rabbinic worlds and contrasted it with our own. This week, we will focus on how the Biblical legislation was turned into a practical, lived system, as described and advocated for by our Sages.

Configuring and Applying Vayikra 15, 18 and 20

As we noted last time, the Torah engages the laws of *niddah* in three main places. Vayikra 15 provides rules surrounding the *tum'ah* status of a woman with uterine bleeding and describes how such *tum'ah* is communicated to other people and to objects. In particular, the Torah states that normal, cyclical uterine bleeding triggers bodily *tum'ah* for seven days,¹ whereas abnormal bleeding triggers *tum'ah* for the duration of the bleeding and through seven further blood-free days.² This is in the context of a larger section dealing with genital fluxes for men as well. Vayikra 18 issues a terse statement forbidding sex with a woman who is בנדת טומאתה /“in a state of being cast out on account of her *tum'ah*.” It lists this prohibition among many others that trigger *kareit*—the penalty of spiritual excision. Vayikra 20 forbids sex with a דוה, a woman in a weakened state, because מקור דמיה /“her source of blood” has been exposed, and attaches the penalty of *kareit* to this offense.³

I. For how many days does the Torah forbid intercourse?

While each of these sources is reasonably clear on its own, it is less obvious how to configure and apply them as a single system of practice. Vayikra 15 gives clear specifications on the duration of *tum'ah* but provides no direct instruction on a requirement to abstain from sex during this period. In fact, no such ban can be derived from Vayikra 15 alone. Vayikra 20, read alone with its emphasis on blood, would seem to forbid sex only during the actual days of bleeding.⁴ Vayikra 18 is the most cryptic text. Is the turn of phrase בנדת טומאתה /“when she is

¹ This state is known in rabbinic terminology as נדה.

² This state is known in rabbinic terminology as זבה.

³ Vayikra 12 also discusses a postpartum woman and assigns her the same *tum'ah* status as the women described in Vayikra 15—כימי נדת דותה תטמא. The number of days of *tum'ah* is different there, depending on whether the child was a boy (7 days) or a girl (14 days).

⁴ As far as the scope of the prohibition here, use of the word דוה perhaps suggests that it is limited to cases of regular menstruation, since that term is used in Vayikra 15 to refer to such cases—והדוה בנדתה. The case of the זבה there is subsumed under the phrase והזב את זובו לזכר ולנקבה. On the other hand, the focus on blood (מקור דמיה) might suggest a broad application to all cases of uterine bleeding, normal or abnormal. This second reading has been the approach

cast out on account of her *tum'ah*” just a kind of euphemism for any uterine bleeding that triggers *tum'ah*, and this verse is just articulating the message of Vayikra 20 in different language? Or should it be read as applying the ban on sex to all the days of *tum'ah* enumerated in Vayikra 15, which often extend well beyond the bleeding itself? Should we go even further and say that Vayikra 18 intends to ground the entire meaning and purpose of the ban on sex in the world of *tum'ah* and that Vayikra 20 is itself just a rearticulation of this point? Furthermore, is Vayikra 18 grounding the ban on sex in the regulations of Vayikra 15, or is it injecting those very regulations and parameters into the prohibition itself.⁵

Based on the ambiguities here there are a few possibilities:

- 1) *Tum'ah* extends for the full range of times laid out in Vayikra 15, but the Biblical ban on sex—and the attached *kareit* penalty—only applies during the days of actual bleeding.⁶ This approach reads Vayikra 18 as simply a restatement of Vayikra 20 in different language. No “hyperlink” to Vayikra 15 is intended.⁷
- 2) The Biblical ban on sex—and the attached *kareit* penalty—applies for as long as the *tum'ah* periods laid out in Vayikra 15 are in force. This approach reads Vayikra 18 as “hyperlinked” to Vayikra 15. The parameters of *tum'ah* also determine the parameters of abstinence, leading to a seven-day ban on sex in the context of normal bleeding, and a ban on sex during abnormal bleeding and for seven blood-free days thereafter. Vayikra 20 is nothing more than a restatement of Vayikra 18, in different language. This opens up the possibility that if Vayikra 15 becomes inoperative, then both Vayikra 18 and Vayikra 20 do as well. But it also leaves open the possibility that at least vestigial elements of Vayikra 15 are meant to live on forever in Vayikra 18, even if Vayikra 15 is itself practically inoperative.
- 3) The Biblical ban on sex—and the attached *kareit* penalty—has two sources: First, the world of *tum'ah* in Vayikra 15, as “hyperlinked” to by Vayikra 18. Second, the independent command in Vayikra 20. Therefore, even if the world of *tum'ah* in Vayikra 15 were to disappear, thus pulling the rug out from under Vayikra 18, Vayikra 20 would

of halakhic discourse throughout the ages. For one formulation, see Rambam Hilkhos Issurei Biah 4:2, who emphasizes that sex with a נדה, a זבה or a יולדת all trigger *kareit*. However, it must be noted that this assumption seems generally rooted in the “hyperlinking” of Vayikra 18 to Vayikra 15 that we will discuss below as opposed to being solidly grounded in an isolated reading of Vayikra 20.

⁵ This last distinction will be particularly meaningful in a world in which Vayikra 15 has become practically inoperative. In that world, without any meaningful purities, do the periods of time in Vayikra 15 continue to have meaning? Do the purification rituals assumed there carry over as to the world of sexual relations as well?

⁶ As we noted above, if we follow this reading, it is possible (though not necessary) that the ban might be further limited to the case of regular menstruation (נדה) and not apply to a זבה or a יולדת.

⁷ This reading would draw support from the fact that most of the prohibitions discussed in Vayikra 18 and Vayikra 20 are doublets articulated in slightly different language, without any linkage to material outside those two chapters.

continue to anchor a ban on sex during menstruation, at least for the actual days of bleeding itself.⁸

It is key to understand these possibilities in order to comprehend fully the choices made by our Sages. They eliminated the third possibility here largely for methodological reasons. According to rabbinic methodology, the Torah can authorize a punishment for a certain action if it has elsewhere independently, without the same explicit language of punishment, specified that the action is forbidden. That leads them to a general assumption that the vast repetition of various sexual offenses in Vayikra 18 and 20 is born of a need to state sexual prohibitions in one place and then to restate *those same prohibitions* in another place with their attendant punishments. That means that rabbinic sources assume that Vayikra 18 and Vayikra 20, whatever their precise meaning, are talking about the same thing.⁹

However, the first and second models here seem to have vied for contention in rabbinic spheres. R. Akiva seems to have been aware of this when he formulated the following *midrash*:

ספרא מצורע - פרשת זבים פרשה ה הלכה יב

והדוה בנידתה זקנים הראשונים היו אומרים תהיה בנידתה לא תכחול ולא תפקוס עד שתבא במים עד שבא רבי עקיבא ולמד נכנס הדבר לידי איבה והוא מבקש לגרשה, הא מה אני מקיים והדוה בנדתה תהא בנדתה עד שתבוא במים.

Sifra Metzora Zavim Parashah 5:12

She who is weak in her menstrual state—Earlier elders used to say that she should be in state of being cast out: she should not put on makeup or style her hair until she immerses in water. But then R. Akiva taught: This will lead to great tension and he will end up divorcing her! What does this verse teach? She remains in a state of *niddah* until she immerses in water.

The views here are discussing the legal import of the phrase *והדוה בנדתה*, which appears at the end of Vayikra 15. Both views here assume that the phrase is substantively meaningful, and should be read as a prescription: a *דוה*/"woman in a weak state" (on account of bleeding) *should be* בנדתה /"in a state of being cast out." The debate is over what this refers to. The first view here discusses the proper behavior of a woman during *niddah*. She should refrain from improving her

⁸ As noted above, a broad reading of מקור דמיה would reasonably apply this to all cases of uterine bleeding, including יולדת and זבה.

⁹ The assumption of the midrashic question, עונש שמענו אזהרה לא שמענו, is itself in need of interrogation. One wonders if the baffling duplicate structure of Vayikra 18 and Vayikra 20 was itself one of the main inspirations for formulating this methodological principle in the first place. For a completely different understanding of those chapters, see Milgrom, who argues that the repetition is meant to set up a grand chiasm with Vayikra 19 at the center, thus highlighting Vayikra 19:18—ואהבת לרעך כמוך—as the chiastic middle and central message of the entire Torah.

appearance through makeup or hair care until the period of *tum'ah* has elapsed.¹⁰ They derive this from the verse as follows: the דוה should contribute to her state of being cast out (בנדחה) by refraining from making herself attractive to others during this time.

R. Akiva objects that such an interpretation will lead to her husband being disgusted by her appearance and he may divorce her as a result. He therefore suggests a more basic interpretation of the phrase in question. The דוה remains cast out until the period of *tum'ah* has elapsed. What can this possibly mean? Isn't it obvious that the woman remains in *niddah* until the period of *tum'ah* specified in Vayikra 15 elapses? The plain sense is hiding in the context here. The dialogue here is quite clearly about the sexual relationship between husband and wife. The first view advocates that the women remain in an unadorned state throughout *niddah*. R. Akiva dislikes this policy and is substantively committed to opposing it and to deflecting the verse used to make this point. His counterpoint aims to use the phrase והדוה בנדחה to teach a different, more basic point: this woman is sexually unavailable until the days of *tum'ah* laid out in Vayikra 15 have elapsed. In other words: not only is Vayikra 18 hyperlinking to Vayikra 15, but the language of Vayikra 15 itself hints at this point.¹¹

As I said, R. Akiva's local motivation is to deflect a point of law—seemingly an established practice he seeks to overturn. But we should also hear here his awareness of an alternative reading of Vayikra 18 that *only forbade sex during the days of bleeding itself*. In response to this possible reading—number 1 above—R. Akiva counters with an interpretation of Vayikra 15 that soundly rejects that approach and argues for the hyperlinking we described in reading 2 above. I might have suggested this interpretation based on a close reading of the Sifra alone, but a fascinating (and scary) story in Avot de-Rabbi Natan demonstrates that such views were live in rabbinic circles:

מסכתות קטנות מסכת אבות דרבי נתן נוסחא א פרק ב

מעשה באדם אחד שקרא הרבה ושנה הרבה ושמש ת"ח הרבה ומת בחצי ימיו והיתה אשתו נוטלת תפלין וחוזרת בבתי כנסיות ובבתי מדרשות והיתה צועקת ובוכה ואמרה להם רבותי כתיב בתורה כי היא חייך ואורך ימך 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 בנדחתך כל אותן ג' ימים הראשונים מהו אצלך.

¹⁰ I deliberately use this term, as opposed to “until she immerses in water”, so as not to confuse the focus of the discussion here. The phrase עד שתבא במים here is not a point of contention between R. Akiva and the elders. They both use it and it is clearly not part of their substantive positions. Rather, it is a placeholder for the end of *tum'ah*, which they take for granted occurs after immersion in water. They likely use this phrase not to emphasize the centrality of immersion, but because it is a concise way to refer all at once to the wide range of possible *tum'ah* periods prescribed for the נדה and the זבה in Vayikra 15. It is the equivalent of עד שתטהר. We will return to this text later, in the context of a longer discussion about the role of immersion in removing the Biblical ban on sex and its *kareit* penalty.

¹¹ This reading is probably also influenced by the language of Vayikra 20, which uses the term דוה to refer to the bleeding woman who must not engage in sexual intercourse. The use of that term in Vayikra 15 suggests that it is teaching something not just about *tum'ah* but about the ban on sex as well.

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 ושתייתי עמו וישנתי עמו בבגדי על המטה
ובשרו נגע בבשרי אבל לא נתכוין לדבר אחר. א"ל ברוך המקום שהרגו שכך כתוב בתורה ואל אשה בנדת
טומאתה לא תקרב:

Avot Derabbi Natan Version A Chapter 2

It once happened that a man who had studied a great deal of both Written and Oral Torah, and who had spent much time as an apprentice to scholars died young. His wife took his tefillin and went around to synagogues and houses of study and would scream and cry: “Master! It says in the Torah, ‘it is your life and length of days’! Why then did my husband, who studied a great deal of both Written and Oral Torah, and who spent much time as an apprentice to scholars, die young?” No one had an answer for her. One time, she came across Eliyahu and he said, “My daughter, why are you crying and screaming?” She said to him: Master! My husband studied a great deal of both Written and Oral Torah and spent much time as an apprentice to scholars, and yet he died young! He said to her: “When you were menstruating, how did he behave with you during the first three days?” She said to him: “My master! God forbid! He didn’t even touch me with his pinky finger! He would say to me: Don’t touch anything, lest you put yourself in a doubtful situation.” “And during the later days, how did he behave?” “She said to him: Master, I ate with him, I drank with him, I slept with him in the same bed with my clothing on, and his skin touched mine. But he never dreamed of anything else. He said to her: Blessed is God who killed him, for it says in the Torah: “You shall not approach a woman to uncover her nakedness, as long as she is cast out by her *tum’ah*.”

There is so much to say about this story, and we will have occasion to return to it. For now, we must focus in on a few key parts. When Eliyahu confronts this woman, he makes a distinction between “the first three days” and “the later days.” This is a confusing division, and there is no other record of the first three days of *niddah* being any different from the later days. However, a comparison to the version of this text in the Talmud Bavli Niddah 13b reveals that “the later days” are described there as *ימי לבונוך* “your white days.” The picture then comes into focus. “The first three days” is an expression for *the days of actual bleeding*, whereas “the later days” are the final four days of the seven-day period of *tum’ah* when bleeding has already stopped.¹² We then understand what this scholar was doing. With respect to *tum’ah* he was extremely strict, insisting that his wife not touch any object in the house,¹³ lest they fail to keep track of what was pure and impure in their home and end up thereby in a problematic ritual situation. He was thus highly punctilious regarding the *tum’ah* strictures of Vayikra 15, even

¹² Why three? This may be a rough expression, meaning “the first few days”, or it might be based on an average amount of time that women normally bled (at least significantly) during menstruation. Alternatively, Eliyahu knew through prophecy that this is how long this specific woman generally bled, just as he clearly knew through prophecy that there was something non-standard about this woman’s menstrual practice with her husband, despite never having met her before.

¹³ Some versions of the text read בכלים instead of בכלום.

going above and beyond what the law demanded. But when it came to sexual behaviors, he drew different lines. Here, he was extraordinarily strict during the first days, when there was active bleeding, refraining from even touching his wife with his pinky finger.¹⁴ Beyond that time, even though he refrained from sex, he loosened up his restrictions, even allowing parts of their unclothed bodies to touch in bed. This, I would argue, reflects a hesitant embrace of reading 1 above: Vayikra 15 is about *tum'ah*; Vayikra 20 is about sex, but in a way that is limited to the days of actual bleeding. This scholar did not follow through on this reading entirely—he did not actually allow himself to engage in intercourse within the seven-day period—but he clearly manifests here the notion that the sexual prohibitions do not entirely track with the *tum'ah* regulations.

The story perhaps deliberately casts him as an impressive scholar, well embedded within the rabbinic world, to show that this view was current and in need of refutation. Indeed, the punchline of the story is the assertion that Vayikra 18 has *everything* to do with Vayikra 15, and that it is outrageous to be punctilious about *tum'ah* while being lenient about intercourse. As we noted last week, Eliyahu here seems to be asserting that sex too is a kind of sanctum and there is something cheapening and coarsening to have lower standards for the resumption of sexual activity than for the release of *tum'ah*. This, according to the story, is the entire message of Vayikra 18. The competing narrative circulating in rabbinic circles—that Vayikra 18 is nothing but an idiomatic, euphemistic restatement of Vayikra 20—must be shut down.

What elicits Eliyahu's ire here? Is it the notion of any reading of the Torah that would detach the Biblical ban on sex from the time periods of *tum'ah* in Vayikra 15? Or is it something more specific or local, which is the detachment of the Biblical ban on sex from *actual, live practiced tum'ah*? In other words, would Eliyahu been as enraged if this conversation were happening in a world in which *tum'ah* was essentially inoperative? That is almost impossible to tell from the story itself. All we can see is that in R. Akiva's time, there was a not fully settled rabbinic debate over how to interpret and configure the Torah's teachings on this topic. We see here one strong example of the tradition's crackdown on alternate readings, as the hyperlinking of Vayikra 18 to Vayikra 15 becomes ascendant.

We get one last echo of the competing view in a statement of R. Meir, from the generation following R. Akiva:

בבלי נדה לא:

תניא, 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.

Talmud Bavli Niddah 31b

¹⁴ The pinky finger is arguably the least sensitive of the fingers and is thus a hyperbolic way of saying that one is avoiding touch even when the sensual experience is minimal.

It is taught: R. Meir used to say: Why did the Torah say that a *niddah* [is forbidden to her husband] for seven days? Because he grows accustomed to her and then gets sick of her; the Torah says: let her be *temeiah* for seven days, so that she will be attractive to her husband just as when they entered into marriage.

R. Meir here seems to be offering substantive support for the notion that the ban on *sex* should last for seven days. What lies in the background? The reading of our errant student above, who thought that the time period for applying Vayikra 20 should be different than the time period prescribed in Vayikra 15. To this mistaken view, R. Meir offers an explanation. Abstinence during just the days of bleeding is insufficient to rekindle the desire necessary for a healthy marriage. He argued that periodic periods of significant abstinence (of 7 day duration) would prevent monogamous sex from becoming stale and that this was the Torah's intention in specifying a full week of abstinence.¹⁵ In other words, R. Meir seeks to justify viewing Vayikra 18 as a hyperlink to Vayikra 15 not only on textual grounds, but based on human experience as well.¹⁶ This is obviously a post-facto justification of an already preferred interpretation, and we can argue over whether it is the best way to read the Torah. But we see from here that there was conflict over how to configure and apply our central texts on this topic. In the end, R. Akiva and his students won out: all rabbinic sources assume that not only does the *tum'ah* of menstruation last seven days, but the required abstinence it triggers does as well.

II. What role does immersion play in ending the period of *niddah*?

So far, we have engaged the question of the duration of time of the ban on intercourse. But what about marking the end of this period of time? Does the period of *tum'ah* simply end when the requisite amount of time has elapsed? Is some sort of purification ritual, such as ritual immersion, required? If immersion *is* required to return to a state of purity, is immersion

¹⁵ Fascinatingly, at least one scientific study has shown that serum testosterone levels spike after 7 days of abstinence, even as abstinence for only 3 to 5 days has no real effect.

<http://www.ncbi.nlm.nih.gov/pubmed/12659241>.

¹⁶ This statement of R. Meir has been grossly misused and/or misunderstood by modern apologists, who have used it to argue that the *entire purpose* of *niddah* is to ensure marital harmony and a healthy sexual relationship. Though I argued last week that apologetics can have a very important role in sustaining observance, this one does more harm than good and must be called out. Anyone considering this use of R. Meir should recognize that it can't even pass the straight-face test of addressing the subject at hand. If the entire purpose of *niddah* is to maintain a healthy sexual balance, why must this happen during the woman's period? Why is there *tum'ah* attached to menstruation at all? Why couldn't the law be fulfilled by mandating abstinence for the first week of every Jewish month? This reading also flies in the face of R. Meir's statement, which does not ask *מפני מה אמרה תורה נדה לשבעה* but *מפני מה אמרה תורה נדה*? The focus of the question is clearly on the duration of time, not the practice itself. R. Meir—and every other rabbinic Sage and Jew for that matter—understood that the underlying reason for *niddah* was the need to respond to *uterine bleeding*, which was deemed to be significant for the range of reasons we suggested last week. R. Meir was only responding to the fact that there is some ambiguity in the Torah as to whether the abstinence required during menstruation last for a full week or only for the days of actual bleeding. It is this minor feature of the *mitzvah* (and the specifically rabbinic interpretation of it) that he seeks to address.

necessary to permit sexual relations as well? This last question is particularly pressing in a world in which *tum'ah* is not observed in any other way. And even in a world in which *tum'ah* is broadly observed and relevant, our answer has deep consequences for the place of *kareit* in the bedroom. If seven days have passed from the onset of menses and bleeding has stopped, but the woman has not immersed, are sexual relations at that point subject to *kareit*?

It should be quite clear that an isolated reading of Vayikra 20 would never produce any sort of requirement to immerse, much less an aura of *kareit* around resuming relations despite neglecting to do so. *Kareit* there applies to sexual acts that happen during the time of bleeding. We might even be able to see the term *דוה* there as including the full period of time needed for the female body to reset from its recent experience—7 days in the case of normal menstruation and the duration of an irregular flow followed by 7 blood-free days. But nothing in that chapter alone would ever conjure up any sort of requirement to immerse in water in order to resume sexual relations. Such a requirement instead hinges on two, if not three things: 1) Locating in Vayikra 15 a requirement to immerse in water in order to end the period of *tum'ah*, 2) Asserting that Vayikra 18 means to carry that requirement from the world of *tum'ah* into the world of sexual encounters, and possibly 3) that Vayikra 18's importation is in force even the world of *tum'ah* is otherwise inoperative (i.e. the woman would never be immersing other than for the purposes of resuming sexual relations). We will address the first two based on texts and reflect on the third.

A. How do we know a *niddah* must immerse at all?

Let us return to Vayikra 15 and its presentation of the genital fluxes, specifically, the three main cases of seven-day *tum'ah* discussed there. I have arranged them side by side so that we can compare them:

Irregular Female Flux—זבה

²⁵וְאִשָּׁה כִּי יִזוּב זֹב דָּמָה יָמִים רַבִּים בְּלֹא
עֵת נִדְתָּהּ אוֹ כִּי תִזוּב עַל נִדְתָּהּ כָּל יָמֵי
זֹב טְמֵאָתָה כִּימֵי נִדְתָּהּ תִּהְיֶה טְמֵאָה הוּא:
²⁶כָּל הַמְשָׁכָב אֲשֶׁר תִּשְׁכַּב עָלָיו כָּל יָמֵי
זֹבָה כְּמִשְׁכַּב נִדְתָּהּ יִהְיֶה לָּהּ וְכָל הַכָּלִי
אֲשֶׁר תִּשָּׁב עָלָיו טְמֵא יִהְיֶה כְּטִמְאָת
נִדְתָּה:
²⁷וְכָל הַנוֹגֵעַ בָּם יִטְמָא וְכֹכֶס בְּגָדָיו וְרַחֲצָן
בְּמֵימִם וְטִמָּא עַד הָעֶרֶב:

²⁸וְאִם טָהְרָה מִזֹּבָה וְסִפְרָה לָּהּ שִׁבְעַת
יָמִים וְאַחֵר תִּטְהַר:

²⁹וּבַיּוֹם הַשְּׁמִינִי תִקַּח לָּהּ שְׁתֵּי תָרִים אוֹ
שְׁנֵי בָנֵי יוֹנָה וְהִבִּיָּאָה אוֹתָם אֶל הַכֹּהֵן אֶל
פֶּתַח אֹהֶל מוֹעֵד: ³⁰וְעָשָׂה הַכֹּהֵן אֶת הָאֻחָד
חֲטָאת וְאֶת הָאֻחָד עֹלָה וְכִפֶּר עָלֶיהָ הַכֹּהֵן
לִפְנֵי יְקֹנֶק מִזֹּב טְמֵאָתָה:

Regular Female Flux—נדה

¹⁹וְאִשָּׁה כִּי תִהְיֶה זֹבָה דָּם יִהְיֶה זֹבָה
בְּבִשְׂרָה שִׁבְעַת יָמִים תִּהְיֶה בְּנִדְתָּהּ וְכָל
הַנֹּגֵעַ בָּהּ יִטְמָא עַד הָעֶרֶב:
²⁰וְכָל אֲשֶׁר תִּשְׁכַּב עָלָיו בְּנִדְתָּהּ יִטְמָא וְכָל
אֲשֶׁר תִּשָּׁב עָלָיו יִטְמָא:
²¹וְכָל הַנֹּגֵעַ בְּמִשְׁכַּבָּהּ יִכָּכֵס בְּגָדָיו וְרַחֲצָן
בְּמֵימִם וְטִמָּא עַד הָעֶרֶב: ²²וְכָל הַנֹּגֵעַ בְּכָל
כָּלִי אֲשֶׁר תִּשָּׁב עָלָיו יִכָּכֵס בְּגָדָיו וְרַחֲצָן
בְּמֵימִם וְטִמָּא עַד הָעֶרֶב: ²³וְאִם עַל הַמְשָׁכָב
הוּא אוֹ עַל הַכָּלִי אֲשֶׁר הוּא יִשְׁבֹּת עָלָיו
בְּנִגְעוֹ בּוֹ יִטְמָא עַד הָעֶרֶב:

²⁴וְאִם שָׁכַב יִשְׁכַּב אִישׁ אִתָּהּ וְתִהְיֶה
נִדְתָּה עָלָיו וְטִמָּא שִׁבְעַת יָמִים וְכָל
הַמְשָׁכָב אֲשֶׁר יִשְׁכַּב עָלָיו יִטְמָא:

??????

Irregular Male Flux—זב

²...אִישׁ אִישׁ כִּי יִהְיֶה זֹב מִבְּשָׁרוֹ זֹב
טְמֵא הוּא: ...
¹כָּל הַמְשָׁכָב אֲשֶׁר יִשְׁכַּב עָלָיו הַזֹּב יִטְמָא
וְכָל הַכָּלִי אֲשֶׁר יִשָּׁב עָלָיו יִטְמָא:
¹וְאִישׁ אֲשֶׁר יִגַּע בְּמִשְׁכַּבּוֹ יִכָּכֵס בְּגָדָיו
וְרַחֲצָן בְּמֵימִם וְטִמָּא עַד הָעֶרֶב: ⁶וְהִיִּשָּׁב עַל
הַכָּלִי אֲשֶׁר יִשָּׁב עָלָיו הַזֹּב יִכָּכֵס בְּגָדָיו
וְרַחֲצָן בְּמֵימִם וְטִמָּא עַד הָעֶרֶב: ⁷וְהַנֹּגֵעַ
בְּבִשְׂרָה הַזֹּב יִכָּכֵס בְּגָדָיו וְרַחֲצָן בְּמֵימִם
וְטִמָּא עַד הָעֶרֶב: ⁸וְכִי יִרְקַח הַזֹּב בְּטַהוֹר
וְכֹכֶס בְּגָדָיו וְרַחֲצָן בְּמֵימִם וְטִמָּא עַד
הָעֶרֶב: ⁹וְכָל הַמְרַכָּב אֲשֶׁר יִרְכַּב עָלָיו
הַזֹּב יִטְמָא: ¹⁰וְכָל הַנֹּגֵעַ בְּכָל אֲשֶׁר יִהְיֶה
תַּחְתָּיו יִטְמָא עַד הָעֶרֶב וְהַנּוֹשֵׂא אוֹתָם
יִכָּכֵס בְּגָדָיו וְרַחֲצָן בְּמֵימִם וְטִמָּא עַד
הָעֶרֶב: ¹¹וְכָל אֲשֶׁר יִגַּע בּוֹ הַזֹּב וְיִדְּיוֹ לֹא
יִשְׁטַף בְּמֵימִם וְכֹכֶס בְּגָדָיו וְרַחֲצָן בְּמֵימִם
וְטִמָּא עַד הָעֶרֶב: ¹²וְכָלִי חֲרָשׁ אֲשֶׁר יִגַּע
בּוֹ הַזֹּב יִשְׁבֹּר וְכָל כָּלִי עֵץ יִשְׁטַף
בְּמֵימִם:
¹³וְכִי יִטְהַר הַזֹּב מִזֹּבּוֹ וְסִפְרָה לוֹ שִׁבְעַת
יָמִים לְטַהֲרָתוֹ וְכֹכֶס בְּגָדָיו וְרַחֲצָן בְּשָׂרוֹ
בְּמֵימִם חַיִּים וְטַהַר:

¹⁴וּבַיּוֹם הַשְּׁמִינִי יִקַּח לוֹ שְׁתֵּי תָרִים אוֹ
שְׁנֵי בָנֵי יוֹנָה וְכֹכֶס לִפְנֵי יְקֹנֶק אֶל פֶּתַח
אֹהֶל מוֹעֵד וּנְתַנֵּם אֶל הַכֹּהֵן: ¹⁵וְעָשָׂה אוֹתָם
הַכֹּהֵן אֻחָד חֲטָאת וְאֻחָד עֹלָה וְכִפֶּר עָלָיו
הַכֹּהֵן לִפְנֵי יְקֹנֶק מִזֹּבּוֹ:

When we look at these passages side by side, we see some clear similarities and differences. In each case, the זב or the נדה or the זבה are pronounced to be *tamei*, with the נדה being given a fixed period of seven days. In all cases the Torah states that the things they lie or sit on become *tamei* as well, and that these, in turn, have the power to communicate *tum'ah* to those who touch them. There are then a host of rules that are only laid out in the context of the זב : the fact that someone who touches him becomes *tamei* and must bathe in water, that someone whom he spits on becomes *tamei* and must bathe in water, that objects he rides on become *tamei*, and various other details. These are absent from the נדה and זבה sections. What are we to conclude from this disparity? Should we say that one who touches a זב becomes *tamei* but one who touches a נדה or a זבה does not? Should we say that when a נדה or a זבה spits on someone, it does not render them *tamei*? Or should we say that it is presumed that the reader will carry over these details from one category to another? Should we say that it is obvious that these three characters, all of whom share similar patterns of seven-day impurity, essentially follow the same rules, and the reader is meant to fill in the blanks?

This question becomes particularly acute when we get to the sections that describe purification and the exit from the state of *tum'ah*. The זב and the זבה both have sections describing identical sacrifices that must be brought once they have counted seven days to ensure they are no longer in a pathological state. However, the Torah specifies a ritual of bathing in the case of the זב that is not just absent in the case of the זבה, but that almost seems deliberately replaced by the phrase וְאַחֵר תְּטַהֵר /“and after that, she shall be pure”, as if to clarify that the passage of seven blood-free days alone resets her status. If we assume that inconsistencies between the passages are meant to highlight difference, then this would suggest that there is no need for a זבה to immerse as part of her purification. On the other hand, if we assume that the Torah spells certain things out in the case of the זב and leaves the rest as an exercise to the reader, then this immersion would be Biblically mandated.¹⁷

Rabbinic sources are unequivocal in their conviction all the rules governing contact and transfer of *tum'ah* apply equally to these three figures, and all the rabbinic sources on this topic simply begin from that point of departure. Similarly, they hold that the purification of the זבה also requires immersion. **Sifra Metzora Zavim 5:9:2** reads the Torah's provocative language of וְאַחֵר תְּטַהֵר as laconic, presuming the missing step of bathing: ר' שמעון אומר וְאַחֵר תְּטַהֵר אַחֵר הַמַּעֲשֶׂה: “and after that, she shall be pure”—after an action (i.e. immersion), she shall be pure.”¹⁸

¹⁷ For a debate over precisely this methodological point, see the following exchange between Rabbi Dr. Zev Farber and Dr. Yitzhwq Feder: <http://thetorah.com/the-purification-of-a-niddah/> and <http://thetorah.com/the-purification-of-a-niddah-the-legal-responsibility-of-the-reader/>.

¹⁸ There is nonetheless a subsequent debate as to whether this bathing must be in מֵי חַיִּים /“living waters”, generally understood to be a spring, as opposed to a garden-variety *mikveh*. Mishnah Mikvaot 5:5 and Sifra Metzora Zavim 5:9:9 indeed assume מֵי חַיִּים for both a זב and a זבה. Tosefta Megillah 1:14 = Zavim 3:1, by contrast, explicitly rules that only a זב, and not a זבה, requires מֵי חַיִּים. This latter reading would have to say that the Torah does not expect us to copy the laws of זב over to those of זבה but rather to infer the need for the זבה to do at least some sort of immersion from the fact that the objects she touches need to be immersed (but not in מֵי חַיִּים).

However, the omission of any mention of emerging from *tum'ah* in the case of the נדה is more striking and begs an explanation. There, the case is even stronger that perhaps the *tum'ah* simply expires with the passage of time. It is not wild to suggest that a normal, fully predictable bodily phenomenon like menstruation requires no purification ritual once it has ended.

Nonetheless, in my view, the broader Biblical concept simply cannot support such a reading.

First, we have the striking narrative in II Shmuel 11:2-5 of David seeing Batsheva bathing on the roof, which the text tells us was in order to purify herself from her impurity/והיא מתקדשת מטומאתה. This clearly refers to menstruation as it is this fact that undeniably marks David as the child that grows in her womb after their night together. It is a narrative, not a normative text, to be sure, but it seems to establish that everyone knew that *niddah* was followed by bathing.

Furthermore, the entire context of Vayikra 15 and beyond is that basically everyone and everything that ever becomes *tamei* bathes in water. While there is a theoretical basis for saying that a נדה is different in this regard, it is not easy to square with the almost across the board requirement for all other *tamei* people and objects to immerse. And once we are willing to read the bathing requirement into the זבה despite its not being mentioned, it is even harder to claim that it should not be read into the case of the נדה as well. All of this seems to be summed up by **Rabbi**, who states directly on Yerushalmi Nazir 7:4, 56d: כל הטמאים בטומאתן עד שיבואו במים /“Anything *tamei* remains *tamei* until it passes through water.” It is certainly the case that rabbinic sources all uniformly assume that a נדה and a זבה—along with all other people and objects who are *tamei*—must immerse in water before they can return to a state of purity.

Nonetheless, because rabbinic sources are never explicit that this requirement for a נדה to immerse is *Biblical* (as opposed to the case of the זבה, where this is so), this left an opening. We find a few records of non-rabbinic views that say a נדה need not immerse at all, or rabbinic views that say that the immersion of a נדה is only of rabbinic force. Obviously, according to this view, even if we say this rabbinic requirement to immerse applies to the resumption of sexual intercourse as well, there is no *kareit* penalty associated with skipping it. This view was known by other medieval sources, who rejected it. **Eliyahu Rabbah** describes a scene where a rabbinic Sage encounters a heretic who is familiar with the Torah but devoid of rabbinic learning. Sensing that his unlearned interlocutor is attempting to cast doubts on the need of a *niddah* to immerse, he says:

אליהו רבה (איש שלום) פרשה טז

...כל האומר לאשתו ולבניו ולבני ביתו, געו בכלים ועשו מה שאתם רוצים, והלא אין טבילה לנידה מן התורה,

אינו רואה קורת רוח בעולם.

Tanna Devei Eliyahu, Eliyahu Rabbah #16, Eretz Yisrael?, 10th c.?

...Anyone who tells his wife and his children and the members of his household: “Touch the vessels and behave as you like, for there is no requirement in the Torah that a *niddah* must immerse,” such a person will never get any pleasure from this world.¹⁹

A more legitimately rabbinic version of this view appears in **Halakhot Gedolot**, where the outlier position almost appears to be a gloss on a base text that rejects it just a few lines later:

ספר הלכות גדולות סימן מא - הלכות נידה עמוד תלט-תמ
זב וזבה טבילתן מדאורייתא, נדה מדרבנן היא...ומגלן דבעיא נדה טבילה, דאקשה רחמנא לזבה מה זבה בעיא
טבילה אף נדה בעיא טבילה...

Sefer Halakhot Gedolot #41, Hilkhoh Niddah, (Hildesheimer ed., pp. 439-440), R. Shimon Kayyara, Babylonia?, 9th c.?

While the immersion for a *zav* and a *zavah* is of Biblical authority, a *niddah*'s immersion is only rabbinic...How do we know that a *niddah* requires immersion? The Torah compares her to a *zavah*, just as a *zavah* requires immersion, so too a *niddah*...

Whereas the opening view claims that the Torah's silence on immersion for a נדה is instructive and determinative, the counterpoint here simply asserts that we can infer immersion for a נדה from immersion for a זבה.²⁰ **Meiri** is aware of this view as well, but also sidelines it:

בית הבחירה ברכות לא., ר' מנחם המאירי, פרובנס, המאה הי"ג-י"ד
ומה שכתבו גדולי הרבנים שטבילת נדה אינה תורה אלא דברי סופרים, הואיל ולא מצינו טבילה בתורה לנדה
אלא לזבה, אין הדברים נראין.

Beit Habehirah Berakhot 31a, R. Menahem Hameiri, Provence, 13th-14th c.

I do not agree with the view of *gedolei harabbanim* that the requirement for a *niddah* to immerse is only rabbinic, since it is not explicitly written in the Torah except in the case of *zavah*.²¹

¹⁹ This text is obviously formulated in a social context where the broader system of *tum'ah* is still being observed, at least in some form. We know that this was the case in Eretz Yisrael in the medieval period. It was in Babylonia that many of the practices around *tum'ah* and *niddah* began to be relaxed more significantly. We will return to this dynamic later on.

²⁰ The immersion for a זבה, as we saw, was itself inferred from that of a זב! This only shows how solid the Biblical basis for immersion for a זבה was in the rabbinic mind.

²¹ In Meiri, this moniker normally refers to Rashi, but Rashi is not anywhere else publicly identified with this position. Here is one possible source for this identification: A זקן/rebellious elder, who is put to death, can only be convicted for disagreeing on a matter where *kareit* is at stake. The Talmud explains that one such debate was regarding the status of דם ירוק/greenish-yellowish blood. Akavia b. Mahallalel ruled such blood to be *tamei*, whereas the Sages decreed that it was pure. Rashi Sanhedrin 87b s.v. hayarok then endeavors to explain how Akavia's ruling could lead a woman to be liable for *kareit*: מייתי לה לחיוב כרת, - מייתי לה להלל - ואם אמר זקן ממרא כעקביא בן מהללאל - ומה שכתבו גדולי הרבנים שטבילת נדה אינה תורה אלא דברי סופרים, הואיל ולא מצינו טבילה בתורה לנדה אלא לזבה, אין הדברים נראין. The idea presented by Rashi is this: If a rebellious elder followed the view of Akavia b. Mahallalel, it could lead a woman to be liable for

Nonetheless, elsewhere, Meiri cites a remarkably similar view less dismissively. After engaging with a host of other potential proofs for a Biblical basis for immersion of a נדה, he says:

בית הבחירה נדה סו:

ומכל מקום יש דוחים את כלם מדתניא ביומא, "ביום ההוא יהיה מקור נפתח לבית דוד וליושבי ירושלם לחטאת ולנדה—מכאן רמז לטבילת נדה מן התורה." אלמא הלכת סיני היא ולא של תורה ואין זה סתירה לדעתי שמ"מ יש ללמדה ממה שכתבו הם אלא שבפסוק זה נתפרשה להדיא

Beit Habehirah Niddah 66b

Nonetheless, some reject all of these proofs based on a passage in Yoma:²² “On that day, there shall be a fountain opened to the house of David and to the inhabitants of Jerusalem, for *hatat* and for *niddah*—this is the hint at immersion for a *niddah* in the Torah.”

Therefore [they claim], it is a tradition from Sinai and not from the Torah. But this is no contradiction, in my view. One can still learn it from [any of the other possible ways] and say that this verse [in Zekhariah] makes the implicit explicit.

The view cited here by Meiri sees a clear reference to immersion for a *niddah* in a verse in Zekhariah discussing a “fountain” and a *niddah*. When a Talmudic passage then refers to this as a mere “hint” at the immersion for *niddah* in the Torah, they conclude that this means that the practice has no *true* basis in the Torah, but is merely an ancient lived tradition here cited by the prophet. Nonetheless, Meiri says that this verse in Zekhariah need not be read as explicitly denying the Torah source for immersion of a *niddah*. Instead, it should be read as seeing an explicit statement of an implicit law—a hint—a law which is itself grounded in the Torah. Note

kareit. She might see greenish-yellow blood for two days at the beginning of her period and then see red blood for another 5 days. If she follows Akavia, she will mark the beginning of her *niddah* status with the sighting of the greenish-yellow blood and then immerse after the five days of bleeding. But according to the Sages, her seven-day *niddah* would only start with the sighting of the *red* blood. If she immerses and has sex with her husband based on Akavia’s schedule, she will be having sex for two days of the seven-day *niddah* period and thus be liable for *kareit*. But Rashi is surprising here when he says ומשמשת עם בעלה שני ימים בנדותה “she will then have sex with her husband for two days out of her *niddah*”, as if the *kareit* offense here only lasts for two days. If Rashi indeed held that the *kareit* penalty applies indefinitely without a proper immersion, then she should be liable for *kareit* until the next time she immerses, not just for two days! The immersion she did based on Akavia’s calculation would be invalid according to the calculations of the Sages and would therefore count for nothing. For Rashi to suggest that the *kareit* prohibition will only be in place for two days suggests that that prohibition can expire even without immersion. Perhaps this is a source for Meiri’s apparent claim that Rashi did not think the Torah required immersion for a *niddah* to be permitted to have sex. However, other texts associated with Rashi and his disciples explicitly go on record with the notion that a lack of immersion leaves the *kareit* penalty in place indefinitely. See Sefer Ha-Orah II:1, Sefer Hapardes, Hilkhot Niddah, pp.4-6 and Mahzor Vitry #499.

²² Our witnesses to the text in Yoma are slightly different, reading something more or less like: מכאן רמז לנדה שצריכה ולית הלכתא, which may be a much more local point about the dimensions and arrangement of the water vis-à-vis the woman’s body. This is also followed by a gloss saying that this statement is non-binding: כוותיה. For these reasons, I did not cite Yoma as direct evidence on our question. Nonetheless, there was a medieval view that, based on this text or an alternate version of it, felt that immersion was not of full Biblical force, but rather an ancient tradition prior to any rabbinic discussions.

that Meiri's tone here is more geared towards asserting that the interpretation of the verse in Zekhariah does not *disprove* a Torah basis for immersion of a *niddah*. He does not really reject the *validity* of an interpretation that sees only a הלכה למשה מסיני as opposed to a bona fide Torah requirement.

Nonetheless, most were convinced that there was indeed some sort of Torah-based requirement for a נדה to immerse as part of her exit from *tum'ah*. **Rav Yehudai Gaon** was asked directly for the basis of this claim:

תשובות הגאונים - מוסאפיה (ליק) סימן מה
שאלו מן קמאי מר רב יהודאי גאון ריש מתיבתא ז"ל...
תוב שמ"ק טבילה לנדה מן התורה מנין. ואמר קל וחומר ממגעה...

Geonic Responsa, Musafia #45, Rav Yehudai Gaon, Babylonia, 8th c.

...They asked him: What is the biblical basis for requiring a *niddah* to immerse? He said:
It is *a fortiori* from the objects that she touches...

Rav Yehudai Gaon argued that the data about the נדה in the Torah forces us to conclude that she must immerse before she becomes pure. If the objects she lies and sits on become *tamei*, such that those who touch them become *tamei* and the Torah is explicit that such people must immerse, then obviously she, as the source of that *tum'ah*, must immerse prior to exiting that state. It cannot be, he argued, that the requirements for exiting a derivative state of *tum'ah* would be more stringent than those for the primary state.

Others searched for additional scriptural bases. Tosafot call our attention to two other potential derivations of the requirement. First they cite **R. Tam**:

תוספות מסכת יבמות דף מז עמוד ב
במקום שהנדה טובלת - טבילת נדה לא כתב קרא בהדיא...ור"ת מפרש דנפקא לן מהא דדרשינן בע"ז (דף עה:) אך במי נדה יתחטא מים שהנדה טובלת בהם וכמה הם מ' סאה

Tosafot Yevamot 47b

"In the place where a *niddah* immerses"—Scripture does not explicitly mention immersion for a *niddah*...R. Tam explained that we derive it from the exegesis in Bavli Avodah Zarah: "It must be purified in the waters of *niddah*—water sufficient for a *niddah* to immerse in, which are 40 *seah*."

R. Tam appeals to Talmud Bavli Avodah Zarah 75b, which discusses the requirement to immerse (metal) food utensils purchased from Gentiles. There, one text states that this immersion must be done in a pool of 40 *seah* of water, just as human immersions need to be.²³ The Talmud then

²³ 40 *seah* is understood to be the basic volume of water need to immerse the entire human body at once. See **Sifra Metzora Zavim Parashah 3:6:3**.

goes on to cite a baraita in the name of Bar Kappara, which offers a Scriptural basis for this: When the Israelites return from their war with Midian in Bemidbar 31, Elazar the High Priest tells them that they must take all the (metal) objects they captured from the Midianites and purify them במים שנדה טובלת “in the waters of *niddah*.” Bar Kappara’s baraita takes this to mean: במים שנדה טובלת “in the (amount of) water in which a *niddah* would immerse”, i.e. 40 *seah*, the amount of water that people immerse in. R. Tam points out that this tradition therefore assumes that the Torah thinks that a נדה must immerse and we thus have explicit Scriptural basis for the notion that her *tum’ah* cannot end without immersion.

However, some later interpreters rejected R. Tam’s suggestion:

ספר אור זרוע ח"א - הלכות נדה סימן שנט

ור"ת פי' דאתיא מדאמר ס"פ בתרא דע"ז אך במי נדה יתחטא במים שהנדה טובלת בהן אלמא דטבילת נדה דאורייתא. מיהו האמת נראה כי אסמכתא בעלמא הוא כי מי נדה היינו מי חטאת כדכתי' מי נדה לא זורק עליו.

Sefer Or Zarua I, Niddah #359, R. Yitzhak b. Moshe, Vienna, 14th c.

R. Tam explained that we derive it from... “It must be purified in the waters of *niddah*.” However, this truly seems like a mere support, since “the waters of *niddah*” [in that phrase] refers to the waters of purification [used in conjunction with the red heifer], as it is written [in the context of the red heifer]: “the waters of *niddah* were not sprinkled upon him.”

Or Zarua notes that Bar Kappara’s reading flies in the face of the normal meaning of מי נדה, which is “waters of purification.” He suggests that Bar Kappara was merely stretching to find a Biblical text as a support for a practice of rabbinic authority. We therefore can conclude nothing from here about the Biblical status of immersion for a נדה.

Tosafot cite one more attempt:

ורבינו יצחק פירש דנפקא מהא דדרשינן בפ' במה אשה (שבת דף סד:) תהיה בנדתה תהא בנדתה עד שתבא במים.

R. Yitzhak [of Dampierre] explained that we derive it from the exegesis in Bavli Shabbat: “She shall be in her *niddah*—she must remain in her *niddah* until she immerses in water.”

Here, **R. Yitzhak of Dampierre** returns us to a version of a text we saw earlier. He cites the debate between R. Akiva and the early elders over the proper meaning of the phrase והדוה בנדתה, which they both read as meaning that the menstruant must be in a state of being cast out for some purpose. The early elders saw this as imperative for her to refrain from makeup and hairstyling while in *niddah*, whereas R. Akiva said תהא בנדתה עד שתבא במים. We suggested that the plain sense of this phrase was to emphasize that the ban on intercourse lasts seven days for a נדה even if bleeding ceases earlier. However, by the time of R. Yitzhak of Dampierre, this point

was so obvious that he could hardly imagine that R. Akiva would need to argue for it.²⁴ Furthermore, in the Talmud Bavli parallel to the Sifra we looked at earlier, only R. Akiva uses the phrase *עד שתבא במים*, making it possible to read R. Akiva as making a different point in his argument with the earlier elders. R. Yitzhak of Dampierre suggests that R. Akiva was here arguing for the notion that a *niddah* must immerse in water and grounding that in the phrase *והדוה בנדתה*! It is very difficult to read this point as a midrashic derivation of the words *והדוה בנדתה*, but R. Yitzhak was searching for a Scriptural proof-text for this insufficiently grounded practice, and this is what he reached for.²⁵

Unsurprisingly, **Ramban** attacks this reading from a number of angles:

חידושי הרמב"ן מסכת שבת דף יג עמוד ב

וכן קשיא לי שנלמוד טבילת נדה מכאן תהא בנדתה עד שתבוא במים, דא"כ זקנים הראשונים דמוקמי ליה (לק' ס"ד ב') [ל]לא תכחול ולא תתקשט במיני צבעונין, טבילה לנדה מנא להו...ומה שאמר ר"ע תהא בנדתה עד שתבוא במים משמע לי דהיינו אזהרה לאשה שתהא נזכרת לנדתה ותהיה מרחקת עצמה ומתנדה מבעלה ומטהרות כל ימי נדותה, והאי דקאמר עד שתבוא במים לישנא בעלמא כל ימי נדותה עד שתטהר, ובלשון ראשון של זקנים הראשונים תניא נמי לא תכחול ולא תתקשט עד שתבוא במים וזו ראייה לדברינו

Ramban Shabbat 13b, R. Moshe b. Nahman, Spain, 13th c.

I also find it difficult to derive the requirement for a *niddah* to immerse from the exegesis of “she shall be in her *niddah* until she immerses in water.” If that were the source, how would the early elders derive immersion for a *niddah*?...That which R. Akiva said... “until she immerses in water” is just an expression for all the days of *niddah*, until she is purified, and this language is also used by the early elders [in our version of the Sifra, but not our version of the Bavli—EMT], and this proves our point.

Ramban points out that any attempt to ground a Biblical immersion for a נדה in R. Akiva’s argument then deprives his opponents of that same proof. Since the whole point is to locate a consensus source for a universally agreed upon practice, this will not do. Moreover, the entire argument collapses when we refer back to the Sifra original of this text, since there, the phrase *עד שתבא במים* appears in both voices in the argument, indicating that neither side is actually proving anything about immersion. Rather, they are using this phrase to mean “the end of *niddah*.” For all we know, they may be using the phrase to refer to a *rabbinic* requirement to immerse. In any event, there is no indication that the phrase *עד שתבא במים* is anything more than the idiomatic way to refer to the cessation of *tum’ah* via the expiration of the Biblically mandated waiting period. R. Yitzhak’s proof thus cannot succeed.

²⁴ This reflects the fact that the underlying message of the story of the errant scholar was so triumphant that no one could really understand anymore how a person in rabbinic circles ever could have considered being lenient with the non-bleeding days of a *niddah* period. We will return to this interpretive transition later.

²⁵ It is not completely clear if R. Yitzhak felt R. Akiva should be read as grounding immersion for a נדה *at all*, or whether he was even grounding the need for a נדה to immerse for sexual relations.

We can sum up what we have seen so far in the following chart:

Position and Proof	Deflection
קל וחומר ממגעה If things that come into contact with a <i>niddah</i> must immerse, then certainly she must immerse (R. Yehudai Gaon)	
The Torah intends for is to infer the details of immersion from the <i>zav</i> to the <i>zavah</i> and then from the <i>zavah</i> to the <i>niddah</i> (Halakhot Gedolot)	
“Waters in which a <i>niddah</i> immerses” is mentioned in the Torah (R. Tam)	אסמכתא/This interpretation of the verse may be a forced support for a rabbinic law (Or Zarua)
R. Akiva speaks of the persistence of <i>niddah</i> until immersion (R. Yitzhak of Dampierre)	Comparison to the Sifra shows that this is not R. Akiva’s point and the phrase is just a way of referring to the end of <i>niddah</i> , which is conventionally ended with immersion (Ramban)
The Torah’s omission of any mention of immersion for the <i>niddah</i> is deliberate; the conventional requirement for immersion is only rabbinic (A view mentioned in Halakhot Gedolot)	This seems wrong; it is too out of step with the larger framework of the Torah’s presentation of impurities in Vayikra 15 (Meiri)
The Torah’s omission of any mention of immersion for the <i>niddah</i> is deliberate; the conventional requirement for immersion is only a <i>למשה מסיני</i> /an ancient, pre-rabbinic tradition, not of full Biblical force (A view mentioned in Meiri)	[While this view is nowhere formally rejected, it is subject to the same critiques as the claim that immersion for a <i>niddah</i> is only rabbinic. R. Yehudai Gaon and Halakhot Gedolot—cited above—would clearly reject this as a misreading of Vayikra 15.]

We see from here that there were failed efforts to ground immersion of a *niddah* in specific phrases in the Torah. Instead, the debate essentially came down to how to read Vayikra 15 and how much work was being left to the reader. For R. Yehudai Gaon and Halakhot Gedolot, various details in the text implicitly produce the “missing” immersion. For other views, this silence is deafening, and we should in fact reject a Torah basis for *niddah* immersion. Personally, the approaches of R. Yehudai Gaon and Halakhot Gedolot make tremendous sense to me and seem the plain reading both of the Torah, but, more importantly, of the rabbinic reading of the Torah. It is certainly fair to say that the overwhelming weight of rabbinic tradition read the Torah as requiring a *niddah* to immerse in order to be released from her Biblical *tum’ah*. I

think any approach that wants to be located squarely in the rabbinic camp has to acknowledge this fact, even as one cannot dismiss the alternate reading as completely devoid of rabbinic precedent.

B. Even if the Torah demands immersion to exit a state of *tum'ah*, does it demand it in order to resume sexual intimacy?

However, even if we posit a Biblical requirement for the *niddah* to immerse in order to become pure, how do we know if this Biblical requirement transfers over to the world of sexual relations? We have already seen that rabbinic tradition read Vayikra 18 as importing the *tum'ah* periods of Vayikra 15 into the realm of sex as well, even if bleeding ceases earlier. But does Vayikra 18 transfer over the requirement to immerse as well? This is a question of enormous importance in a world in which people no longer immerse for the purpose of purity more generally. This would largely have been academic in a world in which menstruants were primarily immersing in order to remove their *tum'ah*. In that world, the immersion would be primarily driven by the concern of purity, such that the question of immersing specifically for sexual relations would be an uncommon perspective. But even in that world, there would be significant consequences. Since the prohibition on sex during *niddah* is a *kareit*-level offense, its inadvertent violation requires bringing a *hattat* sacrifice to the Temple. Do a man and a woman who have sex once bleeding has stopped, but prior to her immersion, need to bring a sacrifice? Put more generally: Does the *kareit* penalty persist indefinitely until immersion? Or does it expire after enough days have passed and bleeding has ceased? Innumerable rabbinic sources assume that a menstruant is not permitted to have intercourse with a man until she has immersed. But is this because a *kareit*-level penalty is in force? An ancient tradition? A rabbinic restriction? A mere custom?

1. Classical Rabbinic Sources

a. Mishnah Niddah 10:8

In fact, while a number of rabbinic sources potentially weigh in on these questions, none resolve them definitively, creating significant confusion and discussion in later generations. Let's begin with one source, a Mishnah, which does seem to imply a stance on our issue. To understand it, we need a little background.

As we have seen, Vayikra 15 addresses two separate categories of *tum'ah* that later become known as *נדה* and *זבה*. The former is a case of regular, expected menstruation. The latter is a case of pathological, unexpected uterine bleeding, not at the normal time of menstruation. The women in these cases are *temeiot* according to all the regulations spelled out in Vayikra 15,

and sexual relations are forbidden on penalty of *kareit* in both cases, which means that intercourse mistakenly conducted during these times triggers the obligation to bring a *hattat* sacrifice. Nonetheless, there are important differences with respect to how the woman exits these states of *tum'ah*. Rabbinic sources define these two categories as follows:²⁶

- נדה—This state of *tum'ah* begins with the onset of menses and lasts until 7 sunsets have passed. Assuming bleeding has stopped, the woman can exit her state of *tum'ah* by immersing after that 7th sunset, on the *night* prior to the 8th day. Any immersion prior to that time is invalid and has no effect on her status. It is assumed that the minimum menstrual cycle is 19 days long, such that only bleeding at least 18 days after the onset of one menstrual cycle can be considered as bleeding connected to the following menstrual cycle. Any bleeding that occurs during the 11 days immediately following the seven-day period of נדה follows the rules of זבה, below.
- זבה—The rules for bleeding during the 11 days immediately following the seven-day period of נדה split into two:
 - זבה קטנה: If a woman bleeds for one or two days during these 11 days, she is *temeiah* according to all the rules laid out in Vayikra 15. She must verify that bleeding has stopped after the second or third sunrise following the onset of bleeding. She can then immerse that very day and her status is back to normal after sunset. Any immersion done earlier—on the night immediately following the cessation of bleeding—is invalid. Moreover, if she bleeds after immersing during the day, that day is treated as a bleeding day and the immersion is retroactively invalidated.
 - זבה גדולה: If a woman bleeds on three consecutive days during these 11 days, she is *temeiah* according to all the rules laid out in Vayikra 15 she remains *temeiah* until she verifies seven consecutive blood-free days. Sometime after dawn on the seventh blood-free day, she may immerse and her status is back to normal after sunset. Any immersion done earlier—on the night immediately following the cessation of bleeding—is invalid. Moreover, if she bleeds after immersing during the day, that day is treated as a bleeding day and the immersion is retroactively invalidated.

This leads to a discussion between Beit Shammai and Beit Hillel in the following source:

משנה נדה י:ח

²⁶ For the purposes of simplicity, I am describing these categories in keeping with the holdings of the overwhelming majority of authorities. I am not engaging Rambam's alternative formulation of these rules here nor the proper understanding of the Rambam.

הרואה יום אחד עשר וטבלה לערב ושמשה בש"א מטמאין משכב ומושב וחייבין בקרבן בה"א פטורין מן הקרבן
טבלה ביום שלאחריו ושמשה את ביתה ואח"כ ראתה בש"א מטמאין משכב ומושב ופטורים מן הקרבן ובה"א
הרי זה גרגרן
ומודים ברואה בתוך י"א יום וטבלה לערב ושמשה שמתמאין משכב ומושב וחייבין בקרבן...

Mishnah Niddah 10:8

A woman who sees blood on day 11 [of the days marked for *zivah*] and immerses that night and has sex that night: Beit Shammai rule that the couple render bedding and seating *tamei* and are liable for a sacrifice. Beit Hillel exempts them from a sacrifice. If she immersed on the following day and had sex the following day and then saw blood on that same day: Beit Shammai rule that the couple render bedding and seating *tamei* and are exempt from a sacrifice. Beit Hillel say: This man is a glutton. Both agree that if a woman sees blood within the 11 days [marked for *zivah*] and she immerses that evening and has sex that evening, the couple render bedding and seating *tamei* and are liable for a sacrifice...

Let's begin with the point of consensus at the end here. As we stated above, when there is one day of bleeding during the 11 days following the seven days earmarked for menstrual *tum'ah*, the woman must verify an absence of blood the following morning and only then is she eligible to immerse. If the couple has sex during the *night* immediately following the bleeding—even if the woman immersed first—the original level of *tum'ah* is in force and they must bring a sacrifice for inadvertently violating a *kareit*-level prohibition. The immersion here was completely irrelevant.

Beit Shammai and Beit Hillel debate the case where the woman bleeds on day 11 of the 11 days, day 18 as counted from the onset of menses. How should we think about this day of bleeding? On the one hand, it is part of the 11 days, and therefore, we might well say it should follow the normal rules that apply to any of these eleven days: If the woman bleeds, she becomes *temeiah*, sexual relations are forbidden and she must wait until the next morning to check that she is free of blood before she is eligible to immerse. On the other hand, the next morning in this case is already part of day 19 from the onset of menses and therefore potentially eligible to be the start of a new period of *נדה*. Perhaps day 11 is isolated from this following day, which has a different status? We first consider a case where the woman bleeds on day 11, stops bleeding before sunset and then the woman (illegally and ineffectively) immerses that night. Beit Shammai declare that the woman remains fully *temeiah* and that her act of intercourse triggers an obligation to bring a sacrifice, just as would be the case on any of the other of the 11 days. By contrast, Beit Hillel say that, while the woman remains *temeiah*—the immersion was invalid—the couple is exempt from bringing a sacrifice. In other words, they are *no longer* subject to the penalty of *kareit*. To put a finer point on it: this act of sex is not Biblically forbidden.

Beit Shammai and Beit Hillel go on to debate a second case. This time, the woman indeed waits to check herself the next morning, and upon confirming the cessation of bleeding, she immerses, exactly as she is supposed to. However, she does not wait until the evening to have sex, and then sees blood later that day. Beit Shammai say that the later blood sighting invalidates the earlier immersion and thus the couple retain their *tum'ah*. However, their sexual act carries no penalty of *kareit* and is not Biblically forbidden. By contrast, Beit Hillel seem to think that there are really no consequences whatsoever, it is just unseemly to have sex on that same day during daylight hours. They do not fully spell out what exactly is objectionable about this.²⁷

The simplest reading of these texts is that both Beit Shammai and Beit Hillel agree that though *tum'ah* can only be eliminated through a proper immersion sometime after sunrise, *the kareit penalty expires with time*. Beit Shammai simply think that, for the purposes of sex, the status of זבה who bleeds on day 11 does not expire until the following morning, whereas Beit Hillel think that it expires after sunset on the 11th day.²⁸ Their corresponding rulings match this debate. Both agree that *immersion* does not eliminate the *kareit* penalty. It is possible, according to Beit Hillel in the first case and according to Beit Shammai in the second case, to still have full *tum'ah* status because there was no valid immersion and nonetheless for there to be no Biblical ban on sex, because enough time has elapsed. In the second case, Beit Shammai's position is particularly striking. Beit Shammai rule that the male sexual partner fully defiles in keeping with the laws of Vayikra 15 as a result of the act of intercourse, but he is nonetheless not subject to the Biblical prohibitions on sex laid out in Vayikra 18 and 20. Though the immersion was retroactively invalid, and thus he is Biblically a בועל נדה who is *tamei* for 7 days, the immersion is *not* necessary to remove the *kareit* penalty. The latter is removed in this case just by allowing a portion of day 12 to elapse. In this sense, the status of *tum'ah* is more stringent and stubborn than the ban on sex.²⁹

Why doesn't this close the case on the matter? Isn't it clear from this case that all agreed that immersion is not an obstacle to the lifting of the *kareit* penalty? For reasons beyond the scope of our discussion here, the Talmud Bavli seems to assume that the *tum'ah* discussed in this Mishnah is only sometimes of Biblical force. Specifically, in the passages where the Beit Shammai and Beit Hillel exempt the couple from a sacrifice, various voices in the Talmud Bavli assume the *tum'ah* spoken of in those cases is only of *rabbinic* force. This has the result of

²⁷ See the Talmudic discussion on Niddah 54a.

²⁸ See Tosefta Niddah 9:19, where this is spelled out as a point of contention: אמרו בית שמאי לבית הלל: אי אתם מודים ברואה בתוך אחד עשר שטבלה לערב ושימשה את ביתה שהיא מטמאה משכב ומושב וחייבת בקרבן? אף הרואה יום אחד עשר תהא חייבת בקרבן! אמרו להן בית הלל: לא, אם אמרתם ברואה בתוך אחד עשר שכן יום שלאחריו מצטרף עמו לזיבה תאמרו ברואה יום אחד עשר שאין יום שלאחריו מצטרף עמו לזיבה?

²⁹ Again, Beit Hillel defending their position in Tosefta Niddah 9:19: אמרו להן בית הלל: אם רבנוהו מטומאת משכב ומושב. החמור נימעטו מהבאת קרבן הקל. *Tum'ah* is severe, whereas the requirement to bring a sacrifice is less so. At first blush, this is odd, since the sacrifice signals a quite serious *kareit* penalty. But the idea here is that there is something more fundamental about the *tum'ah* restrictions here, and they certainly cannot be ended without a proper purifying immersion.

neutralizing this Mishnah, since the Mishnah can then be read compatibly with a view that only immersion can eliminate liability for *kareit*, since there is no longer a case where there is Biblical impurity but immunity from *kareit*. As a result, this Mishnah drops out of subsequent halakhic discussion of the matter. Nonetheless, considered on its own terms, the Mishnah strongly suggests the possibility that Vayikra 18 does *not* necessarily transfer the requirement of immersion from the world of purities to the world of sex.³⁰

b. Yevamot 34a

Another text suggests that time alone is all that is needed for the *kareit* penalty to disappear. Mishnah Yevamot 3:10 talks about a case where two brothers betroth two different sisters (presumably without ever meeting them) and then the intended couples get switched when they come to the stage of *huppah* and consummate the marriage. The Mishnah says that if the two women are also in *niddah* when the consummation happens, the characters here violate four prohibitions at the same time: adultery, incest with a brother/sister-in-law, sex with one's wife's sister/sister's husband and sex during *niddah*!

The Talmud plays with this playful thought experiment further. Specifically, the Talmud tries to match this Mishnah with the view that one can only be liable for multiple violations with a single act if all of the prohibitions came into effect at the same time. In this case, the Talmud concludes, that would require the men and women in question to have each granted power of attorney to an emissary, one of whom was instructed to give the objects of *kiddushin* and the other two receive it, for the purpose of concretizing both betrothals at once. When those emissaries meet, then the marriage and kinship relationships come into effect at once. The Talmud asks: how would the prohibition on *niddah* also take effect at that same moment in time? Rav Amram gives an answer:

בבלי יבמות לד.

אמר רב עמרם אמר רב: בשופעות מתוך י"ג לאחר שלשה עשר לאחיובי אינהו, מתוך שנים עשר לאחר שנים עשר לחיובי אינהו.

Talmud Bavli Yevamot 34a

³⁰ Rambam's approach to this Mishnah is fascinating. He seems—against the plain sense of the Talmud Bavli's interpretation—to maintain the notion that the *tum'ah* discussed in our Mishnah is Biblical throughout. Nonetheless, he is committed to the notion that immersion is critical to remove the *kareit* penalty. How does he square this circle? He insists that the immersion in those cases is invalid for purposes of *tum'ah* but valid for the purpose of permitting sex! This is effectively a novel adaptation of a position of Rav's that we will see in a moment. [This is particularly odd given that Rambam rejects Rav's ruling in its local context.] I find Rambam's reading here useful because it demonstrates the lengths one must go to in order to avoid the Mishnah's implication that the *kareit* penalty expires with time and how uneasy he was with the Talmud's attempt to reread the plain sense of the Mishnah. For a different sort of unease with the Bavli's turn in interpreting Beit Shammai and Beit Hillel, see Tosafot Niddah 72a s.v. af.

Said Rav Amram said Rav: If the women were continuously bleeding just as the grooms turned 13 and as the brides turned 12.³¹

The idea here is that it is difficult to construct a case where the *niddah* prohibition will kick in at the same time as the betrothal. Rav Amram's solution is to key the betrothal to the age boundary of maturity, when culpability for Biblical-level offenses kicks in. If we imagine that the betrothal was timed to take effect with the onset of the date that marked the 13th birthday of the (now twin) brothers, which was also the date of the 12th birthday of the (now twin) sisters, then the marriage and kinship prohibitions are all taking effect at the moment of maturity. Rav Amram now says that we should assume that the sisters were also menstruating across that time boundary, such that at the moment of maturity—before which Biblical prohibitions cannot take full effect—all four prohibitions come into force at once.

But this is curious: Why did Rav Amram have to specify continuous bleeding across the age boundary of maturity? Rabbinic law holds that there is no lower age limit for a woman to become a *niddah*—מיטמאת בנדה—*תינוקת בת יום אחד מיטמאת בנדה*—and intercourse with a minor woman who was in *niddah* would also be subject to the *kareit* penalty. Wouldn't it have been sufficient for Rav Amram to have specified that the sisters in question here menstruated *at some point* prior to maturity and never immersed? Then the *kareit* penalty would be in place as they and the brothers became culpable for it. Why the need to bleed across the boundary? Indeed, Tosafot here take this for granted and jump in to say: *לא דוקא אלא שראתה ולא טבלה בינתיים*/"It need not specifically be a case of bleeding across the time boundary; it includes a case of prior bleeding with no intervening immersion."³²

However, this deflection only underscores the plain sense of why Rav Amram constructed the case as he did. He seems, following the plain sense of the Mishnah above, to have assumed that the *kareit* penalty expires with time, not upon immersion. Therefore, the menstruation here could not just be one in the past, but needed to be a case of active bleeding *at the moment when the other prohibitions took effect*. Only this way could the *kareit* penalty for *niddah* take effect at the same moment, because the *kareit* penalty is only in effect for the actual seven days of *niddah* or for as long as the woman's irregular bleeding has not stopped for the appropriate amount of time (one or seven days).

Tosafot's deflection, followed by that of many others, neutralizes this text and takes it off the table for subsequent halakhic discussion.³³ Like the Mishnah, this text is highly suggestive

³¹ I am following here the reading of Rashi, which is also that of our printed editions.

³² See also Sefer Hayashar, Hiddushim #41.

³³ See also Ra'avad Katuv Sham on Rif Yevamot 9b. He shares Tosafot's concern, but is unwilling to assume that Rav Amram meant to include a case where there was no immersion as well. Instead, he is able to deflect the problem because his text has the women bleeding across their three-year old boundary instead of across the men's 13-year-old boundary. *לא שיש לדקדק למה הוצרך שופעת אפילו הפסיקה קודם של כל זמן שלא טבלה טמאה היא אלא שאין איסור אלא שיש לדקדק למה הוצרך שופעת אפילו הפסיקה קודם של כל זמן שלא טבלה טמאה היא אלא שאין איסור*. ואיפשר לומר כי מפני שהחטאות צריכות ידיעה ואם הפסיקה קודם הביאה עריות ולא איסור נדה חל עליה עד שתהא בת שלש שהיא בת ביאה. ומי מודיע אותו שהיא נדה

on its own, but does not play an important role in our discussion because of its subsequent interpretation. In this case, interpreters with a great deal invested in saying that *kareit* lasts indefinitely made sure to foreclose the possibility that this text would be taken to say the contrary.

c. Hullin 31a

Finally, there is one Talmudic text that seems to state that eliminating *kareit* indeed *does* depend on immersion, but even this text is not so clear upon further consideration:

בבלי חולין לא.

אתמר: גדה שנאנסה וטבלה - אמר רב יהודה אמר רב: טהורה לביתה ואסורה לאכול בתרומה, ור' יוחנן אמר: אף לביתה לא טהרה.

Talmud Bavli Hullin 31a

A *niddah* who unintentionally immersed: Said Rav Yehudah said Rav: She is *tehorah* for her husband but forbidden to eat *terumah*. R. Yohanan said: She is not *tehorah* even for her husband.

Rav and **R. Yohanan** assume here, as do many sources, that immersion is necessary not just in order to release a woman from *tum'ah* but also to permit her to her husband. They also both agree that for a person to emerge from *tum'ah* via immersion, they must have intention for the immersion to have this effect. Falling off a dock into a lake by accident can never purify a person. Their argument is whether such “unintentional” immersions nonetheless can release the ban on sex. R. Yohanan asserts that they cannot; immersion is essentially an indivisible act: it either works for both purities *and* intercourse or for neither. Rav, by contrast, thinks that the standard for immersion for sex is more lenient and requires no intention.

So far, all we get from this passage is confirmation that sexual relations cannot resume without immersion. We have no sense of what the force of that requirement is. Is it needed to release the penalty of *kareit* or is it a rabbinic practice or just an ancient tradition that organically and intuitively coordinated the natural end point of *tum'ah* with the resumption of relations? If anything, Rav's position seems to lead in the direction of treating the requirement to immerse before relations more leniently,³⁴ even as it does establish that requirement as living someone

³⁴ We cannot avoid the realization that Rav's invention of an unintentional immersion runs the risk of turning the woman here into an object that must be immersed, as opposed to a person who must intentionally immerse. Furthermore, validating unintentional immersion *only* in the context of sexual relations risks creating a very unhealthy situation in marriage where the husband simply needs the wife to be immersed in order for her to become permitted, specifically for sex, even though such an immersion would otherwise be completely ineffective and meaningless. This has the potentially for deeply objectifying consequences in the context of a sexual relationship. It should be noted that a number of authorities rejected Rav and ruled like R. Yohanan. See Rashba Hullin 31b, Hagahot Asheri 2:8, Rokeach #379 and R. Yeroham, Toledot Adam Ve-Hava, 26:5. Rema prefers to follow R.

independently from the immersion for purities. But then the Talmud continues, introducing more charged terminology:

א"ל רבא לר"נ, לרב דאמר: טהורה לביתה ואסורה לאכול בתרומה, עון כרת הותרה, איסור מיתה מיבעיא?
אמר ליה: בעלה חולין הוא, וחולין לא בעי כוונה.

Said Rava to R. Nahman: According to Rav, if we permit the sin of *kareit*, isn't it obvious we would permit the prohibition related to [mere] death? He said to him: Her husband has the status of *hullin* [non-sacred items], and [purification for] *hullin* does not require intention.

Rava probes Rav's suggestion, suggesting it is not lenient enough: If Rav is prepared to count an "unintentional" immersion for the purposes of sexual relations, why would he not count it as well for the purpose of purities! After all, he is willing to rely on this immersion with regard to something with an attached penalty of *kareit*; why would he not rely on it to permit the consumption of pure priestly food? The consequences for eating such food while *tamei* is "only" death at the hands of heaven, a less serious punishment than *kareit*! Rav Nahman answers: Even if the penalty is more severe in the case of sex during *niddah*, the husband is nonetheless not a sacred object or food item; we only require intention in the sacred realm. Therefore, this "unintentional" immersion can be effective with respect to the more serious ban on sex—since that comes from the mundane bedroom—even as it is ineffective with the relatively lighter matter of eating sacred foods while *tamei*—since that comes from the realm of the holy.

At first blush, this text seems to have Rava saying very clearly that there is a *kareit* penalty at stake when we determine if a given immersion is valid or not. That seems to take a clear stance on our issue. Indeed, this is a text that clearly motivated many of the medieval authorities we will see shortly. Even as they struggled to prove *why* immersion would be necessary to remove *kareit*, many later interpreters nonetheless saw this text as clear support for the claim that it in fact *is* necessary. In this sense, Rava is the clearest (and only) classical rabbinic text that seems to ground the notion that Vayikra 18 drags the requirement of immersion in Vayikra 15 from sancta into sex.

However, further investigation reveals that Rava here is not really a conversation stopper, for two reasons. First, sometimes Talmudic sources refer to entire *categories* of law by means of the most severe punishment attached to them, even though the specific case they are discussing may be of marginal status. For instance, on Sukkah 16b, the Talmud is trying to make sense of why R. Yose would allow for a ten *tefahim* tall panel suspended from the roof to count as the wall of a *sukkah* even though it doesn't reach the ground, while forbidding relying on such as

Yohanan, demanding a second immersion when possible, but does not stand on ceremony to that effect when it will be very difficult. This is perhaps an effort to avoid the objectification of the process while still trying to adopt the leniency afforded by Rav when it will be helpful to do so.

divider for the purposes of transferring objects between two courtyards on Shabbat. Sitting in a *sukkah* is, of course, a Biblical commandment, whereas the prohibition on illegally transferring objects between courtyards is merely of rabbinic authority. Nonetheless, the Talmud explains the reason to be stringent with regard to the rabbinic Shabbat law as follows: עד כאן לא קאמר רבי /“R. Yose would only [be lenient with a suspended wall] in the context of *sukkah*, which is a [mere] positive Biblical commandment. But with respect to Shabbat, which carries the penalty of stoning, he would not.” Rashi explains this odd way of talking about a rabbinic law: במלאכות דאורייתא מחמירין אפילו במידי דרבנן דאית בה /“With respect to actions that are of Biblical concern, we are strict even about the rabbinic dimensions related to it.” In that spirit, Rava might only mean that the whole realm of sexual relations and *niddah* is a *kareit*-level issue, such that we might be inclined to be strict about all the details surrounding it, even ones that have no Biblical basis at all.³⁵

Second, Rava is of course discussing a world in which purities remain live and relevant. We see this from the initial formulation of the debate between Rav and R. Yohanan, where we are assessing the validity of the immersion for the purpose of purities as well. One could plausibly hold that the *kareit* penalty lasts indefinitely until immersion *in a world in which the woman is going to immerse for reasons other than having sex with her husband*. To the extent that the entire context of immersion has disappeared, it may be far less clear that the *kareit* penalty remains in place indefinitely. We spoke last week quite a bit about the “hyperlink” from Vayikra 18 to Vayikra 15. That hyperlink *can* be read as giving immersion for sex a life of its own independent of immersion for purities. But it can equally be read as bringing the world of Vayikra 15 into the bedroom only so long as Vayikra 15 is operative in some independent way. Rava might well have thought *kareit* was at stake so long as having sex before immersion meant dealing casually, in the context of sex, with a boundary that was being more strictly guarded in

³⁵ I will add another reason similar to this one, which has support from other areas of halakhic analysis. Even if Rava means that the immersion itself releases *kareit*, the rhetoric of *kareit* might only be used as a flourish, but not intended to really take a stand on whether this immersion is really pegged to the Biblical penalty. Another example of this: There is a medieval dispute as to whether when a person immerses in a spring of “living water” there must be a volume of 40 *seah* present all at once, as is the case when immersing in a pool of stationary water. Rambam and Ra’avad think this is not necessary—the spring’s living powers are so potent that the volume of the available water is irrelevant, so long as it can touch all parts of the human body at once. R. Yitzhak of Dampierre and many other insist that the 40 *seah* requirement applies in this case as well. Rashba, among others, argues that we should follow the stringent view here because a *kareit* penalty is at stake. However, when Bah takes up this debate in YD 120, he refuses to be cowed by the Rashba’s rhetoric, saying the following: ועוד נראה לדברי הכל ארבעים סאה דנדה אינו: וואף על גב דהרשב"א (תו"ה ב"ש ז"ז קצר ל א, ארוך ל ב) והר"ן (בתשו' סי' סו) הזכירו שהדבר אלא מדרבנן וקרא אסמכתא בעלמא הוא...ואף על גב דהרשב"א (תו"ה ב"ש ז"ז קצר ל א, ארוך ל ב) והר"ן (בתשו' סי' סו) הזכירו שהדבר הוא באיסור כרת ר"ל שאינו טובל בארבעים סאה כמו שתקנו חכמים הרי הוא עומד באיסור כרת מדברי רבותינו ז"ל כאילו עבר על איסור כרת דבר תורה. In other words, just because someone uses the rhetoric of *kareit* when talking about *niddah*, we can’t assume that they think *kareit* is truly at stake in the specific case they are discussing. I leave it to the reader to judge whether the Bah’s reading of the Rashba is compelling. I cite it here as another example of why we should not expect Hullin 31b to be definitive for the purposes of our discussion.

the purities realm of life. That does not clearly tell us what he would have thought about a world in which immersion has otherwise disappeared.³⁶

As we exit the classical period, we have seen a range of texts that are suggestive, but ultimately not definitive because they can and have been interpreted in a number of different ways. The classical canon is thus helpful for reevaluating some of our preconceptions and assumptions on this topic, but we must now turn to post-Talmudic discussions to see if they can make things any clearer for us.

2. Medieval Sources

This question—whether a *niddah* or a *zavah* are Biblically required to immerse and, if they don't, whether the *kareit* penalty applies indefinitely—vexed many later authorities. As a general point, it is fair to say that 1) the overwhelming majority of voices assumed that immersion *was* a necessary step to remove *kareit*, and 2) when pressed, there is no solid textual basis for this assertion. Let's see some of the debate and discussion in action.

As we saw above, **R. Yehudai Gaon** was asked whether there was *any* Biblical basis for post-menstrual immersion. But he was first asked another question:

תשובות הגאונים - מוסאפיה (ליק) סימן מה
תוב שמ"ק נדה שלא טבלה מי איתה באיסור כרת או לא. ואמר איתה.
תוב שמ"ק טבילה לנדה מן התורה מנין. ואמר קל וחומר ממגעה...

Geonic Responsa, Musafia #45, R. Yehudai Gaon, Babylonia, 8th c.

...They asked him: A *niddah* that has not immersed, is sex with her still subject to the penalty of *kareit*? He said: yes.

They asked him: What is the biblical basis for requiring a *niddah* to immerse? He said: It is *a fortiori* from the objects that she touches...

The questioners here are aware of the possibility that one might say that the ban on sexual intercourse lasts for the duration of the period of *tum'ah* but does not require immersion to release it. R. Yehudai Gaon clarifies that, in his view, immersion is fully transferred from Vayikra 15 to Vayikra 18. But he asserts this without proof here. The proof from “the objects she touches” only justifies immersion for the purposes of purification, but does not necessarily

³⁶ Lest it sound odd that *kareit* might apply in one circumstance and not another, consider the case of the Pesah offering. Failure to bring that sacrifice triggers *kareit*. Nonetheless, the Torah exempts from *kareit* someone who was בדרך רחקה—far enough away from the Temple that we don't consider it reasonable to force him to make the trip. While our Sages certainly endeavored to give דרך רחקה an objective definition, the Torah clearly displays a willingness to have the *kareit* penalty there be somewhat variable based on circumstances. We will also see in a future context that other *poskim* have routinely argued that a world without purities indeed potentially features varied regulations on a number of fronts related to *niddah*, downgrading various prohibitions.

establish that this requirement crosses the boundary from the world of *tum'ah* to the world of sexual intercourse.

Later authorities tried to bolster this argument and develop it further. Tosafot preserve one view that attempts to explain how and why the immersion requirement would migrate from Vayikra 15 to Vayikra 18:

תוספות ר' יהודה מפאריש עבודה זרה עה:

ופירש בה"ג קל וחומר, מגעה שהיא בלאו צריך טבילה, לבעלה שהיא בכרת לא כל שכן?

Tosafot R. Yehudah of Paris on Avodah Zarah 75b, France, 13th c.

The author of Halakhot Gedolot³⁷ [derived the requirement for a *niddah* to immerse before resuming sexual relations] *a fortiori*: If the items she touches, which only trigger a simple negative commandment, require immersion, then isn't it obvious she must immerse for her husband, where the penalty of *kareit* is in play?

Why not take R. Yehudai Gaon's idea of logical inference and apply it across the Vayikra 15/18 divide? The stakes of *tum'ah* contact are merely a garden-variety negative prohibition,³⁸ and yet the Torah requires immersion to release her (and the objects she touches) from *tum'ah*. Isn't it obvious that in order to release her from the prohibition on sex, immersion is required as well? Of course, this argument is not really sound and it is a circular. The very question on the table is whether one can assume that the protocols for removing *tum'ah* are equally required in order to remove a sexual ban. One cannot argue for logical inference across categories without first establishing that the categories are indeed linked. Put another way: the entire question is whether the state of *tum'ah* and the ban on sex are essentially part of one unitary linked system, or whether they are two set of rules that are coordinated, but not entirely interdependent. Indeed, others in the world of the Tosafot rejected this logic, precisely because of passages like the one

³⁷ We have no record of this reasoning in our versions of Halakhot Gedolot. A number of rishonim assumed that R. Yehudai Gaon was the author of Halakhot Gedolot. I assume what happened here was as follows: People in the world of the Tosafot had a tradition that R. Yehudai Gaon used a קל וחומר in order to ground the requirement for a *niddah* to immerse. Even though this קל וחומר was originally intended to ground the notion that a *niddah* needed to immerse *at all*, later figures like R. Yehudah of Paris adapted and expanded his position so it could also cover the requirement to immerse for sexual relations as well. (Or they simply assumed this was what R. Yehudai Gaon was speaking about in the first place.) They then, based on their other traditions regarding R. Yehudai Gaon, attributed this view to Halakhot Gedolot.

³⁸ This seems to refer to the fact that if a *niddah* comes into contact with sacrificial meat, that meat may not be eaten, but one does not get *kareit* for doing so. See Vayikra 7:19. Nonetheless, the framing is slightly odd, because a *niddah* who is herself *temeiah* and eats pure sacrificial meat *does* receive the penalty of *kareit*. See Vayikra 7:20. In any event, the basic point seems to be that a *niddah* must always immerse in order to be released from *tum'ah* on a Biblical level, even though this will sometimes be in order to avoid nothing more than a garden-variety prohibition. Given that sexual relations while a *niddah* always carry the penalty of *kareit*, it stands to reason that immersion is certainly required to end that state.

in Hullin we saw above, where standards for resuming sex are *lower* than they are for emerging from *tum'ah*.³⁹

תוספות מסכת חגיגה דף יא עמוד א

...הא לאו מילתא היא דמהאי ק"ו לא מצי נפיק דק"ו פריכא הוא דהא כמה חציצות וכוונה דבפרק ב' דחולין (דף לא.) מצינו לטהרות ולא לבעלה...

Tosafot Hagigah 11a

...[The above logic] is invalid; we cannot derive it from that *a fortiori*, because it is flawed: There are a number of laws that apply only in the context of purities but not in the context of sexual relations...

Later authorities continued to try to shore up R. Yehudai Gaon's unsubstantiated claim that the *kareit* penalty last indefinitely until immersion. Most prominent among them is Rambam, who even cites a novel proof-text:

רמב"ם הלכות איסורי ביאה ד הלכה ג

במה דברים אמורים שהטומאה תלויה בימים בשטבולה במי מקוה אחר הימים הספורים, אבל נדה וזבה ויולדת שלא טבלו במי מקוה הבא על אחת מהן אפילו אחר כמה שנים חייב כרת, שבימים וטבילה תלה הכתוב שנאמר ורחצו במים זה בנין אב לכל טמא שהוא בטומאתו עד שיטבול.

רמב"ם הלכות איסורי ביאה פרק יא הלכה טז

אין האשה עולה מטומאתה ויוצא מידי ערוה עד שתטבול במי מקוה כשר... אבל אם רחצה במרחץ אפילו נפל עליה כל מימות שבעולם הרי היא אחר הרחיצה כמות שהיתה קודם הרחיצה בכרת, שאין לך דבר שמעלה מטומאה לטהרה אלא טבילה במי מקוה או במעיין או בימים שהם כמעין...

Rambam, Hilkhoh Issurei Biah 4:3

When is it the case that *tum'ah* is dependent on days? When she has immersed in a *mikveh* after the requisite number of days. But a *niddah* or a *zavah* or a woman who gave birth who never immersed in a *mikveh* are still subject to the penalty of *kareit* even if several years have passed [since the bleeding stopped], because the Torah made the matter dependent on both time and immersion, as it says: "And they shall bathe in water"—this creates an overarching principle that anyone who is *tamei* remains *tamei* until immersion.

Rambam, Hilkhoh Issurei Biah 11:16

A woman does not exit her state of *tum'ah* and cease to be sexually forbidden until she immerses in a proper *mikveh*... But if she bathes in a bathhouse—even if all the water in the world passed over her—[sex with her] after such bathing is no different than it was

³⁹ For other examples, see Niddah 11b and 16b.

prior to the bathing, it is subject to *kareit*. Nothing can transfer a person from *tum'ah* to *taharah* except immersion in a *mikveh* or a natural spring, or a large body of water that has the status of a spring...

Rambam here asserts his position quite clearly: the *kareit* penalty is present indefinitely as long as immersion has not occurred. Aware of the other way of reading the Torah, he comes out swinging against the possibility of divorcing Vayikra 18 from Vayikra 15 when it comes to immersion. He cites an unsourced proof for this, which seems to be a version of the tradition we saw in the name of Rabbi much earlier in the Yerushalmi: there is no such thing as emerging from *tum'ah*, according to the Torah, without first immersing in water. Rambam's use of the phrase ורחצו במים—taken from the Torah's requirement in Vayikra 15 that members of a couple that has had intercourse must both immerse to become pure—seems unprecedented and we can debate how well it proves the point.⁴⁰ But even if we accept his proof for immersion, the proof does not establish immersion for sexual relations. This point was made centuries later by another commentator:

נחל אשכול על ספר האשכול, ר' צבי בנימין אורבך, גרמניה, המאה ה"ט
גם על למוד דספרא שהביא הרמב"ם, "ורחצו במים—זה בנין אב שכל הטמאים צריכין טבילה", יש להשיב
דהאי קרא ודאי לטהרות אתמר, דלבעלה לא בעיא טבילה כששמשא...וכן יש לפרש הכתוב, "ביום ההוא יהיה
מקור נפתח לבית דוד לחטאת ולנדה...דבטהרות משתעי.

Nahal Eshkol, R. Tzvi Binyamin Auerbach, Germany 19th c.

One can also refute the proof cited by the Rambam...because that verse is obviously about purities, since we do not say that a woman must immerse after having sex with her husband in order to have sex again [even though they are both *temei'im* on account of this intercourse]...and so too one can explain the verse, "On that day, there shall be a fountain opened to the house of David...for *hatat* and for *niddah*" as only dealing with purities.

R. Auerbach makes explicit here what we have been saying throughout: even if one proves that a *niddah* requires immersion in order to become pure, that does not tell us whether she needs to immerse in order to resume sexual relations. Therefore, Rambam's proof is no better than the one cited by R. Yehudah of Paris. This is true as well for the view cited in the Meiri that held

⁴⁰ Maggid Mishneh on this passage claims a form of this *midrash* appears in the Sifra. But later authorities are unable to locate it there or anywhere else. See Responsa Hatam Sofer YD #194. It seems plausible to me that Rambam may be "shouting" here in the context of a polemic with Karaites and the local Jewish community in Egypt, who were lenient with respect to the mode of "bathing" required to release a woman from her state of *niddah*. In order to resist what he saw as a decay in the tradition, the Rambam, in a number of places, takes extraordinarily strong stances when it comes to the parameters around immersion. See Responsa Rambam #242 and this paper by Dr. Akiva Sternberg: https://www.academia.edu/4761962/Tvilat_Giyorot. My sense is that Rambam's weak proof here is the result of a desperate effort to give an immersion that is being dealt with leniently or ignored entirely a Biblical pedigree. Like most such efforts, it is unlikely to be convincing to anyone other than those already convinced.

that immersion for a *niddah* is not a Biblical law, but a הלכה למשה מסיני. R. Auerbach notes that we cannot extrapolate from there that immersion to resume sexual relations after bleeding ends is a הלכה למשה מסיני, since the verse in Zekhariah may only be speaking about emerging from *tum'ah*. This fundamental insight led others to recognize that any authorities who only clearly pronounced that a *niddah* has a Biblical obligation to immerse for purposes of purity *cannot* be assumed to hold that there is a Biblical obligation to immerse to resume sexual relations:

ערוך לנר מסכת יבמות דף מז עמוד ב

לטעם הר"י גאון ולטעם ר"ת ק"ק דאכתי מנ"ל טבילה בנדה לבעלה דלמא רק לטהרות ובשלמא לפי ר"י א"ש דדרשה תהי' בנדתה משמע שעד שתבא במים כל דיני נדה עלי' אפילו לבעלה... ולענ"ד אפשר לומר דלכאורה קשה למה הוקשה להרי"ג ור"ת מנ"ל טבילה בנדה דלמא באמת לא כתיב רק הל"מ היא... ולכן י"ל דבאמת לא הוי דאורייתא רק הטבילה לענין טהרות ולבעלה היא הל"מ לשיטת הרי"ג ור"ת:

Arukh La-Ner Yevamot 47b, R. Ya'akov Ettlinger, Germany, 19th c.

According to R. Yehudai Gaon and R. Tam, it is unclear: How do they derive a requirement for a *niddah* to immerse before sex? Perhaps [the verses they cite as proof for immersion] only apply to purities! R. Yitzhak [of Dampierre] at least cites an exegesis that suggests that she remains a *niddah* in all respects until immersion, even with regard to her husband... Indeed, according to R. Yehudai Gaon and R. Tam, only the immersion required for purities is biblical, but for her husband it is a tradition from Sinai.

As a matter of fact, we have seen that R. Yehudai Gaon *did* insist that the *kareit* penalty remained in force until immersion, but **Arukh La-Ner** here is pointing out that there is no real basis for this assertion of his. When Arukh La-Ner suggests that many earlier authorities in fact ground the immersion of a menstruant prior to resuming relations in a tradition going back to Sinai, he has no specific evidence to that effect. Not only could he not have suddenly received such a tradition in 19th century Germany, there is no source for such a claim anywhere in classical rabbinic literature. Instead, we must understand הלכה למשה מסיני here as it has been understood by other authorities in other contexts: a ritual that is so old that it predates rabbinic literature.⁴¹ In other words, a ritual, perhaps not clearly ordered by the Torah, that is nonetheless so fundamental to the system that we can't get behind it. This, he argues, is for many the status of the immersion that permits sexual relations after the cessation of bleeding: something that cannot, in all honesty, be clearly grounded in the text of the Torah, but which has been the way that observant Jews lived their lives since time immemorial.⁴² If such an immersion is common

⁴¹ For the best articulation of this, see Rosh Mikvaot 1:1.

⁴² There are in fact many textual testimonies to the idea that immersion prior to sex is something that Jews ought to and did make great sacrifices for. The Halakhot Gedolot passage that we saw above—the one arguing for the Biblical basis for post-*niddah* immersion—goes on to say: ... ואלא משתריא עד דטבלה במים חיים והיכא דאיכא דוכתא דקרייר עלמא ולא יכלה איתתא למיטבל אסירא. "...and in a cold place where the woman cannot immerse, she is forbidden to have sex until she immerses in flowing water." An amazing passage in Otzar Hamidrashim, Hanukkah, p. 185, describing how the Jews responded to persecution in the context of the Hanukkah story: וכיון שראו היונים שעמדו ישראל בגזירה זו,

Jewish practice, but it has no definitive grounding in either the Torah or rabbinic texts, perhaps it is best to think of it as an ancient tradition.

III. Summary

Still, if we honestly take stock here, we must admit that we are back to where we began. There is some Talmudic evidence suggesting that the *kareit* penalty expires without any immersion at all, even as at least one other passage can—but need not—be read in the other direction. This inconclusive Talmudic record produces an equally unclear discussion among its commentators. Unquestionably, the vast majority of authorities who weighed in felt that the Torah demanded immersion for a *niddah* wanting to resume sexual relations, meaning that the pall of *kareit* would continue to hang over her until she immersed. But closer examination reveals that the textual arguments for this are weak and unsupported, and many of those weaknesses were called out over the years. The more open-minded and honest commentators were open to the possibility that perhaps the obligation to immerse before sex is *not* truly grounded in the Bible, but is simply an ancient Jewish practice, dating from a time when it was unfathomable to split the world of purity from the world of sex, the world of Vayikra 15 from the world of Vayikra 18. Strictly speaking, the Torah might not completely normatively link these worlds, but the Jewish people might have treated them as linked for so long that it is simply hard to imagine decoupling them. If one did, however, it would hardly be the case that *kareit* was at stake.

And so we end up, surprisingly, where we began, with the question of how to read the Torah. The choice is fairly simple. One possibility is to see Vayikra 18 as deliberately and normatively tying the world of Vayikra 15 into our sexual dynamics. This is implicitly what is going on for anyone who truly thinks that the *kareit* penalty endures indefinitely without immersion. The Netziv articulates this reading of the Torah:

העמק דבר ויקרא יח:ט, ר' נפתלי צבי יהודה ברלין, וולוז'ין, המאה ה"ט
בגדת טומאתה—ולא כתיב "ואל אשה נדה", ללמדנו דכל זמן שלא באה במים אסור כל מיני קורבה...

Ha'amek Davar Vayikra 18:19, R. Naftali Tzvi Yehudah Berlin, White Russia, 19th c.

"In the *niddah* of her *tum'ah*"—It does not say, "Do not come near to a *niddah*", to teach us that as long as she has not immersed [and removed the *tum'ah*], all forms of coming near are forbidden...

עמדו וגזרו כל מי שאשתו הולכת לטבילה ידקר בחרב וכל הרואה אותה הרי היא לו לאשה ובניה לעבדים, כיון שראו ישראל כך מנעו עצמם מלשמש, וכיון ששמעו יונים כך אמרו הואיל ואין ישראל משמשים מטותיהם אנו נזקקין להן, כיון שראו ישראל כך חזרו על נשיהן בלא טבילה בעל כרחן, אמרו רבש"ע בעל כרחינו שלא בטובתינו, שאין האשה רוצה לישב תחת בעלה בלא עונתה. אמר להם הקב"ה הואיל ועשיתם בלא כוונה אני אטהר אתכם ופתח לכל אחד ואחד מהן מעיין בתוך ביתו, והיו נשיהם טובלות בתוך בתיהם ונתקיים עליהם מקרא זה ושאתם מים. בששון ממעיני הישועה, ונתקיים עליהם עוד מקרא זה אם רחץ ה' את צואת בנות ציון.

Netziv sees the choice of the word טומאה in Vayikra 18 as deliberate and bearing an agenda: The rules of *tum'ah* are alive in the bedroom, even today. For this to be sustainable, however, there must be a broader vision of reviving and supporting *tum'ah* today. Otherwise, it becomes somewhere between bizarre and unsustainable for the only symbol of *tum'ah* to be present in women's bodies and as a limit on their sexual freedom. In that world, *tum'ah* threatens to become a prison specifically designed to contain and control female sexuality. To the extent Jewish communities want to maintain a deep commitment to immersion in a *mikveh* as the prerequisite for resuming sex after menstruation, the notion of *tum'ah* will have to have a broader cultural context. That means owning some notion of the *tum'ah* of menstruation and using any of the motivations we explored last week—or others yet to be discovered—for why that *tum'ah* is meaningful and powerful. Similarly, I would suggest, in the context of an egalitarian society, it will be critical to find and support ways for men to go to the *mikveh*, particularly in the wake of their own seminal emissions, so that the broader context of Vayikra 15 can be given some further life. Bracketing the political consequences for a moment, those who purify themselves in order to ascend the Temple Mount today are also likely to have greater success in having the post-*niddah* immersion have a meaning that is truer to its origins. If Vayikra 18 is understood to force us to confront Vayikra 15, then confront and embrace it we must.

Alternatively, one can see Vayikra 18 as hyperlinking us to the world of Vayikra 15, but only in a world in which *tum'ah* is operative. We saw this reading earlier and I cite it again here:

רש"ר הירש ויקרא פרק יח פסוק יט

בנדת טמאתה: כל עוד המצב והטומאה שבעקבותיו מוציאים אותה מכלל מקדש וקדשיו - הרי הקריבה אליה איננה אלא קריבה לגלות ערוה. רק לאחר שבעת ימים וטבילה (ע"ל לעיל טו, יט) - או לאחר שבעת ימים נקיים וטבילה (שם פסוק כח) - רק אז "ואחר תטהר" (שם): בעת ובעונה אחת תטהר לבעלה ולמקדש!

R. Shimshon Raphael Hirsch on Vayikra 18:19

בנדת טמאתה: As long as her status and its consequent *tum'a*, which casts her out of the Temple and its sancta, persists, drawing near to her is nothing more than drawing near in order to uncover her nakedness. Only after seven days and immersion, or after a waiting period of seven days and immersion, only then does she become טהורה/pure. At the very same moment she becomes טהורה/pure to both her husband and the Temple!

R. Hirsch certainly insisted that women in our time immerse after *niddah* before resuming sexual relations. I don't cite him here for his halakhic opinion, but for his reading of the verse. He represents here a different approach, one that sees the whole point of Vayikra 18 to be a response to the active world of Vayikra 15, but not to give it independent life if it has withered and died. The point of immersion before sex is that sex be treated as no less of a sanctum than the other

things in the world that require immersion. In a world in which neither men nor women immerse for any *tum'ah* other than *niddah*, this reading of the Torah sees no Biblical basis for that immersion. This is captured by all the voices we saw who resist extrapolating too much from Vayikra 15 to Vayikra 18. In particular, those who insist that we can't say more about this immersion other than it being an ancient, pre-rabbinic practice implicitly embrace this reading.

Lest I be misunderstood, I am not arguing that, even under this reading, it is fully coherent with Jewish history and practice to eliminate immersion after *niddah*. The institution of *mikveh* is a deeply rooted Jewish tradition and post-menstrual immersion is a practice that Jewish women have done for hundreds of years, including under trying circumstances. It cannot be so easily discarded—perhaps even not so with difficulty—just because the cultural and ritual realities have changed. Even if we read the Torah in this second way, this is an old practice, one charged with lots of meaning and history.

But those aware of this second reading of the Torah and its roots in the tradition would do well to lower the sometimes hysterical volume around *kareit* and the *mikveh*. That discourse is generally not helpful. It motivates through fear in the short term, but can create a sense of being trapped in the long term. For those who end up moving away from traditional *mikveh* practice it can contribute to a sense of full-scale religious collapse. “If I am already violating a *kareit*-level penalty, how much can it possibly matter how careful I am about anything else?” A healthier approach would be to talk about the still important, relevant and *tum'ah*-independent ban on sex during menstruation itself. This, combined with a realization that modern bathing in the form of a shower may often meet the Biblical and rabbinic requirements of immersion,⁴³ could lead to a much healthier conversation.

Either way, whether we see the world of *tum'ah* as our charge to keep or as nearing its final sunset (at least in the practical world in which we live), we ought to find a way to embrace one of the readings of the Torah offered here with a full heart. This week's essay focused on the interpretive lenses that can help us in that regard. In future weeks, we will turn to the more practical aspects of *niddah* and see how different strategies can help us turn these broad visions into practice.

⁴³ This is a critical conversation that is beyond the scope of this essay. R. Hayyim Hirschensohn wrote about this at length in his Responsa Malki Bakodesh. I hope to return to this at a later point.