

## **Summary: Parashat Metzora**

נאשה כי תהיה זבה

### **Niddah, Part 2: Setting Up The System**

This week, we continue our series on *niddah* and the laws surrounding abstinence during menstruation. Parashat Metzora features a lengthy description of the laws of *tum'ah*, or ritual impurity, that result from various bodily fluxes. Among the cases discussed in Vayikra chapter 15 relate to women who experience regular and irregular forms of uterine bleeding. Our parashah provides detailed rules surrounding the *tum'ah* status of such women and specifies 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, whereas abnormal bleeding triggers *tum'ah* for the duration of the bleeding and through seven further blood-free days. Vayikra 18, from the next regular Torah reading, issues a terse statement forbidding sex with a woman who is *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. Finally, Vayikra 20, from the Torah portion after that, forbids sex with a *זונה*, 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. Our work this week is to understand how this varied Biblical legislation was turned into a practical, lived system, as described and advocated for by our Sages.

The average reader of Vayikra 15 in this week's parashah is naturally struck by the fact that we don't really practice those rules much any more. We don't really keep track of where menstruants sit or the objects that they touch. And yet, this is the passage in the Torah that also seems to be the source for a number of key details in the contemporary observance of *niddah*: the number of days one must wait and the requirement to immerse in water. Furthermore, this chapter gives very 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, you cannot derive such a ban from this week's Torah reading alone. The ban on sex emerges from the other Biblical passages we mentioned above, of which Vayikra 18 is the more cryptic text. Our key

question this week is: how much of the world of *tum'ah* is meant to be imported into the world of abstinence? Even more critically: is it sustainable to maintain a robust regime of purification around menstruation if the rest of the world of Vayikra 15 has fallen into abeyance?

Turning for a moment to Vayikra 18, we can ask some key questions about the phrase בנדה טומאתה /“when she is cast out on account of her *tum'ah*”, which is how the Torah describes the time when sex is forbidden between a menstruating woman and her partner. Is this just a kind of euphemism for any uterine bleeding that triggers *tum'ah* that only refers to the period of active bleeding? Alternatively, is it meant to “hyperlink” to Vayikra 15, thereby enforcing a ban on sex for the duration of times spelled out in this week’s Torah reading, even beyond the time of active bleeding? Does Vayikra 18 intend to ground the entire meaning and purpose of the ban on sex in the world of *tum'ah*, such that it has no meaning outside of that context? Or is Vayikra 18 intending to inject the regulations and parameters around *tum'ah* into the rules around abstinence, thus giving the purification rituals a life independent of a potentially defunct world of *tum'ah*?

These are fundamental questions of Biblical interpretation that touch on the legal philosophy behind these laws. This week’s longer essay goes into great depth on the various theoretical and practical dimensions of this discussion. I will try to give a taste here of some of what is at stake.

Early on, R. Akiva and other prominent rabbis laid to rest any doubts that the ban on abstinence was meant to extend to the full waiting periods laid out in this week’s Torah reading. Even after active bleeding had stopped, women were forbidden from having sex for a full seven days after the onset of menses and were expected to wait a full seven blood-free days following prolonged, unexpected bleeding at other times in their cycles. They had to stamp out other interpretations, current in rabbinic circles, that considered being more lenient with the timing of sex regulations in Vayikra 18 and 20 than one would be with the purity regulations in Vayikra 15. All of our named Sages insisted that the hyperlink from Vayikra 18 to Vayikra 15 established synchronicity between periods of *tum'ah* and periods of abstinence. The longer essay contains an unsettling story where Elijah the prophet himself appears to approve of a student who was struck down for being lenient in this manner against accepted rabbinic teaching.

Nonetheless, even though the matter of duration of the ban on sex during menstruation was reasonably settled early on, much less clear was the role of immersion in ending the status of *niddah*, particularly with respect to the ban on sex and the *kareit* penalty attached to it. Does the period of *tum'ah* for women in Vayikra 15 simply end when the requisite amount of time has elapsed? Or is some sort of purification ritual, such as ritual immersion, required? If immersion is required to return to a state of purity, is immersion necessary to permit sexual relations as well? Does Vayikra 18 intend to migrate this requirement from the world of purities into the bedroom? 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*?

The first question is whether the Torah requires women to immerse at all in order to exit a state of *tum'ah* triggered by uterine bleeding. A close reading of Vayikra 15 reveals that while bathing in water is mentioned for the cases of male bodily fluxes, it is strikingly absent in the female cases. What are we to conclude from this disparity? Should we assume that inconsistencies between the passages are meant to highlight difference and that there is indeed no need for women to immerse? Or should we assume that the Torah spells certain things out in the male cases and leaves the rest as an exercise to the reader, such that immersion in female cases in Biblically mandated as well.

Rabbinic sources are unequivocal and explicit that a woman with irregular, pathological uterine bleeding must immerse in order to exit a state of *tum'ah*. However, there is no explicit rabbinic source that unambiguously clarifies that the Torah itself requires that a *niddah*--a woman experiencing a regular menstrual cycle--must immerse in water before her *tum'ah* is ended. It is not wild to suggest that the Torah might think 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 father of 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 regular menstruation 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. This seems also to have been the clear perspective of **Rabbi**, who states directly in the Talmud Yerushalmi: כל הטמאים: עד שיבואו במים /“Anything *tamei* remains *tamei* until it passes through water.” And it is certainly the case that rabbinic sources all uniformly assume that all people and objects who are *tamei*—including women who experience uterine bleeding—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 *niddah* to immerse is *Biblical*, this left an opening. We find a few records of views that say that no immersion is required following regular menstruation, or that the immersion of a *niddah* 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 can be no *kareit* penalty associated with skipping it, since *kareit* depends on Biblical authority.

Nonetheless, nearly all who were aware of this view rejected it, insisting--in keeping with what I think is the more straightforward reading of the Torah--that there is no way to go from *tamei* to *tahor*, from ritually impure to pure, without immersing in water. One interesting compromise position that is not entirely shut down suggests that the requirement for a *niddah* to immerse is not strictly Biblical; instead, it is a tradition to Moses from Sinai. This fascinating language begins to get at the idea that perhaps we might think of this immersion as very old, as old as the Torah, but without having to read it into the Torah itself. Nonetheless, most were convinced that there was indeed some sort of Torah-based requirement for a *niddah* to immerse as part of her exit from *tum'ah*, even as they argued about how best to ground this in Scripture. 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.

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* time 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?

In the longer essay, I explore a wide range of sources that may weigh in on this issue, and I invite you to see the analysis there. Suffice it to say that a number of classical texts are suggestive of positions on this question, but they are ultimately not definitive because they can and have been interpreted in a number of different ways. Medieval authorities continued to be vexed by the main question here as well. As a general point, it is fair to say that 1) the overwhelming majority of medieval voices assumed that immersion *was* a necessary step to remove *kareit*, and 2) when pressed, they could not succeed in providing solid textual basis for this assertion.

Rambam is one of the most vociferous in asserting that the *kareit* penalty can never be lifted for as long as the woman has not immersed. He states directly (in Hilkhhot 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 prior to the bathing, it is subject to *kareit*.” Rambam here manifests what it looks like to say that the world of Vayikra 15 has been deeply imported into the world of Vayikra 18. The requirements for purification must be fully observed before sex can resume, because sex has been linked to and anchored in the world of *tum’ah*. Aware of the other way of reading the Torah, Rambam comes out swinging against the possibility of divorcing Vayikra 18 from Vayikra 15 when it comes to immersion. As a result, the passage of time can never be sufficient.

Later interpreters, however, questioned the Rambam’s basis for this statement. In 19th c. Germany, R. Tzvi Binyamin Auerbach pointed out that the Rambam’s textual arguments on this matter really only established the notion that a *niddah* must immerse in order to exit a state of *tum’ah*. He did not successfully prove that this immersion is necessary for removing the penalty of *kareit* for sex. Surely rabbinic sources assumed that immersion was required before resuming sex, but how do we know the force of this requirement? Indeed, **R. Yaakov Ettlinger** effectively stated that anyone without a convincing proof that the Torah mandates immersion to remove *kareit* must in fact think that such immersions are only by force of a tradition of Moses from Sinai. When he suggests this, he has no specific evidence of such a tradition. Not only could he not have suddenly received such a tradition in 19<sup>th</sup> century Germany, there is no source for such a claim anywhere in classical rabbinic literature. Instead, we must understand הלכה here as it has been understood by other authorities in other contexts: a ritual that is so old that it predates rabbinic literature.<sup>1</sup> 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. If such an

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<sup>1</sup> For the best articulation of this, see Rosh Mikvaot 1:1.

immersion is common 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.

Still, if we honestly take stock here, we must admit that we are back to where we began. 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. We can read 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 can see the whole point of Vayikra 18 as a response to the active world of Vayikra 15, but not as an attempt 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 would see no Biblical basis for that immersion. 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, 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.