

May Women

Touch a Torah Scroll?

Devorah Zlochower





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Ta Shma: The Halakhic Source Guide Series

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JOFA seeks to expand the spiritual, ritual, intellectual, and political opportunities for women and advocates for their meaningful participation to the full extent possible within the framework of *halakhab*. Our commitment is rooted in the belief that fulfilling this mission will enrich and uplift individual and communal life for all Jews.



Dedication

Ta Shma, the Halakhic Source Guide Series, is dedicated to my father Jacques Censor, ז"ל. My family left Antwerp, Belgium, and was on the last ship to leave Le Havre, France, on the day World War II began, September 1, 1939. We settled on the Upper West Side of Manhattan, with others from the Belgian community. My father, a diamond merchant for all of his adult life, was a man of little pretension. He was brilliant, innovative, and had a wry, wicked sense of humor. Known to his grandchildren as Grandpa Monster, he could keep them laughing with just his facial expressions and his impersonations of a cat. He was fluent in six languages and was widely read. I would watch in awe as he solved the *New York Times* crossword puzzle in ink in a few minutes. On Shabbat, he would solve the puzzle in his head and when Shabbat ended, he would quickly fill it in entirely from memory.

He knew vast sections of the Talmud by heart but never made a display of his knowledge or capabilities. Whenever I had a halakhic question during my internship and residency, I would simply call him on the phone from the hospital, tell him the problem and on the spot, he would quote me a seemingly relevant piece of gemara and explain how to deal with the issue. I was a bit suspicious of his convenient “quotations” from the gemara because the decisions of the Rabbis of *his* Talmud always were exactly what I had hoped for. One day when reading Rabbi Immanuel Jakobovits’s book on medical ethics, I was stunned — there was a statement from the gemara exactly as Dad had quoted it! I quickly called him and confessed to my previous doubts and apologized. I never understood how he knew so much because I knew he did not have the time to study when I was growing up. He laughed and explained that every day after work from the age of eighteen until he was twenty-six, he studied with his mentor, Rabbi Berger. “I just remember it all,” he said. When my father turned twenty-six, Rabbi Berger left Antwerp and made aliyah to what was then called Palestine.

When I was growing up, the tradition was to send boys to a yeshivah and girls to public school. All my female cousins went to public or secular private schools. I was sent to Ramaz as was my brother. My father’s expectations were exactly the same for both of us. He studied Talmud and *humash* with me just as he did with my brother. His greatest pleasure was to learn Talmud with my oldest child, my first daughter, until he suffered a devastating stroke.

Unfortunately, he died three years ago before this project was conceived. He would have loved these source guides. As a child, I grew up in an era when Orthodox Judaism was not as it is today. My father truly believed that the only way I would likely observe halakhah would be by understanding the issues behind the rulings and making the determination for myself, rather than by his telling me what to do.

He is sorely missed.

— Monique (Nicky) Censor Katz, MD

TA SHMA: THE HALAKHIC SOURCE GUIDE SERIES

This series presents an in-depth look at halakhic topics that affect a woman's obligation and involvement in Jewish ritual life. The source guides aim to increase awareness of relevant halakhic issues among women and men so that women can make deliberate choices rather than passive ones about their observance. By cultivating an understanding of the different views that exist within the halakhic system, we want to enable Jews who are committed to halakhah to become more intellectually involved in their practice of *mitsvot*. We hope that these source guides will invigorate individuals, as well as the larger community, to a more thoughtful and committed observance.

We entitled this series “*Ta Shma*” — Come and Learn” as we invite you, the reader, to engage in serious text study of each individual topic. We also are referencing the original meaning of the phrase as it is used in the Talmud. In the course of a debate, the Talmud often cites the phrase *ta shma* in its attempt to prove a point, raise a question, or resolve a difficulty. *Ta shma* introduces an earlier authoritative source and brings it to bear on the current discussion. By invoking the phrase *ta shma*, we invite you to come and learn the relevant talmudic, gaonic, medieval, and modern rabbinic texts; to become more knowledgeable about the rich halakhic discussion on each topic; and to find your place in the chain of the *masoret* — the tradition.

גדול תלמוד שהתלמוד מביא לידי מעשה

Great is Torah study for it leads to observance.

— *Sifre Devarim* 41

We believe that placing great value on the Jewish tradition of learning and developing the skills needed to understand halakhah and its processes are crucial in maintaining a passionate and informed commitment to observance among Jews. One of the main goals of this project is to clarify what the texts actually say, with the hope that increased knowledge and a better understanding of the reasons behind common practice will lead to increased observance. The aim of an in-depth analysis of these sources is that the reader will learn not only what the normative halakhah is, but will understand how it developed; that under the surface of what is considered normative halakhah is a dialectic of multiple and valid attempts at understanding and interpreting our earliest halakhic literature.

In the source guides, the rabbinic texts themselves are not presented as references but as the main focus of the discussion. All sources are explained and translated into English to enable the reader with a limited Hebrew language background to also work through the original texts. We encourage you to invite a friend to study the sources in a *havruta* partnership, to organize a study group in your community, or to learn the texts on your own.

* According to the transliteration guidelines of this series, *Ta Shma* would be transliterated as *Ta Sh^ema*. Due to the difficulty in reproducing this superscripted ‘e’ in our publicity literature, we are calling the series *Ta Shma*.

It is our wish that these source guides bring fervor for a knowledge of the halakhic sources to communities, study groups, classes, and the individuals who learn them. We dedicate this series to women who are committed to halakhah and are struggling to embrace more of our beautiful heritage, to better fulfill the *mitsvah* of *ahavat Hashem* (love of God), and in doing so, enrich the entire Jewish community.

גל עיני ואביטה נפלאות מתורתך

Open my eyes so I will see the wonders from Your Torah.

— Psalms 119:18

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JOFA wishes to acknowledge and thank Dr. Debby Koren for her work in drafting parts of this introduction.

TRANSLITERATION GUIDE

The *Ta Shma* series uses the following transliteration system:

Consonants

א *alef* = ' (apostrophe)

א is not transliterated at the beginning or end of a word.

א without a vowel is not transliterated.

י *ayin* = ' (apostrophe)

י is not transliterated at the beginning or end of a word.

ה *heb* = *h*

Silent ה at the end of a word is transliterated as *h*.

ח *het* = *H* or *h*

כ *khaf* = *kh*

ק *kof* = *k*

צ *tsadi* = *ts*

A letter with *dagesh hazak* is usually represented by a doubled consonant.

Vowels

ֿ *segol* = *e*

ֿ *tserei* = *e*

ֿ *tserei* in an open syllable at the end of a word = *ei*

ֿ *sh^eva na* (pronounced) = *e*

ֿ *sh^eva nah* (silent) is not transliterated.

ֿ *patah yod* = *ai*

ֿ *kamats yod* = *ai*

Exceptions

Occasionally, these guidelines are superseded. The most common cases are:

- The spelling of a personal name is that by which the person is known.
- Hebrew words that appear in English dictionaries are spelled in accordance with English conventions and are not italicized.
- The superscripted 'e' (°) does not appear in the title phrase "Ta Shma" due to the difficulty in reproducing it in our publicity literature.

May Women Touch a Torah Scroll?

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INTRODUCTION

Despite incontrovertible textual evidence that *tum'ah*, often translated as ritual impurity, has relevance only to the Temple and sacred foods, there is a popular notion that women, while in a state of *niddah*, should not touch a Torah scroll.¹ This tradition is one of a number of practices removing women in *niddah* from prayer and the synagogue. In this source guide, we examine the texts countering or supporting these practices. Moving chronologically from the Torah to the Talmud, to medieval commentators, and finally, to modern halakhists, we examine the history of these practices and place them in a larger context.

We address the following questions:

1. Are there prohibitions barring women in *niddah* from touching Torah scrolls?
2. What are the sources for the popular practices that caused women in *niddah* to remove themselves or be removed from synagogues, studying Torah, and praying?
3. What is the halakhic weight of these practices?

TORAH

Tum'ah is a deep concern in the Torah. A person who was *tamei* was barred from entering the Temple and from eating from the sacrifices. A kohen who was *tamei* could not eat *t'rumah*, the grain that individual Israelites were obligated to separate from their harvests and present to the *kohanim*. Being in a state of *tum'ah* separated a Jew from the Temple sanctuary where God's presence dwelled.

¹ The word *niddah* is used in the Torah to refer to the state of *tum'ah* that inheres to a menstrual woman, as well as other women who experience uterine bleeding. The woman herself is never called *niddah*; rather, her bleeding and its consequent impurity are called *niddah*. I have adopted this biblical usage in this source guide. *Niddah* fits into two halakhic categories. It is a source of *tum'ah* and renders the menstrual woman *t'me'ah* and capable of transmitting *tum'ah* to people and objects. Second, sex between a man and a woman in *niddah* is one of the forbidden sexual relationships.

In Lev. 18:19 we are told: ואל אשה בנדת טמאתה לא תקרב לגלות ערותה. – To a woman in her impure state of *niddah* do not approach to uncover her nakedness.

Subsequently, in Lev. 20:18 we are told:

ואיש אשר ישכב את אשה דוה וגלה את ערותה את מקרה הערה והיא גלתה את מקור דמיה ונכרתו שניהם מקרב עמם.

If a man lies with an ill woman and uncovers her nakedness, he has laid bare her source, and she uncovers the source of her bloods; the two of them shall be cut off from among their people.

There are many ways by which an individual can contract *tum'ah*:² someone who touches a human corpse, a carcass of a non-kosher animal, or a carcass of a kosher animal that has not been slaughtered becomes ritually impure. Similarly, men and women who experience certain genital emissions become impure as well. Uterine bleeding due to menstruation, childbirth, or an unexpected flow renders a woman *t'me'ah*. What are the consequences of contracting ritual impurity?

1. Leviticus 12:4

ויקרא יב:ד

For thirty-three days she shall sit in the bloods of her purifying; she may not touch any sacred object, and she may not come to the sanctuary until the completion of her days of purifying.

ושלשים יום ושלשת ימים תשב בדמי טהרה בכל קדש לא תגע ואל המקדש לא תבא עד מלאת ימי טהרה:

In the case of the woman who has given birth, as well as in all other cases of *tum'ah*, the individual who was ritually impure was forbidden to enter the Temple sanctuary or eat sacred foods.³ The purification rite always involved immersion in a *mikveh*,⁴ and sometimes there were additional requirements such as a sacrificial offering.⁵ When the purification was complete, the individual was restored to a state of *tohorah* (purity) and was permitted to eat sacred foods and enter the Temple. No penalty was incurred for being in a state of *tum'ah*, and one could remain *tamei* as long as one removed oneself from the Temple and refrained from eating *kodashim* (sanctified foods).

TALMUD

Takkanat Ezra (Ezra's Enactment)

When we study the talmudic sources, we see an additional *takkanah* (rabbinic enactment) mentioned. Although this *takkanah* has, on the face of it, no connection to our topic, it touches upon it in various ways; and therefore, it is important to understand its parameters.

2 For corpse impurity, *tum'at met*, see Num. 19:11; for impurity from the carcass of a non-kosher animal or an unslaughtered kosher animal, *tum'at n'e'veilah*, see Lev. 11:39; for impurity due to genital emission, see Lev. 15; for impurity due to menstruation, *tum'at niddah*, see Lev. 15:19–24; for impurity due to childbirth, *tum'at yoledet*, see Lev. 12:1–8; for impurity due to unexpected uterine flows, *tum'at zava*, see Lev. 15:25–30.

3 For additional verses where the prohibition of entering the sanctuary or eating sacred foods is delineated, see Lev. 7:21, 15:31; Num. 5:1–4, 19:13, 20.

4 This is the case for emissions of semen, see Lev. 15:16–18; for one who has touched or carried a carcass of a non-kosher animal, see Lev. 11:24–28; and for one who has touched or carried the carcass of a kosher species of animal that has not been slaughtered, see Lev. 11:39–40. This is also the case for those who have touched people who were impure; see, e.g., Lev. 15:5–11, 21–23, 26–27. Interestingly, immersion in a *mikveh* for the woman in *niddah* is never stated explicitly in the text of the Torah but is universally assumed to be *d'oraita*; see *Tosafot* to *Yev.* 46b, s.v. *b'e'makom shehaniddah tovelet*.

5 See Lev. 14:1–32 and 15:14–15, 29–30. One who became *tamei* through contact with a corpse required an elaborate purification rite that involved the sprinkling of a mixture made from the ashes of a red heifer, *parah adumah*; see Num. 19:11–22.

2. Babylonian Talmud
Bava Kamma 82a–b

תלמוד בבלי
 בבא קמא פב.:

Ezra enacted ten enactments...He decreed immersion for men who experienced a seminal emission: Is this not a biblical requirement as it states (Lev. 15:16): “If a man emits semen, he shall rinse his flesh in water”? The biblical requirement is for *ṭrumah* and sacrifices. Ezra came and decreed it even for words of Torah.

עשרה תקנות תיקן עזרא...ותיקן טבילה לבעלי קריין: דאורייתא הוא דכתיב (ויקרא טו:טז) ואיש כי תצא ממנו שכבת זרע ורחץ את בשרו במים? דאורייתא הוא לתרומה וקדשים, אתא הוא תיקן אפילו לדברי תורה.

The gemara here makes it clear once again that the Torah is concerned only with the impact of *tum'ah* on entry into the Temple and the eating of sacred foods. Ezra added an additional requirement; he required that a man who had a seminal emission, a *ba'al kerī*, immerse before engaging in words of Torah. Despite the fact that the *tum'ah* of the *ba'al kerī* should not affect his ability to learn Torah or pray, Ezra's *takkanah*, in effect, made his *tum'ah* relevant for Torah study and prayer.⁶ For our purposes, the main question with which we are concerned is why did Ezra enact this decree and what was its scope? More specifically, is there something unique to the *ba'al kerī* that called for this additional restriction, or should Ezra's concern be generalized to other forms of *tum'ah* such as *niddah*? In other words, was Ezra expanding the parameters of *tum'ah*, or was he adding restrictions only to men who experienced seminal emissions?

3. Babylonian Talmud *B'rakhot* 22a

תלמוד בבלי ברכות כב.

As it is taught, “And you shall inform your children and your children's children” (Deut. 4:9–10), and it says afterwards, “The day that you stood before the Lord your God at Horeb” (ibid.); just as there [at Horeb] was with awe, fear, trembling, and quaking, so too here with awe, fear, trembling, and quaking. Based on this, they said: *zavim* (men with abnormal genital discharges), men stricken with *tsara'at* (leprosy), and men who have had sex with women who are in *niddah*⁷ are permitted to read Torah, Prophets, and Writings, to recite Mishnah, Gemara, *halakhot*, and *aggadot*; but men who have had seminal emissions are forbidden.

דתניא: והודעתם לבניך ולבני בניך (דברים ט-י), וכתיב בתריה: יום אשר עמדת לפני ה' אלקיך בחורב (שם). מה להלן באימה וביראה וברתת ובזיע אף כאן באימה וביראה וברתת ובזיע. מכאן אמרו: הזבים והמצרעים ובאין על נדות מותרים לקרות בתורה בנביאים ובכתובים לשנות במשנה וגמרא ובהלכות ובאגדות אבל בעלי קריין אסורים.

⁶ *M. Ber.* 3:4–5 include the recitation of *Shema* and its blessings, *birkat hamazon* (Grace after Meals), and *Shemoneh Esrei*.

⁷ The *Bavli* talks only about men, but *T. Ber.* 2:12, which we cite later, refers to *niddot*, *zavot* (women with unusual uterine discharges), and *yoldot* (women who have given birth). The *Bavli* switches the discussion from women and men studying Torah to men exclusively. *J.T. Ber.* 3:4 (p. 6, col. 3) retains the language of *T. Ber.* 2:12.

The *Bavli* (Babylonian Talmud) explicitly limits this prohibition to the *ba'al kerī*; the problem is not a general one of studying Torah while in a state of *tum'ah*, but about studying Torah after engaging in sexual activity.⁸ The gemara indicates that *Takkanat Ezra* was designed to set a frame of mind for Torah study. Proper disposition for Torah study involved a sense of awe and an awareness of Torah as God's word; study after engagement in sexual behavior was deemed problematic.⁹

4. Jerusalem Talmud <i>B^erakhot</i> 3:4 Page 6, Column 3	תלמוד ירושלמי ברכות ג:ד דף ו טור ג
Rabbi Ḥiyya bar Vava said: They only decreed this immersion because of Torah study. For if you say to him that he is permitted to study he will say, "I will go and take care of my needs [engage in sex] and then learn all I need." Since you say it is forbidden, he comes and learns all he needs.	אמר חייא בר ווה כל עצמן לא התקינו את הטבילה הזאת אלא מפני תלמוד. שאם אתה אומר לו שהוא מותר, אף הוא אומר אף אני אלך ואעשה צרכי ובא ושונה כל צורכו. ומתוך שאתה אומר אסור הוא בא ושונה כל צורכו.

The *Yerushalmi* (Jerusalem Talmud) states even more clearly that Ezra's enactment was meant to discourage overindulgence in sexual activity; the requirement of immersion each time set up a disincentive to frequent sexual intercourse.¹⁰ The *Yerushalmi* expresses concern that engagement in sexual activities pulls the student of Torah away from his studies.

Both the *Bavli* and the *Yerushalmi* are concerned about sexual activity; neither the explanation for Ezra's decree in the *Bavli* or in the *Yerushalmi* would apply to a woman in *niddah*, who is not permitted to engage in sexual activity until she immerses in the *mikveh*. In fact, we have an explicit tannaitic source that indicates that women in *niddah* were permitted to engage in words of Torah.¹¹

5. Tosefta <i>B^erakhot</i> 2:12	תוספתא ברכות ב:יב
<i>Zavim</i> and <i>zavot</i> (men and women with unusual genital emissions), ¹² women in <i>niddah</i> , and women after childbirth are	הזבין והזבות והנדות והיולדות מותרין לקרות בתורה בנביאים ובכתובים ולשנות במשנה

⁸ A man who had sex with a woman in *niddah* also would require immersion in a *mikveh* before engaging in Torah study as he, too, is a *ba'al kerī*; however, this immersion could take place the following morning even though he would remain *tamei* as a *bo'el niddah* (a man who had sex with a *niddah*) for seven days.

⁹ The question of talmudic attitudes toward sex is beyond the scope of this source guide. Those who are interested in further reading on this subject may find fuller treatment in David Biale's *Eros and the Jews: From Biblical Israel to Contemporary America* (Berkeley: Univ. of California Press, 1997) and Daniel Boyarin's *Carnal Israel: Reading Sex in Talmudic Culture* (Berkeley: Univ. of California Press, 1993).

¹⁰ See Rambam, *Hilkhot T^efillah Unsi'at Kappayim* 4:4 where he states this as the reason for *Takkanat Ezra*.

¹¹ In addition to the explicit text of *T. Ber.* 2:12, further textual support can be found in *M. Ber.* 3:6, which states, with Rabbi Y^ehudah's dissent, that only a *niddah* who has expelled semen from her body requires *t^evilah* prior to prayer; it is the semen and not the menstrual bleeding that creates halakhic barriers to Torah study and prayer. Thus, a woman who was not in *niddah* who had expelled semen would require *t^evilah* prior to prayer as well.

¹² The *zav* experiences a genital emission that is not semen, whereas the *zavah*, like the *niddah*, experiences uterine bleeding. Whereas the bleeding of the *niddah* is menstrual and occurs at the expected time in her menstrual cycle, the uterine bleeding of the *zavah* occurs after her period or at a different point in her cycle.

permitted to read Torah, Prophets, and Writings; to recite Mishnah, Midrash, *halakhot*, and *aggadot*; but men with seminal emissions are forbidden in all of them. במדרש בהלכות ובאגדות ובעלי קריין אסורין בכולן.

We have seen that *Takkanat Ezra* applies only to men with seminal emissions. Although the Mishnah¹³ cites a number of laws relating to blessings and the recitation of the *Shema* and *Shemoneh Esrei* that followed *Takkanat Ezra*, there were objections to the *takkanah*. The gemara in *Berakhot* records the dissenting opinion of Rabbi Yehudah ben Beira, who did not continue to impose Ezra's enactment, and it records amoraic adoption of Rabbi Yehudah ben Beira's view as common practice.

6. Babylonian Talmud *Berakhot* 22a

It has been taught: Rabbi Yehudah ben Beira used to say, "Words of Torah are not susceptible to *tum'ah*." Once a certain disciple was mumbling above Rabbi Yehudah ben Beira. He said to him: My son, open your mouth and let your words shine, for words of Torah are not susceptible to *tum'ah*, as it says, "Is not My word like fire, says the Lord?" (Jer. 23:29). Just as fire is not susceptible to *tum'ah*, so words of Torah are not susceptible to *tum'ah*... Rav Nahman bar Yitshak said: We act in accordance with these three elders: ...and like Rabbi Yehudah ben Beira in words of Torah.

תלמוד בבלי ברכות כב.

תניא רבי יהודה בן בתירא היה אומר: אין דברי תורה מקבלין טומאה. מעשה בתלמיד אחד שהיה מוגמגם למעלה מרבי יהודה בן בתירא. אמר ליה: בני, פתח פיך ויאירו דבריך שאין דברי תורה מקבלין טומאה, שנאמר (ירמיהו כג:כט) הלא כה דברי כאש נאם ה', מה אש אינו מקבל טומאה אף דברי תורה אינן מקבלין טומאה... אמר רב נחמן בר יצחק נהוג עלמא כהני תלת סבי: ...כרבי יהודה בן בתירא בדברי תורה.

Rabbi Yehudah ben Beira's objection is premised on the fact that words of Torah cannot become impure; he thus rejects even a rabbinic enactment, *Takkanat Ezra*, that attempts to extend the boundaries of *tum'ah* beyond the Temple and its sacred foods. In the views of Rabbi Yehudah ben Beira and Rav Nahman bar Yitshak, *tum'ah* can only be understood in its original biblical meaning, a state that removes one from the Temple sanctuary and from sanctified foods.

There exist no biblical, mishnaic, or talmudic sources restricting women in *niddah* from studying Torah, praying, entering a synagogue, and touching a Torah scroll. The restrictions we have seen, those placed on the *ba'al kerī*, were never applied to a woman in *niddah* and even their application to *ba'al kerī* was limited as well.¹⁴

¹³ *M. Ber.* 3:4–6.

¹⁴ Whether we rule like Rabbi Yehudah ben Beira or whether *Takkanat Ezra* continues to be enforced is a matter of debate through the period of the *rishonim*. Some argued that the *ba'al kerī* must wash though he need not immerse in a *mikveh*. Others continued to require immersion for prayer. See, e.g., *T'shuvot Rav Natronai Ga'on* to *O.H.* 21 (Brody edition); Rif to *Ber.* 13b (in the pages of Rif); Rambam, *Hilkhot Keri'at Shema* 4:8 and *Hilkhot Tfillah Unsi'at Kappayim* 4:5-6; *Talmidei Rabbeinu Yonah* to *Ber.* 13b (in the pages of Rif) and Rosh to *Ber.* 3:20.

Tinnuf (Filth)

We have examined the expansion of *tum'ah* to words of Torah and noted their application specifically to the case of *ba'al kerī*. Another barrier to Torah study and prayer is the presence of *tinnuf*, malodorous or dirty substances. The following sources, culled from the Tosefta, focus on bodily eliminations.¹⁵ Menstrual blood is not mentioned as a source of *tinnuf*.

7. Tosefta *B^erakhot*, Chapter 2

- (17) One may not enter filthy alleyways and recite the *Shema*. Furthermore, if one did enter such a place while reciting the *Shema*, one must stop reciting until one leaves the area and then recite.
- (18) A person should not stand and pray while needing to urinate as it states, “Prepare for your God, Israel.” (Amos 4:12)
- (19) A person should not urinate in the place where he prays unless he maintains a distance of four cubits.

תוספתא ברכות פרק ב

- (יז) לא יכנס אדם במבואות המטונפות ויקרא את שמע. ולא עוד אלא אפילו נכנס כשהוא קורא, הרי זה מפסיק עד שיצא מרשות כל אותו מקום ויקרא.
- (יח) לא יעמוד אדם ויתפלל והוא צריך לנקביו, שנאמר: הכון לקראת אלקיך ישראל. (עמוס ד:יב)
- (יט) לא יטיל אדם את המים במקום שמתפלל אלא אם כן ירחיק ארבע אמות.

We have seen that according to the Torah, a woman in *niddah* is impure but that bars her only from entering the Temple or partaking of sacrifices or *terumah* — prohibitions that have no application today. We then turned to tannaitic and amoraic sources in which we saw restrictions regarding Torah study and prayer placed on the *ba'al kerī*. We looked briefly at the notion of *tinnuf*, which introduces bodily hygiene as a factor in determining an individual's fitness to pray or study Torah. We saw clearly that the Tosefta permitted a woman in *niddah* to study Torah. There are no sources substantiating any prohibitions for a woman in *niddah* to study Torah, to pray, to enter a synagogue, or to hold a Torah scroll. What then is the source for these practices?

BARAITA D^EMASSEKHET NIDDAH

The source for these practices is a non-canonical work roughly contemporaneous with the period of the geonim called *Baraita D^emassekhet Niddah*.¹⁶ This pseudepigraphic work, which appears to cite various *tanna'im* and *amora'im*,¹⁷ imposes significant limitations on the movements and activities of women who are in *niddah*. These prohibitions include cooking

¹⁵ See also the end of *M. Ber.* 3:5.

¹⁶ This work also is known as *Baraita D^eNiddah*. Generally, a baraita is a tannaitic teaching. As we will note in the body of the paper, this is actually a misnomer for this particular work. The dating of *Baraita D^eNiddah* is unclear. Some maintain that it is from the gaonic period; others date it even earlier. See Yedidya Dinari, *Min-hagei Tum'at Haniddah—M^ekoram V^ebishtalsb^elutam*, *Tarbiz* 49:3–4 (1980) for a summary of the different scholarly positions.

¹⁷ Many *rishonim* were unaware that this work is pseudepigraphic and believed it to be an actual baraita. Notably, Ramban cites this work as baraita in his commentary to Gen. 31:35 and to Lev. 12:4. A number of *rishonim*, whom we cite later, also accept it as a tannaitic baraita.

and baking, answering *amen* to blessings and sharing a table with family members, as well as entering a synagogue or *beit midrash* and uttering God's name. Concerns with her bodily excretions including saliva are expressed.

In *Baraita D^emassekhet Niddah*, we see a movement away from halakhic *tum'ah*, which bars one from entry to the Temple and from eating sacrificial foods, toward *niddah* as a source of pollution or contamination. The following citations from *Baraita D^emassekhet Niddah* are some examples of this phenomenon. It is important to note that *Baraita D^emassekhet Niddah* uses the term *tum'ah* to refer to menstrual blood and menstruating women as a source of pollution or contamination, conflating the halakhic notion of Temple-related *tum'ah* with pollution.

8. *Baraita D^emassekhet Niddah*

ברייתא דמסכת נידה

(1:2) ...Rabbi Ḥanina said: Even the spit of a *niddah*, which she spat on the bed, and her husband or children step on it, renders them impure to the fullest extent, and they are forbidden to enter the synagogue until they immerse. Why? For the saliva of the *niddah* is impure...

(2:5) ...Rabbi Yoḥanan said: It is forbidden to greet a seated *niddah*, so that she not reflect upon¹⁸ and respond *amen*, thereby desecrating the name of God. Rabbi Yudan said: It is forbidden to make a blessing before a seated *niddah*, so that she not reflect upon [the blessing], respond *amen*, and desecrate God's name. Rabbi Yoḥanan said: It is forbidden to greet the *niddah* so that she not respond and desecrate God...

(3:3) ...She should not set foot into a house full of holy books or a house set aside for prayer, since she is impure and imparts impurity to the fullest extent...A woman who is in *niddah* is forbidden to deal with the separation of *hallah* and the lighting of the Shabbat candles. Why? By which she would bring guilt on herself and on her household...

(3:4) ...“She may not touch any sanctified objects” (Lev. 12:4) — she may not go onto her husband's bed; “sanctified object” refers to her husband's bed. “She may not come to the sanctuary” (ibid.) — she may not enter houses of study or synagogues...

(א:ב) ...א"ר חנינא אפילו הרוק של נדה שרקקה על המטה ודרסו בעלה או בניה נטמאין בכל צורך, ואסורין להכנס לבית הכנסת עד שיטבילו עצמם במים. למה? שהרוק שבנדה טמא...

(ב:ה) ...א"ר יוחנן אסור לשאול בשלום נדה יושבת שלא תהרהר ותאמר אמן ומתחללת את השם. א"ר יודן אסור לברך לפני נדה יושבת שלא תהרהר ותאמר אמן ומתחללת. א"ר יוחנן אסור לשאול בשלום נדה שלא תחזיר ויחלל המקום...

(ג:ג) ...ולא תכניס רגלה לבית שהוא מלא ספרים ולא לבית שהוא מוכן לתפלה שהיא טמאה ומטמאה בכל צורך... האשה שנתנדת אסורה להטפל בחלה ובהדלקת הנר של שבת למה? שהיא מחייבת את עצמה ומחייבת את ביתה...

(ג:ד) ...“בכל קדש לא תגע” (ויקרא יב:ד) אין לה רשות לעלות למטתו של בעלה ואין קדש אלא מטת בעלה. “ואל המקדש לא תבוא” (שם) אין לה רשות להכנס לבתי מדרשות ולבתי כנסיות...

18 See *Shab.* 10b forbidding people from greeting each other *shalom* in the bathhouse as *Shalom* is one of the names of God. People used to greet each other using God's name. The concern here is that either thinking God's name or responding *amen*, and thereby linking up to the recitation of God's name, is forbidden for the *niddah*.

How were practices recorded in *Baraita D^emassekhet Niddah* received? How did post-talmudic authorities react to these sharp departures from the *Bavli* and *Yerushalmi*? We see two major trends. One trend was to dismiss them, whereas the other was to acknowledge and sometimes support these existing practices.

GEONIM

We now turn to a number of sources attributed to geonim that reflect these different attitudes.

9. *Otsar Hag^eonim* (Levin) *B^erakhot*, Page 49

In *Sefer Hamiktsa'ot*, it is written that a woman shall not enter the synagogue all the days that she sees a flow until she “whitens,” as it states: “She may not touch any sanctified object...” (Lev. 12:4) So it is also said in the name of Rav Tsemah Gaon, and it is the custom of the two yeshivot, and this extends to prayer outside of the synagogue as well. This might only refer to the days of her *niddah* bleeding. How do I know to include the days of her watching?¹⁹ The verse says, “Until the days of her purification are filled” (ibid.). And not only is she forbidden to enter the synagogue, but she is even forbidden to answer *amen* when she hears a blessing, for Rav Y^ehudah said: It is forbidden to make a blessing before a *niddah* lest she think of God’s name and answer *amen* and God’s name would be desecrated.

אוצר הגאונים (לוין) ברכות דף מט

בס' המקצעות כתב שאשה לא תכנס בבית הכנסת כל ימי ראייתה עד שתתלבן שנאמר בכל קדש לא תגע... (ויקרא יב:ד)²⁰ וכן הוא בשם רב צמח גאון וכן מנהג בשתי ישיבות, ואפילו מחוץ לכנסת. ואין לי אלא בימי נדותה בימי שמירתה מניין? ת"ל עד מלאת ימי טהרה (ויקרא שם). ולא מיבעי דאסור למיעל לבי כנישתא אלא כד שמעה מידי דברכתא אסור לה לענות אמן, דאמר ר' יהודה אסור לברך לפני הנדה שלא תהרהר ותאמר אמן ונמצא שם שמים מתחלל.²¹

Sefer Hamiktsa'ot is cited a number of times in the *rishonim* as the major source for a number of practices including refraining from entering a synagogue and even answering *amen* to a blessing. However, another version of *Sefer Hamiktsa'ot* is referenced by other *rishonim* to say exactly the opposite, that women in *niddah* may enter the *beit k^eneset* and pray.²²

¹⁹ This is another term for the seven days of *n^ekiyim* where a woman watches and checks that she is not bleeding.

²⁰ Cited in *Sha'arei Dura*, *Hilkhot Niddah* #18.

²¹ Cited in *Agur*, *Dinei T^vvilah*.

²² In the edition of *Sefer Hamiktsa'ot* published by Simha Assaf there is no mention of these rulings. The manuscript does mention that a kohen should not bless the people when his mother, wife, or daughter is in *niddah*. See also *Sh^e'elot Utshuvot Hatam Sofer*, O.H. 23.

10. *Otsar Hag'onim* (Levin)
B'erakhot, Page 49

אוצר הגאונים (לוין)
 ברכות דף מט

In *Sefer Hamiktsa'ot* they asked before Rav Ḥaninai, the leader of the *kallah*:²³ May a *niddah* enter the synagogue to pray? He said: When her *niddah* bleeding ended, and she immersed and changed her clothing, it was fine for her to enter the synagogue to pray. And he said that there was no prohibition, for even men with seminal emissions and men with unusual genital emissions were permitted to study Torah, recite Talmud, and pray. Now the fact that the verse states: "She may not touch any sacred object?" (Lev. 12:4) This refers to *ṭrumah* and sacrifices. "She may not come to the sanctuary" (*ibid.*). This means that she may not bring her sacrifice until her clean days have been completed. And this is the law.

בספר המקצעות שאילו מקמי רב חנינאי ריש כלה. נדה מהו למיעל לבי כנשתא לצלוי? ואמר כי פסק דם נדה וטבלה ושניה כסותה שפיר דמי למיעל בי כנשתא לצלוי. ואמר דלית בה אסורא,²⁴ דהא בעלי קרי וזבין מותרין לקרות בתורה ולשנות בתלמוד ולהתפלל. והא דכתיב בכל קדש לא תגע? (ויקרא יב:ד) לענין תרומה וקדשים דאסור. ואל המקדש לא תבוא (ויקרא שם) שאינה מביאה קרבן עד מלאת נקיות, וכן ההלכה.²⁵

There are a number of points to be noted and that come into play in the works of various later sources. This source begins by answering that a woman in *niddah*, who has ceased bleeding may enter the *beit k'neset* to pray.²⁶ Rav Ḥaninai, according to this source, then adds that there is no halakhic prohibition whatsoever for her to enter the *beit k'neset* and pray. In other words, there is an acknowledgment that waiting until she has ceased bleeding is not a halakhically required act. Not only that, but the source for the ruling permitting women in *niddah* to enter the synagogue

²³ The *kallah*, a Babylonian institution, was a twice yearly occasion of Torah study by unusually large groups.

²⁴ Note that according to this citation, *Takkanat Ezra* is not practiced.

²⁵ Cited in *Ma'aseh Rokeaḥ* 195.

²⁶ This explicit reference to the bleeding days indicates a difference in conduct between the bleeding days and the seven days of *n'kiyim*. Such an approach strongly indicates a non-halakhic pollution. The gemara itself rejected distinctions in conduct between the bleeding days and the "white" days of seven *n'kiyim*. In *Shab.* 13b, an incident is recounted in which a young scholar died. The widow approaches the prophet Elijah who responds with the following questions:

בתי, בימי נדותר מה הוא אצלך? אמרה לי: חס ושלום, אפילו באצבע קטנה לא נגע בי. בימי ליבונך מהו אצלך? אכל עמי, ושתה עמי, וישן עמי בקירוב בשר, ולא עלתה דעתו על דבר אחר. ואמרת לי: ברוך המקום שהרגו שלא נשא פנים לתורה, שהרי אמרה תורה (ויקרא יח:ט) ואל אשה בנדת טומאתה לא תקרב. כי אתא רב דימי אמר: מטה חדא הואי. במערבא אמרי, אמר רב יצחק בר יוסף: סינר מפסיק בינו לבינה.

"My daughter, in the days of your *niddah* how was he to you? God forbid! she rejoined, he did not touch me even with his little finger. In your white days, how was he to you? He ate with me, drank with me, and slept with me in bodily contact, and it did not occur to him to do anything beyond that. I said to her, Blessed be God for slaying him, for he did not show regard to the Torah; for the Torah has said: And to a woman in her *niddah* impurity, you shall not approach. When Rav Dimi came, he said: it was one [wide (Rashi)] bed. In the West they say: Rav Yitshak bar Yosef said: An apron came between him and her (i.e., they were not naked)."

Elijah is bothered by the distinction in conduct between the bleeding days, when her husband did not approach her at all, and the white days, when he ate with her and shared a bed (originally the gemara says they were naked, but the gemara rejects that reading at the end). See *Tosafot* to *Shab.* 13b, s.v. *bimei libbunayikh*. *Tosafot* also cite, in the name of Rabbeinu Tam, a practice of immersing in the *mikveh* after the bleeding days and then again after the conclusion of seven *n'kiyim*.

and pray is the ruling that men who are impure are permitted to study Torah and pray. The citation of the verse from Leviticus bears this out; from the Torah and talmudic perspective, there is no prohibition because *tum'ah* has no bearing on one's prayer and Torah study.

In the following gaonic source, we are told that a woman in *niddah* may pray and enter a synagogue. The proof-text is illuminating. When God spoke to all of Israel at Mount Sinai, there must have been women who were menstruating, and they too encountered the Divine!

<p>11. <i>Halakhot G'dolot</i> (Hildesheimer edition) Vol. 1, <i>Laws of T^{fillah}</i>, Pages 40–41</p>	<p>הלכות גדולות (מהדורת הילדסהיימר) חלק א' הלכות תפלה דף 40-41</p>
<p>They asked before the head of the academy, Rav Y^{hudai} Gaon: May a <i>niddah</i> pray and enter the synagogue? He said that this is fine. How do we know that a <i>niddah</i> may pray? At the time when Israel heard the commandments at Mount Sinai from the Shekhinah, there were men, women, and children present at the time.</p>	<p>שאלו מקמי ריש מתיבתא מר רב יהודאי גאון נדה מהוא לצלויי ולמיעל לבי כנישתא? ואמר שפיר דאמי. ומנין לנדה שתתפלל? את למד שבשעה ששמעו ישראל את הדיברות מהר סיני משכינה היו בכלל אנשים ונשים וטף באותה שעה.</p>

We have seen attributions to *Sefer Hamiktsa'ot* limiting access of woman in *niddah* to *t^{fillah}* and to the *beit k^{neset}*, and we have seen references to the very same work, as well as to *Halakhot G'dolot*, permitting women in *niddah* to pray and enter the synagogue. There is a third theoretical possibility, that of permitting halakhically but discouraging in practice. As we see later on, this becomes a major path taken by a number of *rishonim*.²⁷

RISHONIM

Baraita D^{massekhet Niddah}, a non-canonical source, influenced a number of *rishonim* in their descriptions of practices appropriate to a woman in *niddah*.²⁸ We see a range of responses to these practices distancing women in *niddah* from the synagogue and prayer. Some distinguish between prayer and the synagogue, others applaud distancing measures in prayer as well, and others discourage all of these practices.

<p>12. <i>Sefer Hapardes</i> (Ehrenreich edition) <i>Laws of Niddah</i>, Page 3 R. Sh^{lomo} ben Yitshak (Rashi) France (1040–1105)</p>	<p>ספר הפרדס (מהדורת עהרענרייך) הלכות נדה עמוד ג'</p>
<p>There are women who prevent themselves from entering the synagogue or touching a</p>	<p>וישנשים שנמנעות מליכנס בבית הכנסת בנידותן ומליגע בספר</p>

²⁷ Such a view is articulated in *T^{shuvot Hag^{onim} — G^{onai Mizrah^{ut} Uma^{arav}}}* #44.

²⁸ See, e.g., Ramban to Gen. 31:35 and to Lev. 12:4. For an extensive treatment of the influence of *Baraita D^{massekhet Niddah}*, see Yedidya Dinari's *Hillul Hakodesh al Y^{dei Niddah}* (*T^{udah}* #3), 1983 and *Minhagei Tum^{at Haniddah}: M^{koram V^{bishtalsb^{lutam} Tarbiz}}* 49:3–4 (1980).

Torah scroll during their *niddah*, this is a mere stringency [and they are not required to do this. What is their rationale? If they think that the synagogue is like the Temple, then they would not be permitted even after immersion in a *mikveh*, since those who lack a sacrifice (lit.: lack atonement),²⁹ even if they have immersed and night has fallen, are subject to *karet* (divine punishment, lit.: cutting off) upon entry to it (the Temple). Thus, they would never be able to enter until they bring a sacrifice. And if the synagogue is not like the Temple, then they may enter. Furthermore, all of us are impure because of contact with the dead or with dead insects, and we enter there. Thus, we learn that the synagogue is not like the Temple, and they may enter. However] it is a place of purity for them; they act well and bless them.

חומרא בעלמא הוא [ואינן צריכין לעשות כך. דמה טעם הן עושות? אם מפני שסבורות הן שבית הכנסת הוא כמקדש, אפילו אחר טבילה למה נכנסת בו, והלא מחוסרי כפרה שכבר טבל והעריב שמשו, אם נכנס בו בכרת, ואם כן לא תכנסו לעולם עד שתביאו קרבן לעתיד לבא. ואם אינו כמקדש, תכנסו. ועוד שהרי כולנו בעלי טומאי נפש ושרץ ונכנסין שם. הא למדת שאינו כמקדש ויכולות ליכנס. אבל³⁰ מקום טהרה להן ויפה עושות ואשריהן:

Sefer Hapardes, from the school of Rashi,³¹ points out that there is no halakhic basis for women in *niddah* staying away from the synagogue or refraining from touching a Torah scroll. As we have noted in previous sections, *tum'ah* does not prevent one from entering a synagogue, praying, or learning Torah. Despite this, *Sefer Hapardes* notes that the women had the practice to remove themselves from the *beit k'neset* when in *niddah* and considered this practice praiseworthy.

Ravyah adopts a similar position.³² In support of these customs, he refers us to *Takkanat Ezra*, which although it had fallen into wide disuse, continued to be practiced by some. Ravyah's remarks are notable for their explicit reference to *Baraita D'emassekhet Niddah*.

13. Ravyah, Volume 1, *B'erakhot* #68

R. Eliezer ben Yoel Halevi
Mainz, Germany (1140–1220)

ראבי"ה

חלק א'

מסכת ברכות סימן סח

And the women practice dignity and separation and do not enter the synagogue at the time of their *niddah*. Even when they pray they do not stand before other women. This is what I saw written in the geonim as a baraita; however it is not in our Tosefta. This custom is appropriate, as we say regarding the *ba'al kerit*: I have

והנשים נהגו סלסול בעצמן ופרישות בעת נדוּתן שאין נכנסות לבית הכנסת, ואף כשמתפללות אינן עומדות לפני חברותיהן. וכן ראיתי כתוב בדברי הגאונים בענין לשון ברייתא, ואינו בתוספתא שלנו. וכשר

²⁹ Women who gave birth or experienced unusual uterine bleeding were required to bring a sacrifice at the termination of their purity rituals. See Lev. 12:6–8.

³⁰ The section in brackets was inserted by the editor of this volume based on other citations of *Sefer Hapardes*.

³¹ See parallel language in *Sefer Ha'orah*, vol. 2, *Hilkhoh Niddah*, s.v. *niddah d'oraita*.

³² Ravyah's comment is cited in *Sefer Or Zarua*, vol. 1, *Hilkhoh Niddah* #360, Mordekhai to Ber. 3:86 and *Haggabot Maimoniyot* to *Hilkhoh T'fillah* 4:4. See also *Sh'elot Utshuvot Binyamin Z'ev* 153.

heard there are those who are lenient and those who are strict, and all who are strict, his days and years are lengthened (*Ber. 22a*). From this example [*ba'al kerī*], we can apply to other [analogous] cases.

המנהג כדאמרינן אבעל קרי: שמעתי שמקילין בה ושמעתי שמחמירין בה וכל מחמיר בה מאריכין לו ימיו ושנותיו. (ברכות כב.) ומינה נלמוד אשאר.

The trend of not requiring, but commending, women in *niddah* who stay away from the synagogue reaches its next phase in the writings of *T^rumat Hadeshen*.

14. *T^rumat Hadeshen*

P^esakim Uk^etavim #132

R. Yisra'el Isserlein

Regensburg, Germany (1390–1460)

תרומת הדשן
פסקים וכתבים
סימן קלב

Regarding women in the time of their *niddah*, it is true that I permitted them on the High Holidays and other such occasions when the multitudes gather in the synagogue to hear prayers and Torah reading to go to the synagogue. And I relied on Rashi who permitted [women in *niddah* to enter the synagogue] because of *naḥat ruah* (spiritual satisfaction), for it would be anguish for them as everyone gathers together as a community if they stand outside. And we also find that they [the Sages] permitted them *s^emikhah* (resting the hands) lightly even though it appears as a labor and misuse of sanctified animals because of their spiritual satisfaction. ...Behold, we see before us that one should only understand this as diligence and mere separation.

ועל הנשים בעת נדוּתן אמת התרתי להם בימים הנוראים וכה"ג שרבות מתאספות לבהכ"נ לשמוע תפילה וקריאה שילכו לבהכ"נ. וסמכתי ארש"י שמתיר בהלכות נדה משום נחת רוח לנשים. כי היו להן לעצבון רוח ולמחלת לב שהכל מתאספין להיות בצבור והמה יעמדו חוץ. ואשכחן נמי דשרינן להו סמיכה בזוקפן ידיהו אע"ג דנראה כמו עבודה וזלזול בקדשים משום נחת רוח שלהן. ...הא קמן דאין להבין אלא דזריזות ופרישות בעלמא הוא.

T^rumat Hadeshen compares allowing women into the *beit k^eneset* during the High Holidays and other occasions when people throng to the synagogue to other occasions when we permit women to perform certain ritual acts despite their inappropriateness for the sake of *naḥat ruah*.³³ Once again,

³³ *T^rumat Hadeshen* is referencing a discussion in *Ḥag. 16b* in which women were permitted by Rabbis Shimon and Yosi to perform *s^emikhah*, the laying of the hands on an animal sacrifice, even though women are not obligated in *s^emikhah*. According to the conclusion of the gemara, women did not perform the mandated *s^emikhah*, which involved leaning with one's entire weight on the animal, since one is biblically forbidden to make use of animals set aside for sacrifices. Instead, the women performed a pseudo *s^emikhah* in which they rested their hands lightly over the head of the animal. This act would maintain the appearance of real *s^emikhah*. The notion of *naḥat ruah l^enashim* has been used by various *rishonim* to permit women to perform acts despite possible rabbinic concerns, such as the recitation of *birkat mitsvah* on a *mitsvah* from which women are exempt. See, e.g., *Tosafot to Ḥag. 16b*, s.v. *la'asot naḥat ruah l^enashim*, *Tosafot to Rosh Hash. 33a*, s.v. *ha rabbi y^ehudah ha rabbi yosi*, *Tosafot to Eruv. 96a*, s.v. *dilma savar la k^erabbi yosi* and Ra'avan, *T^rshuvot Ufsakim* #87.

these distancing practices are lauded but are not seen as halakhically required; therefore, they can be set aside when adherence to these practices would lead to anguish.

As we have seen, *rishonim* were aware of popular practices in which women refrained from entering the *beit k'neset* and sometimes even refrained from praying during their days of *niddah*. We have shown that many such practices are recorded in *Baraita D'massekhet Niddah*; this text gave a stamp of approval to these practices. As a result, many of the Ashkenazic *rishonim* lauded women for maintaining distance from prayer and the synagogue during *niddah*. As we see in the Codes section, Rambam permits women in *niddah* to pray³⁴ and to touch a Torah scroll.

CODES

Rambam explicitly permits a woman in *niddah* to touch a Torah scroll. He cautions that one's hands must be clean before doing so. This statement is not aimed specifically at the woman in *niddah*; as we discussed in the Talmud section, there is a general concern of *tinmuf* (filth) when praying or reciting words of Torah.

15. Rambam, *Laws of T^{fillin},
Mezuzah, and Sefer Torah* 10:8
R. Moshe ben Maimon
Spain and Egypt (1135–1204)

רמב"ם
הלכות תפילין ומזוזה
וספר תורה יח

All those who are impure, even *niddot*, and even a *kuti* [non-Jew] are permitted to hold a Torah scroll and to read from it, for the words of Torah are not susceptible to *tum'ab*. This is provided that his hands are not filthy or dirty with mud; they should wash their hands and then touch it.

כל הטמאין ואפילו נדות ואפילו כותי מותר לאחוז ספר תורה ולקרוא בו שאין דברי תורה מקבלין טומאה והוא שלא יהיו ידיו מטונפות או מלוכלכות בטיט אלא ירחצו ידיהם ואח"כ יגעו בו.

Both *Tur* and *Shulhan Arukh* cite this halakhah of Rambam as law;³⁵ women are permitted to hold and read from a Torah scroll.

16. *Shulhan Arukh*
Yoreh De'ah 282:9
R. Yosef Caro
Safed (1488–1575)

שלחן ערוך
יורה דעה רפב:ט

All those who are impure, even *niddot*, are permitted to hold a Torah scroll and to read from it as long as their hands are not filthy or dirty.

כל הטמאים אפילו נדות מותרים לאחוז בס"ת ולקרוא בו והוא שלא יהיו ידיהם מטונפות או מלוכלכות.

³⁴ See Rambam, *Hilkhot K'ri'at Shema* 4:8 and *Hilkhot T'fillah Unsi'at Kapayyim* 4:4.

³⁵ See *Tur*, *Yoreh De'ah* 282.

In his commentary *Beit Yosef*, R. Yosef Caro notes that women in his community go to the synagogue while in *niddah*.

17. *Beit Yosef*

Orah Hayyim 88

R. Yosef Caro

Safed (1488–1575)

בית יוסף
אורה חיים
סימן פח

And now our women do not have the practice of refraining from entering the synagogue.³⁶ And Rabbeinu Yeruham wrote (26:3) that he saw men and women err and say that a woman who had given birth needed to be careful not to enter the synagogue until forty days for the birth of a son, or eighty days for the birth of a daughter, had passed. This custom is in error, and one needs to stop them.³⁷

והשתא נשי דידן לא נהוג להמנע כלל מליכנס לבית הכנסת וכתב רבינו ירוחם (בנתיב כ"ו ח"ג) שראה אנשים ונשים טועים לומר שהיולדת צריכה לזוהר מליכנס בבית הכנסת עד שיעברו ארבעים לזכר ושמונים לנקבה ומנהג בטעות הוא וצריך למחות בידן:

In *Shulhan Arukh*, R. Yosef Caro states generally that those who are in a state of *tum'ah* may pray and study Torah. He notes that Ezra decreed that the *ba'al kerī* must refrain from Torah study and prayer until immersion, but then notes that Ezra's enactment was nullified. Now all those who are impure are not barred from Torah study or prayer.

18. *Shulhan Arukh*

Orah Hayyim 88:1

R. Yosef Caro

Safed (1488–1575)

שלחן ערוך
אורה חיים פח:א

All those who are ritually impure may study Torah, recite the *Shema*, and pray, except for men who have had seminal emissions, for Ezra distinguished them from all those who are impure, and forbade them in Torah, in the recitation of the *Shema*, and in prayer until they immerse so that Torah scholars shall not be found with their wives like roosters. Afterwards, they

כל הטמאים קורין בתורה וקורין ק"ש ומתפללין, חוץ מבעלי קרי שהוציאו עזרא מכל הטמאים ואסרו בין בד"ת (בדברי תורה) בין בק"ש ותפלה עד שיטבול, כדי שלא יהיו ת"ח (תלמידי חכמים) מצויין אצל נשותיהן כתרנגולין. ואח"כ בטלו אותה תקנה

³⁶ Unlike many of the Ashkenazic women as we noted in the *Rishonim* section.

³⁷ Rabbeinu Yeruham is protesting against those who continued to count the days of *dam tohar* (lit.: bleeding of purity) for the birth of a child. According to biblical law, a woman who gave birth was *me'ah niddah* for seven days for a son or fourteen days for a daughter. During the following thirty-three days for a son or sixty-six days for a daughter, she was permitted to have sex but was barred from the Temple and from eating sanctified foods. The bleeding of these days is called *dam tohar*. According to rabbinic law, a woman who gave birth would be required to count seven *nekuyim* after childbirth (with the days concluding not before seven days after the birth of a son or fourteen days after the birth of a daughter). She would then immerse in a *mikveh* and only then be permitted sex with her husband. Rabbeinu Yeruham was protesting the practice of delaying immersion in the *mikveh* until those days (eighty for a daughter or forty for a son) had passed. Furthermore, by his account, these women customarily would not enter the synagogue.

canceled this enactment and restored the original law so that even men with seminal emissions are permitted in words of Torah, in the recitation of the *Shema*, and in prayer without immersion in a *mikveh* or even washing with (a measure of) nine *kabbin*. And the practice has so spread.

והעמידו הדבר על הדין, שאף בעל קרי מותר בד"ת ובקריאת שמע ובתפלה בלא טבילה ובלא רחיצה דתשעה קבין. וכן פשט המנהג.

R^ema in his gloss to this law in *Shulhan Arukh*, cites earlier Ashkenazic *rishonim* who we have mentioned and appears to rule stringently in this matter. The words of R^ema require careful examination.

19. R^ema, *Orah Hayyim* 88:1

R. Moshe Isserles
Cracow, Poland (1525?-1572)

רמ"א
אורח חיים פח:א

There are those who wrote that a woman in *niddah* while in the days of her bleeding should not enter the synagogue, pray, mention God's name, or touch a Torah scroll (*Haggahot Maimoniyot*³⁸). And there are those who say she is permitted to do all of the above and this is correct (Rashi, *Hilkhot Niddah*³⁹). However, the custom in these countries follows the first opinion. But in her white days, they act leniently. And even in a place where they are accustomed to be stringent, during the High Holidays and such times when the multitudes throng to the synagogue, they are permitted to go to the synagogue like other women for it would be a great distress when everyone is gathered inside and they stand outside (*T^erumat Hadeshen*, *T^eshuvot Ufsakim* #132).

יש שכתבו שאין לאשה נדה בימי ראייתה ליכנס לבית הכנסת או להתפלל או להזכיר השם או ליגע בספר (הגהות מיימוני פ"ד). וי"א שמוותרת בכל וכן עיקר (רש"י הל' נדה). אבל המנהג במדינות אלו כסברא ראשונה. ובימי לבון נהגו היתר. ואפילו במקום שנהגו להחמיר בימים נוראים וכה"ג שרבים מתאספים לילך לבית הכנסת מותרין לילך לבהכ"נ כשאר נשים כי הוא להן עצבון גדול שהכל מתאספים והן יעמדו חוץ (פסקי מהרא"י סי' קל"ב).

R^ema begins by citing *Haggahot Maimoniyot* who is citing Ravyah. As we noted in our reading of Ravyah,⁴⁰ the practice of not entering the synagogue while in *niddah* is attributed directly by Ravyah to *Baraita D^emassekhet Niddah*. The practice of refraining from prayer, noted here by R^ema, is halakhically problematic, as women are obligated to pray daily.⁴¹

R^ema then notes the position permitting women to engage in all these activities and attributes the position to Rashi. We have seen before in *Sefer Hapardes* that the school of Rashi noted that these

³⁸ *Hilkhot T^efillah Unsi'at Kappayim* 4:3.

³⁹ In *Sefer Hapardes* and *Sefer Ha'orah* cited above.

⁴⁰ See p. 11.

⁴¹ See the discussion later in this source guide and especially the citation from *P^eri H^edash*.

activities were permitted, but women who refrained from them were to be commended. Regarding this second position, the permissive one, R^ema states that it is the most correct halakhic position.

Finally, R^ema states that, despite the halakhah, it is the custom in these lands⁴² for women to follow the first position in which they refrain from prayer, entering the synagogue, or touching a Torah scroll during their days of menstrual bleeding. One should note that according to this custom, women did not refrain during the entire *niddah* period, only while they were actively menstruating. The focus on bleeding emphasizes a concern of pollution rather than halakhic *tum'ah*.

This final position of R^ema requires further explication. Generally, when R^ema refers to customs they are halakhically definitive — this is Ashkenazic *p^esak*. What do we do when custom opposes the position that R^ema has named as the most correct law? What about the scope of this custom? Are these practices, distancing women in *niddah* from prayer and the synagogue, binding on all Ashkenazic women or, in this case, is there room to say that this is a custom that varies by locale and is not universal? What about places in which there is no established custom in these matters?

AḤARONIM

We described the underlying sources for both *Shulḥan Arukh* and R^ema. We have shown how *Shulḥan Arukh* rules like Rambam and permits women in *niddah* to pray, study Torah, enter the synagogue, and touch a Torah scroll. We demonstrated further that this position emerges from the talmudic sources that singled out the *ba'al kerī* among those who are ritually impure.⁴³ R^ema's gloss cites Ravyah approving the distancing practices; the school of Rashi permitting women in *niddah* to pray, enter the synagogue, and touch Torah scrolls; and *T^erumat Hadeshen* to allow women while in *niddah* to enter the synagogue under certain circumstances. How was R^ema's gloss viewed? Was it seen as prescriptive? Does the direct statement in the *Shulḥan Arukh* that women in *niddah* are permitted to touch a Torah scroll bear weight for Ashkenazic women?

Note that the first position R^ema cites is for a woman in *niddah* to refrain from prayer, mentioning God's name (e.g., in blessings), entering a *beit k^eneset* (with the exception of High Holidays and other occasions when this would pose an undue hardship), as well as not touching a Torah scroll; when R^ema tells us that the custom in his land is to follow this position, he does not distinguish among the various practices.⁴⁴

42 R^ema in *Darkhei Mosheh*, *Yoreh De'ah* 195:14 cites *Agur* (15th century Germany) as stating that the custom in his land was for women in *niddah* to pray and enter the synagogue, but not to gaze upon the open Torah scroll. R^ema, then, is not referring to all the Ashkenazic lands.

43 One should note that later Sephardic decisors were influenced by these distancing practices as well although they continue to maintain, following *Shulḥan Arukh*, that these practices are, at most, customary but non-binding. See *Kaf Haḥayyim*, *O.Ḥ.* 88:11 and *Y^eḥavveh Da'at* 3:8.

44 One also should remember that R^ema distinguishes between the bleeding days and the white days; refraining from entering the synagogue is only applicable during the bleeding days. This distinction, which is attributed by a number of *rishonim* to *Sefer Hamiktsa'ot*, also appears in R^ema, *Yoreh De'ah* 195:14 regarding the *harḥakah* of husband and wife eating from the same dish. In general, there is much objection in the halakhic literature to making any distinction between the bleeding days and the white days. See *Shakh* and *Taz*, ad loc. Rejection of this distinction appears in *Shab.* 13b, as well as various *rishonim*, ad loc. who excoriated women who immersed after their bleeding days and eliminated or reduced their adherence to *harḥakot* afterward. See, e.g., *Tosafot* to *Shab.* 13b, s.v. *bimei libbunayikh*.

Remember that R^ema ruled that women are permitted to engage in all of these practices. Perhaps the customs are seen by him as commendable⁴⁵ but not necessarily required. As such, even for R^ema, these practices have the weight of custom, not law.

The author of *Magen Avraham*, one of the most important Ashkenazic *aharonim*, makes this point.⁴⁶

20. *Magen Avraham*

Orah Hayyim 88:2

R. Avraham Halevi Gombiner
Poland (1637–1683)

מגן אברהם
אורח חיים פח:ב

In *Binyamin Ze'ev* #153 he writes: They only practiced refraining from entering the synagogue or seeing the Torah. Also, when they pray, she does not stand before other women. They do this as a custom of respect and not due to prohibition. And this is correct.

ובבנימין זאב סי' קנ"ג כתב שלא נהגו רק שלא ליכנס לב"ה (לבית הכנסת) ולא לראות ס"ת וגם כשמתפללים אין עומדת בפני חברותיה ומשום מנהג כבוד עושין כן ולא משום איסור עכ"ל וכן עיקר:

The author of *Hayyei Adam* also refers to these practices as custom. He says that refraining from prayer and blessings during the bleeding days has no basis whatsoever. He notes that women “in our lands” do continue to pray and make blessings while menstruating. Other customs, which do not prevent halakhically required behaviors, are noted approvingly in *Hayyei Adam*.

21. *Hayyei Adam* 1:3

R. Avraham Danzig
Poland (1748–1820)

חיי אדם
חלק א' כלל ג'

(38) There are places where women are accustomed not to pray or make blessings during their bleeding days of *niddah* prior to the seven clean days. This is a custom that has no basis. And even in places where women are stringent, nevertheless they do enter the synagogue and pray beginning with the first day of *s'lihot*. But in our lands, we always practice leniency and the women make blessings and pray. Nevertheless,

(לח) יש מקומות נוהגות הנשים שכל זמן שהם בימי נדות קודם ז' נקיים שלהן אינן מתפללות ומברכות וזה מנהג שאין לו יסוד. ואפילו במקומות שמחמירים מ"מ מיום ראשון דסליחות נכנסות לביהכ"נ ומתפללות. אבל במדינתנו נוהגין היתר לעולם ומברכות ומתפללות.

⁴⁵ Like *Sefer Hapardes* and Ravyah.

⁴⁶ *Magen Avraham* contrasts entering the synagogue and gazing at the Torah scroll, which are optional activities, with Grace after Meals and *kiddush*, which women are required to perform and therefore, must find a way to perform during *niddah* as well.

they should not gaze at the Torah scroll when it is lifted to show the people. And, it appears to me that they should not enter cemeteries before they immerse in the *mikveh*.

ומ"מ לא יסתכלו בס"ת בשעה שמגביהים אותו להראות לעם.⁴⁷
ונ"ל שלא יכנסו לבית הקברות עד שיטבלו (סי' פ"ח):

We have noted earlier, that women are obligated in prayer and in certain blessings;⁴⁸ customary practices in which women refrained from prayer and blessings while in a state of *niddah* are examples of customs that violate halakhah. This point is made forcefully by *Peri H'adash*, an earlier commentator on *Shulḥan Arukh*.

22. *Peri H'adash*

Orah H'ayyim 88

R. Hezekiah ben David Da Silva
Italy and Jerusalem (1659–1695)

פרי חדש
אורח חיים פח

Since this is necessitated by the Mishnah and by the law of the Talmud and agreed to by the *pos'kim* [halakhic decisors] that a woman in *niddah* is obligated to pray, who can [possibly] disagree with this and exempt women in their days of *niddah* from prayer! Therefore, each man is obligated to warn his household that they should not abstain from prayer in their days of *niddah* for they are permitted and obligated in prayer. And whoever listens to this shall bear blessing from God.

וכיון שזה מוכרח מהמשנה ומדין התלמוד ומוסכם מהפוסקים שנדה חייבת להתפלל מי הוא זה שיכול לחלוק בזה ולפטור הנשים בימי נדותן מתפלה! ולכן חייב כל איש ואיש להזהיר בביתו ע"כ שלא ימנעו מלהתפלל בימי נדותן שרשאות וחייבות להתפלל והשומע בזה ישא ברכה מאת ה'.

Shulḥan Arukh Harav catalogs the various practices regarding prayer, *beit k'neset*, blessings, and gazing at or touching a Torah scroll. He is careful to point out that all of these practices are based on custom and not prohibition and demonstrates particular concern when the custom may interfere with fulfilling an obligation. Thus, he notes that a woman is obligated in *birkat hamazon* (Grace after Meals) and *kiddush*; if she wishes to adhere to these distancing practices, then she may hear these blessings from another individual or recite them quietly, but she may not opt out of them.

⁴⁷ The practice of not looking at the open Torah scroll when it is raised is mentioned in *Taz*, O.H. 88:2. *Taz* also is cited by *Mishnah B'rurah* 88:7 and *Arukh Hashulḥan*, O.H. 88:4. The practice of women in *niddah* refraining from going to a cemetery is mentioned here in *H'ayyei Adam* and cited below in *Mishnah B'rurah* 88:7. It is beyond the scope of this source guide to explore these practices in themselves, but they seem to reflect, as well, a view of *niddah* as a source of pollution rather than *halakhic tum'ah*.

⁴⁸ The details of women's specific obligations in prayer require a comprehensive examination and will be left for a later source guide.

23. *Shulḥan Arukh Harav**Orah Ḥayyim* 88:2

R. Shneur Zalman

Liadi, Belorussia (1745–1813)

שלחן ערוך הרב
אורח חיים פח:ב

The women conducted themselves with purity and separation not to enter the synagogue or to view the Torah scroll during the time of their *niddah*. Also, when they pray, they do not stand before others; this was all done as a custom and out of respect and not because of a prohibition. During their white days they were not stringent, and on the High Holidays, beginning with the first day of *s'lihot* when the multitudes throng to the synagogue, they are permitted to go to the synagogue even in their *niddah* days just as other women, for it would be a source of great anguish for them to remain outside while everyone else is gathering. And so for all similar cases, for example, if she is marrying off her son or daughter or she herself has given birth (when women go to synagogue after four weeks have elapsed), she is permitted even while she is in *niddah*. All of this is regarding going to the synagogue, but they are obligated to pray at home and say all the blessings, particularly, *birkat hamazon* and *kiddush*, for which they are biblically obligated, according to everybody, even during their *niddah*. As far as the practice of not mentioning God's name during their *niddah*, or not touching a holy book, this practice has no basis. In any case, she should listen to *birkat hamazon* and *kiddush* from others, and if there is no one else, she should recite *kiddush* and say all the blessings for which she is obligated by herself quietly.

נהגו הנשים טהרה ופרישות בעצמן שלא ליכנס לבית הכנסת ושלא לראות ספר תורה בשעת נידותן וגם כשמתפללין אינן עומדות בפני חברותיהם ומשום מנהג וכבוד עושין כן ולא משום איסור. ובימי ליבונן לא נהגו להחמיר, ובימים נוראים מיום אחד של סליחות ואילך שרבים מאספים לילך לבית הכנסת מותרות לילך לבית הכנסת אף בימי נידותן כשאר נשים כי יהיה להן לעצבון גדול שהכל מתאספין והן יעמדו חוץ וכן כל כיוצא בזה כגון שמשיאה את בנה או בתה או שהיא בעצמה יולדת שהולכין לבית הכנסת אחר ד' שבועות מותרת אפילו היא נדה. וכל זה לילך לבית הכנסת אבל להתפלל בביתה ולברך כל הברכות ובפרט ברכת המזון וקידוש שהן מן התורה חייבות לכולי עלמא אפילו בשעת נידותן. ומה שנוהגין שלא להזכיר את השם בשעת נידותן או שלא ליגע בספר אין מנהג זה עיקר. ועל כל פנים תשמע ברכת המזון וקידוש מאחרים ואם אין אחר תקדש ותברך בעצמה בלחש כל הברכות שחייבת בהן.

Mishnah B'erurah cites the author of *Binyamin Ze'ev* who states that these practices are based on custom, and there is no prohibition for women in *niddah* to enter the synagogue, to see an open Torah scroll, or to pray in front of other women. Finally, he notes that *aḥaronim* require a woman in *niddah* to pray and recite blessings, especially *kiddush* and *birkat hamazon*.

24. *Mishnah B'erurah* 88

R. Israel Meir Hakohen
Radin, Poland (1839–1933)

משנה ברורה
סימן פח

(6) Or to pray, etc. — In *Binyamin Ze'ev* #153, he writes, “They only practiced refraining from entering the synagogue or seeing the Torah scroll. Also when they pray she does not stand before other women. They do this because of custom and respect and not due to prohibition.” And so did the *aḥaronim* agree that she is required to pray in her home and to recite all the blessings, especially, *birkat hamazon* and *kiddush*, which is biblical. See *Magen Avraham*.

(7) But the custom, etc. — And in our lands we always practice leniency and the women make blessings and pray. Nevertheless, they should not gaze at the Torah scroll when it is lifted to show the people (*Ḥayyei Adam*). He [*Ḥayyei Adam*] also wrote that they should not enter cemeteries before they immerse in the *mikveh*.

(ו) או להתפלל וכו' – ובבנימין זאב סימן קנ"ג כתב שלא נהגו רק שלא לכנס לבה"כ ולא לראות ס"ת וגם כשמתפללת אינה עומדת בפני חברותיה ומשום מנהג וכבוד עושין כן ולא משום איסור עכ"ל וכן הסכימו האחרונים דצריכה להתפלל בביתה ולברך כל הברכות ובפרט ברהמ"ז וקידוש שהוא מן התורה וע' במ"א: (ז) אבל המנהג וכו' – ובמדינותינו נוהגין היתר לעולם ומברכות ומתפללות ומ"מ לא יסתכלו בס"ת בשעה שמגביהים אותה להראות לעם [ח"א]. עוד כתב שלא יכנסו לבית הקברות עד שיטבלו:

Mishnah B'erurah adopts the position of his predecessors, *Magen Avraham* and *Ḥayyei Adam*, clearly delineating these practices as custom and not law, and disallowing them when they interfere with halakhic obligations such as *kiddush* and *birkat hamazon*.

Arukh Hashulḥan also notes the customs of women not to go to the *beit k'neset* or to pray during their bleeding days, citing R^ema. He also cites the exceptions in *Magen Avraham* of attending synagogue after childbirth and to attend a child's wedding, as well as the objection in *Magen Avraham* to the practice of not making blessings, particularly blessings that are incumbent upon women biblically, such as *kiddush* and *birkat hamazon*.⁴⁹

In his commentary to *Yoreh De'ah*, *Arukh Hashulḥan* cites R. Yosef Caro's ruling that all those who are impure are permitted to touch a Torah scroll. *Arukh Hashulḥan* provides the talmudic background for this ruling. At the end of his comments, he notes that there are customs practiced by women in *niddah* who refrain from prayer and attending synagogue.

25. *Arukh Hashulḥan*

Yoreh De'ah 282:15
R. Y^eḥiel Mikhl Epstein
Russia (1829–1908)

ערוך השולחן
יורה דעה רפב:טו

All those who are impure, even *niddot*, are permitted to hold a Torah scroll and read from it, for words of Torah do not contract

כל הטמאים אפילו נדות מותרות לאחוז בס"ת ולקרות בו דאין דברי תורה מקבלים טומאה

⁴⁹ *Arukh Hashulḥan*, O.H. 88:4

tum'ah, as it is written (Jer. 23:29): “Is not My word like fire, says the Lord?” Just as fire does not contract *tum'ah*, so too, words of Torah (*Ber. 22a*). For this reason, it is explained in *Shulḥan Arukh, Oraḥ Ḥayyim* 88 that all who are impure are permitted to learn, to recite *Shema*, and to pray, and only the *ba'al kerī*, according to Ezra's enactment, was required to immerse for Torah study and prayer. This did not apply to touching a Torah scroll and certainly *ḥumashim* and other holy books. With all this, they canceled the requirement for immersion, as it is stated there. They are only to see to it that their hands are not filthy or dirty. Similarly, if they have touched a normally covered part of the body, or combed their hair, then they are forbidden to touch holy writings and certainly a Torah scroll until they have washed their hands. There it is explained the customs of women in *niddah* regarding prayer and going to the synagogue. Look there.

דכתיב הלא דברי כאש נאום ה' (ירמיהו כג:כט) מה אש אינו מקבל טומאה אף דברי תורה כן. (ברכות כב.) ומטעם זה נתבאר בא"ח סי' פ"ח דכל הטמאים מותר ללמוד ולקרות ק"ש ולהתפלל ורק בעל קרי היתה מתקנת עזרא להצריכם טבילה ללימוד ולתפלה ולא לעניין ליגע בס"ת וכ"ש בחומשים ושאר ספרי קדש ואף גם זה בטלוח לטבילותא כמ"ש שם ורק יראו שלא יהא ידיהם מטונפות או מלוכלכות וכן אם נגעו בבשרן במקומות המכוסין או חפפו ראשן דאז אסורים ליגע בכתבי קדש וכ"ש בס"ת עד שירחצו ידיהם ושם מבואר מנהגי נשים נדות בתפלה ובהליכתן לבהכ"נ ע"ש:

Like *Magen Avraham*, *Ḥayyei Adam*, *Shulḥan Arukh Harav*, and *Mishnah B'erurah*, *Arukh Hashulḥan* refers to these practices as custom, not law, and significantly, contrasts them with the clear halakhic permissibility of those who are impure, including women in *niddah*, to touch a Torah scroll, to study, and to pray.

CONCLUSIONS

We began this study guide with the following questions:

1. Are there prohibitions barring women in *niddah* from touching Torah scrolls?
2. What are the sources of popular practices that caused women in *niddah* to remove themselves or be removed from synagogues, studying Torah, and praying?
3. What is the halakhic weight of these practices?

We demonstrated that *tum'ah* has relevance only to the Temple and to sanctified foods. We also examined *Takkanat Ezra* and noted its inapplicability to the woman in *niddah*. At the same time, we showed that numerous practices of women in *niddah*, or specifically women in their bleeding days, that distanced them from the sacred were in place since ancient times and stemmed from *tum'ah* practices that have no basis in halakhah such as those mentioned in *Baraita D'massekhet Niddah*. Many of these practices were cited in Ashkenazic *rishonim*; Sephardic *rishonim* did not cite or uphold these practices. Although a number of Ashkenazic *rishonim* saw these practices as commendable, they were seen as custom and not law. R^{ama}, citing the school of Rashi, also maintains that these practices are not law but upholds these

customs in lands, such as his, where they were practiced by the women. *Aḥaronim* continued to maintain this distinction between law and practice and objected to their practice when it interfered with women's halakhic obligations. A number of Ashkenazic *aḥaronim* also noted that it was not the custom in their lands.

In present times, when women attend synagogue during their menstrual periods and certainly do not refrain from making *berakhot*, praying, or learning Torah, one should not distinguish touching a Torah scroll from these other practices. Thus, there should be no halakhic bar to women touching, holding, or dancing with the Torah in these communities.⁵⁰

⁵⁰ See *Iggerot Moshe, Yoreh De'ah* 3:47:3 where R. Moshe Feinstein answers that it is permissible for a woman who is menstruating to wear a sanitary napkin on Shabbat (it is not considered carrying) in order to attend synagogue. Nowhere in the responsum is a woman's attendance at synagogue, while menstruating, in question.



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