

© 2021 ROTEM BEN DAVID FIX. This is an open access article distributed under the terms of the Creative Commons Attribution License, which permits the user to copy, distribute, and transmit the work provided that the original author(s) and source are credited.

VOL. 41 SYMPOSIUM ESSAY: NIDDAH - JEWISH MENSTRUATION AND THE LAWS GOVERNING MARRIAGE IN ISRAEL

ROTEM BEN DAVID FIX

The following is a part of an essay series for the Volume 41 Symposium, "Are You There Law? It's Me, Menstruation."

Under Israeli law, marriages performed in Israel can only be recognized by the state if the marriage is performed according to a state-recognized religious court's laws. This has a clear impact on "non-traditional" marriages, such as bi-religious marriages and same-sex marriages, as they are not recognized by the traditional religions. Additionally, this means that secular Jewish couples who wish to avoid getting married through the Rabbinical Court must marry outside of Israel, to later be acknowledged as married by the state[1].

This legal scheme has a surprising impact on Jewish women and their periods. Under Jewish religious laws, a woman is considered "impure" during her menstruation days ("niddah") and must follow a "purifying" ritual prior to entering and consummating a marriage, as well as during married life itself.[2]

"Niddah" requires that a woman experiencing her menstruation remain distant from her husband or husband-to-be. She must maintain physical distance (e.g., sleeping in separate beds during her "impure" days) for seven "clean" days, where she checks with cloth that she has no blood in her cervix. This ritual concludes with a "Mikveh" ceremony, where she purifies herself by dipping into a pool of water. Only when this ritual has concluded is the woman "pure" and allowed to consummate the marriage[3].

Because under Israeli law all Jewish women are required to marry through the Rabbinical authorities, all are required to follow this ritual prior to getting married (even if the couple has already engaged in sexual activity). This leads to scheduling issues, as the wedding date should be set for after the woman has dipped in the "mikveh" water and is considered pure.

This has led to two dangerous and degrading practices: (1) women in Israel use medication to change the date of their periods, or miss them all-together, in order to get married on a specific date (using contraceptives/other medication to "play" with their hormones)[4], and (2) couples undergo "Huppat Niddah", where the marriage is performed without allowing the couple any physical contact during or after the ceremony, which might signal to the wedding guests that the woman is "impure".[5]

These practices may occur outside Israel in religious Jewish communities, but in such cases the women choose to follow these religious laws, while in Israel they are forced upon secular and non-religious women.

[1] Karin Carmit Yefet, *Israeli Family Law as a Civil-Religious Hybrid: A cautionary Tale of Fatal Attraction*, 2016 U. ILL. L. REV. 1505, 1508 (2016).

[2] Varvara Redmond, *The Evolution of the Niddah Practice from Ritual Hygiene to Biopower: A Study in Digital Ethnography*, WOMEN IN JUDAISM: A MULTIDISCIPLINARY J., 16(2) (2019).

[3] Jonah Steinberg, *From a "Pot of Filth" to a "Hedge of Roses" (And Back): Changing Theorizations of Menstruation in Judaism*, J. OF FEMINIST STUD. IN RELIGION, 13(2) (1997).

[4] Menstruation planning before wedding, Wikirefua

[5] ANDREW K.T. YIP, *THE ASHGATE RESEARCH COMPANION TO CONTEMPORARY RELIGION AND SEXUALITY*, 278 (2016).

Keywords: Are You There Law? It's Me Menstruation; symposia; law; menstruation; International Law