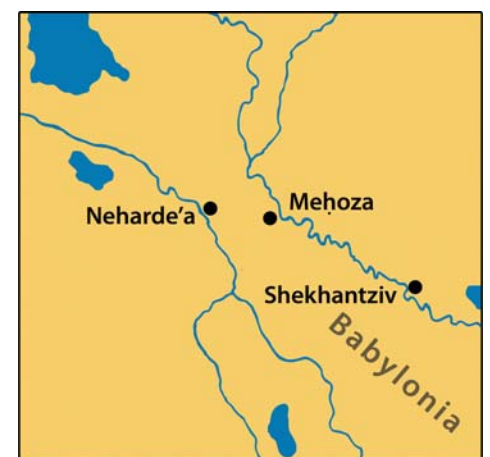


**Destructive in causing the wound – מְקַלְקֵל בְּחַבּוּרָה**: The Ramban cites an explanation that he himself rejects, that the reference here is to the wound caused by slaughtering young fowl. In the *Shita Mekubbetzet*, a defense of that explanation is cited.

The Gemara seems to be saying that if the intercourse is considered destructive, it is permitted *ab initio* according to Rabbi Yehuda. The commentaries ask: Isn't performance of a destructive action prohibited by rabbinic law (see *Tosafot*)? They respond that there are two factors here dictating leniency: The action is destructive action and unintentional. Others add a third factor: It is in the course of performing a mitzva. The Rashba contends that the Sages issue decrees prohibiting certain actions, only due to the concern that otherwise one might come to perform a similar action prohibited by Torah law. Here, although creating the opening falls into the category of building, people do not consider it building and will not come to perform the forbidden labor of building as a result of the intercourse. Others explain that since the intercourse is a destructive action as far as the woman is concerned, it is in no way comparable to the forbidden labor of building, and no decree was issued (*Ha'amek She'ala*).

In cases involving destructive acts is the *halakha* in accordance with the opinion of Rabbi Yehuda – בְּמִקְלָקֵל הַלֵּכָה – כְּרַבִּי יְהוּדָה: Some ask why the ruling with regard to intercourse with his virgin bride, which is a mitzva, is not the same as the ruling with regard to circumcision, which is considered a constructive act due to the mitzva involved (*Sefer Haifa'a*). Some distinguish between circumcision, where creating the wound is the essence of the mitzva, and intercourse with a virgin, where the wound is ancillary to the mitzva.



Location of Neharde'a

ואם תימצי לומר הלכה כרבי יהודה – במקלקל הוא אצל הפתח או מתקן הוא אצל הפתח?

And even if you say that the *halakha* is in accordance with the opinion of Rabbi Yehuda in this regard, is this a destructive action vis-à-vis the opening, and is it consequently permitted on Shabbat because only constructive actions are forbidden? Or, perhaps it is a constructive action vis-à-vis the opening.

איכא דאמרי: ואם תימצי לומר דם חבוירי מיתבר – לדם הוא צריך ואסור, או דלמא להנאת עצמו הוא צריך ושורי?

Some say that the series of dilemmas is as follows: And if you say that the blood is flowing through vessels attached to the body and emerges as a result of a wound, does the husband require the blood, and engaging in intercourse is consequently prohibited, as his intent is to cause the wound? Or, perhaps he requires the act of intercourse solely for his own pleasure, and it is permitted.

ואם תימצי לומר להנאת עצמו הוא צריך, ודם ממילא קאתי – הלכה כרבי יהודה או הלכה כרבי שמעון?

And if you say that he requires the act of intercourse solely for his own pleasure, and the blood comes incidentally, as it was not his intent to draw blood, is the *halakha* in accordance with the opinion of Rabbi Yehuda with regard to an unintentional act, or is it in accordance with the opinion of Rabbi Shimon?

ואם תימצי לומר הלכה כרבי יהודה – במקלקל בחבורה או מתקן בחבורה הוא?

And if you say that the *halakha* is in accordance with the opinion of Rabbi Yehuda and unintentional acts are forbidden, is one destructive in causing the wound or constructive in causing the wound?

ואם תימצי לומר מקלקל בחבורה הוא – במקלקל הלכה כרבי יהודה

And if you say that he is destructive in causing the wound,<sup>N</sup> in cases involving destructive acts is the *halakha* in accordance with the opinion of Rabbi Yehuda,<sup>N</sup> who rules that one who performs any destructive act on Shabbat is exempt, even if he did so intentionally?

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או הלכה כרבי שמעון?

Or, is the *halakha* in accordance with the opinion of Rabbi Shimon, who ruled that one who is destructive in causing a wound on Shabbat is liable if he did so intentionally?

(איתמר), בבי רב אמרי: רב שרי ושמואל אסר. בנהרדעא אמרי: רב אסר ושמואל שרי. אמר רב נחמן בר יצחק, וסימניך: אלו מקילין לעצמן ואלו מקילין לעצמן.

With regard to the *halakha* of engaging in intercourse with one's virgin bride on Shabbat, it was stated that in the school of Rav they say: Rav permitted doing so and Shmuel prohibited doing so. In Neharde'a,<sup>B</sup> where Shmuel lived, they say: Rav prohibited doing so and Shmuel permitted doing so. Rav Nahman bar Yitzhak said: And your mnemonic is: These are lenient with regard to themselves, and those are lenient with regard to themselves. Each attributes the lenient ruling to the local halakhic authority, whose ruling is binding in that locale.

BACKGROUND

Neharde'a – נְהַרְדְּעָא: This city, located on the Euphrates near the Malka River, was one of the oldest Jewish communities in Babylonia. According to tradition, Jews lived in Neharde'a as early as the First Temple period, in the sixth century BCE, beginning with the exile of King Jehoiachin of Judea. Neharde'a was one of the most important Jewish communities in Babylonia. It was a center of Torah study from an early period, and its yeshiva was the oldest in Babylonia. Many of the greatest *tanna'im* visited Neharde'a, among them Rabbi Akiva, who intercalated

the calendar there (*Yevamot* 122b). In Rav's time, the first half of the third century CE, the Neharde'a Yeshiva was headed by Rav Sheila and then by Shmuel. Since the city was located near the border between the Roman and Persian empires, it frequently suffered from wars between the two, and Pappa ben Nazer Odonathus, king of Tadmor, destroyed it completely in 259 CE. Later, however, Jews resettled there, and many Torah scholars remained in Neharde'a even after its yeshiva relocated to Mehoza and Pumbedita.

## BACKGROUND

**Until the wound heals – עד שתתקח המכה:** The period of time in which a wound forms a scab and the bleeding ceases is determined by different variables and differs from person to person. Clearly, additional wounds irritating the affected area, e.g., by means of additional acts of intercourse, would extend that period of time. Therefore, no time limit is set, and the duration of the healing process varies based on the circumstances in each case.

## LANGUAGE

**Barrel [nazyata] – גוּיִיתָא:** From the ancient Syriac-Aramaic *nazanta* or *nazita*, meaning large barrel. Its source is the Akkadian *namzitu*, meaning vessel for fermenting alcoholic beverages.

## HALAKHA

**Stopper of a barrel – מסוכרין דנזייתא:** According to some authorities, it is permitted to remove and return the cloth stopper that is inserted into the opening in the side of the barrel, although it is inevitable that liquid will be squeezed out of the cloth, since that is an undesirable inevitable consequence (*Tur*, based on *Arukh*). Others prohibit performing a permitted action with an inevitable forbidden consequence in all circumstances (*Ri*). It is customary to adopt the lenient ruling, but one must be certain to avoid placing a vessel under the stopper to receive the dripping wine, as doing so renders the action permitted with an inevitable forbidden consequence that is desirable (*Shulhan Arukh, Oraḥ Hayyim 320:18*).

**A young girl whose time to see has not arrived and she married – תינוקת שלא הגיע זמנה לראות ונשאת:** If a man marries a young girl whose time to see the flow of menstrual blood has not yet arrived, she is permitted to her husband until the wound heals, as any blood that flows is from the ruptured hymen (Rambam; see *Rif*). Nevertheless, the accepted custom is that even in the case of a minor girl, they engage in intercourse to fulfill the mitzva, then the groom withdraws, and they refrain from further relations until the wound heals. This is the opinion of the Rambam and the Ra'avad, and most authorities, based on the conclusion of the Gemara (*Nidda 65b*; Rambam *Sefer Kedusha, Hilkhhot Issurei Bia 5:19, 11:8*; *Shulhan Arukh, Yoreh De'a 193:1*).

**ורב שרי? והאמר רב שימי בר חזקיה משמיה דרב: האי מסוכרין דנזייתא אסור להדוקה ביומא טבא!**

**בההוא אפילו רבי שמעון מודה. דאביי ורבא דאמרי תרויהו: מודה רבי שמעון בפסיק רישיה ולא ימות.**

**והא אמר רב חייא בר אשי אמר רב: הלכה כרבי יהודה, ורב חנן בר אמי אמר שמואל: הלכה כרבי שמעון. ורב חייא בר אבין מתני לה בלא גברי, רב אמר: הלכה כרבי יהודה, ושמואל אמר: הלכה כרבי שמעון!**

**לעולם רב כרבי יהודה סבירא ליה להך לישנא דאמר דם מפקד פקיד – מקלקל הוא אצל הפתח. להך לישנא דאמר דם חבוי מיתבר – מקלקל בתבורה הוא.**

**מתב רב חסדא: תינוקת שלא הגיע זמנה לראות ונשאת, בית שמאי אומרים: נותני לה ארבעה לילות, ובית הלל אומרים: עד שתתקח המכה.**

The Gemara asks: **And did Rav permit engaging in intercourse in those circumstances? But didn't Rav Shimi bar Hizkiyya say in the name of Rav: In the case of this cloth stopper of a barrel [nazyata],<sup>LHN</sup> it is prohibited to insert it tightly<sup>N</sup> in the spout of the barrel on a Festival, because in the process liquid will be squeezed from the cloth, and squeezing liquids is prohibited on Shabbat and Festivals. Apparently, Rav prohibits even unintentional actions.**

The Gemara answers: **In the case of the barrel, even Rabbi Shimon concedes, as it is Abaye and Rava who both say: Rabbi Shimon concedes in the case of: Cut off its head<sup>N</sup> and will it not die, i.e., a case that involves inevitable consequences like the decapitation of an animal, that the action is forbidden. Here, the liquid will inevitably be squeezed from the cloth.**

The Gemara asks: **But didn't Rav Hiyya bar Ashi say that Rav said with regard to unintentional acts: The halakha is in accordance with the opinion of Rabbi Yehuda, and Rav Hanan bar Ami said that Shmuel said: The halakha is in accordance with the opinion of Rabbi Shimon. And Rav Hiyya bar Avin taught these rulings directly, without citing additional men who transmitted them. Rav said: The halakha is in accordance with the opinion of Rabbi Yehuda, and Shmuel said: The halakha is in accordance with the opinion of Rabbi Shimon. How then did Rav permit intercourse with one's virgin bride on Shabbat?**

The Gemara answers: **Actually, Rav holds in accordance with the opinion of Rabbi Yehuda. According to that version that said that the blood is pooled, he is destructive vis-à-vis the opening. According to that version that said that blood is flowing through blood vessels attached to the body, he is destructive in causing the wound, and Rabbi Yehuda concedes that it is permitted.**

**Rav Hilda raised an objection from a mishna (Nidda 64b). With regard to a young girl whose time to see the flow of menstrual blood has not arrived,<sup>N</sup> as she has not yet reached puberty, and she married,<sup>H</sup> Beit Shammai say: One gives her four nights during which she may engage in intercourse, as any blood is attributed to the ruptured hymen. Beit Hillel say: There is no limit. Rather, any blood she sees is attributed to the ruptured hymen until the wound heals.<sup>BN</sup>**

## NOTES

**Stopper of a barrel – מסוכרין דנזייתא:** There are various opinions with regard to the nature of this item, as well as with regard to the halakhic issue involved. According to Rashi and several of the *ge'onim*, the reference is to a cloth stopper or one covered in cloth that plugs a hole in the side of the barrel, and the halakhic problem relates to squeezing the liquid from the cloth. A similar explanation is that the reference is to a garment used to cover the top of the barrel, and there too the concern is with regard to squeezing the liquid from the garment (*Tosefot Rid*; Meiri). In both of those cases, one does not intend to squeeze the liquid, but that consequence is inevitable.

The *Arukh* cites a different opinion, based on a geonic tradition, that the reference is to a wooden covering used to seal the side of the barrel, and the concern is with regard to the prohibited labor of building. Although one's intention is merely to prevent the wine from leaking, by fixing the covering in place, he is essentially building the side of the barrel.

**It is prohibited to insert it tightly – אסור להדוקה:** According to most opinions, the halakhic issue under discussion is the prohibited labor of squeezing a liquid. The question arises: Under the rubric of which of the thirty-nine primary categories of prohibited labor does this action fall? The question is not merely academic, as each of the categories of labor is unique

with regard to its objective, its typical method of performance, and the manner in which one incurs complete liability.

The *Ritva* summarizes the various opinions, enumerating three primary categories under whose rubric squeezing could fall: (1) Threshing, i.e., extracting a substance suitable for use from an outer covering unfit for use. This is prohibited by Torah law only with regard to substances that grow from the ground. (2) Whitening, i.e., laundering, cleaning, etc., as immersing the cloth in water is a form of laundering. (3) Dyeing, as the wine changes the color of the cloth (see *Tosafot*). An interesting proof that it cannot fall under extracting, a subcategory of threshing, is cited in *Shoel UMeshiv*. The Gemara states that this activity is forbidden on a Festival. Extracting, which is necessary for preparation of food, is permitted on a Festival.

**Cut off its head – פסיק רישיה:** The opinion of Rava and Abaye is that in cases where the forbidden consequence is inevitable, even Rabbi Shimon concedes that there is no exemption based on lack of intent. However, there is an additional consideration, cited in the *Arukh*, which is whether the inevitable consequence is desirable to the one performing the permitted action, whether he is indifferent to it, or whether it is undesirable to him. Some authorities rule that in the latter cases, Rabbi Shimon holds that the action is permitted.

**תינוקת שלא הגיע זמנה לראות:** These discussions are based on two fundamental principles. By Torah law, the blood from a ruptured hymen is not a source of ritual impurity, and its halakhic status is like that of blood from any other wound. In many cases, however, the concern is that during intercourse, or immediately thereafter, the bride began to menstruate, and there is no clear way to distinguish between menstrual blood and the blood from the hymen.

Furthermore, at one point, Jewish women adopted the stringency that any blood that emerges from the womb is treated as the blood of a *zava*, who is eligible for purification only after counting seven clean days without blood. The combination of these two factors forms the basis for the disputes of the *tanna'im* and later halakhic authorities on this matter.

**Until the wound heals – עד שתתקח המכה:** In other words, even if the wound takes a long time to heal, they may engage in intercourse. Beit Hillel also permits relations for four nights even after the wound heals. There is no alternative to understanding the dispute in this manner, as otherwise, this would be a case where the opinion of Beit Shammai is more lenient than the opinion of Beit Hillel, and it is not enumerated among the leniencies of Beit Shammai in tractate *Eduyyot*.

**Her time to see has arrived – הגיע זמנה לראות**: A girl who reached the age of menstruation but has not yet menstruated is permitted to her husband for four days following the first act of intercourse, even if there is some bleeding, provided the wound has not healed. According to the Rosh, she is permitted even if the wound has healed. Today, however, Jewish women adopted the stringency that any blood that emerges from the womb is treated as the blood of a *zava*. Therefore, the accepted custom is to engage in intercourse and withdraw until the wound is completely healed and there is no bleeding (Rambam *Sefer Kedusha*, *Hilkhot Issurei Bia* 5:19, 11:8; *Shulḥan Arukh*, *Yoreh De'a* 193:1, *Even HaEzer* 63:1).

הגיע זמנה לראות ונשאת. בית שמאי אומרים: נותנין לה לילה הראשון. ובית הלל אומרים: עד מוצאי שבת, ארבעה לילות.

If, however, **her time to see the flow of menstrual blood has arrived**,<sup>h</sup> as she has reached the age of puberty, even if she has not yet menstruated, **and she married, Beit Shammai say: One gives her the first night**, during which the blood is attributed to the wound. Thereafter, the blood is presumed to be menstrual blood, and she is forbidden to her husband. **Beit Hillel say: One gives her from Wednesday, the day designated for marriage of a virgin, until the conclusion of Shabbat, four nights**. During that period, any blood is attributed to the wound, and she is permitted to her husband.

## Perek I

## Daf 6 Amud b

מאי לא דאי לא בעל מצי בעיל אפילו בשבת! אמר רבא: לא, לבר משבת. אמר ליה אביי: והא עד מוצאי שבת ארבעה לילות קתני! אלא אמר רבא: בשבעל.

What, is it not referring to a case where if he did not yet engage in full-fledged intercourse, i.e., rupturing the hymen, with his bride, he may engage in full-fledged intercourse with her even on Shabbat? Apparently, it is permitted to engage in intercourse with a virgin on Shabbat. **Rava said: No**, it is referring to any other day **except for Shabbat**. **Abaye said to him: But isn't it taught: Until the conclusion of Shabbat, four nights?** Four nights from Wednesday until the conclusion of Shabbat includes Shabbat. **Rather, Rava said: It is referring to a case where he engaged in full-fledged intercourse with his bride before Shabbat**. Therefore, there is no concern lest he cause a wound on Shabbat.

אי בשבעל – מאי קא משמע לן? קא משמע לן דשרי למיבעל בשבת, בדשמואל. דאמר שמואל: פירצה דחוקה מותר ליכנס בה בשבת, ואף על פי שמשור צרורות.

However, if it is referring to a case where he already engaged in intercourse, what is the *tanna* teaching us when he says that it is permitted to have intercourse with her even on Shabbat? **He teaches us that although it might cause bleeding, it is permitted to engage in intercourse on Shabbat, in accordance with the statement of Shmuel, as Shmuel said: It is permitted to enter into a narrow opening in a wall on Shabbat, although doing so causes pebbles to fall from the wall**. Here too, although it might cause a wound and bleeding, intercourse is permitted on Shabbat.

מתיב רב יוסף: חתן פטור מקרית שמע לילה הראשון עד מוצאי שבת אם לא עשה מעשה. מאי לאו – דטרוד, דבעי למיבעל? אמר ליה אביי: לא, דטרוד דלא בעיל.

Rav Yosef raised an objection from a mishna (*Berakhot* 16a): **A groom is exempt from the mitzva of reciting Shema on the first night<sup>h</sup> of his marriage to a virgin on Wednesday night, until Saturday night, if he has not taken action and consummated the marriage**. What, is it not that he is exempt due to the fact that he is preoccupied because he wishes to engage in intercourse with her and is concerned that he will fail to do so properly? Apparently, if he did not yet consummate the marriage, he is exempt from reciting *Shema* even on Shabbat, indicating that it is permitted to engage in intercourse on Shabbat. **Abaye said to him: No**. It can be explained that he is exempt from reciting *Shema* because he is preoccupied due to the fact that he did not yet engage in intercourse with her. No proof may be cited with regard to engaging in intercourse on Shabbat.

אמר ליה רבא: ומשום טרודא פטור? אלא מעתה טבעה ספינתו ביס הכי נמי דפטור? וכי תימא הכי נמי – והאמר רבי אבא בר זבדא אמר רב: אביל תייב בכל המצוות האמורות בתורה חוץ מן התפילין, שנאמר בהן "פאר!"

Rava said to Abaye: **And is one exempt due to preoccupation?<sup>n</sup> If that is so, would one whose ship sunk at sea also be exempt?** The Gemara reinforces its question: **And if you would say: In fact, that is so, didn't Rabbi Abba bar Zavda say that Rav said: A mourner is obligated in all the mitzvot<sup>n</sup> in the Torah except for the mitzva to don phylacteries,<sup>h</sup> as the term splendor is stated with regard to phylacteries.<sup>n</sup> "Make no mourning for the dead; bind your splendor upon yourself" (Ezekiel 24:17).** Splendor is antithetical to mourning. If a mourner, who is clearly pained and preoccupied, is obligated to recite *Shema*, then certainly all others who are preoccupied due to events that transpired in the past should be obligated. If the groom is exempt, it must be due to his preoccupation with a mitzva that remains incumbent upon him to perform in the future.

## HALAKHA

**A groom is exempt from the mitzva of reciting Shema on the first night – חתן פטור מקרית שמע לילה הראשון**: A groom who marries a virgin is exempt from reciting *Shema* until he consummates the marriage because he is preoccupied that he will discover that she is not a virgin. Since he is preoccupied with the performance of a mitzva, he is exempt from performing another. If he has not engaged in sexual relations three nights after the wedding, he is obligated to recite *Shema*, since he is more comfortable with his bride and no longer preoccupied. That exemption applied in earlier generations. However, today most people typically recite *Shema* without the proper intent, so a groom who marries a virgin recites *Shema* as well (Rambam *Sefer Ahava*, *Hilkhot Keriat Shema* 4:1; *Shulḥan Arukh*, *Orah Hayyim* 70:3).

**A mourner is obligated in all the mitzvot in the Torah except for the mitzva to don phylacteries – אביל תייב**: It is prohibited for a mourner to don phylacteries on the day of the burial (Rambam *Sefer Shofetim*, *Hilkhot Evel* 4:9; *Shulḥan Arukh*, *Orah Hayyim* 38:5).

## NOTES

**Preoccupation – טרודא**: Several explanations are provided for the preoccupation of one who marries a virgin. They must be taken together in order to understand the course of the Gemara's discussion here. In the Rambam's Commentary on the Mishna it is explained that he is anxious that he will discover that his bride is not a virgin. In the *Shita Mekubbetzet*, an opinion is cited that his concern is that he might falsely suspect his wife of not being a virgin. Apparently, he is also worried that he will be unable to engage properly in full-fledged intercourse.

**Is obligated in all the mitzvot – תייב בכל המצוות**: The Ritva notes that a mourner is also prohibited from studying Torah, which means that the statement here is not completely accurate. The Sages, in various formulations, stated that practical *halakha* cannot be learned from principles stated in the mishna, as there are no principles without exceptions.

**As the term splendor is stated with regard to phylacteries – שנאמר בהן פאר**: Rashi adds that since a mourner is downhearted and despondent, it is inappropriate for him to place splendor on his head. The Ritva explains that Rashi did not suffice with merely citing the verse from Ezekiel, from which it is derived that the mourner is exempt from the mitzva of phylacteries, because he wanted to explain, in passing, why all mitzvot are not derived from the mitzva of phylacteries by means of an analogy.

אֵלָא אָמַר רַבָּא: תַּנְאֵי הִיא. דְּתַנָּא קְדָא:  
אִם לֹא עָשָׂה מַעֲשֵׂה בְּרֵאשׁוֹן – פְּטוּר  
אֶף בְּשֵׁנִי, בְּשֵׁנִי – פְּטוּר אֶף בְּשִׁלְשִׁי.

וְתַנָּא אֵידֶן: רֵאשׁוֹן וְשֵׁנִי – פְּטוּר,  
שְׁלִישִׁי – חַיִּיב.

וְאֲבֵי: הָתֵם נְמִי בְּטִירְדָא פְּלִיגִי.

וְהֵי תַנְאֵי כִי הֵי תַנְאֵי; דְּתַנְאֵי: הַכּוֹנֵם  
אֶת הַבְּתוּלָה לֹא יַבְעוּל בְּתַחֲלָה בְּשַׁבָּת,  
וְחַכְמַיִם מְתִירִין.

מֵאַן חַכְמַיִם? אָמַר רַבָּה: רַבִּי שְׁמַעוֹן  
הִיא. דְּאָמַר: דְּבַר שְׂאִין מְתַבְּוִין מוֹתֵר.

אָמַר לִיה אֲבֵי: וְהָא מוּדָה רַבִּי שְׁמַעוֹן  
בְּפָסִיק רִישִׁיה וְלֹא יָמוּת! אָמַר לִיה: לֹא  
פְּהִלְלוּ בְּבָלִיִּים שְׂאִין בְּקִיאִין בְּהִטְיָיָה,  
אֵלָא יֵשׁ בְּקִיאִין בְּהִטְיָיָה.

אִם כֵּן טוֹרְד לְמָה? לְשְׂאִינוּ בְּקִי. יֵאמְרוּ  
בְּקִי – מוֹתֵר, שְׂאִינוּ בְּקִי – אָסוּר! רַב  
בְּקִיאִין הֵן.

Rather, Rava said: This matter of intercourse with a virgin on Shabbat is subject to a dispute between *tanna'im*, as one *tanna* taught: **If he did not take action on the first night he is exempt from reciting Shema even on the second.** If he failed to consummate the marriage on the **second night he is exempt even on the third night**, which is Shabbat evening.

And another *baraita* is taught: On the **first and second nights he is exempt**; on the **third he is obligated** to recite *Shema*. He is obligated on the third night, even if he did not yet consummate the marriage, because the third night is Shabbat, when intercourse with his virgin wife is forbidden. The different rulings in the two *baraitot* indicate that there is a tannaitic dispute with regard to intercourse with a virgin on Shabbat.

And how does Abaye respond to this proof? He says that **there too**, it can be explained that it is **with regard to preoccupation** that the *tanna'im* disagree. Everyone agrees that it is prohibited to engage in intercourse with a virgin on Shabbat. The dispute is whether or not one's preoccupation with the fact that he has not yet performed the mitzva of consummating the marriage in the past is considered preoccupation with a mitzva, which would exempt him from reciting *Shema*?

And the dispute between these *tanna'im* in the *baraitot* cited is parallel to the dispute between these *tanna'im*, as it is taught in another *baraita*: With regard to **one who marries a virgin, he may not engage in intercourse** with her for the **first time on Shabbat, and the Rabbis permit** doing so.

The Gemara asks: **Who are the Rabbis** that permit doing so? *Rabba* said: **It is the opinion of Rabbi Shimon, who said: An unintentional act is permitted** on Shabbat. Since one's intention is to perform a permitted action, i.e., the consummation of the marriage, and there is no intent to perform a forbidden action, any forbidden action that may ensue is not a source of concern.

Abaye said to *Rabba*: **But doesn't Rabbi Shimon concede** that in the case of: **Cut off its head and will it not die**, i.e., inevitable consequences, one is not exempted by lack of intent. Since rupture of the hymen and the subsequent bleeding is inevitable, Rabbi Shimon would concede that intercourse with a virgin is forbidden. *Rabba* said to him: **Unlike these Babylonians, who are not experts in diverting<sup>B</sup>** during intercourse and are unable to engage in intercourse without rupturing the hymen, **there are those who are experts in diverting.** Therefore, rupture of the hymen is not an inevitable consequence.

The Gemara asks: **If so**, and the groom is expert in diverting, **why** is there **preoccupation** that renders him exempt from reciting *Shema*? The Gemara answers: The exemption due to preoccupation is limited to **one who is not expert**. The Gemara asks: If so, the Sages **should say** explicitly: One who is **expert is permitted** to have intercourse with a virgin on Shabbat, and one **who is not expert<sup>N</sup> is prohibited** from doing so. The Gemara answers: **The majority of men are experts** in this matter. Therefore, rupture of the hymen is not an inevitable consequence, and intercourse is permitted on Shabbat.

#### BACKGROUND

**Diverting** – הִטְיָיָה: Diverting can be accomplished in several manners. It can be a form of intercourse without penetrating the vagina, which is one of the possibilities raised by the Gemara with regard to the preliminary stage of intercourse. Here, it seems more likely that we are dealing with a case of complete penetration that avoids

rupturing the hymen. This is possible when the hymen is naturally perforated sufficiently to allow entry. In the case of most mature grown women, the hymen is no longer intact and there is often an opening large enough to enable penetration at a certain angle without causing rupture.

#### NOTES

בְּקִי...שְׂאִינוּ בְּקִי – One who is expert...one who is not expert: The early commentaries analyzed this brief passage very closely, since the different reasons cited are apparently contradictory (see *Tosafot*). They conclude that even those who are not expert at diverting are at times successful in doing so. However, due to their

lack of expertise, they will not know in advance whether or not they will be successful. On the other hand, those who are expert may decide to engage in full-fledged intercourse. On that basis, the various statements can be reconciled.

**One who drains an abscess – המפּיס מורָסָא:** Rashi explains that creating a permanent opening in the abscess falls under the rubric of the prohibited labor of building, which is applicable to human bodies as well. The Rambam explains that creating this opening is included in the category of striking with a hammer, i.e., completing production of a vessel. The purpose of this opening is to facilitate the exit of the pus and the entry of air (*Tosafot*). Others, citing *Tosafot*, explain that the opening facilitates exit of the pus and the introduction of medicine.

## HALAKHA

**One who drains an abscess – המפּיס מורָסָא:** One who lances a pus-filled abscess on Shabbat in order to create a permanent opening to facilitate healing is liable to receive punishment for performing the prohibited labor of striking with a hammer, i.e., completing production of a vessel. However, it is permitted for one to lance the abscess if his intention is to drain the pus (Rambam *Sefer Zemanim, Hilkhos Shabbat* 10:17; *Shulhan Arukh, Orach Hayyim* 328:28).

## BACKGROUND

**Drains an abscess – מפּיס מורָסָא:** An abscess is a wound filled with pus that is drained by means of squeezing. The continued drainage of the pus is a necessary step in healing the abscess. The accumulation of pus in a closed abscess causes significant pain, and lancing the abscess and draining the pus temporarily relieves that pain.

## HALAKHA

**Have her seize her husband's movable property – אתפּסיה מטלטלין:** If a man neglected to or is unable to write a marriage contract for his wife, e.g., on Shabbat, he may give her movable property corresponding to the value of the marriage contract accompanied by a guarantee that he will compensate her for any loss of value. He may then engage in intercourse with his wife until he has the opportunity to draft a marriage contract, at which point he is obligated to do so (Rambam *Sefer Nashim, Hilkhos Ishut* 10:9; *Shulhan Arukh, Even HaEzer* 66:2).

אמר ליה רבא בר רב חנן לאבוי: אלא מעתה שושבינין למה? מפה למה? אמר ליה: התם שמוא יראה ויאבד.

Rava bar Rav Hanan said to Abaye: If that is so, and most people are able to engage in intercourse with a virgin without rupturing the hymen, **why are groomsmen stationed to ensure that no deceit is employed by the groom with regard to the bride's virginity?** And **why is a sheet necessary to determine whether there was blood?** The absence of blood proves nothing if intercourse is possible without blood. Abaye said to him: **There**, the groomsmen and the sheet are necessary **lest the groom see blood and seek to destroy it intentionally.** Certainly, if he seeks to engage in intercourse and keep the hymen intact he can do so. However, if he engages in full-fledged intercourse and the hymen is ruptured, the Sages sought to ensure that the facts are clear.

מתבב רבי אמי: המפּיס מורָסָא בשבת, אם לעשות לה פה – חייב. ואם להוציא ממנה ליחה,

Rav Ami raised an objection from a mishna (*Eduyyot* 2:5): With regard to **one who drains an abscess<sup>NHB</sup> on Shabbat**, if his intent is **to create a permanent opening** so that the abscess will dry, **he is liable** to receive punishment for performing an action similar to the prohibited labor of building on Shabbat. **However, if he created the opening to remove pus,**

## Perek I

## Daf 7 Amud a

פטור! התם פקיד ועקיר, הכא – פקיד ולא עקיר.

**he is exempt.** In this case, exempt means permitted *ab initio*. Ostensibly, intercourse with a virgin is comparable to creating an opening in an abscess. Why then, would intercourse with a virgin be forbidden on Shabbat? The Gemara rejects the proof: **There**, the pus in the abscess is **pooled in one place and completely removed** from the vessels in the flesh. In creating the opening, he creates nothing enduring. **Here**, however, in the case of the ruptured hymen, even according to the opinion that the blood is **pooled, it is not completely removed** from the blood vessels in the flesh. Through intercourse, the blood is removed from its place, which constitutes an aspect of a prohibited labor.

רבי אמי שרא למיבעל בתחלה בשבת. אמרי ליה רבנן: והא לא בתיבא בתובתה! אמר להו: אתפסיה מטלטלין.

The Gemara relates: **Rav Ami permitted one to engage in intercourse with his virgin wife for the first time on Shabbat. The Sages said to him: But her marriage contract is not yet written.** Engaging in conjugal relations with one's wife without a marriage contract is considered an act of promiscuity. **He said to them: Have her seize a portion of her husband's movable property<sup>H</sup>** equivalent to the value of her marriage contract, and that will serve as a deposit until he writes the marriage contract. He may then engage in sexual relations with her.

רב זביד שרא למיבעל בתחלה בשבת. איבא דאמרי: רב זביד גופיה בעל בתחלה בשבת.

The Gemara relates: **Rav Zevid permitted one to engage in intercourse with his virgin wife for the first time on Shabbat. There are those who say: Rav Zevid himself engaged in intercourse with his virgin wife for the first time on Shabbat.**

רב יהודה שרא למיבעל בתחלה ביום טוב. אמר רב פפי משמיה דרבא: לא תימא ביום טוב דשרי, הא בשבת אסור – דהוא הדין דאפילו בשבת נמי שרי ומעשה שהיה כך היה.

It was further related: **Rav Yehuda permitted one to engage in intercourse with his virgin wife for the first time on a Festival. Rav Pappi said in the name of Rava: Do not infer and say: It is on a Festival that it is permitted, but on Shabbat it is prohibited,** similar to actions involving food preparation, which are permitted on Festivals and prohibited on Shabbat, **as the same is true that even on Shabbat it is permitted. And the reason Rav Yehuda issued his ruling with regard to a Festival is due to the fact that the incident that took place, took place in this way.**