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1. The Pill and Family Planning

A discussion about *halakhically* acceptable methods of birth control is distinct from a discussion about the choice to use birth control. The choice to use birth control is what is known as family planning - taking control (to the degree that we are humanly able to do so) over how many children one has, when to have them, and the spacing between one child and the next. While family planning only came into its own with the proliferation of affordable and highly effective means of birth control, it is a phenomenon that already appears in the Talmud. Indeed, human beings have always tried to control the size of their families, and to find ways to separate sexual activity from conception and pregnancy.

From a *halakhic* perspective, questions about family planning are questions about the mitzvah of *pru u’rvu*: Can a couple postpone having children until they have been married for a few years? Is there an obligation to have more than one boy and one girl? Can they space their children? Are there circumstances when a man or woman may choose to not have children? These are important questions but are not our current focus.

Our discussion is about the methods of birth control, and it assumes that we are dealing with a situation in which the *pru u’rvu* issues have been addressed. But because in practice these two issues cannot be disentangled entirely, almost all the responsa below also address whether the use of birth control is justified in the case at hand. One major factor that is raised is whether the couple (or more specifically, the husband) has fulfilled the mitzvah already (i.e., has had one boy and one girl). The other major factor is how a birth or pregnancy may impact the woman’s health.

The two cases in the Talmud that deal with methods of birth control touch on both of these factors. One case, which we will see later, is the discussion of a *mokh*, a type of a vaginal sponge that blocks the semen from entering the uterus, a forerunner of today’s diaphragm (source 15). The Talmud discusses the use of a *mokh* in cases where pregnancy carries a health risk. The discussion assumes that the mitzvah of *pru u’rvu* is set aside when the woman’s health is at risk and, in such cases, the use of birth control may not only be permitted but required.

The other case in the Talmud involves the use of a potion which the woman would imbibe to make herself sterile (source 1). In the Talmud’s story, Yehudit, R. Hiyya’s wife, had great pain in childbirth and takes this sterilizing potion after she receives a ruling that women are not commanded in the mitzvah of *pru u’rvu*. Additionally, she has already had twin boys and twin girls and her husband had already fulfilled the mitzvah. Having addressed the *pru u’rvu* concerns, she proceeds to drink the potion.

### a. The Talmudic “Sterilizing Potion”

1. **Bavli, Yevamot (65b-66a)**

Yehudit, the wife of R. Hiyya, suffered agonizing pains of childbirth [when she gave birth to her twin sons]. She changed her clothes [on recovery] and appeared before R. Hiyya [in disguise].

“Is a woman,” she asked, “commanded in *pru u’rvu*?”

“No,” he replied.

She then went and drank a sterilizing potion. When the matter became known, he exclaimed, “Would that you bore unto me only one more issue of the womb [in addition to our current two sets of twins]!” For the Master stated: Yehudah and Hezekiah were twin brothers and Pazi and Tavi [66a] were twin sisters [and all the children of Yehudit].
This "sterilizing potion" also appears in Tosefta (source 2). In contrast to the Talmud's story, Tosefta does not permit a woman to take this potion. This might be because it is a form of prohibited sterilization, or because women have an obligation to marry and have children (either as part of the Biblical obligation of pru u’rvu or a related obligation).

2. Tosefta Yevamot, 8:4 (Lieberman edition)

A man is not permitted to live without a wife, and a woman is not permitted to live without a husband.

A man is not permitted to drink a sterilizing potion so that he will not father children, and a woman is not permitted (some texts read: "is permitted") to drink a sterilizing potion so that she will not be able to bear children.

A man is not permitted to marry a woman who is sterile, or elderly, or an ilanit, or a minor, or any woman who is not able to bear children. A woman is not permitted (some texts read: "is permitted") to marry even an eunuch.

The Talmudic "sterilizing potion" is a forerunner to the birth control pill: something ingested by the woman which operates on the body to prevent pregnancy. In fact, a number of poskim use the case in the Talmud as their reference point for discussions about the Pill, and describe the Pill as a type of a potion which causes "temporary sterility".

In the following responsum (source 3), the author of Minhat Yitzhak summarizes the 3 positions taken by poskim regarding the permissibility of a woman drinking a "sterilizing potion": (1) a woman is always allowed to drink a "sterilizing potion;" (2) she may only do so in cases of danger to life; and (3) she may take the potion when there are extenuating circumstances, such as when pregnancy or childbirth cause great pain.

One of the reasons to limit the cases that women may take a sterilizing potion is that according to some poskim women, like men, are prohibited to be sterilized surgically, and this prohibition could extend to chemical forms of sterilization as well (see Lev. 22:24, Shabbat 111a, Bah EH 5:9). None of this is relevant to the use of the Pill which does not cause sterility. As long as the issues of pru u’rvu are addressed, there should be no halakhic problem with taking the Pill.

3. Responsa Minhat Yitzhak, 5:113

To summarize briefly the different opinions regarding a woman drinking a sterilizing potion - there are 3 opinions:

1. It is permissible, even in cases where she suffers no [unusual] pain during childbirth. This is the position of Helkat Mehokek and Beit Shmuel (on EH 5:12).

2. This is comparable to using a mokh before intercourse (which is forbidden), and it is only permissible in cases of danger to one's life.
This is the position of Atzei Arazim *(ad. loc., no. 52)*

3. The intermediate position, that it is permitted only in cases of [unusual] pain during childbirth, or a similar [extenuating] circumstance. This is the position of Bah and Maharash, as is cited by the poskim there (EH 5:12). It appears that this position is the one that is accepted by the major halakhic decisors.

The reason that it is only permitted in cases of pain [according to this position], is that even women are commanded by the verse that states "God did not create the world to be desolate; it was fashioned to be settled." *See* Atzei Arazim *(ad. loc., no. 19)*. But in cases of pain, she would be exempt, because "settling the world" is better fulfilled by her taking care of her own health, as Hatam Sofer writes (EH 20).

Now, in our case [of birth control pills], there is another reason to be lenient, because it is only suspending her ability to become pregnant for a limited period of time...

*b. The Pill*

Birth control pills work by releasing hormones that inhibit ovulation. The Pill became legally available in the US to married women 1965 and to unmarried women in 1972. The birth control pill is the gold standard when it comes to halakhically acceptable forms of birth control as it does not block or destroy sperm and does not interfere with intercourse. However, possible spotting as well as certain health concerns may make it less than ideal in practice for all women.

In the following two responsa from Iggrot Moshe (sources 4 and 5), Rav Moshe Feinstein states that birth control pills do not pose the halakhic problems that barrier methods do. In the first responsum, Rav Moshe raises a theological concern when it comes to family planning in general, namely, that doing so might be scheming against God's will. In contrast, in the second responsum, he gives wide latitude to use birth control when there are concerns for the woman's health or general well-being.

4. Responsa Iggrot Moshe, Even Ha’Ezer, 4:74 (1972)

Regarding birth-control pills [for a couple which has already fulfilled the mitzvah]. Behold – although there is not concern for “wasting the seed”... but without a great need she should not take the pill, for one should not try to outwit and make schemes... against the will of God...

5. Responsa Iggrot Moshe, EH, 3:24 (undated)

Regarding birth control pills that she should not get pregnant when she is sick or weak... Regarding birth control pills, certainly from the perspective of “wasting seed” there is no problem. And if the pregnancy is difficult to the woman due to illness, or even due to a mere
c. Concerns for Spotting

While Rav Moshe ruled that birth-control pills did not present any direct halakhic problem, he was concerned about resulting staining which could put the woman in a state of niddah. In an early responsum from 1959 [source 6] he indicates that one must take care to ensure that the Pill will not cause spotting or be a health risk. In a 1962 teshuvah (source 7), he takes a stronger stand and insists that a woman check herself daily throughout the first month to determine that she does not stain. In the concluding paragraph of the teshuvah, he refers to significant health risks with the Pill and states that women should not take birth control pills due to these health risks.

It must be stressed that these responsa were written when the Pill was first introduced and spotting and health risks were a greater concern. Poskim writing later were only minimally concerned with these issues as we will see below. That being said, breakthrough bleeding remains a common side-effect of today’s Pill as well. We also note that the health concerns continue to be present for many women, especially higher risks of certain cancers, mood changes and negative effects on libido.

6. Responsa Igrot Moshe, EH 4:74 (1959)

Topics relating to women who want to use birth control.

November 11, 1959. To his honor, Dr. Marcus, head of the organization of religious doctors...

(2) Regarding taking pills to prevent pregnancy, in circumstances where the taking of the pills themselves does not present any danger, and when care is taken to ensure that the pills do not cause her to see spots of blood. In such a case, if they have already fulfilled the mitzvah of pru u’revu, and there is an economic reason, or some other pressing reason to be doing this,
or alternatively, even if they have already fulfilled the mitzvah of pru u’rvu, but the woman is weak (and childbirth will be difficult), then she can take birth control pills, since there is no concern of wasting of seed. Know that in cases such as these, a person must ask an expert rav every time, and one may not rely on (the advice or instruction of) a doctor, even if the doctor is an observant Jew (lit., "God-fearing man").

7. Responsa Igrot Moshe, EH 2:17 (1962)

Regarding the pills that have been invented that prevent a woman from becoming pregnant.

September 24, 1962. To my friend, Rabbi Hayim David Spring.

Regarding birth control pills - from the perspective of "wasting of seed" there is no problem, and it would be appropriate to permit a woman to take them in cases where they have already fulfilled the mitzvah of pru u’rvu and where she has great pain (in childbirth? in child-rearing?) until the [current] children are a little older.

But the concern that she will spot a little bit as a result of this is a serious one... Therefore, a woman who wants to take these pills must place a mokh (i.e., a tampon) in "that place" [every day] for one month, and it must be there at all times. If at the end of the month she has not seen any blood, she can rely on the fact that she is one of those women who do not spot as a result of the pill...

It is also now being reported that the pills can be damaging to a woman's health [raising the risk] of other illnesses and health problems. Therefore, a woman should not take birth control pills because of the other health risks that it presents.

(see also Igrot Moshe 1:65. 3:24, 4:67, 69)


R. Eliezer Waldenberg, writing in 1966, cites Rav Moshe’s concerns but notes that doctors report that these side-effects have been greatly reduced with the new pills (source 8). In a 1969 teshuvah, he states that there are no health risks and thus the Pill is the ideal form of birth control from a halakhic perspective (source 9). Rav Waldenberg’s ruling represents the consensus amongst contemporary poskim.
goes further and writes that it has been reported that these pills are a health risk and can lead to other illnesses, and therefore he concludes that a woman should not take these pills because of the health risk that they present, see there.

When I discussed this matter with doctors they confirmed these facts, but they said that [that was how things were in the past, but] now these concerns have been greatly reduced... Now, if it will become clear that the pills have improved to the point that they present no health risk, then this option of birth control would be the ideal choice, for there is no destroying of the seed, and it only makes the woman infertile for a limited period of time, and even this effect is only indirect.

Nishmat Avraham quotes R. Elyashiv (1910-2012), the authoritative posek for the Haredi community, who also rules that the birth control pill is free of halakhic problems (source 10). Due to spotting concerns, which he acknowledges are minimal, he rules that it is ideal for a woman to check herself before the first two times she has intercourse while on the Pill to ensure that she is not bleeding. After that, she may take the Pill without doing any checking.

They asked the gaon Rav Yosef Shalom Elyashiv, zt”l (Kovetz Teshuvot, 3:174, published 2003) regarding a woman who has unusual pain during childbirth, whether it was permitted for her to use birth control methods to space her childbirths by a year or two, and he wrote: "...However, when it comes to using birth-control pills, she becomes temporarily like sterile woman [and it would be permitted]. But there is a small percentage of women who use these pills for whom these pills cause spotting. Therefore, it is desirable that the first and second time she uses these pills that she should check herself [for vaginal bleeding] before"
and after intercourse, and if she does not find anything (i.e., any bleeding), she can continue to use them without any checking.
2. IUD

The IUD is considered to be the next best form of birth control from a halakhic perspective. Because of the spotting and health risks concerns raised above regarding the Pill, some poskim actually prefer the IUD. It bears mentioning that the IUD may also cause spotting and may have some health-related side-effects.

IUDs were introduced in the U.S. in the late 1950s. It is generally accepted that the IUD works by creating a hostile environment in the uterus for sperm, affecting motility and viability. In rare cases, an egg will become fertilized and the IUD prevents the egg from implanting into the uterine lining.

Rav Moshe Feinstein, writing in 1965, addresses the halakhic permissibility of the IUD (source 11). His descriptions of its physical shape as well as how it works are somewhat inaccurate, but these inaccuracies are not relevant to his analysis and conclusion.

Rav Moshe’s primary halakhic concern is that the IUD will cause spotting. Rav Moshe raises the possibility of an egg fertilizing and then being expelled. Were this to be the case, Rav Moshe would deem this to be an early stage abortion (Rav Moshe refers to this, and all abortions, as "infanticide"). In fact, a number of poskim prohibited IUDs when they were first introduced, as they thought it acted as an abortifient which allowed fertilization and operated by either preventing implantation or causing expulsion from the uterus after implantation. This position remains prevalent among some right-to-life advocates today. However, Rav Moshe argues that it is highly unlikely that the egg will become fertilized and that this might not constitute an abortion after all since the egg was never viable and never implanted. (Doctors generally consider pregnancy to begin when the fertilized egg implants in the lining; many right-to-life advocates define it from fertilization, even before implementation takes place.)

In the end, Rav Moshe considers the IUD the least halakhically optimal method of birth control option, partly because of his concern for spotting, but mostly because he believes that the string of the IUD protruding into the vagina interferes with natural intercourse and will be felt by the husband. While this was often the case with early IUDs, which used a plastic strip, current IUDs employ a microfilament, and this problem no longer exists. It is also not clear why such a strip creates halakhic problems, rather than just practical ones, and this concern is not found in other poskim.

11. Responsa Igrot Moshe EH 3:21 (1965)

Regarding a woman for whom it is forbidden for her to get pregnant, whether it is permissible for her to place a ring which has recently been invented by doctors [in her uterus, i.e., an IUD].

September 1, 1965. To his honor, my friend, Rabbi Yaakov Emanuel Shochet, shlita, rabbi in Toronto.

Regarding the matter of a woman for whom it is forbidden for her to become pregnant because of a condition of thick blood in her legs, where there is a risk that if she becomes pregnant, the pregnancy will cause it, God-forbid, to spread to the heart and lungs. This is certainly a life-threatening condition, and she is permitted to take steps to ensure that she does not become pregnant.

But regarding the doctor’s desire to place a certain ring in her uterus that will prevent her from becoming pregnant, [this requires
investigation]. Behold this ring that was recently invented is not only a ring, but it is actually a long stick that has a ring at its head, and it is placed inside the women at about two finger-widths depth... The effectiveness of this devices, as I have been informed by an expert doctor, is that it causes the uterus to be constantly shaking, and it casts out the sperm that has entered into it. Under such conditions, there is a greater concern that she will see blood. And an expert doctor has told me as much regarding this case... that there is a significant concern that she will see blood.

Now, what the doctor told you, that the pregnancy which will occur in about 1% of women [using an IUD] will not be a viable one, but that it is possible that inside the ring a pregnancy can occur (the egg can be fertilized), and that the fetus will be choked there when it starts to grow somewhat, and this raises the question if there would be in such a case the prohibition of feticide. This is only a distant (i.e., tiny and unlikely) risk, and it is possible that there is no need to concern oneself with this. But to become pregnant (i.e., for the egg to implant) in the uterus itself is impossible because the shaking will cast out the egg...

The permissibility of this form of birth control is lower on the scale than that of a woman placing a mokh (diaphragm) at the time of intercourse, for there is a basis to say that in that case the intercourse is taking place naturally, as I have explained in my book, and this is also the position of Ahiezer. But in this case, the stick [that protrudes from the uterus] is sometimes noticeable and felt by the husband during intercourse. Therefore, one should not use this ring.

In the following responsum of R. Eliezer Waldenberg, written on or before 1969, {source 12}, R. Waldenberg permits the use of IUDs and rules that, along with the birth control pill, IUDs are completely free of any halakhic problems. This is the position of most poskim today.

R. Waldenberg’s description of the mechanisms of the Pill and the IUD are incorrect. Based on what was reported to him, he understood that they operate by preventing the fertilized egg from implanting in the uterine lining. R. Waldenberg permitted the IUD based on his understanding that the IUD does not adversely affect sperm. As we will see in his ruling regarding spericide, he prohibits forms of birth control that operate by attacking the sperm. It is unclear if R. Waldenberg would have permitted the use of IUDs had he known how they actually function.¹


¹ In an earlier responsum, where Rav Waldenberg thought that the IUD destroyed a fertilized egg (9:51, sec. 2, ch. 3), he was quite strict. And in 1979 responsum (14:96), 10 years after the teshuvah below, he states again that an IUD is a permissible form of birth control. On the other hand, in a responsum published on or before 1996 (21:29), he prefers the use of a diaphragm over an IUD, apparently out of concern that the IUD will destroy the husband’s sperm and/or the fertilized egg.
(2) Behold, it has become clear that doctors prefer an IUD in particular, when there is a need to prevent pregnancy for a medical reason. And this, in spite the fact that it can cause various pains for the woman, because this method ensures that the woman will not become pregnant, whereas the pills sometimes cause complications when the woman is suffering from a certain illness or condition. Therefore, it is very important to cite here a letter that I received from a famous observant doctor from the United States, Dr. D.H., what he wrote to me regarding the use of pills and the I.U.D. He writes as follows:

In regards to your sensitive question in the matter of birth control... Certainly, birth control pills are the most acceptable as a matter of law - the concerns of Rav Moshe Feinstein do not have any merit when it comes to some of the new pills. First of all, they do not do anything to the husband’s sperm. Secondly, they do not even work directly on the mother’s egg. They work, rather, by making the woman to be in a state similar to what she would be in were she to be pregnant. Under those circumstances, the walls of the uterus do not receive her egg for implantation, even if it has already been fertilized by the husband’s sperm.

Even the new "wicks" made of nylon, plastic, or metal, which they put in the uterus, do not destroy the seed of the man or the woman. Rather, in a way that is not yet sufficiently understood, this makes it so that the walls of the uterus do not receive the egg for implantation, even if it has already become fertilized. Certainly these two methods (the pill and the I.U.D) are the preferred ones when there is permission (to use birth control).

If this is indeed the case, then the halakhah has now changed, and it is the reverse of what it once was. For now, we should give preference to the use of the IUD over the use of the diaphragm. We can also certainly permit the use of the IUD even in a case when the health risk is not so great, and even in a case when there is no risk, but there is great suffering due to some illness or condition. Perhaps even if a woman will suffer difficulties with a pregnancy do to a condition, or if she is of weak health, or similar reasons, as I wrote in my earlier response regarding taking pills.

This is all because it has now become clear (assuming that the doctor cited above, who is a God-fearing man, did not write anything that is still a matter of [medical] dispute) that neither the pills nor the IUD cause any destruction of the seed of the
husband or the wife. Its entire effect is to make it so that the walls of the uterus do not receive the egg for implantation, even if it has already become fertilized with the husband’s semen, just like happens with a woman who is already pregnant, that her womb can no longer receive the egg, even if it has already been fertilized by the husband’s seed. [So to have intercourse when using these methods is no different than having intercourse when the woman is pregnant].

R. Shmuel Wosner (Bnei Brak, 1913-2015), writing on or before 2002, rules that an IUD is a fully permissible form of birth control (source 13): it is placed inside the woman’s uterus, it does not interfere with intercourse and the flow of sperm is not affected. Consequently, it does not resemble the Talmudic mokh (to be discussed below) which many poskim forbid (source 15).

R. Wosner is not prepared to permit any form of birth control, except in truly extreme cases, because of halakhic concerns of pru u’rvu as well as hashkafic and theological concerns. (He suggests that non-procreative intercourse may be a type of wasting of seed; in addition to the mitzvah of pru u’rvu, refraining from having children and bringing fewer Jews into the world causes the Divine presence to depart).


Your honor has already cited the words of Maharsham and the many other ahronim, who state that if the device is very deep [inside the woman’s vagina], there is no concern whatsoever that this will be a violation of "having intercourse with a mokh." Currently, doctors place a certain type of a string (wire) literally inside the uterus, in such a way that it is not any sort of a barrier against the semen. Rather, this wire prevents the man’s sperm from fertilizing the woman’s egg. While it is forbidden, God-forbid, to be frivolous with this in cases where there is no risk, without getting a halakhic opinion on the case, nevertheless, where there is a real possible risk, the [rulings of the] groups of heavenly angels, the true geonim, who are inclined to be lenient, are worthy of being relied upon.

Nevertheless, I repeat again that our words are only in circumstances of possible risk, such as our case. Not like those who burst forth among the people, where this matter (the use of birth control) has become like a permissible thing, without any basis in halakhah. For there is in this matter the negating of the mitzvah of pru u’rvu, the wasting of seed, and the preventing of the divine presence to dwell among Israel. Even in cases where we permit (the use of birth control), we permit only for a time of six months or the like - except in cases such as yours, where it is permissible until such a time when the danger has passed - and every time after six months, the woman has to be checked by doctors to determine whether or not her condition has improved, and whether she still is in need of the permission. For whoever is overly lenient on
In an article written in 1981, R. Shlomo Aviner engages the different concerns that have been raised by poskim regarding the IUD (source 14). In his understanding, the egg will fertilize with an IUD present but will not implant in the uterine lining. Nevertheless, he concludes that this is not a type of abortion, both because it is too early in the fetal development (before 40 days) and because the fetus is never viable in this environment. R. Aviner dismisses any concern of "wasting seed" primarily because the woman is not actively destroying the semen; it is destroyed naturally when it enters the uterus. He also adds that the IUD does not destroy the semen but acts on the egg. Finally, he rejects Rav Moshe’s concern that the presence of the IUD somehow impacts the act of intercourse. For R. Aviner, the IUD is a form of birth control that does not present halakhic problems and he notes that this is the broad consensus of poskim.


Inter-uterine device (I.U.D.) - the IUD is a foreign body, small and flexible, which is made from different materials, and comes in different sizes and shapes, and is placed inside the uterus. Until today, there is no scientific explanation that is universally accepted regarding how it prevents pregnancy. All are in agreement that it has no influence on the woman’s hormones, on ovulation, on the sperm’s mobility, or on fertilization. The explanation that is usually given is that because a foreign body has been introduced into the womb, the body's defense and combat mechanisms are activated, creating a "hostile" environment for the sperm or the fetus, which prevent the fetus to be implanted into the walls of the uterus. If so, there are three possible halakhic problems: 1. abortion, 2. destroying the seed after intercourse, 3. wasting seed at the time of intercourse.

1. Abortion. Since the IUD operates at a later stage, after fertilization, and prevents the implantation of the fertilized egg, there are those who wanted to forbid its use because of the prohibition against abortion (the gaon, Rabbi Greinman, as has been told to me orally). However, most of the halakhic authorities rules that in such early stages there is no prohibition and no abortion. Moreover, there is no abortion here because a viable fetus never began to be sustained at all under normal conditions of development, and it was already considered a time limit will eventually have to answer for it. And in such matters I do not care to continue at length.

I remain your friend, who seeks your welfare, and who waits expectantly for Heavenly compassion.
Birth Control in Halakha - Rabbi Dov Linzer

treifa from the outset. Rabbi Moshe Feinstein also wrote that abortion was only a distant concern (Iggroth Moshe, EH 3:21).

2. Wasting of seed after intercourse. In the Gemara there is a foundational sugya which deals with "intercourse with a mokh" (Yevamot 12b) (see the summary of the positions in ET, vol. 11, p. 140). There are those who explain that the Gemara's case is referring to the placing of the mokh before intercourse, so that it absorbs the semen. Others explain that the Gemara is referring to a case where the mokh is used after intercourse, i.e., to wipe the semen out of the body (Tosafot, ad. loc.). The use of a mokh after intercourse would be similar to a douching or internal washing. There is reason to think that the operation of an IUD would be considered to be a type of wasting of the semen after intercourse (see Tzitz Eliezer, 9:51, sec. 2, ch. 3, p. 224).

Regardless, most of the poskim were not concerned for this, and they determined that the cases are not similar. For a "mokh after intercourse" refers to wiping the semen up and removing it from the body. This is unlike our case, where the semen enters into the uterus, and even had the potential to fertilize the egg, but only afterwards is a hostile environment created for the egg. This is not like the case of destroying the seed after intercourse.

3. Emitting semen for naught at the time of intercourse.

According to another explanation, that the mokh is something that is inserted before intercourse, and it is forbidden because [for the man, when he ejaculates,] it is like "spilling his seed on sticks and stones," one could argue that the same would be true for the IUD. However, the IUD is placed deep inside the body, and there is reason to say that we do not take it into account, because its presence cannot be sensed at all. In contrast to some of the earlier devices, which were felt somewhat during intercourse, and there was a basis to say, with them, that the intercourse was not "in the way of the world," the sophisticated devices nowadays are not detectable. However, the gaon Rav Moshe Feinstein is concerned about wasting of seed in the case of the IUD (he wrote that it was even more problematic than the diaphragm). Nevertheless, for most of the poskim it is considered to be less problematic, because it allows for intercourse "in the way of the world," and the seed enters into the uterus freely.
3. Diaphragm

a. The Talmudic Mokh

Central to halakhic rulings about the diaphragm is the Talmudic discussion of the use of a mokh. The mokh was a type of sponge that was placed in the woman’s vagina meant to prevent sperm from entering the uterus. The primary sugya of mokh is in Yevamot 12b (source 15) (It also appears on Yevamot 100b, Ketuvot 39a and Niddah 45a). The Talmud discusses the case of “three women” for whom it would be a danger to them, their infants or fetuses were they to become pregnant (The Talmud believed it was possible for a woman to become pregnant during the course of an existing pregnancy). According to R. Meir these women “have intercourse using a mokh,” while the Sages say that they have intercourse in the usual way (i.e. without a mokh).

15. Bavli, Yevamot, 12b

R. Bibi recited before R. Nahman: Three [categories of] women have intercourse with a mokh (a type of a sponge) during intercourse: a minor, a pregnant woman and a nursing woman. The minor, because [otherwise] she might become pregnant, and as a result might die. A pregnant woman, because [otherwise], she might cause her fetus to degenerate into a sandal. A nursing woman, because [otherwise] she might have to wean her child prematurely and this would result in his death. And what is the age of such a minor? From the age of eleven years and one day until the age of twelve years and one day. One who is under or over this age must carry on her marital intercourse in the usual manner. This is the opinion of R. Meir.

The Sages, however, say: The one as well as the other carries on her marital intercourse in the usual manner, and mercy will be vouchsafed from heaven, for it is said in the Scriptures. The Lord preserves the simple (Ps. 116:6).

Rishonim debate how to interpret the phrase "have intercourse using a mokh." Two questions arise:

1) Is the debate between R. Meir and the Sages: (a) whether using a mokh is required or optional or (b) whether using a mokh is permissible or forbidden?

Rashi states that the debate is whether the use of a mokh is permitted or forbidden {source 16} (Rashi elsewhere indicates otherwise); while Tosafot in the name of R. Tam, Ramban and Rashba {sources 17, 18, 19} all state that debate is whether the use of a mokh is obligated or optional.

2) Are we referring to the use of a mokh during intercourse to prevent the sperm from entering the uterus or after intercourse to wipe the sperm out of the vagina?

Rashi {source 16} states that the mokh is placed in the vagina before intercourse; Tosafot cites R. Tam that the mokh is used after intercourse {source 17}. (R. Tam’s statement in Sefer Ha’yashar is different than the position attributed to him in Tosafot).

What is the implication of these different interpretations? If R. Meir and the Sages are debating whether a mokh is optional or required, then there is no indication from this sugya that there should be a halakhic problem at all with a woman’s use of a mokh. If, however, they are debating whether the use of the mokh is permitted, then the implication is that, under normal circumstances when the woman does not face risk, all would agree that the use of a mokh is forbidden.
We now come to the second question: What does "having intercourse with a *mokh*" mean? Does it refer to use of a *mokh* used during intercourse or afterwards? In both cases, we are dealing with the prohibition of "wasting seed." What is at stake is the scope and parameters of that prohibition. The two possible meanings of the phrase "having intercourse with a *mokh*" and their halakhic implications are as follows:

(a) The *mokh* is inside the vagina during intercourse. "Wasting seed" occurs during intercourse when the semen does not enter the woman's vagina.
   a. Most obvious applications: Female and male condoms.
   b. Possible application: Diaphragms (the sperm remains in the vagina but cannot get to the uterus).

(b) The *mokh* is used after intercourse to wipe semen out of the vagina. "Wasting seed" applies to destroying sperm after its been ejaculated while it remains in the vagina and can potentially fertilize the egg.
   a. Most obvious application: Douching after intercourse.
   b. Possible application: Applying spermicide before intercourse (not an act is done directly to the sperm, and while the sperm's mobility is neutralized, the sperm is not actually destroyed).

16. Rashi, *Yevamot* 12b, *s.v. Mishameshet bi*Mokh*

"[Three women] have intercourse with a *mokh*" - They are permitted to insert a *mokh* in the "place of intercourse" when they are having intercourse in order not to become pregnant.

17. Tosafot, *ad. loc.*, *s.v., Shalosh Nashim*

Rashi explains that it is permitted [for these women] to have intercourse with a *mokh* [according to Rabbi Meir]...

Rabbeinu Tam however says that before intercourse it is certainly forbidden to insert a sponge there (in the vagina), because intercourse with a *mokh* present is not the normal way of intercourse. When he spills his seed (i.e., when he ejaculates) onto the sponge it is like spilling seed on sticks and stones.

But if she inserts the sponge after intercourse, there does not seem to be a basis to forbid this, because in such a case the man has intercourse in the normal manner [even if this will not lead to conception]. And the woman who inserts a *mokh* afterwards [to wipe out the semen from her body] is not prohibited against wasting seed, because she is not commanded regarding procreation.

According to this, the phrase "have intercourse with a *mokh*" that appears here means that [according to R. Meir] they *must* have intercourse with a *mokh*. 
Three [categories of] women have intercourse with a mokh. Rashi explains that they are permitted to have intercourse with a mokh...

The proper explanation is rather that [according to R. Meir,] they are obligated to have intercourse with a mokh so that they should not be put at risk (by a pregnancy). Without using a mokh, it is forbidden for them and their husbands to have intercourse. The Sages [disagree, and] say that she is permitted to have intercourse without a mokh, and heaven will have mercy.

Only a few of the early poskim address the case of the mokh. R. Shlomo Luria (Poland, 1510-1573) is one of the few early poskim who address this topic, and he rules that using a mokh during intercourse is permitted. According to what we outlined, diaphragms would definitely be permitted according to him, and possibly condoms well.

But nevertheless it seems that Rabbeinu Tam’s position is also correct, that other women (without a health risk) are permitted to use a mokh because they are not commanded in procreation. The phrase “they use a mokh” employed here means that three women (who have health risks) are required to use a mokh... This is the correct interpretation, and according to this, the law is like the Sages, that these women are not required to have intercourse with a mokh, but are permitted to do so [as is the case with every women].
that it is forbidden for a man to have intercourse with his wife if she has a condition in which there is an obstruction in her vagina that forces him to ejaculate outside her vagina (source 21). It cannot be inferred from this that the use of a mokh would be prohibited. As Taz points out, this case is potentially more problematic than the mokh since ejaculation occurs entirely outside of her vagina (source 22). At most, the case is relevant to the use of a condom (where ejaculation occurs inside the vagina but the sperm does not come in contact with the vaginal walls).

21. Shukhan Arukh, EH, 23:5

A woman who has an obstruction in her vagina, and as a result of which when her husband has intercourse with her he ejaculates outside her body, it is forbidden [for him to have intercourse with her].

22. Taz, EH, 23:3

He ejaculates outside - the explanation is that he always ejaculates outside of her. This is worse than the case of "having intercourse with a mokh," for there he is having intercourse in the "way of the world," even though it is under circumstances that will not lead to conception... and similarly writes Beit Yosef in the name of Rosh.

Although the lack of treatment by early poskim points to a permissive approach, many achronim adopt the stringent reading of the Talmud and conclude that the use of a mokh during intercourse is forbidden (source 23, citing Hatam Sofer and R. Akiva Eiger against the permissive position of Hemdat Shlomo). Even further, they say that since the Sages forbade it for the "three women," a mokh may not be used even in cases of risk to the woman's life. This seems to fly in the face of the principle that all prohibitions are overridden in cases of risk of life. These poskim argue that since there are alternatives, namely, divorce or forgoing sex, this case does not qualify as life-endangering. This position seems quite harsh and, as we will see, many later poskim disagree and rule that even if the use of a mokh is forbidden under normal circumstances, it would be permitted in cases of risk to the woman's life.

23. Pithei Teshuvah, EH 23:2

Who has an obstruction - see in Teshuvot Hemdat Shlomo, no. 46, in the case of a woman regarding whom the doctors have all agreed and declared that if she were to get pregnant, the pregnancy would put her in grave danger, God forbid, whether it is permissible in such a case to have intercourse with a mokh [that was inserted] before intercourse. And he goes into great detailed analysis of the sugya of the three women who have intercourse with a mokh, and comes to the conclusion that he does not have to divorce her because of this. Although she must insert the mokh before intercourse, this does not constitute an act of destroying the seed since the intercourse takes place in "the way of intercourse," and it is impossible for him to have intercourse with her in another manner because of the danger, see...
there.

However, in the responsa of Hatam Sofer, YD 172, he deals with exactly this question and concludes that one can definitely not permit a woman to insert a mokh so that it should be present at the time of intercourse. However, as far as using a mokh after intercourse, it is possible to be lenient, but it must be done with the husband’s permission and his agreement... see there. And see in the responsa of Rabbi Akiva Eiger, 2”I”, YD 71, where he is very strict about this matter, and it is his opinion that one cannot be lenient [to use a mokh] even after intercourse. However, in no. 72 he retracts this and he agrees to the rabbi who submitted the question to permit the woman to use a mokh after intercourse, as she does when she performs her bedikot, wiping around the crevices in the vagina, and going as deep as the penis reaches. However, to push the mokh in further than this, it is possible that it is forbidden, see there.

b. Today’s Diaphragm

Barrier methods as forms of birth control are thousands of years old and the talmudic mokh is one example of this. The primary innovation of the diaphragm is that it is placed over the cervix and is fitted to stay in place. It is used in conjunction with spermicide, which we address below. Early versions of the diaphragm or the related cervical cap were in use in the U.S. as early as the mid-19th century. By 1940, the diaphragm was used by one third of all married women in the U.S. Because it is a less effective form of birth control method, requires initial fitting by a gynecologist and must be inserted each time the couple has intercourse, the number of women using a diaphragm has dropped dramatically since the introduction of the Pill and the IUD.

Beginning in the 19th century, poskim address the permissibility of the use of a diaphragm. It would seem that if one takes a strict position regarding a mokh, a diaphragm should be forbidden as well. Nonetheless, many poskim differentiate the diaphragm from the mokh, noting that the diaphragm’s placement higher up in the vagina against the cervix meant that it did not interfere with intercourse unlike the mokh which was placed lower down in the vagina (source 24). Additionally, the mokh absorbs the sperm or causes it to fall outside the vagina, while a diaphragm simply blocks sperm from entering the uterus. For these poskim, intercourse with the use of a diaphragm was akin to intercourse during pregnancy when the uterus is blocked by a mucus plug preventing sperm from entering. This is the position of R. Shalom Schwadron (Maharsham) in the late 19th century, and accepted widely, although not universally, by poskim.

24. Maharsham 1:58 (Rabbi Shalom Mordehai ben Moses Shvadron, 1835-1911, Galicia, Poland) (undated responsum, volume published 1892)

But in a case of danger to one’s life, Maharshal and Radvaz are weighty enough authorities that one can rely on them [and use a mokh]. In particular, according to what I have heard that nowadays doctors provide women such as these with a thin rubber cap - which is called in their language pessar (a pessary is used nowadays to hold up the uterus in a case of uterine prolapse) - which covers the opening of the uterus all around so that it will not allow any sperm to enter. In such a case, intercourse takes place as it would with other women, the only difference is that just like a
pregnant woman's womb is closed, here to is her womb closed. This is not at all comparable to having intercourse with a mokh, which is like spilling one's seed on the mokh, which is unlike our cases, and we can therefore say that everyone would agree to be lenient [and allow the use of a diaphragm] in cases of danger (even those who would not be lenient to use a mokh in such cases).

Interestingly, Rav Moshe Feinstein does not distinguish the diaphragm from the mokh. In a number of responsa, Rav Moshe works with the assumption that the talmudic debate around the mokh was whether its use was permitted or forbidden, not whether it was optional or required. Based on this, he rules that the use of a mokh is limited to cases of serious health risk and that the same would be true for the diaphragm (sources 25, 26, and 27). (Though he permitted its use in cases of danger to life, he was particular that this ruling remain private so that women would not use this or any other method of birth control without a specific ruling from a halakhic authority (source 26)).

Intercourse with a mokh [to avoid pregnancy] out of concern for [the mother's] weakness or depression.
28 November 1978. To his honor, my friend, and I don't know him well enough to describe him, but it appears that he is a ben Torah and yirei Shamayim.

Regarding a woman for whom, as you report her condition, it is forbidden to her to get pregnant for a certain period of time due to a risk or danger to her life. For great weakness is itself a danger to one's life, and sadness, which is an issue of "black bile" (i.e., depression), is also a matter of danger. Therefore, it is obvious that we can permit her to use a form of birth control, as I have explained in my responsum, EH 1:63, that in cases of danger a woman is permitted to have intercourse with a mokh. Therefore, we can permit her to put in front of her vagina something that will prevent the semen from entering her uterus, just like a mokh, and this is what is called in English a "diaphragm." She should find someone who can teach her how to put this in her vagina, and how to take it out after a few hours.

I end with a blessing that God should send a full healing to your wife, and that you should have pleasure and satisfaction from your children, and for all good things and peace. Moshe Feinstein.

A woman for whom it is a danger to become pregnant, whether she...
is permitted to have intercourse with a mokh.

10 February 1961. To his honor, shlit"a.

In response to your wife's letter, may she live, that it is noticeable from her writing that she is a God-fearing woman and is trustworthy in her words, and also that she is modest in her actions, and [a ruling in this matter] will not bring about religious harm to other women. My response to her is to permit her - because there is a concern for danger - to place the rubber cap (diaphragm) that women place in their bodies, which is like the mokh referred to in Yevamot (12b). She can do this until Purim, 5724 (i.e., for one year), by which time I hope, with God's help, that there will no longer be any risk to her health (for her to become pregnant). She should be discrete, so that her friends do not know of this. This is to ensure that other women are not lenient even in cases when there is no risk of danger, saying that since this frum woman uses this device, they also would be allowed to do so. I am relying on the fact that you and your wife will not pass on my ruling (lit., rule this way) to others. For every case must be dealt with on its own merits, and a woman must herself ask a posek. It is for this reason that I admonish every time that I permit a woman to use birth control because of a risk of danger, that the matter should be done with great discretion.

27. Responsa Igrot Moshe EH 4:74 (1959)

Regarding women who want to prevent pregnancy.

11 November 1959. To his honor, Dr. Bon Marcus, head of the organization of religious doctors.

Behold I will give short responses to your questions regarding birth control.

1. There is no permission at all to have intercourse with a mokh, even if the couple has already fulfilled the mitzvah of pru u'rvu, and even if they are not earning a sufficient income for their needs, or even if the woman is not fully healthy. Only where there is a risk of real danger is it possible to permit.

R. Waldenberg considers the diaphragm quite different from the mokh for reasons we discussed above [source 28]. As such, he rules that it may be used without hesitation as a form of birth control. He cites many other halakhic authorities who rule likewise. R. Shlomo Zalman Aurbach also takes it for granted that a diaphragm is permissible and fails to understand why anyone would think it was a problem [source 29]. The consensus of poskim nowadays is in accordance with these permissive rulings.
when it came to the spermicides that are often used in conjunction with the diaphragm. We will turn to this in the next section.


(1) In Shut Hitorerut Teshuvah, no. 3... regarding a woman who would be in grave risk every time she became pregnant. She could not give birth because her uterus was sealed: it could allow [sperm] in, but not allow [the fetus] to exit. Would it be possible to permit her to have intercourse with a mokh, one that she would place deep inside, near the opening of the uterus. In his response there he wrote to innovate a new ruling, and to say that in such a case, to place the mokh in front of the opening of the uterus, it is much less weighty (than the case of the Talmudic mokh). And one can argue that Rabbeinu Tam who forbade [the use of a mokh during intercourse], and compared it to spilling one’s seed on sticks and stones, was only referring to a case like Rashi describes in Niddah, where the mokh filled the entire vagina and the intercourse did not take place in the "way of the world." But in a case where she places the mokh up against the opening of the uterus, and nowhere else, and the intercourse itself is in the "way of the world," and the man even ejaculates inside her vagina, the problem would be much less weighty, and it is possible that even Rabbeinu Tam would agree that a mokh which was up against the opening of the uterus would be permissible. It is obvious that this case is better than a case of ejaculating outside the vagina. In particular in this case, it is not definite that in this case he will spill his semen specifically on the mokh, for regardless the semen doesn’t always go up to the uterus, for a number of times it just goes to the sides of the vagina, and we have never found anyone admonishing that a person (i.e., a man) should be careful during intercourse to insert his penis in so deep so as to ensure that it goes in directly opposite the opening of the uterus. Similarly, in this case, the mokh is only a thing that absolutely prevents her from becoming pregnant, but there is nothing that makes it certain that the semen will even fall on it. There is therefore no concern of an act of Er and Onan, but only a preventing of the semen that has the ability to cause the woman to become pregnant from doing so, etc., see there...

(2) In truth, we find that the gaon Maharsham writes in another place in his responsa, 1:58, [similarly]. He writes...

And see also Shut Imrei Shefer (of Lublin), 29, no. 6, that after he concludes that it is permissible to have intercourse a mokh (such as that describe in the Talmud), he goes on to write that it is obvious that it is permissible to use a rubber cap that is placed...
further up from where the penis can reach, for in such a case he would be having intercourse as her normally would, see there. It is ruled similarly in the work Taharat Yisrael, in Hukat Ha’Taharah, OH 240:31, that it would be permissible to use a rubber cap over the opening of the uterus to prevent the semen from entering, in cases of danger, according to all opinions.

(3) ... And based on my earlier analysis, it seems with absolute certainty that the other two methods are enormously less problematic from using a spermicide. This is because an ointment or a powder or the wick destroy the sperm immediately when the semen enters the vagina, which is not the case with the diaphragm over the cervix, where there is no destroying of the semen and in the case of douching, although there is destruction of the semen, this occurs after intercourse, and is done by the woman and not the man...

... Therefore, in my opinion, the matter is clear that we should prioritize the use of a diaphragm over the use of an ointment or powder spermicide that will be applied before intercourse...


Rav Shlomo Zalman Aurbach zt”l wrote to me: "I don't know why the issue of a diaphragm requires investigation. Maharsham wrote correctly that it is not similar to a mokh since intercourse takes place naturally..."
4. Spermicides

Spermicides are often used together with diaphragms or condoms to increase the effectiveness of these forms of birth control; when used alone, spermicides are only 70-80% effective.

The halakhic question regarding spermicides is whether their use constitutes an act of hashhatat zera, destroying semen. The use of the term hashhatat zera, in contrast to the term hotza’at zera li’vatalah, the wasteful emission of seed, reflects the fact that in this case the problem is not with how the sperm is ejaculated, but with the fact that the spermicides destroy the sperm after it has left the husband’s body.

There are a number of relevant questions regarding the scope of the prohibition of hashhatat zera: (1) Does it apply outside the context of masturbation or of a man ejaculating outside the woman's vagina? In other words, is there a prohibition of hashhatat zera, or is the entire concern with hotza’at zera li’vatalah? (2) Even if it is prohibited to destroy semen once it is outside the husband's body, does this prohibition apply to women or only to men? Only if both answers are in the affirmative, would it be prohibited for a woman to destroy the semen in her vagina. Even if we adopt this restrictive position, the use of spermicides might still be permitted, for reasons we will see below.

Magen Avraham states that women should do an internal wash of their vaginas to remove semen before Yom Kippur [source 30]. He states that this would not be permitted during her fertile period, although this might have more to do with a concern for pru u’revu than a concern with hashhatat zera. As we have seen, R. Akiva Eiger (quoted in Pithei Teshuvah [source 23]), rules unambiguously that wiping after intercourse is a form of hashhatat zera; this is the opinion of a number of other poskim as well.

30. Magen Avraham, OH 606:8

Given this [that the reason for men to immerse before Yom Kippur is so that they should be purified from the impurity of seminal emission], a woman who has intercourse up to three days before Yom Kippur, must "clean her house" (wash inside her vagina) with hot water, so that she does not discharge semen [from her vagina on Yom Kippur]. But this is only if it is not near the time that she has returned from the mikveh or near the time of her expected period, for at those times it is more likely that she can become pregnant, and one needs to be concerned that she might destroy sperm that would otherwise cause her to become pregnant.

Using spermicides is not the same as wiping or douching after intercourse. Douching (not an effective form of birth control) is a direct act of destroying the sperm. When a woman puts spermicide in her vagina (or inside a diaphragm) before intercourse, she is not doing anything directly to the sperm: she is creating an environment in which sperm cannot survive.

Rav Moshe Feinstein permits the use of spermicides for a different reason [source 31]. Spermicides don't destroy the sperm, he writes, they just attack their motility or potency. For Rav Moshe, removing the sperm's ability to fertilize is not hashhatat zera.

31. Responsa Igrot Moshe, EH, 1:62 (1952)

Regarding using a spermicide or a mokh for a woman whose
Birth Control in Halakha - Rabbi Dov Linzer

... I was asked if it is permissible to have intercourse with a mokh, or to do apply some ointment (i.e., spermicide) to “that place” before intercourse that will assist in preventing her from becoming pregnant. That ointment is gelatinous and does not create a barrier to prevent the sperm from entering the uterus; rather, it destroys the sperm, so that the sperm will not have the ability to make the woman pregnant. In our case, the man has already fulfilled his obligation of pru u’rvu. For he and his wife already have a boy and a girl.

I responded that to do this with a mokh is forbidden...

But when it comes to using the ointment, which does not create a barrier to prevent the sperm from entering the uterus, but only removes from it the ability to bring about conception, in such a case it seems to reason that this is no different than [a man] drinking a [temporary] sterilizing potion [and therefore permissible]. This is even better than such a potion, because such a potion is forbidden for a man to drink when it causes him to become permanently sterile, because it is similar to surgical sterilization... but this would not apply to a case such where the man is not becoming sterile at all, and [where the potion] only affects the semen this one time. In fact, since the spermicide acts on the semen after it has left the man’s body, we should consider this to be an act done to/by the woman, not to/by the man. And a woman is permitted to take even a permanent sterilizing potion, even if she has not pain or extenuating circumstances according to many poskim...

Therefore, it seems in my humble opinion to permit the use of the ointment, since the husband also agrees to this...

R. Waldenberg is quite strict regarding the use of spermicides because of hashatat zera (source 32). He permits douching because of hashatat zera applies only to men. He views the act of intercourse, when there is a spermicide inside the woman’s vagina, as an act of hashatat zera by the man. According to R. Waldenberg, hashatat zera is defined as ejaculation which causes the semen to be destroyed. He also rules that there is no difference between destroying sperm physically and destroying its potency. Consequently, he takes strong issue with Rav Moshe’s permissive ruling on this matter.

32. Responsa Tzitz Eliezer, 9:51 - gate 2, chapter 3
(undated responsum; volume published in 1966)

(3) Behold, I have seen in Shut Maharam Brisk (1:97)... where he brings the advice of Maharsham regarding placing a rubber cover (diaphragm) by the cervix, the advice of Levushei Mordehai (EH 27)
to douche with lukewarm water and to do an internal wash immediately after intercourse, and the advice of Teshurat Hai (second edition, 62) who permits placing an ointment (spermicide) before intercourse in "that place", and it will melt like water (be absorbed), and the sperm will be destroyed and this will prevent the woman from becoming pregnant.

In the end he concludes that the best option in his opinion is to use the ointment, because douching involves direct destruction of the semen, and as far as placing a diaphragm over the cervix - it is unseemly to cover the cervix and cause the semen to spill unto the rubber if there is some other option, i.e., to use a spermicide. For in the use of a spermicide, she is not doing any violation when she applies it, for at that moment there is no sperm present, and it is like a case of "when the sun will eventually come" (indirect causation at a later time). As far as the husband is concerned, he has the obligation of onah... See there.

In fact, we find that this position is likewise held by the gaon Rav Meir Arik in Shut Imrei Yosher (1:131), who concludes that placing a small wick-like granule in "that place" (which acts as a spermicide) is much less problematic than a mokh... This is also the conclusion of Shut Pri Ha'Sadeh (4:14) that one can permit the placing of a spermicidal powder in "that place" according to all opinions, since the husband is having intercourse in "the way of the world"... In fact, this is permitted also in Shut Levushei Mordehai (ad. loc., and 4:12), where he explains that this is because having intercourse in this way is not like having intercourse [with a barrier in the vagina, which is considered to be like spilling one's seed] on wood and stones, for here there is no barrier between the penis and the vagina, see there.

... But it seems in my opinion that this is not the correct ruling. And based on my earlier analysis, it seems with absolute certainty that the other two methods are enormously less problematic from using a spermicide. This is because an ointment or a powder or the wick destroy the sperm immediately when the semen enters the vagina, which is not the case with the diaphragm over the cervix, where there is no destroying of the semen and in the case of douching, although there is destruction of the semen, this occurs after intercourse, and is done by the woman and not the man...

... From the perspective of the husband, having intercourse in this fashion would be considered to be doing a direct act of destroying the sperm. From his perspective, this is comparable to tying someone up who is already sitting in the sun and not like a case when the sun will only rise in the future. This is because he directly ejaculates his sperm into a place where it will immediately be destroyed (so he is to be considered like he is destroying it
directly). From this perspective, one could argue that this case is worse than when a mokh is used, for in such a case the man is not directly destroying the sperm (it just falls out of the woman's body after ejaculation).

... Therefore, in my opinion, the matter is clear that we should prioritize the use of a diaphragm over the use of an ointment or powder spermicide that will be applied before intercourse...

(5) I have seen something astounding in Responsa Igrov Moshe, EH 1:62, where he writes that it stands to reason that the use of spermicide is no different than a woman drinking a sterilizing potion, and it is permissible to do this since she does not become sterile as a result. Based on this he permitted a woman to do this (use spermicide) in the case he was dealing with there, where there was no danger to her or to the child (that would be conceived), but only that the doctors said that the child would die sometime after he was born because of a certain disease, see there.

I cannot understand this ruling. Using an ointment such as this is an active destroying of the husband's sperm, as he himself writes, that "the ointment removes the sperm’s ability to bring about conception". If this is the case, how is it possible to compare this to the case of a man drinking a temporary sterilizing potion. In the latter case, the potency of the sperm is destroyed before the sperm leaves the body, while in our case, one is destroying its potency after it has already exited the body. To do so is a real destruction of the sperm, and [although he does not do it directly] it is like tying someone up who is already sitting in the sun [and letting the sun kill him with its heat, which is considered a direct action, and not indirect causation]...

R. Shlomo Zalman Aurbach also addresses the question whether the use of spermicides is considered hashhatat zera -- semen enters the vagina but its potency is destroyed immediately. He leaves this as an open question {source 33}.


Rav Shlomo Zalman Aurbach zt"a wrote to me: "I don't know why the issue of a diaphragm requires investigation. Maharsham wrote correctly that it is not similar to a mokh since intercourse takes place naturally. To the contrary, it is regarding the spermicide that there is what to discuss, since the sperm spills directly on something that kills it, it is possible that this is not considered to be natural intercourse, and would be somewhat comparable to the use of a mokh, although here the sperm directly spills unto the flesh (comes in direct contact with the walls of the vagina).
In his article on birth control, R. Shlomo Aviner reviews the different opinions regarding the use of spermicides {source 34}. He largely dismisses R. Waldenberg's concerns of hashhatat zera particularly with spermicides that are quickly absorbed and undetectable; they do not change the intercourse in any way and they are not an act of "wasting seed." He also maintains that the distinction between attacking the sperm's motility and destroying the sperm is significant. Although R. Aviner does not issue a halakhic ruling, it is clear that he sides with those who permit the use of spermicides.

34. “Family Planning and Birth Control,” Rav Shlomo Aviner, Asya 29-30 (June 1981)

Spermicides are inserted before intercourse and appear in a number of different forms: foam, ointment, tablets or wicks. Here, too, two problems arise:

A. Emitting of semen to waste at the time of intercourse, which is comparable to the "mokh before intercourse." This may have been said, for example, regarding the first ointments that their presence could be felt at the time of intercourse, but not with the ointments and the like that are used nowadays. Our Rabbi (Rav Kook) wrote likewise (Ezrat Cohen 37).

B. The destruction of semen, which is comparable to the "mokh before (after?) intercourse." [On the one hand,] these preparations actually kill the sperm because they are an acidic or bacterial compound. Nevertheless, this is not really the destroying of semen in the sense of the Gemara and the Rishonim which referred to taking the semen out of the woman's body. These spermicides only remove the mobility from the sperm and weaken its vitality, while the sperm remains in its place (inside the woman's vagina). Given this, there is no "destroying of the semen" (this ruling is from the gaon Avraham Dov Auerbach). There are also those who wrote that since the passage to the womb remains open, it is similar to drinking a sterilizing potion and permitted in cases of pain (Iggrot Moshe EH 1:62,63,64). It should be noted that there are different types of such preparations, and there is, for example, a foam that completely blocks the passage. Here is not the place for going into this at length and clarifying all the halakhic aspects, but only to give a general idea of the issues involved.
5. Condoms

a. Mokh in the Poskim

Above we discussed the different positions amongst rishonim and poskim regarding a mokh [sources 15-23]. We briefly review those opinions here as they bear directly on the permissibility of the condom as a form of birth control.

Rif, Rambam, Rosh, Smag and Tur do not rule about the use of the mokh nor does Shulkhan Arukh. All of this may indicate that there are no halakhic problems with its use. Shulkhan Arukh rule that a man may not have intercourse with his wife if, as a result of a medical condition, her vagina is obstructed and he will necessarily ejaculate outside her vagina [source 21]. Taz comments that this is a more serious problem than a mokh since intercourse occurs "in the way of the world" with a mokh [source 22]. As we will see, there is a great deal of debate among poskim whether intercourse with a condom constitutes intercourse "in the way of the world." Must the ejaculate enter the vagina unobstructed or is it sufficient that the man ejaculate with his penis inside his wife's vagina? And there are those who would say that all forms of marital sex are considered to be "in the way of the world" regardless of where ejaculation takes place.

Pithei Teshuvah cites poskim on both sides of the debate regarding the permissibility of the use of a mokh [source 23]. He first cites Hemdat Shlomo who permits the use of a mokh, at least in the case of serious health risk, and rules that intercourse with a mokh is considered "the normal way of intercourse" (a phrase used as a parallel to "intercourse in the way of the world") in line with Taz. On the other side, he cites Hatam Sofer and R. Akiva Eiger who are quite stringent regarding the use of a mokh during intercourse and consider it a form of hashnatat zera. They prohibit the use of a mokh even in cases of health risk and would insist that the couple refrain from marital sex or divorce rather than use a mokh.

While the positions of Hatam Sofer and R. Akiva Eiger shaped many of the rulings that followed, a number of poskim challenged their ruling. Some maintain that using a mokh is generally forbidden but argued that it is permitted in cases of health risk. Others claim that there are no halakhic problems with using a mokh during intercourse. As we saw, this is the position of Taz [source 22] as well as Ramban, Rashba and Yam Shel Shlomo [sources 18, 19, and 20].

Turning to contemporary poskim, R. Eliezer Waldenberg cites Hazon Ish who endorses the position of Yam Shel Shlomo and rules that the use of a mokh during intercourse is permissible in cases of only doubtful health risk [source 35]. We will see below if this may be applied to the use of condoms.


But see this: the gaon Hazon Ish, z”l, lauded and exceedingly praised the position of Yam Shel Shlomo in this matter. For in the laws of Ishut, no. 37... he writes thusly: "Behold, there is room to say that according to the opinion of the poskim that after intercourse it is forbidden for all women [to use a mokh]... that before intercourse it would in fact be permitted for all women to do so... And this is the considered decision of our great teacher, who achieved divine inspiration, Maharshal, zt”l. Now, even were we to be concerned and be strict regarding normal women [to not use a mokh] before intercourse, just as they do not do so after intercourse, nevertheless, in a case where we are coming to permit its use because of danger, it is fitting to permit its use before intercourse and not afterwards..." At the end of that siman, Hazon Ish reiterates and summarizes his position, that as...
There is one final source to see before turning to the halakhic literature on condom use. Rema rules, in accordance with the position of RI in Tosafot (Yevamot 34b), that all forms of marital sex are permitted even if the man ejaculates outside of the woman’s vagina [source 36]. If all acts of marital sex are not considered hashhatat zera, a similar argument may be made regarding the use of a condom during intercourse (The counter-argument is that the condom is used specifically to capture sperm and prevent it from entering the vagina; this intentional blocking of sperm would then constitute an act of hashhatat zera.) The relevance of this Rema is explored by Rav Moshe Feinstein below (source 43).

36. Rema, Shulkhan Arukh, EH 25:2

He may do with his wife what he wishes. He may have intercourse whenever he wants, kiss any part of her body that he wants and have intercourse with her in the natural way (vaginally) and the unnatural way (anally) as well as by “way of her limbs” (with other parts of her body, e.g., her hands or her mouth) as long as he does not emit seed for naught. There are those who are lenient and say that it is permissible to have intercourse in the unnatural way even if he ejaculates, if this is done occasionally and he is not in the habit in engaging in this behavior. And although all such behavior is permissible, whoever sanctifies himself in that which is permissible, “holy” shall he be called.

b. Condoms

Male condoms have been around since the mid-16th century. Initially, they were used as a means of preventing the spread of syphilis. In the 17th century, condoms began to be used for contraception. They were originally made of linen, animal bladder and intestines or leather. Rubber condoms, which were quite thick, were introduced in the mid-19th century and latex condoms in 1920. Condoms are not the most effective method of birth control and their use for contraceptive purposes has declined rapidly since the advent of the birth control pill and the IUD. They remain highly important in the prevention of the spread of STDs.

The halakhic question regarding condom use is relevant when other forms of birth control are not a good option, for certain health conditions, or to prevent sexual transmission of certain diseases.

Maharshham, writing at the end of the 19th century was one of the earliest poskim to deal with the halakhic permissibility of condom use [source 37]. We have seen that he permitted the use of a diaphragm, distinguishing it from the mokh [source 24]. He rules, however, that condoms may not be used even if a pregnancy will put the woman’s life at risk. The couple has no choice, in his opinion, but to divorce, and he does not consider the value of keeping husband and wife together (shalom bayit) sufficient to override the prohibition against “wasting seed.” Maharshham deems the condom even more problematic than the mokh since it prevents the semen from entering the vaginal; it is comparable to ejaculation outside the vagina and a clear case of hashhatat zera.
At the end of his responsum, he considers a possible way to permit its use although he remains hesitant. He suggests puncturing the underside of the condom so that the semen would exit the condom and come in touch with the vaginal walls. Of course, a woman can still become pregnant this way, as R. Waldenberg himself points out, making this suggestion moot; thus, condoms are not a permitted form of birth control according to Maharsham (source 39).

37. Maharsham 3:268 (Rabbi Shalom Mordehai ben Moses Shvadron, 1835-1911, Galicia, Poland) (undated responsum, volume published 1902)

Now, I wrote in my responsa in the case of a woman who was in danger were she to become pregnant, that one can be lenient and permit the placing of a rubber cap (i.e., diaphragm) over the opening of the uterus, which is called "pasarium." After this I was asked from the head of the beit din of Staszów, Poland, regarding a woman who was in danger, and the doctors concluded that if she were to become pregnant she would die, and she already tried to use the "pasarium," (a diaphragm) but it was not a good solution, because it would move away from the opening of the uterus, and she was also unable to place it there without assistance from a doctor. He asked if one could permit the husband to wear a rubber cover (i.e., condom) over his "limb" at the time of intercourse, and he was inclined to be lenient because this is a case of risk to life which overrides all prohibitions.

I responded... the fact that poskim are lenient to allow a mokh in such a case, and according to some poskim to even insert the mokh before intercourse, as I wrote in my responsum there... this is not based on the principle that risk to life overrides prohibitions, but rather because of the great need to prevent the couple from separating. It was for this need that the poskim saw fit to rely on the positions of those who permit (the mokh), and it was similar to "risk of life." This is different than our case, which is more problematic than a mokh. In the case of the mokh the husband spills his seed into the woman's vagina, but it just falls onto the mokh. While in our case he ejaculates the semen into the condom that covers his "limb" and the condom separates [between his penis / semen and the vagina] all around, and he does not touch the walls of the vagina at all, this is a true case of a wasteful emission of seed. There is no basis to be lenient in such a case, except in a real life-threatening situation. Our case does not fall into the category of a life-threatening situation, because she has the ability not to have intercourse with her husband, and her husband has the ability to divorce her. Therefore, God forbid that we should be lenient. And whoever is lenient will in the end have to answer for it. Although the Torah permits [the priest] to erase God's name to make peace between husband and wife, etc., we cannot learn from this to permit our case, for it is different there, where [erasing God's name] only needed to be done once. There is no basis to permit doing that (or another violation) on an ongoing basis...
It seems that one can find a way to permit in our case, under the following circumstances. They should make a small hole in the condom below where the corona would be, and when the man ejaculates into the condom, the semen would immediately come in contact with the woman’s vagina, exiting the condom from the hole underneath. If the doctors say that this will still protect her against getting pregnant, since the semen is not "shooting out like an arrow" into her vagina, but only drips down and falls from the condom into the vagina. Although it is clear from the previously cited responsa of Tashbeitz that she can at times get pregnant this way, but it is not at all likely to happen. Therefore, one can find a way to be lenient if one makes sure that the hole on the underside of the condom is wide enough to ensure that everything drips out from the condom into the vagina, and that no semen remains in the condom... And having said all this, given the weightiness of the prohibition I am only saying this as a theoretical possibility, but not to be acted upon unless two other rabbis, who are experts in Torah and God-fearing agree with me. Then will I join my opinion to theirs, so that we should not be required to separate husband and wife.

There is a widespread belief that condoms are forbidden in all circumstances and that Maharash's position is the sole halakhic ruling. This is not the case. As we have seen, a significant number of poskim believe that there is no problem with using a mokh when the man ejaculates directly on a sponge in the woman's vagina; this is considered a regular act of intercourse and not hashhatat zera. Accordingly, use of a condom should be permitted were one to argue that intercourse using a condom is also a regular act of intercourse.

This is the ruling of R. Hayim Ozer Grodzinski ( Vilna, 1863-1940) [source 38]. His argument is simple: Since intercourse while using a condom constitutes a standard act of intercourse for prohibited acts (e.g., it would be considered adultery even if the man were wearing a condom), then it is likewise a standard act of intercourse in the marital context and not hashhatat zera.

R. Grodzinski adds that when a condom is needed for health purposes (e.g., the case he is discussing), it is standard practice to use one -- another demonstration that this constitutes a "natural" act of intercourse. [Recent studies indicate that approximately 30% of unmarried women and 45% of unmarried men in the United States use condoms all or most of the time when they engage in intercourse; health concerns are reported as a major factor in their decision to do so.]

Finally, he argues that hashhatat zera is, at most, a rabbinic restriction. In cases of health risk, a rabbinic restriction may be overridden for the sake of keeping husband and wife together. R. Grodzinski also notes that the prohibition of hashhatat zera is related to the mitzvah of pru u’rvu and less of a halakhic concern once the couple has fulfilled the biblical mizvah.


Regarding what his honor asked about a woman who, according to the doctors, would be in danger were she to become pregnant, because both pregnancy and childbirth are difficult for her. Is it permissible for her to have intercourse with a mokh or for the husband to put a condom on his...
"limb" into which the semen will be collected? And the person (man) asking already has children...

Behold, when it comes to having intercourse with a mokh, a number of authors have permitted this - see responsa Hemdat Shlomo and responsa Tzemah Tzedek. In Ahiezer, I added to this [argument to be lenient] that the primary prohibition regarding a mokh was that intercourse did not take place in the "way of the world," and therefore the "three women" could have intercourse with a mokh because of the health risk, since in cases where there is a health risk, it is natural to have intercourse this way. And the same would be true in any case where there was a health risk.

There is a question, however, when it comes to the thin covering (condom), perhaps this would not be considered to be the "way of the world," to have intercourse... Now, when it comes to women with whom it is forbidden to have intercourse, the act is defined as intercourse even when no ejaculation takes place, as Tosafot in Yevamot (55) writes. [This would seem to indicate that intercourse with a condom is defined as intercourse, even though there will be no ejaculation into the woman's body.] But one could counter that we nevertheless require that that [to be defined as intercourse] it must be possible to lead to ejaculation [in the woman's vagina. This, however, is not the case.] for we learn from the Biblical verse that even anal intercourse is halakhically defined as intercourse (Sanhedrin 55).

I later saw in the book Devar Eliyahu, by Rav Eliyahu Klotsky, z"l, who went into great detailed analysis in this matter, in responsum 65, and he concludes regarding his case of condom use to permit. In particular, [one can be lenient] in our case, since the man already has children, for following what is written in Sefer Ha'Yashar of Rabbeinu Tam - cited in responsa Hemdat Shlomo - it would be permitted in such a case (since this opinion holds that wasting of seed is a prohibition rooted in the mitzvah to procreate, and would thus be less relevant when that mitzvah has already been fulfilled). Regardless, we can say that there is not a Biblical violation (when it is done for health reasons and not for the purpose of destroying the seed), and it is only a rabbinic prohibition, and that this prohibition would be permitted for the purpose of onah, as Ra'ah writes in Shitah Mekuzetzet (Ketuvot 12b). I thus agree with his esteemed honor to rule permissively in this case.

R. Waldenberg, in the following responsum, cites both sides of the debate regarding the use of condoms [source 39]. He provides additional support for R. Grodzinski's argument that intercourse using a condom is defined as an act of intercourse in other areas of halakha. He notes as well Raw Moshe Feinstein's permissive position (which we discuss below). [He also quotes the position of Tzafnat Paneiah (the Rugachover Gaon) who argues that when a man is wearing a condom during intercourse, we may view this halakhically as if he never ejaculated since the sperm never went "outside"; hence, it would not be an act of hashvatat zera.] R. Waldenberg concludes that he is inclined to allow the use of condoms when no other options are available but he remains hesitant As a matter of practice, he permitted condom use as we will see in the next responsum.
states in intercourse with a woman who was forbidden to him, as it act of intercourse, and a man would transgress [if he had anal intercourse, it is certainly forbidden to have intercourse with a woman with whom a man is forbidden to have when it comes to women with whom a man is forbidden to have occasional, see there. And this [approach of his] requires further investigation.

Tzafnat Paneiach for man to use a condom, if the woman is afraid to rely on the who also permits in cases where there is a risk of great danger, similarly it is written to put a condom on the husband’s [that Maharsham wrote that it was forbidden, and concludes: ] "therefore I a Shut Shevet Sofer.

Added to this is Shut Shevet Sofer (EH 2), who also concludes that to put a condom on the husband’s "limb" would not be considered having intercourse in the normal manner. And similarly it is written in Shut Maharash Engel (8:90), that "to cover the "limb" before intercourse it is obvious that one must forbid," see there. And in Shut Yigal Yaakov (YD 66) the author writes also that "God forbid, God forbid, that we should permit the husband to wear a leather condom," see there.

(9) Against all that appeared above, we have found, on the other side, that the gaon Rav Hayim Ozer z”l from Vilna, in Shut Ahiezer (3:24:5) opens up the door of permission, even in a case such as this... see there. See also in responsa Igrot Moshe (EH 1:63) who also permits in cases where there is a risk of great danger, for man to use a condom, if the woman is afraid to rely on the diaphragm, see there. And one should also look at responsa Tzafrnat Paneiach (164), what the author writes, namely, that if the condom is tightly affixed to the penis, then it is not considered as if the semen ever really exited the body, see there, and this [approach of his] requires further investigation. Even he does not permit in his case except when the usage is occasional, see there.

One can add to the words of Ahiezer and say further, that since when it comes to women with whom a man is forbidden to have intercourse, it is certainly forbidden to have intercourse with a condom, as Ahiezer explains there, based on the fact that we learn from the verse that even anal intercourse is considered an act of intercourse, and a man would transgress [if he had anal intercourse with a woman who was forbidden to him], as it states in Sanhedrin (55), see there... If so, one can learn from that law, and apply it even to the case of intercourse with a condom.

when there is a danger [of becoming pregnant], and no other means of birth control are available, since the man has no intention to actively destroy the seed...

(10) It should be understood that this matter requires enormously careful weighing and judgment in order to decide to permit the use of a condom, together with great investigation of the opinion of expert doctors, if indeed the danger is great and if there is legitimate reason to fear that other forms of birth control will not be effective, then - and only then - is there room to discuss whether to permit [the use of a condom], if the husband has already fulfilled the mitzvah of pru u’rovu - for according to a number of great poskim who permit the use of a mokh to be inserted before intercourse, they also require that the husband has already fulfilled the mitzvah of pru u’rovu - or in some other very rare case, and only for a limited time period. And after all of this, we can only say "perhaps."

In the following teshuvah written 30 years later, where use of a condom was the only way that a couple could engage in intercourse, R. Waldenberg permitted its use {source 40}. In this case, the woman was allergic to her husband’s sperm which caused a burning sensation in her vagina. It is notable that he permits condom use in a non-life-threatening case. (Among other points, he argues that preventing severe pain may, at times, be considered of equal halakhic weight to protecting a life that is at risk).


A woman who suffers excruciating pain from the husband’s semen - that it is like a poison which burns her flesh inside (i.e., the walls of the vagina) - is it permitted for her husband to use a condom.

Question:

Thursday, Parashat Emor, 1993. To his honor, our teacher, Rav Eliezer Waldenberg, shlit"a.

I have come to ask regarding a woman who has excruciating pain when she has intercourse, because her husband’s semen is like a poison that burns her vaginal walls, and because of this they have been abstaining from intercourse. The doctors say that as of now there is nothing to be done, except to have the husband wear a condom.

My question and my request is if we can permit such a thing (based on the ruling of Ahiezer, who compared condom use to other forms of birth control) in our case.
With respect and honor, David Kahan.


...I am in receipt of your letter, and I am responding quickly to your urgent question. In truth, yes, in my humble opinion, it is possible to permit in such a case for the husband to wear a condom, and also by relying on the ruling of Rav Hayim Ozer z”l (Ahiever, 3:24). Although there he was dealing with a case where there was a possible danger to the woman were she to become pregnant, nevertheless, we must follow the reason [that justifies the use of the condom], and the reason he gives there is that when one uses a condom it is not a Biblical transgression, and at most it is a rabbinic problem, and this can be permitted for the sake of the mitzvah of onah. This same argument can be applied to our case as well, and in particular because we are dealing with serious pain that the woman is suffering, since the husband’s semen is like a poison burning her vagina. What’s more, from a certain perspective, this [extreme pain] is a more serious consideration than a risk to the woman’s life were she to be pregnant, as we find in Ketuvot (33b), that lashes - Rashi explains this means afflictions - are weightier even than death. [The Gemara continues,] that had they lashed Hanania, Mishael and Azaryah, they would have bowed down to the idol. Here, too, her pain is excruciating.

In support of our ruling, we can add what Netziv wrote in Shut Meishiv Davar (YD 88), to permit the use of a mokh, “because it is only forbidden when the purpose is to destroy the semen, as was the case with Er and Onan, which would not apply [if it was being used because] his wife is sick. And, behold, this type of intercourse (with a mokh), is also defined as intercourse when it comes to forbidden acts of sex, and one would be punished for it,” see there. Going even further than this is what is written in the novella of Tosafot RId (Yevamot 14), see there. Therefore, we can learn from this ruling and apply in a similar case, to permit the use of a condom when the woman is in great pain from the husband’s semen, and it is like a poison burning in her vagina, and there are no other means to prevent this other than using a condom. And behold, as far as forbidden acts of intercourse are concerned, such an act (with a condom) would also be defined as intercourse, and a person would be punished accordingly. [It is thus considered a normal way to have intercourse, and therefore one can permit in our case].

I have now seen in Shut Tzafnat Paneiach (164) who responded to permit the use of a condom provided that the condom was tightly affixed to the man’s penis, and in his justification of this he innovates the following argument: that when the condom is

הנה שלוש אפיפינים (ברנדי רד)
בכמב יירק דוד קאנת
תשובה: "ו.ה "אירא תמה". ירחילם.
ügen סוחב א."

...יקרת חסדים קולות ידוע תועש"ק, והנני
מהרג הלשון על שלשה, והנהנה, אם כו
לפעמים אפיש לודור בניודן שבכל פגוש
בסיס, ו듯 חתפומך "ו.ה" חוראת תורוד"ו
ל"כ (אמוריו ח"ס סומך ל"כ).ל☾ ובשם
המודר בדרכו כשקפעת את השת כוכב
תננים, אליך יבר שמע מענקת של כדק
מ"ל לא נצרור המה אלא מ"ס פושם
ל悰ו הנה תורוד, הוא זה המחילה על
מגיני ופתמה שם המודר מקסיר
גוליין של הששהあります שרייה אחר
כספ שגורץמחם כמספ. אלו דוע אלא
מבחרתי המ זה יחר נ.Concat מחמה
synthesize השמאו באוכף זכריה
במקוה קיסר "ו.י" כון יקרית ירח תורוד
[יפורר: יוסי] אימלגר ננסת לאמר
יפשא עorra פלוטיל אולאם, והי הוא عربي.
שלא נגרו.

הਜראד הל מ"ש ברות" מיישר דבר
לחגאנו עטב" ב"ו"ה" פה פמחה לבר
לבא היהור ברשמת מוק צי יראו ואו
לא משעול קנוסי המשומד ארור מברך"כ
וא אשתו וחנית, והה שמשות באב"ג
באיאור מקרר הז"כ שמישים והנניש"ז
ל"ע, והצאתו זכרואים נשבר החבר, רודר
כוהן מוה, חתך והדורים החובה "י"ד
בכברל מ"ו, דודו המניון הל"ק
לולא הלשון להthroat, וטנגט ששמועו
בכבר הז"ב ששתא ישנתו אתיה בך
ﾠ

כף הולוד רמאיי ב"ש" אתפע פניע (והרוא)
ני ת"ו "ש" שומך ס"ה שומש להthroat
ונישמי בכבור יבר עראוס, כיוכז הז"כ
תשמשה והמשריע על הז. "ל"כ.
affixed tightly, it is not considered like there is semen, since the semen has not yet exited, and therefore it is not considered to be semen at all, see there. In truth, this is a huge innovation, but I have mentioned it as a small support to everything that was said above. And the words did out of the mouth of the tremendous gaon the author of Tzafnat Paneiach (i.e., the Rugachover Rav).

Therefore, in this special case that we are dealing with, it seems in my humble opinion, that we can permit her husband to use a condom temporarily, given that there are no other alternatives, and following the report from the doctors that at the current time there is no treatment for her condition, and the only option is for the husband to use a condom.

With great affection and appreciation, Eliezer Yehudah Waldenberg.

Rav Moshe Feinstein, in a number of responsa written in the 1960s, states that a condom "should not be permitted as a practical matter" [sources 45 and 46]. The phrasing is quite curious; it does not state that use of a condom is halakhically forbidden, and it sounds more akin to a recommendation. As we shall see in a lengthy responsum written in 1935, Rav Feinstein laid out the argument to permit condom use.

41. Responsa Igrot Moshe EH 4:67 (1961)
A woman for whom it is a danger to become pregnant, whether she is permitted to have intercourse with a mokh.

10 February 1961. To his honor, shlit"a.

... There are other forms of birth control, but they are not so reliable. Therefore, for a woman for whom there is a risk that this pregnancy will be a danger, there is no other option but for her to place the rubber cap (i.e., diaphragm) in her vagina. For when it comes to the covers that a man wears (i.e., condoms), one should not permit this as a practical matter.

Your friend, Moshe Feinstein.

42. Responsa Igrot Moshe EH 3:21 (1965)
Regarding a woman for whom it is forbidden for her to get pregnant, whether it is permissible for her to place a ring which has recently been invented by doctors [in her uterus, i.e., an IUD].

September 1, 1965. To his honor, my friend, Rabbi Yaakov Emanuel Shochet, shlit"a, rabbi in Toronto.

... In this case she would be permitted to place inside her body...
the rubber cap that women place inside their bodies, which is like the *mokh*. But one should not permit a man to wear a cover over his "limb," as I explained in my earlier responsum, which his honor has seen.

In a lengthy responsum written in 1935, Rav Moshe Feinstein deals with both the diaphragm (which he considers the equivalent of the *mokh*) and the condom (source 43). In the first half of the *teshuvah*, he notes that many rishonim permit the use of a *mokh*. He divides these rishonim into two camps: those who side with RI and those who side with Ramban.

Rav Moshe starts with the position of RI that a man may have anal intercourse with his wife even if this means that he will ejaculate outside her vagina (see source 36). This position is adopted by many rishonim, and Rema in *Shulhan Arukh* rules likewise. Rav Moshe argues that the halakhic principle that underlies this ruling is that all sexual activity between husband and wife is considered licit, and when a man ejaculates during this activity, it cannot be considered a "wasteful emission of seed." The man did not ejaculate "in vain," he did so as part of marital sex. What follows from this, Rav Moshe writes, is that even if intercourse with a *mokh* is considered to be "not natural intercourse," and even if we were to say that ejaculating onto a *mokh* is like "spilling one's seed on sticks and stones" (a phrase often used to describe masturbation), it would still be permitted to use a *mokh* when necessary, since it serves the purpose of making it possible for husband and wife to have sex. As should be obvious, it would be easy to remove the word "*mokh*" in the previous sentence and replace it with the word "condom," and we will see below that Rav Moshe does exactly that.

Rav Moshe contrasts the approach of RI and Rema with that of Ramban and others (section 4 of the responsum). For Ramban, a *mokh* may be used only because intercourse with a *mokh* is considered to be "natural intercourse." Against RI and Rema who would permit all forms of marital sex, this camp would rule that if a man ejaculates during a sexual activity that is not defined as "natural intercourse," it would be a act of *zera li’vatalah*. For intercourse with a condom to be permissible according to this more restrictive approach, it would have to be deemed to be an act of "natural intercourse," a designation that Rav Moshe rejects, as we shall see.

43. Responsa Igrot Moshe EH 1:63 (1935)

Regarding having intercourse with a diaphragm for a woman for whom it is a danger for her to become pregnant.

Thursday, Parashat Bo, 5695 (1935). To his honor, my brother-in-law Rabbi Yitzhak Isaac Ha’Levi Small, shlit’a.

[Section 1] Regarding a woman whom the doctors have commanded her that she must make sure that she does not get pregnant, for it would be a danger to her. Can she have intercourse with a *mokh* that is present during intercourse...

[Section 3] This is Rashi’s position according to RI and those in his camp. Although for other women it would be forbidden and having intercourse in this way (with a *mokh*) would be - for the husband - like casting his semen on sticks and stones - this is because for...
normal women there is no need to use a *mokh*. Nevertheless, for these women (who have a health risk), it would be permitted. Since it is a risk for her to get pregnant, it is impossible for the husband to fulfill the mitzvah of *onah* and giving his wife pleasure unless she uses a *mokh*. Therefore, this [the ejaculating on the *mokh*] is not a case of [emitting seed] "for naught." It is thus permitted not because the norm overrides the prohibition, but because in this case there is no prohibition (since it is not for naught)...

According to how I have explained Rashi’s position according to RI, we can now resolve what has been a serious difficulty in RI’s position in Yevamot (34b, s.v. *v’Lo*). That it is permitted for a husband to have intercourse with his wife in the "unnatural way" (i.e., anal intercourse), even if he ejaculates, provided he only does this occasionally, because he desires her in this way. Beit Yosef (EH 25) wrote that Rosh agrees to this ruling. But this is greatly astounding occasionally, because he desires her in this way. Beit Yosef (EH 25)

But based on what we have explained, this makes sense. For the legal meaning of the word "for naught" means that the [semen has to be ejaculated outside the woman's vaginal] for truly no (justifiable) need. It is for this reason that is permitted when done for the sake of the mitzvah of *onah* and his wife’s pleasure. Therefore, RI and Rosh are of the opinion... that in matters of marital sex, for a husband with his wife, the *Torah* permitted [all forms of sex], even when he desires to have anal intercourse, as a need, and it is thus not for naught, and permissible... But if someone does this habitually, there is no way we could say that he truly desires this, and therefore we would say that his primary intent is to destroy his seed, and it would be forbidden, since there is no need [in this case]...

What emerges is that according to those who hold like RI when it comes to anal intercourse [between husband and wife, even when it leads to ejaculation], like Rosh and Tur, and also Rema (EH 25:2), they would certainly permit the use of a *mokh* in cases of a chance danger... Even those who forbid anal intercourse (when it results in ejaculation), it is possible that they would permit the use of a *mokh* in a case of a chance danger for the purpose of the mitzvah of *onah* and his wife’s pleasure...

[Section 4] There is another approach regarding Rashi’s position which holds that using a *mokh* is considered to be the normal way of having sex and is therefore permissible. This is the simple meaning of Tosafot Yevamot according to Rashi, and Nimukei Yosef, Yevamot, and Shitah Mekuvetzet in Ketuvot in the name of Ramban and Ra’ah...

It turns out that according to this position, which is the position held...
by many Rishonim: Ramban, Ra’ah, and the student of Rashba, as is cited in Shitah Mekubetzet in Ketuvot, and Nimukei Yosef, Yevamot, and Rashba - that it is certainly permitted in cases of danger to have intercourse with a mokh that is present at the time of intercourse, according to all opinions...

In the next part of the teshuvah, Rav Moshe applies the approaches of RI/Rema and Ramban to our issue, namely, the permissibility of condom use. According to the first approach (RI/Rema) even when the semen does not enter the woman’s vagina, it is not hashkatat zera if it was done for any licit purpose including all types of marital sexual activity. In such a case, it is no longer "li’vatalah," for naught. According to this understanding, even if we consider intercourse while using a condom not to be "natural" and the semen that is ejaculated into the condom as if it were spilled "on sticks and stones," it is permitted to use a condom when one does so for a legitimate purpose such as health reasons. Although Rav Moshe does not say so explicitly, this reasoning should also extend to using a condom when the other forms of birth control are not viable options; in such a case, the sex act is being done in this manner for a purpose; the semen is not being emitted "li’vatalah."

The second approach (Ramban) requires the act of intercourse to be considered "natural"; ejaculation of semen in any way that is not "natural" intercourse would be deemed hashkatat zera. Rav Moshe takes for granted that intercourse with a condom does not qualify as "natural" and strongly takes issue with R. Grodzinski who rules otherwise. Rav Moshe argues that a condom is different halakhically from a mokh; a mokh allows semen to enter the vagina while a condom contains the semen which is subsequently removed along with the condom when the man withdraws. For him, this cannot be considered "natural" intercourse.

Although Ramban’s approach would lead to a restrictive ruling on condoms, Rav Moshe rules in favor of the first camp and its more permissive approach. In the end of the responsum, he states that the majority of rishonim, as well as Rema, are in the first camp which permits all forms of marital sex even when ejaculation occurs outside the vagina. Based on this, Rav Moshe permits the use of a condom when its use is medically necessary. In his final words, he voices some hesitancy and recommends that the questioner consult with other rabbis as well.

44. Responsa Iggrot Moshe EH 1:63 (1935), continued.

[Section 7]... Now, the position of RI and those in his camp, is that with a mokh it is considered like [the husband spilled his seed] on sticks and stones, and nevertheless they permit it, since it [the semen being ejaculated] was for the purpose of the mitzvah of onah, it is therefore not considered to be "for naught”. According to this, there...
is room to permit even when it comes to condoms that a man places on before intercourse. For although it will be considered like "sticks and stones," nevertheless, since the husband is fulfilling the mitzvah of onah in this case, it is considered to be for a purpose in the case of a woman for whom it would be risk for her to get pregnant, and it would not be "for naught," and it would be permitted, just like the mokh.

But according to the second opinion, that the permission to use the mokh is because this is "the way of intercourse," it stands to reason that it is forbidden to have intercourse with a condom, for such a case would certainly be like "on sticks and stones," which would not be permitted according to this opinion. I say in Ahiezer, by the gaon Rav Hayim Ozer, zt"l, who states that even the use of condoms during intercourse is considered to be a "the way of intercourse," and he permits its use when there is danger, although this is the only approach. However, according to RI and those who are in his camp, and they are: Rosh, Riva, and Rashi - according to them, and also according to all who permit a husband to have anal intercourse with his wife on an occasional basis, even if it leads to ejaculation, and these authorities are, in addition to RI and Rosh, also the Tosafot in Sanhedrin (58), Tur, and Rema, and based on what I explained it is possible that this is also the position of Nimukei Yosef and Rashba Yevamot... - while the second position is held only by Ramban, Ra'ah, and the student of Rashba, as cited in Shitah Mekuzetzet, and perhaps also Nimukei Yosef and Rashba Yevamot, according to how
Rabbi Akiva Eiger explained their position in his responsum - there is basis to permit even here (i.e., to use a condom).

Therefore, in my humble opinion, as a matter of practice, if it is possible to use a mokh or a rubber cap [that is what she should do]...

But if she is afraid to rely on the mokh or the rubber cap that she inserts into her vagina, because the concern about the danger that she is in is great, there is room to permit even for the man to wear a condom, like Ahiezer permits, but not based on his reasoning.

Rather, the reason is because how I explained the first position, and worthy are they, the majority of the poskim, to rely on them in a case of great exigent need and tremendous hardship such as this. And it also is a matter of iggun (because it could lead to divorce or not having sex with her husband forever), and making peace between husband and wife, which both the Torah and Hazal were lenient (regarding other prohibitions for the sake of peace between husband and wife) in many areas.

However, regarding the last ruling, permitting a man to wear a condom if she is afraid to use a diaphragm, and the concern for danger is great, you should discuss this with my colleague, the gaon Rabbi Yaakov (Kontrovitz), shlit"a, or with one of the gedolei ha'dor, and show them my responsum, which explains my permissive ruling with great clarity and compelling arguments, which reconcile many [problematic] issues, with God's help.

Your brother-in-law who is like your brother, Moshe Feinstein.

We conclude this section with a responsum by R. Dr. Moshe Halpern, a contemporary posek of medical issues {source 45}. R. Dr. Halpern was asked whether a condom may be used in a case where the semen causes the woman to experience severe pain. He formulates a different approach that what we have seen above. Citing his teacher, R. Yisrael Gustman, he states that even if the use of a condom creates zera li'vatalah, we may still permit its use by adopting the position of those rishonim who frame the problem of zera li'vatalah exclusively as an obstacle to the mitzvah of pru u'rvu. If the woman is of childbearing years, permitting use of a condom when no other options are available maintains the marriage and the eventual birth of children (provided that a cure will be found for her condition). As a result, there is no hashhatat zera as the use of the condom now serves the ultimate goal of pru u'rvu!

R. Dr. Halpern states that the approach he takes is that of R. Gustman, following R. Gustman's teacher, R. Grodzinski. He notes that in cases like the one under consideration, R. Gustman ruled emphatically that condom use was permitted li'khathilah.

In cases where the woman is past childbearing years but there is a health reason to use the condom, or when the couple is not planning on having any more children and wishes to use a condom for contraceptive purposes, this approach would not permit condom use. However, if a couple wishes to use a condom for contraceptive purposes and is planning on having more children in the future, it might possible to permit its use even when another form of birth control is a possible, but less desirable, option, since the use of the condom would be aiding pru u'rvu in
the long run. There also may be additional basis to permit its use if the couple has already fulfilled the mitzvah of pru u’r'vu, a point made by R. Grodzinski in his responsum, above (source 38).

45. Rabbi Dr. Mordehai Halpern, Makhon Schlesinger website

Summary of medical condition:

Sensitivity to semen fluids that cause severe pain during sleep and thus prevents normal family life.

The woman is in the middle of childbearing age, the mother of three children.

Question: Until a medical solution can be found for the problem, a solution that might be a long time in coming, is it allowed to have intercourse with a condom?

The question of the condom is composed of several secondary questions:

a. Whether using a condom is considered to be a destruction of seed, or a normal way of having intercourse.

b. Even if this is not considered to be the "way of intercourse," is there a halakhic permission the can be given in the present situation?

Discussion:

Regarding the first question, was the use of a condom as a method of exhausting or destroying sperm?

The opinion of the Ahiezer (3:24) is that there is basis to be lenient, when necessary, to consider the use of a condom as the "way of intercourse," see there.

Although there are those who side with Ahiezer, see there, many poskim disagree with Ahiezer on this point. Therefore, even in exigent circumstances and for the sake of shalom bayit, it is preferable to find additional bases to permit.

Regarding the second question, is it possible to permit the use of a condom even if it is not defined as the "way of intercourse," there is, apparently, a wasting of semen on sticks and stones? [We give the following analysis...]

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against destruction of seed. The position of Tosafot in Sanhedrin (32b, s.v. ve'ha) is that the prohibition of destruction of seed is included in the laws of pru u'ruv. This is also the opinion of Rabbeinu Tam (Yevamot 12, s.v. shalosh). According to this approach, ejaculating semen for the purpose of fulfilling the mitzvah of pru u'ruv, such as in our case, is not included within the prohibition.

6. On the other hand, there are many Rishonim who believe that the prohibition against destroying sperm is not part of the mitzvah of pru u'ruv, but rather is an independent prohibition. This is the position of Ramban, Ran and Rashba, (Niddah 13a), and Tosafot (Yevamot 12, s.v. shalosh). According to them, one can identify the source of the prohibition in the words of the braitta (Niddah 13b), which identifies the source of the prohibition of adultery as the source of the prohibition against the destruction of seed (this framing refers primarily to masturbation, which is seen as a type of sex with oneself). Adultery, as is known, is not permitted even for the sake of the pru u'ruv.

7. As for practical halakhah, two of the greatest poskim of the last generation, Rabbi Yisrael Gustman and Rabbi Feinstein zt"l, disagreed on the matter. Rabbi Yisrael Zeev Gustman, who even in his youth was an important Dayan in Vilna at the court of Ahiezer, ruled in unambiguous manner in the footsteps of his rabbi the Ahiezer, that the prohibition of destroying sperm stems from the fact that it negates the mitzvah of pru u'ruv (Ahiezer, 3:24.4; based on the Arukh La'ner on Yevamot 76, and it sounds like he agrees with him in principle). In his opinion, when there is a need for the extraction of sperm for the purpose of pru u'ruv, the permission to do this is li'hathilah, not only post facto (or because of exigent circumstances). This is how he ruled for me, as a practical matter, on Hol Ha'Moed Pesach, 5738.

8. In contrast, Rabbi Moshe Feinstein ruled in Responsa Iggerot Moshe (EH 1:70; 3:14) that the prohibition of ejaculating seed when it is not part of sexual activity with a woman (lit., "in a manner unrelated to the woman's body") is connected to the prohibition of adultery, with all the halachic implications that are implied by that (specifically, he does not allow masturbation as a way of extracting semen for fertility treatments).

And it is important to know that Rav Yisrael Zeev Gustman zt"l ruled this way for me li'hathilah, in the case of an ultra-Orthodox couple who had been forbidden for medical reasons, for the period of a number of long months, to have intercourse without a condom. Rav Gustman instructed me then to instruct the couple that it was permitted li'hathilah based on the
combination of two halakhic arguments:

a. When the case is one where the woman is in her childbearing years, the very existence of the marriage is necessary for the continuation of the fulfillment of the mitzvah of pru u’rvu in the future. Therefore, a temporary permission to use a condom is defined as a permission for the sake of pru u’rvu.

b. Rav Gustman decided in the opinion of the Rishonim that the nature of the prohibition against wasting seed is that it is a nullification of pru u’rvu. Therefore anything which is the purpose of pru u’rvu is permitted li’hathilah (and so writes Ahiezer as a matter of practical halakhah in the name of Arukh La’Ner, see there).

Therefore Rav Gustman ruled for me to be lenient, li’hathilah.

Two weeks later, the gaon Rav Gustman came back to me with a request: "The couple who were asking the question is a God fearing couple, and it is certain that they will be concerned that the permission is only bi’dieved. Go tell them in my name" - so he said - "that the permission is li’hathilah and they that have nothing to be concerned about in the matter. Of course, I repeated this to the couple.

Two weeks later he turned to me again, and asked me to go back to the couple and inform them a third time that the permission is li’hathilah, and that they have nothing to worry about at all. And so I did.

It should be noted that even the gaon Rav Moshe Feinstein in Iggrot Moshe (EH 3:14) believes that the use of a condom is not defined as adultery and therefore is permitted for the purpose of pru u’rvu, see there...

From all of the above, it appears that in the opinion of Rav Yisrael Gustman, it is proper to rule in this case that it is permitted li’hathilah for a year or two, until the doctors find a cure for the problem.

Since, even in the opinion of the Iggrot Moshe, there is no element of "adultery" here (he is having intercourse with his wife, not alone), and we are dealing with shalom bayit, and with preserving future prospects for pru u’rvu, it is appropriate to rule here that it is permitted, a ruling that is to be enacted in actual practice.

Of course, no halakhic ruling is to be made on the basis of this discussion, and the decision of such matters is to be handled solely by an expert posek.

Joining: Rabbi Gavriel Toledano, shlit"a, concurs with the above.
In conclusion, we have seen that a number of contemporary poskim, including R. Waldenberg and Rav Moshe, do not treat condom use as totally off-limits and are prepared to permit its use in a number of cases. Where a condom is believed to be necessary, either for health purposes or contraceptive purposes, a couple should not assume that the answer is a definite "no." Always ask. The answer might be "yes."