

Rabbi Zvi Sobolofsky

**THE LAWS
AND CONCEPTS OF
NIDDAH**

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Contents

<i>Foreword</i>	<i>xvii</i>
<i>Introduction</i>	<i>xix</i>
<i>Editor's Preface</i>	<i>xxv</i>

SECTION I: ESTABLISHING THE STATUS OF NIDDAH

<i>1. Determining the Status of Niddah</i>	<i>3</i>
<i>2. The Status of a Hargashah without Blood</i>	<i>7</i>
<i>I. Introduction</i>	<i>7</i>
<i>II. Practical Ruling and Contemporary Application</i>	<i>9</i>
<i>3. The "Uterus Opening" and its Ramifications: Childbirth, Gynecological Exams, and Related Questions</i>	<i>13</i>
<i>I. Introduction</i>	<i>13</i>
<i>II. Defining "Opening of the Uterus"</i>	<i>14</i>
<i>III. Opening from Within and from Without</i>	<i>17</i>
<i>4. Blood That Emerges through a Tube</i>	<i>21</i>
<i>5. The "Stringency of Jewish Women"</i>	<i>25</i>
<i>1. The Biblical Laws of Niddah, Zavah Ketanah, & Zavah Gedolah</i>	<i>25</i>

II. R. Yehudah HaNasi's Decree	27
III. The "Jewish Women's Stringency"	27
IV. Exemptions from the Stringency	28
V. Scope of the Stringency	29

SECTION II: KETAMIM

6. The Decree of Ketamim.	33
I. Introduction	33
II. The Minimum Size of a Ketem	34
III. Differences Between Ketamim on Flesh and on Cloth	38
7. Ketamim Found on an Object That Cannot Become Ritually Impure ...	41
I. Origin of the Law	41
II. Rationale behind the Law	43
III. Contemporary Applications: Toilet Bowls & Paper	44
IV. Synthetic Materials	45
8. Ketamim on Colored Clothing	47
I. Origin of the Law	47
II. Rationale and Scope of this Leniency	48
III. The Wearing of Colored Clothing, and White Clothing During Shivah Nekiyim	48
9. Ketamim Found after Intercourse or after Urination.	51
I. The Question of "Masked Hargashot"	51
II. Theoretical Guidelines	52
IV. Blood Found in Urine	55

SECTION III: EVALUATION AND P'SAK

10. The Different Colors of "Blood"	59
I. Red and Black	60
II. Green and Yellow	60
III. Brown	62
IV. Pink	63
11. Determining the Color of Blood Stains	65
I. Stains That Are Still Wet or May Have Changed Color	65
II. A Husband Ruling on his Wife's Status	67

12. <i>Blood from a Wound</i>	69
13. <i>Halakhic Reliance upon Medical Opinion</i>	81

**SECTION IV: SPECIAL GEZEIROT
AND UNIQUE SITUATIONS**

14. <i>Dam Betulim – Hymenal Blood</i>	87
15. <i>Dam Chimud</i>	93
I. <i>The Enactment of Dam Chimud</i>	93
II. <i>Defining the Point of “Marriage Proposal” in Contemporary Practice</i>	95
III. <i>Bedikot following the Immersion</i>	97
16. <i>The Prohibition of Yichud Prior to Bi’ah Rishonah</i>	99
I. <i>The Origin of the Law</i>	99
II. <i>The Prohibition of Yichud: Biblical or Rabbinic</i>	100
III. <i>The Unique Parameters of Yichud Prior to Bi’ah Rishonah</i>	102
IV. <i>Practical Applications</i>	103
V. <i>Consummation of the Marriage: a Practical Definition</i>	104
17. <i>A Woman Who Gives Birth</i>	107
I. <i>The Eliminated Leniency of Dam Koshi</i>	107
II. <i>The Eliminated Leniency of Dam Tohar</i>	108
III. <i>The Practice to Wait 40 or 80 Days before Immersion</i>	109
IV. <i>Contemporary Application</i>	111

**SECTION V: THE PROCESS OF
BECOMING TEHORAH**

18. <i>Waiting before Shivah Nekiyim: the Rule of “Poletet”</i>	115
19. <i>Waiting Five Days prior to Beginning Shivah Nekiyim</i>	121
I. <i>The Dispute between the Shulchan Arukh and Rama</i>	121
II. <i>The Unqualified Nature of the Concern</i>	123
III. <i>Exceptions to the Rule</i>	123
IV. <i>Ascertaining the Presence of Shichvat Zera</i>	125
V. <i>Rare or Unusual Applications of the Rama’s Enactment</i>	126
20. <i>Hefsek Taharah</i>	131

I. The Requirement of Hefsek Taharah	131
II. The Impact of Non-Niddah Bleeding on Hefsek Taharah	134
III. The Use of Multiple Cloths to Obtain a Clean Hefsek Taharah	139
21. <i>Bedikot Chorin U-Sedakin – Thorough Internal Checking</i>	143
I. The Performance of Bedikot for the Purposes of Ritual Purity	143
II. The Definition of Bedikot regarding Hilkhos Niddah	145
III. Contemporary Applications	146
22. <i>The Requirements for Hefsek Taharah for an Initial Sighting of Blood</i>	149
I. The Appropriate Time for a Hefsek Taharah	149
II. A Sighting of Blood for a Single Day	150
III. Contemporary Practical Applications of Ra'atah Yom Rishon	151
IV. A Sighting of Blood on a Bedikah Cloth	153
V. Summary	154
23. <i>The Mokh Dachuk</i>	157
24. <i>Bedikot during Shivah Nekiyim</i>	159
I. Introduction	159
II. The Number of Required Bedikot	163
25. <i>The Performance of Bedikot at Nighttime</i>	169
I. The Proper Time for Bedikot	169
II. The Application of Miktzat Ha-Yom Ki-Kulo to the Evening	170
III. Practical Scenarios of Nighttime Bedikot	173
IV. Comparing the Timeframe for Tevilah with the Timeframe for Bedikot	175
26. <i>Counting the "Shivah Nekiyim"</i>	177
I. Verbal Counting	177
II. Mistakes in the Count	178
III. Evaluating the Stringency of the Me'il Tzedakah	179
IV. Ramifications within the Me'il Tzedakah	180
V. Contemporary Application	181
27. <i>Defining a "Day" For the Purpose of Shivah Nekiyim</i>	185
I. Beginning a "Day" Before Sundown	185
II. The Nature of Tosefet Shabbat and Yom Tov	186
III. Traveling between Time Zones	187
IV. Traveling across the International Dateline	189

28. Ketamim during Shivah Nekiym	191
29. White Clothes during Shivah Nekiym	195

SECTION VI: HARCHAKOT

30. Harchakot: Separation between the Husband and Wife during the Time of Niddah	199
I. Origin of the Prohibition of Physical Contact	199
II. Not Passing Things to One Another	201
III. The Harchakah of Not Eating Together	204
IV. Not Eating One's Wife's Leftovers	206
V. Harchakot relating to Beds	207
VI. The Moving Bench	208
VII. Going on Trips Together	209
VIII. Not to Look at Parts Normally Covered	210
IX. Listening to One's Wife Sing	211
X. Diluting Wine, Making Beds, and Washing Face, Hands, and Feet	212
XI. Harchakot during the Niddah Period vs. Shivah Nekiym	214
XII. Harchakot during Illness	215

SECTION VII: VESOT

31. Vestot	219
I. The Veset: Biblical Law or Rabbinic Law?	219
II. "Perishah" – Marital Separation at the Time of the Veset	220
III. When the Veset is at the Time of the Husband Leaving on a Trip	223
IV. Affectionate Physical Contact at the Time of the Veset	224
V. A Veset Kav'u'a vs. a Veset SheEino Kav'u'a	226
VI. Five Types of Vestot	226
VII. Determining the Time of Separation during a Veset	229
VIII. Uncertainty regarding the Onset of a Sighting of Blood	232
IX. Does a Ketem Create a Veset for Seeing Blood?	234
X. The Quasi Veset Kav'u'a of the Noda BiYehudah	235
XI. The Origin of the Onah Beinonit	236
XII. Determining the Date of the Onah Beinonit	236
XIII. The Veset of the Terumat HaDeshen and its Implications for the Onah Beinonit	238

XIV. Practical Guidelines for Observing Hilkhotei Vestot	239
XV. Pregnant & Nursing Women	239
XVI. A Cycle Regulated by Birth Control Pills	241
XVII. A Woman Who Lacks a Veset Kavua'	242

SECTION VIII: TEVILAH

32. <i>Tevilah BeZmanah Mitzvah</i>	249
I. Introduction	249
II. Is <i>Tevilah</i> "On Time" a <i>Mitzvah</i> ?	251
III. The Prohibition of <i>Tevilah</i> on <i>Yom Kippur</i> and <i>Tishah B'Av</i>	252
IV. <i>Tevilah</i> on the Night of <i>Shabbat</i> or <i>Yom Tov</i>	253
33. <i>Immersion during the Daytime</i>	255
I. <i>Immersion during the Daytime of Day Seven and Day Eight</i>	255
II. Application of the Enactment to <i>Shivah Nekiyim</i>	256
iii. Potential Leniencies on <i>Day Seven and Day Eight</i>	258
iv. A Bride's <i>Immersion on the Seventh Day</i>	261
34. <i>Cleansing before Immersion: Chafifah</i>	263
35. <i>Chatzitzot</i>	269
I. Biblical <i>Chatzitzot</i> – "Rov" and "Makpid"	269
II. Defining <i>Rov</i>	270
III. Defining <i>Makpid</i>	272
IV. <i>Chatzitzot in the Beit HaSetarim: Theory</i>	274
V. <i>Chatzitzot in the Beit HaSetarim: Practice</i>	277
VI. Scabs	279
VII. Bandages	280
VIII. Stitches	281
IX. Dirt beneath the Fingernails as a <i>Chatzitzah</i>	282
X. The Fingernails Themselves as a <i>Chatzitzah</i>	284
XI. Shaving and Waxing	285
XII. Cutting Fingernails on <i>Shabbat</i> for <i>Tevilah</i>	286
XIII. Loose Objects	289
XIV. Liquids	290
XV. Cosmetics, Hair Dye & Ink	290
XVI. The Body as a <i>Chatzitzah</i> on Itself – Proper Positioning during <i>Tevilah</i>	293
XVII. A Woman Who Requires Assistance during <i>Tevilah</i>	297

<i>xviii. Not Publicizing Mikveh Attendance</i>	299
<i>xix. Situations When a Berakhah on Tevilah May Not Be Required</i>	300
<i>xx. At Which Point the Berakhah is Recited</i>	301
<i>xxi. Concealing the Makom HaErvah during the Berakhah</i>	302
<i>xxii. First Encounter upon Leaving the Mikveh</i>	303
<i>xxiii. Indicating That the Tevilah Has Been Performed</i>	303
<i>xxiv. Not to Bathe or Shower Immediately After Tevilah</i>	304
<i>Notes and Halakhic Rulings by Rabbi Hershel Schachter</i>	305
<i>Notes and Halakhic Rulings by Rabbi Mordechai Willig</i>	311
<i>Notes and Halakhic Rulings by Rabbi Yaakov Neuburger</i>	317
<i>Sources</i>	327
<i>Bibliography: List of Sources Cited</i>	605
<i>Glossary</i>	617
<i>Index</i>	621
<i>About the Author</i>	627

Section I: Establishing The Status of *Niddah*

1.

Determining the Status of *Niddah*

Any study of the laws of *niddah* must determine from the outset a most basic question: what, in *halakhah*, gives a woman the status of *niddah*. This status has two consequences. The first, that the woman becomes ritually impure, is less practical in the current era. The second, that she becomes forbidden to her husband, is the main practical issue in this realm.

The status of *niddah* is, at least in theory, a result of “seeing blood” (*re’iyat dam*). Interpreting the verse,¹ “When a woman has a discharge – her discharge from her flesh being blood”, the Talmud² derives the principle of *hargashah* (lit. feeling, sensation) from the word “from her flesh,” which teaches that a woman is considered by the Torah to be a *niddah* only when she experiences both *hargashah* and the sight of blood. Any blood seen without a *hargashah* is termed a *ketem* (stain), which confers *niddah* status on a Rabbinical level, but not on a Biblical level.

1. *Vayikra* 15:19.

2. *Niddah* 57b.

The Laws and Concepts of Niddah

However, the notion of *hargashah* requires clarification. Halakhic authorities offer at least three definitions of *hargashah*:

a) The Rambam³ writes that *hargashah* is a form of shaking.

Later authorities discussed how to interpret this position. R. Moshe (Maharam) Shick⁴ understood this broadly, writing that the Rambam is referring to any symptom that usually *precedes* a period, such as cramps or soreness in the legs. Most authorities, however, assume that the Rambam is referring to symptoms that usually occur *at the time* of menstruation, not hours or days beforehand. In practice, the Maharam Shick's broader definition has not gained acceptance.

b) The *Terumat HaDeshen*⁵ defines *hargashah* as the sensation a woman feels when *niftach pi ha-mekor*, “the mouth of the uterus is opened.”

c) The *Noda BiYehudah*⁶ defines *hargashah* as “*zivat davar lach*”, or the sensation of moisture emerging from the body.

In support of his position, he brings a proof from the Talmud,⁷ which derives from the word “in her flesh” that a woman can become a *niddah* while the blood is still inside of her, without knowing it. Specifically, a woman becomes a *niddah* when blood flows from the uterus to the vaginal area.⁸ At the same time, “in her flesh” teaches that *hargashah* is a prerequisite for *niddut*. Just as “her flesh” refers to the vaginal area in the first *halakhah*, that even blood in that area makes her *teme'ah* (lit., impure), it refers to that area in the second *halakhah*, that she must experience *hargashah* in the vaginal area. Neither cramps nor muscular movement occur in that area; *hargashah* must therefore be the feeling of moisture flowing from one place to another.

3. *Hilkhot Issurei Bi'ah* 5:17.

4. *Responsa Maharam Shick*, YD 182.

5. *Responsa* 246, cited in *Shulchan Arukh* YD 190:1.

6. *Responsa* YD, *Mahadura Kama*, 55; cited in *Pitchei Teshuvah*, YD 183:1.

7. *Niddah* 57b.

8. In this, the requirements for *niddah* status differ from the requirements for “*ba'al keri*” status (one who becomes unclean due to a bodily emission); a *niddah* need not see blood leaving her body to attain the status of *niddah*. but a *ba'al keri* must see an emission leave his body to become impure.

1. Determining the Status of Niddah

R. Ya'akov Loerbaum, in his *Chavot Da'at*,⁹ modifies the *Noda BiYehudah's* opinion. Whereas the *Noda BiYehudah* maintains that *hargashah* is the sensation of blood flowing into the vaginal area of the body, the *Chavot Da'at* asserts that *hargashah* is the sensation of blood flowing out of the uterine area.

The following is his analysis: The Talmud concludes that a woman becomes a *niddah* when blood flows from the *bayit ha-penimi* (lit. inner house, fig. the uterine area) to the *bayit ha-chitzon* (lit. outer house, fig. vaginal area).¹⁰ The *Noda BiYehudah*, however, claims that *hargashah* may occur in the *bayit ha-chitzon*. This presents a chronological problem: how is she considered a *niddah* on a Biblical level before *hargashah* occurs? In other words, since only sight of blood with *hargashah* creates a *niddah*, and the *Noda BiYehudah* places the *hargashah* after the woman is already said to be a *niddah*, how can his placement of the *hargashah* be correct? In view of this question, the *Chavot Da'at* concludes that although the *hargashah* of a flow of moisture is a valid *hargashah*, that is only true when it is felt inside the *bayit ha-penimi* or on the way out.

While the *Chavot Da'at* modifies the *Noda BiYehudah's* opinion, the *Chatam Sofer*¹¹ rejects it altogether, asserting that no authority prior to the *Noda BiYehudah* ever suggested moisture flow as a valid *hargashah*. R. Ovadiah Yosef¹² concurred and advocated following the *Chatam Sofer* in rejecting the *Noda BiYehudah*. However, R. Moshe Feinstein¹³ took a stringent position, and wrote that that practice should be in accordance with the *Noda BiYehudah*.

In practice, all of the above positions cause some difficulty, as it is commonly the case that women experience none of the above indicators. This reality would seem to call into question whether a contemporary woman is ever given the status of *niddah* on a Biblical level, in the absence of the required *hargashah*.

9. 190:1.

10. The status of the cervix will be discussed.

11. *Responsa*, YD 145, 153.

12. *Taharat HaBayit* 1:4.

13. *Responsa Iggerot Moshe*, YD IV, 17.

The Laws and Concepts of Niddah

However, this is an untenable conclusion. Contemporary rabbinic consensus is to assume that a period is accompanied by a *hargashah*, but that it is either not perceived or it is misperceived. This notion is based on a Talmudic statement that indicates that *hargashot* are not in fact always perceived by the women experiencing them.¹⁴

As such, the practice has developed to adopt the following guidelines in evaluating the status of a woman who has experienced bleeding:

1. Whenever a woman has a regular period, it is assumed that a *hargashah* has taken place, and she is a *niddah* on a Biblical level.
2. Whenever there is a “significant flow of blood,” it is also assumed that a *hargashah* has taken place, and she is a *niddah* on a Biblical level.
3. Whenever the blood is not a stream or flow, but rather just a *stain* or a *spot*, it is considered a *ketem*.

The distinction between a flow and a stain or spot is difficult to define, and the terminology is not described in the classical halakhic sources. As such, intuition, experience, and common sense play a large role in the evaluation. A normal period clearly creates the status of *niddah*, and a small spot or stain clearly does not. However, when a woman is on medication, or nursing, or stopping her medication, she might have experiences which are equally describable as a “light flow,” or as “heavy staining.” A related question concerns a woman who sees a very small amount of blood without classic *hargashah* – usually considered a *ketem* – in a context which makes it likely to be a biological period, either as indicated by timing or by a doctor’s assessment. This case is subject to a debate among *poskim* as to whether this constitutes a question on *niddah* on a Biblical level. These situations require individual judgment. In these matters, an inclination toward stringency is appropriate, because this is an uncertainty regarding a Biblical status, which generally demands stringency (*safek D’Orayta le-chumra*).

14. *Niddah* 57b. See *Arukh HaShulchan*, YD 183:61, and see also R. Mordechai Willig, in *Beit Yitzchak*. XXXIX, pp. 323–333.

2.

The Status of a *Hargashah* without Blood

I. INTRODUCTION

The inverse case of that described above would be a situation in which a woman has a *hargashah*, but does not see blood. As explained above, both *hargashah* and seeing of blood are necessary for *niddah* status; accordingly, it would seem that the woman is *tehorah* (lit., pure). However, one of the *Rishonim*, the *Terumat HaDeshen*,¹ maintained otherwise, and ruled that a *hargashah* by itself is sufficient to render the woman *teme'ah*.

His position is based on a ruling of the Talmud:²

If a couple had intercourse and the woman saw blood later, and there was *hargashah* at the time of intercourse, they must bring a *korban chattat* (a sacrifice brought in the event of an inadvertent, definite transgression).

1. *Responsa*, 246.

2. *Niddah* 57b.

The *Terumat HaDeshen* understands this ruling as follows: if blood was found later without a *hargashah*, they would not need a *korban*, because one cannot be sure if that blood was there at the time of intercourse or if it appeared afterward. However, if there was *hargashah* at the time of intercourse, we assume that blood must have come out at that point, and therefore even if they find that blood later, they must bring a *korban*.

It seems from here that the experience of *hargashah* indicates that blood was present. Ordinarily, however, *hargashah* serves a different function: to indicate that blood that was sighted is indeed *niddah* blood. In this case, however, the *hargashah* is being taken as an indication of the very presence of the blood at the time in question.

In other words, the *Terumat HaDeshen* concludes that there are two laws of *hargashah*: 1) *hargashah* classifies blood sighted as *niddah* blood, and not merely a *ketem*; 2) *hargashah* creates a presumption that blood was sighted in the first place.³

There is, however, a problem with this proof. In the above case, the woman felt a *hargashah* and later, she indeed found blood. This cannot be sufficient to teach us anything about a case where there she felt a *hargashah* without seeing blood at all.

The *Terumat HaDeshen* cites another proof:

The Talmud⁴ rules that a woman must check herself at the *veset* time, the point in her cycle when she commonly finds blood. If she did not check herself at the *veset* time, and later performs a *bedikah* (internal examination) that shows her to be *tehorah*, her status before the *bedikah* requires determination. The Talmud rules that since *vestot* are only Rabbinic (i.e., the Torah does not mandate that the arrival of *veset* time is taken as definite proof that the woman saw blood), failure to perform the *bedikah* does not render her *teme'ah*.

3. As the Talmud mandates the bringing of a *korban*, it is clear that this presumption is effective on the level of Torah law.
4. *Niddah* 16a.

Had *vestot* been of Biblical command (i.e., that the Torah would deem the arrival of a woman's *veset* sufficient indication that she saw blood), she would be *teme'ah* even though she did not find that blood. Similarly, since the Torah mandates that *hargashah* creates a presumption that she saw blood, she is *teme'ah* even though she did not find that blood.

II. PRACTICAL RULING AND CONTEMPORARY APPLICATION

In determining the practical *halakhah*, it is noteworthy that the Rama, in his *Darkhei Moshe*,⁵ and the *Radbaz*⁶ argue on the proof from *veset*, asserting that the assumption that blood appeared at the *veset* time (had it been Biblically mandated), would certainly have been stronger than the assumption that blood accompanied a *hargashah*. Moreover, they note that the Talmud itself never deems *hargashah* without the sight of blood problematic.

However, the *Shulchan Arukh*⁷ cites the *Terumat HaDeshen*, and the Rama⁸ does not argue, even though in the *Darkhei Moshe* he questions that position. Therefore, it is assumed, in practice, that the *Terumat HaDeshen* is correct; if a woman feels a *hargashah*, does a *bedikah*, but does not find blood, she is nonetheless a *niddah*.

In determining the type of *hargashah* that would create this presumption that blood was present, we return to our earlier discussion as to the definition of *hargashah*. It would be logical to assume that the *Terumat HaDeshen*'s and Rambam's definitions of *hargashah*, as shaking or as the uterus' mouth's opening, create this presumption.⁹ The *Noda BiYehudah*'s definition of *hargashah*, as the feeling of moisture leaving the body, is more open to question. The *Chatam Sofer*¹⁰ argues that even if one believes that the feeling of moisture is a valid *hargashah* to deem

5. *Yoreh De'ah* 188:2.

6. *Responsa* 1, 149.

7. *Yoreh De'ah* 190:1.

8. *Ibid.*; also see Rama 188:1.

9. There are conflicting implications within the *Pitchei Teshuvah* as to whether the Rambam's opinion is included within this assumption; compare YD 190:1 and 190:4.

10. *Responsa*, YD 150; cited in *Pitchei Teshuvah*, YD 190:6.

blood that has been seen as Biblically *tamei*, it is not a valid *hargashah* to create the presumption that blood was present.

Practically, whenever a woman has a *hargashah* of shaking or uterine “mouth-opening”, she is a *niddah*, even if she finds no blood. The *Pitchei Teshuvah*¹¹ rules, as the *Terumat HaDeshen* himself does, that if she checks and finds liquid of a color that is considered *tahor*, we attribute the *hargashah* to that liquid emerging, and she is therefore *tehorah*.¹² Contemporary women never feel the “mouth-opening”, and rarely feel shaking; and the *Chatam Sofer* has asserted that the feeling of moisture cannot create the presumption of blood’s presence. Therefore, the *Terumat HaDeshen*’s ruling is rarely applicable today.

Some *poskim* recommend that when a woman has some kind of a feeling of moisture, even though this is not really included in the *Terumat HaDeshen*’s *hargashah*, she should do a *bedikah*. In light of the fact that the *Terumat HaDeshen*’s ruling has only tenuous support from the Talmud, and in light of the fact that the case described by the *Terumat HaDeshen* rarely occurs in modern times, it is questionable whether contemporary women who feel *hargashot* have to check at all. There are three opinions on this matter:

1) The *Chokhmat Adam*¹³ writes that if a woman knows she often gets *hargashot* and she checks and finds either no blood or clear discharges, she should not have to check anymore. Hence, all a woman must do is check herself after a *hargashah* on three separate occasions. If she finds nothing, it is assumed that all her *hargashot* do not render her *tame’ah*. She is therefore never again obligated to do a *bedikah* after *hargashah*.

2) R. Moshe Feinstein¹⁴ maintains that the *Chokhmat Adam*’s ruling is too easy to subvert. If women check themselves three times during pregnancy, they will certainly not find blood, but this should not exempt them from checking after *hargashot* at other points in their cycle. Similarly, if a women checks for blood during the middle of her cycle, this

11. *Yoreh De’ah* 190:6.

12. See also *Shulchan Arukh* 188:1.

13. 113:3.

14. *Responsa Iggerot Moshe* YD IV, 17:9.

2. *The Status of a Hargashah without Blood*

should not be sufficient to prove that a *hargashah* later in her cycle does not indicate the presence of blood. Accordingly, R. Feinstein suggests that women should do *bedikot* three times at each point in their cycle.

3) Some *poskim* argue that women are not required to perform *bedikot* under these circumstances at all. In earlier times, it was possible for a woman to bleed and not know about it, because the blood may have been wiped away or may have fallen to the ground. In contemporary times, however, a woman's underwear will indicate any bleeding, and is a sufficient, standing *bedikah*.