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Ha'Ba'in min HaDerech

The *Mishnah* (2:4) teaches that a husband that is *ba'in min ha'derech*, returning from afar, can assume that his wife is *tahor* – there is no need to ask if she is a *nidah*.

The *Gemara* (15a) discusses exactly when the husband is returning. *Rav Huna* explains that the husband left after she was *tahor*, but is returning prior to her *veset*. The *Gemara* explains that *Rav Huna* maintains that *vestot* is *d'oraita*. In other words, had he returned after the *veset*, the assumption prior to inquiring would be that she is *tameh*.

Raba bar bar Chana however argues that even if he returned after the *veset* the rule of the *Mishnah* still applies. The *Gemara* explains that this is because *Raba bar bar Chana* maintains that *vestot* are *d'rabbanan*.

How are we to understand the opinion of *Raba bar bar Chana*? Even if the *vestot* is *d'rabbanan* the requirement to separate near the *veset* should not be affected unchanged? (See 63b.) What difference does the fact that *vestot* are *rabbanan* make?

The *Tosfot* explains that the debate is not about if the husband is returning close to the time of the *veset*, but rather if he returns time enough after the *veset* for

tevila as well. Consequently there are two *sfeikot*. The first is regarding the *veset* and the second is regarding the *tevila*. According to *Rav Huna* if *vestot* are *d'oraita*, then the first *sefak* is not considered a doubt at all, but rather a certainty. Consequently a *safek tevila* will not help in such a case. According to *Raba bar bar Chana* however, *vestot* are *d'rabbanan*. Consequently the *safek tevila* has the ability to alleviate that *safek* that there was a *re'iyah*.¹

The *Mishnah Acharona* notes that one point in the *Tosfot*'s explanation needs clarifying. In their explanation we stated that according to the opinion that *vestot* are *d'oraita* it is not longer a doubt, rather a certainty that she is *tameh*. But on what basis can we say that it is a "certainty". Is it a *chazaka*? If so then there is no room for debate – everyone must agree that husband must assume she is *tameh*. The *Mishnah Achrona* therefore explains that according to the opinion that *vestot* are *d'oraita*, this case is considered a *safek d'oraita*. (The *Mishnah Achrona* points us to *Rashi* who explains this point in a similar way.) In all such cases we have learnt that one acts stringently. It is not that she is definitely *tameh*. Nevertheless, according to *Rav Huna* the husband would be required to act stringently.

Yisrael Yitzchak Bankier

¹Other explanations are brought in the *Rishonim* without the week extension of the *Tosfot*. The *Rashba* explain that according to the *Raba bar bar Chana* that in truth the prohibition being *d'rabbanan* should not make no difference. However, in the case of *ba'in min ha'derech* the *rabbanan* rule itself is relaxed. The *Ritva* dismissing this explanation for a number of reasons, one being that such a *heter* is not mentioned anywhere explicitly. The *Ritva* himself suggest that that the debate is regarding a case where the wife did not check on the *veset*. According to *Rav Huna* since *vestot* are *d'oraita*, a later check won't help and she is assumed *tameh*.

Revision Questions

נידה א' ד' – ג' ג'

- What is the definition of the following people in the context of *nidah* and why is it important:
 - *Betulah*?
 - *Me'uberet*?
 - *Meinikah*? (א' ד')
 - *Zekeinah*? (א' ה')
- When do we no longer say *daya sha'ata* with respect to these women? (א' ו')
- What is the exception to the answer in the previous question? (א' ו')
- Which *nashim* do not require *bedikot*? (א' ו')
- How many *bedikot* are required? (א' ו')
- Which *nashim* require additional *bedikot* and for what? (א' ו')
- Is it positive to increase *bedikot*? (א' ו')
- How do *bedikot* apply to a *shota*? (א' ו')
- How many *idim* are used for *shimush*? (א' ו')
- When are they obligated to bring a *korban* with respect to these *idim*? (א' ו')
- What time period is considered “*achar z'man*” and for what is it important? (Include both opinions.) (א' ו')
- When must the *ba'al* ask if she is a *niddah*? (א' ו')
- What is the debate between *Beit Shammai* and *Beit Hillel* regarding *bedikot*? (א' ו')
- To what did the *Chachamim* apply these terms and why are they important: chamber, ante-room and attic? (א' ו')
- What are the five *damim* that are *tameh*? Explain. (א' ו')
- Which other *damim* are debated and by who? (א' ו')
- What is the debate regarding a *mapelet chaticha*? (א' ו')
- What other cases share the same law? (א' ו')
- For what things that came from a *mapelet* would a water test apply? Explain. (א' ו')
- With respect to a *mapelet* regarding what do *R' Meir* and the *Chachamim* argue? (א' ו')
- What is the law regarding a *mapelet shafiri*? (א' ו')

Local Shiurim

Sunday -Thursday

15 minutes before *mincha*
Mizrachi Shul

Friday & Shabbat

10 minutes before *mincha*
Beit Ha'Roeh

Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
14 th March כ"ח אדר	15 th March כ"ט אדר	16 th March א' ניסן	17 th March ב' ניסן	18 th March ג' ניסן	19 th March ד' ניסן	20 th March ה' ניסן
Nidah 3:4-5	Nidah 3:6-7	Nidah 4:1-2	Nidah 4:3-4	Nidah 4:5-6	Nidah 4:7-5:1	Nidah 5:2-3

