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DAF Notes
Insights into the Daily Daf
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Sotah Daf 25

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May the studying of the Daf Notes be a zechus for their neshamot and may their souls find peace in Gan Eden and be bound up in the Bond of life

Is a Warning Necessary?

The *Gemora* inquires: Regarding a woman who transgresses the Jewish customs (*she goes out with her hair uncovered, or spins in the street, or talks to many men*), does she forfeit her *kesuvah* only if she was warned first, or perhaps she does not require a warning? Do we say that since she is violating the code of Jewish practice, it is not necessary to warn her? Or perhaps, we should warn her, in order to provide her with the opportunity of repenting.

The *Gemora* attempts to resolve this from our *Mishna*: An *arusah* and a woman awaiting *yibum* do not drink, nor do they collect their *kesuvah*. We can infer from there that although they do not drink, they are nevertheless warned (*against secluding themselves with a particular man*). Now, what is she being warned for, if not to cause her to lose her *kesuvah* (*since she will not be required to drink the waters*)!

Abaye said: Perhaps she is being warned to make her forbidden to him (*but she will not lose her kesuvah*).

Rav Pappa said: Perhaps she is being warned in order for her to drink after she becomes a *nesuah*. This would be following that which we learned in the following *braisa*: Although we cannot force an *arusah* to drink the bitter waters while she is an *arusah*, but we can warn her while she is an *arusah* for the purpose of causing her to drink while she is a *nesuah*.

Rava attempts to resolve the inquiry from the next part of our *Mishna*: A widow married to a *Kohen Gadol*, a divorcee or one who submitted to *chalitzah* married to an ordinary *Kohen*, a *mamzeres* or a *nesinah* (*descendants of the Gibeonites; people who fooled Yehoshua into allowing them to convert; Dovid HaMelech prohibited them from marrying into the congregation*) married to a *Yisroel*, or a daughter of a *Yisroel* married to a *mamzer* or a *nasin,* neither drink, nor collect their *kesuvah*. (*They do not drink because they are anyway forbidden from remaining with their husbands.*) We can infer from there that although they do not drink, they are nevertheless warned (*against secluding themselves with a particular man*). Now, what is she being warned for, if not to cause her to lose her *kesuvah* (*since she will not be required to drink the waters*)! They will not be warned to make them forbidden to him, for they are anyway forbidden!

Rav Yehudah from Diskarta said: Perhaps they are being warned in order to prohibit her to the adulterer, for we learned in a *Mishna*: Just like the *sotah* is forbidden to her husband, so too, she is forbidden to the adulterer.

Rav Chanina from Sura resolves the inquiry from the last ruling of our *Mishna*: And these are the women

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warned by the court: One whose husband has become deaf, or deranged, or is imprisoned. They did not state this to make her drink, but only to disqualify her from her *kesuvah*. This proves to us that she will only lose her *kesuvah* if she was warned. (25a)

Another Inquiry

The *Gemora* inquires: Regarding a woman who transgresses the Jewish customs, but the husband wishes to keep her as a wife, is he allowed to? Is it dependent on the husband's objection, or do we say that he is required to divorce her since most people generally object to such behavior?

The *Gemora* attempts to resolve this from our *Mishna*: And these are the women warned by the court: One whose husband has become deaf, or deranged, or is imprisoned. (*After she is warned, and she disobeys the warning, she becomes forbidden to her husband.*) Now if you will say that the husband may keep her as a wife, how could the court intercede and do something that the husband might not want to do? [*This would prove that he would be required to divorce such a woman.*]

The *Gemora* rejects this proof by saying that most husbands will be pleased with the court's actions. (25a)

Retracting his Warning

The *Gemora* inquires: Do we allow a husband to retract his warning? [*This question is based upon the premise that the conclusion from the previous inquiry is that a man may remain married to a woman who has violated the Jewish practice; however, perhaps he cannot remain with her once he has already warned her.*]

The *Gemora* attempts to resolve this from our *Mishna*: And these are the women warned by the court: One whose husband has become deaf, or deranged, or is imprisoned. (*After she is warned, and she disobeys the warning, she becomes forbidden to her husband.*) Now if you will say that the husband may withdraw his warning, how could the court come and do something that the husband might cancel? [*This would prove that he cannot cancel his warning.*]

The *Gemora* rejects this proof by saying that most husbands will agree with the court's actions (*and he will not rescind his warning even if he is able to*).

The *Gemora* attempts to resolve this from a previous *Mishna*: He brings her to the *Beis Din* in his area, and they give him two Torah scholars to escort him, lest he have marital relations with her on the way. Now if you will say that the husband may withdraw his warning, he can just cancel his warning and cohabit with her! [*This would prove that he cannot cancel his warning.*]

The *Gemora* rejects this proof by saying that perhaps that is precisely the reason why Torah scholars are used (*and not two ordinary people who could prevent them from cohabiting*)! For if he wants to cohabit, they would tell him, "Withdraw your warning and then you may have relations with her."

The *Gemora* resolves this inquiry from the following *braisa*: Rabbi Yoshiyah said: Three things did Zeira from the men of Yerushalayim tell me: If a husband withdrew his warning, the warning is retracted. If a *Beis Din* wished to pardon an elder who rebelled against their decision, they may pardon him. And if the parents wished to forgive a wayward and rebellious son, they may do so. When, I, however, came to my colleagues in the South, they agreed with me in respect of two of

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those rulings, but did not agree with me in respect of the rebellious elder, so that disputes should not multiply in Israel. We can conclude from this *braisa* that if a husband retracted his warning, the warning is retracted.

Rav Acha and Ravina differed with respect of this *halacha*: One of them said that he may only withdraw his warning prior to the seclusion, but not afterwards. The other one said that he can rescind his warning even after the seclusion (*and accordingly, based upon his cancellation of the warning, she will now be permitted to him*).

The *Gemora* notes: It is logical to agree with the one who maintains that he cannot retract his warning after the seclusion. This can be deduced from what the *Chachamim* responded to Rabbi Yosi, as taught in the following *braisa*: Rabbi Yosi says that her husband is trusted to say they did not have relations on the road, based upon the following *kal vachomer*: If a person is trusted to be alone with his wife who is a *niddah* (*a menstruant*) even though it is a severe transgression punishable by *kares*, he should certainly be believed by a *sotah*, which is only a basic negative prohibition. The *Chachamim* replied: The husband is trusted when his wife is a *niddah* because he will eventually be permitted to her (*and therefore he will control his desires and wait until that time*). However, a *sotah*, who will never be permitted, he will not be trusted.

Now, if you will say that he may retract his warning after the seclusion, it will emerge that the *sotah* can also become permitted – if he withdraws his warning after the seclusion. It is a proof from here that the husband cannot cancel his warning after the seclusion. (25a)

Explaining the Dispute

The *Mishna* had stated: If their husbands died before they had a chance to drink, Beis Shamai says that they collect their *kesuvah* and do not drink. Beis Hillel says: Either they drink, or do not take a *kesuvah*.

The *Gemora* explains the argument: Beis Shamai maintains that a debt from a document which awaits collection is considered as if it has already been collected. [*The widow wishes to collect from her husband's property for her kesuvah. Her claim to these properties is questionable, for perhaps she committed adultery and forfeits her kesuvah. Since it is regarded as if she is already in possession of the properties, the husband's heirs are trying to take the property away from her. The burden of proof rests on them. If they cannot provide proof, she collects her kesuvah.*] Beis Hillel, however, holds that we do not regard the document as if it already collected (*and therefore she is trying to take the properties from the husband's heirs; the burden of proof is on her*). (25a – 25b)

Aylonis

The *Mishna* had stated: An *aylonis*, an old lady, and a woman who cannot give birth does not drink and does not collect a *kesuvah* (*as one is forbidden to marry them*). Rabbi Eliezer says: He can marry another wife who will have children (*and therefore stay married to them*).

Rav Nachman said in the name of Rabbah bar Avuha: The argument is only with respect of a barren woman and an old woman. However, with respect of an *aylonis*, everyone would agree that she does not drink, nor does she collect her *kesuvah*, for it is written: *Then she shall be innocent and she shall bear seed*. This verse

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excludes a woman who does not normally bear seed. (25b)

INSIGHTS TO THE DAF

BARI V'SHEMA

The *Mishna* had stated: If their husbands died before they had a chance to drink, Beis Shamai says that they collect their *kesuvah* and do not drink. Beis Hillel says: Either they drink, or do not take a *kesuvah*.

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Tosfos HaRosh in Kesuvos (81a) asks: Why doesn't the *Gemora* explain Beis Shamai's reasoning based upon the principle of "*bari v'shema bari adif*"? Since the woman's claim is a definite one, because she asserts that she did not defile herself, and the heirs' claims are only an uncertain one, for they do not know if she defiled herself or not, her claim should be the stronger one, and therefore – win out!

They answer that the principle would not apply in this case for the following reason: Her definite claim is a weak one, for she knows that the husband's heirs cannot counter her claim, for they have no way of knowing. Their claim, although it is an uncertain one, is a sound one, for there is a strong presumption of guilt based upon the fact that the husband warned her and she went against his warning by secluding herself with that man (*raglayim l'davar*). When the definite claim is a weak one, it cannot be superior than an uncertain strong claim.

Reb Dovid Parvarsky inquires as to the reason to the above qualification. Is it because the definite claim is a weak one, and that is why it cannot win over the uncertain claim? Accordingly, even if the doubtful claim is a weak one, the definite claim would still not be victorious! Or perhaps, it is because the uncertain claim is a powerful one? Accordingly, even if the definite claim would also be strong, it would not be able to overpower the uncertain claim!

If the husband issues the warning, his wife secludes herself with the suspected adulterer, but the husband dies before his wife drinks the Sotah waters, there is a disagreement between Beis Shammai and Beis Hillel. Beis Shammai says that she still collects her *kesuvah*, whereas Beis Hillel rules that she forfeits the *kesuvah*.

Tosfos asks on Beis Hillel based on the rule of *bori v'shema bori odif* – a definite claim outweighs a doubtful claim. The widow is stating definitively that she was not unfaithful and therefore deserves to receive the *kesuvah*, and the heirs are claiming perhaps she was unfaithful and should thereby forfeit it – the woman should be believed?

Tosfos answers that the Torah defines the woman's status as a possible adulteress, and that precludes her from making a definite claim.

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The Tumim asks that even without the rule of *bori v'shema bori odif*, there is a different reason why she deserves to receive her *kesuvah*. It is certain that the husband became subject to the*kesuvah* obligation when they married, and his claim now is that perhaps he no longer owes it to her because of the possible infidelity. This is comparable to *aynee yodea im praticha*, i.e. a case where a borrower tells the lender that he is unsure whether he repaid a loan, in which case he is obligated to pay.

The Hafla'ah suggests that the *Kesuvah* obligation starts by the termination of the marriage, in this case the husband's death, not from the beginning of the marriage, so the dispute over the *kesuvah* is more comparable to where the borrower is uncertain whether he borrowed the money rather than the case where he is uncertain if he repaid the money.

However, he himself rejects this answer because there are numerous sources that there is a further distinction that the *kesuvah* obligation itself starts at the beginning of marriage, although the repayment obligation only starts by the termination of the marriage.

He therefore provides a different answer that the Torah establishes her status as a definite adulteress with the possibility to change her status when she drinks the Sotah waters, so her claim in our case is that had her husband lived she would have been able to drink the waters to change her status. This is no longer comparable to a lender who has a definite claim that the borrower owes them money.

The Tumim had also suggested this answer but was not satisfied with it since it is clear that Tosfos did not agree with this approach, so why did Tosfos ask his question based on the rule of *bori v'shema bori odif* and not from the rule of *aynee yodea im praticha*?

The Beis Meir answers that the disputants here are not the wife and husband but the wife and the husband's heirs. Granted that if the husband would be alive, his claim would be more comparable to the claim of uncertainty whether the obligation was settled, but the heirs claim is more comparable to a claim of uncertainty regarding whether there is an obligation at all.

R' Akiva Eiger rejects this answer because the heirs themselves certainly never had any obligation to the widow, and their status here is in lieu of the dead husband, so they are not coming with a different claim – they are acting on behalf of the dead husband and arguing his claim on his behalf. The lien is on the estate that they inherited, and the dispute is whether to remove the lien or not, which is again more comparable to an uncertainty regarding the repayment than an uncertainty in the validity of the claim itself.

He therefore answers that Tosfos did not ask his question based on the rule of *aynee yodea im praticha* because in that scenario, there is a predetermined definite obligation – a *chezkas chiyuv*. In our case, since the woman was definitely secluded with the other man, there is reason to suspect she was unfaithful and that weakens the chazokoh. Since there is a substantial difference between our case and the case of *aynee yodea im praticha*, Tosfos preferred to ask from the other rule of *bori v'shema bori odif*.

He provides a second answer; during the husband's lifetime the obligation was never assured, as it was pending the clarification to be provided by the Sotah

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waters. When the husband died, removing the ability of the Sotah waters to clarify her status, that's when the possible obligation started, so the uncertainty is in the validity of the obligation, not in the possibility that the claim was previously settled.

The Ohr Smaeach provides a different answer; Tosfos is of the opinion that if it were true that the wife had been unfaithful, retroactively there would be no *kesuvah* obligation at all. This again establishes our case as being more similar to a doubt in the validity of the obligation rather than uncertainty whether the claim was settled.

DAILY MASHAL

Spotted History

The Gemara (Succah 53a) describes how Achitofel advised Dovid HaMelech to write Hashem's name on a shard and throw it into the abyss whose water threatened to drown the entire world. Achitofel reasoned that if Hashem's name could be erased for a Sotah to preserve Shalom Bayis (marital peace), it could certainly be erased to preserve world peace.

Rav Hai Gaon (Teshuvos 758) ruled in a case where a man swore he would divorce his wife, and then reconciled with her. It was argued that in the interests of Shalom Bayis, he should be allowed to ignore the oath, which would render Hashem's name to be "in vain", as Hashem's name can even be erased for Shalom Bayis. Rav Hai Gaon disagreed, since not only does the Sotah's water remove any prohibition between husband and wife, it also resolves any doubts as to her status and behavior. It is this doubt-resolution that permits the erasure. However, there is no doubt in the case of an oath. As the Torah commands us to uphold our oaths, he must fulfill his oath and divorce his wife.

Rav Elyashiv Shlita explains that an innocent suspected Sotah merits certain berachos even after raising her husband's suspicions by improperly secluding herself in the first place. The berachos are "payment" for the embarrassment and disgrace of being suspected and having a doubtful status. Erasure of Hashem's name is only permitted to resolve such doubts and reestablish her innocence.

A Kohen, about to officiate at a Pidyon HaBen, recognized the child's mother and knew that this wasn't her first pregnancy. The husband was clearly unaware of her spotted history and the Kohen was sure that if he revealed it, the husband would divorce her. If he was silent, the husband would end up saying a blessing in vain. Rav Elyashiv ruled that there were no embarrassing doubts to resolve here. A threat to Shalom Bayis is not sufficient on its own to justify an aveirah.

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