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Kesuvos Daf 22

Produced by Rabbi Avrohom Adler, Kollel Boker Beachwood

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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

Rabbi Abba said in the name of Rav Huna, who said in the name of Rav: If three people sit (in judgment) to confirm a document, and an objection is raised against one of them (i.e., regarding the fitness of one of the judges), they may, before they have signed (the confirmation), give testimony (to another court) regarding him (that he is qualified), and he may then sign; after they have signed, they may not give testimony regarding him and he may not sign.

The Gemora asks: On what ground was that objection raised? If the objection was on the ground of robbery, they are two and two (and their testimony cannot eliminate the protest)!? [And] if it is a protest regarding family blemish, [then all that is required is] merely a revealing of the matter. — Indeed, I will tell you, it is a protest regarding robbery, and these say: We know of him that he has repented. (21b3 – 22a1)

#### **Verifying a Document When a Judge Dies**

Rabbi Zeira said: this statement I heard from Rabbi Abba, and if not for Rabbi Abba from Akko I would have forgotten it. If three people sat down to verify a document, and one of the dies, they must write that “with a sitting of three people it was verified, but one of them is no longer present.”

Rav Nachman bar Yitzchak said: if they write that this document went out from our Beis Din, they do not have to write the above.

The Gemora asks: perhaps people will think they are a brazen Beis Din (*that only uses two judges*) as per the statement of Shmuel. Shmuel stated that two people who judge their judgement is valid, but they are considered a brazen Beis Din.

The Gemora answers: If they write in the document that it was done according to the Beis Din of Rav Ashi (*a leading judge*), there is no reason for people to suspect that they used two judges.

The Gemora asks: Perhaps people will think it was done based on Rabbis associated with Rav Ashi (*and will still think they possibly used two judges*).

The Gemora answers that they are careful of Shmuel’s law (*that they do not want to be considered brazen*) and therefore can write that “Rav Ashi himself instructed us (*to verify the document*).” (22a1 – 22a2)

#### **Mishnah**

If a woman says that I was married but now I am divorced she is believed, as the same mouth that forbids is the mouth that permits (*and if we believe the forbidding aspect we should also believe the permissive aspect*). If there are witnesses that she was married and she claims that she got divorced, she is not believed. If she says I was

captured but remained pure she is believed, as the same mouth that forbids is the mouth that permits. If there are witnesses that she was captured and she says she remained pure she is not believed. If she remarried before these witnesses arrived, she does not have to get divorced. (22a2)

### Source of the Concept

Rav Assi asks: What is the Torah source for the concept “the same mouth that forbids is the same mouth that permits (*and is therefore believed*)? The Torah states “I gave my daughter to this man for a wife.” His statement that he gave her over makes her forbidden to all men, since he does not say to whom she is married to. His subsequent statement that he gave her over “to *this* man” permits her to this specific person.

The Gemora asks: Why do we need a passuk to tell us this concept? It is logical! If he forbade her, he should be able to permit her as well!

The Gemora answers that (*indeed it is mere logic, and*) the passuk is only needed for a (*different*) lesson taught by Rav Huna in the name of Rav. Rav Huna states in the name of Rav: how do we know that a father is believed to forbid his daughter (*from marrying*) according to the Torah? The Torah states “I gave my daughter to this man for a wife.”

The Gemora asks: What is the lesson we learn from the word “this?” The Gemora answers that it is necessary for the teaching of Rabbi Yonah. Rabbi Yonah taught “I gave my daughter to this man” teaches us “this man – and not the yavam (*his brother who marries her if the husband dies without children*).” [*Rabbi Yonah derives that the punishment for a husband who claims his wife was unfaithful only applies to an original husband, not the yavam.*] (22a2 – 22a3)

### Believing a Retraction

The Baraisa states that if a woman says that she is married, but then retracts and say she is single, she is believed.

The Gemora asks: But she renders herself a forbidden object (didn’t she make herself forbidden to all men with her previous statement)?

Rava bar Rav Huna answers that the case must be where she gives a reasonable explanation why she had described herself as married.

We have a Baraisa that taught a similar statement. If a woman says she is married but then she says she is single she is not believed. If she gives a reasonable explanation why she had described herself as married, she is believed. There was indeed an incident with an adult woman, who was very pretty and people were jumping at the opportunity to betroth her, and she told them that she was already betrothed. After a few days, she indeed became betrothed. The sages asked her, why did you act in this fashion (*of saying previously that you were betrothed*)? She answered that originally unsuitable suitors came to me so I said that I was already betrothed. Now that suitable suitors came forward, I accepted to be betrothed.

This halachic question was raised by Rav Acha, officer of the capital, in front of the sages of Usha. They said that if she gives a reasonable explanation for why she stated she is married, she is believed.

Shmuel asked Rav: If she said she became impure (*and forbidden to her husband*) and then she retracted, is she believed? Rav answered that the same halachah (*as above*) applies in this case that if she gives a reasonable explanation for her statement, she is believed. Shmuel proceeded to learn this from Rav forty times, and even so he did not act on it with his own wife. (22a3 – 22b1)

### In Light of Contradicting Witnesses

The Baraisa states that if two witnesses say a husband died and two say he didn't or two say a woman is divorced and two say she isn't, the woman in question should not remarry. If she does, she does not have to get divorced. Rabbi Menachem the son of Rabbi Yosi says she must get divorced. Rabbi Menachem said: When do I say she must get divorced? It is in a case where witnesses testified and she got married afterwards. However, if she married and only then witnesses testified she does not have to get divorced.

The Gemora asks: Let us analyze this case. It is a case where two pairs of witnesses are contradicting each other (regarding whether or not she is permitted to her husband). Isn't the person who has marital relations with her obligated to bring an *asham taluy* (*korban brought when one is unsure if he committed a certain type of sin*)?

Rav Sheishes answers that the case is where she marries one of the witnesses (who said that her former husband had died). [He is certain that her husband is dead, and therefore has no reason to bring an *asham taluy*.]

The Gemora asks: Shouldn't she herself be required to bring an *asham taluy*? The Gemora answers that the case is where she says that she herself is certain that he is dead.

Rabbi Yochanan says that if two witnesses say he died and two say he didn't, the woman in question should not get remarried. If she did, she does not have to get divorced. If two witnesses say she was divorced and two say she wasn't, she should not remarry. If she did, she must get divorced.

The Gemora asks: What is the difference between the first case and the second case? Abaye answers that Rabbi

Yochanan was discussing cases where there is only one witness on each side. One witness says that he died, and the sages believe such a witness like two witnesses (specifically to permit a woman to remarry, see *Yevamos 117b*). This is like the statement of Ulla, who said that whenever the Torah believes one witness it is as if there are two witnesses testifying to this effect. The other witness who says he did not die is only considered as one witness, and the words of one witness do not negate the words of two witnesses. [Therefore, in this first case of Rabbi Yochanan it is as if two witnesses permit her and one does not, so she may remarry.]

The Gemora asks that according to this logic, she should be able to remarry without hesitation! [Why did Rabbi Yochanan say she should not marry, and only if she did do we let her stay married?]

The Gemora answers that this is because of the statement of Rav Assi. Rav Assi quoted the passuk "take away from you the twisting of the mouth, and crookedness of the lips distance from yourself." [This means that one should not enter in situations, even if technically permitted, where people will spread rumors that a sin is being committed.]

The second case of Rabbi Yochanan (*Abaye continues*) is where one witness said she was divorced and one said she was not. Both of their testimonies, however, includes that she was certainly a married woman beforehand. Accordingly, the testimony of the one witness who say she is now divorced does not stand up against both of the witnesses' testimonies that she was once married.

Rava answers that Rabbi Yochanan is in fact talking about cases involving two witnesses. Rabbi Yochanan merely thought that Rabbi Menachem the son of Rabbi Yosi regarding divorce, but not regarding the death of a husband. Why? Death cannot be contradicted (if her husband walks in alive, he is certainly alive). Divorce can always be contradicted (she can deny her husband's

potential claim that he did not divorce her). [Accordingly, by death she must be certain and we will therefore allow her to stay married, but divorce she may not be telling the truth and is willing to contradict her husband if he claims otherwise. She therefore does not have much believability.]

The Gemora asks: Would a woman be so brazen? Didn't Rav Hamnuna state that if a woman comes to Beis Din and says "you divorced me" to her husband that she is believed, as she would not be so brazen to say such a lie to her husband?

The Gemora answers: This is only when there are no witnesses backing up that she was divorced. When witnesses back her up, she will certainly be so brazen.

Rav Assi says that the case is where the witnesses testify that he recently died or recently divorced her. It is often difficult to ascertain that the death indeed took place, but if the divorce in fact took place Beis Din can say "show us your get." (22b1 - 22b4)

#### DAILY MASHAL

Rav Yechezkel of Kozhmir, zt"l, once offered important guidance in rendering halachic decisions. "When you think about it, the process of halachah appears perplexing at times. For example, very often we find that while the *Shulchan Aruch* permits something, the *Rama* can be stringent. Is it possible that one has permitted that which is truly forbidden? Could it be that that one or the other actually ate *treifos*, for example? The truth, however, is as we say, that 'these and those are the words of the living God.' There are many possible interpretations of the law, but the actual halachah depends on the sages of each and every generation. And what determines what the halachah really is? The speech of the *chachomim*. Each sage's word made the object or action in question permitted or prohibited. It is his words that reveal

the *ratzon Hashem* for that particular question, in that particular place, and that particular moment in time. Accordingly, a *moreh hora'ah* must use his faculty of speech very carefully and make certain never to abuse it. Every word he speaks should be in absolute holiness and purity!"

When the *Divrei Yisrael*, zt"l, recounted this advice he would comment, "This explains the fact that halachic precedent doesn't necessarily follow the greatest scholar's opinion. Sometimes the halachah follows the lesser scholar because his speech is purer than the greater scholar's. This can be understood from our *Gemara* which states: 'The very mouth that prohibited is the mouth that permitted.' This can also be read differently. 'It is the mouth that permits. It is the mouth that prohibits.' In order for the words of the contemporary scholar to become halachah they must be spoken by a mouth that is holy and pure. It is the worthy mouth alone that permits and prohibits!"