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Yevamos Daf 118

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**Tzvi Gershon Ben Yoel (Harvey Felsen) o”h**

May the studying of the Daf Notes be a zechus for his neshamah and may his soul find peace in Gan Eden and be bound up in the Bond of life

### Mishna

One wife says that her husband died, while her co-wife says that her husband did not die. The one that says that her husband died can remarry and receive her *kesuvah*, and the one that said that he did not die may not remarry or take a *kesuvah*. If one says that he died naturally and one says that he was killed, Rabbi Meir says that since they are contradicting each other, they both may not remarry. Rabbi Yehudah and Rabbi Shimon say that as they both admit that he is dead they can remarry.

If one witness says that he died and another witness says that he did not die, or if a woman says that he died and another woman says that he did not die, she may not remarry. (117b4 – 118a1)

### Let me Die with the Philistines

The *Mishna* had stated: One wife says that her husband died, while her co-wife says that her husband did not die. The one that says that her husband died can remarry and receive her *kesuvah*, and the one that said that he did not die may not remarry or take a *kesuvah*.

The *Gemora* states: The co-wife may not remarry because she said that he did not die; we can infer from there that if she remained quiet, she would be allowed to remarry based upon the testimony of her co-wife. But, the *Gemora* asks, we learned in the *Mishna* above that a co-wife is not believed for another co-wife that her husband died?

The *Gemora* answers: The *Mishna* needed to teach us the case where the co-wife said that the husband did not die.

Since it might have been assumed that their husband was really dead and that by stating that he is not dead, she evidently intended to inflict injury upon her co-wife and she is saying: Let me die with the Philistines. The *Mishna* teaches us that she is nevertheless forbidden to remarry. (118a1)

The *Mishna* had stated: If one says that he died naturally [and one says that he was killed, Rabbi Meir says that since they are contradicting each other, they both may not remarry. Rabbi Yehudah and Rabbi Shimon say that as they both admit that he is dead they can remarry].

The *Gemora* asks: Shouldn't Rabbi Meir argue in the first case as well (and state that since they are contradicting each other, they may not marry)?

Rabbi Elozar replied: The first clause is a subject in dispute (as well), and it represents the opinion of Rabbi Yehudah and Rabbi Shimon (but in truth, R' Meir argues there as well).

Rabbi Yochanan, however, stated that it may be said to represent the opinion of Rabbi Meir as well, for in such a case, even Rabbi Meir agrees, since in the case of testimony relating to a woman's permit to remarry, where she says, 'He is not dead' is not regarded as a valid contradiction (for the Rabbis believed the first woman who said that her husband died, and they already ruled that she is permitted). [This is the explanation of Rashi according to several Rishonim.]

The *Gemora* asks on Rabbi Yochanan from our *Mishna*: If one witness says that he died and another witness says that he did not die, or if a woman says that he died and another woman says that he did not die (and the *Gemora* assumes

that this even refers to the testimony of a co-wife), she may not remarry. Now, according to Rabbi Elozar, it may well be explained that the anonymous statement (in this final clause) represents the opinion of Rabbi Meir (for he maintains that whenever there exists contradictory testimony, the woman is not believed that her husband died). According to Rabbi Yochanan, however, there is a difficulty (for the Mishna is not in accordance with any of the aforementioned Tannaim)!?

The Gemora concludes: This is indeed a difficulty. (118a1 – 118a3)

### Mishna

The *Mishna* states: If a woman went with her husband overseas, and she came and said, “My husband died,” she may marry and she takes her *kesuvah*, but her co-wife is forbidden. If the co-wife was the daughter of a *Yisroel* and married to a *Kohen*, she may continue to eat *terumah*; so said Rabbi Tarfon. Rabbi Akiva said: This is not the way to remove her from the path of transgression; rather, she should be prohibited from marrying and prohibited from eating *terumah*.

If she said, “My husband died and afterwards my father-in-law died,” she may marry and she takes her *kesuvah*, but her mother-in-law is forbidden to remarry. If the mother-in-law was the daughter of a *Yisroel* and married to a *Kohen*, she may continue to eat *terumah*; so said Rabbi Tarfon. Rabbi Akiva said: This is not the way to remove her from the path of transgression; rather, she should be prohibited from marrying and prohibited from eating *terumah*. (118a3)

### Both Arguments are Necessary

The *Gemora* states: Both disputes were necessary to be stated. For if only the first one (*regarding the co-wife*) had been stated, it might have been assumed that only then, did Rabbi Tarfon maintain his view (*that the co-wife is not believed*) since the grievance is personal (*the co-wife*

*deprived her from physical intimacy with her husband*), but in respect of a mother-in-law, the grievance against whom is merely general, he agrees with Rabbi Akiva (*that a daughter-in-law would not be suspected of deliberately lying because of some general grievance against her mother-in-law; and that consequently, though her evidence is not accepted in respect of relaxing the laws of marriage, it may be accepted in respect of enforcing the laws of terumah*). And had the latter (*the case of the mother-in-law*) only been stated, it might have been assumed that Rabbi Akiva maintained his view there only, but that in the former case he agrees with Rabbi Tarfon (*that the co-wife is not believed at all*). Hence, both statements were necessary. (118a4)

Rav Yehudah said in the name of Shmuel: The *halachah* follows the opinion of Rabbi Tarfon.

Abaye said: This (that the ruling is in accordance with R' Tarfon) has been also taught in a Mishna: If a wife who was childless returns from overseas and says, “A son was given to me overseas,” and then she said, “My son died and afterwards my husband died,” she is believed. (*She remains subject to yibum; her statement is accepted because it confirms the status in which she was established prior to her departure.*) If she says, “My husband died, and afterwards my son died,” she is not believed. Her words, however, are taken into consideration, and she performs *chalitzah* but does not marry by *yibum*. From this it follows that ‘her words are taken into consideration’ for herself (that she is prohibited to the yavam); but that no consideration need be taken with respect to her co-wife (and her testimony is completely disregarded). Learn from this (that the halachah follows R' Tarfon). (118a)

### Mishna

The *Mishna* states: If he betrothed one of five women, and he does not know which he betrothed, and each one says, “He betrothed me,” he gives a *get* to each one and he places a *kesuvah* payment between them, and goes away; so said Rabbi Tarfon. Rabbi Akiva said: This is not the way to remove

him from the path of transgression; rather, he gives a *get* and a *kesuvah* payment to each one.

If a person stole from one of five people, but he does not know whom he stole from, and each one says, "He stole from me," he places the stolen object between them and he goes away; so said Rabbi Tarfon. Rabbi Akiva said: This is not the way to remove him from the path of transgression; rather, he pays the value of the stolen object to each and every one of them. (118b1)

### One of Five

The *Gemora* comments: Since betrothed was stated, and not cohabited (*it would seem that where he betrothed her through cohabitation, even Rabbi Tarfon would agree that he must pay the kesuvah payment to each and every one of them since he degraded her*), and since stolen was stated, and not bought (*it would seem that Rabbi Akiva would agree that if he does not know who the seller was, he is not penalized and required to pay each and every one of them*); whose view is represented in our *Mishna*? Apparently, it is not that of the *Tanna Kamma*, nor that of Rabbi Shimon ben Elozar! For it was taught in the following braisa: Rabbi Shimon ben Elozar stated that Rabbi Tarfon and Rabbi Akiva did not argue on the ruling that where a man betrothed one of five women, and he does not know which of them he betrothed, he leaves the *kesuvah* payment among them and withdraws. They disagree only in the case where cohabitation occurred. Rabbi Tarfon rules that the man leaves the *kesuvah* payment among them and withdraws, while Rabbi Akiva rules that the man is not exempt from transgression unless he pays each and every one of them. Rabbi Tarfon and Rabbi Akiva furthermore, did not argue on the ruling that where a person bought something from five men and does not know from which of them he bought, he may leave the money for the purchase among them and depart. They disagree only in the case where a person stole from one of five men. Rabbi Tarfon rules that the man deposits the stolen object among them and may then depart, while Rabbi Akiva rules that the man is not exempt

until he pays the amount of the robbery to each and every one of them. Now, since Rabbi Shimon ben Elozar said that they do not disagree in the case where a man betrothed or purchased, it may be inferred that the *Tanna Kamma* is of the opinion that they do disagree in those cases. Whose view then, is presented in our *Mishna*? If it is that of the *Tanna Kamma*, betrothal and purchase should have been mentioned (*but not the case where he stole, for there Rabbi Tarfon would agree that he must pay all of them*). And if it is that of Rabbi Shimon ben Elozar, cohabitation and stealing should have been mentioned (*but in the regular case of betrothal, Rabbi Akiva would concede that he may place the kesuvah payment between them and withdraw*)?

The *Gemora* answers: Our *Mishna* represents in fact the view of Rabbi Shimon ben Elozar, but the meaning of betrothed in the *Mishna* is betrothal through cohabitation.

[And both cases of where the victim was wronged was necessary to state.] Betrothed (with cohabitation) was used in order to acquaint you to the extent Rabbi Akiva is prepared to go, as he imposes a penalty even where one transgressed only a Rabbinic prohibition (he still must pay all five of the claimants); and the case of stealing was taught in order to acquaint you to the extent Rabbi Tarfon is prepared to go, as he imposes no penalties even where one had transgressed a Biblical prohibition. (118b1 – 118b3)

### Mishna

The *Mishna* states: If a woman went with her husband overseas, and her son with them, and she came and said, "My husband died, and afterwards my son died (*and therefore I am not subject to yibum*)," she is believed. (*She is therefore exempt from yibum and chalitzah. Her statement is accepted since she is merely confirming the status in which she found herself before her departure. At that time she had a son who exempted her from yibum; and now that her husband died before that son she is still entitled to the same exemption. Her admission of her son's death does not affect her status, since she is the only source of the information,*

and as her word is accepted in respect of the death it must be similarly accepted in respect of its date.) If she says, “My son died and afterwards my husband died,” she is not believed. (Since her assertion would alter the status in which she was confirmed prior to her departure. Such alteration cannot be authorized in view of the possibility that her report might be due to a desire to marry the yavam.) Her words, however, are taken into consideration, and she performs *chalitzah* but does not marry by *yibum*.

If a wife who was childless returns from overseas and says, “A son was given to me overseas,” and then she said, “My son died and afterwards my husband died,” she is believed. (She remains subject to *yibum*; her statement is accepted because it confirms the status in which she was established prior to her departure.) If she says, “My husband died, and afterwards my son died,” she is not believed. Her words, however, are taken into consideration, and she performs *chalitzah* but does not marry by *yibum*.

If a wife who was childless and whose husband was brotherless returns from overseas and says, “A yavam was given to me overseas,” and then she said, “My husband died and afterwards my yavam died,” or she said, “My yavam died and afterwards my husband died,” she is believed (since in either case she only confirms her former status).

If she, her husband and her yavam went overseas, and she said, “My husband died and afterwards my yavam died,” or she said, “My yavam died and afterwards my husband died,” she is not believed. For a woman is not believed when she says “My yavam died,” so that she may marry, and she is not believed to say, “My sister died,” so that she may enter her sister’s husband’s house. And a man is not believed to say, “My brother died,” so that he might marry his wife by *yibum*, and he is not believed to say, “My wife died,” so that he might marry her sister. (118b3 – 118b5)

#### Love him or Hate him

Rava inquired of Rav Nachman: What is the *halachah* if a husband (as he was on his death bed) transferred to his wife through an agent the possession of a letter of divorce (whom the childless husband had asked to act on behalf of his wife; his intention being to spare her from the *yibum* obligation; elsewhere, a divorce is invalid unless it had actually been delivered into the woman's hands or into those of an agent who was duly appointed by her), where a yavam is in existence? Do we say that the divorce is valid since she usually hates her brother-in-law, the divorce is therefore a benefit to her and consequently valid, because a privilege may be conferred upon a person in his absence; or perhaps, since she sometimes loves her brother-in-law, the divorce is a disadvantage to her and consequently invalid because no disadvantage may be imposed upon a person in their absence?

Rav Nachman replied. We have learned in our *Mishna*: Her words, however, are taken into consideration, and she performs *chalitzah* but does not marry by *yibum*. (Since this is the ruling in our *Mishna* both in the case where it is assumed that she loves the yavam and in that where she is assumed to hate him, it is obvious that it is uncertain whether a divorce given in the circumstance described by Rava is deemed a benefit or not to the woman. The legal position in such a case would consequently be that the woman would have to perform *chalitzah* but would not be permitted to be taken in *yibum*). (118b5 – 118b6)

Ravina said to Rava: What is the *halachah* if a husband transferred to his wife through an agent the possession of a letter of divorce at a time when there is conflict between the husband and the wife? Is the divorce, since she has a quarrel with her husband, considered a benefit to her, or is it a disadvantage, since the personal gratification of being a married woman is possibly preferred by her?

The *Gemora* attempts to resolve the inquiry: Come and hear from what Rish Lakish said: It is preferable to live as two bodies than to dwell alone (even if the marriage is an undesirable one).



Abaye said: With a husband who is as short as an ant, her seat is placed among the free women.

Rav Pappa said: Though her husband combs wool, she calls him to the threshold and sits down at his side. *(To show her friends that she is a married woman. She is proud of her husband despite his lowly social status.)*

Rav Ashi said: If her husband is tainted in his lineage, she requires no lentils for her pot. *(For the sake of a married life, a woman willingly renounces all other pleasures. even the enjoyment of the poorest meal.)*

A Tanna taught: All such women commit adultery and attribute their offspring to their husbands. (118b6)

## **WE SHALL RETURN TO YOU, HA'ISHAH SHALOM**

### **INSIGHTS TO THE DAF**

#### **Divorce – Can it be Beneficial?**

The Gemora remains with a question regarding the ability for one to acquire a get for a woman when she is not present. Since this is being done to prevent yibum, is it considered beneficial and is effective, or detrimental, and therefore ineffective?

It is clear from Rashi that we are speaking of a situation where the purpose of this divorce is only to exempt her from yibum i.e. he is dying, or he wishes the get to become effective a moment before he dies, but in a normal situation, we always assume that it is detrimental for her to receive a get, since she prefers to stay married. Even when there are fights between them (to a point where she claims that she is already divorced, as the Gemora explained the term "ketata" on 116a), we still assume that she prefers to stay married.

The Nimukei Yosef points out that even if we ask her afterward if she was happy to receive the get and she

confirms that she was, we cannot consider it a merit for her, since we must make the determination of whether it is a chov (detrimental) or a z'chus (beneficial) at the time it is received, and we cannot figure it out in retrospect. Similarly, if she made it clear that she wants to receive a get, we still cannot acquire the get for her, since we are concerned that she changed her mind.

Nevertheless, when a woman is a mumeres (rebellious) and literally moves in with another man, the Rama (140:5) rules that it is certainly a z'chus for her to receive the get to prevent her from committing a continuous sin, and therefore, it is considered a z'chus.

It seems that this would be so, even if she claims that she doesn't want it; we only use "will" as a method of determining z'chus or chov when something is a physical benefit, since the "will" to receive it or not to receive it is the factor that determines whether it is a benefit for this person. But, when it comes to a transgression, "will" alone does not determine z'chus or chov, since her Evil Inclination prevents her from realizing the severity of the prohibition. We therefore ignore her "will," and instead look at whether it is inherently beneficial.

Evidently, the halachah is reluctant to assume that a divorce is beneficial to a woman even when circumstances strongly support that assumption.

### **DAILY MASHAL**

#### **Underestimating Oneself**

Our Gemora writes: The *Mishna* needed to teach us the case where the co-wife said that the husband did not die. Since it might have been assumed that their husband was really dead and that by stating that he is not dead, she evidently intended to inflict injury upon her co-wife and she is saying:



Let me die with the Philistines. The *Mishna* teaches us that she is nevertheless forbidden to remarry.

Shimshon HaGibor was beaten, blinded and enslaved by the Philistines. Shimshon cried out to Hashem from the innermost recesses of his heart, "Please, Hashem, help me one more time. Let me take down the Philistines. Tamus nafshi im Plishtim. Give me the strength to destroy them as I die." Hashem listened to Shimshon. He gave him his wish.

The question is raised: If Shimshon understood the efficacy of prayer; if he was aware that prayer can bring about salvation, regardless of the "odds," why did he not pray for his own salvation? Why did he ask that he die with the Philistines? Why did he not ask to live? Why did he not pray for his vision to be returned to him?

Horav Baruch Mordechai Eizrachi, Shlita, explains: Shmishon did not think he could ask for so much. He knew the powerful force of tefillah. Yet, he did not feel himself worthy of asking for so much. One must believe in himself and feel himself capable of achieving the greatest and most complex heights. If we do not climb, we will not reach the top. It is true that if one does not try he cannot fail, but neither can he win. This is not a rubber stamp for haughtiness. It is only an encouragement to those who are worthy, but have a sense of fear in the back of their mind. We must attempt the climb with our sights focused on the summit. The greater one's sights, the greater Hashem's support. Try it.