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The master had stated: [If a wife produced against her husband two kesuvos, one for two hundred, and one for three hundred zuz] Rav Huna said: She may collect the properties sold from the earlier date if she wishes to collect the two hundred zuz, but if she desires to collect the three hundred zuz, she may only collect properties sold after the later date.

The Gemora asks: Does this ruling (of Rav Huna) disagree with that of Rav Nachman? For Rav Nachman said: If two deeds (stating that Reuven gave or sold a field to Shimon) were issued one after the other (one is dated for the first of Nissan and the other is dated for the first of sivan) the second one cancels the first!? [Reuven wrote a warranty to Shimon that if a creditor of his seizes the field, he will reimburse him for the price of the field. If that would happen, Shimon is able to collect from Reuven any fields that Reuven sold after the first of Sivan, for the second deed nullifies the first one. The same halachah should apply with the kesuvah – that the second one should nullify the first!?]

The Gemora answers: No, for has it not been stated in connection with this statement that Rav Pappa said: Rav Nachman nevertheless admits that if the man has added one palm tree (in the second deed), the insertion was intended as an additional privilege (and it does not nullify the first). And here also, surely, the husband has added something by writing three hundred; therefore she may collect with the first kesuvah as well). [It is only when both deeds are exactly the same – that is when the second one cancels the first, for why else would he have written the second one?! Where, however, he adds something to the second document – that is the reason he wrote it, and the first one is valid as well.] (44a1)

Two Deeds on the same Field

It was stated above: Rav Nachman had said: If two deeds were issued in respect to one field and one is dated after the other, the latter cancels the former.

Rav Pappa said: Rav Nachman would admit that if he added a palm tree in the second deed, he wrote it for the addition (*the deed is not thereby impaired, and it is, therefore, within the right of the holder of the deeds to collect properties sold after the second date by using the second deed and thus recover the original as well as the addition, or he may collect from the first date the original alone without the addition*).

The *Gemora* elaborates: It is obvious that the reason why both deeds are valid where the first transferred the field through a sale and the second deed gave the field as a gift, is because the action of the owner was intended to improve the recipients rights, as a safeguard against the law of the bordering property owner (*in virtue of which the next adjoining neighbor can insist on exercising the right of first purchase, for the other purchaser can find fields to buy elsewhere; this right (derived from the verse: You shall do that which is right and good) applies to a sale but not to a gift*). And certainly it is obvious where the first was for a gift and the second for a sale, for it may then be presumed that the latter was written in that manner for the law of the creditors' rights (*only a buyer may claim compensation from the original owner if a creditor of that owner had seized the field that he bought; a recipient of a gift has no such right;*

by the writing of the second deed, the owner has conferred upon the recipient the additional rights of a buyer). What, however, is the reason why the second deed cancels the first where both deeds were for a sale or both for a gift?

Rafram replied: It may be presumed that the recipient has admitted to the other that the first deed is invalid (*and he nevertheless, willingly accepted the second deed, knowing that it will restrict him to the later date*).

Rav Acha said: It may be presumed that the recipient has surrendered his lien from the first deed.

The *Gemora* asks: What is the practical difference between them?

The *Gemora* answers: The disqualification of the witnesses (*according to Rafram, the witnesses must be regarded as legally unfit for further evidence since they put their signatures to an invalid document; according to Rav Acha, who does not question the authenticity of the deed, the character of the witnesses is not in any way affected*), payment of compensation for the fruits eaten by the recipient (*between the first and the second date; according to Rafram, the recipient must pay such compensation since the first deed is presumed to be invalid, but according to Rav Acha, no such compensation is paid since the recipient is the actual owner of the field*) and the land tax (*the original owner must pay the property tax according to Rafram and the recipient pays it according to Rav Acha*) are the differences between them. (44a1 – 44a2)

From When May She Collect?

The *Gemora* returns to its original inquiry: What is the decision in respect of the *kesuvah* (*as to the collection of the kesuvah, from which date may she collect the properties sold by her husband between the date of the betrothal and that on which the kesuvah was written; do we say she may collect the property from the purchasers because the husband becomes Rabbinically liable for the kesuvah at the time of erusin or do we say that she may only collect properties sold by the husband after the kesuvah was actually written*)?

Come and hear what Rav Yehudah stated in the name of Shmuel who said it from Rabbi Elozar the son of Rabbi Shimon: The hundred or the two hundred *zuz* (*the regular obligation of the kesuvah*), she may collect the properties sold from the date of the betrothal (*since the lien took effect from then*) and the additional amount of the *kesuvah* (*which varies according to their specific arrangement*) she may collect from the properties sold after the *nisuin*. The Chachamim, however, ruled: Both amounts may be collected only from the date of the *nisuin* (*having accepted the written hesuvah that bore the later date on which her nisuin took place, the woman is assumed to have waived her rights to the original lien, which she had acquired earlier on betrothal, in favor of her new advantages as well as any disadvantages that were conferred by the written document*).

The *Gemora* rules: The *halachah* is that both amounts may be collected only from the date of the *nisuin*. (44a2)

Mishnah

(***Introduction: The Torah writes, concerning the slanderer, who after marrying a virgin na'arah, accuses her of committing adultery between the erusin and nisuin. If the witnesses that he brought to Beis Din were proven to be false, he receives lashes and he must pay a fine of one hundred sela. If the witnesses are confirmed, they shall lead the maiden out to the door of her father's house, and the people of her city shall stone her with stones that she die; because she committed a shameful act in Israel.***)

The *Mishnah* states: A female convert whose daughter was converted with her, and she committed adultery after *erusin*, she is liable to strangulation. She is not subject to the laws of "the entrance of the house of her father" (*an ordinary na'arah is stoned at this location; it is not necessary by a convert*), nor one hundred *sela* (*if the witnesses were*

found to be false, she will not receive the fine from her husband). If she was not conceived in sanctity, but was born in sanctity, then she is subject to the law of stoning. She is not subject to the laws of "the entrance of the house of her father," nor one hundred *sela*. If she was conceived and born in sanctity, then she is as the daughter of an Israelite in every respect.

If an ordinary *na'arah* has a father, but does not have the entrance of the house of her father (*her father does not own a house*), or if she has the entrance of the house of her father, but does not have a father, she is subject to the law of stoning. "The entrance of her father's house" was stated only as a *mitzvah*, but not as a requirement. (44a2 - 44a3)

The Gemora asks: From where is this (that a girl, who was not conceived in sanctity but was born in sanctity, is subject to the law of stoning) known?

Rish Lakish replied: Since the Torah states: *and she shall die* – it includes also one who was not conceived in sanctity but was born in sanctity.

The Gemora asks: If so (that she is included in the verse discussing defamation), shouldn't her husband also (in a case where his allegation is found to be untrue) incur lashes and be liable to pay the hundred sela?

The Gemora answers: The Torah states: *and she shall die* – it includes her in respect of death, but not in respect of the fine.

The Gemora asks: Might it not be suggested that the Torah intended to include one who was both conceived and born in sanctity?

The Gemora answers: Such a person is a full-fledged Israelite woman.

The Gemora asks: But can it not be said that the Torah intended to include one whose conception and birth were both not in sanctity?

The Gemora answers: If this were so, what purpose would be served by the expression, '*In Israel*'? (44b1)

Orphan Girl

Rabbi Yosi bar Chanina says: One who slanders an orphan girl is exempt from paying the fine. This is derived from the fact that the Torah writes [Devarim 22:19]: *And give (the fine) to the father of the girl*. This girl is excluded because she has no father.

Rabbi Yosi bar Avin, or as other say, it was Rabbi Yosi bar Zevida, asks (from a braisa regarding the laws of a seducer): The Torah writes: *If refusing shall her father refuse*. This includes an orphan girl for the laws of receiving of the fine; these are the words of Rabbi Yosi HaGelili.

He asked it and he answered it: An orphan would be excluded from the laws of the seducer if she was seduced while she was an orphan; however, if she had a father while she was seduced and afterwards she was orphaned, she will be entitled to receive the fine.

Rava said: One (who defames an orphan girl) is liable (to pay the fine). How do I know this? It is from a braisa (regarding the laws of a defamer) taught by Ami: The Torah writes: (for he has defamed) *a virgin of Israel*. This implies that he will not pay is she was 'a virgin of converts.' Now, if you will say in the case of a full-fledged Jewess in the same kind of case (i.e., an orphan) that the husband is liable, then that is why a verse is necessary to exclude converts; but if you will say in the case of a full-fledged Jewess in the same kind of case (i.e., an orphan) that the husband is not liable (why is a verse necessary)? If in the case of a Jewess he is exempt, is it necessary to state that he is exempt in the case of a convert? (44b1 – 44b2)

Slandering a Minor

Rish Lakish said: One who defames a minor is exempt from paying the fine because it is written: *and they shall give them to the father of the na'arah*. The Torah speaks of a full na'arah. [Ordinarilly, the Torah writes na'arah without the letter "hey" at the end; here is the only place where it is spelled in full. This teaches us that the law applies only to a 'full' na'arah, not a minor.]

Rav Acha bar Abba asks: If the Torah would not have written *na'arah*, would we have said that a minor is included? But, how can that be? The Torah writes: *But if the matter was true, signs of virginity were not found on the na'arah, then they shall take the na'arah out to the entrance of her father's house and stone her*! This cannot be referring to a minor, for a minor is not subject to punishment!?

The *Gemora* explains what Rish Lakish meant: Here, the word *na'arah* is written in full. We can infer from here that whenever the Torah writes *na'arah* without the *hey*, it is referring to a minor. (44b2)

INSIGHTS TO THE DAF

Perhaps they Repented

The Maharik (shoresh 33) writes concerning a case where one witness testifies that a certain *shochet* was slaughtering improperly and the *shochet* himself contradicts the witness; since the witness is not believed, he himself is permitted to eat all future meat slaughtered by this *shochet*. This is not comparable to a case where a witness testifies regarding wine that is forbidden on account of it being *yayin nesech* because here there is a possibility that the *shochet* will repent and slaughter properly.

The Pri Chadash (Y.D. 1, 14) asks: Why don't we apply the principle of "*shavya a'nafshei chaticha d'issura*," one who states that something is forbidden, even if he is not believed in respect to everyone else, renders the object forbidden to him (*as is evident from the Gemora in Kesuvos 9a*)? All the meat slaughtered by this *shochet* should be forbidden to this witness!?

The Pri Megadim (Sifsei Daas, ibid, 41) answers that the Maharik is referring to a case where the witness retracted and said that he had testified falsely. In such cases, the principle of "*shavya a'nafshei chaticha d'issura*" does not apply.

Rav Elyashiv answers: The reason why one can render the object forbidden with the principle of "*shavya a'nafshei*" is not because he is believed in respect to himself; rather, it is because it is regarded as an oath. The witness is taking a vow forbidding himself from this particular object. Accordingly, he explains that the witness who testified regarding the *shochet* it making a vow that he will not eat the meat from this animal, however, he will not be prohibited, on account of his vow, against eating from any other animal that this *shochet* slaughters.

The *Mishnah* Lemelech (Hilchos Shechitah 1:26) challenges the ruling of the Maharik from our *Gemora* (Kesuvos 44a) which discusses a case where two deeds were given over regarding the same field. The ruling is that the second deed cancels the first one. Rafram explains that the recipient has admitted to the other that the first deed is invalid. Accordingly, the *Gemora* continues that these witnesses must be regarded as legally unfit for further evidence concerning this recipient since he is stating that they put their signatures to an invalid document. We do not say that they should be valid witnesses later, for perhaps they repented. What is the difference between the two cases?

The Shaar Hamishpat (92:7) answers: The Maharik rules that all meat slaughtered by this *shochet* will be permitted to eat by the witness because there is a double doubt; perhaps, he has slaughtered the animal properly and perhaps he repented. Just because he slaughtered improperly (*according to the witness' testimony*) one time, it is not logical that we should prohibit his slaughtered meat forever.

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However, in respect to testimony, once the recipient has stated that these witnesses testified falsely, they will be disqualified to offer testimony for him forever. Even according to those that hold that we can apply the principle of a double doubt in regards to monetary judgments, here, it will not apply. What can be said? Perhaps the witnesses will testify truthfully and perhaps they repented. This logic is not applicable by testimony, for testimony functions as a proof, and if we are uncertain if the witnesses repented or not, they cannot be accepted as witnesses because we have no proof that they are testifying truthfully. Therefore, they will not be believed for all future testimonies regarding this recipient.

DAILY MASHAL

SLANDER

Our Gemora discusses the laws of the defamer – one who slanders his wife.

The Gemora in Arachin states: Rish Lakish said: What is the meaning of that which is written, "This shall be the law of the Metzora"? It means this shall be the law of the speaker of Motzi Sheim Ra" – one who slanders others.

Rav Nisan Alpert zt"l said the most frequently quoted verse in Tanach regarding this idea is, "Maves VeChayim BeYad Lashon," "Death and life are in the hand of the tongue" (Mishlei 18:21). After inquiring why the word BeYad, in the hand, is used in the verse, he concludes, that it is not only words that can damage reputation of your associates, but rather, the same effect can be accomplished through a mere physical gesture, such as waving your hand in contempt. Even though not a single word was spoken, the public humiliation is no less effective. This is why the verse says, "Death and life are in the hand of the tongue." Sometimes it is the tongue that does the damage, and sometimes it is a well-timed gesture of contempt, such as the flick of the hand.

The core message of all these lessons is identical. We must conquer our foolish pride; we cannot imagine that it is our right or responsibility to judge others or speak and act as we deem appropriate.

Rav Alpert asks why the Torah uses the word Adam, which generally denotes a person of greater stature than the word Ish. It seems strange that when discussing a person who speaks evil of others, the Torah would use language that denotes a person of distinction.

He explains that a person's stature is determined by whether or not he speaks evil of others. Unfortunately, the Gemora states that everyone falls into the trap of at least Avak Lashon Hara, being involved with caliber of Lashon Hara comparable to dust. Therefore, the manner in which the status of an individual is measured is by evaluating how that person deals with the inevitable Lashon Hara. A person of distinction who wants to improve himself must do his utmost to prevent any recurrence of the Lashon Hara. He must demonstrate a desire and an effort to improve. It is now clear why the Torah refers to this person by the noteworthy title of Adam; he realizes his sin of speaking evil of others and works on humbling himself to the point that it will hopefully never happen again.

Rav Yissachar Frand relates that Rav Isser Zalman Meltzer zt"l in which he would write the verse "Einecha LeNochach Yabitu VeAfapecha Yayshiru Negdecha," "Let your eyes look straight ahead and your eyelids will straighten your path" (Mishlei 4:25), and would keep it visible for the many people that would come to visit him during Chol HaMoed. His student, Rav David Finkel, asked him why he displayed this verse? He responded that he had once heard the following interpretation of the verse: When your eyes look at someone else, turn them inward. In other words, when you see someone else, don't focus on their flaws, but rather your own, and you will see you are far from perfect. This helped him keep calm with some of his more infuriating visitors.

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