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Kesuvos Daf 13

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

**Mishnah**

The *Mishnah* states: If she says: I was injured by a piece of wood, and he says: No, you cohabited with a man; Rabban Gamliel and Rabbi Eliezer say that she is believed. Rabbi Yehoshua says: We do not live from her mouth (*perhaps she is lying*)! Rather, she is presumed to have engaged in an illicit relationship before she was betrothed until she brings a proof for her words. (13a1)

**What is her Claim?**

The *Gemora* asks: What is she claiming, and what is his claim? Rabbi Yochanan says: She wants two hundred, and he is only willing to give her one hundred. Rabbi Elozar says: She wants one hundred, and he does not want to give her anything.

The *Gemora* explains: Rabbi Yochanan says: She wants two hundred, and he is only willing to give her one hundred. He is following the opinion of Rabbi Meir, who states: Whether he recognized (*that she has been injured by a piece of wood*) and whether he did not recognize that, her *kesuvah* is two hundred *zuz*. Rabbi Elozar says: She wants one hundred, and he does not want to give her anything. He is following the opinion of the *Chachamim*, who state: Whether he recognized (*that she has been injured by a piece of wood*) and whether he did not recognize that, her *kesuvah* is one hundred *zuz* (so the husband must be claiming that she deserves nothing at all).

The *Gemora* asks: It is understandable why Rabbi Elozar does not say like Rabbi Yochanan, for he would rather follow the opinion of The *Chachamim* than that of Rabbi Meir. Why, however, does Rabbi Yochanan not say like Rabbi Elozar? The *Gemora* answers: Rabbi Yochanan maintains that one

who marries a woman assuming that she is a virgin, and it is found out that she is not, her *kesuvah* is one hundred. Now, if her claim is only for a hundred (*like the Chachamim*), what is the monetary difference between her claim and his claim? They are both claiming that she deserves one hundred! It must be like Rabbi Meir, and the woman’s claim is for two hundred.

The *Gemora* again asks on Rabbi Yochanan: Now, it is understandable according to Rabbi Elozar (who maintains that if she was in fact not a virgin, she receives no *kesuvah* whatsoever) that we have stated two cases (where Rabban Gamliel and R’ Yehoshua disagree; one in our *Mishnah* and one in the previous *Mishnah*); one (our *Mishnah*, where the woman is demanding a *kesuvah* because she was injured, and the husband did not know about this prior to the *erusin*) is to exclude the opinion of Rami bar Chama (who maintains that if the husband did not know that she was injured, she receives no *kesuvah* whatsoever), and one (the previous *Mishnah*, where the man claimed that it was a mistaken marriage, for she cohabited before the *erusin*, and he claims that she should receive nothing at all) to exclude the opinion of Rabbi Chiya bar Avin in the name of Rav Sheishes (who maintains that she would receive a *kesuvah* of a maneh); but according to Rabbi Yochanan, why are two cases necessary? [Only the case of the second *Mishnah* should have been stated as illustrating the difference of opinion between Rabban Gamliel and R’ Yehoshua in regard to the claims of ‘certainty’ and ‘perhaps,’ and that we leave the money in the possession of the original owner, and thus incidentally excluding the opinion of Rami bar Chama, whereas the case of the first *Mishnah* could be inferred from the second one!?!]

The Gemora answers: One is to show you the strength of Rabban Gamliel, and one is to show you the strength of Rabbi Yehoshua. The first case demonstrates to you the strength of Rabbi Yehoshua, that, although one could say there a miggo (to help her claim, for if she wanted to lie, she could have claimed she was injured instead of saying that she was violated after the erusin), she is (still) not believed. The second case demonstrates to you the strength of Rabban Gamliel, that, although one cannot say there a miggo for, according to R' Yochanan, who establishes the Mishnah in accordance with R' Meir who says that if the husband did not know that she was injured her kesuvah is two hundred, she, therefore, has no better claim, for saying that was injured after the erusin will not be any better for her), she is believed. (13a1 – 13a2)

#### Mishnah

The *Mishnah* states: They saw an unmarried woman talking with a man, and they said to her, "What is the nature of this man?" She responds by saying, "He is So-and-so, and he is a *Kohen*." Rabban Gamliel and Rabbi Eliezer say: She is believed. Rabbi Yehoshua says: We do not live from her mouth (*perhaps she is lying*)! Rather, she is presumed to have cohabited with a *nasin* or a *mamzer*, until she brings proof for her words. If an unmarried woman was pregnant, and they said to her, "What is the nature of this fetus?" She answered, "It is from the man So-and-So, and he is a *Kohen*." Rabban Gamliel and Rabbi Eliezer say: She is believed (*and she remains fit for Kehunah*). Rabbi Yehoshua says: We do not live from her mouth (*perhaps she is lying*)! Rather, she is presumed to be pregnant from a *nasin* or a *mamzer*, until she brings proof for her words. (13a2 – 13a3)

#### Talking to a Man

The *Gemora* asks: What does the *Mishnah* mean when it said that they saw her "talking" to a man? Zeiri said: They saw her seclude herself with a man. Rav Assi said: They saw that she cohabited with that man.

The *Gemora* asks: It is understandable according to Zeiri as to why the *Mishnah* uses the term, "she was speaking," but

according to Rav Assi, why was the term, "she was speaking" used (if, in actuality, it meant that she cohabited)? The *Gemora* answers: The *Mishnah* wanted to speak in a refined manner, as it is written (regarding an adulterous woman): *She eats and wipes her mouth and says, "I have done no wrong."*

The *Gemora* asks: It is understandable according to Zeiri as to why the *Mishnah* cites two cases; one is a case of seclusion, and the other is a case of becoming pregnant. But why, according to Rav Assi, did the *Mishnah* say two cases of cohabitation? The *Gemora* answers: One case is to teach us that the woman herself (*according to Rabban Gamliel*) is qualified for *Kehunah*, and the other case is to teach us that the child (*although there was never a presumption of innocence*) is qualified for *Kehunah*.

The *Gemora* asks: This is understandable according to the one who holds that just as the mother is fit the daughter is also fit, but according to the one who holds that although the mother is fit, her daughter is not, what is there to say? The *Gemora* answers: Rav Assi holds like the one who holds that just as the mother is fit the daughter is also fit.

Rav Pappa said to Abaye: According to Zeiri, who said that "she was speaking" means that she was secluded, and Rabbi Yehoshua ruled that she is not believed (demonstrating that he maintains that seclusion is regarded as evidence of cohabitation), but Rav has said: Rabbinic lashes are administered to one who violates the prohibition of seclusion, however, a woman does not become forbidden to her husband for mere seclusion; shall we therefore say that Rav is not following the opinion of Rabbi Yehoshua?

The *Gemora* answers: It could be that he is in accordance with Rabbi Yehoshua, but a higher standard was established in genealogical matters (and we therefore are stringent with respect of a *Kohen*). (13a3 – 13a4)

The *Gemora* asks on Rav Assi from a Baraisa: They saw her enter with a man into a secluded place (but they did not see

an act of cohabitation), or into a ruin, and they said to her, "What is the nature of this man?" She responds by saying, "He is a *Kohen*, the son of my father's brother." Rabban Gamliel and Rabbi Eliezer say: She is believed (and she is still permitted to marry a *Kohen*). Rabbi Yehoshua says: We do not live from her mouth (*perhaps she is lying*)! Rather, she is presumed to have cohabited with a *nasin* or a *mamzer*, until she brings proof for her words.

Now, it is understandable according to Zeiri (who holds that "speaking" means secluded), that is why the Baraisa states two cases: to a secluded place and to a ruin; however, according to Rav Assi, who said that "speaking" means cohabitation, why is it necessary to state both cases?

The Gemora answers: It is but one case: They entered into seclusion of a ruin.

The Gemora asks: But the Baraisa explicitly stated: into a secluded place, or into a ruin?

The Gemora answers: One case was a ruin in the city and the other case is a ruin in a field. And both cases are necessary. For if the Baraisa had told us only concerning a ruin in a city, one might have said that it is in this case, where Rabban Gamliel declares her fit (for *Kehunah*), because most of the men of the city are fit (i.e., Jewish) with regard to her, but in the case of a ruin in a field, where most of the men are unfit with regard to her (for he could have come from anywhere in the world, and the majority of the world are gentiles), I might say that he agrees with Rabbi Yehoshua. And if the Baraisa had told us only this case (ruin in the field), I might have said that only in this case did Rabbi Yehoshua say that she is not believed, but in that case (ruin in the city), I might say that he agrees with Rabban Gamliel; therefore, it was necessary to state both cases. (13a4 – 13b1)

### No Protection for Arayos

The Gemora asks: (*Rav Assi holds that if the woman merely secluded herself, Rabbi Yehoshua would hold that she is believed.*) We have learned in a *Baraisa*: (An unmarried

woman was pregnant, and they said to her, "What is the nature of this fetus?" She answered, "It is from the man So-and-So, and he is a *Kohen*." Rabban Gamliel and Rabbi Eliezer say: She is believed.) This is a testimony with regard to which the woman is fit. But Rabbi Yehoshua said: She is not believed.

Rabbi Yehoshua said to them: Do you not agree that in the case of a woman who was captured, and there are witnesses that she was captured, and she says, "I am pure," she is not believed? They said to him: Yes, but there is a difference between this case and that case. In this case, there are witnesses, and in that case, there are no witnesses.

He said to them: In that case too, there are also witnesses, for her stomach reaches up to her teeth (*she is visibly pregnant*). They said to him: Most of the idolaters are unrestrained in sexual matters. He said to them: There is no guardian against unchastity.

The Baraisa continues: These words (of Rabban Gamliel and R' Eliezer that she is believed) apply only in the case of the testimony of the woman with regard to herself (that she is fit for the *Kehunah*), but regarding the testimony of the woman with regard to her daughter (from this union – if she is fit for the *Kehunah*), all agree that the child is a *shethuki* (*someone whose father is unknown*).

The Gemora explains the Baraisa: Now, what did he say to them, and what did they answer him?

They said to him the following: You have answered us with regard to the pregnant woman; what, however, will you answer us with regard to the woman whom they saw speaking to a man? [Why should she not be believed; there is no pregnancy which proves that she cohabited?] He said to them: The woman whom they saw talking to a man is the same as the captive woman (and in both cases there is a strong presumption that cohabitation occurred). They said to him: The captive woman is different, for most of the idolaters are unrestrained with regard to forbidden relations

(and it is a certainty that she has been violated). He said to them: Here (where the woman was speaking to a man) as well, since she secluded herself, there is no guardian against unchastity.

The Gemora now articulates its challenge: Now, at any rate, the Baraisa taught two cases: One where the woman was speaking, and the other where she was pregnant woman! [The distinction between a woman who was pregnant and one who was speaking can only be if the case of speaking meant that she was secluded; if, however, it meant that she cohabited, what difference would there be between cohabitation and being pregnant?] This is a refutation of Rav Assi; indeed, it is a refutation!

The Gemora asks: But let him weigh this difference (between the case where the woman was held captive, and the case where she is speaking with a man), for there (by the captive woman), most of the men are unfit with regard to her (i.e., if she would have cohabited with them, she would be rendered ineligible for the Kehunah), but here (where she is speaking with a man), most of the men are fit with regard to her!?

The Gemora answers: This supports the opinion of Rabbi Yehoshua ben Levi, for Rabbi Yehoshua ben Levi said: He (Rabban Gamliel and R' Eliezer) who declares her fit (for the Kehunah) declares her fit even when most of the men are unfit, and he (R' Yehoshua) who declares her unfit declares her unfit even when most of the men are fit. (13b1 – 13b3)

Rabbi Yochanan said: He who declares her fit declares her daughter fit as well, and he who declares her unfit declares her daughter unfit as well. And Rabbi Eliezer said: Even he who declares her fit declares her daughter unfit.

Rabbah said: What is the reason of Rabbi Elazar? It is quite right [with regard to her], she has the presumption of fitness, [but] her daughter has no presumption of fitness.

Rabbi Elazar objected to [the ruling of] Rabbi Yochanan: This only applies to the testimony of the woman with regard to herself, but in the case of the testimony of the woman with regard to her daughter, all agree that the child is a shethuki.<sup>59</sup> Does this not [mean] a shethuki and unfit? — No, a shethuki and fit.

But is there a shethuki [who is] fit? — Yes, according to Shmuel, for Shmuel said: [If] ten Kohanim are standing together and one of them goes away and cohabits [with a woman], the child is a shethuki. Now what [does it mean here] a shethuki? Is it to say that he is 'silenced' from the property of his father? This is evident! Do we know who his father is? — It means one silences him from the rights of Kehunah, for it is written: 'And it shall be unto him and to his seed after him the covenant of an everlasting Kehunah. [that is, only] one whose seed is legitimately descending from him, excluding this one, whose seed is not legitimately descending from him. (13b3 – 13b4)

#### DAILY MASHAL

Rabbi Yehoshua says: We do not live from her mouth (*perhaps she is lying*)!

Rav Chaim Vital z"l writes that he heard from the Arizal that Tosfos was wondering about this expression; why didn't the Mishnah simply say that she is not believed?

One of the Kadmonim explained that the world stands on three things and one of them is the truth. This is what it means: "we do not live from her mouth." If she would be saying the truth, we would actually be living from her mouth, for the world rests upon the truth, but this woman is lying, and accordingly, we are not living through her mouth.

This is the manner of Chazal – to teach us a way of life in the midst of learning; "the words of a Talmid Chacham requires delving into."