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Kesuvos Daf 75

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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

**Appearing in Court**

The *Gemora* elaborates on the *Mishnah* cited above: If one divorces his wife because of a vow, he may not take her back. Rabbi Meir says: If it is a vow which requires examination by a Chacham (*and the husband cannot annul it by himself*), he may not take her back, but for one which does not require examination by a Chacham (*the husband can annul it himself*), he may take her back. Rabbi Elozar said: They prohibited him to remarry in the case where the vow required examination by a Chacham to annul it only on account of the case where the vow did not require examination by a Chacham to annul it.

The *Gemora* asks: Regarding what do they disagree?

The *Gemora* answers: Rabbi Meir maintains that a husband does not mind his wife’s being exposed to a court of law and therefore forbids remarriage on account of the first reason mentioned above (*It is possible that after the woman had obtained from a Chacham the disallowance of her vow and had married another man, her first husband might regret his action in divorcing her and he might claim that he would not have divorced her had he known that her vow could be disallowed. Consequently, this might impair the validity of her second marriage. By the enactment that “he may not remarry her,” a husband is naturally induced to institute all the necessary enquiries and to consider very carefully his course before he decides upon divorce, and should he nevertheless divorce her and then claim that he was unaware that her vow could be disallowed, his plea might well be disregarded.*), since the first husband might claim that if he

had known that the vow could be disallowed by a Chacham, he would not have consented to give a divorce. Rabbi Elozar, however, holds that no man would consent that his wife should be exposed to a court of law (*and therefore, we assume that he would have divorced anyway, even if the vow could have been annulled by a Chacham*). (75a1)

**Prominent Women**

The *Gemora* had asked above that there were two contradictory *braisos* (*one braisa said: If a man betrothed a woman on the condition that she was not under any vows and she subsequently went to a Chacham who released her from the vow, she is betrothed and a different braisa said: If a man betrothed a woman on the condition that she was not under any vows and she subsequently went to a Chacham who released her from the vow, she is nevertheless, not betrothed*). Rava offers an alternative answer: The second *braisa* is dealing with a prominent woman (*she comes from a prominent family*). In this case, the *kiddushin* will not be valid even if the Chacham releases her from her vow because he will claim that he does not want to become forbidden to her relatives (*he is not willing to be married to her because she is likely to undertake more vows in the future; he doesn’t want to risk marrying her and then divorcing her because then, he will be forbidden to marry her relatives, and since they are prominent, they seem attractive prospects for him*).

The *Gemora* asks: If so, let us examine the latter portion of the *Baraisa*, which states: If a man betrothed a woman on the condition that he was not under any vows and he subsequently went to a Chacham who released him from the

vow, or if he betrothed her on the condition that he did not have any defects and he subsequently went to a doctor who cured him from these defects, she is betrothed. According to Rava, the *Gemora* asks, the *Baraisa* should state that she is not betrothed since we are dealing with a prominent man, where she may claim: I do not wish to become forbidden to his relatives?

The *Gemora* answers: She will be satisfied with any man, for Rish Lakish stated: 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 in a *Baraisa*: All such women commit adultery and attribute their offspring to their husbands. (75a1 – 75a2)

### **Perspiration**

The *Mishnah* had stated: Any physical defect that disqualifies a *Kohen* from performing the service in the Beis Hamikdash are regarded as defects in cases concerning marriage (*where the husband married on the condition that his wife is free of any defects*).

The *Gemora* cites a *Baraisa*: The following defects were added (*to the cases of marriage, although they would not disqualify a Kohen*): Excessive perspiration, a mole and bad breath.

The *Gemora* asks: And these defects do not disqualify a *Kohen* (from performing the Temple service)? But it was taught in a *Mishnah*: an old animal or a sick one; an animal that has a foul smell (are disqualified from being brought as a sacrifice). And another *Mishnah* taught: These defects (mentioned by an animal), whether they are permanent or temporary, disqualify a man (i.e., a *Kohen*). [It emerges that a *Kohen* with a foul smell is disqualified from performing the service in the Temple. This contradicts the implication of our *Baraisa*!?

Rabbi Yosi bar Chanina said: Temporary perspiration will be considered a defect in regards to a marriage (*since she is always with him*); however, it will not disqualify a *Kohen*.

Rav Ashi said: Perspiration is not considered a defect in regards to disqualifying a *Kohen*, for the smell can be removed with wine-vinegar. Bad breath is also not considered a defect in regards to disqualifying a *Kohen*, for the smell can be removed by placing a pepper in his mouth. A woman, however, does not have this option (*since she is always with him*) and therefore, it is regarded as a defect. (75a2 – 75a3)

### **Moles**

The *Gemora* asks: What kind of a mole are we referring to? If it is one that has hair growing from it, it would cause disqualification in both cases (*marriage and by a Kohen*); if it is one with no hair, then, if it is a large one, it causes disqualification in both cases and if it is a small one, it would not disqualify either of them; for it was taught in the following *Baraisa*: A mole that has hair growing from it is regarded as a bodily defect; if it is one with no hair, it is only deemed to be a bodily defect when large, but when it is small, it is not a defect. What is meant by large? Rabbi Shimon ben Gamliel explained: Up until the size of an Italian *issar*!



Rabbi Yosi the son of Rabbi Chanina answered: We are referring to a mole which is situated on her forehead (*it is small and without hair*).

The *Gemora* asks: If it was on her forehead, he obviously saw it and nevertheless, consented to marry her?

Rav Pappa replied: It is one that was situated under the cap on her head, and it is sometimes exposed and sometimes not.

Rav Chisda said: I heard the following statement from a great man. And who is he? Rabbi Shila. If a dog bit her and the spot of the bite turned into a scar, such a scar is considered a bodily defect.

Rav Chisda further stated: A deep voice in a woman is a bodily defect; since it is said in Scripture regarding a woman: *For sweet is your voice, and your countenance is comely*.

Rabbi Nosson Biraah taught a *Baraisa*: The space of one handbreadth between a woman's breasts. Rav Acha the son of Rava intended to explain in the presence of Rav Ashi that this statement meant that the space of a handbreadth is to a woman's advantage, but Rav Ashi said to him: This was taught in connection with bodily defects.

And what space is deemed attractive? Abaye replied: A space of three fingers.

The *Gemora* cites a *Baraisa*: Rabbi Nosson said: A woman, whose breasts are larger than her friends' is regarded as a defect.

How much is considered larger? Rabbi Meyasha the grandson of Rabbi Yehoshua ben Levi said: A handbreadth.

The *Gemora* asks: Can a woman's breasts be so large?

The *Gemora* answers: Yes. For Rabbah bar bar Chanah said: I once saw an Arabian woman who slung her breasts behind her and nursed her son.

It is written [Tehillim 87:5]: And to Zion it shall be said: "This man, this man, was born in her," and He will establish her on high. (*This verse is describing the future time when all the nations of the world will bring the Jews back to Zion. They will say regarding each Jew: He is a son of Zion, he was born there, let us bring him back to her.*)

Rabbi Meyasha the grandson of Rabbi Yehoshua ben Levi said: This verse is applicable to any Jew that was born in Zion and one who yearns to see her. Even Jews who were born elsewhere will be considered children of Zion, provided that they learn to return there.

Abaye said: And one of them (*one who resides in Eretz Yisroel*) is better than two of us (*in Bavel*). Rava said: When one of us, however, goes up there, he is better than two of them. For Rabbi Yirmiyah, who, while here, did not understand what the Rabbis were saying, but when he went up there, he was able to refer to us as "the foolish Babylonians." (75a3 – 75a4)

MISHNAH: If she (after betrothal) was afflicted with bodily defects while she was still in her father's house (and the husband refuses to marry her, but her father claims that it happened after the betrothal, and if the husband refuses to marry her, he must divorce her and pay her kesuvah), her father (as the kesuvah of a divorced betrothed na'arah goes to the father) must produce proof that these defects arose after she had been betrothed and that, consequently, it was the husband's field (so to speak) that was inundated (and it is as if the defects occurred after nisuin, when it would simply be the husband's misfortune). If, however, she came under the authority of her husband (the defects were found only after the nisuin), the husband must produce proof that these defects were upon her before she had been betrothed and that consequently his acquisition was made in error; these are the words of Rabbi Meir. The Sages, however, said:

When do these rulings apply? They apply only to bodily defects found in concealed parts of her body (and therefore possible that he was unaware of them at the time which he betrothed her); but in respect of defects that are exposed, he (the husband) cannot advance any valid claim (for it is assumed that he was aware of them, and was appeased). And if there was a bathhouse in the town, he cannot advance any valid claim - even against bodily defects found in concealed parts of her body, because he is assumed to have had her examined by his women relatives. (75a4 – 75b1)

The Gemora asks: The reason then (that the husband would be liable to pay the kesuvah) is because the father produced proof (that the defects happened after betrothal), but if he produced no proof, the husband is believed (that the defects happened beforehand, and therefore, he keeps the money that he is holding). Whose view does this represent? Obviously that of Rabbi Yehoshua, who stated (regarding a bride who was found to have been violated; the Mishnah's case there was as follows: If one marries a woman and does not find her to be a virgin, and she says: After you had betrothed me, I was violated and thus it is as if your field has been inundated, and he says: It occurred before I betrothed you, and my acquisition is thus a mistaken one): We do not live by her mouth (*perhaps she is lying*; rather, she is presumed to have engaged in an illicit relationship before she was betrothed, and she misled him, until she brings a proof for her words). [This ruling is based on the fact that the husband is holding the money for her kesuvah, and therefore, it remains in his possession. This conforms with the principle that if one wants to exact money from his fellow, he must bring a proof that his claim is a correct one. Now here, the woman has a 'chezkas haguf' – meaning that there is an assumption that she was a virgin at the time of the betrothal. This is based on the fact that she was born a virgin, and we do not assume that her status has changed until the last possible moment. Nevertheless, R' Yehoshua is of the opinion that this chazakah is not strong enough to take away money from someone who is a 'muchzak' on the money.] Now let us consider the final clause: If, however, she came under the authority of her husband (the defects

were found only after the nisuin), the husband must produce proof (that these defects were upon her before she had been betrothed and that consequently his acquisition was made in error). The reason then (that the husband would not be liable to pay the kesuvah) is because the husband produced proof, but if he produced no proof, the father is believed, a ruling which represents the view of Rabban Gamliel who stated that the woman is believed!?! [Evidently, R' Gamliel maintains that her chazakah that she lost her virginity later is stronger than the chazakah of the husband who has possession of the disputed money.]

Rabbi Elozar replied: There is in fact a contradiction; he who taught this part of the Mishnah did not teach the other.

Rava said: Do not say that Rabbi Yehoshua is never guided by the principle of the presumptive soundness of the body (chezkas haguf – that she was a virgin until the last possible moment, or that the defects developed at the last possible moment), for the fact is that Rabbi Yehoshua is not guided by that principle only where it is opposed by the principle of possession (as in our Mishnah, where the husband is holding the money for her kesuvah); where, however, the principle of possession is not applicable Rabbi Yehoshua is guided by that of the soundness of the body. For it was taught in a Mishnah: If the *baheres* (a snow-white mark, which is considered *tzaraas*) appeared before the white hair inside of it (*the white hair is a sign that the mark is tzaraas*), the mark is tamei. If the white hair preceded the baheres, it is tahor. If we are not sure which was first, it is ruled to be tamei. Rabbi Yehoshua says: It is faint. The Gemora had asked: What does this mean? Rabbah explained: It is as if it became faint and it therefore ruled to be tahor. [Since Rabbi Yehoshua ruled that a doubtful case of tzaraas is tahor, we see that he is guided by the principle of the presumptive soundness of the human body wherever it is not opposed by the principle of possession.]

Rava answers (the original question that the rulings of our Mishnah contradict each other): The first clause (where they found the defects while she was still in her father's house) is

a case of 'here (in her father's house) they (the defects) were found and here they were' (in existence all along – even before betrothal, and therefore the father has a difficult claim that it happened afterwards), and so in the final clause as well: Here (where they found the defects after nisuin - in her husband's house) they (the defects) were found and here they were' (so we assume that they developed while she was in her husband's house, and therefore the husband loses out). [The logic here is that we do not extend a flaw found in one domain to another domain.]

Abaye challenges Rava from our Mishnah: If, however, she came under the authority of her husband (the defects were found only after the nisuin), the husband must produce proof that these defects were upon her before she had been betrothed and that consequently his acquisition was made in error. This would imply that it is only if she had the defects before she had been betrothed is the husband's claim accepted, but if they were found upon her after she had been betrothed, his claim would not be accepted. But why? Let it be said: 'Here (in the father's house) they were found and here they must have arisen' (even before betrothal, and the husband should not be liable to pay for the kesuvah)!?

Rava replied: [The principle cannot be applied if the defects were discovered] after she had been betrothed, because it may then be said that there is a chazakah that no man drinks out of a cup unless he has first examined it; and this man must consequently have seen the defects (before nisuin) and must have been appeased (therefore, he must pay her kesuvah).

The Gemora asks: If so, the same principle should apply as well to one who had defects prior to her betrothal (and if he chose to enter into nisuin with her, he must have been appeased). Rather, it must be that we say that there is a presumption that no man is appeased with bodily defects; accordingly, why then is it not presumed here as well that no man is appeased with bodily defects?

Rava answers: This, however, is the explanation: The principle cannot be applied to defects discovered after she had been betrothed because two principles are (opposed to it and) in her favor: The presumptive soundness of the woman's body (that she initially did not have defects, and therefore it developed later), and the presumption that no man drinks out of a cup unless he has first examined it and that this man must, consequently, have seen the defects and been appeased. What possible objection can you raise? Is it the presumption that no man is appeased with bodily defects? But this is only one principle against two principles, and one against two cannot prevail. But where the defects were discovered before betrothal, the principle of the presumptive soundness of her body cannot be applied (since witnesses testified that she had the defects before betrothal), and all that remains is the presumption that no man drinks out of a cup unless he has first examined it, and that this man must consequently have seen the defects and been appeased. On the contrary, there is a presumption (against that) that no man is appeased with bodily defects, and consequently the money is to remain in the possession of its holder (and the husband does not need to pay her kesuvah). (75b1 – 76a1)

## DAILY MASHAL

### *Yearning to Return to Zion*

It is written [Tehillim 87:5]: And to Zion it shall be said: "this man, this man, was born in her," and He will establish her on high. (This verse is describing the future time when all the nations of the world will bring the Jews back to Zion. They will say regarding each Jew: He is a son of Zion, he was born there, let us bring him back to her.)

Rabbi Meyasha the grandson of Rabbi Yehoshua ben Levi said: This verse is applicable to any Jew that was born in Zion and one who yearns to see her. Even Jews who were born elsewhere will be considered children of Zion, provided that they learn to return there.





I began writing the following incident when I was shown that it was already printed in Daf Digest [link](#), so I am writing their version (with a comment or two of my own).

During World War I, Palestine was under Turkish jurisdiction and the Ottomans made life very difficult for the citizens. Press gangs would roam the streets arbitrarily drafting anyone in their wake. The conditions of these forcibly drafted soldiers were exceedingly difficult. They were subjected to hard labor, and since food was exceedingly scarce they were severely underfed.

These circumstances could all be circumvented by paying bribes to officials. However, there was one decree that was exceedingly difficult to avert. The Turks declared that anyone not born in Palestine would be deported. This was more difficult to deal with than forcible conscription, since the only way someone born out of the country could get around this was to lie on the government forms.

Since everyone knew that Rav Yosef Chaim Sonnenfeld, zt"l, (where I saw this story brought down, it was with Rav Yosef Rogotchovi from Petach Tikva, but see below) was very careful to avoid falsehood in any form no matter what it might cost, people were afraid that he would forbid people to lie on the forms. During those difficult times, simple honesty would result in the sundering of many homes. When someone ventured to ask the Rav's opinion about this issue, he surprised everyone in the Old Yishuv. "It is certainly permitted!"

"But why is this different from any other falsehood which the Rav prohibits?" the questioner asked.

Rav Sonnenfeld explained, "This is explicit in our Gemora on the verse, 'And of Tzion it shall be said, each and every man is born therein.' The Gemora learns from the redundancy of the word "man, each and every man" that one who yearns for Tzion is as one who was born there. We see clearly that any Jew who yearns for Tzion is actually considered as one who was born in Tzion! So to write of those who came up to

Tzion out of longing for her holiness that they were native citizens is no lie at all: it is a declaration of the absolute truth!"

I saw this ruling from Rav Sonnenfeld in a slightly different context. It was a question regarding people who were not born in Eretz Yisroel and they were seeking permission from the courts to emigrate to Eretz Yisroel. The courts were only granting visas to those who were born in Eretz Yisroel. Rav Sonnenfeld ruled, based on our Gemora that not only is it permitted to testify that you were born in Eretz Yisroel, but one is obligated to do so. It is not regarded as a lie at all, since one who yearns to return to Eretz Yisroel is regarded as if he was born there.

The Kloizenberger Rebbe zt"l added the following: It is written that the lifespan of a person is seventy years. The Gemora in Shabbos (89b) states that the Heavenly courts do not administer punishment for the first twenty years of one's life. Consequently, it can be said that the seventy years do not begin until one is twenty years old. So too, it can be said regarding one who emigrated to Eretz Yisroel. The seventy years of his life begins only after he lives in Eretz Yisroel.

This can be proven from Rashi's commentary on the following verse [Breishis 16:3]: So Sarai, Avram's wife, took Hagar the Egyptian, her handmaid, at the end of ten years of Avram's dwelling in the land of Canaan, and she gave her to Avram her husband for a wife. Rashi writes: This tells us that the time they dwelled outside of Eretz Yisroel does not count in the calculation.