

## OVERVIEW of the Daf

### 1) A concern for people sharing the same name (cont.)

The Gemara presents Abaye's response to Rava's attempt to prove his position regarding the question of whether it is necessary to be concerned that two people share the same name.

A second incident is recorded in which Abaye and Rava subscribe to the opposite positions and explain why this second case is different than the first.

### 2) The credibility of identifying marks (cont.)

R' Yeimar and Ravina debate the correct ruling in the previously-mentioned case of the sesame seeds (קטור) and the Gemara rules that we are concerned that the barrel was emptied and the shomer is not responsible.

### 3) Marital discord

Following a number of failed attempts the Gemara presents a definition of the Mishnah's case of marital discord.

R' Chanina and R' Shimi bar Ashi dispute the reason a woman is not believed to testify her husband died when they were fighting.

The practical difference between these two explanations is presented.

The Gemara inquires whether a single witness is believed to testify a man died if there was discord in the marriage and the issue is left unresolved.

### 4) A woman's credibility to testify that her husband died

A Baraisa presents a more detailed version of Rabanan's response to R' Yehudah's position in the Mishnah.

A related incident is recorded.

**5) MISHNAH:** The Mishnah presents what was originally a dispute between Beis Hillel and Beis Shammai concerning a woman's credibility to testify that her husband died and that ultimately Beis Hillel concurred with Beis Shammai.

### 6) Clarifying the dispute between Beis Shammai and Beis Hillel

A Baraisa records a more detailed account of the debate between Beis Shammai and Beis Hillel about this matter.

The original incident that triggered this lenient approach is presented.

The Gemara suggests that the dispute between Beis Shammai and Beis Hillel, about how decrees are created from incidents, is connected to a dispute between R' Chananya ben Akiva and Rabanan.

The link between the two disputes is rejected.

The incident that led to the decree against transporting parah adumah ashes and its water is recorded.

**7) MISHNAH:** The Mishnah presents a dispute between Beis Shammai and Beis Hillel as to whether a woman who testified that her husband died is allowed to collect her kesubah. ■

## Distinctive INSIGHT

### The ruling is based on case history

בית הלל אומרים לא שמענו אלא בקציר ובאותה מדינה

The ruling of the Mishnah is that we believe a woman who comes and testifies that her husband has died. As reported in the Gemara, this law is founded upon an actual case. A woman was the only one available to provide information that her husband had died while harvesting wheat, and the facts were later corroborated. The words of the Mishnah, however, seem to indicate that according to Beis Hillel the only time a woman is believed is when the circumstances exactly match the details of the case of the original ruling. It must be where the husband died in the same country, and when he was involved in harvesting grain. Beis Shammai, in fact, argue, and question why it should make a difference whether the case was where he was collecting wheat, where we believe her, or barley or grapes where we would not believe her?

Rashi, however, explains that even according to Beis Hillel, the detail of being in the same country is not critical, and all we need is for the place to be nearby. Even if the report of the husband's demise would come from a different country, as long as it is nearby, so that the woman would be reluctant to lie, she is believed. We see from Rashi, therefore, that we believe the wife as long as the underlying circumstances of her testimony match the original case of the Mishnah, but they need not match precisely. In his commentary to the Mishnah, Tosafos Yom Tov explains that the correct reading of the text in Beis Hillel should be only "בבאה מן הקציר" which refers to a nearby place, but not that Beis Hillel needs the testimony to originate in the same country and while harvesting. ■

## REVIEW and Remember

1. Under what conditions does Abaye agree that it is unnecessary to be concerned for the possibility of two people with the same name?  
.....
2. Why is a woman believed when she says to her husband that he divorced her?  
.....
3. What advice did the rabbis advise to assure a woman that she would receive permission to remarry?  
.....
4. What mishap occurred to the parah adumah ashes that led to the decree against transporting it under certain conditions?  
.....

# HALACHAH Highlight

## *A woman's behaving brazenly to her husband*

דאמר ר' המנונא אשה שאמרה לבעלה גירשתני נאמנת חזקה איך אשה מעיזה פניה בפני בעלה

As R' Hamnuna said, A woman who says to her husband, "You divorced me," is believed because of the presumption that a woman would not act brazenly to her husband.

**S**hulchan Aruch<sup>1</sup> rules in accordance with this principle of R' Hamnuna that a woman would not behave brazenly towards her husband. Rema<sup>2</sup>, however, cites Ramah who maintains that nowadays there is an abundance of disrespect (חוצפה) and promiscuity, consequently, the presumption has been damaged and a woman is no longer believed when she claims that her husband divorced her, except where it results in stringency. Rav Yoel Sirkis<sup>3</sup>, the Bach, notes that even those authorities who maintain the principle has lost some of its force will agree that if a married woman marries another man it is equivalent to making the declaration to her first husband that he divorced her and she would not be compelled to divorce. The reason is that these authorities only subscribe to this position לכתחילה, but if she already married this principle would apply. Rav Moshe Lima, the Chelkas M'chokeik<sup>4</sup>, disagrees with the assertion of Bach that the unwillingness to rely on the principle is limited nowadays to לכתחילה

circumstances. The reason is that the source of Bach's ruling is Rabbeinu Asher ben Yechiel, the Rosh, and he disagrees with the very premise of Ramah. Therefore, the opinion of Rosh may not be used to qualify the position of Ramah.

Aruch Hashulchan<sup>5</sup> rules in accordance with the position of Bach that a married woman who marries is not required to divorce her second husband. Ezras Nashim<sup>6</sup> wrote that this principle does not apply to women who are known to be disrespectful, and regarding these women it is possible that we would require her to divorce even if she married another husband. On the other hand, women who are not known to be disrespectful and certainly those who are known to be upright are not permitted to marry based on this principle; but in the event that she married she would not be compelled to divorce. Pischai Teshuvah<sup>7</sup> writes that nowadays if there is a rationale to her claim (אמתלא) the principle could be applied and Aruch Hashulchan<sup>8</sup> adds that when it is obvious to Beis Din that the husband is behaving punitively by denying that he divorced her, his claim could be ignored. ■

1. שו"ע אה"ע סי' י"ז סע' ב'
2. רמ"א שם
3. ב"ח שם
4. חלקת מחוקק שם סק"ד
5. ערוה"ש שם סע' ה'
6. עזרת נשים שם ס"ק י"ד
7. פת"ש שם סק"ט
8. ערוה"ש שם ■ ■

# STORIES Off the Daf

## *The widow's cries*

ההיא דאתיא לבי דינא דרבי יהודה אמרי לה ספדי בעלך קרעי מאניך סתרי מזייד אלפיה שיקרא אינהו כרבנן סבירא להו אמרי תעביד הכי כי היכי דלישריה

**A**s is well known, the Torah delineates a severe prohibition against causing pain to a widow or to orphans. (Shemos 22:21-23)

Once, a young man wished to enter a certain yeshiva. Although the administrators refused to enroll him initially, their refusal wasn't ironclad. Usually this meant they found the young man not quite up to par. In such cases, pleading with a member of the hanhalah would often cause them to relent and enroll the prospective student. The bochur in question had lost his father, and his widowed

mother had an appointment to meet with the Rosh Yeshiva to plead her son's case. It was understood that if the widow cried she would have a much better chance of getting her son accepted. However, those close to her were afraid to advise her to cry since perhaps this is a violation of the prohibition to pain a widow. On the other hand, it seemed as though advising her to cry would ultimately be to her advantage. Perhaps such a course of action would really be permitted, or might even be considered a mitzvah! After much consideration, a few people close to the family presented this quandary to a few poskim. Unfortunately, none could provide a clear answer. Finally, they approached Rav Yosef Shalom Eliashiv, ztz"l.

He responded, "What is the shailah? Of course you tell her to cry! This is a clear Gemara in Yevamos 116b. There

we find that we don't believe a woman who testifies that her husband died even if she was at peace with him and there was peace in the world unless she appears before the court crying and with her clothing rent in mourning. A woman entered Rav Yehudah's beis din where she was instructed to tearfully eulogize her husband, tear her garments, and undo her hair. The Gemara asks how they could 'prepare the witness' in such a way, and it explains that those who advised her held like the Chachamim who say that we believe the widow even if she is not crying. They wanted Rav Yehudah to permit her to remarry."

Rav Eliashiv concluded, "If there was a problem telling an almanah to cry to her advantage, the Gemara would have let us know!" ■

