

A גס"ד
Intro
Today we will learn בע"ה דף כ"ה of יבמות דף כה. The topics we will learn about include
A person who brings a divorce from overseas to ארץ ישראל must testify that
בפני נכתב ובפני נחתם, that the divorce was written and signed in front of him. The reason for this is that outside of ארץ ישראל people were often unaware that a גט needs to be written לשמה, for the specific woman that it was made for. Therefore, once the שליח testifies that it was all done in front of him, דין בית דין will also ask him whether it was done לשמה
אקילו בה רבנן בעדות אשה
When it comes to testimony that a woman's husband has died, the דין is that we believe even one עד. The reason for this leniency, as well as a number of others when it comes to a married woman, is due to the concern that a woman will be left an Agunah, that is, that her husband is missing and she has not received a divorce, and may remain unmarried indefinitely.

A
A person who brings a divorce from overseas to ארץ ישראל must testify:

**בפני נכתב
ובפני נחתם**

**אקילו בה רבנן
בעדות אשה**

B פלגינן דיבורא
אין אדם משיים עצמו רשע
A person may not testify against himself to make himself a -רשע and therefore he is still a valid witness
פלגינן דיבורא holds that we say פלגינן דיבורא. This means that if a עד gives testimony where part of the testimony we are able to accept and part of it we are unable to accept, then we divide his words and only accept the part that is not problematic. For example if an עד testified that he killed a married man, we accept that the man is dead and his wife may remarry, however, we do not accept that the עד killed him, since the rule is that
מיאון is done to terminate the marriage of a minor girl. If the father of a minor girl passes away, מן התורה there is no way to marry her off, however מדרבנן her mother or brother may marry her off. This marriage in only מדרבנן and may be terminated by the girl while she is still a minor by simply saying that she no longer wishes to be married. This termination is called מיאון.

B
פלגינן דיבורא
מיאון

1

Review

So let's review

The משנה begins by presenting a question from our מסכת גיטין on a teaching from רבה בר רב נחמן on a משנה in משנה

The מסכת גיטין in משנה says

המוציא את אשתו משום שם רע לא יחזיר

A person who divorces his wife because she had a bad reputation may not remarry her.

רבה בר רב נחמן inquired of רבה בר רב הונא

כנס מהו שיוציא

If this man went against the הלכה and did remarry her, is he allowed to remain married to her, or must he divorce her?

רבה בר רב נחמן responded that the answer is found in our משנה that says;

הנטען על אשת איש והוציאוה מתחת ידו

אע"פ שכנס יוציא

If there were rumors about a man and an אשת איש, and her husband is compelled to divorce her, the suspected adulterer may not marry her, and if he did, he must divorce her.

So, just like in our משנה we compel the suspected adulterer to divorce the woman because by being married to her he's substantiating the rumors - So too, in the משנה in גיטין we will compel the husband to divorce his wife if he remarries her, because by divorcing his wife the 1st time he substantiated the rumor that an עבירה was done?

2

challenged this answer for 2 reasons רבה בר רב הונא

מי דמי

התם הוציאוה והכא הוציאה

In our משנה the husband was compelled to divorce his wife because עדים testified that the rumor was true and so מן התורה for the adulterer to marry her is איסור

In the משנה in גיטין the husband chose to divorce his wife based on rumors only, and so the איסור to remarry her is מדרבנן

1

משנה-גיטין:

המוציא את אשתו
משום שם רע
לא יחזיר

➤ *inquired רבה בר רב הונא*
of רבה בר רב נחמן

If this man did remarry her,
can he remain married to her?

➤ *responded... רבה בר רב נחמן*

Our משנה:

הנטען על אשת איש והוציאוה מתחת ידו
אע"פ שכנס - יוציא

2

➤ *challenged this רבה בר רב הונא*
for 2 reasons

1

מי דמי
התם הוציאוה והכא הוציאה

משנה
In our
the husband
divorced his wife
because עדים testified

אסור מן התורה

גיטין
In
the husband
divorced his wife
based on rumors

אסור מדרבנן

3 And number 2
 מי דמי
 הכא בעל והתם בוועל
 In our משנה the person marrying her is the adulterer, which substantiates the rumor that an עבירה was done
 In the משנה in גיטין the person marrying her is the husband, which weakens the rumor, since we say the husband investigated and found the rumor to be false, and that's why he is now remarrying her
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3

2

**מי דמי
הכא בעל והתם בוועל**

<p><i>In our גיטין</i> the person marrying her is the adulterer</p> <p>▼</p> <p><i>Which substantiates the rumor</i></p>	<p><i>In גיטין</i> the person marrying her is the husband</p> <p>▼</p> <p><i>We say the husband found the rumor to be false</i></p>
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4 The Gemara moves on to the next משנה that continues in the discussion of instances where a man may not marry a woman because it will create a rumor
 זאקט די משנה
 המביא גט ממדינת הים
 ואמר בפני נכתב ובפני נחתם
 If a person brought a divorce document from overseas for another man's wife, and, as required, testified that the divorce document was written and signed in front of me -
 לא ישא את אשתו
 He should not marry this divorcee, since this may lead to a rumor that he lied in order to marry this woman

4

גיטין

**המביא גט ממדינת הים
ואמר בפני נכתב ובפני נחתם
לא ישא את אשתו**

▼

*Since this may lead to a rumor
that he lied in order to marry this woman*

◆

If he testified...

<p><i>רבי יהודה אומר</i></p> <p>הרגתיו הרגתיו</p> <p>▼</p> <p>תנשא אשתו</p> <p><i>He testified that he saw the husband being killed by others</i></p>	<p>הרגתיו הרגתיו</p> <p>▼</p> <p>לא תנשא אשתו</p> <p><i>She may not marry any person His testimony makes him a רשע and is not a valid witness</i></p>	<p>מת הרגתיו הרגתיו</p> <p>▼</p> <p>לא ישא את אשתו</p> <p><i>He should not marry her</i></p>
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Similarly, if he testified that
 מת
 The husband died
 הרגתיו
 I killed him
 הרגתיו
 We killed him
 לא ישא את אשתו
 He should not marry her, since this may lead to a rumor that he lied in order to marry this woman.
 רבי יהודה אומר
 הרגתיו לא תנשא אשתו
 In this case that a person testified that HE killed the husband, the wife may not marry any person, since his testimony makes him a רשע, and a רשע is not a valid witness.
 הרגתיו תנשא אשתו
 The Gemara on Amud Bais explains that he testified that he saw the husband being killed by others. In this case he's believed, and she may marry based on his testimony.
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5 The Gemara begins by asking a question from within the Mishna itself. The first case of our Mishna taught that if a person brought a divorce from overseas, the שליח may not marry her

טעמא דממדינת הים דעליה קסמכינן
 The reason the שליח may not marry her is because he brought the גט from overseas and we are relying on his testimony that the גט was done properly

אבל מארץ ישראל דלאו עליה קסמכינן
 But the שליח may marry her if he brought the גט from within ארץ ישראל itself, because we are not relying on his testimony, since in ארץ ישראל we assume that the גט was done properly.

This leads into a question
 והא מות דלאו עליה קסמכינן
 But the person may not marry her when he testified that the husband died even though in that case we are not relying on him

דאמר מור אשה דייקא ומינסבא
 As we learned that a woman will make sure that her husband really died before accepting the testimony and marrying another man

The Gemara answers
 התם ליכא כתבא
 הכא איכא כתב

In the case with the claim that the husband died there is not any document to rely on.
 In the case of the divorce there is a document, the גט, to rely on.

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מלפני:

המביא גט ממדינת הים ← טעמא
 ואמר בפני נכתב ובפני נחתם דממדינת הים
 לא ישא את אשתו דעליה קסמכינן

אבל מארץ ישראל
 דלאו עליה קסמכינן
 The שליח may marry her

והא מות ?
 דלאו עליה קסמכינן
 דאמר מור אשה דייקא ומינסבא

הכא איכא כתב גט
 התם ליכא כתבא מת

6 The משנה moves on to discuss the מחלוקת in our משנה between רבי יהודה ורבנן;
 הרגתו
 If a person testified that he killed the husband
 The רבנן rule
 לא ישא את אשתו
 The woman may remarry, but she may not marry the עד.
 רבי יהודה rules
 לא תנשא אשתו
 The woman may not remarry at all, since the עד has made himself a רשע and is thereby disqualified to be an עד
 The מחלוקת presents 2 ways of understanding the מחלוקת
 -1-
 רבי יהודה holds, since the עד testified הרגתו, he is a רשע, והתורה אמרה
 אל תשת ידך עם רשע להיות עד חמס
 Therefore, we do not accept his testimony.
 The רבנן hold, as explained by רבא,
 אדם קרוב אצל עצמו
 ואין אדם משים עצמו רשע
 ופליגינן דיבורא
 We divide the testimony. We accept his testimony that the husband is dead, but we do not accept that the עד killed the husband.
 -2-
 The second explanation is;
 The opinion of the רבנן is based on the rule
 שאני עדות אשה דאקילו בה רבנן
 The רבנן were lenient regarding a woman remarrying, so that she would not remain an Agunah, and believed even an עד that testified that he himself is a רשע.
 However, רבי יהודה differentiates as רב מנשה taught;
 גולן דדבריהם כשר לעדות אשה
 גולן דדברי תורה פסול לעדות אשה
 That only if the עד is testifying that he did an איסור דרבנן are we lenient to say that he is believed regarding עדות אשה, but if the עד is testifying that he did an איסור דאורייתא we are not lenient, and he is not believed even regarding עדות אשה.
 Therefore, in our case where the עד is testifying that he killed the husband, which is an איסור דאורייתא, he is not believed.
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