



The Hakuk Edition **English Topics on the Daf**

Dedicated l'refuah sbeleima for Yaakov ben Victoria

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YEVAMOS DAF 92 IS DEDICATED:

לזיין ר' אפרים דב בייר אהרן אליעזר זייל ור' נפטלי בייר יהודה שמואל זייל

Yevamos Daf 92

We round off the sugya here with a fundamental machlokes about the potency of one witness. When Beis Din paskens that she is permitted to remarry and then the husband shows up afterwards, Zeiri and Rav Nachman argue if that was a valid psak. The difference is if she must bring a korbon chatos.

Both aspects are certainly true. Beis Din is empowered to believe the testimony of one witness in this area, and it certainly was found to have been false. What is the core of their dispute?

The Meiri explains that each Amora focuses on a different part of the picture. Rav Nachman holds that the authorization of the Beis Din's ruling remains straight through to the end. That is the uniqueness of this halacha, and it doesn't matter if it's proven false. However, Rava asserts that we look at what actually happened, and the woman's accidental sin is undeniable.

Another perspective in the Rishonim (R' Avraham min Hahar) is that they argue over where to pinpoint the error. Zeiri maintains that Beis Din issued their hetter based on the testimony, and that was erroneous. Hence, the whole psak was unfounded and she must bring a korbon. Rav Nachman argues that this is not a simple rabbinic ruling based on testimony, since one witness is not enough in any other halacha! Rather, Beis Din has special authority to permit her, because of the reasoning that "a woman will investigate first" or since "it's bound to be revealed anyway" (daf 93b). Therefore, even if it turns out bad, the foundation of the psak was not incorrect. So she doesn't need a korbon.

In a slight variation of this track, the Netziv (Meromei Sadeh) refers us to that sugya on daf 93 that explores which of the two reasons mentioned is the main one. He explains the two sides of the query as clarifying which is the dioraisa reasoning

and which is midirabonon, serving to strengthen the halacha. Rava himself there says the main reason is that "it's bound to be revealed," so the witness is probably telling the truth; he wouldn't want to be found a liar. So, even though in our case the first witness was disproved, if another one comes later we may rely on him. In contrast, if the logic is "she'll investigate thoroughly," then the profusion of contradictory witnesses mars this chazaka and we should not have permitted her to remarry in the first place. Rav Nachman has the opposite opinion, and the main hetter is based on the witness' reliability. This continues no matter what happens afterwards.

The Noda B'Yehuda suggested that Rashi here (explaining Rav Nachman) implies that one witness is believed only midirabonon. In a teshuva written by his son, however, he asked that Rashi in a different place implies that it's dioraisa. In Shabbos 145b Rashi says that since all kiddushins are subject to the Rabbis' discretion, they essentially revoke the original kiddushin upon the testimony of one witness. He writes this to address the question of Rishonim that the Rabbonon wouldn't enact something actively contrary to the Torah laws. When it comes to kiddushin, though, it is in the hands of the Rabbis, since it is performed "al daas Moshe v'Yisroel." Retroactively the couple were never married. The result is that the single witness is relied upon even for dioraisa halachos, such as the wife remarrying. How does this fit with Rashi in our sugya?

He answers that Rav Nachman clearly holds it's midirabonon, as he emphasizes that it's a psak of Beis Din and not a regular testimony. If one witness were to be trustworthy midioraisa, there's no proof that eidus isha is any different from the

"rest of the Torah"! It must be that there is never any credibility for a single witness, and in our case Beis Din has special authorization to permit agunos. Zeiri and Rava, on the other hand, look at it just the opposite. This is an instance where one witness is believed midioraisa, and his testimony is later found to have been false, so she must bring a korbon.

The halacha follows Zeiri – and that is why Rashi in Shabbos says it works midioraisa! (Noda B'Yehuda E.H. II, 147)

This was relevant to a sheilah posed to the Noda B'Yehuda of a wife who left home during a famine to seek sources of food. Many years elapsed with no word from her, and her husband sought a hetter to remarry. The Noda B'Yehuda was reluctant to issue a hetter, for various reasons, even though it seemed likely that she passed away during the famine. What tipped the scale to permit him was the apparent existence of a witness who knew someone who had a letter detailing her death. The Noda B'Yehuda paskens that one witness is effective midioraisa, and certainly in this case, since a man marrying more than one wife is forbidden only due to the enactment of Rabbeinu Gershom. One witness is believed to override a possible infringement of that takana (for more details, see Pischei Teshuva E.H. 1:15). He concludes that anyway, they must first obtain a permission from the governor. And that he wished to interrogate the witness, as he suspected that the husband has falsified it.