



לע"נ ברוך בענדיט וברכה גרוס ע"ה
by Mr. & Mrs. Duvy Gross

לע"נ אסתר אביגיל בת חיה רבקה וציפורה רחל בת אסתר מחלה THE DIMONT FAMILY EDITION

THE SHABUOT MATTERS

שבת קודש פרשת דברים | מסכת יבמות דף קט"ז

לע"נ בנימין בן יעקב
לע"נ מאיר יהודה בן דוד צבי

IYUN ON THE DAF

By Rabbi Yitzchok Gutterman

The גמרא asks if we would believe a single witness when we know the husband and wife were fighting (קטטה). The question hinges on whether we believe an אחד עד only in conjunction with אשה דייקא ומנסבא which would not apply to woman who hates her husband or do we believe the אחד עד because it is a חילתא דעבידא לגלויי so we know he won't lie. The גמרא leaves it as a תיקון. The ריטב"א and others point out that the גמרא earlier had this exact same question regarding believing an אחד עד in times of war and the גמרא came out that the נאמנות is based on לגלויי so we could believe the אחד עד. It should follow therefore that להלכה we should be believe an אחד עד in a case of קטטה as well. Nonetheless, the גמרא in our רי"ף says an אחד עד cannot be believed yet by the case of wartime he says an אחד עד can be believed. Even more unusual is that the רמב"ם in רמב"ם א' פרק י"ג הל' א' says the אחד עד isn't believed when there is קטטה since we are afraid she hired the witness to get her out of the marriage. The ריטב"א asks where did the רמב"ם get this חשש from? The גמרא certainly never mentions that חשש. The רמב"ם didn't have the גירסא on our דף that we do. The גמרא just asked if we believe a single witness when there is קטטה and didn't give the צדדים why we would or would not believe him like our גירסא does. Therefore, since the גמרא already paskened that we trust an אחד עד because of לגלויי, it must be that in a case of קטטה there is an added concern which the רמב"ם understood to be that the woman would hire a false witness. That would explain both the רי"ף and רמב"ם being מחמיר by an אחד עד yet being מקיל by קטטה.

STORIES OFF THE DAF The Widow's Cries

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

As 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!"

PARSHA CONNECTION

In this week's daf the גמרא quotes a מחלוקת regarding someone who was transporting מני חטאת in the ירדן. We find the ירדן in the first פסוק of this week's פרשה, when משה רבינו admonished בני ישראל משה רבינו at the end of 40 years. What is the significance of this taking place at the end of 40 years? The אור החיים הקדוש writes that only now, when they can already see themselves entering ארץ ישראל, were they able to listen to מוסר, but prior to this point they would not have been receptive to it. At this point משה רבינו doesn't admonish explicitly, but rather he alludes to what they did in the past, by hinting at these events. However later on (פרק ט פסוק ז') he tells them explicitly "ד' מ'מרים הייתם עם", why does he change? The הקדוש explains, that משה רבינו didn't know if they would react positively to his מוסר. He therefore started out by hinting at what they did, and only after seeing that they took it in a constructive way, he switched to a direct explicit approach.

HALACHA HIGHLIGHT

Behaving Brazenly

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

As R' Hammuna 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.

Shulchan Aruch¹ rules in accordance with this principle of R' Hamnuna that a woman would not behave brazenly towards her husband. Rema², however, cites Ramah who maintains that nowadays there is an abundance of disrespect and promiscuity, consequently, the presumption has (חוצפא) 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 Sirkis³, 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'chokeik⁴, disagrees with the assertion of Bach that the unwillingness to rely לכתחילה on the principle is limited nowadays to 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 Hashulchan⁵ rules in accordance with the position of Bach that a married woman who marries is not required to divorce her second husband. Ezras Nashim⁶ 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 Teshuvah⁷ writes that nowadays if there is a rationale to her claim (אמתלא) the principle could be applied and Aruch Hashulchan⁸ 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' ח'
6. עזרת נשים שם סק"ק
7. פת"ש שם סק"ט
8. ערוה"ש שם

MUSSAR FROM THE DAF

The Hate Trap

קטטה בינו לבינה וכו'. היכי דמי קטטה בינו לבינה, אמר רב יהודה אמר שמואל: באומרת לבעלה "גירשתני". כולה נמי אמרו הכי! אלא באומרת לבעלה "גירשתני"

The Gemorah tells us that a case in which we don't believe a wife that her husband died; The case would be when we know that the woman once tried to falsely claim that she was given a get from her husband in front of edim, and then we soon after questioned the edim who disputed the claim of the wife. What was the woman thinking when she falsely singled out edim who said the wife received a Get? Doesn't she realize that they would deny the claim? And what was the wife thinking when she falsely stated the husband died without having any good reason to believe he won't show up anyway? This could create much havoc in her life as she would have to leave her new marriage, leave her old marriage and kid could be mamzereim! Let's look at what Chazal (Sanhedrin 105a) tell us about Bilam when he saddled the donkey by himself. Didn't he have servants who could do it for him? Chazal explain what was happening through the לאל השורה. This Klal Teaches us that sometimes a person is so full of hatred, that there is no logic (sechel) to their actions. This explains how Chazal understood such a lady. Chazal understood if her Sinah to her husband was so strong that she was willing to single out edim who were not never really witnessed the Get, then she has reached such a high level of Sinah, that she is living in a world of delusion without any logic. Only such a person with such Sinah could ever create a fictional scenario of her husband's death, with a high chance of terrible consequences occurring. We are told that the First Bais Hamikdash was destroyed because of the 3 averos Chamors, but the 2nd Bais Hamikdash was destroyed because of Sinas Chinam yet we haven't been able to rebuild it. (Yoma 9b) Why not? With the Yesod we just developed, we can now understand. Sinah is unique in that it overcomes any possibility of logic. "שהשנאה מקלקלת את השורה" Without logic, teshuva becomes very difficult. One can't see how they may be wrong when one is flooded with Sinah. Therefore, we have not been able to recover and perform proper teshuva from the Chet of Sinas Chinam. We see from Chazal how crucial it is to stay as far away from Sinah as possible. Not only will it corrupt one's sechel to make foolish/childlike decisions, but it entraps a person so that it is not so easy for a person to escape its grips.

POINT TO PONDER

ר"ב says that in case we know that there are 2 people in a town with the same name, and we find a גט bearing this name, we should not use it. Even though there are witnesses who testify that one of the 2 was with them on that day in a different city, we are concerned that he run very quickly, or flew in the air, or instructed them to write on his behalf. Since instructing someone is relatively simple and doesn't necessitate a נס, why does he need the first 2 reasons?

Response to last week's Point to Ponder:

The גמרא writes that this is not a true נס, but rather the גמרא meant that it should be treated like a נס. Since if she said that he died without mentioning a war we would believe her, we should similarly believe her when she is the one who mentions a war.

ר' יוסף שמואל שמעלקא ב"ר יצחק מערמעלשטיין ז"ל, Shelly Mermelstien, לע"נ has been dedicated to Yemos

For more points to ponder by Rabbi Yechiel Grunhaus, or insights by Rabbi Gutterman, please visit our website, dafaweek.org, or download the app

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