

OVERVIEW of the Daf

1) A woman's credibility to testify that her husband died (cont.)

The Gemara concludes its inquiry concerning a woman's credibility to testify that her husband died in war when our knowledge of the war comes from her testimony.

Two unsuccessful attempts are made to resolve this inquiry and the question remains unresolved.

An incident related to a Beraisa cited in the previous discussion is presented.

2) A single witness' credibility to testify that a man died during wartime

The Gemara inquires whether a single witness is believed to testify that a man died during wartime.

Two unsuccessful attempts are made to resolve this inquiry and the question remains unresolved.

3) The credibility of identifying marks

An incident and subsequent debate related to the credibility of identifying marks on objects is recorded following the Beraisa's allowance to declare a person dead based on identifying marks.

4) A concern for people sharing the same name

An incident is presented that led to a debate between Abaye and Rava whether it is necessary to be concerned that there are two people who share the same name.

Abaye cites support for his position and the Gemara records Rava's response to that proof.

Rava cites support for his position. ■

REVIEW and Remember

1. Is a woman believed when she testifies that her husband died in a burning building from which she escaped?

2. What is מים שאין להם סוף?

3. Are identifying marks reliable evidence that a man died?

4. How did Abaye prove his position to be concerned for two people with the same name?

Distinctive INSIGHT

Is providing the number or volume an adequate sign?
הכא מאי סימנא איכא ודקאמר וכן וכן הויין אימר חושבנא
איתרמי

Rav Chisda and Rava argue in the case where sesame seeds were deposited with a watchman, and when the owner came to retrieve them, the watchman claimed that he had already returned them. When the owner was able to accurately identify the container and the amount of seeds that he had deposited, Rav Chisda was satisfied that they were the very seeds found in the possession of the guard, and that the seeds had to be returned to their owner. He felt that the information was compelling, and in this regard it was similar to the prior case in the Gemara of the two Torah scholars whose identity had been ascertained with proper identifying marks. Rava was not convinced. In the case of the men who drowned, the identity had been established based upon unique marks, but in the case of the sesame seeds, neither the container's marks nor the knowledge of the volume of the deposited seeds was specific enough to prove ownership.

Tosafos notes what seems to be an inconsistency in the Gemara. Here, Rava holds that identifying a number is not conclusive, yet the Gemara in Bava Metzia states that if someone can tell us a number (of coins) that were lost, we rely upon that information as being an indication of ownership. Tosafos answers that in general, knowing the amount of items that are in a pile or purse is clearly something that only the owner would know. Our Gemara is speaking where the jugs of seeds had uniform volumes in them. Therefore, being able to say that the jug had a specific amount of seeds in it means nothing.

Ritva explains that giving a number is always considered a sign of ownership, but it is a poor sign. In reference to retrieving a lost object, this is adequate. Here, in reference to retrieving a deposited item, the owner is trying to counter the fact that the item is already in the possession of the watchman. Here, he must provide a convincing sign (סימן מובהק). Being able to describe mere volume amounts is inadequate. ■

HALACHAH Highlight

A woman's weapons are upon her

דאמר ר' איסי אשה כלי זיינה עליה

As R' Idi said, a woman's weapons are upon her.

The Gemara suggests that a woman will not flee while her husband is murdered by idolaters because she knows that her sex protects her from being murdered herself. Teshuvos Avodas Hagershuni¹ expresses uncertainty whether this principle of the Gemara applies only when a married woman testifies that her husband was killed since she will likely remain with her husband until he dies or does it apply to any woman? He proceeds to demonstrate that whether one follows Rashi's or Tosafos' explanation of this principle it would seem that it is limited to a wife who testifies that her husband is dead. Rashi² explains that the idolaters will not kill her since they could have relations with her. Accordingly, it is logical to assume that the principle only applies to a wife since it is unreasonable that a woman would put herself at risk of having relations with an idolater to witness a stranger's death. Tosafos³ explains that the reason the idolaters will not kill her is because women are by nature less combative; consequently, they will not feel threatened by her presence. Nonetheless, the idolaters will still cohabit with a woman if given the chance so it seems logical

that a woman would not remain if the man was not her husband.

Tiferes Tzvi⁴ also maintains that only a wife would remain behind with her husband and could testify with certainty of his death. The rationale is that she is not afraid of death, since her weapons are upon her and she is willing to take the risk that the idolaters will violate her in order to be with her husband. Sefer Chein Tov⁵ disagrees and holds that any woman is believed to say that a man was killed by idolaters and cites Rashi's comments to our Gemara as support for his position. Since Rashi⁶ writes that women are not afraid of the bandits it would seem that any woman is included in this leniency.

There are two interesting questions regarding this principle. The first question⁷ is whether this principle applies to a man disguised as a woman. A second question⁸ concerning this principle is whether this principle applies to elderly women who are unfit for relations. ■

1. שו"ת עבודת הגרשוני סי' ק"ו
2. רש"י עבודה זרה כ"ה ד"ה אשה
3. תוס' שם ד"ה איכא בנייהו
4. תפארת צבי סי' י"ז
5. ספר חן טוב שם ס"ק קע"ג
6. רש"י בסוגייתנו ד"ה התם
7. ספר דופקי תשובה קונטרס חקר הלכות על תקנת עגונות סי' ז'
8. כנה"ג שם הגה"ט אות תקל"ח ■

STORIES Off the Daf

False advertising

אי נמי לפנחיה שבקיה

A person once needed to send matzos abroad. Although he wrote "fragile" on the boxes, they matzos were broken when they arrived. Subsequently, the man wrote the word "glass" on the boxes, and his solution worked. Afterward, the man's friend asked, "Who said you are permitted to lie in writing in order to safeguard an object?"

The question was presented to Rav Yosef Shalom Eliashiv, zt"l, and he permitted the action. Rav Chaim Kanievsky, shlit"a, explained Rav Eliashiv's psak: "In Yevamos 115b we find that even if a barrel is marked 'teruma' we assume that the contents are chulin, since it was common practice to label a

barrel teruma merely as a means of safeguarding the chulin contents from thieves. Clearly, then, there is no prohibition against falsifying the nature of the contents of a container in order to safeguard them!"

Dayan Yaakov Yisrael Fisher, zt"l, dissented, however. "Although I also permit the action, I rely on a different reasoning. The Gemara in Yevamos is no proof at all. No one actually marked a vessel filled with chulin with the sign for 'teruma.' Chulin was merely placed in a vessel which had once contained teruma and was marked appropriately at the time it was originally filled! In our case, the word 'glass' was actually written on boxes containing matzah!"

Rav Chaim defended his proof, though. "What's the difference? The point is that by placing the chulin in a vessel marked as 'teruma' the sender is fooling people into thinking that the

contents are teruma. Just as writing 'glass' on a boxes of matzos fools the handlers into believing that they contain glass. We see from the Gemara that this is permitted as long as one does it to protect his property."

Rav Fisher still disagreed. "There is no correlation between the two cases. Placing the chulin in a vessel marked 'teruma' is a form of shev v'al taaseh since the person didn't actually commit a lie to writing. He merely stored one item in a box that had been duly marked when it contained something else. Writing glass on a box of matzah is an overt action. I permit because he did not write that the contents are glass, he merely wrote the word 'glass.'"

The Rebbe of Toldos Aharon, zt"l, explained further: "The man is merely requesting that they handle his packages like glass!" ■

