



Today's Daf In Review is being sent l'zecher nishmas Habachur Yechezkel Shraga A"H ben R' Avrohom Yehuda

Kesubos Daf Yud Ches

- **Q:** When giving the case of when **R' Yehoshua** would agree, why couldn't the Mishna give the case of where a person tells another, "I borrowed money from you, but I have already paid you back", in which case he would be believed? **A:** The Mishna wanted to give the case where he wouldn't be believed if there were witnesses who support the first half of his statement (i.e. in this case that he had borrowed the money). However, in this case, even if there were witnesses that he had borrowed the money, he would still be believed, because one does not have to pay back a loan in front of witnesses, so they would not be able to testify that it was not paid back.
- **Q:** Why couldn't the Mishna give the case of where a person tells another, "I borrowed money from your father and paid back half of it", in which case he would be believed? **A:** That cannot be, because a Braisa says that in that case **R' Eliezer ben Yaakov** says this would be an example of where a person would have to swear on his own admission that he has paid back what he claims to have paid, and the **Rabanan** say that he would be considered as one returning a lost item (since the son had no way of proving that the money was lent) and would be believed without an oath, even if the son is the one who made the claim (and it wasn't a self-admission, and therefore he is believed not just on the bases of "hapeh she'asar").
 - **Q:** **R' Eliezer ben Yaakov** would surely agree that one returning a lost item does not have to swear, so why would this person have to swear? **A:** The case is where the claim is being made by a minor orphan. It is only in that case that he makes the borrower swear.
 - **Q:** A Mishna says that one need not swear to combat the claim of a deaf-mute, shoteh, or minor!? **A:** The orphan was an adult. He is referred to as a minor in the sense that he does not know of the financial affairs of his father.
 - **Q:** If so, how can the Mishna refer to this case as a self-admission? **A:** It is based on the claim of another, but his own admission as to partial payment. That is what is meant by self-admission.
 - **Q:** Every case of swearing for partial payment involves this as well, and is still not referred to as self-admission!? **A:** The machlokes in the Mishna is based on the concept of **Rabbah**, as to why a partial admission must swear. He says it is because a person is embarrassed to lie and deny a claim completely, but does so partially so as to find more time to pay. The **Rabanan** say that a person would have no problem denying the claim of the son, since it was his father, and not him, who lent the money. Therefore, a partial admission is like the return of a lost item. **R' Eliezer ben Yaakov** says that a person would not have the chutzpah to fully deny the claim of the son either. That is why the partial admission is like the partial admission to the father himself, which requires the person to swear regarding the rest.

MISHNA

- If witnesses come to court to authenticate their signatures on a loan document, and they say, "These are our signatures, but we were forced to sign", or "we were minors", or "we were passul to be witnesses", they are believed to say so. However, if there are other witnesses who authenticate these signatures, or if Beis Din can authenticate them based on comparison to other documents, they are not believed.

GEMARA

- **Rami bar Chama** said, when the Mishna says they are not believed if the signatures are authenticated independent of their testimony, that is only if they claim that they were forced under financial duress. However, if they claim to have been forced under threat to their lives, they are believed even then.
 - **Q: Rava** asked, why are they believed? The Halacha is that once witnesses have testified, they may not change that testimony, and **Reish Lakish** said that written testimony has the status of oral testimony!? **A:** What **Rami bar Chama** must have said was, that when the Mishna says they *are* believed (in the first part of the Mishna), that is only if they claim to have signed under threat to their lives. However, if they claim to have signed under financial duress they are not believed, because a person cannot establish himself as a rasha (and they are therefore not believed regarding the part of their statement that they signed falsely under financial duress).
- A Braisa says, **R' Meir** says, witnesses who authenticate their signatures on a document are not believed to then make it passul. The **Chachomim** say that they are.
 - **Q:** The **Rabanan's** view is based on "peh she'asar peh shehitir". What is the reason for **R' Meir's** view? **A: R' Chisda** said, it is because **R' Meir** holds that if witnesses are told to sign a false document or be killed, they must allow themselves to be killed.
 - **Q: Rava** asked, one must only give up his life to prevent from violating the aveiros of avodah zarah, murder, and znus!? **A: R' Meir** is referring to a case where the borrower agrees to having written the document but claimed that it had already been repaid, and **R' Meir** holds like **R' Huna in the name of Rav**, who said that when the borrower agrees to have written the document, it no longer needs to be authenticated by witnesses. Therefore, the witnesses are not validating the document and can therefore not make it passul either.