



Daf In Review – Weekly Chazarah

מaseches Kesuvos, Daf ז' – Daf ז'

Daf In Review is being sent l'zecher nishmas R' Avrohom Abba ben R' Dov HaKohen, A"H
v'l'zecher nishmas Habachur Yechezkel Shraga A"H ben R' Avrohom Yehuda

-----Daf ז'---17-----

- A Braisa asks, with what praises do we dance in front of a kallah? **B"S** say we praise her according to her actual attributes. **B'H** say, in all cases we say that she is a beautiful and charming kallah. **B"S** asked, if the kallah is lame or blind are we to say this as well? The Torah says one may not lie! **B'H** said, when we see one who made a bad purchase, surely we praise the purchase so that he not feel bad. The same is for a kallah. From here the **Chachomim** said, a person's mind should always be with the people (if the kallah found favor in the chosson's eyes we should praise her to him).
 - **R' Dimi** said that in Eretz Yisrael they would praise a kallah by saying that she is beautiful without makeup or braids in her hair.
 - When **R' Zeira** got smicha, the **Rabanan** said this quote as well (meaning that he didn't need nice clothing to make him who he was).
 - When **R' Ami** and **R' Assi** got smicha, the **Rabanan** said, it is people like this who deserve smicha.
 - The Gemara says that the maids of the Caesar would praise **R' Avahu** when he would arrive at the palace.
 - **R' Yehuda bar Illai** would dance in front of the kallah with a hadas, and would say "kallah na'eh v'chasudah".
 - **R' Shmuel bar R' Yitzchak** would juggle 3 hadassim. **R' Zeira** thought it was improper for a talmid chochom to do this. However, when **R' Shmuel bar R' Yitzchak** died, a pillar of fire came near him, which was a showing of great honor.
 - **R' Acha** would dance with the kallah on his shoulders. When the **Rabanan** asked if they should do so as well, he told them, only if when you carry her it is in your mind as if you are carrying a beam.
 - **R' Shmuel bar Nachmeini in the name of R' Yonason** said that it is mutar to look at the kallah during the 7 days of sheva brachos. The Gemara says that we do not pasken this way.
 - A Braisa says, if the paths of a funeral and a kallah going to her wedding cross, the funeral must allow the kallah to proceed first. Both of these need to allow a king to pass first. King Agripas once stopped to allow a kallah to proceed, and the **Chachomim** praised him for doing so.
 - **Q:** How could a king do that? **R' Ashi** has said that a pasuk teaches that a king may not be mochel on his honor! **A:** The story happened at a crossroads, so it was not very obvious that he was allowing her to go first. Therefore, it was allowed to be done.
 - A Braisa says, we stop learning to go and participate in a funeral, and to bring a bride to the wedding. It was said about **R' Yehuda the son of R' Ilai** that he would stop learning to do these activities. This ruling is only when the person is needed to help bury the dead. However, if there are sufficient people without him, he may not stop his Torah learning.
 - **Q:** How many people are considered sufficient to bury the meis? **A: R' Shmuel bar Inya in the name of Rav** said, 12,000 men and 6,000 men with shofars. Others say that it is 12,000 men of which 6,000 have shofars. **Ulla** said, it is sufficient if there are enough people to take up the space between the city and the cemetery. **R' Sheishes** said, just as the Torah was given with 600,000 people, so too when it is being taken away (when a talmid chochom dies) it should be with 600,000 people.
 - This is for one who learned Tanach and Mishna. For one who taught Mishna, there is no limit.
- V'IHM YEISH EIDIM SHEYATZISAH B'HINUMA...
- **Q:** What is a hinuma? **A: Surchav bar Pappa in the name of Ze'iri** said, it is a round chupah of hadassim. **R' Yochanan** said it is a veil covering the face of the kallah.
- R' YOCHANAN BEN BROKA OMER...

Daf In Review – Weekly Chazarah

- **Q:** The Mishna taught the customs for the wedding of a besula in Yehuda. What would be some customs for such a wedding in Bavel? **A:** Rav said, the rubbing of oil on the heads of the Rabanan.
- **Q:** What would they do if the kallah was a widow? **A:** R' Yosef taught, they would not throw the dried grain.
U'MODEH R' YEHOSHUA B'OMER L'CHAVEIRO...
 - **Q:** Why didn't the Mishna give the case where one tells another, "This field was yours and I bought it from you", and say that R' Yehoshua would agree that he is believed based on a miguy? Why give the case where he claims to have bought it from the person's father? **A:** The Mishna later says, if there were witnesses that it belonged to the father, the person is not believed. This statement could not have been said about a previous owner directly, because if the purchaser has had it for 3 years, he has a chazaka and would be believed against the witnesses, and if he did not yet have it for 3 years, it would be obvious that he would not be believed.
 - **Q:** Why don't we ask the same question regarding the claim that he purchased it from the father (if he had it for 3 years he is believed no matter what, and if he had it for less, it is obvious that he is not believed)?! **A:** The case of the father is a chiddush for when the purchaser had the field for 2 years during the father's lifetime and one year during the minor son's lifetime, in which case it is not considered to be a chazaka.
 - **Q:** Why couldn't the Mishna say we are discussing where he claims to have bought it from the other person himself, but the case is where he had it for 2 years in the previous owner's presence and one year when he wasn't there (he had to flee), and this will also teach that this is not considered to be a chazaka?! **A:** This can't be the case. If he had to flee to save his life, it is obvious that it would not be a chazaka. If he had to flee for monetary matters, he still should have gone to Beis Din in any place to protest the chazaka, which would prevent it from taking effect, because we find in a Mishna that a protest made to prevent a chazaka may be made in any place.

Daf נ'---18-----

- **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

Daf In Review – Weekly Chazarah

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 znu!?! **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.

-----Daf 19-----

- We mentioned that **R' Huna in the name of Rav** said, that if one agrees to having written a document, we don't need witnesses to authenticate it. **R' Nachman** said to him, why don't you attribute that Halacha to **R' Meir**? **R' Huna** asked **R' Nachman** what his own view was, and he responded that he held that the document must still be authenticated.
- **R' Yehuda in the name of Rav** said, if a person admits to having written a document to borrow money, but says that the loan never took place and that the document was given to the prospective lender in trust that he would not collect with it, he is not believed.
 - **Q:** What is the case referred to? If it is that the borrower is not believed, that is obvious. If it is that the lender is not believed, why wouldn't he be believed? If it is that the witnesses on the document are not believed if they come and say that, and their signatures are not independently authenticated, why are they not believed? **A:** **Rava** said, the case refers to the borrower, and the reason he is not believed is based on the statement of **R' Huna in the name of Rav**. **A2: Abaye** said, the case refers to the lender,

Daf In Review – Weekly Chazarah

and the reason he is not believed is because it is a case where he himself has creditors who stand to take the money from him if he is able to collect on this document. He is not believed to passul the document, because his admission is detrimental to these creditors. **A3: R' Ashi** said, the case refers to the witnesses whose signatures are not authenticated elsewhere. The reason they are not believed is based on a statement of **R' Kahana** which says (based on a pasuk), it is assur for a person to keep a shtar amanah (a document written and given over in trust, without the loan having taken place), and **R' Sheishes the son of R' Ibi** said that witnesses could not testify to something that would mean the person did something that was assur (i.e. keeping of such a document).

- **R' Yehoshua ben Levi** uses the pasuk of **R' Kahana** to teach that one may not keep a paid-up loan document in his possession. In Eretz Yisrael they said in the name of **Rav** that the pasuk teaches that one may not keep a shtar amana or a paid-up document.
- **R' Ami** uses the pasuk to teach that one may not keep a Sefer Torah that has mistakes in his house for more than 30 days.
- **R' Nachman** said, if witnesses said that the loan document that they signed was written as a shtar amana, or that the sale document they signed was signed by the seller under duress, they are not believed. **Mar bar R' Ashi** said, in the first case they are not believed, but regarding the sale document they are, because the sale document is allowed to be written, whereas a shtar amana may not.
 - **Q: Rava** asked **R' Nachman**, what about if the witnesses say that the sale was done on a stipulation, are they believed? This may be different than the above cases, because he is not uprooting the document here, or maybe we say that he is essentially still uprooting the document? **A: R' Nachman** said that he paskens that the witnesses are believed in this case.
- **R' Pappa** said, if one witness says there was a stipulation and one says there was not, since they are both testifying that the document is valid, it is valid. Since only one says there was a stipulation, he is not believed against the now valid document.
 - **Q: R' Huna the son of R' Yehoshua** asked, if this is true, then even when both witnesses say that there was a stipulation they shouldn't be believed against the document once they have already authenticated it!? If you tell me that the authentication was done in a qualified manner, subject to the stipulation, and that is why they are believed, we should say the same thing with one witness who comes and says there was a stipulation!?
 - The Gemara says that the Halacha follows **R' Huna the son of R' Yehoshua**.
- A Braisa says, if 2 witnesses signed on a document and then died, and 2 other witnesses say that the signatures are authentic, but that the signed witnesses were forced to sign, were minors, or were otherwise passul, the second two witnesses are believed. However, if other witnesses also authenticate the signatures, or if they are authenticated based on another document in Beis Din, they are not believed.
 - **Q:** In this last case we would allow collection with the document? At the very least we have 2 witnesses against 2 witnesses, and collection should be disallowed!? **A: R' Sheishes** said, contradicting a witness is like hazmana of a witness in that it must be done in front of the witnesses. Therefore, the second set of witnesses cannot contradict the signed witnesses.
 - **Q: R' Nachman** asked, how can it be that if they were here their testimony would be contradicted, but now that they are not we believe it? **A:** Rather, **R' Nachman** said, it must be that we say the witnesses end up being 2 against 2, and the money stays by the one in possession.
 - **R' Avahu** paskened that hazmanah can only be done in front of the witnesses, but contradiction may even be done not in their presence. Also, a hazmanah done not in their presence is treated as a contradiction to them.

Daf In Review – Weekly Chazarah

- The Braisa quoted earlier said, if the document was authenticated by other witnesses, or if Beis Din can compare the signatures to the signatures on another document *which itself was challenged and then upheld*, then the witnesses who say that the document is *passul* are not believed.
 - This is a proof to **R' Assi**, who says that in order for a document to be used as a basis for authentication of another document, the document being used as the basis must have itself been challenged in Beis Din and then upheld.
 - In Nehardai it was said, we can authenticate the signatures of witnesses by comparing them to the signatures on 2 kesubos or 2 sale documents which tell of a sale in which the buyer has held quiet possession for 3 years.
 - **R' Simi bar Ashi** said, these other documents must come from someone other than the one who is looking to collect with the current document in question. However, if it comes from him we cannot use it to authenticate, because we are concerned that he studied them and forged the signatures. If they come from someone else, he doesn't have them for an extended period of time to study and then forge the signatures.
- A Braisa says, a person may write his testimony down, and then use that to remind him of his testimony which he can then give even many years later.
 - **R' Hunu** said, this may only be done when he remembers the essential testimony and only uses the writing to remind him of some details. **R' Yochanan** said, this may even be done if the writing is needed to jog his memory about the essential testimony.
 - **Rava** said, according to **R' Yochanan**, if one witness forgot the testimony, the other witness would be allowed to remind him.
 - **Q:** Can the litigant remind the witness of the testimony? **A:** **R' Chaviva** says that would be permitted, and **Mar the son of R' Ashi** says that he may not.
 - The Gemara paskens that the litigant may *not* remind the witness of the testimony. However, if the witness is a talmid chachom, his testimony is valid even if he was reminded by the litigant, as we find that **R' Ashi** said testimony after being reminded by **R' Kahana**, who was the litigant.
- A Mishna says, mounds that are near the city or the path, whether they are old mounds or new mounds, are considered to be tamei (we assume that a meis was buried under the mound). Mounds that are far from the city or path, if they are new we consider them tahor, and if they are old we consider them tamei. The Mishna says, **R' Meir** says “near” means within 50 amos and “old” means it is 60 years old. **R' Yehuda** says, “near” means there is no mound that is closer than it, and “old” means that no one remembers the origins of the mound.
 - **Q:** What is meant by the “city” and the “path”? **A:** **R' Zeira** explains, the “city” refers to the city closest to the cemetery, and the “path” refers to the path to the cemetery.
 - **Q:** It makes sense to be concerned for a mound near the path, because it is possible that people were on the path to bury someone on Friday afternoon, could not make it to the cemetery in time, and decided to bury the meis in a mound near the path. However the concern for the city near the cemetery seems to make no sense! **A:** **R' Chanina** said, we are concerned that women buried their miscarriages there and amputees buried their limbs there. These people are embarrassed to bury in the cemetery and they therefore bury within 50 amos of the city.
 - **R' Chisda** said, we can learn from **R' Meir** that people can remember testimony for up to 60 years, and not longer.
 - The Gemara says this is not so. It may be that people remember even longer. However, in the case of remembering the details of a burial site, it is not important to people, and therefore people don’t try and remember it.

Daf In Review – Weekly Chazarah

- If each of the 2 witnesses who are signed on the document testify as to the authenticity of his own signature and the signature of his co-witness, they are believed. **Rebbi** says, if each one only testifies regarding his own signature, they must each have a second witness to join them and authenticate their signature. The **Chachomim** say, they would not need a second witness, because a person is believed to authenticate his own signature by himself.

GEMARA

- We can conclude that the machlokes is based on the fact that **Rebbi** says the witnesses are testifying on their signatures, therefore 2 witnesses are needed for each, whereas the **Chachomim** consider the witnesses to be testifying regarding the underlying transaction of the document, and therefore each witness can authenticate his own signature.
 - **Q:** This seems obvious!? **A:** We would think that **Rebbi** is uncertain whether we should treat them as testifying regarding their signatures or regarding the underlying transaction, and therefore he would require the path that produces the more stringent result. The Gemara is teaching that he is certain, and therefore paskens that they testify regarding the signatures even if it results in a leniency. The case of a leniency would be where one of the signed witnesses died. In that case the **Rabanan** would say we need 2 new witnesses to authenticate his signature (if we allow the other witness to be one of the witnesses, we are essentially relying on his testimony for 75% of the document – completely for his signature and half for the other signature). **Rebbi** would say that the remaining witness may join with one other to authenticate the other witness' signature.
 - **Q:** According to the **Rabanan**, if there is only one witness besides the other signing witness, who can authenticate the dead witness' signature, what can be done to authenticate the document?
A: **Abaye** said, the live witness should sign his name on a piece of pottery and give it to Beis Din, so that they can authenticate his signature without his testimony, and then he can join the other witness to authenticate the signature of the dead witness.
 - He should not sign on a piece of paper, so that it not fall into the wrong hands and someone write an obligation above his name, making it look like he signed his name to the obligation.
- **R' Yehuda in the name of Shmuel** said that the Halacha follows the **Chachomim**.
 - **Q:** As the majority opinion, it is obvious that the Halacha follows them!? **A:** We would think that just as we pasken like **Rebbi** when he argues on another single view, we should also pasken like him against a majority. He teaches that we do not.
 - **Q:** We find that **Shmuel** once certified a document only when each witness authenticated his own signature and the other signature, which is not like the **Chachomim** said!? **A:** That case was the case of a document to be used by orphans to collect. **Shmuel** was concerned that they may try to collect in a Beis Din that erroneously followed **Rebbi's** view. Therefore, he authenticated it in a way that even such a Beis Din would accept. However, he did so only to help the orphans, not because he held that way.
- **R' Yehuda in the name of Shmuel** said, if one witness authenticates his own signature, and one judge authenticates his own signature on the certification, they combine to authenticate the document.
 - **Rami bar Chama** said, this is an excellent teaching. **Rava** said, this is not so excellent, because the witness (testifying to the underlying transaction) and the judge (testifying that the signatures were authenticated) are testifying to different things, and therefore cannot combine! **Rami bar Yechezkel** said that **R' Yehuda's** version of **Shmuel's** statement is incorrect, and in fact the witness and the judge cannot combine.
- It was said in the name of **R' Huna** (or possibly **Rav**), if 3 judges are sitting to certify a document, and 2 of the judges recognize the signatures of the witnesses, if they have not yet signed the certification the 2 may testify to the 3rd, and they may all then sign the certification. If they have already signed, they may no longer testify.
 - **Q:** We have learned that **R' Pappi in the name of Rava** said that a certification written before the testimony authenticating the signatures is passul, because it looks like a lie is being made. If so, how

Daf In Review – Weekly Chazarah

- could the certification have been written before the testimony!? **A:** The statement must have been that the 2 may testify before the 3rd as long as they have not yet begun to *write* the certification.
- We learn 3 things from here: 1) a witness may be a judge, 2) if judges recognize the signatures, they need not hear testimony regarding the signatures, and 3) each judge that does not recognize the signatures must hear testimony regarding the signatures (it's not enough for some of the judges to know).
 - **Q:** R' Ashi asked, it may be that testimony must always be heard, and the above case is ok because the 2 testified to the one, so testimony was said and accepted!? Also, it may be that testimony need not be heard by each judge, and only in this case that was important so that testimony be given!?
 - **R' Abba** was once relaying the statement that a witness may be a judge. **R' Safra** asked, a Mishna says, if 3 members of Beis Din saw the new moon, 2 of them should testify in front of the other one and at least 2 others (so that there is at least a Beis Din of 3), and they can then make the month Mekudash. This must be done, because a single judge is not enough to make the month Mekudash. If it is true that a witness can become a judge, why can't the 2 who testify then sit down with the 3rd, and declare the Chodesh as being mekudash? **R' Abba** replied, I was also bothered by this, and I asked the question, which made it all the way to **Rav**, who said that we can't compare the case of documents to kiddush hachodesh, because Kiddush hachodesh is D'Orasia, whereas certification of documents is only D'Rabanan.
 - **R' Abba in the name of R' Huna in the name of Rav** said, if 3 judges sat to certify a document, and a challenge about the fitness of one of the judges was raised, if they have not yet signed the certification the other 2 judges may testify about the fitness of the judge and he may then sign along with them. Once they have already signed, they may no longer testify, because they are considered to be biased at that point.
 - **Q:** In what way was the judge's fitness challenged? If he was claimed by witnesses to be a thief, how can the other judges testify to make him fit? At best they will be 2 against 2!? If the challenge was about his having tainted lineage, then it is not even considered to be a "testimony" that the other judges must give (it is a mere "giluy milsah"), and they should be able to do that even after they signed!? **A:** The case is where he was testified against as being a thief, but the other judges testify that he had done teshuva.
 - **R' Zeira** heard from **R' Abba**, if 3 judges sit to certify a document, and one of them died before being able to sign, the remaining two should write "We sat as 3, and one is no longer alive", and should then sign. **R' Nachman bar Yitzchak** said, as long as they mention that the document was brought before "the court", that would be sufficient, even though there are only 2 signatures (people will realize that one must have died).

Daf בב – 22

MISHNA

- If a woman says, "I was married, but I am now divorced", she is believed based on the rule of "peh she'assar peh shehitir". However, if there are witnesses that she was married, and she claims to be divorced, she is not believed.
- If a woman says, "I was captured, but I was not mezaneh with the goyim who captured me", she is believed based on the "peh she'assar peh shehitir". However, if there are witnesses that she was captured, and she claims that she was not mezaneh, she is not believed.
- If witnesses came after she was already married, she may remain married.

GEMARA

- **R' Assi** said, we learn the concept of "peh she'assar..." from the Torah. When a father says "Es biti nasati la'ish hazeh l'isha", the statement of "la'ish" makes her assur to every man in the world, and the statement of "hazeh" then makes her mutar to the man he gave her to in marriage.
 - **Q:** Why do we need a pasuk? This is a matter of logic – if we believe him to prohibit, we should believe him to permit as well!? **A:** This concept is learned from logic. The pasuk is used for other drashos.
- A Braisa says, if a woman says that she is married, and then went back and said that she is single, she is believed.

Daf In Review – Weekly Chazarah

- **Q:** She made herself a forbidden object (“chaticha d’isura”) with her first statement, so how can she then permit herself? **A:** **Rava bar R’ Huna** said, she is believed when she gives a reason as to why she made the first statement. A Braisa says this as well. The Braisa told the story of a woman who originally said she was married to keep unfit men from trying to marry her.
- **Q:** **Shmuel** asked **Rav**, what is the Halacha when a woman first says she is tamei (she is a niddah) and then says that she is not? **A:** **Rav** said, in this case as well, if she gives a reason why she initially said she was tamei, she would be believed that she is not tamei.
- A Braisa says, if 2 witnesses say a man died and his wife may remarry, and 2 others say that he did not die, or if 2 say she got divorced and 2 others say that she did not, the woman may not remarry, but if she did remarry she need not get divorced. **R’ Menachem bar Yose** says she would have to get divorced, but this is only if she got married after the witnesses came and testified that she may not get married. If she married before they came, he would agree that she need not get divorced.
 - **Q:** How can she or he remain married? Since it is 2 against 2 witnesses, he would be chayuv an asham taluy for living with her!? **A:** **R’ Sheishes** said, the case is where she married one of the witnesses who said that the first husband died. Since he is sure that she may remarry, he would not be chayuv an ashum taluy for living with her.
 - **Q:** She herself would be chayuv an ashum taluy for living with another man!? **A:** The case is where she says that she is certain that her husband has died.
- **R’ Yochanan** said, if 2 witnesses say a man died and another 2 say that he did not, his wife may not remarry, but if she did, she need not divorce. If 2 witnesses say a woman was divorced and another 2 say that she was not, she may not remarry, and if she did she must divorce.
 - **Q:** What is the difference between the 2 cases? **A:** **Abaye** said, the cases are where there is one witness against one witness. Regarding testimony that a husband has died, the Torah said that a single witness is believed as 2, and therefore the one who says that he did not die is considered to be a single witness who is opposed by 2 witnesses. Regarding testimony of divorce, we can’t believe the one who says she is divorced, because he is trying to change her status, which can’t be done with less than 2 witnesses. **A2: Rava** said, the cases are where there are 2 witnesses against 2. **R’ Yochanan** holds like the **Rabanan** regarding the case of death (and she need not divorce) and he holds like **R’ Menachem bar Yose** regarding the case of divorce (and she would have to divorce if she remarried). The reason is, if the husband were to return the woman would not be able to contradict him (and say that he is dead, so she must have obviously checked into the matter well to make sure he is dead), but in the case of divorce she could contradict him (and there is less of a certainty that she made sure she was divorced before remarrying), and would not be afraid to do so since she is backed by witnesses who say she was divorced. **A3: R’ Assi** said, the case is where the witnesses claim the husband died today, or that she was divorced today. In the case of death, we cannot ascertain the truth (the body was drowned or burned, etc.) and therefore if she got remarried she need not divorce. However, in the case of divorce, we tell her if she got divorced today show us the get (and since she can’t, she must divorce the second husband).

-----Daf יג---23-----

- A Braisa says, if 2 witnesses say a woman already accepted kiddushin and 2 others say she did not, she may not marry another man, but if she does she need not leave him. If 2 say she had gotten a divorce and another 2 say that she had not, she may not marry another man, and if she does she must leave him.
 - **Q:** What is the difference between the 2 cases? **A:** **Abaye** said, the cases are where there is one witness against one other witness. In the first case the woman was established as a single woman, so the witness saying she accepted kiddushin is not believed to change that status. Therefore, if she got married she need not leave him. In the second case, the woman was established as being married. The witness who says she was divorced is trying to change the status and is not believed. Therefore, if she gets married she must leave him. **A2: R’ Ashi** said, the cases are where there are 2 witnesses against 2

Daf In Review – Weekly Chazarah

witnesses, and the result must be reversed. The first case is where 2 say they saw her accept kiddushin and the other 2 say they never saw that. The case is where all these parties live in the same courtyard and we would think that if a kiddushin had taken place they surely would have heard of it. The Braisa teaches that they are not believed, because people give kiddushin in private, and therefore if she gets married she must get divorced. The second case is where 2 say they saw the divorce and 2 say they did not see it. In this case we say that she did get the divorce and the other 2 did not know about it, because people also give divorces in private. Therefore, if she got remarried she need not get divorced.

V'IM MISHENISEIS BA'U EIDIM LO SEITZEI...

- **R' Oshaya** said, this statement refers to the first part of the Mishna (where she claims to have been married and then divorced), and **Rabbah bar Avin** said, it goes on the next part of the Mishna (where she says she was captured but was not mezaneh).
 - **R' Oshaya** would say that it for sure applies to the second case as well, because the **Rabanan** are more lenient in the case of a woman who was captured. However, **Rabbah bar Avin** would say it only applies to the second case, and not the first.
 - **Q:** Shall we say that **R' Oshaya** holds of **R' Hamnuna** (that a woman is believed when she says she is divorced) and **Rabbah bar Avin** does not? **A:** All hold of **R' Hamnuna**. The machlokes is that **R' Oshaya** holds we believe her whether she says so in front of her husband or not (because she would not have the chutzpah to lie about something like that), and **Rabbah bar Avin** holds that she only doesn't have the chutzpah in front of his face (so it is only then that she would be believed).

V'IM MISHENISEIS BA'U EIDIM...

- **Shmuel's** father said, this is the case not only if she actually got married before the witnesses came, but even if Beis Din gave her a heter to marry before the witnesses came. The words of the Mishna "she need not leave" means that she need not leave from her heter to marry.
- A Braisa says, if a woman says she was captured and claims to have witnesses that she was not mezaneh, we allow her to marry a Kohen even before the witnesses come and testify. Once they allowed her to marry, if at that point the witnesses come and say they do not know whether she was mezaneh, we do not take away her heter to marry a Kohen. However, if witnesses come and say that she was mezaneh, she must divorce the Kohen even if they have been married for many years and have many children.
- There were women who were captured and **Shmuel's** father put guards next to them when they came to Neharda'a so that they should not be raped. **Shmuel** asked him, they were already alone with their captors before they came here, so what is the point? His father said to him, if it was your daughters would you also not care? Eventually **Shmuel's** daughters were captured as well. When they were able to, they ran away and went to the Beis Medrash of **R' Chanina** and told him they were captured but were not mezaneh. He paskened that they could marry Kohanim. The talmidim asked him, there are witnesses overseas, so how could we let them marry a Kohen? He said, since they are not here, we can't make her assur on account of them.
 - **Q:** This seems to say that if witnesses came we would say they are assur to marry a Kohen, but we have learned that once they are given a heter we do not remove that heter! **A:** **R' Ashi** said, they meant that there were witnesses overseas who could testify that the girls were actually raped.

MISHNA

- If 2 women are captured (and there are witnesses to the capture) and each says they were captured but not violated, they are not believed. If each one testifies that the other was not violated, they are believed (the **Rabanan** are lenient and believe the testimony of even one witness, even a woman, in this situation).

GEMARA

- A Braisa says, 1) if a woman says that she was violated but that her co-captive was not, she is believed. 2) If she says that she was not violated but her co-captive was, she is not believed. 3) If she says that they were both violated, she is believed about herself, but not about her co-captive. 4) If she says that neither of them were violated, she is only believed about the co-captive, and not about herself.

Daf In Review – Weekly Chazarah

- **Q:** In the second case she is not believed to say she was not violated and that her co-captive was. What is the case? It can't be that there are no witnesses, because she would then be believed regarding herself. If it is talking about where there are witnesses, then why is she not believed to say that the co-captive has been violated in the third case? It must be that there are no witnesses. If so, why is she not believed to say that she was not violated in the 4th case? Are we to say that the 2nd and 4th cases discuss where there are witnesses to the capture and the 3rd case is discussing where there are no witnesses!? **A: Abaye** said, we must say that the 2nd and 4th cases discuss where there are witnesses to the capture and the 3rd case is discussing where there are no witnesses. **A2: R' Pappa** said, in each case of the Braisa there is a single witness who testifies to the exact reverse of what she says. Therefore, in the first case of the Braisa she is believed to make herself assur (she makes herself a chaticha d'issura), and is believed regarding the other woman, because a single witness won't be believed against her. In the second case she is not believed regarding herself, because there are witnesses that say she was captured, and the co-captive is mutar, because the witness says that she was not violated. In the third case, she is believed to make herself assur and the co-captive is mutar based on the testimony of the witness (the chiddush of this case would be that we don't assume that they are both tahor and that she said she was tamei only to make it believable that her co-captive was tamei). In the 4th case she is tamei, because there is a witness to her capture and the co-captive is mutar based on her testimony (the chiddush is that she is believed even though she intended on making herself tahor as well).