

הוא גוי דהוה קאמר ליה לישראל: קטול
אספסתא ושדי לחיאי בשבתא, ואי
לא – קטילנא לך בדקטילנא לפלוגי בר
ישראל, דאמרי ליה: בשיל לי קדירה
בשבת, ולא בשיל לי, וקטילתיה. שמעה
דביתהו, ואתאי לקמיה דאביי. שהיתא

The Gemara relates that a certain gentile said to a Jew: **Harvest the fodder and give it to my animals on Shabbat, and if not, I will kill you like I killed so-and-so^h the Jew, for I said to him: Cook me a pot of food on Shabbat, and he didn't cook it for me, so I killed him. The wife of the missing Jew heard the gentile say that he killed her husband, and she came before Abaye to ask if she was permitted to remarry. He deferred the ruling in her case**

A certain gentile said...like I killed so-and-so – הוא גוי דהוה קאמר...בדקטילנא לפלוגי: A statement made by a gentile is deemed credible only when he spoke offhandedly. However, if there was any plausible reason to suspect that the gentile intended something else, e.g., terrorizing a Jew by telling him that he will kill him just as he killed another Jew, the gentile's statement may not be relied upon in order to permit the deceased's wife to remarry (Rambam *Sefer Nashim, Hilkhoh Geirushin* 13:12; *Shulhan Arukh, Even HaEzer* 17:14).

Perek XVI
Daf 122 Amud a

תלתא ריגלי. אמר לה רב אדא בר אהבה:
ייל לקמיה דרב יוסף, דחרין סבינא.

for three pilgrim Festivals, on which the Sages gather together to study, but he could not resolve this uncertainty on any of those occasions. **Rav Adda bar Ahava said to her: Go before Rav Yosef, whose knife is sharp, i.e., he has keen insight into halakhic matters, and ask him to decide your case.**

אולה קמיה, פשט מהא מתניתין: גוי שהיה
מוכר פירות בשוק, ואמר: "פירות הללו
של ערלה הן", "של עזיקה הן", "של נטע
רבעי הן", לא אמר בלום, לא נתבונן אלא
להשביח מקחו.

She went before him and he resolved the case based on this baraita: With regard to a gentile who was selling fruit at the market and said: 'These fruits are from the first three years of the tree's growth [*orla*]; or they are from Azeka,ⁿ i.e., land tilled on the Sabbatical Year, the produce of which it is prohibited to eat; or they are fourth-year produce, which it is prohibited to eat outside of Jerusalem, he has said nothing of consequence. His statement is not deemed credible, since it is possible that he intended only to enhance the reputation of his goods, as he thought that his produce would fetch a higher price if he described it in that fashion. Rav Yosef derived from this *baraita* that in the case of the missing Jew, the gentile's statement could not be relied upon, as he may have stated it only to promote his own agenda.

אבא יודן איש צידון אמר: מעשה בישראל
וגוי שהלכו בדרך, ובא גוי ואמר: "חבל
על יהודי שהיה עמי בדרך שמת בדרך
וקברתיו" – והשיאו אשתו.

Abba Yudan of Sidon said: An incident occurred involving a Jew and a gentile who traveled on the road,^h and later the gentile came and said: Alas for the Jew who was with me on the road, for he died, and I buried him. And the Sages relied upon this statement and allowed his wife to marry.

NOTES

They are from Azeka – של עזיקה הן: In his initial explanation of this term, Rashi interprets Azeka as a place guarded during the Sabbatical Year. He himself challenges this interpretation, but *Tosafot* defend it, in accordance with their view that it is prohibited to eat the produce of land that was guarded during the Sabbatical Year. Rashi's second explanation is that Azeka is a city in Eretz Yisrael mentioned in the Bible (Joshua 10:10–11). The gentile, who was located outside of Eretz Yisrael, was saying that the produce was imported from Azeka. Although he said this because he thought that produce from Azeka would fetch a higher price, he thereby also indicated that the produce was forbidden for consumption unless it was tithed.

The Ramban explains that Azeka refers to land that was worked and tilled on the Sabbatical Year, in which case its produce is forbidden. Alternatively, the term Azeka means simply that the trees had been cultivated. According to this interpretation, the gentile stated that the fruit was from trees within their first three years, and that the trees had been cultivated in order to enhance their fruit.

HALAKHA

ישראל וגוי – A Jew and a gentile who traveled on the road, etc. – שהלכו בדרך וכו': If a Jew and a gentile took a journey together, and the gentile came and said that the Jew who was with him died on the way, the Jew's wife is permitted to remarry, even if the gentile does not know who the man was, just as in the story told by Abba Yudan in the Gemara. The gentile's statement that he buried the Jew is merely part of retelling the story as it occurred, and the woman would be permitted to remarry even if he left out the details of his burial and merely said that the Jew died. However, some say that she may remarry only if, as was reported in that story, the gentile said that he buried him.

According to the Rema, whose opinion is based on the *Maggid Mishne*, the requirement that the gentile say that he buried him applies only if he was not acquainted with the Jew who was with him. If he knew him, there is no need for this. Furthermore, it is not necessary for the gentile to specifically say that he buried the Jew, as long as he provides other details that indicate that he was absolutely certain of the Jew's death and was not merely assuming that he was dead (*Beit Yosef*, citing Ran; Rambam *Sefer Nashim, Hilkhoh Geirushin* 13:25; *Shulhan Arukh, Even HaEzer* 17:17).

NOTES

And another incident, etc. – וְשׁוֹב מֵעֵשָׂה וְכוּ: Each of these stories contains a novel teaching. In the first incident, the gentile reported only about one individual, while the second incident shows that even if he reports about many, he may be relied upon. The third incident shows that he may be relied upon not only during times of peace, but also during wartime, when one might ordinarily be concerned that statements are merely conjecture. Even then one may rely on a gentile who speaks offhandedly (*Arukh LaNer*).

They also appear similar – אֵינְהוּ נִמְי דְמו: Although the shape of a demon is not naturally similar to that of a human, the demon can make itself appear like a human being. However, it cannot produce a shadow of a shadow (Rabbi Yehuda al-Madari).

LANGUAGE

Collar [*kolar*] – קוֹלָר: This word derives from the Latin collare, a large chain or ring, like that placed around the neck of an animal or prisoner. It is reasonable to assume that the group of collared people mentioned in the Gemara refers to a group of prisoners chained together by their necks, a common practice in those days.



Roman prisoner's neck chain

Seige [*karkom*] – כְּרֹבֹם: The source of this word is the Greek *χαράκιωμα*, *kharakoma*, meaning a fortified camp, indicating the wall made by an army when placing a city under siege.

It is likely that the men who were being led to the siege of Beitar were war captives assigned to forced labor to assist the Romans during the prolonged siege of Beitar. Given the harsh conditions of the forced labor and the war, it is not surprising that they all died.

וְשׁוֹב מֵעֵשָׂה בְּקוֹלָר שֶׁל בְּנֵי אָדָם שֶׁהָיוּ מְהַלְכִין לְאַנְטוֹכְיָא, וּבָא גּוֹי אֶחָד וְאָמַר: "חָבַל עַל קוֹלָר שֶׁל בְּנֵי אָדָם שָׁמְתוּ, וְקִבְרָתֵם" – וְהִשְׁיֵאוּ אֶת נְשׁוֹתֵיהֶם. וְשׁוֹב מֵעֵשָׂה בְּשִׁשִּׁים בְּנֵי אָדָם שֶׁהָיוּ מְהַלְכִין לְכְרֹבֹם בֵּיתָר, וּבָא גּוֹי וְאָמַר: "חָבַל עַל שְׁשִׁים בְּנֵי אָדָם שֶׁהָיוּ מְהַלְכִין בְּדֶרֶךְ בֵּיתָר, שָׁמְתוּ וְקִבְרָתֵם" – וְהִשְׁיֵאוּ אֶת נְשׁוֹתֵיהֶם.

מתני' מעידין לאור הַנֶּר וְלְאוֹר הַלְּבָנָה, וּמְשִׁיאִין עַל פִּי בֵּת קוֹל. מֵעֵשָׂה בְּאֶחָד שְׁעָמֵד עַל רֹאשׁ הָהָר, וְאָמַר: "אִישׁ פְּלוֹנִי בֶן פְּלוֹנִי מִמְּקוֹם פְּלוֹנִי מֵת". הִלְכוּ וְלֹא מָצְאוּ שָׁם אָדָם, וְהִשְׁיֵאוּ אֶת אִשְׁתּוֹ.

וְשׁוֹב מֵעֵשָׂה בְּצִלְמוֹן, בְּאֶחָד שְׁאָמַר: "אֲנִי אִישׁ פְּלוֹנִי בֶן אִישׁ פְּלוֹנִי, נִשְׁכַּמְנִי נַחֲשׁ וְהָרִי אֲנִי מֵת". וְהִלְכוּ וְלֹא הִכְיֹוּהוּ, וְהִלְכוּ וְהִשְׁיֵאוּ אֶת אִשְׁתּוֹ.

גמ' אמר רבא בר שמואל, תנא: בית שמאי אומרים: אין משיאין על פי בת קול, ובית הלל אומרים: משיאין על פי בת קול. מאי קא משמע לן? מתניתין היא! הא קא משמע לן: דאי משתכחת סתמא דאין משיאין – בית שמאי היא.

"וְהִלְכוּ וְלֹא מָצְאוּ", וְדַלְמָא שֶׁד הוּא? אָמַר רַב יְהוּדָה אָמַר רַב: שָׂרְאוּ לוֹ דְמוֹת אָדָם. אֵינְהוּ נִמְי דְמוּ! דְחֻזוּ לֵיהּ בְּבוּאָה.

And there was another incident^N involving a group of people who had been taken prisoner, each of whom was shackled with a collar [*kolar*]^L around his neck, and they were walking to Antokhya. And some time later a certain gentile came and said: Alas for the group of collared people, for they died, and I buried them. And the Sages allowed their wives to marry. And there was yet another incident involving sixty people who were walking to the siege [*karkom*]^L of Beitar, and later a gentile came and said: Alas for those sixty people who were walking on the road to Beitar, for they died, and I buried them. And the Sages allowed their wives to marry.

MISHNA Witnesses may testify that an individual died even if they saw his corpse only by candlelight^H or by moonlight. And the court may allow a woman to marry based on the statement of a disembodied voice^H proclaiming that her husband died. There was an incident with regard to a certain individual who stood at the top of a mountain and said: So-and-so, son of so-and-so, from such and such a place died. They went and found no person there, but even so they relied upon the statement and allowed the wife of the individual declared dead to marry.

And there was another incident in Tzalmon, a city in the Galilee, where a particular man said: I am so-and-so, son of so-and-so.^H A snake bit me and I am dying. And they went and found his corpse but could not recognize him, yet they went ahead and allowed his wife to marry based on what he said in his dying moments.

GEMARA Rabba bar Shmuel said: It was taught in a *baraita* that Beit Shammai say: The judges of a court may not allow a woman to marry based on the statement of a disembodied voice; they require actual testimony. And Beit Hillel say: The judges may allow a woman to marry based on the statement of a disembodied voice. The Gemara asks: What is Rabba bar Shmuel teaching us here? This is simply our mishna, since the decisive ruling follows Beit Hillel's opinion. The Gemara answers that he teaches us this: That if an anonymous mishna or *baraita* is found that states that the judges may not allow a woman to marry under such circumstances, it is simply the opinion of Beit Shammai, and is not the accepted ruling.

With regard to the incident where they heard a disembodied voice but went and found no person there, which is mentioned in the mishna, the Gemara asks: Perhaps it was a demon. Rav Yehuda said that Rav said: They saw that he had the form of a person, so they knew it was not a demon. The Gemara asks: They, i.e., demons, also appear similar^N to people. The Gemara answers: They saw that he had a shadow.

HALAKHA

Witnesses may testify even if they saw his corpse by candlelight – מעידין לאור הַנֶּר: Even if the witnesses saw the corpse only by candlelight or moonlight, they may testify to the individual's death (Rambam *Sefer Nashim*, *Hilkhot Geirushin* 13:22; *Shulḥan Arukh*, *Even HaEzer* 17:22).

The court may allow a woman to marry based on the statement of a disembodied voice – מְשִׁיאִין עַל פִּי בֵּת קוֹל: If people heard a voice saying: So-and-so died, and they searched the areas from where the voice emanated but found no one, the court may allow his wife to marry. If the voice was heard in a field or pit, where one might suspect the presence of a demon, one may not rely on this statement. In a case where there is any suspicion that the voice might be unreliable, it may not be relied upon. This applies even if the listeners saw a shadow of a shadow,

which indicates that the voice came from a human and not a demon, as we are no longer experts in the area of demons. It seems that according to the Rambam, in a period of danger one need not be concerned about this (*Vilna Gaon*; *Shulḥan Arukh*, *Even HaEzer* 17:10).

I am so-and-so, son of so-and-so, etc. – אֲנִי אִישׁ פְּלוֹנִי בֶן אִישׁ וְכוּ: If people saw an individual standing at a distance, and he identifies himself and says he was bitten by a snake and is about to die, and afterward they find him bitten by a snake and dead, but they cannot recognize him, the man's self-identification is deemed credible and his wife is permitted to marry. Some hold that the man must state his name, his father's name, and the name of his city (*Beit Shmuel*; Rambam *Sefer Nashim*, *Hilkhot Geirushin* 13:23; *Shulḥan Arukh*, *Even HaEzer* 17:23).

They established as protocol to allow a woman to remarry, etc. – הוחזקו להיות משיאין וכו' – If there is testimony that a man who has gone overseas died, it is relied upon to allow his widow to remarry, even if the testimony is of a single witness, a slave, a maidservant, or a close relative (Rambam *Sefer Nashim, Hilkhot Geirushin* 12:15; *Shulhan Arukh, Even HaEzer* 17:3).

ואינהו נמי אית להו בבואה! דחוו ליה בבואה דבבואה. ודלמא לדידהו אית להו בבואה דבבואה? אמר רבי חנינא, אמר לי יונתן שיא: בבואה – אית להו בבואה דבבואה – לית להו.

The Gemara asks: **But they also have a shadow.** The Gemara answers: It was a case where they saw that he had a shadow of a shadow. The Gemara asks: **But perhaps they also have a shadow of a shadow?** Rabbi Ḥanina said: **Yonatan the demon expert said to me: They have a shadow, but they do not have a shadow of a shadow.**

ודלמא צרה הואי? תנא דבי רבי ישמעאל: בשעת הספנה כותבין ונותנין, אף על פי שאין מכירין.

The Gemara asks: **And perhaps it was a rival wife, or some other enemy of that man's wife, who cried out that her husband was dead and then fled, in order to trick her into disgracing herself by remarrying while her husband was still alive?** The Gemara answers: **The school of Rabbi Yishmael taught:**^N **During a period of danger, one may write and give a bill of divorce to a woman, although the witnesses do not know the husband, because we do not raise many suspicions at such a time.** This case was similar to a period of danger in that they did not find witnesses that her husband died, and therefore the court did not require further clarification.

מתני' אמר רבי עקיבא: כשירדתי לנהרדעא לעבר השנה, מצאתי נחמיה איש בית דלי. אמר לי: שמעתי שאין משיאין את האשה בארץ ישראל על פי עד אחד, אלא יהודה בן בבא. ונמיתתי לו: כן הדברים. אמר לי: אמור להם משמי: אתם יודעים שהמדינה משובשת בגיטות, מקובלני מרבן גמליאל הזקן שמשיאין את האשה על פי עד אחד.

MISHNA Rabbi Akiva said: **When I descended to Neharde'a, in Babylonia, to intercalate the year, I found the Sage Nehemya of Beit D'li. He said to me: I heard that the Sages in Eretz Yisrael do not allow a woman to remarry based on the testimony of a single witness, except for Yehuda ben Bava. And I told him: That is so. He said to me: Tell the Sages in my name: You know that the country is confounded by army troops, and I cannot come myself. I declare that I received this tradition from Rabban Gamliel the Elder, that the court may allow a woman to remarry based on the testimony of a single witness.**

וכשבאתי והרציתי הדברים לפני רבן גמליאל שמח לדברי, ואמר: מצאנו חבר לרבי יהודה בן בבא.

Rabbi Akiva continues: **And when I came and presented the matter before Rabban Gamliel of Yavne, the grandson of Rabban Gamliel the Elder, he rejoiced at my words and said: We have found a companion who agrees with Rabbi Yehuda ben Bava, and since his lenient opinion is no longer the opinion of a lone Sage, it may now be relied upon.**

מתוך הדבר נזכר רבן גמליאל שנהרגו הרגים בתל ארזא, והשיא רבן גמליאל נשותיהן על פי עד אחד, והוחזקו להיות משיאין עד מפי עד, מפי עבד, מפי אשה, מפי שפחה. רבי אליעזר ורבי יהושע אומרים: אין משיאין את האשה על פי עד אחד. רבי עקיבא אומר: לא על פי אשה, ולא על פי עבד, ולא על פי שפחה, ולא על פי קרובים.

As a result of this event, Rabban Gamliel remembered that people were murdered in Tel Arza, and Rabban Gamliel then allowed their wives to remarry^N based on only one witness. And from then onward they established as protocol to allow a woman to remarry^H based on hearsay testimony, a slave's testimony, a woman's testimony, or a maidservant's testimony. Rabbi Eliezer and Rabbi Yehoshua say: The court may not allow a woman to remarry based on only one witness. Rabbi Akiva says: The court may not allow a woman to marry based on the testimony of a woman, nor based on the testimony of a slave,^N nor based on the testimony of a maidservant, nor based on the testimony of close relatives.

NOTES

תנא דבי רבי ישמעאל – The school of Rabbi Yishmael taught – According to the Ritva, once this statement was introduced, it was accepted that one need not be concerned that the voice is that of a demon or a rival wife. However, it seems that the Rif and others hold that Rabbi Yishmael's statement is only an explanation as to why one need not be concerned that it is the voice of a rival wife. They maintain that there is still a concern that it might be the voice of a demon (see *Yam shel Shlomo*).

והשיא – And Rabban Gamliel allowed their wives to remarry – רבן גמליאל נשותיהן: Some versions of the mishna state that Rabban Gamliel the Elder allowed them to remarry. According to those versions, the mishna means that Rabban Gamliel of Yavne recalled an incident in which his grandfather, Rabban

Gamliel the Elder, allowed women to remarry based on the testimony of a single witness (see *Tosefot Yam Tov*).

לא על פי עבד, etc. – Nor based on the testimony of a slave, etc. – The early commentaries wrote that although the accepted *halakha* is that it is permitted to allow women to remarry on the basis of statements affirming their husbands' death made by individuals who are not qualified to serve as witnesses, this applies only when they are disqualified due to their legal status alone, such as in the case of slaves. However, if an individual is disqualified due to transgression, then it is permitted to rely on his testimony if he is disqualified by rabbinic law, but it is prohibited to rely on it if he is disqualified by Torah law, e.g., if he is an apostate (see Rashba and Meiri).

גמ' וְסָבַר רַבִּי עֲקִיבָא עַל פִּי אִשָּׁה לֵאמֹר?
וְהִתְנַיָּא. רַבִּי שְׁמַעוֹן בֶּן אֶלְעָזָר אוֹמֵר
מִשּׁוּם רַבִּי עֲקִיבָא: אִשָּׁה נֹאמַנְתָּ לְהִבְיָא
גִּיטָה מִקַּל וְחוֹמֵר: וּמָה נְשִׁים שְׁאָמְרוּ
חֲכָמִים אֵין נֹאמְנוֹת לומר מֵת בְּעֵלָה –
נֹאמְנוֹת לְהִבְיָא גִיטָהּ, וְזוֹ שְׁנֹאמְנָת לומר
מֵת בְּעֵלָה – אֵינוֹ דִּין שְׁנֹאמְנָת לְהִבְיָא
גִּיטָה?

נְשִׁים שְׁאָמְרוּ חֲכָמִים – הוּא דְלֹא מְהִימְנֵי
אִשָּׁה בְּעֵלְמָא – מְהִימְנָא! לֹא קִשְׁיָא:
כָּאן – קוֹדֵם שֶׁהִתְחַזְּקוּ, כָּאן – לְאַחַר
שֶׁהִתְחַזְּקוּ.

מתני' אָמְרוּ לוֹ: מַעֲשֵׂה בְּבִנֵי לְוִי שֶׁהֲלָכוּ
לְצוֹר, עִיר הַתְּמָרִים, וְחָלָה אֶחָד מֵהֶם,
וְהִבְיָאוּהוּ בְּפוּנְדָק, וּבְחִזְרוֹתָם אָמְרוּ
לְפוּנְדָקִית: "אֵיךְ חִבְּרָנוּ?" נּוֹמֵית לָהֶם:
"מֵת, וְקִבְּרָתִיו". וְהִשְׂיָאוּ אֶת אִשְׁתּוֹ. וְלֹא
תִּהְיֶה כְּהֵנָּה בְּפוּנְדָקִית!?

אָמַר לָהֶן: לְכַשְׁתֵּיהֶן כְּפוּנְדָקִית – נֹאמְנָת.
הַפוּנְדָקִית הוֹצִיָּאָה לָהֶן מִקְלוֹ, וְתַרְמִילוֹ,
וְסֵפֶר תּוֹרָה שֶׁהָיָה בְּיָדוֹ.

GEMARA The Gemara asks: Does Rabbi Akiva hold that the court may not allow a woman to remarry based on another woman's testimony? But isn't it taught in a *baraita*: Rabbi Shimon ben Elazar says in the name of Rabbi Akiva: A woman is trusted to bring her own bill of divorce and affirm in court that it was written and signed properly, and that trust is based on the following *a fortiori* inference: If women, e.g., a rival wife, whom the Sages said are not deemed credible to say that another woman's husband died,^N are nevertheless trusted to bring their bills of divorce,^H then is it not logical that this woman herself, who is deemed credible to say that her husband died, should be trusted to bring her own bill of divorce?^H

This statement indicates that according to Rabbi Akiva, it is specifically the women who the Sages mentioned who are not deemed credible. In general, a woman is deemed credible, and another woman is permitted to remarry on the basis of her testimony. The Gemara answers: This is not difficult. Here, where Rabbi Akiva disqualified the testimony of a woman, it was before they established the protocol that a woman may be permitted to remarry on the basis of another woman's testimony. There, where he allowed it, it was after they established that protocol.

MISHNA They said to Rabbi Akiva: Do we not rely upon a woman's testimony? After all, an incident occurred involving Levites who traveled to Tzoar, the city of date palms. And one of them became ill, and they brought him to an inn [*pundak*]^L to rest, while they continued on their travels. Upon their return to the inn they said to the innkeeper, who was a woman: Where is our friend? She told them: He died, and I buried him. And based on her testimony they allowed his wife to remarry. And shouldn't a priestess, or any Jewish woman who testifies that a man died, be deemed as credible as an innkeeper?

Rabbi Akiva said to them: When a woman will be as convincing as the innkeeper, then she shall also be deemed credible. The innkeeper brought them his staff, and his bag, and the Torah scroll that was in his possession, thereby providing supporting evidence to reinforce her claim.

NOTES

Women whom the Sages said are not deemed credible to say that another woman's husband died – נְשִׁים שְׁאָמְרוּ חֲכָמִים אֵין – נֹאמְנוֹת לומר מֵת בְּעֵלָה: A woman is suspected of being willing to lie in order to harm her rival wife, and therefore if she says that their husband is dead, her rival wife may not remarry on the basis

of her testimony. However, a woman may remarry on the basis of her own testimony that her husband is dead, or on the basis of the testimony of another woman who is not her rival wife. Conversely, a woman may remarry on the basis of a bill of divorce, even if it was delivered by her rival wife.

HALAKHA

Trusted to bring their bills of divorce – נֹאמְנוֹת לְהִבְיָא גִיטָהּ – Even those women who are not deemed credible to testify that another woman's husband died are trusted when they bring a bill of divorce from overseas, and say: It was written in my presence and signed in my presence (Rambam *Sefer Nashim, Hilkhot Geirushin* 7:6; *Shulhan Arukh, Even HaEzer* 141:54).

to his wife and said to her: You shall be the agent to bring this bill of divorce until you come before the court in a certain place, and they will legally present you with this bill of divorce, which will then effect your divorce, the wife is deemed credible to say to the court: It was written in my presence and signed in my presence. The court then presents the bill of divorce to her as the husband stated (Rambam *Sefer Nashim, Hilkhot Geirushin* 7:23; *Shulhan Arukh, Even HaEzer* 142:13).

A woman is trusted to bring her own bill of divorce – אִשָּׁה שְׁאָמְנָת לְהִבְיָא גִיטָהּ: In the case of a man who gave a bill of divorce

LANGUAGE

Inn [*pundak*] – פּוּנְדָק: The source of this word is the Greek *πανδοκειον*, *pandokeion*, meaning a lodging place, from which the Hebrew word *pundakai*, innkeeper, was derived. It is worth noting that the feminine form of this word, *pundakita*,

is often used in Aramaic to refer to a prostitute. It appears that there was an assumption that a female innkeeper would generally prostitute herself with her guests (see Radak on Joshua 2:1).

גמ' מאי גרעיותא דפונדקית? אמר רב כהנא: פונדקית גויה היתה, ומסיחה לפי תומה היתה: "זה מקלו, וזה תרמילו, וזה קבר שקברתיו בו". וכן תני אבא בריה דרב מניומי בר חייא: פונדקית גויה היתה, ומסיחה לפי תומה היתה: "זה מקלו, וזה תרמילו, וזה קבר שקברתיו בו".

והא "איזה חברנו" קאמרי לה! בין דחזיתנהו בכיאי. אמרו לה: "איזה חברנו?" אמרה להם: "מת וקברתיו?"

תנו רבנן: מעשה באדם אחד שבא להעיד על האשה לפני רבי טרפון, אמר לו: בני, היאך אתה יודע בעדות אשה זו? אמר: אני והוא היינו הולכים בדרך, ורדף אחרינו גייס, ונתלה בייחור של זית ופשחו, והחזיר את הגייס לאחוריו.

אמרתי לו: אריה, יישר כתך! אמר לי: מנין אתה יודע שאריה שמי? כך קורין אותי בעירי: יוחנן ברבי יהונתן, אריה דמכפר שיחיא. לימים חלה ומת, והשיא רבי טרפון את אשתו.

ורבי טרפון לא בעי דרישה וחקירה? והתנאי: מעשה באדם אחד שבא לפני רבי טרפון להעיד עדות אשה, אמר לו: בני, היאך אתה יודע עדות זו? אמר לו: אני והוא היינו הולכים בדרך, ורדף אחרינו גייס, ונתלה בייחור תאנה ופשחו, והחזיר את הגייס לאחוריו. אמרתי לו: יישר כתך אריה! אמר לי: יפה בוונת לשמי, שכך קורין אותי בעירי: יוחנן בן יונתן אריה דמכפר שיחיא. לימים חלה ומת.

אמר לו: לא כך אמרת לי יוחנן בן יונתן דמכפר שיחיא אריה? אמר ליה: "לא, אלא כך אמרתי לך: יוחנן בן יונתן אריה דמכפר שיחיא". ודקדק עליו שנים ושלשה פעמים, וכיון את דבריו, והשיא רבי טרפון את אשתו!

GEMARA The mishna assumed that an innkeeper is less trustworthy than an ordinary woman, such that the Rabbis argued that if the innkeeper was deemed credible, it should be obvious that an ordinary woman should be deemed credible. The Gemara asks: **What was unfavorable about the innkeeperⁿ that made her less trustworthy than an ordinary woman?** Rav Kahana said: **She was a gentile innkeeper, and she was therefore deemed credible only because she was speaking offhandedly when she said that the man died and this is his staff, and this is his bag, and this is the grave in which I buried him. And similarly, Abba, son of Rav Minyumi, son of Hiyya, taught: She was a gentile innkeeper, and she was speaking offhandedly, saying that this is his staff, and this is his bag, and this is the grave in which I buried him.**

But didn't they say to her: Where is our friend? This indicates that she was answering their question rather than speaking offhandedly. The Gemara explains: **Once she saw them, she cried.^h They said to her: Where is our friend? Then she said to them: He died, and I buried him.** Since she cried before being questioned, the crying was considered the beginning of her account, and she is considered to have been speaking offhandedly.

S The Sages taught: **An incident occurred involving a certain individual who came to testify before Rabbi Tarfon with regard to a woman whose husband had died. He said to him: My son, how do you come to know testimony that the husband of this woman died? He said: He and I were traveling on the road together, and a troop of soldiers chased after us. He hung onto an olive branch, and tore it off to use as a heavy staff to intimidate the soldiers, and forced the troop to withdraw.**

After this heroic act **I said to him, admiring his bravery: Lion [arye], may your strength continue to be firm. He said to me: From where do you know that my name is Arye? That is what they call me in my city: Yoḥanan, son of Rabbi Yehonatan, the lion from the village Shihayya. After a while, he fell sick and died, and consequently the fellow traveler knew his name and could testify about him. And Rabbi Tarfon allowed his wife to marry based on this testimony.**

The Gemara asks: **But didn't Rabbi Tarfon require inquiry and interrogation of the witness? Isn't it taught in a baraita: An incident occurred involving a certain person who came before Rabbi Tarfon to present testimony that a woman's husband died. He said to him: My son, how do you know this testimony? He told him: He and I were traveling on the road together, and a troop of soldiers chased after us. He hung onto a fig branch, and tore it off, and forced the troop to withdraw by intimidating the soldiers with the branch. I said to him: May your strength continue to be firm, lion. He said to me: You have intuited my name well, for that is what they call me in my city: Yoḥanan, son of Yonatan, the lion from the village Shihayya. The man concluded his story: After a while, he fell sick and died.**

Rabbi Tarfon said to him, in order to check his story: **Did you not tell me^h that the dead man said that his name was Yoḥanan, son of Yonatan, from the village Shihayya, which is called Lion? He replied to him: No. Rather, this is what I told you: He told me that he is called Yoḥanan, son of Yonatan, the lion from the village Shihayya. Then Rabbi Tarfon cross-examined him in this manner two or three times, and the witness repeatedly kept his statements consistent, so Rabbi Tarfon allowed his wife to marry. In this version of the story, the mere report of events does not seem sufficient. An interrogation of the witness is also necessary.**

NOTES

What was unfavorable about the innkeeper – מאי גרעיותא דפונדקית: The Gemara here states that the innkeeper was a gentile and her statement was deemed credible because she was considered to have been speaking offhandedly because she cried before being questioned about the whereabouts of the man. Apparently, the crying was considered the beginning of her account (see *Tosafot*), and all agree that if a gentile begins to provide information by speaking offhandedly, the information he provides is deemed credible even if he is then questioned about it.

In the Jerusalem Talmud, however, it is not clear that the innkeeper was a gentile. Two explanations are suggested there with regard to the opinion of Rabbi Akiva, who held at that time that the innkeeper's statement was deemed credible despite the fact that the statements of women are generally not deemed credible. One explanation is that the innkeeper was considered comparable to a midwife. In the immediate aftermath of a birth, a midwife is deemed credible in determining which of two twins was born first, because the midwife herself attended to the birth. Similarly, because the innkeeper brought out the man's belongings, her statement was deemed credible. The other explanation is that the innkeeper's statement was deemed credible because she was speaking offhandedly.

HALAKHA

כיון דחזיתנהו בכיאי – Once she saw them she cried – If a gentile speaks offhandedly and reports that a Jewish man has died, one may question him in order to clarify the details of the matter and thereby allow the deceased's wife to remarry. This is true even if the statement that the gentile made before being questioned was not sufficient to allow the man's wife to remarry. This is derived from the story of the innkeeper. Since she cried before being questioned, she was considered to have been speaking offhandedly, and her subsequent statement that the man had died was deemed credible (*Helkat Mehokek*; Rambam *Sefer Nashim, Hilkhot Geirushin* 13:14; *Shulḥan Arukh, Even HaEzer* 17:15).

לא כך אמרת לי וכי – Did you not tell me, etc. – Although the court may rely on hearsay testimony that a man died, if the witness says that he saw the man's death, the court asks him for details. If it is discovered that the witness didn't actually see the man dead, but rather he saw the man in a condition that in most cases would lead to death, the wife of that man is not allowed to remarry. Although there is no requirement of inquiry and interrogation, the court does clarify what the testimony of the witness includes (Rambam *Sefer Nashim, Hilkhot Geirushin* 13:15; *Shulḥan Arukh, Even HaEzer* 17:5).

The court does not examine witnesses of women by means of inquiry and interrogation – אין בודקין עדי נשים בדרישה וחקירה. One need not question witnesses in testimony concerning a woman's marital status by means of the inquiry and interrogation procedures. Even if the witnesses are interrogated and in the course of their interrogation they contradict themselves, their testimony is still deemed credible. The Rema, based on the Rambam, rules that it is prohibited to inquire and interrogate such witnesses extensively, except in a situation where there is reason to suspect fraud (Rabbi Yaakov Weil; Rambam *Sefer Nashim, Hilkhot Geirushin* 13:29; *Shulhan Arukh, Even HaEzer* 17:21).

By Torah law all testimony requires the interrogation procedure – דבר תורה כל עדות בחקירה. By Torah law, all testimony requires inquiry and interrogation, including cases of capital law and cases of monetary law. However, the Sages decreed that witnesses in cases of monetary law should not be subject to inquiry and interrogation, so that the door would not be locked before borrowers. If the testimonies given by the witnesses are consistent with regard to the main facts, even if they contradicted one another in some details, their testimony is accepted (Rambam *Sefer Shoftim, Hilkhot Edut* 3:1; *Shulhan Arukh, Hoshen Mishpat* 30:1).

תנאי היא, דתנאי: אין בודקין עדי נשים בדרישה וחקירה. דברי רבי עקיבא. רבי טרפון אומר: בודקין.

וקמיפליגי בדברי חנינא, דאמר רבי חנינא: דבר תורה אחד דיני ממונות ואחד דיני נפשות בדרישה וחקירה, שנאמר "משפט אחד יהיה לכם".

ומה טעם אמרו דיני ממונות אין צריכין דרישה וחקירה – שלא תנעול דלת בפני לווין.

ובמאי קמיפליגי? מר סבר: כיון דאיכא כתובה למשקל – כדיני ממונות דמי, ומר סבר: כיון דקא שרינן אשת איש לעלמא – כדיני נפשות דמי.

The Gemara answers: **This is a dispute between *tanna'im*,ⁿ as it is taught in a *baraita*: The court does not examine witnesses who give testimony concerning the marital status of women by means of the standard procedures of inquiry and interrogation;^h this is the statement of Rabbi Akiva. Rabbi Tarfon says: The court must examine them utilizing these means.**

The Gemara comments: **And they disagree about the statement of Rabbi Hanina, as Rabbi Hanina said: By Torah law, both cases of monetary law and cases of capital law require scrutiny by means of inquiry and interrogation of witnesses,^h as it is stated: "You shall have one law" (Leviticus 24:22), indicating that the legal procedures must be the same for each area of *halakha*. Consequently, since inquiry and interrogation are required for capital law (Deuteronomy 13:15), they are required for cases of monetary law as well.**

And for what reason did the Sages say that cases of monetary law do not require inquiry and interrogation of witnesses? So as not to lock the door in the face of potential borrowers. If the procedures for litigation in cases of monetary law were too rigorous, people would be very hesitant to lend money.

And with regard to what do they disagree in the case of testimony that allows a woman to remarry? They disagree as follows: One Sage, Rabbi Akiva, holds that since there is the payment of the marriage contract for the woman to takeⁿ when her husband dies, it is considered to be like cases of monetary law and does not require inquiry and interrogation procedures. And one Sage, Rabbi Tarfon, holds that since, based on this testimony, we permit a previously married woman to marry anyone in the world, and if her previous husband is still alive, her subsequent relationship will be considered adultery, which is a capital offense, it is considered to be like cases of capital law, which require the inquiry and interrogation procedures.

NOTES

This is a dispute between *tanna'im* – תנאי היא וכו'. The Ritva wrote that this dispute between *tanna'im* is not only between Rabbi Akiva and Rabbi Tarfon, or, according to other versions of the text, between those two Sages and the Rabbis. Rather, there is an additional dispute between the authors of the two *baraitot* cited above as to the opinion of Rabbi Tarfon himself. In *Keren Ora*, it is noted that according to some versions of the text, all agree that Rabbi Tarfon does not require inquiry and interrogation. According to this view, Rabbi Tarfon's questions in the second *baraita* did not constitute a formal interrogation, and he would have allowed the widow to marry even if the witness had not maintained full consistency with regard to the details of the incident.

Since there is the payment of the marriage contract for the woman to take, etc. – כיון דאיכא כתובה למשקל וכו'. It is difficult to understand the argument that the entire case is treated as monetary law because the woman collects the payment specified in her marriage contract. The monetary repercussions of the case's verdict do not undermine the fact that elements of the case relate to capital law. Therefore, inquiry and interrogation should be required.

To resolve this problem, many commentaries suggest that the entire discussion was relevant only before the Sages established the protocol of allowing a woman to remarry on the basis of the testimony of a single witness, including witnesses whose testimony is not deemed credible in other areas of *halakha* (see *Tosefot Had MiKammaei*). Once this leniency was accepted, it was unnecessary to maintain the requirements of inquiry and interrogation. This may also be the opinion of the Rambam, who writes that inquiry and interrogation are not required, so that widows

will not be prevented from remarrying. The Rashba challenges the Rambam's statement, as the reason he provides is not mentioned in the Gemara. It may be answered that the leniency is based upon the leniency to accept the testimony of a single witness, a protocol mentioned in the Gemara that itself was instituted in order to lighten the burden of proof necessary to allow widows to remarry.

In a slightly different manner, the Ramban explains that, among other reasons, since the Sages made it the established practice to allow a woman to receive the payment of her marriage contract without inquiry and interrogation, there is no legitimate reason to refuse to grant her permission to remarry, as the two issues are interconnected.

The Ritva explains that, fundamentally, determinations of whether an individual is permitted to marry are not considered legal proceedings, and by Torah law they do not require inquiry and interrogation. However, collecting the payment specified in the marriage contract is considered monetary law, and consequently, by Torah law, it requires inquiry and interrogation. Although the Sages instituted the policy that monetary law does not require inquiry and interrogation, this policy was instituted so as not to close the door in the face of potential borrowers, a consideration that does not apply in the case of the marriage contract. One opinion in the Gemara says that because this reason does not apply in this case, and there is an element of capital law involved, the requirement of inquiry and interrogation is maintained. The other opinion is that since determination of one's status to marry does not require inquiry and interrogation by Torah law, and the Sages instituted their leniency in the case of monetary law across the board without exception, inquiry and interrogation are not required in this case either.

אָמַר רַבִּי אֶלְעָזָר אָמַר רַבִּי חֲנִינָא: תְּלִמְיָדֵי
חֲכָמִים מְרַבִּים שְׁלוֹם בְּעוֹלָם, שֶׁנֶּאֱמַר
”וְכָל בְּנֵי בְנֵי לְמוֹדֵי ה’ וְרַב שְׁלוֹם בְּנֵיךְ.”

הדרן עלך האשה בתרא
וסליקא לה מסכת יבמות

The tractate finishes on a positive note: **Rabbi Elazar said that Rabbi Ḥanina said: Torah scholars increase peace^N in the world, as it is stated: “And all your children shall be taught of the Lord, and great shall be the peace of your children”** (Isaiah 54:13). This indicates that because the children will be Torah scholars, who are taught of the Lord and His Torah, they will live in great peace, and peace will thereby be increased for the entire world.

NOTES

תְּלִמְיָדֵי חֲכָמִים מְרַבִּים – שְׁלוֹם: Four tractates in the Talmud end with this quote from Rabbi Ḥanina, and the author of *Aruch LaNer* gave them an acronym related to the verse quoted here. The first letters of these four tractates, *Berakhot*, *Nazir*, *Yevamot*, *Karetot*, spell the Hebrew word *banayikh*, your children, mentioned in the verse.

He also added that these four tractates deal with various aspects of making peace: *Berakhot* addresses the recital of *Shema*, the *Amida* prayer, and other blessings, which bring peace between man and God. *Yevamot* addresses peace between people, as levirate marriage allows one to continue the legacy of his brother. *Nazir* refers to peace between husband and wife, as the Sages taught that one’s response to seeing a *sota* should be to become a nazirite, who avoids wine, because imbibing wine leads to promiscuity and threatens the peace between spouses. Finally, *Karetot* relates to peace between one’s body and soul, because one distances himself from transgressions that carry the penalty of excision from the World-to-Come [*karet*]. The Maharsha writes that since a great many rabbinic decrees in the laws of levirate marriage seem to uproot Torah law, it was necessary to explain that all these decrees were made in order to increase peace in the world, after the manner of: “Her ways are ways of pleasantness, and all her paths are peace” (Proverbs 3:17). And Torah scholars are commanded, by the nature of their role in the world, to be those who increase peace in the world.