

אָמַר רַבָּא: מִתְּנִיתִין קְשִׁיתֵיהּ: מֵאִי אִירָא דְתַנִּי "הוֹצִיאֶיהָ", לִיתְנִי הוֹצִיאֶיהָ, אֶלָּא, כֹּל "הוֹצִיאֶיהָ" בְּבֵית דִּין, וּבֵית דִּין – בְּעֵדִים הוּא דְמַפְקִי.

וְאִי בְּעֵית אִימָא: הֲיָנִי מִתְּנִיתָא – רַבִּי הִיא, דְתַנִּיא: רֹכֵל יוֹצֵא וְאִשָּׁה חוֹגֶרֶת בְּסִינָר, אָמַר רַבִּי: הוֹאִיל וּמְכוּעַר הַדְּבָר – תִּצָּא. רֹכַח לְמַעְלָה מִן הַכִּילָה, אָמַר רַבִּי: הוֹאִיל וּמְכוּעַר הַדְּבָר – תִּצָּא.

Rava said: The language of the mishna was difficult for him; due to that he deemed it necessary to interpret it as he did. Why does the *tanna* specifically teach: They remove her from him [hotziuha]? Let it teach: He divorces her [hotziah] in the singular. Rather, every time the plural form: They remove her, is used, it is referring to the judges of the court. And a court removes a woman from her suspected adulterer only if there were witnesses, and not due to suspicion alone.

If you wish, say a different answer for Rav's explanation: Those *baraitot* that require the wife and the suspected adulterer to divorce even without witnesses to the adultery are taught in accordance with the opinion of Rabbi Yehuda HaNasi. As it is taught in a *baraita*: With regard to a case where a husband saw a peddler leavingⁿ the house, and when he entered he found his wife retying her smock [sinar],^l i.e., putting her clothes back on, Rabbi Yehuda HaNasi said: Since this is a distasteful matter^h because it looks as though she committed adultery with the peddler, she must be divorced by her husband. Alternatively, if the husband entered after the peddler had left and found saliva aboveⁿ the netting of the bed, implying that someone had lain on the bed and spit upward, although no actual act was witnessed, Rabbi Yehuda HaNasi said: Since this is a distasteful matter, she must be divorced.

NOTES

A peddler leaving – רֹכֵל יוֹצֵא: The Gemara refers to peddlers because they would frequently spend time selling their wares to women. Therefore, their actions were commonly suspected.

Saliva above – רֹכַח לְמַעְלָה: The Meiri holds that this phrase is a euphemism meaning that signs of semen were found in the bed.

LANGUAGE

Smock [sinar] – סִינָר: The source of this word is not entirely clear, but some suggest that the word was borrowed from the Greek ζωνάριον, *zonariyon*, which comes from the term for belt and means a strap or girdle worn by women as an undergarment. However, the *sinar* described by the Sages is some kind of trousers worn as an undergarment.

HALAKHA

A distasteful matter – דְּבָר מְכוּעַר: What is considered a distasteful matter? It is a case where, e.g., one entered the house of a married woman after some other man had left and found her standing next to the bed in her undergarments, or one saw the couple exiting from a secluded place, or one saw them lock themselves in a room, or any similar circumstance. Each case is judged at the judges' discretion (Rambam *Sefer Nashim, Hilkhot Sota* 2:13 and *Sefer Kedusha, Hilkhot Ishut* 24:15; *Shulhan Arukh, Even HaEzer* 11:1, 178:18).

Perek II
Daf 25 Amud a

מְנַעֲלִים הִפּוּכִים תַּחַת הַמְּטָה, אָמַר רַבִּי: הוֹאִיל וּמְכוּעַר הַדְּבָר – תִּצָּא. מְנַעֲלִים הִפּוּכִים? לִיחֻזֵי דְמֵאן נִינְהוּ! אֶלָּא: מְקוֹם מְנַעֲלִים הִפּוּכִים (תַּחַת הַמְּטָה). אָמַר רַבִּי: הוֹאִיל וּמְכוּעַר הַדְּבָר – תִּצָּא.

The same applies if the husband found the shoes reversed under the bed, so that the toe of the shoe faced the bed; this is a sign that a stranger came in and placed them like that. Rabbi Yehuda HaNasi said: Since this is a distasteful matter, she must be divorced. The Gemara questions this: Shoes turned around? Let him see whose they are and clarify who the stranger was and then find out what he was doing there. Rather, the case was that he found the place of the shoes, i.e., shoe prints, reversedⁿ under the bed and cannot recognize whose shoe prints they are. Rabbi Yehuda HaNasi said: Since this is a distasteful matter, she must be divorced.

NOTES

The place of the shoes reversed – מְקוֹם מְנַעֲלִים הִפּוּכִים: According to Rashi and Rabbi Yehuda bar Natan, this means that the husband found prints of shoes that had been turned upside down so that the sole of the shoe faced up. Rashi holds that they were overturned so as to hide the ownership of the shoes. On the other hand, Rabbi Yehuda bar Natan holds that they were upside down due to the peddler's great haste, so that he did not have time to place the shoes in the regular

fashion. According to the Meiri, the shoe prints were not under the bed but at the foot of the bed, indicating that apparently the shoes fell off while they were engaged in adultery. The Meiri also gives a second explanation, that the husband found footprints of his wife's shoes next to his own bed, suggesting that she lay there with someone else. This opinion is similar to Rashi's second explanation.

HALAKHA

When does the court require a woman to be divorced from her husband or from a man suspected of adultery – *מתי מוציאים אשה מבעלה ומנטען* – In a case where the husband did not make a declaration of jealousy, if witnesses came forward that his wife was secluded alone with a certain man, and based on that testimony the husband divorces her, she may not marry the suspected adulterer. If the suspected adulterer ignored the *halakha* and married her anyway, and she bore him children, he is not required to divorce her. They may remain married if they had children together even if there was a persistent rumor in town that she had committed adultery with the suspected individual. This is in accordance with the opinion of Rabbi Yehuda HaNasi. However, if there was no rumor, or if the rumor ran its course and ended, then if she married the suspected individual she need not be divorced, even if she did not bear him any children. Even if a single witness came forward and testified that she had committed adultery with him she need not be divorced, according to the opinion of Rav.

Some say that if there was a persistent rumor along with witnesses to some distasteful matter the court requires her husband to divorce her, even though there are no witnesses that she actually committed adultery (Rema, citing Rashi; *Shulhan Arukh, Even HaEzer* 11:1).

At what point is it a persistent rumor – איזהו קול שאינו פוסק: A persistent rumor is a rumor about a married woman and a suspected adulterer that is discussed in town continually for a day and a half or longer. Even if the rumor ceased in the middle, if it ceased due to fear, this is not considered a rumor that ended. All of this applies only if neither the woman, nor the suspected individual, nor the husband had any enemies who may have started the rumor (Ran; *Shulhan Arukh, Even HaEzer* 11:1).

BACKGROUND

Mother told me – אמרה לי אם: Abaye's mother died when he was an infant, and he was raised by a foster mother whom he called mother (*Kiddushin* 31b). He usually quoted her on issues of health and remedies, as she had expertise in these fields.

NOTES

The opinions of Rabbi Yehuda HaNasi and Rav – שיטות רבי יודן: There are many explanations in the commentaries as to the opinions of Rabbi Yehuda HaNasi and Rav. Two main issues remain unresolved in the Gemara: Is the discussion over whether the woman must divorce her husband, or the suspected adulterer if she later married him, or both? Does the matter that is distasteful require witnesses? The following chart summarizes the various opinions:

Commentary	In order to require her to be divorced from her husband		In order to require her to be divorced from the suspected adulterer if she later married him	
	Rav requires	Rabbi Yehuda HaNasi requires	Rav requires	Rabbi Yehuda HaNasi requires
Rashi; Responsa of the Rashba	Witnesses to adultery	A distasteful matter	Witnesses to adultery	A distasteful matter
Rif; Rambam according to the understanding of Rashba	Witnesses to adultery	Witnesses to adultery	Witnesses to adultery	Witnesses to a distasteful matter
Rabbeinu Tam's initial opinion	Witnesses to adultery	Witnesses to adultery	Witnesses to adultery	A distasteful matter
Rabbeinu Tam's revised opinion	Witnesses to a distasteful matter	Witnesses to a distasteful matter	Witnesses to a distasteful matter	Witnesses to a distasteful matter
Ramban; Rambam according to the understanding of <i>Darkhei Moshe</i>	Witnesses to adultery	Witnesses to a distasteful matter	Witnesses to adultery	A persistent rumor
Rosh	Witnesses to adultery	Witnesses to a distasteful matter	Witnesses to adultery	Witnesses to a distasteful matter

והלכתא בנותיה דרב, והלכתא בנותיה דרבי. קשיא הלכתא אהלכתא! לא קשיא: הא – בקלא דפסיק, הא – בקלא דלא פסיק. קלא דלא פסיק וליכא עדים – ברבי, קלא דפסיק ואיכא עדים – ברב.

וקלא דלא פסיק עד כמה? אמר אביי, אמרה לי אם: דומי דמתא יומא ופלגא. ולא אמרן אלא דלא פסק ביני וביני, אבל פסק ביני וביני – הא פסק. ולא אמרן אלא דלא פסק מחמת יראה, אבל פסק מחמת יראה – מחמת יראה הוא. ולא אמרן אלא דליכא אויבים, אבל איכא אויבים – אויבים הוא דאפקו ליה לקלא.

The Gemara concludes: **The halakha is in accordance with the opinion of Rav**, that they must divorce only if there were witnesses, **and the halakha is in accordance with the opinion of Rabbi Yehuda HaNasi**, that they must divorce if there is a matter that is distasteful.^{HN} The Gemara challenges this: **One halakha is difficult**, as it contradicts the other *halakha*. The Gemara answers: This contradiction is **not difficult**. **This one** relates to a case where the rumor ceases and the woman is sent away only if there are witnesses, but **that one** relates to a case where the rumor does not cease, in which case he divorces her even if there are no witnesses. The Gemara elucidates the cases: In cases of a rumor that does not cease, even if there are no witnesses the *halakha* is in accordance with the opinion of Rabbi Yehuda HaNasi and he divorces her. If the rumor ceases and there are witnesses, the *halakha* is in accordance with the opinion of Rav, and he divorces her because there are witnesses.

The Gemara clarifies this: **At what point** is it considered to be a persistent rumor?^H **Abaye said: My mother told me:**^B **A rumor in the city lasts a day and a half.** The Gemara comments: We said that this is the length of time only if the rumor did not cease in the meantime. But if the rumor did cease in the meantime, even it was later renewed, this is considered a rumor that has ceased and is disregarded. **And we said** that a rumor that ceased is not considered persistent only if the reason it ceased was not due to fear of the individual about whom it is said. **But if it ceased due to fear, it is only due to fear** and is still considered a persistent rumor. **And we said** that a persistent rumor has validity only if the subject of the rumor does not have any known enemies, but if he has enemies it may be assumed that it is the enemies who put out the rumor about him.

One who divorces his wife due to her bad reputation or vows – **המוציא אשתו משום שם רע או נדרים** – One who divorced his wife because she made vows that were unbearable to him, or because she came to have a bad reputation may not remarry her. Some say that this applies only if he told her explicitly that this is the reason for the divorce and if he confirmed that were it not for the vows or the reputation he would not have divorced her (*Tur*, citing Rosh). Some say that even if he did not confirm this explicitly, he may not remarry her (*Tur*, citing Ramah). One opinion (Rambam) holds that even if he did not tell her why he divorced her he may not take her back (*Shulhan Arukh*, *Even HaEzer* 10:3).

One who takes back a wife he divorced due to a bad reputation – **המחזיר אשה שגרש משום שם רע** – If one divorces his wife due to her bad reputation or a similar issue, he may not remarry her. However, if he transgressed this prohibition and remarried her, he need not divorce her again, in accordance with the conclusion of the Gemara here (*Shulhan Arukh*, *Even HaEzer* 11:5).

One who brings a bill of divorce and wishes to marry the divorcée – **המביא גט ורוצה לשאת הגרושה** – An agent who brings a woman her bill of divorce from a place for which he must testify: It was written in my presence and signed in my presence, may not marry her because this may arouse suspicions. However, if he brought the bill of divorce from a place for which he need not say this, he is permitted to marry the divorcée, based on the mishna and the conclusion of the Gemara (Rambam *Sefer Nashim*, *Hilkhot Geirushin* 10:14; *Shulhan Arukh*, *Even HaEzer* 12:1).

One who testifies that the husband died – **המעיד על הבעל** – If a single witness came and testified to a woman that her husband died, she is allowed to marry by virtue of that testimony. However, she may not marry the witness, as this appears suspicious (Rambam *Sefer Nashim*, *Hilkhot Geirushin* 10:14; *Shulhan Arukh*, *Even HaEzer* 17:3).

I killed him, we killed him – **הרגתי, הרגנוהו** – The testimony of one who testified that he killed a man, or that he was with the murderers, is accepted, and that man's wife is permitted to marry by virtue of that testimony (Rambam *Sefer Nashim*, *Hilkhot Geirushin* 13:10; *Shulhan Arukh*, *Even HaEzer* 17:7).

NOTES

An agent who brought a bill of divorce from a country overseas – **המביא גט ממדינת הים** – Two reasons are given in the Talmud to explain why an agent bringing a bill of divorce from overseas must testify that it was written and signed in his presence (*Gittin* 2a): First, the witnesses who signed the bill of divorce are not present and cannot establish its validity. The agent's testimony consequently prevents the husband from claiming that it is a forgery. Second, there was concern that in the Diaspora the scribes were not experts and might not write the bill correctly. If it was written and signed in the presence of the agent, the court can ask him, and verify, that the document was written correctly.

A witness who... testified: I killed him... his wife may not be married – **הרגתי לא תנשא אשתו** – In Rambam's Commentary on the Mishna it is explained that Rabbi Yehuda does not accept the principle that an individual does not make himself wicked.

תנן היתם: המוציא את אשתו משום שם רע – לא יחזיר. משום נדר – לא יחזיר. שלח ליה רבה בר הונא לרבה בר רב נחמן: ילמדנו רבינו. פנס מהו שיוציא?

S We learned in a mishna there (*Gittin* 45b): A man who divorces his wife due to her bad reputation may not take her back again, even if it turns out that the rumor was untrue. Likewise, if he divorced his wife due to a vow^h of hers that is unbearable to him he may not take her back even if she is released from that vow. **Rabba bar Rav Huna sent a question to Rabba bar Rav Nahman: Our teacher, instruct us. If one of those men listed in that mishna divorced his wife due to her bad reputation or vow and it was therefore prohibited for him to take her back, yet he nevertheless remarried her, what is the halakha? Must he divorce her?**^h

אמר ליה, תנינא: הנתען על אשת איש והוציאה מתחת ידו, אף על פי שפנס ויציא. אמר ליה: מי דמי? היתם "הוציאוה" והקא "הוציאוה"! ורבה בר רב נחמן – מתניתין נמי "הוציאוה" תנן.

Rabba bar Rav Nahman said to him: We already learned in the mishna (24b): With regard to one who is suspected of committing adultery with a married woman, and he, her husband, divorced her, even if he subsequently remarried her he must divorce her. Rabba bar Rav Huna said to him: Is this comparable to the case I asked about? There, in the mishna, it says: They, the court, remove her from him, whereas here (*Gittin* 45b), the mishna states: He divorced her of his own accord. Perhaps if the court requires them to divorce, the halakha is different. The Gemara explains: And Rabba bar Rav Nahman, who held that the two *mishnayot* were comparable, had a text of the mishna that also read: He divorced her, instead of: They remove her.

ואבתי מי דמי? הקא – בעל, והיתם – בועל! אמר ליה: שפיר דמי אהדדי: הקא אמור רבנן לא יכנסו, ואם פנס ויציא – הכי נמי אקרי רבנן לא יחזיר, ואם פנס – ויציא.

Rabba bar Rav Huna asks: Still, is this comparable? Here, the question was raised in a case where the first husband remarried her, which will not strengthen the rumors of her bad reputation, but there, the mishna refers to the man with whom she committed adultery remarrying her, which strengthens those rumors. He said to him: They are certainly comparable to each other: Here, in the mishna discussing one who is suspected of committing adultery, the Sages said that he may not marry her and if he did marry her he must divorce her. So too, the Sages said in the case of one who divorced his wife due to her reputation or vow that he may not take her back, and if he does remarry her he must divorce her.

ולא היא, היתם – אלומי אלמיה לקלא. הקא אמרינן קם ביה בקלא ולייתיה.

The Gemara rejects this: That is not so, as there, when the man suspected of committing adultery marries the woman, he thereby strengthens the rumor of adultery. For this reason he must divorce her. Here, we say that he, the husband, established the facts of the rumor and found that it was not so and the rumor was baseless. Therefore, there is no need for him to divorce her if he remarries her. Rabba bar Rav Huna's question remains unresolved.

MISHNA An agent who brought a bill of divorce from a country overseasⁿ and said: It was written in my presence and it was signed in my presence, as required in order to establish the bill of divorce as valid, may not marry the wife,^h i.e., the divorcée. Since the validity of the bill of divorce is based upon his testimony, marrying the divorcée creates the impression that he had an ulterior motive for his testimony. Similarly, a witness who testified that a certain man died,^h or testified: I killed him, or: We killed him,^h may not marry that man's wife. Rabbi Yehuda says: If he testified: I killed him, his wife may not be marriedⁿ at all based on that evidence, as his testimony is unreliable, but if he said: We killed him, his wife may be married to anyone other than those witnesses.

מתני' המביא גט ממדינת הים ואמר "בפני נכתב ובפני נחתם" לא ישא את אשתו. "מת", "הרגתי", "הרגנוהו" – לא ישא את אשתו. רבי יהודה אומר "הרגתי" – לא תנשא אשתו: "הרגנוהו" – תנשא אשתו.

GEMARA The Gemara clarifies: The reason that the agent may not marry the divorcée applies specifically in a case where he brings the bill of divorce from a country overseas, as in this case we, the court, rely upon his testimony to validate the bill of divorce. But an agent who brings a bill of divorce from Eretz Yisrael need not make any verbal declaration, and since we, the court, do not rely upon his testimony but upon the written bill of divorce alone, he may marry his wife, i.e., the divorcée, since it does not arouse suspicion.

גמ' טעמא דממדינת הים – דעליה קסמיכין, אבל מארץ ישראל, דלאו עליה קסמיכין, ישא את אשתו.

So-and-so sodomized me – פְּלוֹנִי רִבְעָנִי: One who testified that he was sodomized by another may combine his testimony with that of another witness in order to put the sodomizer to death. This is regardless of whether it was an act of rape or whether the witness participated willingly, in accordance with Rava's opinion in the dispute with Rav Yosef that we divide the statement. His statement includes both self-incriminating testimony and other information, so the court divides his assertion, accepting as evidence only information that is not self-incriminating. His report about being a willing partner is discarded, and the court accepts only that another sodomized him (Rambam *Sefer Shofetim, Hilkhot Edut* 12:2; *Shulhan Arukh, Hoshen Mishpat* 34:26).

A wicked witness – עֵד רָשָׁע: Wicked individuals who willingly violate the words of the Torah are unfit for giving testimony by Torah law (Rambam *Sefer Shofetim, Hilkhot Edut* 10:1).

וְהָאָמְרָא מַתְּ, דְּלֵאוּ עֲלֵיהּ קְסָמְכִינָא, דְּאָמַר מִרְ: אִשָּׁה דְּיִיקָא וּמִינְסַבָּא, וְקַתְנִי: לֹא יִשָּׂא אֶת אִשְׁתּוֹ!

הָתָם לֵיכָא כְּתָבָא, הֲכָא – אִיכָא כְּתָבָא. דְּתָנִי: מַה בֵּין גִּט לְמִיתָה – שְׁהִכְתָּב מוֹכִיחַ.

”מִתְ”, ”הֲרַגְתִּי”, ”הֲרַגְנוּהוּ” – לֹא יִשָּׂא אֶת אִשְׁתּוֹ. הוּא מֵהוּ דְלֵא יִשָּׂא אֶת אִשְׁתּוֹ, הָא לְאַחַר – תַּנְשֵׂא.

וְהָאָמְרָא רַב יוֹסֵף: ”פְּלוֹנִי רִבְעָנִי לְאוֹנְסִי” – הוּא וְאַחַר מְצַטְרָפִין לְהַרְגוֹ. ”לְרִצּוֹנִי” – רָשָׁע הוּא, וְהַתּוֹרָה אָמְרָה: ”אַל תִּשָּׂא יָדְךָ עִם רָשָׁע לְהִיּוֹת עֵד חֻמָּס”.

וְכִי תִימָא שְׂאֵנִי עֵדוֹת אִשָּׁה דְּאִקְלוּ בְּהָ רַבְנִי – וְהָאָמְרָא רַב מְנַשֶּׁה:

The Gemara challenges this: **But** also in the case of a witness who said that the husband died, we, the court, **do not rely solely upon** his testimony. **As the Master said: A woman is exacting** in her investigation of the truth of the testimony that her husband died before she marries again, and it is primarily on that basis that she is permitted to remarry. **Yet it is taught that he still may not marry his wife.**

The Gemara answers: The two cases are not comparable, as **there**, in the case when a witness testifies that the husband has died, **there is not anything written** as proof, and therefore he may not marry the widow. However, **here**, in a case where an agent brings a bill of divorce from Eretz Yisrael, **there is a written document** that is valid without any testimony. **As we learned** in a mishna (117a): **What is the difference between a bill of divorce and death?** Why does the court rely upon those men who are not trusted as witnesses to the death of a husband if they act as agents to bring a bill of divorce, even from overseas, such that they must give testimony that it was written and signed in their presence? The difference is **that with regard to a bill of divorce the writing proves their testimony.**

The mishna stated that if the witness said with regard to the husband that **he died**, or: **I killed him**, or: **We killed him**, then **he may not marry the wife** of the deceased. The Gemara infers that **he**, the witness himself, **may not marry the wife; this implies that to another she may be married** on the basis of his testimony.

The Gemara challenges this: **Didn't Rav Yosef say:** With regard to one who testified that **so-and-so sodomized me^h against my will**, then **he** who testified to being the victim of the sexual assault **and another** bystander witness can **combine** as a pair of witnesses in order to **put the assailant to death** for homosexual intercourse. But if he testified: I was **willingly** sodomized by so-and-so, then **he is wicked^h** by his own admission, since he willingly transgressed. **And the Torah said:** “**Put not your hand with the wicked to be a corrupt witness**” (Exodus 23:1). If one renders himself unfit as a witness by admitting to murder, how can his testimony be accepted to permit the wife to remarry?

And if you would say that testimony that a woman's husband died is different, as the Sages ruled leniently in such matters and perhaps accepted testimony of a wicked witness in such cases, **didn't Rav Menashe say:**

Perek II
Daf 25 Amud b

NOTES

A robber according to the words of the Sages – גִּזְלוֹן – דְּדַבְרֵיהֶם: In tractate *Sanhedrin* (24b), there is a list of those who are unfit by rabbinic decree for giving testimony. This list includes those who take money from others but are not categorized as robbers according to Torah law.

A robber according to Torah law is unfit – גִּזְלוֹן דְּדַבְרֵי – תּוֹרָה פְּסוּל: According to the Rif, even though a wicked individual is unfit for testifying that a woman's husband has died, if he were to make an incidental remark about the matter, this evidence would be accepted by the court. In this respect he is no worse than a gentile, who is believed if he makes an incidental remark.

גִּזְלוֹן דְּדַבְרֵיהֶם – כְּשֶׁר לְעֵדוֹת אִשָּׁה, גִּזְלוֹן דְּדַבְרֵי תּוֹרָה – פְּסוּל לְעֵדוֹת אִשָּׁה. נִמְאָר רַב מְנַשֶּׁה דְּאָמַר בְּרַבֵּי יְהוּדָה?

Although one who is considered a **robber according to the words of the Sagesⁿ** is unfit for other forms of testimony, **he is fit** as a witness for testimony that a woman's husband died. **A robber according to Torah law is unfitⁿ** as a witness even for testimony that a woman's husband has died.^h **Should we say that what Rav Menashe said is in accordance with the opinion of Rabbi Yehuda?** Rabbi Yehuda said in the mishna that one who is considered absolutely wicked because he admitted that he is a murderer is unfit for testifying to the death of a husband, but one who was merely present among a gang of murderers is not.

A robber with regard to testimony rendering it permitted for a woman to remarry – גִּזְלוֹן בְּעֵדוֹת אִשָּׁה: One who is unfit for giving testimony by Torah law is not believed when testifying that a woman's husband died, but one who is unfit by rabbinic law is believed in such instances (Rambam *Sefer Nashim, Hilkhot Geirushin* 12:17; *Shulhan Arukh, Even HaEzer* 17:3).

אמר לך רב מנשה: אָנָא דְאִמְרֵי אִמְלוּ לְרַבְנָן, וְשַׁעֲמָא דְרַבְנָן הֵכָא – כְּדַרְבָּא, דְאִמְרֵי רַבָּא: אָדָם קְרוֹב אֶצְל עֲצָמוֹ, וְאִין אָדָם מְשִׁים עֲצָמוֹ רְשָׁע.

The Gemara rejects this: **Rav Menashe could have said to you: I am speaking even according to the opinion of the Rabbis.** Although the Rabbis did not allow one who was wicked by Torah law to testify for a woman, a witness who admitted: I killed him, is nevertheless believed. **And the rationale of the Rabbis here is in accordance with the opinion of Rava, as Rava disputed Rav Yosef's opinion and said:** Even if one said that he was willingly sodomized by this man, he is not believed concerning his own actions, because **a person is his own relative.**^N Consequently, he may not testify about himself, just as the testimony of any relative is disqualified. **And furthermore, a person does not make himself wicked.**^H His testimony with regard to his own actions is inadmissible because he is his own relative, but his testimony is accepted both to put a sodomizer to death or to render it permitted for a woman to remarry by saying that he killed her husband.

לִימָא רַב יוֹסֵף דְאִמְרֵי כְרַבִּי יְהוּדָה?! אִמְרֵי לְךָ רַב יוֹסֵף: אָנָא דְאִמְרֵי אִמְלוּ לְרַבְנָן, וְשַׁאֲנֵי עֵדוּת אִשָּׁה דְאִקְלוּ בָּהּ רַבְנָן, וְרַב מְנַשֶּׁה דְאִמְרֵי כְרַבִּי יְהוּדָה.

The Gemara asks: **Shall we say according to this explanation that the opinion that Rav Yosef spoke is in accordance with the opinion of Rabbi Yehuda?** The Gemara rejects this: **Rav Yosef could have said to you: I am speaking even according to the opinion of the Rabbis, as in my opinion, testimony enabling a woman to remarry is different in that the Rabbis ruled more leniently and they even accept testimony from a completely wicked individual.** However, **Rav Menashe, who renders unfit one who is wicked by Torah law from testimony enabling a woman to remarry, spoke in accordance with the opinion of Rabbi Yehuda, who differentiates even in such testimony between one who is considered wicked according to Torah law and one who is considered wicked by rabbinic law.**

"הֲרַגְתִּיו" כו' "הֲרַגְנוּהוּ" תַנְשֵׂא כו'. מֵאֵי שְׁנָא הֲרַגְתִּיו וּמֵאֵי שְׁנָא הֲרַגְנוּהוּ? אִמְרֵי רַב יְהוּדָה: בְּאִמְרוֹ "אֲנִי הֵייתִי עִם הוֹרְגֵיו".

In the mishna it is taught that the court accepts testimony from one who said: **I killed him, or: We killed him,** while Rabbi Yehuda differentiates between one who said: I killed him, whose testimony is not accepted, and one who said: We killed him, whose testimony is accepted and the woman **may be married** to others. The Gemara asks: **What is different between: I killed him, and: We killed him?** Isn't he a murderer by his own admission as well when he testifies: We killed him? **Rav Yehuda said:** Do not understand that by saying: We killed him, he included himself among the murderers. Rather, it is referring to a case **where he said: I was with his murderers,** but he was not an active participant to the murder.

וְהַתְנַיָּא: אִמְרוּ לוֹ לְרַבִּי יְהוּדָה, מַעֲשֵׂה בְלִסְתִים אֶחָד שִׁינְעָא לִיהֲרַג בְּמַגִּית קַפּוֹטְקִיָּא, וְאִמְרֵי לְהֵם "לְכוּ וְאִמְרוּ לָהּ לְאִשְׁתֵּי שְׁמַעוֹן בֶּן בְּהִין: אֲנִי הֲרַגְתִּי אֶת בַּעֲלָהּ בְּכַנְיֻסְתִּי לְלוֹד" וְאִמְרֵי לָהּ "בְּכַנְיֻסְתּוֹ לְלוֹד" – וְהִשְׁיֵאוּ אֶת אִשְׁתּוֹ. אִמְרֵי לְהֵם: מִשָּׁם רְאִיָּה?! בְּאִמְרוֹ: אֲנִי הֵייתִי עִם הוֹרְגֵיו –

And it is taught in a baraita that this is the basis for Rabbi Yehuda's distinction: They told Rabbi Yehuda: There was an incident involving an armed bandit [listim]¹ who was taken out to be executed in the passage [megizat]² of Cappadocia,³ and he said to those present: Go and tell the wife of Shimon the Priest that I killed her husband as I entered Lod. And some say that he said: As he entered Lod. And they married off his wife on the basis of this testimony. This implies that the court accepts testimony from the murderer himself. **Rabbi Yehuda said to them: You derive proof from there?** The case was **that he said: I was with his murderers,** but not that he himself murdered the woman's husband.



Cappadocian rock formations

NOTES

אָדָם קְרוֹב אֶצְל עֲצָמוֹ – This concept is connected to the halakhic principle that the court divides the statement of a witness, allowing them to reject the part of the testimony wherein the witness incriminates himself while accepting the rest of his testimony as valid. The court accepts the testimony that the individual he claimed to have murdered is dead, without accepting that this witness is a murderer. The halakhic principle applied is that just as one may not testify about a close relative, one may not testify about oneself.

There are differences of opinion concerning the rationale for the principle of dividing the statement of a witness. According to the Rashba, the court applies this principle only in cases where the witness's testimony could be interpreted in another way without negating its validity. If, e.g., a witness said: I killed him, it could be interpreted to mean that he was with the murderer or that he killed the victim unwittingly, etc. However, if there is no other possible interpretation of his testimony, his testimony is inadmissible. Many commentaries disagree with this and hold that even in such cases the court may divide the statement and accept the testimony (see *Noda Bihuda* and *Kovetz He'arot*).

HALAKHA

A person does not make himself wicked – אִין אָדָם מְשִׁים – עֲצָמוֹ רְשָׁע: One is not rendered unfit by admitting his own transgression, because an individual does not make himself wicked (Rambam *Sefer Nashim, Hilkhot Geirushin* 13:10 and *Sefer Shofetim, Hilkhot Edut* 12:2; *Shulhan Arukh, Hoshen Mishpat* 34:26).

LANGUAGE

An armed bandit [listim] – לִיסְתִים: From the Greek ληστής, *lestēs*. Several Aramaic and Hebrew forms were based upon this word in the language of the Sages. The written form was corrupted slightly to *listim* rather than *listis*.

Passage [megizat] – מַגִּית: This word apparently comes from the Arabic مجاز, *majāz*, meaning crossing or way.

BACKGROUND

Passage of Cappadocia – מַגִּית קַפּוֹטְקִיָּא: Cappadocia is a country in Asia Minor west of the Euphrates River and north of the Taurus Mountains. The Hebrew name, Kappotkiyya, comes from the Greek Καππαδοκία, *Kappadokia*. At the time of the Talmud this was a Roman province with a large Jewish population, and there were Jewish scholars, mentioned in both the Jerusalem and Babylonian Talmuds, who came from Cappadocia to Eretz Yisrael. Today it is a popular tourist site famous for its unique rock formations, referred to as fairy chimneys.



Location of Cappadocia

A Sage who rendered the wife forbidden to her husband by that vow – **הַחֵכֶם שָׁפָר אֶת הָאִשָּׁה** – **בְּנָדָר עַל בְּעֻלָּה**: If a woman vowed not to receive any benefit from her husband and the husband did not nullify her vow, and she then came before a Sage but he did not find way to dissolve it, then that Sage may not subsequently marry her after she is divorced from her husband (Rambam *Sefer Nashim, Hilkhot Geirushin* 10:14; *Shulḥan Arukh, Even HaEzer* 12:2).

Before whom a woman performed refusal or... performed *ḥalitza* – **מִיֵּאֲנָה אוֹ שְׁחַלְצָה בְּפָנָיו**: A woman who performed refusal or performed *ḥalitza* before a court may later marry one of the judges of the court (*Shulḥan Arukh, Even HaEzer* 12:2).

Dissolution of vows requires a court of three – **הַתְּרַת נְדָרִים בְּשָׁלוֹשׁ**: Dissolution of vows must be performed by an expert scholar or, if no expert can be found, by three ordinary men (Rambam *Sefer Hafla'a, Hilkhot Shevuot* 6:1; *Shulḥan Arukh, Yoreh De'a* 228:1).

וְהָא לְסָטִיִּים קָתְנָי! שְׁנַתְּפִס עַל יָדֵי לְסָטִיִּוֹת. וְהָא יֵצֵא לְהִרְגַּ קָתְנָי! בֵּי דִינָא דְגוֹיִם דְּלֹא דִיִּיקֵי וְקָטְלֵי.

מתני' החכם שאָפָר את האִשָּׁה בְּנָדָר עַל בְּעֻלָּה – הָרִי זֶה לֹא יִשְׁאָנָה, מִיֵּאֲנָה אוֹ שְׁחַלְצָה בְּפָנָיו – יִשְׁאָנָה, מִפְּנֵי שֶׁהוּא בֵּית דִּין.

גמ' הא התירה ישאָנָה, בְּמֵאֵי עֶסְקִינָן? אֵילִימָא בְּחַד – חַד מִי מְצִי מִתְּרִי? וְהָאֵמֵר (רַב אֲמֵר) רַבִּי חֵיִיא בְּרַב אָבִין אֲמֵר רַב עֲמֵרִים: תִּנָּא, הַתְּרַת נְדָרִים בְּשָׁלוֹשׁ!

וְאֵלֹא בְּתַלְתָּא – מִי חֲשִׂידֵי? וְהַתְּנָן: מִיֵּאֲנָה אוֹ שְׁחַלְצָה בְּפָנָיו יִשְׁאָנָה, מִפְּנֵי שֶׁהוּא בֵּית דִּין!

לְעוֹלָם בְּחַד, וְכַד אֲמֵר רַב חֲסִדָּא אֲמֵר רַבִּי יוֹחָנָן: בְּיַחֲד מוּמְחָה, הֲכָא נָמִי – בְּיַחֲד מוּמְחָה.

”מִיֵּאֲנָה אוֹ שְׁחַלְצָה” וְכוּ'. טַעְמָא דְּבֵית דִּין, הָא בְּתָרֵי – לֹא.

מֵאֵי שְׁנָא מְהָא דְּתַנָּן: עֲדִים הַחֲתוּמִּים עַל שְׂדֵה מִקְח וְעַל גִּט אִשָּׁה – לֹא חֲשׂו חֲכָמִים לְדַבֵּר זֶה! הִיא גּוֹפָה קַמְשָׁמַע לָן, לְאִפּוּקֵי מִמָּאן דְּאֲמֵר מִיֵּאוּן בְּפָנֵי שְׁנַיִם, קַמְשָׁמַע לָן: מִיֵּאוּן בְּשָׁלוֹשׁ.

The Gemara challenges: How could Rabbi Yehuda understand the incident in such a way? **But it is taught** in the *baraita* that the witness himself was an armed bandit. The Gemara answers: **He was captured for a charge of armed banditry**. The Gemara asks: **But it is taught that he was taken out to be executed**, implying that he was found guilty of murder. The Gemara answers: That was a **gentile court, and they execute without being precise**. One who is among a gang of bandits is executed by a gentile court regardless of whether or not he himself was a murderer. This *baraita* therefore provides evidence that Rabbi Yehuda admits the testimony of such a witness only if he says: I was with his murderers.

MISHNA A Sage who refused to release a woman from a vow that rendered the wife forbidden to her husband by that vow,^h resulting in her being divorced from her husband, may not marry her, so as to avoid suspicion that he rendered her forbidden to her husband in order to marry her himself. However, a judge before whom a woman performed refusal when she was a minor, declaring that she did not desire the husband chosen for her by her family, or before whom she performed *ḥalitza*,^h may marry her because he was only one member of the court, thereby alleviating suspicion.

GEMARA The mishna taught that a Sage who rendered a woman forbidden to her husband may not then marry her. The Gemara deduces from here: **This implies that if he rendered her permitted to her husband and she was later widowed or divorced, then he may marry her**. The Gemara clarifies this: **With what are we dealing? If we say that he was a single judge and not part of a court, can a single judge dissolve vows? But didn't Rav say that Rabbi Hiyya bar Avin said that Rav Amram said: It is taught in a baraita: Dissolution of vows requires a court of three^h judges?**

Rather, could it be a case of three judges rather than one? In such a case, would they be suspect of distorting judgment? **But didn't we learn in the mishna: If she performed refusal or performed ḥalitza before him, he may marry her because he functioned as a member of a court of three?** This teaches that there is no suspicion of a judge in a court of three.

The Gemara answers: **Actually**, you should explain that this case is **that of a single judge, and it is as Rav H̄isda said that Rabbi Yoḥanan said: Vows may be dissolved even by a single expert,^b and a three-member court is not always necessary. Here too, it is referring to a single expert refusing to nullify her vow.**

It is taught in the mishna that if a woman performed refusal or performed *ḥalitza* before a judge, he may still marry her, as he was part of a court. The Gemara deduces from here: **The reason is specifically that he functioned on the court as one of three judges**. The Gemara deduces: **Then, if there were only two judges, he would not be permitted to marry her.**

If so, in what way is this case different from that which we learned in a *baraita*: **If witnesses signed on the document of sale of a field or on a woman's bill of divorce, the Sages were not concerned about this matter** if one of the witnesses subsequently purchased the field or married the divorcée. Since there are two witnesses, there is no suspicion that they collaborated for the benefit of one of them. The Gemara answers: If there were two judges there would also be no concern; however, **this mishna itself comes to teach us that a refusal must be performed before a full court, to exclude the opinion of the one who said that refusal may be performed before two. This teaches us that refusal must be performed before three judges.**

BACKGROUND

A single expert – יַחֲד מוּמְחָה: In general a Jewish court comprises three judges for monetary matters and other cases, aside from cases of capital punishment. This ensures that there will be a majority, as at least two judges will agree on the verdict. In tractate *Avot* (4:10)

it is written: Do not judge alone, as only God can judge alone. However, *Tosafot* explain that this is meant merely as advice, but if an individual judge is an expert in certain matters he may adjudicate on those matters by himself.

כָּנַס אֵינוּ מוֹצִיא – If he married her, he need not divorce her – If a Sage declared a wife forbidden to her husband due to her vow, that Sage is forbidden from marrying her *ab initio*. If he nevertheless married her he is not forced to divorce her, in accordance with the conclusion of the Gemara (Rambam *Sefer Nashim, Hilkhot Geirushin* 10:14; *Shulhan Arukh, Even HaEzer* 12:2).

אֵיבְעִיָּא לְהוּ: כָּנַס, מַהוּ שְׂוִיָּצִיא? רַב כְּהֵנָּא אָמַר: כָּנַס – מוֹצִיא, רַב אֲשִׁי אָמַר: כָּנַס – אֵינוּ מוֹצִיא. תֵּנִי לְהוּ רַב זוּטִי דְבֵי רַב פַּפִּי כְּדַבְרֵי הָאוּמֵר כָּנַס אֵינוּ מוֹצִיא.

S A dilemma was raised before the Sages with regard to one who was prohibited from marrying a certain woman: If he nevertheless married her despite the prohibition, what is the *halakha* with regard to whether he must divorce her? Rav Kahana said: If he married her, he need not divorce her. Rav Ashi said: If he married her, he need not divorce her.^h Rav Zuti from the school of Rav Pappi taught the Sages a *baraita* in accordance with the statement of the one who said that if he married her, he need not divorce her.

אָמְרוּ לִיהוּ רַבֵּנן לְרַב אֲשִׁי: גְּמָרָא אוּ סְבָרָא? אָמַר לְהוּ: מִתְנַתִּין הֵיא: הִנְטֵעֵן מִשְׁפָּחָה וְנִשְׁתַּחֲרָדָה, מִגּוּיָה וְנִתְגַּיְרָה, הָרִי זֶה לֹא יִכְנֹס, וְאִם כָּנַס – אֵין מוֹצִיא. אֲלֵמָּא

The Rabbis said to Rav Ashi: With regard to the *halakha* that you said, that if he married her he need not divorce her, was it based upon tradition or is it your own conclusion? He said to them: It is the *mishna*. I reached this conclusion from the wording of the *mishna*, which taught that one suspected by others of engaging in sexual relations with a Canaanite maidservant and she was subsequently set free, or with a gentile woman and she subsequently converted may not marry that woman. But if he did marry her, they, the judges of the court, do not remove her from him. Apparently,

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בְּרַנְגָּה לֹא מְפָקִינָן, הֵכָּא נִמְי בְּרַנְגָּה לֹא מְפָקִינָן.

we do not remove her from her husband owing to suspicion due to rumor alone. Here too, we do not remove her from her husband due to a rumor.

מִתְנִי' וְכוּלָם שְׁהִי לְהֵם נְשִׁים וּמְתוּ – מוֹתְרוֹת לִינְשָׁא לְהֵם.

MISHNA And for all of these^N who were involved in permitting the wife to remarry, i.e., the judge, the agent who brought a bill of divorce, and the one who testified for a woman that her husband died, if they had wives^{NH} at the time of the ruling or the testimony and their wives died thereafter, then those women they had set free are permitted to be married to them. There is no concern that while their wives were still alive these individuals set their eyes upon another woman.

וְכוּלָן שְׁנִישְׂאוּ לְאַחֵרִים, וְנִתְגַּרְשוּ אוּ שְׁנִתְאַלְמְנוּ – מוֹתְרוֹת לִינְשָׁא לְהֵם. וְכוּלָן מוֹתְרוֹת לְבָנֵיהֶם אוּ לְאַחֵיהֶם.

And with regard to all of these women who were prohibited from marrying a certain man due to some suspicion, if they were subsequently married to others^h and then were divorced or widowed from the second husband, they are permitted to be married to them, i.e., to the judge, messenger, or witness who permitted her to remarry. And all of these women who were prohibited from marrying due to some suspicion are permitted to the sons or to the brothers^{NH} of those who set them free.

גַּמ' מֵתוּ – אֵין, נִתְגַּרְשוּ – לֹא.

GEMARA The *mishna* taught that if any of the men had wives who subsequently died, they may marry those women freed by them. The *Gemara* deduces from here: If the wives of those who rendered the woman permitted died, yes, they are permitted to marry the woman that they freed for marriage; but if the wives were divorced, no, it is prohibited. In such a case, marrying the woman that one had rendered permitted would raise suspicions that he had in fact planned to marry her all along.

NOTES

And for all of these, etc. – וְכוּלָם וכו' – Rashi explains that the term: All of these, is referring only to a Sage or a witness who testified for a woman (see Rid). Rambam, however, interprets this ruling as applying to one who was under suspicion of misconduct with a maidservant or other woman as well.

They had wives, etc. – הָיוּ לָהֶם נְשִׁים וכו' – At the time of the *mishna*, bigamy was permitted, yet it was extremely rare, and so there was no concern that one would free a woman in order to marry her as a second wife.

Are permitted to the sons or to the brothers – מוֹתְרוֹת לְבָנֵיהֶם אוּ לְאַחֵיהֶם – In the Jerusalem Talmud this is explained by the statement that it is not common for one to sin for the benefit of his relative or his teacher.

HALAKHA

They had wives – הָיוּ לָהֶם נְשִׁים – It is permitted for one who was married when he rendered a woman free to marry that woman if his wife subsequently died (Rambam *Sefer Nashim, Hilkhot Geirushin* 10:15; *Shulhan Arukh, Even HaEzer* 12:4).

them to remarry (Rambam *Sefer Nashim, Hilkhot Ishut* 10:15; *Shulhan Arukh, Even HaEzer* 12:3).

And all of these women, if they were subsequently married to others – וְכוּלָן שְׁנִישְׂאוּ לְאַחֵרִים – It is permitted for all of these women who subsequently married others and were then widowed or divorced to marry one of those men who permitted

מוֹתְרוֹת לְבָנֵיהֶם – אוּ לְאַחֵיהֶם – All of these women are permitted to marry the close relatives of the witness or the Sage who freed them (Rambam *Sefer Nashim, Hilkhot Ishut* 10:16; *Shulhan Arukh, Even HaEzer* 12:4).