The Gemara asks: From where do we derive this? The Gemara answers: As it is taught in a baraita that the verse states: “Or if his sin be known to him” (Leviticus 4:23, 28). This indicates that he himself must be aware of his sin, and not if it was made known to him by others. In other words, one is not obligated to bring an offering due to the testimony of others, even if they testify that he had transgressed. I might have thought he should be exempt even though he does not contradict the witness’s claim. Therefore, the verse states: if his sin be known to him, which indicates that in any case, however he comes by this knowledge, he is liable.

The Gemara clarifies this halakha. What are the circumstances? If we say that two witnesses came and informed him and he does not contradict them, why do I need a verse to teach this ruling? After all, the testimony of two witnesses is always accepted. Rather, is it not referring to one witness, and yet if he does not contradict the sole witness, that witness is deemed credible? One can learn from this that one witness is deemed credible with regard to prohibitions. The Gemara refutes this claim: And from where do you infer that the reason is due to the fact that the one witness is deemed credible? Perhaps the accused must bring an offering because he remains silent, as there is a principle that silence is considered like an admission.

And you should know that this is the reason, as the latter clause of that same baraita teaches that if two witnesses said to him: You ate forbidden fat, and he says: I did not eat it, he is exempt, and Rabbi Meir obligates him to bring an offering. Rabbi Meir said that this is an a fortiori inference: If two witnesses can bring him to the severe penalty of death by testifying that he had committed a transgression for which one is liable to receive the death penalty, should they not bring him to the more lenient obligation of an offering?

The Rabbis said to him: There is a difference between the two cases, as with regard to an offering, what is the halakha if he would choose to say? I was an intentional sinner? One who sins intentionally is not liable to bring an offering. Since the accused in the latter clause of the baraita can negate the testimony that would have rendered him liable to bring an offering, he can likewise deny the act itself, whereas if witnesses testify that he performed an action that incurs the death penalty, his denial has no bearing on the case. The Gemara clarifies: In the first clause...
HALAKHA

Just as it is in the case of a piece, etc. – רใต מ ינפיה: If one witness says that a certain piece of meat is forbidden fat, and his claim is uncontroverted, the meat is treated as definitely forbidden fat. Consequently, if someone eats it unwittingly he must bring an offering, and if he does so intentionally he is liable to receive lashes (Rambam, Sefer Kodashim, Hilkhot Shegagot 3:2; see Shulhan Arukh, Yoreh De‘a 127:3).

The presumption of a prohibition has not been established – ר עעיייהו רומיאן שויי: A single witness is not deemed credible when he says that something that has been established as prohibited is in fact permitted, unless he himself had the power to render it permitted (Rambam, Sefer Shoftim, Hilkhot Iḥud 11:7; see Shulhan Arukh, Yoreh De‘a 127:2, and in the comment of Rema).

Nothing involving those with whom relations are forbidden can be determined by fewer than two – וואויהו אֵין מְלוֹט: The court will compel a man to divorce his wife only if two witnesses testify that she committed adultery willingly (Rambam, Sefer Nashim; Hilkhot Iḥud 24:18; see Shulhan Arukh, Even HaEzer 111).

BACKGROUND

Forbidden fat and permitted fat –肉类: From a purely physiological standpoint, forbidden and permitted fats are essentially identical. Nevertheless, forbidden fats are typically concentrated in certain places in an animal’s body, and are not attached to the muscles. In the wording of the Gemara, forbidden fat is: An even layer, covered with a membrane and easily peeled. However, once forbidden fat has been removed, it is virtually indistinguishable from permitted fat.

Untainted produce – פפרך: This is produce from which teruma and tithes have not been separated. The Torah prohibits the consumption of untainted produce, and one who eats untainted produce is punished by death at the hand of Heaven. However, once tithes have been separated, even if they have not yet been given to those for whom they are designated, the produce no longer has the status of untainted produce and may be eaten.

LANGUAGE

Konam – קונאם: At the beginning of tractate Nedimim, the Gemara discusses whether this is a corrupted form of a foreign word that the Sages deliberately entered into the lexicon to avoid the specific utterance of the word korban, offering, or if it is a word entirely invented by the Sages for this purpose. Apparently, there was a term that bore a similar meaning in the ancient Canaanite language, one that may still have been in use in mishnaic and talmudic times. This term might have been uttered in ordinary speech, which often preserves older forms of expression.

NOTES

This is based on logical reasoning, just as, etc. – ל תק וי: This is a matter of practical reasoning, as explained by Rashi, as otherwise no one could eat the food of another unless two witnesses came and affirmed that it was kosher. However, others claim that this argument is not decisive, as it is possible for one to be very careful and eat only on the basis of witnesses’ testimony (Tosafot Yeshinim). Instead, they maintain that the main proof is from the case of a menstruating woman, who is deemed credible when she counts her own days of ritual impurity and purity (see Tosafot). Other early authorities explain similarly. The problem is that this merely relocates the question to the case of a menstruating woman. Since her prohibition has been established, how in fact is her own counting reliable? One answer is that as she has the power to remedy her status by immersing in a ritual bath, her counting is accepted (Rosh). This in turn leads others to ask why it is not derived from the case of a menstruating woman that one witness is deemed credible with regard to prohibitions even when the presumption of a prohibition has been established (Tosafot). The commentators suggest that this halakha of a menstruating woman is a kind of decree of the Torah. Alternatively, she is deemed credible because in practice there is no other way of knowing her number of pure days (Ritva).

The presumption of the prohibition…is established, and noth-ing involving those with whom relations are forbidden, etc. – י מ די: After a detailed analysis of the questions and answers raised in the course of this discussion, the Ramban concludes that some of these questions are not real difficulties. For example, the principle that nothing involving forbidden women can be established by fewer than two witnesses is assumed by the Gemara without proof. He maintains that after all the arguments have been considered, a single witness is indeed deemed credible in the case of prohibitions by Torah law. Others do not accept this interpretation, but arrive at the same conclusion by virtue of a different argument (Rashi).

In fact, this is comparable only to a case involving a piece of meat that is definitely forbidden fat, and one witness comes and says: It is clear to me that it is permitted fat, as the halakha is that he is not deemed credible. The Gemara refutes this claim: Is it comparable? There, when it is established as forbidden fat, even if one hundred witnesses come they are not deemed credible. Here, since if two witnesses come and say the husband is dead they would be deemed credible, let us also deem one witness credible. This is just as it is in the case of untainted produce, i.e., produce from which neither teruma nor tithe has been separated, consecrated property, and konamot, an alternative term for offerings (korbanot) used in vows creating prohibitions. Such vows are called by the generic term: Konamot.

The Gemara asks: With regard to this case of untainted produce, what are the circumstances? If it is his, and he testifies that terumot and tithes have been separated from it, he should be deemed credible because it is within his power to prepare the produce for consumption by separating tithes whenever he wishes. Rather, you must say that he testifies with regard to untainted produce of another, but if so, what does the anonymous Sage who cited this example hold in this case?

The Gemara elaborates: If he holds that one who separates tithes from his produce for that of another does not require the owner’s knowledge, and he can prepare his friend’s produce for consumption whenever he chooses, in this case too his testimony is deemed credible because it is within his power to prepare it. And if he holds that the owner’s knowledge is required before someone else can separate the gifts, and this is referring to a situation where the witness comes and says: I know with regard to it that it is prepared, in that case, it itself, this very halakha, from where do we derive it? Why is the case of untainted produce more obvious than the testimony with regard to a missing husband?
Inherent sanctity – הַגּוּף. This refers to the sanctity of unblemished animals consecrated for offerings on the altar. These animals may not be redeemed or substituted for another animal (Ritva).

Konomot – כוֹנָמוֹת. A konomot, which is a type of vow, is either an intentional corruption of the word korban, offering, or a term adapted from a different language. One who states a konomot is vowing that a prohibition should apply to an object as though it were consecrated to the Temple. The main halakhot of other vows and konomot are discussed in tractates Nedarim and Shevuot. These tractates analyze the precise difference between the two categories, as well as the relationship between them and regular consecration.

The early authorities differentiate between a private konomot and a general konomot. The former is when one declares that a certain object is konomot to him, in which case he renders it forbidden to himself alone, while the latter refers to an instance where he merely states that this item is a konomot. Both the early and later authorities discuss at length the difference between a general konomot and a proper consecration; see the Kovez Ha’erot. Apparently, the main difference concerns the transfer of ownership; not only is it prohibited to benefit from consecrated property and anyone who misuses it liable for the misuse of consecrated items, but it is actually considered Temple property. In contrast, even according to those who claim that the halakhot of misuse of consecrated property do apply to konomot, these articles do not belong to the Temple.

Due to the stringency that you were stringent, etc. – מְﬠִילָה. The early and later authorities ask how the Sages could nullify a prohibition by Torah law, if in fact by Torah law one witness is not deemed credible in this case. Some claim that this is not considered nullification of Torah law, as there are other reasons for believing the witness, in addition to his testimony itself (Tosafot; see Tosafot Yeshanim).

The Ritva cites an explanation that this is one of those situations in which the Sages nullified the betrothal, but then he proceeds to reject this interpretation, claiming that if this were the case the Gemara should have said so explicitly. He himself contends that as this is a widely publicized matter, it is considered something that is likely to be revealed. Consequently, the account of the witness is accepted, like other issues that can be established by the court without the need for full and valid testimony. In contrast, according to those who maintain that one witness is deemed credible by Torah law with regard to prohibitions, the Gemara’s discussion concerns the question of why the Sages did not issue a stringent decree and demand two witnesses to render her permitted with regard to the severe prohibitions of forbidden sexual relations (Rambam; see Meiri).

In the case of konomot, too, if he holds that there is misuse of consecrated objects with regard to konomot, i.e., he holds that articles sanctified by a konomot have the status of consecrated property, and that the sanctity that inheres in its value applies to them, then his claim is accepted because it is within his power to redeem it. And if he maintains that there is no misuse of consecrated objects in the case of konomot, and it is an ordinary prohibition that rides on its shoulders, i.e., it is forbidden due to its similarity to consecrated property despite the fact that it is not fully sacred, even in this case the above argument applies: If the property in question is his, it is permitted because it is within his power to request from a Sage that his vow be dissolved.

Rather, you will say that the konomot must belong to another, and he said: I know with regard to it that its owner requested from a Sage that his vow be dissolved. However, with regard to this halakha itself, that one witness is deemed credible in this case, from where do we derive it? Consequently, after the Gemara has refuted these attempts to explain why one witness should be deemed credible, the question remains: Why is the testimony of a single witness accepted in the case of a missing husband?

Rabbi Zeira said: Due to the stringency that you were stringent with her, the woman who married on the basis of a single witness, at the end, i.e., if it turns out that the testimony was incorrect and the husband is still alive, the halakha is very severe with her and she loses out in all regards, you are lenient with her at the beginning, by accepting the testimony of a single witness to enable the woman to marry. The Gemara suggests: If so, let us not be stringent at the end and not be lenient at the beginning.

The Gemara answers: Due to the case of a deserted wife, the Sages were lenient with her. Since it is not always easy to find two witnesses to attest to a husband’s death, the Sages realized that if the testimony of one witness were not accepted, the woman would be likely to remain a deserted wife, unable to remarry. However, to prevent this leniency from causing mistakes and licentiousness, they were very stringent with her in a case where the testimony is found to be erroneous, to ensure that she is very careful not to accept untrustworthy accounts.

§ The mishna teaches that if she was informed that her husband was dead and she married another man, and her husband later returned, she must leave this one and this one. Rav said: They taught this halakha only if she married by virtue of the testimony of one witness, but if she married on the basis of the testimony of two witnesses, she does not have to leave him. They laughed at him in the West, Eretz Yisrael: The man, the first husband, has come and stands before us, and yet you say she does not have to leave her second husband. The Gemara explains: No, it is necessary in a situation when we do not know the man who comes before us claiming to be the first husband.

Similarly, with regard to consecrated property too, if it is merely sanctity that inheres in its value, i.e., it is not an actual offering but an item that has been dedicated to the Temple upkeep, then the reason why the testimony of one witness who says it is not consecrated is accepted is due to the fact that it is within his power to redeem it. And if this is referring to inherent sanctity, the matter still remains to be clarified: If it is his offering, then the reason is due to the fact that it is within his power to request from a Sage that the vow be dissolved, like any other vow. Rather, you must say that it is referring to the offering of another, and he said: I know with regard to it that its owner requested from a Sage that his vow be dissolved. However, here too, in this case itself, from where do we derive that he is deemed credible?

Consequently, the account of the witness is accepted, like the testimony of a single witness accepted in the case of a missing husband.
The Gemara asks: If we do not know him, even if she married by one witness, why should she leave? The testimony of the witness who says the husband is dead should be accepted. The Gemara answers: No, it is necessary for a case when two others came and said: We were with him from when he left until now, and it is you who do not recognize him, as his appearance has changed over the course of time. This is as it is written: “And Joseph recognized his brothers but they did not recognize him” (Genesis 42:8), and Rav Hisda said that this verse teaches that Joseph left his brothers without a full beard, and he came with a full beard, which is why they failed to recognize him. This shows that one’s appearance can change so much over time that even his own family members are unable to identify him.

The Gemara asks: Even in this case, ultimately they are two against two. Initially, two witnesses testified that the man was dead, and now another pair arrives saying he is alive. Why should the testimony of the witnesses who say he is dead be accepted, allowing her to remain with the second husband, while other witnesses claim he is still alive?

And as this is an uncertain case, one who has intercourse with her stands obligated to bring an uncertain guilt-offering. Since before she remarried some witnesses say she is a married woman while others claim she is now a widow, her relations with her second husband involve a possible prohibition that entails karet, and whoever mistakenly performs an action of this kind is liable to bring an uncertain guilt-offering. If so, this second husband must certainly divorce her. Rav Sheshet said: We are dealing with a case where that woman married one of her witnesses, who testified that her husband had died. Since the witness himself has no doubt as to the truth, he is not liable to bring an uncertain guilt-offering.
The Gemara asks: Even so, she herself stands obligated to bring a uncertain guilt-offering, as she has no personal knowledge of the matter and relied on the witness. The Gemara answers: It is referring to a case where she says: It is clear to me. For whatever reason, she is certain that this is not her husband and that he is dead, and therefore she too is not liable to bring an uncertain guilt-offering. The Gemara asks: If so, what is the purpose of stating this? That is, if Rav is referring only to this particular case, he has not taught anything new, as even Rabbi Menahem, son of Rabbi Yosei, stated his opinion only with regard to a case where witnesses came and afterward she married, but in the case where she married and afterward witnesses came, he did not state his halakha in regard to this case.

To what ruling is the Gemara referring? As it is taught in a baraita: If two witnesses say that the husband is dead and two say he is not dead, or if two say that this woman was divorced and two say she was not divorced, this woman may not marry; and if she married regardless, she need not leave her new husband, as there is no uncontroversed testimony that she is forbidden to him. Rabbi Menahem, son of Rabbi Yosei, stated: She must leave him. Rabbi Menahem, son of Rabbi Yosei, further said: When do I say she must leave him? When the witnesses who contradicted the first pair by claiming she is still married came and afterward she married, despite their testimony. However, if she married and afterward the second pair of witnesses came, this woman need not leave her second husband.

The Gemara answers: When Rav spoke too, he was referring to a case where the second pair of witnesses came and testified that this is her husband, and afterward she married. Rav claims that even in that case she need not leave her second husband. His ruling serves to exclude the opinion of Rabbi Menahem, son of Rabbi Yosei, in favor of that of the first tanna. And some say that Rav’s teaching should be understood as follows: The reason is that she married and afterward witnesses came; however, if witnesses came and afterward she married, she must leave him. According to whose opinion is this ruling of Rav? It is in accordance with the opinion of Rabbi Menahem, son of Rabbi Yosei.

Rava raised an objection from a baraita: From where is it derived that if a priest does not want, the court forces him – [dafna] by flogging him, and it sanctifies him despite his wishes? The verse states, at the end of the chapter that deals with the prohibitions of the priesthood: “And you shall sanctify him...he shall be sacred for you” (Leviticus 21:8), which indicates that this is performed even against his will.

**NOTES**

Where she says, it is clear to me – אמאו: Some commentaries explain that she claims she knows, either by distinctive bodily signs or by eye recognition, that the man who arrived is not her husband (Rabbi Avraham min HaHa). Rashi refers to bodily markings. Some maintain that according to Rashi, if the woman says he is not her husband based on appearance alone, her claim must be substantiated by others. With regard to distinctive bodily signs, however, it is possible that he has marks known only to his wife (Ramban Av). Others ask why the Gemara does not suggest that the halakha is referring to a case where she says: My first husband is dead. The reason cannot be that in that case she would be deemed fully credible, as there are witnesses who contradict her claim (see Rabbeinu Nissim on Shabbat 22b).

To exclude the opinion of Rabbi Menahem, son of Rabbi Yosei, etc. – אמאו. According to this opinion, had Rav not stated his opinion, the ruling would have been in accordance with the opinion of Rabbi Menahem, son of Rabbi Yosei, whose reasoning is sound. Those who accept the alternative version of his statement maintain that Rav indeed rules in accordance with Rabbi Menahem, precisely because his reasoning is sound (Ritva).
A prohibition with regard to the priesthood is different – Rav: Since it is prohibited for this woman to marry any man other than one of the witnesses, due to the conflicting testimonies, it is improper for a priest to marry her (Ritva). Others claim that this is a special measure of sanctity that applies to the priesthood; even in an uncertain case a priest is compelled to divorce his wife (Rabbi Avraham min Hatar).

Wherever the Torah relies on one witness - Rav: Some maintain that this principle applies only to testimony concerning a missing husband. Since in this case one witness is deemed credible instead of the usual two, whether by Torah law or by rabbinic law, it is considered as though there were actually two witnesses. With regard to other prohibitions, however, even if a single witness is deemed credible, he is considered only one witness, which means that if two others come and contradict his account, his testimony is entirely negated (Ritva). However, an alternative opinion maintains that there is no difference between this and any other testimony; Whenever one witness is deemed credible, his statement is considered fully valid testimony (see Yom Sheloshim).

HALAKHA

If she married without consent – Rav Shimon: If a woman whose husband had gone overseas was informed, even by two witnesses, that he was dead, and after she married another man the husband returned, she must leave both of them. The halakha is in accordance with the opinion of the first tanna of the mishna, not Rav, as indicated later (8b) by the Gemara (see Rif; Rambam Sefer Nashim, Hilkhos Getim 10:5; Shulhan Arukh, Even HaEzer 17:36).

Wherever the Torah relies on one witness – Rav Shimon: If a lone witness came and informed a woman that her husband died, and she married on the basis of his testimony, and afterward another witness arrived and testified that he is not dead, the woman does not lose her status of being permitted to her second husband. The reason is that with regard to testimony about a missing husband, the witness who renders her permitted is considered like two witnesses in regular cases, as stated by Ulla (Rambam Sefer Nashim, Hilkhos Getim 12:20; Shulhan Arukh, Even HaEzer 17:40).

Rava analyzes this baraita: What are the circumstances? Assuming that this is referring to a priest who married a woman whose status as a divorced woman or a zona is uncertain, if we say that she did not marry one of her witnesses and did not say: It is clear to me, that the opposing witnesses were speaking the truth, need this be said that the court forces him? Since both of them are clearly in violation of a transgression, it is obvious that they must be separated. Rather, is it not referring to a case when she married one of her witnesses and she says: It is clear to me, and even so the baraita is teaching that the court forces him? Apparently, the halakha is that they remove her from him, which contradicts Rav’s opinion that one who married based on the testimony of two witnesses need not leave her second husband.

The Gemara answers: A prohibition with regard to the priesthood is different, as uncertainties with regard to priests are treated stringently, as though they were definite. And if you wish, say: What is the meaning of the phrase: The court forces him? It means that it forces him by witnesses. In other words, only if another pair of witnesses comes and clarifies the matter does the court prevent the marriage ab initio. However, if she has already married she need not leave her husband. And if you wish, say instead that it is referring to a situation when witnesses came and afterward she married, and this baraita, which claims that the court forces him to divorce her in that case, is in accordance with the opinion of Rabbi Menahem, son of Rabbi Yosei.

Rav Ashi said: What is the meaning of the phrase: She need not leave him, that Rav said? It means that she need not leave her state of being permitted to her first husband. Since she married according to halakha, on the basis of witness testimony, she is considered to have acted under duress. Like any other woman not married to a priest who was unfaithful against her will, she may return to her first husband upon his return.

The Gemara asks: If that is what he meant, Rav already said it once. As we learned in the mishna: If she married without the consent of the court, but rather by witnesses’ testimony, it is permitted for her to return to him. And Rav Huna said that Rav said: That is the halakha. Evidently, Rav already ruled that she does not forfeit her original permitted status. The Gemara answers: One ruling was stated by inference from the other. In other words, Rav did not state both halakhot explicitly, but only one of them, from which his other statement was inferred.

Shmuel said: They taught that she must leave her second husband only if she does not contradict the witness who claims her first husband is alive. However, if she contradicts him, she need not leave her second husband. The Gemara inquires: With what are we dealing here? If we say we are dealing with two witnesses who testified that her husband is still alive, even if she contradicts him, what of it? The testimony of the two witnesses is fully accepted. Rather, it must be referring to one witness, from which it may be inferred that the reason that she need not leave her second husband is that she contradicts him, which indicates that if she remains silent and does not contradict his testimony, she must leave him.

The Gemara asks: But didn’t Ulla say that wherever you find that the Torah relies on one witness, this is a full testimony equal to that of two witnesses, and the statement of one witness has no bearing in a place where it is contradicted by two witnesses? If so, there is no difference between one witness and two witnesses in this case. The Gemara answers: With what are we dealing here? With a case where the pair who said he was dead were disqualified from giving testimony, and this is in accordance with the opinion of Rabbi Nehemya.
As it is taught in a baraita that Rabbi Nehemya says: Wherever you find that the Torah relies on one witness, follow the majority of opinions. If the testimony is valid, the account of two witnesses is the same as one hundred, as no greater credence is granted to the larger number. However, when the testimony is invalid the majority opinion is accepted. And in these cases they established the testimony of two women against one man like the testimony of two men against one man, whose claim is not considered equivalent to two. In this case, if the wife also contradicts their account she joins the single witness, and therefore the testimony of the disqualified witnesses is not accepted.

And if you wish, say instead that anywhere that one valid witness came initially and testified that the husband was dead, even one hundred women claiming that he is alive are considered like one witness, and their contrary account is not accepted. And with what are we dealing here? In a case where a woman came and testified initially.

And you must accordingly amend the statement of Rabbi Nehemya so that it reads as follows: Rabbi Nehemya says: Wherever you find that the Torah relies on one witness, follow the majority of opinions, and they established two women against one woman like two men against one man. However, in a case involving two women against one man who is a valid witness, this is like half against half, i.e., they are equal. With regard to Shmuel’s statement, if the wife herself remains silent, the testimony of the first woman that the husband is dead has been negated, as her account was contradicted by two women. But if the claim of the wife is joined to that of the first woman she need not leave her second husband.

The misha teaches that if she remarried as the result of an error, then when her first husband returns she requires a bill of divorce from this one and from that one. The Gemara asks: Granted, from the first husband she requires a bill of divorce, as she is his actual wife. But from the second, why does she need a bill of divorce? Surely their relationship is merely licentious. Since her first husband was alive at the time, her marriage to the second is entirely invalid, as one cannot betroth a married woman. A woman does not require a bill of divorce for engaging in sexual relations.

Rav Huna said: It is a rabbinic decree lest those who are unaware of the entire story say that this first husband divorced her and afterward this second man married her. And if she subsequently leaves him without a bill of divorce, they will claim that we find a married woman leaving her husband without a bill of divorce. The Gemara asks: If so, consider the latter clause of the mishna (92a), that teaches that if they said to her: Your husband is dead, and she became betrothed to another, and afterward her husband came, it is permitted for her to return to her first husband. There too, let us say that people might think that this one divorced her and that one betrothed her, and we find a married woman leaving her husband, i.e., her second husband, without a bill of divorce.

The Gemara answers: Actually, even if she was merely betrothed she requires a bill of divorce from the second man before she can return to her first husband. The Gemara raises a difficulty: If so, people will say that we find this one remarrying his divorcée after she was betrothed to another. The Gemara answers: In this regard the tanna holds in accordance with the opinion of Rabbi Yosei ben Keifar, who stated a principle with regard to a divorcée who formed a relationship with another man, that if she came from marriage it is prohibited for her to return to her first husband, but if she came from betrothal it is permitted. Consequently, even if people do claim as above, there is no cause for concern.

The Gemara raises a further difficulty: From the fact that the latter clause of the mishna (92a) teaches: Even though...