מְנָא לָן? דְּתַנְיָא: ״אוֹ הוֹדַע אֵלָיו חַטָּאתוֹ״ – וְלֹא שֶׁיּוֹדִיעוּהוּ אֲחֵרִים. יָכוֹל עַל פִּי שֶׁאֵינוֹ מַכְחִישׁוֹ יְהֵא פָּטוּר – תַּלְמוּד לוֹמַר ״אוֹ הוֹדַע אֵלָיו״ – מִכֹּל מָקוֹם.

§ 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.[N]

הֵיכִי דָּמֵי? אִילֵימָא דַּאֲתוּ תְּרֵי וְלָא קָא מַכְחִישׁ לְהוּ – קְרָא לָמָּה לִי? אֶלָּא לָאו – חַד, וְכִי לָא קָא מַכְחִישׁ לֵיהּ – מְהֵימָן, שְׁמַע מִינָּהּ: עֵד אֶחָד נֶאֱמָן. וּמַאי דְּמִשּׁוּם דְּמְהֵימָן? דִּלְמָא מְשׁוּם דָּקָא שָׁתֵיק, וּשְׁתִיקָה כְּהוֹדָאָה דָּמְיָא!

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.**

תֵּדַע, דְּקָתָנֵי סֵיפָא: אָמְרוּ שְׁנַיִם ״אָכַלְתָּ חֵלֶב״ וְהוּא אוֹמֵר: ״לֹא אָכַלְתִּי״ – פָּטוּר. רַבִּי מֵאִיר מְחַיֵּיב. אָמַר רַבִּי מֵאִיר: קַל וָחוֹמֶר, אִם הֵבִיאוּהוּ שְׁנַיִם לִידֵי מִיתָה חֲמוּרָה – לֹא יְבִיאוּהוּ לִידֵי קָרְבָּן הַקַּל?

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,**[H] **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?**

אָמְרוּ לוֹ: מָה אִם יִרְצֶה לוֹמַר ״מְזִיד הָיִיתִי״! רֵישָׁא

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:**[N] **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**

Perek **X**
Daf **88** Amud **a**

מַאי טַעֲמָא קָא מְחַיְּיבֵי רַבָּנַן? אִילֵימָא מְשׁוּם דְּמְהֵימָן – וְהָא תְּרֵי בְּעָלְמָא, דְּאַף עַל גַּב דְּקָא מַכְחִישׁ לְהוּ – אִינְהוּ מְהֵימְנֵי, וְקָא פָּטְרִי רַבָּנַן. אֶלָּא לָאו – מְשׁוּם דְּאִישְׁתִּיקָה כְּהוֹדָאָה דָּמְיָא.

of the mishna, **what is the reason that** when he remains silent, **the Rabbis obligate** him to bring to an offering based on the testimony of one witness? **If we say** it is **because** the witness **is deemed credible, but** there is the case of **an ordinary pair** of witnesses, **where even though he contradicts their** claim **they are deemed credible, and** yet **the Rabbis exempt** him from bringing an offering. If so, they would certainly not obligate him to bring an offering due to the testimony of a lone witness. **Rather, is it not because he** remained **silent, and silence is considered like an admission?** If this is the reason why he brings an offering, there is no proof from here that the testimony of one witness is accepted.

NOTES

Or if it was made known…in any case – אוֹ הוֹדַע...מִכֹּל מָקוֹם: The fact that the verse stated: Or if it was made known, rather than: He knew, indicates both that the information provided by others is not enough in and of itself, and also that if one found out about his own sin, even through someone else, and he believes it to be true, this is considered awareness that renders him liable to bring an offering.

What if he would choose to say – מָה אִם יִרְצֶה לוֹמַר: The Gemara in tractate *Karetot* provides two explanations of this claim of the Rabbis. According to one opinion, it is considered that his statement was amended as though he meant to say he acted on purpose, not by mistake, and he simply failed to clarify his intention properly. According to the other interpretation, it is impossible for the testimony of others to render one liable to bring an offering, as he always has a way of avoiding the obligation. As a result, whenever he denies the witness's claim he is not compelled to bring an offering, and the matter is left between him and God. Some commentaries maintain that the discussion here must be explained in accordance with the second interpretation of the Gemara in tractate *Karetot* (Ramban).

HALAKHA

If two witnesses said to him, you ate forbidden fat – אָמְרוּ לוֹ שְׁנַיִם אָכַלְתָּ חֵלֶב: If two witnesses testified that someone had committed a transgression for which he is liable to bring a sin-offering and he denies their claim, he is not obligated to bring a sin-offering, in accordance with the opinion of the Rabbis (Rambam *Sefer Korbanot*, *Hilkhot Shegagot* 3:1).

אֶלָּא סְבָרָא הִיא: מִידֵּי דַּהֲוָה אַחֲתִיכָה סָפֵק שֶׁל חֵלֶב סָפֵק שֶׁל שׁוּמָּן, וַאֲתָא עֵד אֶחָד וַאֲמַר: בָּרִי לִי דְּשׁוּמָּן הוּא, דִּמְהֵימְנָן.

Rather, this **is** evidently based on **logical reasoning: Just as**[N] **it is in** the case of **a piece**[H] of meat about which it is **uncertain** if it is **forbidden fat** and **uncertain** if it is **of** permitted **fat,**[B] and there is no way of clarifying which it is, **and one witness comes and says: It is clear to me that it is** permitted **fat,** the *halakha* is **that he is deemed credible.** Here too, the testimony of a single witness can resolve the uncertainty.

מִי דָּמֵי? הָתָם – לָא אִיתַּחֲזַק אִיסּוּרָא, הָכָא – אִיתַּחֲזַק אִיסּוּרָא דְּאֵשֶׁת אִישׁ, וְאֵין דָּבָר שֶׁבְּעֶרְוָה פָּחוֹת מִשְּׁנַיִם.

The Gemara raises a difficulty: **Is it comparable? There, the presumption of a prohibition has not** been established,[H] as there is no proof that the piece was ever forbidden, and one can therefore rely on the witness who permits it, whereas **here, the presumption of** the **prohibition** with regard **to a married woman is** established, **and** there is a principle that **nothing involving** those **with whom relations are forbidden**[N] can be determined by **fewer than two**[H] witnesses.

הָא לָא דָּמְיָא אֶלָּא לַחֲתִיכָה דְּוַדַּאי חֵלֶב, וַאֲתָא עֵד אֶחָד וַאֲמַר: בָּרִי לִי דְּשׁוּמָּן הָוָה, דְּלָא מְהֵימְנָן. מִי דָּמֵי? הָתָם – אֲפִילּוּ אָתוּ בִּי מֵאָה לָא מְהֵימְנֵי, הָכָא – כֵּיוָן דְּכִי אָתוּ בִּי תְּרֵי מְהֵימְנֵי חַד נַמִי לְהֵימְנֵיהּ, מִידֵּי דַּהֲוָה אַסָּבֵל הֶקְדֵּשׁ וְקוֹנָמוֹת.

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 **untithed produce,**[B] i.e., produce from which neither *teruma* nor tithe has been separated, **consecrated** property, **and *konamot*,**[L] an alternative term for offerings [*korbanot*] used in vows creating prohibitions. Such vows are called by the generic term: *Konamot*.

הַאי טָבֵל הֵיכִי דָּמֵי? אִי דִּידֵיהּ – מְשׁוּם דִּבְיָדוֹ לְתַקְּנוֹ. אֶלָּא דְּאַחֵר, מַאי קָסָבַר?

The Gemara asks: With regard to **this** case of **untithed 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 untithed produce **of another,** but if so, **what does** the anonymous Sage who cited this example **hold** in this case?

אִי קָא סָבַר תּוֹרֵם מְשֻׁלּוֹ עַל שֶׁל חֲבֵרוֹ אֵינוֹ צָרִיךְ דַּעַת בְּעָלִים – מְשׁוּם דִּבְיָדוֹ לְתַקְּנוֹ. וְאִי קָסָבַר צָרִיךְ דַּעַת בְּעָלִים, וַאֲמַר: אֲנָא יָדַעְנָא בֵּיהּ דְּמִתְקַן – הֵיא גּוּפָהּ מְנָלַן?

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 untithed produce more obvious than the testimony with regard to a missing husband?

HALAKHA

Just as it is in the case of a piece, etc. – מִידֵּי דַּהֲוָה אַחֲתִיכָה וכו׳: 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 Korbanot*, *Hilkhot Shegagot* 3:2; see *Shulḥan Arukh*, *Yoreh De'a* 127:3).

The presumption of a prohibition has not been established – לָא אִיתַּחֲזַק אִיסּוּרָא: 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 Shofetim*, *Hilkhot Edut* 11:7; see *Shulḥan 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 – אֵין דָּבָר שֶׁבְּעֶרְוָה פָּחוֹת מִשְּׁנַיִם: The court will compel a man to divorce his wife only if two witnesses testify that she committed adultery willingly (Rambam *Sefer Nashim*, *Hilkhot Ishut* 24:18; see *Shulḥan Arukh*, *Even HaEzer* 11:1).

BACKGROUND

Forbidden fat and permitted fat – חֵלֶב וְשׁוּמָּן: 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.

Untithed produce – טֶבֶל: This is produce from which *teruma* and tithes have not been separated. The Torah prohibits the consumption of untithed produce, and one who eats untithed 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 untithed produce and may be eaten.

LANGUAGE

***Konam* – קוֹנָם:** At the beginning of tractate *Nedarim* 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. – סְבָרָא הִיא מִידֵּי וכו׳: 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 Yeshanim*). 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 commentaries 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 nothing involving those with whom relations are forbidden, etc. – אִיתַּחֲזַק אִיסּוּרָא…וְאֵין דָּבָר שֶׁבְּעֶרְוָה וכו׳: 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 (Rashba).

הֶקְדֵּשׁ נַמִּי, אִי קְדוּשַּׁת דָּמִים – מְשׁוּם דִּבְיָדוֹ לְפִדּוֹתוֹ. אִי קְדוּשַּׁת הַגּוּף, אַי דִּידֵיהּ – מְשׁוּם דִּבְיָדוֹ לְאִיתְשׁוּלֵי עֲלֵיהּ, אֶלָּא דְּאַחֵר, וְאָמַר יָדַעְנָא בֵּיהּ דְּאִיתְשִׁיל מָרֵיהּ עֲלֵיהּ – הֵיאַ גּוּפָהּ מְנָלַן?

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,**[N] 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?

קוֹנָמוֹת נַמִּי, אִי קָסָבַר: יֵשׁ מְעִילָה בְּקוֹנָמוֹת, וּקְדוּשַּׁת דָּמִים נָחְתָא לְהוּ – מְשׁוּם דִּבְיָדוֹ לְפִדּוֹתוֹ. וְאִי קָסָבַר אֵין מְעִילָה בְּקוֹנָמוֹת, וְאִיסּוּר בְּעָלְמָא הוּא דְּרָבִיב לְהוּ אַכַּתְפֵּיהּ, אִי דִּידֵיהּ – מְשׁוּם דִּבְיָדוֹ לְאִיתְשׁוּלֵי עֲלֵיהּ,

In the case of ***konamot***[N] **too, if** he **holds** that **there is misuse** of consecrated objects **with regard to *konamot*,**[H] i.e., he holds that articles sanctified by a *konam* 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 ***konamot*, 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 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.

אֶלָּא דְּאַחֵר, וַאֲמַר אֲנָא יָדַעְנָא דְּאִיתְשִׁיל מָרֵיהּ עֲלֵיהּ – הֵיאַ גּוּפָהּ מְנָלַן?

Rather, you will say that the *konam* 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?

אָמַר רַבִּי זֵירָא: מִתּוֹךְ חוֹמֶר שֶׁהֶחְמַרְתָּ עָלֶיהָ בְּסוֹפָהּ הֵקַלְתָּ עָלֶיהָ בַּתְּחִלָּה. לָא לִיחְמִיר וְלָא לֵיקִיל!

Rabbi Zeira said: Due to the stringency that you were stringent[N] **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.

מִשּׁוּם עִיגּוּנָא אַקִּילוּ בָּהּ רַבָּנַן.

The Gemara answers: **Due to** the case of **a deserted wife, the Sages were lenient with her.**[H] 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.

״תֵּצֵא מִזֶּה וּמִזֶּה״ וכו׳. אָמַר רַב: לֹא שָׁנוּ אֶלָּא שֶׁנִּיסֵּת בְּעֵד אֶחָד, אֲבָל נִיסֵּת עַל פִּי שְׁנֵי עֵדִים – לֹא תֵּצֵא. מְחַכּוּ עֲלֵיהּ בְּמַעַרְבָא: אַתָּא גַּבְרָא וְקָאֵי, וְאַתְּ אָמְרַתְּ לֹא תֵּצְאִי?! לָא צְרִיכָא דְּלָא יָדְעִינַן לֵיהּ.

§ 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.

NOTES

Inherent sanctity – קְדוּשַּׁת 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).

***Konamot* – קוֹנָמוֹת:** A *konam*, 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 *konam* 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 *konamot* 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 *konam* and a general *konam*. The former is when one declares that a certain object is *konam* 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 *konam*. Both the early and later authorities discuss at length the difference between a general *konam* and a proper consecration; see the *Kovetz He'arot*. Apparently, the main difference concerns the transfer of ownership; not only is it prohibited to benefit from consecrated property and anyone who misuses it is 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 *konamot*, these articles do not belong to the Temple.

Due to the stringency that you were stringent, etc. – מִתּוֹךְ שֶׁהֶחְמַרְתָּ וכו׳: 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 (Ramban; see Meiri).

HALAKHA

Misuse of consecrated objects with regard to *konamot* – מְעִילָה בְּקוֹנָמוֹת: If one says: This loaf is to me like an offering, or: It is like consecrated property, and then proceeds to eat it, he has misused consecrated objects. However, unlike consecrated property or offerings, the loaf cannot be redeemed, as it is sacred only in the sense that it is prohibited for him to partake of it. The *halakha* is in accordance with the opinion of Rabbi Meir, following the conclusion of the Gemara in tractate *Nedarim*. Rabbeinu Nissim notes that this opinion is elsewhere ascribed to the Rabbis (Rambam *Sefer Avoda*, *Hilkhot Me'ila* 4:9).

Due to a deserted wife, the Sages were lenient with her – מִשּׁוּם עִיגּוּנָא אַקִּילוּ בָּהּ רַבָּנַן: The Sages are lenient with regard to testimony that a woman's husband has died. Hearsay testimony is accepted, as well the testimony of disqualified witnesses, and even the incidental, unconsidered remark of a gentile. The reason is that there is no concern that they might be lying in a case of this kind, and the Sages did everything within their power to prevent occurrences of deserted wives being unable to remarry (Rambam *Sefer Nashim*, *Hilkhot Geirushin* 13:29).

אִי דְּלָא יָדְעִינַן לֵיהּ, בְּעֵד אֶחָד אַמַּאי תֵּצֵא – לָא צְרִיכָא דְּאָתוּ בֵּי תְּרֵי, וְאָמְרִי: אֲנַן הָווינַן בַּהֲדֵיהּ מִכִּי נָפַק וְעַד הָשְׁתָּא, וְאַתּוּן הוּא דְּלָא יָדְעִיתוּ לֵיהּ. דִּכְתִיב ״וַיַּכֵּר יוֹסֵף אֶת אֶחָיו וְהֵם לֹא הִכִּירוּהוּ״, וְאָמַר רַב חִסְדָּא: מְלַמֵּד שֶׁיָּצָא בְּלֹא חֲתִימַת זָקָן וּבָא בַּחֲתִימַת זָקָן.

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 Ḥisda 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.

סוֹף סוֹף תְּרֵי וּתְרֵי נִינְהוּ,

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?

Perek **X**
Daf **88** Amud **b**

HALAKHA

Where that woman married one of her witnesses – שֶׁנִּיסֵּת לְאֶחָד מֵעֵדֶיהָ: If two witnesses said that a woman's husband is dead, and two others testified that he is not dead, she may not remarry. If she married one of the witnesses who claimed her husband is dead, and she herself says she is sure that he is dead, she need not leave her second husband, as stated by Rav Sheshet (Rambam *Sefer Nashim*, *Hilkhot Geirushin* 12:6; *Shulḥan Arukh*, *Even HaEzer* 17:42).

וְהַבָּא עָלֶיהָ בְּאָשָׁם תָּלוּי קָאֵי! אָמַר רַב שֵׁשֶׁת: כְּגוֹן שֶׁנִּיסֵּת לְאֶחָד מֵעֵדֶיהָ.

And as this is an uncertain case, **one who has intercourse with her stands** obligated to bring **an uncertain guilt**-offering.[N] 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,**[HN] 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.

NOTES

Stands obligated to bring an uncertain guilt-offering – בְּאָשָׁם תָּלוּי קָאֵי: Although the uncertain guilt-offering is mentioned in Leviticus 5:17–19, the Torah does not fully clarify the difference between this offering and an ordinary sin-offering. The *halakhot* of the uncertain guilt-offering are discussed in several places in the Talmud, mainly in tractate *Karetot*. The basic concept is that if one unwittingly transgresses a prohibition for which he is liable to receive *karet* if it were performed intentionally, he must bring a sin-offering. If he is unsure whether or not he committed the sin, he brings an uncertain guilt-offering. If it later became clear that he did in fact transgress, at this point he must bring a sin-offering. However, there are differences of opinion as to whether an uncertain guilt-offering must be brought for every type of transgression whose status is uncertain, or only in certain cases. See *Tosafot* for a discussion of various aspects of this issue.

With regard to the matter at hand, the relevance of the uncertain guilt-offering is that if this offering must be brought, this leads to the application of the principle: One does not feed another something forbidden to him. In other words, if someone has accepted with regard to himself that a matter is forbidden to him it is treated as such, even if its status has not been established with certainty. Therefore, he must divorce this wife (Rabbi Avraham min HaHar).

Where that woman married one of her witnesses – שֶׁנִּיסֵּת לְאֶחָד מֵעֵדֶיהָ: The early authorities ask: Elsewhere it states that if a man testifies that he killed the husband of a certain woman it is not permitted for him to marry her. Why, then, are these witnesses deemed credible, when they stand to benefit from their testimony? One answer is that two other witnesses came forward, apart from the one who married her, and there is no concern about a conspiracy where three individuals are involved (Rabbeinu Ḥananel). Others suggest that the witness was married to another woman when he delivered his testimony, and therefore he did not stand to benefit at the time (*Tosafot Yeshanim*). Yet others claim that the *halakha* that a witness may not marry the wife refers to the situation *ab initio*, whereas the Gemara here is dealing with a witness who already married her, and he is certainly not compelled to divorce her after the fact (Ritva, citing Rabbeinu Tam).

הֵיא גּוּפָהּ בְּאָשָׁם תָּלוּי קַיְימָא! בְּאוֹמֶרֶת ״בָּרִי לִי״. אִי הָכִי, מַאי לְמֵימְרָא? אֲפִילּוּ רַבִּי מְנַחֵם בְּרַבִּי יוֹסֵי לָא קָאָמַר אֶלָּא כְּשֶׁבָּאוּ עֵדִים וְאַחַר כָּךְ נִיסֵּת, אֲבָל נִיסֵּת וְאַחַר כָּךְ בָּאוּ עֵדִים – לֹא אָמַר.

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.**[N] 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 Menaḥem, 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* with regard to this case.

דְּתַנְיָא: שְׁנַיִם אוֹמְרִים ״מֵת״ וּשְׁנַיִם אוֹמְרִים ״לֹא מֵת״, שְׁנַיִם אוֹמְרִים ״נִתְגָּרְשָׁה״ וּשְׁנַיִם אוֹמְרִים ״לֹא נִתְגָּרְשָׁה״ – הֲרֵי זוֹ לֹא תִּנָּשֵׂא, וְאִם נִיסֵּת – לֹא תֵּצֵא. רַבִּי מְנַחֵם בְּרַבִּי יוֹסֵי אָמַר: תֵּצֵא, אָמַר רַבִּי מְנַחֵם בְּרַבִּי יוֹסֵי: אֵימַת אֲנִי אוֹמֵר תֵּצֵא – בִּזְמַן שֶׁבָּאוּ עֵדִים וְאַחַר כָּךְ נִיסֵּת, אֲבָל נִיסֵּת וְאַחַר כָּךְ בָּאוּ עֵדִים – הֲרֵי זוֹ לֹא תֵּצֵא!

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 uncontroverted testimony that she is forbidden to him. **Rabbi Menaḥem, son of Rabbi Yosei, said:** She must **leave** him. **Rabbi Menaḥem, 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.

כִּי קָאָמַר רַב נַמִּי – בִּזְמַן שֶׁבָּאוּ עֵדִים וְאַחַר כָּךְ נִיסֵּת, לְאַפּוֹקֵי מִדְּרַבִּי מְנַחֵם בְּרַבִּי יוֹסֵי. וְאִיכָּא דְּאָמַר: טַעֲמָא דְּנִיסֵּת וְאַחַר כָּךְ בָּאוּ עֵדִים, אֲבָל בָּאוּ עֵדִים וְאַחַר כָּךְ נִיסֵּת – תֵּצֵא, כְּמַאן – כְּרַבִּי מְנַחֵם בְּרַבִּי יוֹסֵי.

The Gemara answers: **When Rav spoke too,** he was referring to a case **when** 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 Menaḥem, son of Rabbi Yosei,**[N] 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 Menaḥem, son of Rabbi Yosei.**

מְתִיב רָבָא: מִנַּיִן שֶׁאִם לֹא רָצָה דָּפְנוֹ – תַּלְמוּד לוֹמַר ״וְקִדַּשְׁתּוֹ״ – בְּעַל כָּרְחוֹ.

Rava raised an objection from a *baraita*: **From where** is it derived **that if** a priest **does not want** to observe the strictures against disqualified women, that the court **forces him** [***dafno***][HL] 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.**

HALAKHA

If a priest does not want, the court forces him – אִם לֹא רָצָה דָּפְנוֹ: If a priest marries a woman forbidden to him, the court excommunicates them and all who have dealings with them, and they apply every means of pressure to persuade him to divorce her (*Shulḥan Arukh*, *Even HaEzer* 6:6).

LANGUAGE

Forces him [*dafno*] – דָּפְנוֹ: Some claim that this word comes from the root *d-p-n*, in the sense of legal coercion. Others associate it with *dofen*, wall, or pressed to the wall, which also connotes being forced.

NOTES

Where she says, it is clear to me – בְּאוֹמֶרֶת בָּרִי לִי: 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 HaHar). 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 (*Arukh LaNer*). 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 *Ketubot* 22b).

To exclude the opinion of Rabbi Menaḥem, son of Rabbi Yosei, etc. – לְאַפּוֹקֵי מִדְּרַבִּי מְנַחֵם בְּרַבִּי יוֹסֵי וכו': According to this opinion, had Rav not stated his opinion, the ruling would have been in accordance with the opinion of Rabbi Menaḥem, 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 Menaḥem, precisely because his reasoning is sound (Ritva).

הֵיכִי דָּמֵי? אִילֵימָא דְּלָא נִיסֵּת לְאֶחָד מֵעֵדֶיהָ וְלָא קָאָמְרָה "בָּרִי לִי" – צְרִיכָא לְמֵימַר דְּדָפְנוֹ?! אֶלָּא לָאו – דְּנִיסֵּת לְאֶחָד מֵעֵדֶיהָ וְקָאָמְרָה "בָּרִי לִי", וְקָתָנֵי דָּפְנוֹ, אַלְמָא: מַפְקִינַן לָהּ מִינֵּיהּ!

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.

אִיסּוּר כְּהוּנָּה שָׁאנֵי. וְאִיבָּעֵית אֵימָא: מַאי דָּפְנוֹ – דָּפְנוֹ בְּעֵדִים. וְאִבָּעֵית אֵימָא – כְּשֶׁבָּאוּ עֵדִים וְאַחַר כָּךְ נִיסֵּת, וְרַבִּי מְנַחֵם בְּרַבִּי יוֹסֵי הִיא.

The Gemara answers: **A prohibition** with regard **to the priesthood is different,**[N] 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 Menaḥem, son of Rabbi Yosei.**

רַב אַשִׁי אוֹמֵר: מַאי "לֹא תֵּצֵא" דְּקָאָמַר רַב – לֹא תֵּצֵא מֵהֶיתֵּירָהּ הָרִאשׁוֹן.

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.

הָא אֲמָרָהּ רַב חֲדָא זִימְנָא! דְּתָנַן: נִיסֵּת שֶׁלֹּא בִּרְשׁוּת מוּתֶּרֶת לַחֲזוֹר לוֹ. וַאֲמַר רַב הוּנָא אֲמַר רַב: הָכִי הִלְכְתָא! חֲדָא מִכְּלָלָא דַּחֲבֵרְתָּהּ אִיתְּמַר.

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**[H] 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.

אָמַר שְׁמוּאֵל: לֹא שָׁנוּ אֶלָּא שֶׁלֹּא מַכְחַשְׁתּוֹ, אֲבָל מַכְחַשְׁתּוֹ – לֹא תֵּצֵא. בְּמַאי עָסְקִינַן? אִילֵימָא בְּבֵי תְּרֵי – כִּי מַכְחַשְׁתָּא לֵיהּ מַאי הֲוֵי? אֶלָּא בְּחַד, טַעְמָא – דְּמַכְחַשְׁתּוֹ, הָא שָׁתְקָה – תֵּצֵא,

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.

וְהָאָמַר עוּלָּא: כָּל מָקוֹם שֶׁהֶאֱמִינָה תּוֹרָה עֵד אֶחָד – הֲרֵי כָּאן שְׁנַיִם, וְאֵין דְּבָרָיו שֶׁל אֶחָד בְּמָקוֹם שְׁנַיִם! הָכָא בְּמַאי עָסְקִינַן – בְּפָסוּלֵי עֵדוּת, וְכִדְרַבִּי נְחֶמְיָה.

The Gemara asks: **But didn't Ulla say** that **wherever** you find **that the Torah relies on one witness,**[NH] **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 Neḥemya.**

NOTES

A prohibition with regard to the priesthood is different – אִיסּוּר כְּהוּנָּה שָׁאנֵי: 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 HaHar).

Where the Torah relies on one witness – שֶׁהֶאֱמִינָה תּוֹרָה עֵד אֶחָד: 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 *Yam shel Shlomo*).

HALAKHA

If she married without consent – נִיסֵּת שֶׁלֹּא בִּרְשׁוּת: 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 (81b) by the Gemara (see Rif; Rambam *Sefer Nashim*, *Hilkhot Geirushin* 10:5; *Shulḥan Arukh*, *Even HaEzer* 17:56).

Wherever the Torah relies on one witness – כָּל מָקוֹם שֶׁהֶאֱמִינָה תּוֹרָה עֵד אֶחָד: 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*, *Hilkhot Geirushin* 12:20; *Shulḥan Arukh*, *Even HaEzer* 17:40).

דְּתַנְיָא, רַבִּי נְחֶמְיָה אוֹמֵר: כָּל מָקוֹם שֶׁהֶאֱמִינָה תּוֹרָה עֵד אֶחָד – הַלֵּךְ אַחַר רוֹב דֵּעוֹת, וְעָשׂוּ שְׁתֵּי נָשִׁים בְּאִישׁ אֶחָד כִּשְׁנֵי אֲנָשִׁים בְּאִישׁ אֶחָד.

As it is taught in a *baraita* that **Rabbi Neḥemya says: Wherever** you find that **the Torah relies on one witness, follow the majority of opinions.**[N] 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**[N] **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.

וְאִיבָּעֵית אֵימָא: כָּל הֵיכָא דְּאָתָא עֵד אֶחָד כָּשֵׁר מֵעִיקָּרָא – אֲפִילּוּ מֵאָה נָשִׁים כְּעֵד אֶחָד דָּמְיָין, הָכָא בְּמַאי עָסְקִינַן – כְּגוֹן דְּאָתְיָא אִשָּׁה מֵעִיקָּרָא,

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.**

וְתָרְצָה לְרַבִּי נְחֶמְיָה הָכִי: רַבִּי נְחֶמְיָה אוֹמֵר: כָּל מָקוֹם שֶׁהֶאֱמִינָה תּוֹרָה עֵד אֶחָד – הַלֵּךְ אַחַר רוֹב דֵּעוֹת, וְעָשׂוּ שְׁתֵּי נָשִׁים בְּאִשָּׁה אַחַת כִּשְׁנֵי אֲנָשִׁים בְּאִישׁ אֶחָד. אֲבָל שְׁתֵּי נָשִׁים בְּאִישׁ אֶחָד – כְּפַלְגָּא וּפַלְגָּא דָּמֵי.

And you must accordingly **amend** the statement **of Rabbi Neḥemya** so that it reads **as follows: Rabbi Neḥemya 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**[H] who is a valid witness, this **is like half against half,**[N] 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.

"צְרִיכָה גֵּט מִזֶּה וּמִזֶּה". בְּשֶׁלָּמָא מֵרִאשׁוֹן תִּבָּעֵי גֵּט. אֶלָּא מִשֵּׁנִי – אַמַּאי? זְנוּת בְּעָלְמָא הוּא!

§ The mishna 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**[N] 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.

אָמַר רַב הוּנָא: גְּזֵירָה שֶׁמָּא יֹאמְרוּ גֵּירֵשׁ זֶה וְנָשָׂא זֶה, וְנִמְצֵאת אֵשֶׁת אִישׁ יוֹצְאָה בְּלֹא גֵּט. אִי הָכִי סֵיפָא, דְּקָתָנֵי: אָמְרוּ לָהּ מֵת בַּעְלֵךְ וְנִתְקַדְּשָׁה, וְאַחַר כָּךְ בָּא בַּעְלָהּ – מוּתֶּרֶת לַחֲזוֹר לוֹ, הָתָם נַמִי, נֵימָא: גֵּירֵשׁ זֶה וְקִדֵּשׁ זֶה, וְנִמְצֵאת אֵשֶׁת אִישׁ יוֹצְאָה שֶׁלֹּא בְּגֵט!

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.**

לְעוֹלָם בָּעֲיָא גֵּט. אִי הָכִי נִמְצָא זֶה מַחֲזִיר גְּרוּשָׁתוֹ מִשֶּׁנִּתְאָרְסָה! כְּרַבִּי יוֹסֵי בֶּן כֵּיפַר, דְּאָמַר: מִן הַנִּשּׂוּאִין – אֲסוּרָה, מִן הָאֵירוּסִין – מוּתֶּרֶת.

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.

תָּא מִדְּקָתָנֵי סֵיפָא: אַף עַל פִּי

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

NOTES

Follow the majority of opinions – הַלֵּךְ אַחַר רוֹב דֵּעוֹת: The logic of this claim is that as this is merely a clarification of the facts and not classified as testimony, with regard to which there is no difference between two witnesses and a hundred, the *halakha* here should be like that of other uncertain cases. There is a fundamental principle that in any situation of uncertainty one follows the majority. This applies both to the majority of opinions of witnesses, and to the likelihood of an outcome, e.g., the majority of meat found in a gentile town is presumed to be non-kosher (*Yosef Lekaḥ*).

Two women against one man – שְׁתֵּי נָשִׁים בְּאִישׁ אֶחָד: There are two primary lines of interpretation. Some commentaries maintain that the conflicting testimonies were delivered at the same time, e.g., certain disqualified witnesses attested that the husband was dead while others claimed he was alive. Others contend that this refers to a situation where some witnesses came and said it is permitted for the woman to marry, followed only later by other witnesses who stated the opposite (see Meiri).

Like half against half – כְּפַלְגָּא וּפַלְגָּא דָּמֵי: There are different opinions with regard to the *halakha*. According to some commentaries, this is considered testimony whose status is uncertain, and as Ulla maintains that the first witness is also deemed credible, the woman retains her initial permitted status (Rashi; Ramban). Others rule that this is considered like a case of two conflicting sets of witnesses, which means that if she is not already married it is not permitted for her to do so.

But from the second, why – אֶלָּא מִשֵּׁנִי אַמַּאי: Some early authorities cite other versions of the text here, which they claim are similar to the interpretation of the Jerusalem Talmud (Meiri). According to these versions, the Sages decreed that the second man must divorce her so as to clarify the prohibition with regard to the first one. In other words, he must give her a bill of divorce as a sign that she is permanently forbidden to the first man.

HALAKHA

Two women against one man – שְׁתֵּי נָשִׁים בְּאִישׁ אֶחָד: If one witness informed a woman that her husband was dead, while numerous women or others ordinarily disqualified from giving testimony claimed that he was not dead, their accounts are granted equal weight, in accordance with the second version of Rabbi Neḥemya's statement (Rambam *Sefer Nashim*, *Hilkhot Geirushin* 12:20; *Shulḥan Arukh*, *Even HaEzer* 17:37).