

מאי שנא רישא ומאי שנא סיפא?

The Gemara asks: **What is different in the first clause of the *baraita* with regard to betrothal, where, if she married another, she need not leave her husband; and what is different in the second clauseⁿ with regard to divorce, where, if she remarried, she must leave her husband?**

אמר אביי: תרגמה בעד אחד; עד אחד אומר "נתקדשה" ועד אחד אומר "לא נתקדשה" – תרוניהו בפניהו קמסהדי, והאי דקאמר "נתקדשה" – הוה ליה חד ואין דבריו של אחד במקום שנים.

Abaye said: Interpret the *baraita* in a case in which each testimony was given by **one witness**. If **one witness says: She was betrothed,^h and one witness says: She was not betrothed, they are both testifying that she was unmarried. And that witness who says that she was betrothed is one witness, and the statement of one witness has no validity in a place where there are two witnesses.**

סיפא, עד אחד אומר "נתגרשה" ועד אחד אומר "לא נתגרשה" – תרוניהו באשת איש קמסהדי, והאי דקאמר "נתגרשה" – הוה ליה חד, ואין דבריו של אחד במקום שנים.

In the latter clause, if **one witness says: She was divorced, and one witness says: She was not divorced, they are both testifying that she was a married woman. And that witness who says that she was divorced is one witness, and the statement of one witness has no validity in a place where there are two witnesses.** Therefore, even if she remarried she must leave her husband.

רב אשי אמר: לעולם תרי ותרי, ואיפוד, שנים אומרים "ראינוה שנתקדשה", ושנים אומרים "לא ראינוה שנתקדשה" – הרי זו לא תנשא, ואם נשאת – תצא.

Rav Ashi said: **Actually** it is a case where there are **two witnesses** testifying that she is betrothed and divorced, **and two testifying that she is not betrothed and divorced. And in order to explain the difference between the first and latter clauses, reverse the two rulings.** In the first clause, if **two witnesses say: We saw her that she was betrothed,^h and two witnesses say: We did not see her that she was betrothed, this woman may not marry, and if she marries she must leave her husband.**

פשיטא! "לא ראינוה" אינה ראיה! לא צריכא, דדיירי בחצר אחד. מהו דתימא: אם איתא דנתקדשה – קלא אית לה למילתא, קא משמע לן: דעבדי אינשי דמקדשי בצנעא.

The Gemara asks: In that case, it is **obvious** that she must leave her husband, as testimony that **we did not see her is not effective proof.** The Gemara answers: **No, it is necessary to teach this *halakha* in a case where the woman and the witnesses reside in one courtyard. Lest you say: If it is so that she was betrothed, the matter generates publicity, and the fact that the neighbors did not see that she was betrothed indicates that she was not, therefore the *baraita* teaches us that people are prone to betroth a woman in private, with even their neighbors unaware of the betrothal.**

HALAKHA

עד אחד אומר נתקדשה – If one witness says she was betrothed – In a case where one witness testifies that a woman was betrothed and another witness testifies that she was not betrothed, if the second witness testifies that there was no betrothal at all, she may marry *ab initio*. If, however, the witnesses differ about a betrothal with regard to which there is uncertainty, e.g., where the groom threw the money of betrothal to her, and it is unclear whether it landed closer to her, in which case she would be betrothed, or whether it landed closer to him, in which case she would not be betrothed, she may not marry *ab initio*. However, if she married, she need not leave her husband. This ruling is in accordance with Abaye's explanation of the *baraita*, as Rav Ashi does not dispute his ruling, but simply explains the *baraita* in a different manner (Tosafot; see *Maggid Mishne*; Rambam *Sefer Nashim, Hilkhot Ishut* 9:31; *Shulhan Arukh, Even HaEzer* 47:3).

שנים – עד אחד אומר נתקדשה – If two witnesses say, we saw her that she was betrothed – In a case where two witnesses say that they saw a woman betrothed, and two other witnesses say that they did not see her betrothed, even if they were together in the same courtyard at the time of the disputed betrothal, she may not marry *ab initio*. If she does, she must leave her husband. Some authorities rule that if they were all together at the time of the disputed betrothal, and she herself states that it is clear to her that she was not betrothed, if she marries one of the witnesses who supported her claim, she need not leave her husband, in accordance with the opinion of Rav Ashi (*Beit Shmuel*; Rambam *Sefer Nashim, Hilkhot Ishut* 9:30; *Shulhan Arukh, Even HaEzer* 47:1).

NOTES

What is different in the first clause and what is different in the second clause – מאי שנא רישא ומאי שנא סיפא: *Tosafot* ask: Ostensibly, the difference is apparent: In the case where the witnesses differ with regard to whether she was betrothed, her presumptive status is that of an unmarried woman; in the case where they differ with regard to whether she was divorced, her presumptive status is that of a married woman. In each case of contradictory testimony, the woman maintains her presumptive status.

Tosefot Rid explains that the *tanna* of this *baraita* holds that the case of two pairs of contradictory witnesses creates uncertainty with regard to Torah law, which negates her presumptive status. The result is that there is uncertainty with regard to her status. The Rashba and others explain in a similar manner: Although the *halakha* is that it is not considered an uncertainty, the Gemara sought to establish this *baraita* according to all opinions, even according to those who maintain that there is uncertainty.

In *Shita Yeshana*, cited in the *Shita Mekubbetzet*, it is explained that if the *baraita* were referring to a woman whose presumptive status is known, there would be nothing novel about this *halakha*. Therefore, one must say that the *baraita* is referring to a woman whose presumptive status is unknown, e.g., where both she and her witnesses came from abroad.

If two witnesses say, we saw her that she was divorced – שנים אומרים ראינוה שנתגרשה – If two witnesses testify that they saw a woman divorced, and two other witnesses testify that they did not see her divorced, even if they were in the same courtyard, she may not remarry *ab initio*, but if she does, she need not leave her husband, in accordance with Rav Ashi's interpretation of the *baraita*. Some authorities rule that if the witnesses who claim that they did not see her divorced were in a different courtyard, she may remarry *ab initio* (*Beit Shmuel*; Rambam *Sefer Nashim*, *Hilkhot Geirushin* 12:8; *Shulhan Arukh*, *Even HaEzer* 152:4).

Taught this halakha in reference to the latter clause of the mishna – מתני לה אסיפא: If witnesses testify that a woman is married, she is not deemed credible to claim that she is divorced. Therefore, if she remarries, she must leave her husband, even if the witnesses testified after she had already remarried. However, her claim that she was divorced is accepted to prohibit her from marrying a priest or entering into levirate marriage, since her claim rendered her an entity of prohibition (see *Maggid Mishne*; Rambam *Sefer Nashim*, *Hilkhot Geirushin* 12:1; *Shulhan Arukh*, *Even HaEzer* 152:7).

When the presumption of Rav Hamnuna was stated it was stated specifically in a case where she was in his presence – כי איתמר דרב המנונא בפניו: If a woman says in the presence of her husband: You divorced me, her claim is accepted because a woman would not be so insolent as to make that claim in her husband's presence if it were not true. This ruling is in accordance with the opinion of Rav Hamnuna. The Rema writes that some authorities rule that today that presumption is no longer relevant (*Beit Yosef*; Rambam *Sefer Nashim*, *Hilkhot Ishut* 4:13 and *Hilkhot Geirushin* 12:4; *Shulhan Arukh*, *Even HaEzer* 17:2).

NOTES

With regard to the status of a captive woman the Sages were lenient – בשבוייה הקילו: Some explain that the Sages were lenient with regard to a captive woman but displayed no leniency with regard to a married woman. This is because the prohibition against a priest marrying a captive woman, whose legal status is that of a *zona*, is a standard Torah prohibition, while intercourse with a married woman is punishable by death through stoning.

The Ritva rejects that distinction, as the Sages concluded that there is no distinction between more and less severe Torah prohibitions. He explains that the leniency in the case of the captive woman is based on the fact that she attempts to make herself undesirable in the eyes of her captor to avoid being raped, as explained in tractate *Kiddushin* (12b). However, Rashi, both here and elsewhere, explains that the leniency in the case of the captive woman is due to the fact that there is uncertainty whether the captive woman was raped and therefore uncertainty whether she is forbidden. In contrast, in the case of the divorcée, the prohibition is clear as she was a married woman. All three opinions are cited in *Tosafot* on *Kiddushin*.

סיפא, שנים אומרים "ראינוה שנתגרשה", ושנים אומרים "לא ראינוה שנתגרשה" – הרי זו לא תנשא, ואם נשאת – לא תצא. מאי קא משמע לן – אף על גב דדיירי בתר צא. היינו הך!

מהו דתימא: גבי קדושין הוא דעבידי אינשי דמקדשי בצנעא. אבל גבי גירושין, אם איתא דאיגרשא – קלא אית לה למילתא, קא משמע לן דעבידי אינשי דמקדשי ודמגרשי בצנעא.

"ואם משנשאת באו עדים לא תצא" כו'. רבי אושעיא מתני לה ארישא, רבה בר אבין מתני לה אסיפא.

מאן דמתני לה ארישא – כל שכן אסיפא, דבשבוייה הקילו. ומאן דמתני לה אסיפא, אבל ארישא – לא.

לימא בדרב המנונא קמיפלגי, דמאן דמתני לה ארישא – אית ליה דרב המנונא, ומאן דמתני לה אסיפא – לית ליה דרב המנונא?

לא, דכולי עלמא אית להו דרב המנונא. והכא בהא קמיפלגי: דמר סבר: כי איתמר דרב המנונא – בפניו, אבל שלא בפניו – מעיזה, ומר סבר: שלא בפניו נמי אינה מעיזה.

In the latter clause of the *baraita*, if two witnesses say: We saw her that she was divorced,^h and two witnesses say: We did not see her that she was divorced, this woman may not remarry, and if she remarries, she need not leave her husband. The Gemara asks: What is the *baraita* teaching us? In this case, too, the fact that the witnesses did not see the divorce proves nothing. The Gemara answers: It teaches that although the witnesses and the woman live in one courtyard and presumably the witnesses would know if she was divorced, their testimony proves nothing. The Gemara asks: This is identical to that novel element taught in the first clause, that neighbors are not necessarily aware of what transpires elsewhere in the courtyard.

The Gemara explains that there is a novel element in this *halakha*. Lest you say that it is with regard to betrothal that people are prone to betroth a woman in private; however, with regard to divorce, if it is so that she was divorced, it would generate publicity, as divorce is typically the culmination of a period of incompatibility that is often public. Therefore, the latter clause teaches us that people are prone to both betroth and divorce in private. Consequently, the fact that the witnesses did not see that she was betrothed and divorced proves nothing.

S We learned in the mishna: And if the witnesses came after she married, this woman need not leave her husband. Two cases were cited in the mishna, one with regard to a divorcée and one with regard to a woman taken captive, and to which of these cases this *halakha* is referring is a matter of dispute. Rabbi Oshaya taught this *halakha* in reference to the first clause of the mishna, where the woman claims that she was divorced. Rabba bar Avin taught this *halakha* in reference to the latter clause of the mishna,^h where the woman claims that she was taken captive and remained pure.

The Gemara notes: The one who taught this *halakha* in reference to the first clause of the mishna, all the more so would he teach it in reference to the latter clause of the mishna, as, in general, with regard to the status of a captive woman, the Sages were lenient,^N because the prohibition is the result of suspicion and uncertainty as far as what transpired during her period of captivity. And with regard to the one who taught this *halakha* in reference to the latter clause of the mishna, however, in reference to the first clause of the mishna, no, he would not necessarily teach this *halakha*.

The Gemara explains: Let us say it is with regard to the presumption of Rav Hamnuna that these *amora'im* disagree. The one who taught this *halakha* in reference to the first clause of the mishna and maintains that if the witnesses came after she married, this woman need not leave her husband, he holds in accordance with the presumption of Rav Hamnuna, who said that a woman is not insolent in the presence of her husband, and therefore her claim that she was divorced is accepted. And the one who taught this *halakha* in reference to the latter clause of the mishna and rules that the woman taken captive need not leave her husband the priest, while the woman who claims that she was divorced must leave her husband, he does not hold in accordance with the presumption of Rav Hamnuna.

The Gemara rejects that explanation: No, actually everyone holds in accordance with the presumption of Rav Hamnuna, and here it is with regard to this that they disagree, as one Sage, who holds that the woman who claims that she was divorced must leave her husband, maintains that when the presumption of Rav Hamnuna was stated, it was stated specifically in a case where she was in his presence;^h however, when she is not in his presence, she is insolent. And one Sage, who holds that the woman who claims that she was divorced need not leave her husband, maintains that when not in his presence she is also not insolent. Therefore, her claim that she was divorced is accepted.

She does not emerge from her initial permitted status – **לא תצא מהתירה הראשון** – In a case where the court rules that it is permitted for a woman to marry a priest on the basis of her claim that she was taken captive but not violated, if witnesses subsequently testify that she was taken captive, her permitted status remains intact. This ruling is in accordance with the opinion of Shmuel's father, according to Rashi's explanation, and the incident involving Shmuel's daughters (Rambam *Sefer Kedusha, Hilkhot Issurei Bia* 18:22; *Shulhan Arukh, Even HaEzer* 7:6).

And if witnesses that she was violated came – ואם באו עדי טומאה: In a case where a court rules that a woman is permitted to marry a priest on the basis of her claim that she was taken captive but not violated, and two witnesses subsequently testify that she was in fact violated by her captors, if she has already married a priest, she must leave her husband, and children of the priest born to her are disqualified from the priesthood (Rambam *Sefer Kedusha, Hilkhot Issurei Bia* 18:23; *Shulhan Arukh, Even HaEzer* 7:6).

But aren't there witnesses in a country overseas – והאיכא עדים במדינת הים: If a woman claims that she was taken captive but not violated, and that she has witnesses supporting her claim that she was not violated, there is no need to wait for the witnesses to testify. Rather, she may marry a priest immediately. Moreover, this is the ruling even if there are rumors that there are witnesses in countries overseas that she was violated (*Tosafot*), as the Sages are lenient with regard to women taken captive, in accordance with the *baraita* and Rav Ashi's conclusion (Rambam *Sefer Kedusha, Hilkhot Issurei Bia* 18:23; *Shulhan Arukh, Even HaEzer* 7:7).

NOTES

ואחר כך באו – And witnesses came thereafter – Some commentaries explain that there are two reasons that the claim of a woman captive is accepted. First, the principle: The mouth that prohibited is the mouth that permitted, applies because she is the only source for the fact that she was taken captive (see 22a). Second, there is a *miggo*, as she could have claimed that she had never been taken captive. Therefore, even if witnesses come after the court permitted her to marry a priest, rendering the first reason moot, the concept of *miggo*, which accorded her credibility at the time that she made her claim, still applies (*Kovetz Shiurim*).

BACKGROUND

בנתיה דמר – The daughters of Master Shmuel – **שמואל**: Neharde'a, where Shmuel's family resided, was adjacent to the border of the Persian and Roman Empires. Therefore, it was attacked and plundered on numerous occasions. Some claim that this incident that befell Shmuel's daughters transpired during the attack of Pappa ben Nazer Odonathus (51b), who destroyed the city in the year 259 CE. Based on data from the Babylonian Talmud and the Jerusalem Talmud, apparently Shmuel had at least three daughters, two of whom were taken captive and brought to Eretz Yisrael. Both later married Rav Shemen bar Abba, one after the death of the other. The third daughter married Issur the convert.

LANGUAGE

North [astan] – אסתן: In Aramaic, this means north, from the Syriac word meaning hidden.

“ואם משנשאת באו עדים” וכו'. אמר אבוי דשמואל: לא נשאת נשאת ממש, אלא כיון שהתירה לינשא, אף על פי שלא נשאת. והא “לא תצא” קתני! לא תצא מהתירה הראשון.

§ We learned in the mishna: **And if the witnesses came after she married**, this woman need not leave her husband. **The father of Shmuel said: Married does not mean actually married; rather, once the court permitted her to marry, although she has not yet married**, she need not leave her husband. The Gemara asks: **But doesn't the tanna teach: She need not leave**, meaning that she need not leave her husband? The Gemara explains: That phrase in this context means that even if witnesses come, **she does not emerge from her initial permitted status**.^h

תנו רבנן: אמרה “נשבית וטהורה אני ויש לי עדים שטהורה אני”. אין אומרים: נמתין עד שיבאו עדים, אלא מתירין אותה מיד. התורה לינשא, ואחר כך באו עדים, ואמרו “לא ידענו” – הרי זו לא תצא. ואם באו עדי טומאה, אפילו יש לה כמה בנים – תצא.

The Sages taught that if she said: **I was taken captive but I am pure, and I have witnesses who were with me throughout captivity who can testify that I am pure**, the court **does not say: We will wait until those witnesses come**. Rather, the court **permits her to marry a priest immediately**. If the court **permitted her to marry a priest, and witnesses came thereafterⁿ and said: We do not know whether or not she remained pure**, this woman **need not leave her husband**, as she was already permitted to marry a priest on the basis of her original statement. **And if witnesses that she was violated came^h and testified, even if she has several children**, she must leave the priest to whom she is married.

הני שבוייתא דאתין לנהרדעא. אותיב אבוי דשמואל טוירי בהדיהו. אמר ליה שמואל: ועד האידינא מאן נטרינהו? אמר ליה: אילו בנתך הווין, מי הוית מולול בהו כולי האי?!

The Gemara relates: There were **these captive women who came to Neharde'a with their captors** so that the local residents would redeem them. **Shmuel's father posted guards with them** to ensure that they would not enter into seclusion with gentiles. **Shmuel said to him: Until now who guarded them?** If there is concern about their status, it should be with regard to the possibility that they engaged in intercourse while in captivity before they were brought to Neharde'a. **He said to Shmuel: If they were your daughters, would you treat them with contempt to that extent?** They are no longer captives and deserve to be treated like any Jewish woman of unflawed lineage.

הואי “כשנגגה שויצא מלפני השליט” ואישתבין בנתיה דמר שמואל, ואסקינהו לארעא דישראל. אוקמן לשבוייניהו מאבראי, ועיילי לבי מדרשא דרבי חנינא. הא אמרה: “נשביתי וטהורה אני”, והא אמרה: “נשביתי וטהורה אני”. שרינהו.

The statement by the father of Shmuel was **“Like an error that emerges from before the ruler”** (Ecclesiastes 10:5), and it was realized. **The daughters of Master Shmuel were taken captive, and their captors took them up to Eretz Yisrael and sought to sell them or ransom them**. Shmuel's daughters left **their captors standing outside**, so that they would not come before the court, **and the women entered the study hall of Rabbi Hanina**. This daughter said: **I was taken captive, and I am pure, and that daughter said: I was taken captive, and I am pure, and the court permitted them to marry into the priesthood**.

סוף עול אתו שבוייניהו. אמר רבי חנינא: בנן דמורין אינון. איגלאי מילתא דבנתיה דמר שמואל הווין.

Ultimately, **their captors came and entered**, and it was clear that they were the captors of Shmuel's daughters. However, since the daughters made their claim first and the court permitted them to marry into the priesthood, this remained permitted to them. This is based on the *halakha* that if witnesses subsequently arrive, her initial permitted status need not be revoked. **Rabbi Hanina said: It is clear from their actions that they are the daughters of great halakhic authorities**, as they knew how to conduct themselves in order to retain their presumptive status of purity. The Gemara relates: **Ultimately, the matter became clear, that they were the daughters of Master Shmuel**.^b

אמר ליה רבי חנינא לרב שמן בר אבא: פוק אשפל בקרובותך – אמר ליה לרבי חנינא: והאיכא עדים במדינת הים! השתא מיהת ליתנהו קמן, עדים בצד אסתן ותאסר? טעמא – דלא אתו עדים, הא אתו עדים מתאסרא?

Rabbi Hanina said to Rav Shemen bar Abba, who was a priest: **Go out and tend to your relatives**, the daughters of Shmuel who were taken captive, and marry one of them. **Rav Shemen said to Rabbi Hanina: But aren't there witnesses in a country overseas^h** who knew before the daughters appeared in court that they were taken captive? **Rabbi Hanina said to him: Now, in any event**, those witnesses are **not before us**. He then cited an adage: There are **witnesses in the north [astan]^l side**, i.e., in a distant place, **and will the woman be forbidden?** The Gemara infers from Rabbi Hanina's statement: **The reason that their testimony may be ignored is because the witnesses did not come to court**. However, **were the witnesses to come to court, Shmuel's daughters would be forbidden to priests**.

וְהָאָמֵר אָבוֹה דְּשְׁמוּאֵל: בֵּין שְׁהִתְרוּהָ לְיָנִישָׁא – אָף עַל פִּי שְׁלָא נִשְׂאָת! אָמַר רַב אֲשִׁי: עֲדֵי טוּמְאָה אִיתְמַר.

The Gemara asks: **But didn't Shmuel's father say: Once the court permitted a woman to marry, even if she has not yet married, she remains permitted?** Rav Ashi said: The discussion between Rabbi Hanina and Rav Shemen was stated with regard to **witnesses who witnessed their violation**. In that case, were the witnesses to come to court and testify, even if she has several children, she must leave the priest to whom she is married.

Perek II

Daf 23 Amud b

NOTES

And when this woman testifies about that woman and vice versa – וּבִזְמַן שֶׁהָן מְעִידוֹת זוֹ אֶת זוֹ: The Gemara explains below (24a) that this is the novel element here: Although there is room for concern lest there is collusion and each woman testify on behalf of the other, the court accepts the testimony.

Yes, the first clause and the last clause – אֵין רִישָׁא וְסִיפָא: When the Gemara asks with regard to a mishna or a *baraita*: What are the circumstances, it seeks to ascertain additional factors relevant to the case. In general, the Gemara seeks to establish all the cases in a uniform manner, both in terms of the Sage who stated the *halakha* and in terms of the circumstances of the cases. Different *amora'im* adopted different opinions in *mishnayot* and *baraitot* where interpreting the different clauses uniformly was difficult. Some made every effort to establish the circumstances in a uniform manner even in the face of exegetical or language difficulties, while others, e.g., Rav Yosef and Abaye, preferred explaining the source as it is written even if doing so came at the expense of uniformity.

HALAKHA

And when this woman testifies about that woman and vice versa – וּבִזְמַן שֶׁהָן מְעִידוֹת זוֹ אֶת זוֹ: The Sages were lenient in cases involving women taken captive. Therefore, they rely on any witness, even a slave or a relative, to permit the woman to marry a priest, and even women who are not deemed credible to testify that a woman's husband died may testify in this case. In addition, the testimony of two women who were in captivity together concerning each other's status is deemed credible (Rambam *Sefer Kedusha*, *Hilkhot Issurei Bia* 18:17; *Shulhan Arukh*, *Even HaEzer* 7:1).

מתני' שְׁתֵּי נָשִׁים שָׁנְשָׁבוּ, זֹאת אוֹמֶרֶת: "נִשְׁבִּיתִי וְטְהוֹרָה אָנִי", וְזֹאת אוֹמֶרֶת: "נִשְׁבִּיתִי וְטְהוֹרָה אָנִי" – אֵינָן נֶאֱמָנוֹת. וּבִזְמַן שֶׁהָן מְעִידוֹת זוֹ אֶת זוֹ – הֲרֵי אֵלוֹ נֶאֱמָנוֹת.

MISHNA In a case where witnesses testify that there are two women who were taken captive, and this woman says: **I was taken captive but I am pure, and that woman says: I was taken captive but I am pure, they are not deemed credible. And when this woman testifies about that woman that she is pure and vice versa,^{NH} they are deemed credible.**

גַּמְ' תְּנוּ רַבָּנִן: "אֵין טְמֵאָה וְחִבְרָתִי טְהוֹרָה" – נֶאֱמָנוֹת: "אֵין טְהוֹרָה וְחִבְרָתִי טְמֵאָה" – אֵינָה נֶאֱמָנוֹת: "אֵין וְחִבְרָתִי טְמֵאָה" נֶאֱמָנוֹת עַל עֲצָמָה, וְאֵינָה נֶאֱמָנוֹת עַל חִבְרָתָהּ: "אֵין וְחִבְרָתִי טְהוֹרָה" – נֶאֱמָנוֹת עַל חִבְרָתָהּ, וְאֵינָה נֶאֱמָנוֹת עַל עֲצָמָה.

GEMARA The Sages taught in the *Tosefta* (2:2): If one of the women says: **I am tainted and my counterpart is pure, she is deemed credible on both counts.** If she says: **I am pure and my counterpart is tainted, she is not deemed credible** with regard to herself nor with regard to her counterpart. If she says: **I and my counterpart are both tainted, she is deemed credible with regard to herself but she is not deemed credible with regard to her counterpart.** If she says: **I and my counterpart are both pure, she is deemed credible with regard to her counterpart but she is not deemed credible with regard to herself.**

אָמַר מֶר: "אֵין טְהוֹרָה וְחִבְרָתִי טְמֵאָה" – אֵינָה נֶאֱמָנוֹת. הֵיכִי דְמִי? אֵי דְלִיבָא עֲדִים – עַל עֲצָמָה אִמְאִי לֹא מְהִימְנָא? "נִשְׁבִּיתִי וְטְהוֹרָה אָנִי" קְאָמְרָה! אֵלָא פְּשִׁטָּא דְאִיבָא עֲדִים.

The Master said in the *baraita* that if she says: **I am pure and my counterpart is tainted, she is not deemed credible.** The Gemara asks: **What are the circumstances? If there are no witnesses that she was taken captive, why is she not deemed credible with regard to herself?** If she is saying: **I was taken captive and I am pure, she is deemed credible based on the principle that the mouth that prohibited is the mouth that permitted.** Rather, it is obvious that there are witnesses that she was taken captive.

אִמְאָ מְצִיעָתָא: "אֵין וְחִבְרָתִי טְמֵאָה" – נֶאֱמָנוֹת עַל עֲצָמָה וְאֵינָה נֶאֱמָנוֹת עַל חִבְרָתָהּ. וְאֵי דְאִיבָא עֲדִים אִמְאִי לֹא מְהִימְנָא? אֵלָא פְּשִׁטָּא דְלִיבָא עֲדִים.

The Gemara asks: If so, say the middle clause of the *baraita*: If she says: **I and my counterpart are both tainted, she is deemed credible with regard to herself but she is not deemed credible with regard to her counterpart.** And if there are witnesses, why is she not deemed credible with regard to her counterpart? Once there is testimony that she was taken captive, she no longer has the presumptive status of purity. Rather, it is obvious that there are no witnesses that she was taken captive, and therefore her presumptive status of purity is intact.

אִמְאָ סִיפָא: "אֵין וְחִבְרָתִי טְהוֹרָה" – נֶאֱמָנוֹת עַל חִבְרָתָהּ, וְאֵינָה נֶאֱמָנוֹת עַל עֲצָמָה. וְאֵי דְלִיבָא עֲדִים – אֵעֲצָמָה אִמְאִי לֹא מְהִימְנָא? אֵלָא פְּשִׁטָּא דְאִיבָא עֲדִים.

The Gemara asks: If so, say the last clause of the *baraita*: If she says: **I and my counterpart are both pure, she is deemed credible with regard to her counterpart but she is not deemed credible with regard to herself.** And if there are no witnesses that they were taken captive, why is she not deemed credible with regard to herself? Rather, it is obvious that there are witnesses.

רִישָׁא וְסִיפָא דְאִיבָא עֲדִים, מְצִיעָתָא דְלִיבָא עֲדִים! אָמַר אַבְי: אֵין, רִישָׁא וְסִיפָא – דְאִיבָא עֲדִים, מְצִיעָתָא דְלִיבָא עֲדִים.

The Gemara asks: Is that to say that the *baraita* is formulated in an unusual fashion, with the first clause and the last clause pertaining to cases where there are witnesses, and the middle clause pertaining to a case where there are no witnesses? Abaye said: **Yes, the first clause and the last clause^N pertain to cases where there are witnesses, and the middle clause pertains to a case where there are no witnesses.**

And there is one witness who is testifying to the reverse of the woman's claim – ואיכא עד אהד דקא אפיך – The fundamental explanation of this matter is based on two underlying principles. First, since the status of a captive woman is based on suspicion and the prohibition against her marrying a priest is by rabbinic law, the testimony of one witness is sufficient. The restrictions that apply to cases where the testimony of two witnesses is required are not in effect in cases like these, where the testimony of one witness is accepted. Therefore, the testimony of a woman, a slave, or a maidservant is accepted.

Second, one is deemed credible to disqualify himself or render himself an entity of prohibition. In cases where one witness is deemed credible, his legal status is like that of two witnesses in other cases. Therefore, the testimony of one witness testifying to the contrary is ineffective to contradict that testimony. There is, though, a distinction between a case in which two contradictory single witnesses come together to testify, where each neutralizes the testimony of the other, and a case in which the witness testifying on behalf of the woman comes first, where the testimony of the single witness who comes thereafter cannot neutralize the testimony of the first (see Ramban). Therefore, the early commentaries establish this as a case where the testimony of the woman who testified that her counterpart is pure preceded the contradicting testimony, although that requires changing the order of the statements as they appear in the *baraita* (see Ritva).

She rendered herself an entity of prohibition – אייהי – שוייתא לנפש חתיכה דאיסורא: The Meiri writes that this applies specifically to an unmarried woman. If she claims that she is tainted, her claim is accepted even when there is a witness to the contrary. However, according to the Meiri, with regard to a woman who was married to a priest her claim is not accepted when it is contradicted by a witness, as she does not have the authority to render herself forbidden to her husband. Later authorities disagree with regard to the halakhic ruling in this case.

Let me die with the Philistines – תמות נפשי עם פלשתים: There is concern that at times a woman hates her counterpart to the extent that she would be willing to harm herself in order to harm that counterpart. Consequently, there are cases where the Sages disqualify the testimony of one woman about another where animosity is common, e.g., the case of the five women related by marriage listed in the mishna in *Yevamot* (117a). In the Gemara here, the woman reasons that were she to claim: I am pure and my counterpart is tainted, her claim would not be accepted. Therefore, she is prepared to claim that she herself is tainted (see *Hatam Sofer*).

רב פפא אמר: כולה דאיכא עדים, ואיכא עד אחד דקא אפיך. אמרה "אני טמאה וחברתי טהורה" ואמר לה עד אחד "את טהורה וחברתך טמאה". אייהי – שוייתא לנפשה חתיכה דאיסורא, חברתה – משתריא אפומא דידה.

Rav Pappa said: The *baraita* in its entirety can be explained in a case where there are witnesses, and there is one witness who is testifying to the reverse of the woman's claim.^{NH} If the woman said: I am tainted and my counterpart is pure, and one witness said to her: You are pure and your counterpart is tainted, although the witness testified that she was pure, because she admitted that she was tainted she rendered herself an entity of prohibition. Her counterpart is permitted on the basis of her claim, which is accepted despite being contradicted by the witness.

"אני טהורה וחברתי טמאה" ואמר לה עד אחד: "את טמאה וחברתך טהורה", אייהי בין דאיכא עדים – לאו כל כמינה, חברתה – משתריא אפומא דידה.

If the woman said: I am pure and my counterpart is tainted, and one witness said to her: You are tainted and your counterpart is pure, then with regard to her, since there are witnesses testifying that she was taken captive, it is not in her power to permit herself on the basis of her claim. However, her counterpart is permitted on the basis of the testimony of the witness.

"אני וחברתי טמאה" ואמר לה עד אחד "את וחברתך טהורה", אייהי – שוייתא לנפשה חתיכה דאיסורא, חברתא – משתריא אפומא דידה. הא תו למיה לי? היינו רישא!

If the woman said: I and my counterpart are both tainted, and one witness said to her: You and your friend are both pure, she rendered herself an entity of prohibition.^N However, her counterpart is permitted on the basis of the testimony of the witness. The Gemara asks: Why do I need this additional case? This is identical to that which was taught in the in the first clause. The principles governing the first two cases, i.e., she claims that she is tainted and thereby renders herself as an entity of prohibition, and her counterpart is permitted by the testimony of one witness even if that testimony is contradicted, also apply in this case.

מהו דתימא: הני תרווייהו טהורות מניה, והאי דקאמרה הכי – תמות נפשי עם פלשתים" היא דקא עבדה, קא משמע לן.

The Gemara answers: Lest you say that in this case, both of them are deemed untainted in accordance with the testimony of the witness, and the fact that she said that they are both tainted was because she was acting with the intention termed: "Let me die with the Philistines" (Judges 16:30),^N i.e., she was willing to implicate herself in order to bolster her credibility so that her testimony against her counterpart would be accepted, the *tanna* therefore teaches us that this is not a consideration.

"אני וחברתי טהורה" ואמר לה עד אחד "את וחברתך טמאה", אייהי בין דאיכא עדים – לאו כל כמינה, חברתה – משתריא אפומא דידה. הא תו למיה לי? היינו רישא דרישא!

If the woman said: I and my counterpart are both pure, and one witness said to her: You and your counterpart are both tainted, with regard to her, since there are witnesses testifying that she was taken captive, it is not in her power to permit herself on the basis of her claim. However, her counterpart is permitted on the basis of her claim. The Gemara asks: Why do I need this additional case? This is identical to that which was taught in the first part of the first clause. The principles governing the first two cases, i.e., her claim that she is pure is not accepted when the fact that she was taken captive was established by witnesses, and her counterpart is permitted on the basis of her claim even if that claim is contradicted, also apply in this case.

מהו דתימא: בי מהימנא – במקום דפסלה נפשה, אבל במקום דמכשרא נפשה אימא לא מהימנא, קא משמע לן.

The Gemara answers: Lest you say that when is she deemed credible to permit her counterpart, it is only in a case where she rendered herself unfit to marry a priest, but in a case where she rendered herself fit, say that she is not deemed credible with regard to her counterpart; the *tanna* therefore teaches us that each segment of the testimony is assessed independently, based on the criteria taught in the first clause.

HALAKHA

And there is one witness who is testifying to the reverse of the woman's claim – ואיכא עד אהד דקא אפיך: If there are two witnesses who testify that a woman was taken captive, and one witness testifies that she was raped, and another testifies that

she was not, she is permitted to marry a priest, even if the witness testifying on her behalf is a slave or a woman. This ruling is in accordance with the opinion of Rav Pappa (Ramban *Sefer Kedusha*, *Hilkhot Issurei Bia* 18:21; *Shulhan Arukh*, *Even HaEzer* 7:5).

