



## The Wife's Testimony Revisited

The fifteenth *perek* opens with the case where a couple went overseas and the wife returns alone claiming her husband died. The *Mishnah* rules that if there was no animosity between them and there were no wars at the time, then she is believed and thereby allowed to remarry.

Ordinarily, we required two witnesses. We have discussed previously (Volume 3 Issue 6 and Volume 9 Issue 9) the basis on which in this case, the wife's sole testimony is accepted. From the second *Mishnah*, *Beit Hillel* teaches that an incident was the precursor for this decree. Several people were going to harvest, when one man was bitten by a snake and died. His wife notified *Beit Din* of his death, and they clarified that it was indeed the case. The *Tosfot* explained that the *Beit Din* saw the risk of many women becoming *agunot* in similar cases, so they were decreed that they would then be trusted. *Beit Hillel* reasoned that the *Chachamim* only trusted in similar cases. The *Bartenura* explains that they only permitted it in cases where the purported death was close to *Beit Din*. *Beit Shammai* however argued that the *gezeira* was applied even to cases, like in the first *Mishnah*, where the wife returned from overseas. *Beit Hillel* in this case ultimately agreed with *Beit Shammai*.

The *Tosfot* however questions the need for a decree at all. The *Gemara* (*Ketubot* 23a) teaches that according to *Rav Hammuna*, a woman is trusted if she says she was divorced. The reasoning is that she would not have the audacity to lie about the matter in the presence of her husband. According to *R' Oshaya* this is even if her husband is not present when she makes the claim, since she would be concerned that he would learn of her claim. Consequently, in our case she should be believed based on a "*migo*". In other words, since she has another claim she could have made that would be believed, she should be believed when she says her husband died.

The *Tosfot* provide two answers. The first answer is that the issue is not one of whether she is lying, but rather one of accuracy. With or without a *migo*, the concern is that in some

situations, she might testify based on the strong impression that he was killed or died, but in reality he survived. Consequently, the rabbinic decree was instituted to trust her in these cases nonetheless.

The second answer is that the opinion in *Ketubot* that she is believed in the absence of her husband is referring to the *Mishnah* where she left single and returned claiming that she married and was then widowed while away. That case is an exception since it is only by her word that we know she is married, so we trust her when she says she was widowed. In our case however, the *migo* would not apply, consequently the rabbinic decree was required.

These two ways of understanding the core issue – believability or accuracy – underpin a different debate where the concern is heightened and the *gezeirah* does not apply. Returning to the first *Mishnah*, we learnt that if there was animosity between them or there were wars while they were away then we do not accept her testimony. The *Gemara* explores other situations that are similar to war. One case is when there was a famine. *Rava* maintains that in the case of a famine, it is even worse. In a case of a war, if she claimed that he died in bed after returning from battle she would be believed. This is because her claim would not be based on conjecture, but rather she would have stayed at his bed side and known with certainty. With respect to a famine however, even if she said he died in bed, since she too would have been in danger, she may have left at the point she thought his death was a foregone conclusion in order to save herself. It is not until she says that he died and buried him that she would be believed. The *Rashba* explains that the woman is never suspected of lying. The concern is only that the situation drove her to draw a premature and potentially incorrect conclusion. The *Rashba* however cites the *Rambam* who rules that if in time of war she claimed he was killed in war and she buried him, she is not believed, whereas if she claims he died in bed she is. From this ruling, the *Rashba* understands that the *Rambam* disagrees with him and maintains that the concern is whether she is telling the truth.

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**Revision Questions**

יבמות י"ג: ט"ו – ט"ו: ג'

- What is the law regarding a minor that performs *yibum*? (י"ג: ט"ו)
- When do we force the *yabam* to divorce the *yavamah*? (י"ג: ט"ו)
- When do we request that the *yabam* perform *chalitzah*? (Include two cases) (י"ג: ט"ו)
- What has happened to a man such that he can never divorce his wife? (ט"ו: ד')
- Is the law the same if these thing happened to the wife? Explain. (ט"ו: ד')
- What case does *R' Yochanan ben Gudgedah* bring to support the answer to the previous question? (ט"ו: ד')
- What is the law if two brothers, one a *pikeach* and the other a *cheresh*, marry two sisters that are *chereshot*, and one brother dies without children? (י"ג: ט')
- If a *yavamah* is a *chereshet*, what should the *yabam* do - *yibum* or *chalitzah*? (י"ג: ט')
- What is the law if two brothers, one a *pikeach* and the other a *cheresh*, marry two sisters that are *pikchot* and the *cheresh* dies? (י"ד: ט')
- Regarding the previous case, what if the *pikeach* dies instead (without any children)? (י"ד: ט')
- What is the law if two brothers, both *pikchim*, marry two sisters, one a *pikachat* and the other a *chereshet*, and the husband of the *chereshet* dies? (י"ה: ט')
- Regarding the previous case, what if the husband of the *pikachat* dies instead (without any children)? (י"ה: ט')
- What is the law regarding a case with two brothers, one a *pikeach* married to a *pikachat* and the other a *cheresh* married to a *chereshet*, both wives being sisters, and the *cheresh* dies without any children? (י"ו: ט')
- Regarding the previous case, what if the *pikeach* dies instead (without any children)? (י"ו: ט')
- Regarding the previous two questions, what is the law if the wives were not related? (י"ו: ט')
- What is the law if two brothers, both *pikchim*, marry unrelated women, one a *pikachat* and the other a *chereshet*, and the husband of the *chereshet* dies? (י"ז: ט')
- Regarding the previous case, what if the husband of the *pikachat* dies instead (without any children)? (י"ז: ט')
- What is the law regarding a case with two brothers, one a *pikeach* married to a *pikachat* and the other a *cheresh* married to a *chereshet*, the wives being unrelated, and the *cheresh* dies without any children? (י"ט: ט')
- Regarding the previous case, what if the *pikeach* dies instead (without any children)? (י"ט: ט')
- In what situation do we not trust a woman who returns for overseas saying her husband passed away overseas? (Include both opinions) (י"ט: ט')
- In what circumstance does *Beit Hillel* maintain that we trust a woman when she says her husband has died? (י"ט: ט')
- What was the debate between *Beit Shammai* and *Beit Hillel* regarding, in a case where they both agreed that she is trusted to say her husband has died? (י"ט: ט')
- Who conceded in the argument described in the previous question? (י"ט: ט')

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Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
25 March ט' ניסן	26 March י' ניסן	27 March י"א ניסן	28 March י"ב ניסן	29 March י"ג ניסן	30 March י"ד ניסן	31 March ט"ו ניסן
Yevamot 15:4-5	Yevamot 15:6-7	Yevamot 15:8-9	Yevamot 15:10-16:1	Yevamot 16:2-3	Yevamot 16:4-5	Yevamot 16:6-7

