

מסכת גיטין • דף כ"ח ע"ב

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THE SUGYA

In this daf, we continue our deep dive into the sugya of chazakah—the halachic presumption of status quo—specifically regarding whether we assume a person is still alive when they are far away. The Gemara first resolves a difficulty raised by Rav Adda bar Mattana to Rava regarding a wineskin of wine, contrasting the fear of a future mishap with the presumption of past survival, and concludes that the question of fearing future death is a dispute among Tanna'im. We then explore why our Mishnah had to teach this chazakah in three distinct cases: a get, eating terumah, and bringing a sin-offering. Each case presents its own unique stringency, showing us the beautiful precision of the Mishnah's rulings.

We then move on to a new Mishnah featuring the testimony of Rabbi Elazar ben Perata before the Sages. He teaches us about three situations where people are in danger but still presumed to be alive: those in a besieged city, those on a ship tossed at sea, and one going out to be judged in a capital case. However, once the city is conquered, the ship is lost, or the death sentence is finalized, we must apply the stringencies of both the living and the dead. The Gemara begins analyzing these cases, focusing on the difference between a Jewish court and a non-Jewish court regarding a death sentence.

All introductions, summaries, and contextual notes are the editor's commentary and are not part of the original text.

EXPLANATION

שָׁמָּה מֵת לֹא חֵיִשְׁיָנָו, שָׁמָּה יָמוּת חֵיִשְׁיָנָו.

Concerning the possibility that **perhaps he has** already **died**, we are **not concerned**; but concerning the possibility that **perhaps he will die** in the future, **we are concerned**.

QUESTION

אָמַר לִיָּהּ רַב אֲדָא בַּר מַתְנָה לְרַבָּא: וְהָא נֹד דְּכֻשְׁמָא יָמוּת הוּא, וּפְלִגִּי!

Rav Adda bar Mattana said to Rava: But the case of the wineskin is like a case of **perhaps he will die**, and yet Rabbi Meir and Rabbi Yehuda **disagree** there!

ANSWER

אָמַר רַב יְהוּדָה מְדֻסְקָרְתָּא: שְׂאֵי נֹד דְּאֶפְשָׁר דְּמָסַר לִיָּהּ לְשׁוּמֵר.

Rav Yehuda of Diskarta said: A wineskin is different, as it is possible that he hands it over to a watchman to guard it from bursting, which is why Rabbi Meir is not concerned.

OBJECTION

מִתְקִיף לֵיהּ רַב מֶשֶׁרְשִׁיָּא: עֲרָבִיךָ עֲרָבָא צָרִיךָ!

Rav Mesharshiyya objects to this: **Your guarantor himself needs a guarantor!** Who is to say the watchman will not be negligent?

RESOLUTION

אָלס אַמֶר רַבָּא: שְׁמָא מֵת – לֹא חִיִּישִׁינן, שְׁמָא זָמוּת – תַּנָּאי הִיא.

Rather, Rava said: As to whether perhaps he has died, we are not concerned; but as to whether perhaps he will die, it is a dispute of Tannaim.

מִשְׁנָה MISHNAH

MISHNAH

הַשּׁוֹלֵחַ חֲטָאתוֹ מִמְּדִינַת הַיָּם וְכוּ':

The Mishnah taught: **One who sends his sin-offering from a country overseas**, the Kohanim may sacrifice it on the altar, based on the presumption that he is still alive.

גְּמָרָא GEMARA

QUESTION

וְהֵא בְּעֵינָא סְמִיכָה!

The Gemara asks: **But doesn't a sin-offering require the placing of hands** on the head of the offering by the owner?

ANSWER

אָמַר רַב יוֹסֵף: בְּקִרְבָּן נָשִׁים.

Rav Yosef said: This refers **to the offering of women**, who are exempt from placing hands.

ANSWER

רַב פֶּפְּא אָמַר: בְּחֲטָאת הָעוֹף.

Rav Pappa said: This refers **to a bird sin-offering**, which does not require the placing of hands.

EXPLANATION

וְצָרִיכָא; דְּאִי אֲשַׁמְעִינן גַּט – מִשּׁוּם דְּלֹא אִפְשָׁר, אֲבָל תְּרוּמָה דְּאִפְשָׁר – אֵימָא לָא.

And it is necessary to state all three cases; for if it had taught us only the case of a **get**, we would say it is **because it is not possible** otherwise, **but** regarding **teruma**, where it is possible to eat non-sacred food, say we should **not** rely on the presumption.

EXPLANATION

וְאִי אֲשַׁמְעִינן תְּרוּמָה – דְּזָמְנִין דְּלֹא אִפְשָׁר; אֲבָל חֲטָאת הָעוֹף – מִסְפִּיקָא לָא לִיעוּל חוּלִין לְעֻזְרָה, צָרִיכָא.

And if it had taught us only **teruma**, we would say it is because **sometimes it is not possible** to find non-sacred food; **but** regarding a **bird sin-offering**, we should say that **out of doubt we should not bring non-sacred animals into the Temple courtyard**. Therefore, it is **necessary** to state all of them.

MISHNAH

מתני' שלשה דברים אמר רבי אלעזר בן פרטא לפני חכמים, וקיימו את דבריו:

MISHNAH: Rabbi Elazar ben Perata said three things before the Sages, and they upheld his words:

MISHNAH

על עיר שהקיפה פרקום, ועל הספינה המוטפת בים, ועל היוצא לידון – שהן בחזקת קיימין.

Concerning a town that was surrounded by a siege, and concerning a ship that is tossed about in the sea, and concerning one who goes out to be judged in a capital case, that they are all presumed to be alive.

MISHNAH

אבל עיר שכבשה פרקום, וספינה שאבדה בים, והיוצא ליהרג – נותנין עליהן חומרי חיים וחומרי מתים – פת ישראל לכהן, וכת כהן לישראל, לא תאכל בתרומה.

But concerning a town that was conquered by a siege, and a ship that was lost at sea, and one who goes out to be executed after his verdict, we apply to them the stringencies of the living and the stringencies of the dead. Therefore, an Israelite daughter married to a Kohen, or a Kohen's daughter married to an Israelite, may not eat teruma.

גמרא GEMARA

STATEMENT

גמ' אמר רב יוסף: לא שנו אלא בבית דין של ישראל;

GEMARA: Rav Yosef said: They only taught this stringency of the living with regard to a Jewish court;

STATEMENT

אבל בבית דין של אומות העולם, כיון דגמיר ליה דינא לקטלא – מיקטל קטלי ליה.

but in a court of the nations of the world, once his verdict is finalized for execution, they surely execute him immediately, and he is presumed dead.

OBJECTION

אמר ליה אבאי: בית דין של אומות העולם נמי, דמקבלי שוחדא!

Abaye said to him: In a court of the nations of the world also, they might not execute him, as they accept bribes!

ANSWER

אמר ליה: כי שקלי – מקמי דלחתום פורסי שנמג; לבתר דמיחתם פורסי שנמג – לא שקלי.

Rav Yosef said to him: When they take bribes, it is only before the verdict is sealed; but after the verdict is sealed, they do not take bribes.

QUESTION

מיתבי, כל מקום שיעמדו שנים ויאמרו: "מעידין אנו את איש פלוני שנגמר דינו בבית דינו של פלוני, ופלוני ופלוני עדיו" – הרי זה יהרג!

The Gemara raises an objection: Wherever two witnesses stand and say, "We testify about so-and-so that his verdict was finalized in the court of so-and-so, and so-and-so and so-and-so are his witnesses," behold, he is executed based on this, and we do not worry that the Jewish court found a reason to acquit him!

ANSWER

דלמא בורח שאני.

The Gemara answers: Perhaps one who flees is different, as a court will not overturn a verdict in his absence.

QUESTION

תא שמע: שמע מפית דין של ישראל שהיו אומרים "איש פלוני מת"; "איש פלוני נהרג" – ישאו את אשתו.

Come and hear: If one heard from a Jewish court that they were saying, "So-and-so has died," or "So-and-so was killed," they may marry off his wife.

QUESTION

מקומנטריסין של גוים "איש פלוני מת"; "איש פלוני נהרג" – אל ישאו את אשתו.

But if he heard from the judicial registrars of the gentiles, "So-and-so has died," or "So-and-so was killed," they may not marry off his wife.

EXPLANATION

מאי "מת", ומאי "נהרג"? אי לימא "מת" – מת ממש, ו"נהרג" – נהרג ממש;

What is the meaning of "died" and what is the meaning of "was killed"? If we say "died" means actually died, and "was killed" means actually killed,

QUESTION

דכוותיה גבי גוים, אמאי אל ישאו את אשתו? הא קיימא לן דכל מסיח לפי תומו הימוני מהימני ליה!

and the corresponding case by the gentiles is the same, why may they not marry off his wife? Don't we establish that any gentile speaking offhandedly is believed?

INFERENCE

א לא לאו "מת" – יוצא למות, "נהרג" – יוצא ליהרג? וקתני: בבית דין ישראל ישאו את אשתו!

Rather, is it not that "died" means he is going out to die, and "was killed" means he is going out to be executed? And yet it teaches: In a Jewish court, they may marry off his wife because we assume he is dead, which contradicts Rav Yosef!

ANSWER

לעולם מת ממש ונהרג ממש, ודקאמרת: דכוותיה גבי גוים אמאי לא, והא קיימא לן דכל מסיח לפי תומו הימוני מהימני;

The Gemara answers: **Actually**, it means **actually died and actually killed**. And as for what you said: **Why not in the corresponding case of gentiles, since we establish that anyone speaking offhandedly is believed?**

ANSWER

הָנִי מִיָּלִי בְּמִלְתָּא דְּלֹא שְׂיִיכִי בָּהּ, אֲבָל בְּמִלְתָּא דְּשְׂיִיכִי בָּהּ, עָבְדִי לְאַחֲזוּקִי שְׂיִקְרִייהוּ.

These words apply to a matter in which they are not involved, but in a matter in which they are involved, they act to **maintain their lies** and are not believed.

STATEMENT

אִיכָּא דְּאָמְרִי אָמַר רַב יוֹסֵף: לֹא שָׁנוּ אֶלָּא בְּבֵית דִּין שֶׁל אוֹמוֹת הָעוֹלָם,

There are those who say that Rav Yosef said: They only taught this with regard to a court of the nations of the world,

SUMMARY

The daf concludes that while everyone agrees we do not fear a person has already died, fearing a future death is subject to a Tannaitic dispute. The Gemara explains that the Mishnah had to explicitly teach the presumption of life in the cases of a get, terumah, and a sin-offering to show that we rely on this chazakah even when alternatives exist or when there is a risk of bringing non-sacred animals into the Beis HaMikdash. In the new Mishnah, Rabbi Elazar ben Perata establishes that individuals in dangerous situations (a besieged town, a ship at sea, or someone on trial) are presumed alive, but once the worst occurs (the town is conquered, the ship is lost, or a death sentence is handed down), they are treated with the stringencies of both the living and the dead, meaning a wife cannot eat terumah in either case. Finally, Rav Yosef and Abaye debate whether a person sentenced to death by a non-Jewish court is presumed dead immediately due to their strictness, or if we still worry they might escape death through bribery, leading into a discussion on how a Jewish court treats a fugitive whose verdict was finalized.

לְמַעֲשֶׂה WHAT TO TAKE HOME

In our sugya, the Chachamim establish a powerful principle of chazakah, the legal presumption of status quo. Even when a person is facing a trial for their life, or when a ship is being tossed violently by the waves of a stormy sea, we do not assume the worst. As long as the final blow has not landed, the Torah commands us to hold onto the presumption of life. We do not live in fear of what might have happened; we operate on the reality of what is.

How often in our own lives do we let the 'storms' and 'trials' of daily life convince us that all is already lost? When a child is struggling, when a parnassah source looks shaky, or when a relationship feels strained, the yetzer hara tries to rush us into mourning a situation that is still very much alive. The Torah teaches us the avodah of chazakah: as long as a situation has not been completely decided, you must treat it with the vitality, hope, and active effort of something that is fully alive.

Today, identify one area in your life, a difficult project, a challenging relationship, or a personal spiritual struggle, where you have mentally given up and assumed the worst. Force yourself to act toward it with the presumption of life, investing one positive action or prayer into it today as if its success is completely intact.