



It Was Me

The *Mishnah* (3:7) discusses a case where a man said he was *mekadesh* his daughter but was unsure to whom. The *Mishnah* teaches that if a person claims that he is the one, he is believed. The *Bartenura* explains that he is believed to be married to her. We shall try to understand why.

The *Bartenura* explains that the reason he is believed is because no one would be bold enough to lie in front of the father out of fear the father would deny it was him.

A few questions remain. Normally we say for issues regarding *erva* – forbidden relationships – a single witness is not sufficient. Granted that we learnt that a single witness is believed in the case where he testifies that the husband died overseas, that case was an exception. The *Tosfot Yom Tov* cites that *Ran* who notes these two points yet explains that this case is different. He explains that two witnesses are only required to change a *chazaka* – the status of the individual. For example, in the case of marriage or divorce. In this case however, her *chazaka* as being considered married is unchanged because of his claim. Consequently, he is believed.

The *Yerushalmi* (*Yevamot* 2:11) explains that this ruling would not apply in the parallel case in monetary law. For example, if one said I sold one of fields, but I do not know to who, if someone then comes forward and says it was him, we would not grant him the ownership of that land. What is the difference between the two cases?

The *Pnei Moshe* explains that the fear of lying in our case is much greater. In our case, if he lied and the true husband later presented himself, then he will be exposed as having violated the prohibition of taking another's wife. In the case of the field, he does not have much to lose. If the true owner later comes with witnesses, the individual will simply return the field and any produce that grew on that land. Consequently, in that case we do not believe him out of concern that he will neglect that field and it will deteriorate whilst in his possession.

The *Korban HaEidah* (*Kidushin* 3:7) however explains that the *Chachamim* were lenient in this case, otherwise she would be an *aguna*. In other words, the alternative would be that she is considered married (to someone) and trapped with no way of being freed from that state. According to the *Korban HaEidah* this would be another instance where the *Chachamim* were lenient to relieve her from being an *aguna*. The *Korban HaEidah* (*Shayarei HaKorban*) explains that fear of being denied (by the father) applies equally in the case of the seller. We find therefore that that logic alone would not be enough were it not combined with the leniency afforded in the case of *agunot*.

The *Pnei Moshe* (*Yevamot*) however notes that the *Rama* (*CM* 222:4) rules that in the case of the field, the person who said he purchased it would be believed. The *Shach* however notes that that ruling contradicts this *Yerushalmi* and the *Rav HaMagid* cites the *Rashba* who also rules like the *Yerushalmi*.

The *Korban HaEidah* (*Shayarei HaKoran, Yevamot*) also cites the *Haghot Maimoniot* who notes that the *Riva* maintain that this person would be believed. Since the owner admits it is no longer his, he is out of the picture. This other person can then take the land and say if witnesses later contradict me, I will simply return the land. The *Korban HaEidah* however also notes that this contradicts the *Yerushalmi*. He therefore suggests that they understand that when the *Yerushalmi* explains that the two cases could not be compared, it is according to *Shmuel*. *Shmuel* understands that in our *Mishnah* that when we say that the man is believed, he is believed only to hand her a *get* but not marry her.¹ Consequently, the two case are different since our case, we only believe him to an extent, whereas in the other case, he is even allowed to enter the field. Nevertheless, he notes that the language of the *Yerushalmi* “*lav kol kiminei*” implies that the supposed purchaser is not believed at all.

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¹ The *Korban HaEdah* explains that he is not believed to marry her since we are concerned that he was driven by his *yetzer* to lie. If however, he was

only allowed to give a her *get*, then we believe him since *ein adam choteh ve'lo lo*.

Revision Questions

קידושין ג' - ד' - ו'

- What is the law regarding the case where a person performs *kidushin* on the condition her father consents? (ג': ו')
- Regarding the previous case what if her father subsequently dies? Or what if instead the husband dies? (ג': ו')
- What is the law regarding the case where a man says that he married off his daughter but he does know to who, and then someone says it was him? (ז': ו')
- Regarding the previous case what if two people say it was them? (ז': ו')
- Is a person believed if he said regarding his daughter that he married her off and subsequently accepted her *get* when she was a *katan*? (ח': ו')
- Is a man on his death bed believed if he says he has children? Or if he says he has brothers? (Why is this important?) (ח': ו')
- What is the law regarding the case where a person who has two wives and two daughters from each of the wives says that he married off his "big" daughter? (ט': ו')
- What is the law regarding a case where a man say to a woman "I was *mekadesh* you!" and:
 - She denies it?
 - She say it was not her but her daughter that he was *mekadesh*? (י': ו')
- What is the law regarding a case where a man say to a woman "I was *mekadesh* your daughter" and she say it was not her daughter but herself that he was *mekadesh*? (יא': ו')
- Complete the following rules and explain: (י"ב: ו')
 - _____ כל מקום שיש קידושין ואין עבירה
 - _____ כל מקום שיש קידושין ויש עבירה
 - _____ כל מקום שאין קידושין ויש עבירה
- According to *R' Tarfon*, how can one "*metaher*" a *mamzer*? (י"ג: ו')
- What were the ten categories of family that returned from *Bavel*? (י"ד: ו')
- Who can *charurei* marry? (י"ד: ו')
- What are *shtukei*? (י"ד: ב')
- What are *asufei*? (י"ד: ב')
- Regarding which relationship does the *Tana Kama* and *R' Yehuda* argue? (י"ד: ג')
- How many generation back does a *Kohen* need to check in his fiancé's past when marrying a *Kohenet*? Or marrying a *Yisraelit*? (י"ד: ד')
- Regarding the previous question to which case is marrying a *Leviya* compared? (י"ד: ד')
- When checking the lineage, if an ancestor had one of which five professions is it then not necessary to continue checking further back? (י"ד: ה')
- Which of a *bat chalal* or a *bat chalalah* can marry a *Kohen*? (י"ד: ו')

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Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
4 August כ"ט תמוז	5 August א' אב	6 August ב' אב	7 August ג' אב	8 August ד' אב	9 August ה' אב	10 August ו' אב
Kidushin 4:7-8	Kidushin 4:9-10	Kidushin 4:11-12	Kidushin 4:13-14	Bava Kama 1:1-2	Bava Kama 1:3-4	Bava Kama 2:1-2

