

Two women who were captured

שתי נשים שנשבו –

OVERVIEW

The rule is that if there are witnesses that a woman was captured by gentiles she is forbidden to marry a כהן (even if she claims they did not violate her), for we assume that they had relations with her.¹ However if there are no witnesses that she was captured but the woman admitted that she was captured and insists that she was not violated, she is permitted to marry a כהן (since we are only aware of her captivity status through her admission and she claims that she is טהורה).² Our משנה states that regarding two women, each of whom stated אני וטהורה אני the rule is that they are not believed. משנה discusses the correct גירסא in our תוספות.

אומר רבינו יצחק דלא גרסינן זאת אומרת נשבית וטהורה אני כולי –

The ר"י says that the text of the משנה does not read; this one says ‘I was captured but I am pure’, etc. -

אלא זאת אומרת טהורה אני –

But rather the text should read; this one says אני טהורה’, without saying נשבית

דהא בדאיכא עדים שנשבו איירי³ –

Because the משנה is discussing a case where there are witnesses that they were captured, so there is no need (for the משנה) to mention that they said נשבית⁴.

נשבית' of גירסא offers an explanation to retain the תוספות:

ומיהו יש לקיים הגירסא דאיירי דאינהו לא ידעי דאיכא עדים –

However, it is possible to sustain the גירסא of 'נשבית', in a case where the women do not know that there are עדים who know they were captured, and they came on their own and admitted to their captivity (before the עדים testified)⁵ -

ואשמועינן דאפילו הכי⁶ לא מהימני:

¹ A woman who has relations with a gentile (or with anyone with whom she is forbidden to live with) is called a זונה and forbidden to marry a כהן as the פסוק (in כא, ז) states (ויקרא [אמור] כא, ז) אשה זונה וחללה לא יקחו.

² This is referred to as משנה כב, א. See הפה שאסר הוא הפה שהתיר.

³ The משנה rules that they are not believed if they say נשבית וטהורה אני. That rule is valid only if there are עדים that they were captured; otherwise they would be believed to say נשבית וטהורה אני for it is considered הפה שאסר הוא הפה שהתיר (see ‘Overview’ [footnote # 2]).

⁴ There is no need to mention that they said נשבית, because it makes no difference whether they said נשבית or not, in either case they are not believed to claim טהורה אני, since there are עדים that נשבו.

⁵ See הפלאה.

⁶ These women are obviously honest women for since they did not know that there were עדים שנשבו, why did they come forward and say that נשבו. They could have remained silent (since in their mind they assumed that no one

And the משנה teaches us that (even though they are obviously honest women) **nevertheless they are not believed** to claim טהורה אני.⁷

SUMMARY

The woman is not believed that טהורה אני even if she did not know there are עדים and nevertheless admitted to being captured.

THINKING IT OVER

In the concept of הפה שאסר הוא הפה שהתיר there seems to be two factors. Firstly that the only reason we suspect that she is not טהורה is only because she admitted to נשביתי, therefore just as you 'believe' her that נשביתי you must also believe her that טהורה אני, since we only know נשביתי from her admission. [We will refer to this as נאמנות הפה שאסר.] Secondly, we see that she is an honest person since she came and admitted (נשביתי) when she did not need to do so; therefore (since she is honest) we should believe her that טהורה אני [We refer to this as נאמנות מה לי לשקר]. When the עדים subsequently come and testify that they were captured, we understand that the נאמנות of the הפה שאסר no longer exists (since we know נשביתי without their admission); however the נאמנות based on מה לי לשקר (seemingly) still remains, for we know she is an honest person (she admitted even though she did not need to). Why then is she not believed [even] if the עדים came later?!

טהורה אני). Since they are presumably honest let us believe them as well that טהורה אני.

⁷ Once the עדים come and testify that they were captured, the women lose their הפה שאסר. See 'Thinking it over'.

⁸ See משכנות הרועים ס"א תשס.