

# Captivity, Trauma, and Halakhah

## Session III: Trusting Testimony in Times of Crisis

### Part 1 Leniency in laws of testimony

#### 1. Devarim 19, 15

A single witness shall not stand against a person with respect to any wrongdoing or any sin, whatever sin they may commit. Only on the testimony of two witnesses or of three witnesses shall a matter be established.	לֹא יִקּוּם עַד אֶחָד בְּאִישׁ לְכָל עוֹן וְלְכָל חַטָּאת בְּכָל חֹטֵא אֲשֶׁר יַחֲטֵא עַל־פִּי שְׁנֵי עֵדִים אוֹ עַל־פִּי שְׁלֹשָׁה עֵדִים יִקּוּם דָּבָר
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#### 2. Bamidbat 5, 11-14

11 The Lord spoke to Moses, saying:	וַיְדַבֵּר יְקֹוֹק אֶל־מֹשֶׁה לֵאמֹר.
12 Speak to the Israelites and say to them: If any man's wife goes astray and acts unfaithfully toward him,	דַּבֵּר אֶל־בְּנֵי יִשְׂרָאֵל וְאָמַרְתָּ אֲלֵהֶם אִישׁ אִישׁ כִּי־תִשְׁטֶה אִשְׁתּוֹ וּמַעַלָּה בּוֹ מַעַל.
13 and another man has sexual intercourse with her, but it is concealed from her husband's eyes, and she has kept herself hidden, and she has become defiled, though there is no witness against her and she was not caught in the act,—	וְשָׁכַב אִישׁ אֶתְהָ שָׁכַבְתָּ זָרַע וְנִעְלַם מֵעֵינֵי אִישָׁהּ וְנִסְתָּרָה וְהָיָא נְטֻמָּאָה וְעַד אֵין בָּהּ וְהָיָא לֹא נִתְפָּשָׁה.
14 and a spirit of jealousy comes over him so that he becomes jealous of his wife when she has indeed become defiled; or a spirit of jealousy comes over him and he becomes jealous of his wife when she has not become defiled.	וְעָבַר עָלָיו רוּחַ־קִנְיָאָה וְקָנָא אֶת־אִשְׁתּוֹ וְהָיָא נְטֻמָּאָה אוֹ עָבַר עָלָיו רוּחַ־קִנְיָאָה וְקָנָא אֶת־ אִשְׁתּוֹ וְהָיָא לֹא נְטֻמָּאָה.

#### 3. Mishna Sotah 6,3

If a single witness says, "I saw that she became defiled," she does not drink the bitter waters.	אמר עד אחד אני ראיתיה שנטמאת לא היתה שותה
Moreover, even a slave or a maidservant is believed for this purpose, and their testimony is sufficient even to deprive her of her ketubah.	ולא עוד אלא אפילו עבד אפילו שפחה הרי אלו נאמנין אף לפוסלה מכתובתה
Her mother-in-law, her mother-in-law's daughter, her rival wife (co-wife), her sister-in-law (yevamah), and her husband's daughter are believed as well—not, however, to deprive her of her ketubah, but only to establish that she does not undergo the sotah ordeal.	חמותה ובת חמותה וצרתה ויבמתה ובת בעלה הרי אלו נאמנות ולא לפסלה מכתובתה אלא שלא תשתה:

#### 4. Mishnah, Yevamot 15:1

If a woman traveled overseas together with her husband, and there was peace between them and peace in the world, and she returned saying, "My husband has died," she may remarry. If she says, "My husband has died," and she is subject to levirate marriage, she must enter into <i>yibbum</i> .	האשה שהלכה היא ובעלה למדינת הים שלום בינו לבינה ושלום בעולם ובאתה ואמרה מת בעלי תנשא מת בעלי תתיבם
If there was peace between them but war in the world, or if there was strife between them but peace in the world, and she came and said, "My husband has died," she is not believed.	שלום בינו לבינה ומלחמה בעולם קטטה בינו לבינה ושלום בעולם ובאתה ואמרה מת בעלי אינה נאמנת

Rabbi Judah says: She is never believed unless she comes weeping and with her garments torn. The Sages said to him: Whether this one or that one, she may remarry.	רבי יהודה אומר לעולם אינה נאמנת אלא אם כן באתה בוכה ובגדיה קרועין אמרו לו אחת זו ואחת זו תנשא :
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#### 5. Mishnah, Yevamot 16:7

Rabbi Akiva said:	אמר רבי עקיבא
When I went down to Nehardea to intercalate the year, I met Nehemiah of Beth Deli. He said to me: "I have heard that in the Land of Israel they permit a woman to remarry on the testimony of a single witness only according to Rabbi Judah ben Bava."	כשירדתי לנהרדעא לעבר השנה מצאתי נחמיה איש בית דלי אמר לי שמעתי שאין משיאין את האשה בארץ ישראל על פי עד אחד אלא רבי יהודה בן בבא
I replied to him: "That is indeed the case."	ונומיתי לו כן הדברים
He said to me: "Tell them in my name: You know that the country is in turmoil because of military campaigns. I have a tradition from Rabban Gamaliel the Elder that a woman may be permitted to remarry on the testimony of a single witness."	אמר לי אמור להם משמי אתם יודעים שהמדינה משובשת בגייסות מקובלני מרבן גמליאל הזקן משיאין את האשה על פי עד אחד
When I came and reported these words before Rabban Gamaliel, he rejoiced at my report and said: "We have found one who agrees with Rabbi Judah ben Bava."	וכשבאתי והרציתי הדברים לפני רבן גמליאל שמח לדברי ואמר מצאנו חבר לרבי יהודה בן בבא
During the course of the discussion, Rabban Gamaliel recalled that people had been killed at Tel Arza, and Rabban Gamaliel the Elder permitted their wives to remarry on the testimony of a single witness.	מתוך הדברים נזכר רבן גמליאל שנהרגו הרוגים בתל ארזא והשיא רבן גמליאל הזקן נשותיהם על פי עד אחד
From that time onward, it became established that a woman may be permitted to remarry on the testimony of a single witness. It also became established that this testimony may be accepted from one who heard it from another witness, from a slave, from a woman, or from a maidservant.	והוחזקו להיות משיאין על פי עד אחד והוחזקו להיות משיאין עד מפי עד מפי אשה מפי שפחה

#### 6. Mishnah, Ketubot 2:9

A woman who was taken captive by gentiles:	האשה שנחבשה בידי גוים
If she was held on account of money, she is permitted to her husband.	על ידי ממון מותרת לבעלה
If she was held on a capital charge, she is forbidden to her husband.	על ידי נפשות אסורה לבעלה
If a city was captured by a besieging army, all the wives of priests found within it are presumed disqualified (from returning to their husbands).	עיר שכבשה כרכום כל כהנות שנמצאו בתוכה פסולות
But if they have witnesses, even a slave or a maidservant, these are believed.	ואם יש להן עדים אפילו עבד אפילו שפחה הרי אלו נאמנין
A person is not believed to testify on his own behalf. Rabbi Zechariah ben HaKatzav said: "By this Temple! My wife's hand never left my hand from the moment the gentiles entered Jerusalem until they departed." They said to him: "A person is not believed to testify on his own behalf."	ואין נאמן אדם על ידי עצמו אמר רבי זכריה בן הקצב המעון הזה לא זזה ידה מתוך ידי משעה שנכנסו גוים לירושלים ועד שיצאו אמרו לו אין אדם מעיד על ידי עצמו :

#### 7. Mishnah, Ketubot 2:5-6

Mishna 5	משנה ה
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If a woman says, "I was a married woman, but I am divorced," she is believed, for the same mouth that established the prohibition is the mouth that removes it.	האשה שאמרה אשת איש הייתי וגרושה אני נאמנת שהפה שאסר הוא הפה שהתיר
But if there are witnesses that she was married, and she says, "I am divorced," she is not believed.	ואם יש עדים שהיתה אשת איש והיא אומרת גרושה אני אינה נאמנת
If she says, "I was taken captive, but I remained undefiled," she is believed, for the same mouth that established the prohibition is the mouth that removes it.	אמרה נשביתי וטהורה אני נאמנת שהפה שאסר הוא הפה שהתיר
But if there are witnesses that she was taken captive, and she says, "I remained undefiled," she is not believed.	ואם יש עדים שנשבית והיא אומרת טהורה אני אינה נאמנת
If, however, witnesses came only after she had already married, she need not leave her husband.	ואם משנשאת באו עדים הרי זו לא תצא:
Mishnah, Ketubot 2: 6	משנה ו
If two women were taken captive, and one says, "I was taken captive, but I remained undefiled," and the other likewise says, "I was taken captive, but I remained undefiled," they are not believed.	שתי נשים שנשבו זאת אומרת נשביתי וטהורה אני וזאת אומרת נשביתי וטהורה אני אינן נאמנות
But if they testify on behalf of one another, they are believed.	ובזמן שהן מעידות זו את זו הרי אלו נאמנות:

### 8. Babylonian Talmud, Ketubot 36b

Rabbi Judah says: A woman who was taken captive and then redeemed retains her original sanctity ...	רבי יהודה אומר: שבויה שנפדית - הרי היא בקדושתה ...
A captive woman may continue to eat terumah, according to the opinion of Rabbi Dosa.	שבויה אוכלת בתרומה, דברי ר' דוסא,
Rabbi Dosa said: "What, after all, did this Arab do to her? Is it because he merely fondled her between her breasts that she should be disqualified from the priesthood?"	אמר רבי דוסא: וכי מה עשה לה ערבי הלז? וכי מפני שמיעך לה בין דדיה פסלה מן הכהונה?

### 9. Babylonian Talmud, Bava Kamma 114b

Rav Ashi said: Testimony given incidentally ( <i>mesiah lefi tumo</i> —without intending to testify) is accepted only with respect to testimony concerning a woman	אמר רב אשי: אין מסיח לפי תומו כשר אלא לעדות אשה בלבד... א"ל רבינא לרב אשי: ולא? ...
Ravina said to Rav Ashi: Is that really so? For Rav Judah said in the name of Samuel: There was an incident involving a man who was speaking incidentally and said: "I remember when I was a small child. My father carried me on his shoulders, took me out of school, removed my shirt, immersed me in a ritual bath, so that I could eat <i>terumah</i> that evening." Rabbi Hanina added the following detail: "My friends kept away from me, and they used to call me: 'Yohanan, the eater of <i>hallot</i> .'" On the basis of his statement, Rabbi recognized him as qualified for the priesthood.	והאמר רב יהודה - אמר שמואל: מעשה באדם אחד שהיה מסיח לפי תומו ואומר: זכורני כשאני תינוק ומורכבני על כתיפו של אבא, והוציאוני מבית הספר והפשיטוני את כתנתי והטבילוני לאכול בתרומה לערב, ורבי חנינא מסיים בה הכי: וחבירי בדילין ממני, והיו קורין אותי יוחנן אוכל חלות, והעלהו רבי לכהונה על פיו!

The Gemara answers: That case concerned terumah of rabbinic status.	בתרומה דרבנן.
The Gemara asks: But is such testimony not accepted for matters of Torah law? Yet when Rav Dimi came from the Land of Israel, he reported that Rav Hana of Kartigena—and some say Rav Aha of Kartigena—related: There was an incident brought before Rabbi Joshua ben Levi—and others say, before Rabbi—concerning a young child who was speaking incidentally and said: "My mother and I were taken captive among the gentiles. Whenever I went out to draw water, my thoughts were on my mother; whenever I went out to gather wood, my thoughts were on my mother." On the basis of his statement, Rabbi permitted his mother to marry a priest.	ואכתי דאורייתא לא? והא כי אתא רב דימי אמר רב חנא קרטיגנא, ואמרי לה רב אחא קרטיגנא משתעי: מעשה בא לפני ריב"ל, ואמרי לה: מעשה בא לפני רבי, בתינוק אחד שהיה מסיח לפי תומו ואמר: אני ואמי נשבינו לבין העכו"ם, יצאתי לשאוב מים - דעתי על אמי, ללקוט עצים - דעתי על אמי, והשיאה רבי על פיו לכהונה!
The Gemara answers: In the case of a captive woman, the Sages adopted a lenient approach.	בשבוייה הקילו.

## Part 2 Ensuring Communal Acceptance

### 10. Mishnah, Eduyot 8:2

<b>Rabbi Yosei the Priest and Rabbi Zechariah ben HaKatzav testified</b> concerning a young woman who had been <b>held hostage</b> in Ashkelon.	העיד רבי יוסי הכהן ורבי זכריה בן הקצב על תינוקת שהורחנה באשקלון ורחקוה בני משפחתה
Her relatives had distanced themselves from her, <b>but her witnesses testified that she had not been kept in seclusion and had not been defiled.</b>	ועדיה מעידים אותה שלא נסתרה ושלא נטמאה
<b>The Sages said to them:</b> "If you believe their testimony that she was taken captive, then believe them also that she was not kept in seclusion and was not defiled.	אמרו להם חכמים אם מאמינים אתם שהורחנה האמינו שלא נסתרה ושלא נטמאה
But if you do not believe them that she was not kept in seclusion and was not defiled, then do not believe them that she was taken captive."	ואם אין אתם מאמינים שלא נסתרה ושלא נטמאה אל תאמינו שהורחנה:

### 11. Babylonian Talmud Kiddushin 81a

Some captive women who had been brought to Nehardea after being redeemed were lodged in the home of **Rav Amram the Pious**.  
The ladder leading to the upper chamber where they were staying was removed, so that no one could climb up to them.  
As one of the women passed by the opening of the attic, her beauty shone through the aperture as though a beam of light had appeared.  
Rav Amram was overcome with desire. He seized the ladder—a ladder that even ten men together could not lift—lifted it by himself, and began climbing.  
When he had reached halfway up, he stopped and cried out:  
**"Fire in Rav Amram's house! Fire in Rav Amram's house!"**  
The Sages came running.  
They found him standing halfway up the ladder.  
They said to him:  
**"You have embarrassed us!"**  
He replied:  
**"Better that you be embarrassed because of Amram in this world than that Amram be embarrassed in the World to Come."**

He then adjured his evil inclination to leave him.  
It emerged from him in the form of a pillar of fire.  
Rav Amram said to it:  
**"See—you are fire, and I am flesh, yet I am stronger than you**

### **12. The Captivity of Shmuel's Daughters (Ketubot 23a)**

The Gemara relates:

There were captive women who were brought to Nehardea. The father of Shmuel stationed guards with them.

Shmuel said to him:

**"Until now, who guarded them?"**

His father replied:

**"If they were your daughters, would you treat them with such disregard?"**

The Gemara comments:

**It was like "an error that proceeds from the ruler"** (Ecclesiastes 10: 5), and the words came true.

**The daughters of Master Shmuel were taken captive**, and their captors brought them up to the Land of Israel.

They left their captors standing outside, while the women themselves entered the study hall of **Rabbi Ḥanina**.

One said:

**"I was taken captive, and I remained undefiled."**

The other likewise said:

**"I was taken captive, and I remained undefiled."**

Rabbi Ḥanina permitted them to marry priests.

Afterwards, their captors entered.

Rabbi Ḥanina said:

**"It is evident that these are the daughters of a great scholar."**

It became known that they were the daughters of Mar Shmuel.

Rabbi Ḥanina said to Rav Shemen bar Abba: "Go and take care of your relatives."

He said to Rabbi Ḥanina: "But there are witnesses overseas!"

Rabbi Ḥanina replied: "For now, at least, they are not here before us. Are the witnesses standing beside the north gate, so that she should be forbidden?"