



Kinui for Sotah

This week we began *mesechet Sotah*. We will be learning about the process through which we clarify the guilt or innocence of a woman who is suspected of adultery (provided that the case qualifies). The first prerequisite learnt in the first *Mishnah* is that the wife must first be warned against being secluded with a particular man (*kinui*). Both *R' Eliezer* and *R' Yehoshua* agree that this must be performed in front of two witnesses (*edut*). Without witness testimony to the *kinui*, she would not be prohibited to her husband if only secluded with another man. The next prerequisite is that her subsequent seclusion for a sufficient period of time with that man (*stira*) was witnessed. According to *R' Eliezer* even one witness would suffice, whereas *R' Yehoshua* requires two witnesses. While the *Gemara* does present another opinion that *kinui* can be performed by the husband alone or with one witness (*R' Yosi BR' Yehuda*), we will look at the shared position of the *Tanaim* in our *Mishnah* that requires two witnesses for *kinui*.

The *Gemara* (2b) learns the requirement of witnesses from the *pasuk* that teaches the laws of *Sotah*: "... and there was no witness to her (*bah*) [committing adultery]". The *Gemara* learns that if there is even one witness that she did indeed have an affair or if she admits to it, then the matter is dealt with differently. From the superfluous word "*bah*" it learns that while one witness to adultery is enough to prevent *Sotah*, two witnesses are required from *stira*.

There are two ways of understanding the need for witnesses. A way of highlighting this is by asking what is the law if the husband performed *kinui* on his own. The *Rashba* (*Yevamot* 24b) explains that even with subsequent *edut* to the *stira* she would be permitted to her husband. Strong suspicion alone is not enough to create an *issur*. For legal *kinui* to exist the *kinui* requires *edut*.

This position appears to be supported by the *Gemara*. It teaches that nowadays one should never perform *kinui* even in private out of concern for the opinion of *R' Yosi BR' Yehuda* who does not require *edut* for *kinui*. This implies

that private *kinui* according to the *Tanaim* in our *Mishnah* would be meaningless.

The *Maharit* however explains that there is weight to a private *kinui* and his wife would become *assur* to him. He explains that *edut* is only required to clarify the truth, or in this case to determine if the husband is telling the truth and to make her a *Sota*. The difficulty with the *Maharit's* position is the above-cited *Gemara* as we have already explained.

According to the first understanding that *edut* is essential there are number of different explanation. The *Shaagat Aryeh* explains that *edut* is required to affect a change in status (*chalut*), much like all matters related to legal relationships (*davar shebe'erva*), e.g. with respect to *kidushin*. This explains the formal need for the witnesses to see the same *kinui* together rather than one in the morning and one in the evening (see *Yerushalmi* 1:1).

The *Beit HaLevi* explains that even without affecting a change in status, two witnesses are required. The *kinui* is essential as it serves to significantly heighten our concern that an affair has been committed after the *kinui* was disregarded. This would only be the case if the *kinui* was witnessed and nonetheless violated. Without witnesses the violation may not necessarily be interpreted as such as there would be less weight to the original *kinui* since she could deny it (see *Mesechet Sofrim* 10:1). A practical difference between these two understanding is that here, she would need to be aware of the witnesses, whereas according to previous one, she would need to know of their presence in order for the *chalut issur* to occur.

The *Achiezer* argues that this is not a *davar shebe'erva* as the *issur* is not created at the time of *kinui* – it is a rather *garam* (cause). Normally a *garam le'davar shebe'erva* would not require *edut*. It is a novelty here in *Sotah* that the *Torah* requires *edut* for the *kinui* in order for the *stira* to have significance.

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* The content of this article was gleaned from *Otzar Iyunim* (1), *Metivta*.

Revision Questions

נזיר טי: גי' ה'

- When is an area defined as *shechunat kevarot* and why is it important? (טי: גי')
- What are the seven ways to check a *zav* and after which point do these checks not apply? (טי: ד')
- Aside from *Shimshon* which other *navi* was a *nazir*? (טי: ה')

סוטה א': א' ב': ב'

- In the first *Mishnah*, about what is the debate between *R' Eliezer* and *R' Yehoshua*? (א': א')
- What constitutes a warning for the purposes of *sotah*? (א': ב')
- What are the five cases where a *sotah* does not drink *mei sotah*? (א': ג')
- Where was a *sotah* first taken? (א': ד')
- What was the first thing they would do to a *sotah*? (א': ד')
- What would happen if a *sotah* admitted to having an affair? (א': ה')
- If a *sotah* maintained her innocence, to where was she next taken? (א': ה')
- What else was performed at that location? (א': ה')
- Was the *sotah* allowed to wear jewellery during the process? (א': ו')
- Describe how the *sotah* was prepared? (א': ו')
- Were other women allowed to watch the process? (א': ו')
- Explain the following phrase and list three ways in which it applies to a *sotah*: (א': ז')

במדה שאדם מודד, בה מודדין לו

- How does the above phrase apply to:
 - *Shimshon*?
 - *Avshalom*? (א': ח')
 - *Miriam*?
 - *Yosef*?
 - *Moshe*? (א': ט')
- What *korban* would the *sotah* bring and in what three ways does it differ from a regular *korban* of that class? (א': ב')
- From what material was the cup made that was used for *mei sotah*? (א': ב')
- From where was the cup filled with water? (א': ב')
- From where was the earth taken from and for what was it used? (א': ב')

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Sunday -Thursday

10 minutes before *Mincha*
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10 minutes before *Mincha*
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Sunday -Thursday

Rabbi Mordechai Scharf
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Rav Meir Pogrow
613.org/mishnah.html

Rabbi E. Kornfeld
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Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
18 th November כ"ו חשוון	19 th November כ"ז חשוון	20 th November כ"ח חשוון	21 st October כ"ט חשוון	22 nd November א' כסלו	23 rd November ב' כסלו	24 th November ג' כסלו
Sotah 2:3-4	Sotah 2:5-6	Sotah 3:1-2	Sotah 3:3-4	Sotah 3:5-6	Sotah 3:7-8	Sotah 4:1-2

