

Role of Witnesses to Establish if a Woman is Divorced when there are Extenuating Circumstances

Ref: *Sefer Nashim, Hilchot Gerushin, Chapters 12 and 13*

Is there a *get*?

Are there witnesses?

How many witnesses? etc...

Similar investigations when it is claimed that the husband died.

There are 5 women who are not believed if they testify to the death of the other's husband, because they are presumed to hate each other.

- Mother-in-law
- Daughter-in-law
- Husband's other wife
- Her *yevamah* i.e. the potential woman who her husband *may* have to marry
- Husbands daughter from another marriage

Factors discussed regarding wife's testimony.

- War – usually her statements not accepted
- Time of peace – usually her statements accepted
- Landslide – her statement usually not accepted
- Plague – usually her word accepted
- Famine – usually her word not accepted

Basically, where her word relies that most people will die, then her word is not accepted.

Where it is known that some will live and some die, then her word is accepted.

Factors regarding other witnesses

- Sees death himself with clear evidence – word accepted
- Hears about death from someone who is
 - Mentally competent – word accepted
 - Mentally incompetent – cannot testify
 - Gentile statement in course of conversation – word acceptable
 - Other statements by Gentile may not be acceptable
- Identification features intact (corpse must be seen within 3 days)
- Statements of a single witness, a woman, servant or maidservant considered

With all the above factors, many complications could exist, and therefore interrogation is necessary to clarify.



However, our Sages were more lenient about these investigations in order to permit a woman without a husband to be able to remarry.


The rationale is that Torah required 2 witnesses formally in cases where clear evidence was not available. This is different if clear evidence is available.



Therefore, the Sages extended this leniency onto women where they possibly could remain

| unmarried (*agunot*) i.e. to prevent this situation.

- i.e. They accepted testimony of a single witness
- Accepted testimony of a woman or maidservant

 **Reminder:**

Pack on Witnesses



- Accepted testimony of a written document
- Were less stringent in investigative procedure etc.