

THE MAHARSHAM PROJECT



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The Ger Who Vanished

A ger tzedek joins Klal Yisrael, marries, and sets out to earn a living. Then he disappears into distant towns, and is never heard from again. Years later, word comes that he died far from home. Can the wife he left behind be freed to remarry on the strength of what he once told strangers about himself?

Avraham Heizler, a ger tzedek, married in a small Transylvanian community and, after only a few months, left to look for work. He wandered from town to town, and then the reports stopped. Years later, word reached his community that he had died far away. He had no family to identify him, and no one who had known him before. All that remained of who he was lay in his own account of himself, a travel passport, and a letter of recommendation his Rav had written him. **Can an agunah be freed to remarry on the strength of the word he gave to strangers, and the papers he carried?**

THE QUESTION

The case reached the Maharsham from Rabbi Mordechai Yehuda, the Rav of Interdam in Transylvania. About eight years earlier, a man named Avraham Heizler had become a ger in that community, married a local woman, and lived with her only a few months before setting out to find a livelihood. For several years no one knew where he was. Then, roughly a year before the Rav wrote, word came that he had died in a settlement called Petravaselle.

The Rav gathered testimony from another town. One witness said that, while he was there, he had heard from Avraham himself that his name was Avraham Heizler, that he lived in Interdam, and that he was a ger; that Avraham had lost his travel passport and asked the witness to write to the local Rav and to the government office to have a new one issued; and that meanwhile the lost passport turned up, and the witness read it, and its description matched the man. A second witness said the ger had lodged in his home for eight days and had told him the same. A third, from the town of Betlen, said he had known Avraham of Interdam well, had seen him again and again over the years, and that he had died in the town of Ada some six

years earlier. The community also forwarded the passport, and the very letter of recommendation the Rav had once written for the ger.

THE MAHARSHAM'S ANALYSIS



His path turns on four questions: whether a man's casual account of himself can be trusted, why a lost-and-found passport settles it, whether the papers could have been borrowed, and whether some other ger of the same name could be meant.

1. A Word Said in Passing

The ger told people his name and where he was from with no thought of freeing anyone's wife. He was simply speaking about himself. Halacha gives special weight to exactly this kind of statement, *mesiach l'fi tumo*, a thing said innocently and in passing, with nothing to gain by it. The Maharsham anchors it in the Gemara at the end of Yevamos: a man praised as a "lion" mentioned, in the flow of conversation, that his name was Yochanan ben Yonasan, and on that alone Rabbi Tarfon later permitted his widow to remarry. The Rosh rules like that case.

In plain terms, a person is believed about himself most precisely when he has no reason to be saying it. And, the Maharsham adds, a statement made while the man was still alive, long before anyone needed it for a *psak*, is stronger still, because he was already established as who he claimed to be before it could ever matter.

2. The Lost Passport

Here is the Maharsham's sharpest stroke. One could worry that this man was not the real ger at all, but someone who had come into possession of the ger's passport and letter and adopted his name to match the papers. But look at what he did. When the passport went missing, he went to the Rav and to the government office and asked them to issue him a new one. An impostor would never dare do that. If he were passing himself off with another man's document, approaching the authorities risked everything: the real Avraham might be alive at home, the fraud would come to light, and he could face criminal prosecution for using another's papers. The very willingness to stand before the Rav and the government office is itself the proof that he was who he said. As the Maharik holds, a person is believed even where his own words place him in danger.

The proof that the man was honest is that he was willing to be seen. A forger does not walk into the government office and ask them to reissue the papers he stole.

3. Could the Papers Have Been Borrowed?

Beyond the reasoning itself, the Maharsham weighs the general concern that an identifying item might have been borrowed, so that it proves nothing about who is carrying it. He works through the dispute among the Rishonim over whether that suspicion is even a Torah-level concern, and lands on the practical point: a personal travel passport and a hand-written letter of recommendation are not the sort of thing people lend to one another. They belong to one man and travel with him. Where the identifying items are of that kind, the worry about borrowing falls away.

4. Could There Be Another Avraham?

Finally, the questioning Rav had raised the possibility that some other man carried the same name and was also a ger. The Maharsham answers plainly: no such second name was ever established in Interdam; the man's family name was recorded as well, which some authorities hold is even more identifying than a father's name; a ger is not a common thing to begin with; and the community held the Rav's own letter, in his own handwriting. Taken together, the doubt dissolves.

THE P'SAK

She may be freed. The grounds all point one way. The ger's own innocent testimony about himself, a passport an impostor would never have dared to reclaim, papers that no one lends, and the absence of any other ger by that name. On all of them together, the Maharsham joins the questioning Rav in permitting the agunah to remarry k'das Moshe v'Yisrael.

And he tells the Rav why he hurried. He notes that he pushed to finish the psak that very day, on Tisha B'Av itself, because, in the words of the Bach, one who frees an agunah in our times is as though he rebuilt one of the ruins of Yerushalayim.

To free a single agunah is, in the language of the poskim, to set one stone back in a wall we are still mourning.

HISTORICAL CONTEXT

A ger in this world stood almost alone. He had left his former life and family behind and joined Klal Yisrael, and when he traveled, as Avraham did, town to town across Transylvania looking for a living, he carried his entire identity in two things: his own word, and the papers in his pocket. There were no relatives to say "yes, that is him." His passport, issued by the imperial authorities, and the letter his Rav had written, were the closest thing he had to a family that could vouch for who he was.

That is what makes the case so poignant, and so exact. The Maharsham is not carried to leniency by sentiment; he reasons his way there, from how people speak about themselves when nothing is at stake, to what a forger would and would not dare to do, to which documents are lent and which never are. And then, having reasoned it through, he lets the feeling show. He finished the teshuvah on Tisha B'Av, and told the Rav why. A man who had cast his lot with Klal Yisrael died alone and far from home. Freeing the wife he left behind, an agunah, was, to the Maharsham, one small act of rebuilding on the very day we mourn what was destroyed.

KEY TERMS

Agunah · (עגונה) A "chained" wife, one whose husband's death or whereabouts cannot be established, so that she is not free to remarry.

Mesiach l'fi tumo · (מסיח לפי תומו) A statement made innocently and in passing, with no motive to affect any ruling. Halacha grants it unusual credibility.

Ger tzedek · (גר צדק) A righteous convert who has joined Klal Yisrael.

Chashash she'eila · (חשש שאלה) The concern that an identifying item was borrowed, and so does not prove identity. It does not apply to things people do not lend.

A TORAH THOUGHT

- The ger had no family to vouch for him, only his own word. Why does halacha listen so closely to how a person speaks about himself when no one is trying to prove anything?
- The Maharsham's proof of the man's honesty is that he was willing to face the authorities. What does it say that integrity is measured by what a person will let himself be seen doing?
- He finished on Tisha B'Av and called it a rebuilding of Yerushalayim. Why is the freeing of one agunah spoken of in the language of national restoration?

COMING NEXT WEEK

*A poor man loses his purse in a lottery house and demands that its respected owner swear he did not take it.
Can suspicion alone force a good man to his oath?*



WHO WAS THE MAHARSHAM?

Rabbi Shalom Mordechai HaKohen Schwadron, ben HaRav Moshe (1835–1911), served as the Rav of Brezhan in Galicia for over 40 years. He is best known for his seven-volume Shut Maharsham, containing thousands of teshuvos on every area of halachah, and his Da'as Torah commentary on Shulchan Aruch. Regarded as one of the foremost poskim of his generation, his rulings are cited in halachic works to this day.

PRINCIPAL SOURCES

Gemara: Yevamos 122a (Yochanan ben Yonasan, mesiach l'fi tumo); Yevamos 115a; Chullin 96a.

Rishonim: Rosh, Yevamos, and his teshuvah (Tur, Even HaEzer 118); Maharik, Shores 172.

Shulchan Aruch & Nesei Keilim: Even HaEzer 17 (testimony on a missing husband); Beis Shmuel; Pischei Teshuva there.

Acharonim: Teshuvos Radbaz; Noda B'Yehuda, Even HaEzer; Teshuvos Maharsham, Even HaEzer 59; Teshuvos Bach HaChadashos, Siman 64.

Source text: Teshuvos Maharsham, Chelek I, Siman 84.

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To free one agunah, the Maharsham wrote, is to rebuild one ruin of Yerushalayim.

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