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“It is hereby” and “to me”

Abaye had stated that inconclusive partial declarations are regarded as a *yad* (according to all Tannaim).

The *Gemora* questions this from the following *braisa*: If one declares, “It is hereby to me,” or “This is hereby to me,” he is prohibited from deriving pleasure from that object because it is a *yad* (partial declaration) to an offering. It may be inferred from here that the prohibition is only because he said “to me.” However, if he would not have said “to me,” the object would be permitted. This is a refutation to Abaye (since this would seemingly indicate that a partial statement which is inconclusive is not regarded as a *yad*).

The *Gemora* answers: Abaye could answer that if he didn’t say “to me,” it is not even regarded as a partial declaration, for perhaps he meant to say, “It is hereby ownerless,” or “It is hereby designated for charity.”

The *Gemora* asks: By the fact that the *braisa* stated that the vow is effective because it is regarded as a *yad* to an offering, this would indicate that the expression “It is hereby” (which is the term used to consecrate offerings) itself is regarded as a *yad*, and nevertheless, the vow is effective only if he adds the

words “to me.” (It emerges that the *braisa* holds that the inconclusive *yad* of “It is hereby” is not effective; the vow is effective only if he adds “to me.” This would be inconsistent with Abaye’s opinion that an inconclusive *yad* is also effective!?)

The *Gemora* answers: Abaye would explain the *braisa* as follows: If he added the words “to me,” he alone is prohibited to derive pleasure from the object, but his friend would be permitted. If, however, he only said, “It is hereby,” everyone would be prohibited from deriving pleasure from this object because we may assume that he was consecrating this object to the Beis Hamikdosh. (6a)

Chatas and Asham

The *Gemora* challenges Abaye from the following *braisa*: If a man who was obligated to bring a *chatas* or an *asham* declared (regarding an animal), “This is hereby a *chatas*,” or “This is hereby an *asham*,” he has not said anything (since he didn’t say “my *chatas*,” or “my *asham*”; perhaps he was intending to designate it as a donation of a *chatas* or *asham* and these *korbanos* only come for the purpose of atonement). If, however, he declared, “This is hereby my *chatas*,” or “This is hereby my *asham*,” his words are valid. This *braisa* should serve as a refutation of Abaye (for certainly the declaration of “This is hereby a *chatas*” should attain the status of an inconclusive

partial declaration, and nevertheless, the braisa rules that the vow is ineffective)?

The *Gemora* answers: Abaye would say that this *braisa* is following the opinion of Rabbi Yehudah.

The *Gemora* asks: But Abaye had said that he can hold even according to Rabbi Yehudah (*for Rabbi Yehudah only said that you need a conclusive expression in order to be regarded as a yad only in respect to a get which requires a complete severance (between the man and his wife), but in other cases (such as a vow), it is not necessary for the partial declaration to be conclusive*)?

The *Gemora* responds: Abaye has retracted from his original position (*and Rabbi Yehudah does hold that an inconclusive partial declaration is ineffective; Abaye's opinion is in accordance with the Chachamim*).

The *Gemora* asks: Is Rava following the opinion of Rabbi Yehudah?

The *Gemora* answers: Rava will say: I can follow the opinion of the *Chachamim*. For they said that a partial declaration which is not conclusive will be sufficient only by a *get*, for there, it is evident to us that this is his document; how can it not be? A man does not divorce his friend's wife! However, in other cases (*such as a vow*), a partial declaration will only be regarded as a *yad* if it is conclusive. (6a)

Yad by Kiddushin

Rav Papa inquired: Is there a *yad* for *kiddushin* or not (*A man may betroth a woman by saying, "You are hereby betrothed to me." What is the halacha if he*

makes a partial declaration? Do we compare kiddushin to nedarim or perhaps there is a distinction between the two; a vow is strict that it takes effect with merely a declaration, but kiddushin requires an action as well?)

The *Gemora* explains the case: A man said to a woman, "You are hereby betrothed to me," and then he said to another woman, "And you." Do we say that he is saying to her "And you, too," and based upon this partial declaration, *kiddushin* would take effect with her. Or, perhaps, he is saying to her, "And you have seen that I married the first woman," and *kiddushin* will not take effect? The *Gemora* leaves the matter unresolved. (6b)

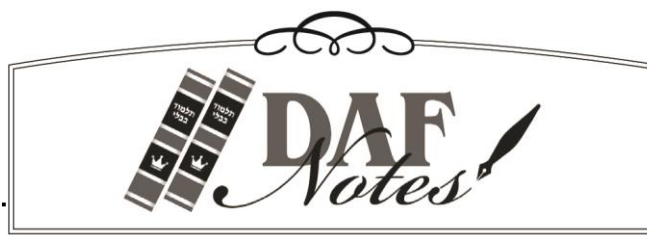
Yad by Pe'ah

Rav Papa inquired: Is there a *yad* for *pe'ah* (*leaving over a corner of the field for the poor*) or not?

The *Gemora* explains the case: A man said, "This row should be *pe'ah* and this one." He did not say "and this one, too." What is the *halacha*?

The *Gemora* notes: It is evident from Rav Papa's inquiry that if he made his entire field *pe'ah*, it is valid (*since he is obviously referring to a case where the first row contained the minimum requirement for pe'ah, for otherwise, "and this one" would certainly mean that he wishes this row to complete the required measure; it emerges that if one designated the required amount of pe'ah, he may still add to it*).

The *Gemora* cites a *braisa* that a person may in fact designate his entire field as *pe'ah*. This is derived from a Scriptural source.



The *Gemora* explains the inquiry: Do we say that since *pe'ah* is compared to *korbanos*, the *halacha* of *yados* should be applicable? Or, perhaps, it is only compared regarding the prohibition against delaying, but not in respect to *yados*? (6b)

Quick Summary

* What is the *halacha* if one declares, "It is hereby to me"?

If an inconclusive partial declaration is regarded as a *yad*, the bread is forbidden to everyone because he might have meant to consecrate the bread. If it is not regarded as a *yad*, it is permitted to everyone.

* What is the *halacha* if one declares, "This is hereby my *chatas*," or "This is hereby my *asham*"?

If he is obligated to bring a *chatas* or an *asham*, it is valid; otherwise, it is not.

* What is the *halacha* if one declares, "This is hereby a *chatas*," or "This is hereby an *asham*"?

According to Rava, it is not effective (*for it's a yad that is inconclusive*). According to Abaye, it's dispute among the Tannaim.

* In what case regarding *kiddushin* is Rav Papa's inquiry?

A man said to a woman, "You are hereby betrothed to me," and then he said to another woman, "And you."

* Are there *yados* by *kiddushin*?

The *Gemora* does not resolve this.

* Regarding what other *halacha* did Rav Papa inquire into?

If there are *yados* by *pe'ah*.

* Can one designate his entire field as *pe'ah*?

Yes.

INSIGHTS TO THE DAF

Kiddushin Declaration

Rav Papa inquired: Is there a *yad* for *kiddushin* or not (A man may betroth a woman by saying, "You are hereby betrothed to me." What is the *halacha* if he makes a partial declaration? Do we compare *kiddushin* to *nedarim* or perhaps there is a distinction between the two; a vow is strict that it takes effect with merely a declaration, but *kiddushin* requires an action as well?)

The *Gemora* explains the case: A man said to a woman, "You are hereby betrothed to me," and then he said to another woman, "And you." Do we say that he is saying to her "And you, too," and based upon this partial declaration, *kiddushin* would take effect with her. Or, perhaps, he is saying to her, "And you have seen that I married the first woman," and *kiddushin* will not take effect? The *Gemora* leaves the matter unresolved.

Reb Chaim Brisker analyzes Rav Papa's inquiry: Was he uncertain regarding the words "and you," if that constitutes a language for *kiddushin* or not? Or, perhaps, it certainly is a valid expression for *kiddushin*; Rav Papa inquired regarding someone who uses this language. Is his intention to effect *kiddushin* or not? Reb Chaim concludes that the *Gemora's* doubt is regarding the language, for if the question would be in respect to his intent, there would be a simple solution: Ask him! Reb Shimon Shkop explains the uncertainty of the *Gemora* to be referring to the man's intention, and not in respect to the language.

The Avnei Miluim maintains that *kiddushin* cannot take effect without the man's declaration of betrothal. Reb Boruch Ber states that the husband's declaration is an integral part of the *kiddushin* acquisition. The witnesses are required to hear his declaration. It is insufficient for the witnesses to merely recognize his intent for *kiddushin* and observe as the man presents the woman with an object worth at least a *perutah*.

The Steipler Gaon, however, disagrees and holds that the husband's declaration of betrothal is not necessary to effect a *kiddushin*. His declaration is only needed for the sake of revealing to us his intent for *kiddushin*. Accordingly, the Steipler is greatly troubled by our *Gemora*. What difference would it make if there is a *yad* for *kiddushin* or not; it is only their intentions that are the necessary component to effect a *kiddushin*? If they say that they were intending for *kiddushin*, what is lacking?

He answers that although it is not necessary to hear the husband's declaration, it is necessary to hear from him that he intends to perform a *kiddushin*. *Kiddushin* will not take effect because he intended to perform a *kiddushin*, if that intent remained in his heart and it was not verbalized. However, if we can gauge from his words that he undoubtedly intended for *kiddushin*, the *kiddushin* will be valid. Rav Papa inquired: Are there *yados* by *kiddushin*? If there are *yados*, then his partial declaration is regarded as a full one; we could then determine that he certainly intended for *kiddushin*. However, if there are no *yados* by *kiddushin*, his declaration remains a partial one; we then, cannot ascertain with any degree of certainty that he intended for *kiddushin*. The *Gemora* leaves this matter unresolved.