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Gittin Daf 43

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Daf Notes is currently being dedicated to the neshamot of

**Moshe Raphael ben Yehoshua (Morris Stadtmauer) o”h**

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May the studying of the Daf Notes be a zechus for their neshamot and may their souls find peace in Gan Eden and be bound up in the Bond of life

### ***Selling Rights to a Fine***

Rabbi Abba attempts to answer this question (*whether or not a person can sell the rights to the fine he would receive if his slave was killed by an ox*) from a *braisa*, which states: *And someone born of the house (i.e. the child of a Canaanite slavewoman can eat terumah)*. Why does the verse need to say this? If it already said that one who is the monetary acquisition (*i.e. a slave*) of a *Kohen* can eat *terumah*, certainly a family member can eat *terumah*! If this were the case, one might have said that just as an acquisition eats *terumah* only if he has monetary value (at least a perutah), so too a family member can eat *terumah* only if he has monetary value (*if he would be a slave*). How would we know that even a family member who does not have any monetary value can eat *terumah*? This is why the verse says: *And someone born of the house*. This leads to the following possible conclusion: A family member eats *terumah* whether or not they have monetary value, implying that a monetary acquisition eats only if they have monetary value, not if they do not have monetary value. This is untrue, as we learn from the juxtaposition of the two verses: *His monetary acquisition...and someone born of the house*. Just as one born of the house is not required to actually have a monetary value to eat *terumah*, so too, a monetary acquisition is not required to actually have a monetary value in order to eat *terumah*.

Rabbi Abba deduces from this *braisa* that if we were to say that a person can sell the rights to the fine he would receive if his slave was killed by an ox, then there is no such thing as a slave who has no monetary value (*as he can always sell these rights for at least a small amount*)! [*This braisa therefore implies that such a sale is invalid!*]

The *Gemora* answers: A slave who is a *tereifah* (*deathly ill*) does not have a fine paid for him, and may possibly have no value.

The *Gemora* asks: However, such a slave is still of some value for his service (*he can still do something even though he is deathly ill*)!?

The *Gemora* answers: The case is where he is repulsive, or he has boils (*and nobody wants his service*). (43a)

### ***Half-slave, Half-free Man Betrothing a Woman***

The *Gemora* inquires: If someone is half-slave and half free and he betrothed a free woman, what is the law? [A Canaanite slave cannot betroth a Jewess, but the question here is: Can the woman become betrothed to his freed half?] If you will say that if an ordinary Jew said to a Jewess, “Become betrothed to half of me,” the *kiddushin* is valid (and then here as well it should be effective), this may be because she has the ability to become fully betrothed to him, unlike in this case

where she does not have the ability to become betrothed to all of him (for he is partly a slave). If you will say that such a woman is not betrothed in the case above, that may only be because he limited the acquisition that he could have acquired. However, in this case, he is acquiring whatever he can (*and therefore it possibly is a valid kiddushin*). What is the law?

The *Gemora* attempts to answer this from a *braisa*, which states: If an ox kills one who is a half-slave, half-free man, the (ox) owner gives half the fine (*if the ox is a habitual gorer, the owner must pay thirty shekels as a penalty*) to his master and half the *kofer* payment (*the value of the victim as determined by what price he would have fetched at the slave market; this serves as an atonement for the owner of the ox*) to the slave's heirs. The *Gemora* points out that if his<sup>1</sup> *kiddushin* is invalid, how does he have inheritors (for the offspring of a slave are not legally considered his children)?

Rav Adda bar Ahavah answers: The case is where he was gored and made a *tereifah* (*deathly ill, where he was going to eventually die from his wounds*). The "inheritors" referred to here actually means to the slave himself.

Rava retorted that there are two reasons to refute this answer. One is that the *braisa* says the money is given to his inheritors (*not himself*). Additionally, the payment is *kofer*, and Rish Lakish says that *kofer* is paid only after an actual death (*not when someone is made deathly ill*)!

<sup>1</sup> of a half-slave and half-free man

Rava therefore explains: The *braisa* means that half-*kofer* would be fit to give to relatives; however, there are none to give it to. (43a)

### ***Half-slavewoman, Half-free Woman Becoming Betrothed***

Rava said: Just as one who betroths half a woman has not effected anything, so too, a half-slavewoman and half-free woman, her *kiddushin* in a not a valid *kiddushin*.

Rabah bar Rav Huna similarly taught: Just as one who betroths half a woman has not effected anything, so too, a half-slavewoman and half-free woman, her *kiddushin* in a not a valid *kiddushin*.

Rav Chisda said to him: The cases are incomparable. In the first case it is not valid because he limited the acquisition that he could have acquired; however, in this case, he has not limited his acquisition (he is acquiring whatever he can).

Rabbah bar Rav Huna later returned his translator (*one who would say over what Rabbah said to the people in a loud voice*). The verse says: *And this stumbling block is under your hand*. This teaches us that a person realizes the words of Torah only after he has made a mistake (*then he ingrains it in himself firmly so he should not make the same mistake again*). The following is the correct ruling: Even though one who betroths half of a woman has done nothing, a half-slavewoman and half-free woman, her *kiddushin* is an effective *kiddushin*. Why? In the first case it is not valid because he limited the acquisition that he could have acquired. However, in this case, he has not limited his acquisition (he is acquiring whatever he can).

Rav Sheishes said: Just as one who betroths half a woman has not effected anything, so too, a half-slavewoman and half-free woman, her *kiddushin* in a not a valid *kiddushin*. And if someone will whisper to you (the following braisa): What is a *shifchah charufah* (designated slavewoman that the Torah references)? She is someone who is half-slavewoman, half-free woman who is betrothed to a Jewish servant. This shows that a half-slavewoman can indeed be betrothed! They should go to Rabbi Yishmael, who says that the case is in fact a slavewoman who is betrothed for a Jewish servant. Now, how can that be? It is certainly impossible for a slavewoman to be betrothed! It must mean that she is designated for him (and nevertheless, the Torah decrees that one who lives with her must bring a *korban asham*). Here, too, betrothed means that she was designated to him.

Rav Chisda said: If a half-slavewoman and half-free woman received *kiddushin* from Reuven and she was then freed, and then Shimon (Reuven's brother) betrothed her and they both died, she has *yibum* done to her by Levi (their brother). She is not called the wife of two deceased people (and then she would not have been able to be taken in *yibum*) for the following reason: [Rav Chisda is uncertain if *kiddushin* is valid with such a woman.] If Reuven's *kiddushin* was valid, Shimon's *kiddushin* was invalid (for he cannot marry someone else's wife). If Shimon's *kiddushin* was valid, then obviously Reuven's was invalid (as otherwise Shimon's would not have been valid). [She therefore is the widow of only one of them and Levi can perform the mitzvah of *yibum*.] (43a – 43b)

**Half-slavewoman, Half-free Woman  
Betrothed and then Emancipated**

It was taught: If a half-slavewoman and half-free woman received *kiddushin* from Reuven and she was then freed, and then Shimon (*not Reuven's brother*) betrothed her. Rav Yosef bar Chama said in the name of Rav Nachman: The *kiddushin* of the first person (even according to the opinion who maintained that her *kiddushin* was initially valid) was nullified (when she was freed; this is because the emancipation is similar to a conversion, and she is regarded as a newborn baby). Rabbi Zeira says in the name of Rav Nachman: The *kiddushin* of the first person was completed (when she was freed; the *kiddushin* spread to her free half; now, if another man lives with her, they would be executed, for she is a full-fledged married woman).

Rabbi Zeira says: My opinion is logical. The verse states: "They will not die for she was not freed." This implies that if she would have been freed, the *kiddushin* would have been valid and they would be executed!

Abaye asks: According to Rabbi Yishmael who says that the case is regarding a slavewoman (who has not been freed at all) who was designated for a Jewish servant, is it possible to say that if she were freed they would be executed (she obviously cannot receive *kiddushin* with her present status)! It must be that the verse means that if she would be freed and then betrothed (and then the relations would happen) they would be executed. Here, as well, this is the case (that only if she accepted *kiddushin* after she was freed is the *kiddushin* valid). (43b)

**Do we Force the Master by a  
Half-slavewoman, Half-free Woman?**

Rav Huna bar Katina said in the name of Rabbi Yitzchak: There was once an incident regarding a half-slavewoman and half-free woman whose master was

forced to set her free (*like the Mishna taught regarding a half-slave, half-free man*).

Whose opinion does this follow? It follows the opinion of Rabbi Yochanan ben Berokah, who says that on both of them (*Adam and Chavah*) the verse states, “And God blessed them and said... be fruitful and multiply and fill etc.” [*He holds that a woman is also commanded to populate the world, and she was therefore forcibly freed in order that she could fulfill this obligation.*]

Rav Nachman bar Yitzchak said: This was not the reason she was freed, but rather because people were acting promiscuously with her. (43b)

### **Mishna**

If someone sells a slave to an idolater or to someone living outside of Eretz Yisroel (*from Eretz Yisroel*), he goes free. [*This was a penalty instituted by the Sages because the slave was obligated in mitzvos, and working for an idolater, he will most certainly be compelled to violate many mitzvos. Similarly, when he sold him to someone living outside Eretz Yisroel, he is forcing him to violate the prohibition against leaving Eretz Yisroel.*]

### **Slave as Collateral**

The *braisa* states: If someone sells his slave to idolaters, he goes free automatically, but he needs a deed of emancipation from his original master. Rabban Shimon ben Gamliel says: This is only if he did not write his *ono* (*see below*). If he did, he is freed with this.

What is an *ono*? Rav Sheishes says: It is a document that states that “If you run away from this idolater, I have no claim with you.”

The *braisa* states: If someone used his slave as collateral for a loan he took from an idolater, the slave goes free, if the idolater did this according to his custom.

What custom are we referring to? Rav Huna bar Yehuda explains: It is a seal of servitude that the slaves carry around their necks.

Rav Sheishes cites a *braisa*, which refutes this explanation, and offers his own: The custom that the *braisa* was referring to was that they write the date of the payment on the loan document (*and at point in time, the idolater will assume ownership of the slave*).

The *Gemora* explains that he must set him free even if the date for repayment did not arrive yet. This is because the arrangement was that the idolater may use the slave immediately. The Sages did not want that either, and therefore compelled the master to free him.

Alternatively, the *Gemora* explains that he must set him free only after the date of repayment has arrived. The novelty of this *halacha* is that he is required to free him even if the idolater did not take possession of the slave yet. Since he could assume ownership, it is regarded as if he sold him to an idolater, and he is compelled to free him. (43b – 44a)

### **INSIGHTS TO THE DAF**

#### ***Can a Tereifah have Children?***

The *Gemora* cites a *braisa*: If an ox kills one who is a half-slave, half-free man, the (ox) owner gives half the fine (*if the ox is a habitual gorer, the owner must pay thirty shekels as a penalty*) to his master and half the

*kofer* payment (the value of the victim as determined by what price he would have fetched at the slave market; this serves as an atonement for the owner of the ox) to the slave's heirs. The *Gemora* points out that if the *kiddushin* of a half-slave, half-free man is invalid, how does he have inheritors?

Rav Adda bar Ahavah answers: The case is where he was gored and made a *tereifah* (deathly ill, where he was going to eventually die from his wounds). The "inheritors" referred to here actually means to the slave himself.

Rava retorted that there are two reasons to refute this answer. One is that the *braisa* says the money is given to his inheritors (not himself). Additionally, the payment is *kofer*, and Rish Lakish says that *kofer* is only paid after an actual death (not when someone is made deathly ill)!

The Peri Chadash asks: Why couldn't the *Gemora* use the following case? He was gored and rendered a *tereifah*. The ox owner is required to pay the penalty after he dies. Before he died, however, the master emancipated him, he married and begot children. Afterwards, he died, and the ox owner should now be obligated to pay to his heirs!?

He proves from this that it must be that a *tereifah* is not capable of having children.

The Chazon Ish asks that even if we will assume that a *tereifah* cannot have children, there is another possibility. He was gored and injured so badly that he was dangerously close to death (yet he was not ruled to be a *tereifah*). The ox owner is required to pay the penalty after he dies. Before he died, however, the master emancipated him, he married and begot

children. Afterwards, he died due to the injury, and the ox owner should now be obligated to pay to his heirs!?

He answers that a slave has no lineage, and therefore any children born from him while he was a slave are not regarded as his children. After he is emancipated, and now his children are considered his children, that is only for all matters that are applicable after his death. However, with respect to the obligation of the *kofer* payment, that is a payment that is owed to the victim's heirs. If, at the time he was gored, he did not have any inheritors, the owner will not be obligated to pay to the heirs that came about at a later date.

#### QUESTIONS AND ANSWERS FROM YESTERDAY'S DAF to refresh your memory

Q: When will everyone agree that it's possible to have a case of a half-slave, half-free man?

A: If a slave was owned by two partners, and one of them freed him.

Q: Why can't a master free two slaves with one document?

A: It is derived from the *halachos* of divorcing a woman, where one *get* cannot divorce two women.

Q: What are the two inquiries of the *Gemora*, related to the ownership of a slave who lacks his deed of emancipation?

A: Who gets the fine money if he is gored, and if the slave can eat *terumah*.