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Kiddushin Daf 9

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Daf Notes is currently being dedicated to the neshamot of

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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

Laws of Kiddushin

There once was a man who was drinking wine in a store. A woman came over and said to him, “Give me a cupful.” He said to her, “If I give you a cup, will you agree to become betrothed to me?” She said, “Just give me the drink.” Rav Chama said: Saying that is meaningless (*rather, she meant, “Don’t make jokes with me; just do what I said”*).

There was once a man who was taking down dates from a palm tree. A woman came over and said to him, “Give me two dates.” He asked, “If I take them down for you, will you become betrothed to me?” She said, “Just throw them down.” Rav Zevid said: Saying that is meaningless.

The *Gemora* inquires: What if the woman had merely said, “give,” “pour,” or “take?” Ravina says: She would be betrothed. Rav Sama bar Raksa says: By the crown of the king (*a term used when swearing*), she is not betrothed. The *Gemora* concludes that the law is that she is not betrothed.

Additionally, the *Gemora* rules: Silk (*or things of unknown value that are clearly worth a perutah or more*) does not require an evaluation before *kiddushin*.

The law follows Rabbi Elozar (*that if a man said to a woman that she should be mekudeshes to him with a maneh, and he proceeded to give her only a dinar, she is mekudeshes, but he must give her the rest of the money*).

The law also follows Rava in the name of Rav Nachman (*that giving a security for an amount promised for kiddushin does not effect kiddushin*). (9a)

Kiddushin by Document

The *Gemora* cites a *braisa*: How does one effect *kiddushin* with a document? If he writes on a piece of paper or earthenware, even if it is not worth a *perutah*, “Your daughter is mekudeshes (betrothed) to me,” or, “Your daughter is me’ureses (betrothed) to me,” or, “Your daughter is for me a wife,” (*and he gives it to her father*) the *kiddushin* is valid.

Rabbi Zeira bar Mamal asked: This document is unlike an ordinary sale document, for there a seller writes to him (the buyer), “My field is sold to you.” Here, the husband (to be) is writing, “Your daughter is betrothed to me.”?

Rava answered: There it is based on a Scriptural verse, and here it is based on a verse. There, it is written: *And he shall sell from his ancestral heritage*. There, the Torah makes it dependent on the seller. Here, it is written: *When a man shall take a wife*. The Torah makes it dependent on the husband.

The *Gemora* asks: There (regarding sales), it is also written: *Fields with money they shall buy* (*implying that it is dependent on the buyer*)!?

The *Gemora* answers: We can read the word as ‘yaknu’ (instead of ‘yiknu,’ meaning “they shall sell”).



The *Gemora* asks: What is the reason that we should read it 'yaknu'? This is because we have a verse explicitly stating: *And he shall sell*. Then here as well we should read it 'ki yakach' (*when a man shall give a woman to a husband as a wife*), for it is written: *My daughter I gave to this man.*?

Rather, Rava answers: These are laws passed down from Moshe at Sinai. The Rabbis used these verses in order to support these teachings.

Alternatively, we can answer there it is also written: *And I took the book of purchase*. [The teaching comes from *Yirmiyah's purchase of a field from Chanamel*. He states that he took the book of purchase from the seller, indicating it is the seller who writes, "My field is sold to you."] (9a)

Laws Concerning Kiddushin Documents

Rava says in the name of Rav Nachman: If he writes on a piece of paper or earthenware, even if it is not worth a *perutah*, "Your daughter is mekudeshes (betrothed) to me," or, "Your daughter is me'ureses (betrothed) to me," or, "Your daughter is for me a wife," whether she or her father accepted it, the *kiddushin* is valid. This is true as long as her father consented (*that she should accept it*). This (that her *kiddushin* rights are retained by her father) is when she did not yet become a *bogeres* (*adult*).

If he writes on a piece of paper or earthenware, even if it is not worth a *perutah*, "Your daughter is mekudeshes (betrothed) to me," or, "Your daughter is me'ureses (betrothed) to me," or, "Your daughter is for me a wife," whether she or her father accepted it, the *kiddushin* is valid. This is only if she consented that her father should accept it for her (*and she may accept it without her father's knowledge*). This is when she has already become a *bogeres*.

Rabbi Shimon ben Lakish inquired: What is the law concerning a document of betrothal that was not written for the sake of this woman (*lishmah*)? Do we say that we compare the ways of "becoming" (*kiddushin*) to the ways of "going out" (*gittin*), and just as a *get* must be written *lishmah*, so too, a *kiddushin* document must be written *lishmah*? Or do we say that we compare one way of "becoming" through money – we do not require *lishmah* (the money need not be minted for the sake of this particular woman), so too "becoming" through a document – we do not require *lishmah*.

After he asked the question, he answered it himself. He said: we compare the ways of "becoming" to the ways of "going out," for it is written: *And she will go out...and she will be*. (9a – 9b)

It was taught: If he wrote it (a *kiddushin* document) for her but without her knowledge, Rava and Ravina say: She is *mekudeshes*, whereas Rav Pappa and Rav Shrivya says: She is not *mekudeshes*.

Rav Pappa said: I will say their reasoning, and I will say my reasoning. I will say their reasoning, as it is written: *And she will go out...and she will be*. We compare the ways of "becoming" to the ways of "going out." Just as a *get* is valid when it is written *lishmah*, even if the woman does not know about it, so too, a *kiddushin* document is valid when it is written *lishmah*, even if the woman does not know about it.

I will say my reasoning. *And she will go out...and she will be*. We compare the ways of "becoming" to the ways of "going out." Just as a *get* requires the knowledge of the giver (*the husband*), so too, *kiddushin* requires the knowledge of the giver (*the wife, who is becoming acquired by her husband*).

The *Gemora* asks (on Rava and Ravina) from a *Mishna*: One cannot write a betrothal or marriage document without the knowledge of both parties. This must be discussing regular betrothal and marriage documents (*and is a challenge to Rava and Ravina*)!?

The *Gemora* answers: This is talking about the documents of allotment (detailing the financial terms of what is being brought into the marriage). And it is as Rav Gidel said in the name of Rav, for Rav Gidel said in the name of Rav: [The father of the bride asks the father of the groom] "How much will you be giving to your son?" He replies, "Such and such a sum." The father of the groom then asks the father of the bride, "How much will you be giving to your daughter?" He replies, "Such and such a sum." If they stand up and a betrothal was carried out, they (the stipulations) are binding. These are matters which are legally binding through a verbal arrangement alone. (9b)

Kiddushin through Cohabitation

The *Gemora* inquires: How do we know that *kiddushin* can be done through cohabitation?

Rabbi Avahu says in the name of Rabbi Yochanan: The verse says, "*Beulas ba'al*" -- "a woman who has cohabited with a husband." This teaches us that he may become her husband through cohabitation.

Rabbi Zeira said to Rabbi Avahu, and some say Rish Lakish said to Rabbi Yochanan: Is there something loathsome with this that Rebbe taught: *and cohabit with her*; this teaches us that a woman can be acquired through cohabitation?

The *Gemora* answers: If from there (this would be the source), I might have thought that (*kiddushin* is not effected) until he betroths her (with money) and then he cohabits with her (*as the verse first states "ki yikach" implying money*). The first teaching is therefore necessary

to teach us otherwise (that cohabitation alone effects *kiddushin*).

Rav Abba bar Mamal asked: If that were so, what is the case where the Torah punishes a betrothed *na'arah* with stoning (*for committing adultery*)? If he (the *na'arah's* husband) would betroth her and then cohabit with her, she is no longer a virgin (*and the Torah says that the case where she is stoned is where she is a virgin*). If he would betroth her and not cohabit with her, this would be invalid (*according to what we would have thought*)!?

The *Chachamim* answered (*when they were*) before Abaye: The case would be when her betrother cohabited with her in an unnatural fashion. [*This would complete the kiddushin, and she would still be a virgin.*]

Abaye said to them: Rebbe and the *Chachamim* only argue regarding someone else (who cohabited with her in an unnatural fashion), but regarding her husband, everyone agrees that if he cohabits with her in an unnatural fashion, he renders her a non-virgin!?

The *Gemora* asks: What is the argument (Abaye was referring to)?

The *Gemora* answers that he was referring to the following *braisa*: If ten men cohabited with her (*a betrothed na'arah*) and she is still a virgin, they all are stoned. Rebbe says: I say that the first one is stoned, while the rest are strangled (*for she is not regarded as a virgin any longer*).

Rav Nachman bar Yitzchak answers: The case (where a betrothed *na'arah* is still a virgin) is where he betrothed her with a document. Being that it (a document) is enough to take a woman out of marriage (by itself), it is also enough to bring her in (by itself).

The *Gemora* asks: What does Rabbi Yochanan derive from the verse: *And he cohabited with her?*

The *Gemora* answers: He requires it to teach us that an ordinary woman is acquired through cohabitation, but a Hebrew maidservant is not acquired through cohabitation. One might have thought to say that we should derive a *kal vachomer* from a *yevamah*: if a *yevamah*, who is not acquired through money, but is acquired through cohabitation, this one (a maidservant), who is acquired through money, is it not logical that she may be acquired through cohabitation!

The *Gemora* asks: A *yevamah* is different, as she is already bound (and somewhat connected) to her *yavam*. [We therefore cannot derive her laws to a maidservant who has no prior connection to her master.]

The *Gemora* answers: One might have thought that because the verse states: *If he takes another one* (i.e., wife), the Torah compare her laws (that of a Jewish maidservant) to the other wife. Just as the other wife can be acquired through cohabitation, so too, a Jewish maidservant can be acquired through cohabitation. The Torah therefore informs us that this is not the case (and a maidservant cannot be acquired through cohabitation).

The *Gemora* asks: Where does Rebbe know this (that a maidservant cannot be acquired through cohabitation) from (*as he uses this verse to teach that cohabitation is an effective mode of kiddushin*)?

The *Gemora* answers: Let the Torah write *and cohabit*; why *and cohabit with her*? [He understands this from the word "*uva'al*," within the word "*uva'alah*".] Both lessons may be derived from here.

The *Gemora* asks: According to Rava who said: Bar Ahina explained to me (as follows): *When a man shall take a wife and cohabit with her. Kiddushin* which is given over

to (the possibility of legal) cohabitation (*but not in a case where he cannot legally cohabit with her, e.g., if a man betroths one of two sisters, but he did not specify which one he was betrothing*) is an effective *kiddushin*, but *kiddushin* which is not given over to (the possibility of legal) cohabitation is not an effective *kiddushin*, what can be said (how does he know the other two laws)?

The *Gemora* answers: The verse could have stated *or cohabit with her*. Why did it say instead *and he cohabits with her*? We can derive all three laws from here.

The *Gemora* asks: And the verse *a woman who cohabited with a husband*, what does Rebbe use it for?

The *Gemora* answers: He needs it for the following: A husband renders her (his wife) a non-virgin by cohabiting with her unnaturally, but no one else can render her a non-virgin by cohabiting with her unnaturally.

The *Gemora* asks: But does Rebbe hold of this logic? But it was taught in a *braisa*: If ten men cohabited with her (*a betrothed na'arah*) and she is still a virgin, they all are stoned. Rebbe says: I say that the first one is stoned, while the rest are strangled (*for she is not regarded as a virgin any longer*).

Rabbi Zeira said: Rebbe admits regarding fines (that she is still deemed a virgin).

The *Gemora* asks: Why is it (the law of fines) different than (the law of) execution?

The *Gemora* answers: There (regarding execution), it is written: *And the man that lies with her, he alone shall die*.

The *Gemora* asks: And what do the Rabbis do with the word '*alone*'?

The Gemora answers: They use it for that which was taught in the following braisa: *And both of them shall die.* This teaches us that they (the two adulterers) both must be equal in their punishment (i.e., they must both be of age to be punished by the courts); these are the words of Rabbi Yoshiyah. Rabbi Yonasan says: The verse says: *and the man who lay with her alone will die.* [The one who is an adult can still be punished by death.]

The Gemora asks: From where does Rabbi Yochanan know this principle (that it is the husband alone who may render his wife a non-virgin by cohabiting with her unnaturally)?

The Gemora answers: Let the Torah write: *cohabited with a man*; why does it state: *cohabited with a husband*? Both lessons may be derived from here. (9b – 10a)

INSIGHTS TO THE DAF

DIAMOND RING

The Gemora concludes that silk (*or things of unknown value that are clearly worth a perutah or more*) do not require an evaluation before *kiddushin*.

Tosfos writes that this is only regarding items that their value is somewhat known and it is uncommon for people to make mistakes about it. However, items such as gems and pearls, where there are some that have very little value, people are apt to think that they are worth a lot, when in truth, they are worth very little; these require appraisal before they are used for *kiddushin*. This is why it has become the custom not to give diamond rings for *kiddushin*.

[Why has it become the custom to use a ring for *kiddushin*?]

DAILY MASHAL

The “Ben Ish Chai” (II, “Yesod Yesharim” §1) mentions six reasons why a kallah should be careful to receive the marriage ring on her forefinger. Two of the reasons are as follows: 1) To allow the witnesses to see well the act of *kiddushin*, for the forefinger is not hidden by the other fingers. 2) When a person puts his two hands before him side by side, palms away from him so that the thumbs are next to each other, if he starts counting from his smallest finger on his left hand, the forefinger of the right hand is the seventh finger. This alludes to the sheva berachos, and the seven days when we celebrate with the chassan and a kallah after the wedding.

QUESTIONS AND ANSWERS FROM YESTERDAY’S DAF to refresh your memory

Q: What does the *braisa* mean when it states that a Hebrew slave cannot be acquired with grain and utensils?

A: Either that its value was not defined, or that it was less than a *perutah*’s worth.

Q: When will a firstborn’s redemption be valid even when it is less than five *se’laim*?

A: If the *Kohen* accepts it upon himself as if they were worth five *se’laim*.

Q: If a man says that he is giving a *maneh* for *kiddushin* and he only gives a *dinar*, when will the *kiddushin* not be valid?

A: Either if he says, “this *maneh*,” or if he was counting them out to her (*for then, she expects to receive all the money now*).