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Kiddushin Daf 21

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Daf Notes is currently being dedicated to the neshamot of

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

**Tzvi Gershon ben Yoel (Harvey Felsen) o”h**

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

### **Redeeming Property**

One *braisa* states: A person can borrow and redeem (*his house in a walled city*), and he can redeem it by halves. The other *braisa* states: One cannot borrow and redeem, or redeem halfway. [*This is a contradiction!?*]

The *Gemora* answers: This is not difficult, as the second *braisa* is following the opinion of the Rabbis, and the first one is according to Rabbi Shimon (*who expounds the reason behind the Torah’s laws, and therefore he concludes that since a house in a walled city will be lost if he does not redeem it, he is allowed to use borrowed money to redeem it and he can redeem it by halves*).

Rav Acha the son of Rava said to Rav Ashi: It is possible to ask (*on the kal vachomer cited above that sought to derive that one should not be allowed to redeem an ancestral field which he had consecrated with borrowed money, or by halves*) as follows: One who sells a house in a walled city cannot redeem his house forever (*he has only the first year; this is in contrast to redeeming an ancestral field, which can always be redeemed*), as opposed to the consecration of an ancestral field, who can always redeem it!?

Rav Acha Saba said to Rav Ashi: We could say that the teaching should be repeated, and eventually derive this from a *tzad hashavah* (*method of deriving a law from two topics that are not totally common, but do have a common denominator*).

We could say regarding a person who sells his ancestral field that his rights are enhanced, for he can redeem it forever, but nevertheless, he cannot borrow to redeem, nor may he redeem in halves.

However, we can ask that this is not a proof, as the seller of the field has his rights restricted that he cannot redeem his field right away.

On the other hand, we have the laws of the seller of the house in a walled city, which prove otherwise (*as he can redeem immediately, but he still cannot borrow to redeem, nor can he redeem by halves*).

We therefore can say that although the two (*the seller of an ancestral field and the seller of a house in a walled city*) are not the same; their common denominator is that they are redeemed, and they cannot borrow to redeem, nor can they be redeemed by halves. We should similarly derive that a consecrator of an ancestral field that can redeem, may not borrow to redeem, nor may he redeem by halves.

Mar Zutra the son of Rav Mari said to Ravina: The following is possible to ask on the common denominator: The seller of the ancestral field and the seller of a house in a walled city are different than the consecrator, as both cannot be redeemed during the second year after they were sold (*as an ancestral field cannot be redeemed within the first two years, and a house in a walled city can only be redeemed in the first year after the sale*). A



consecrator of an ancestral field can redeem it whenever he wants!?

Ravina says: We can prove that this is not a question from the case of a Jewish servant who was sold to gentiles. While he can be redeemed in the second year of his slavery, he cannot borrow to redeem, nor can he be redeemed by halves. (21a)

Rav Huna bar Chinana inquired of Rav Sheishes: If someone sells a house in a walled city, is it redeemed by relatives or not (*can they force the buyer to redeem it*)? Do we say that we derive a *gezeirah shavah* of "*geulaso-geulaso*" from the sale of one's ancestral field? We would derive that just as this redemption cannot be done by halves and it is redeemed by relatives, so too, when redeeming a house in a walled city, it cannot be done by halves, but it can be done by relatives. Or perhaps we say that the *gezeirah shavah* teaches us that the seller of a house in a walled city cannot redeem it by halves, but there is no source to say that relatives can redeem it. He answered: It cannot be redeemed through relatives.

The *Gemora* asks a question from a *braisa*. The *braisa* states: "*In all...you will give redemption.*" This includes houses and Jewish servants. It must be that the houses being included are the houses in walled cities (*and the braisa is teaching us that it may be redeemed by relatives*)!?

The *Gemora* answers: No, it is referring to houses in unwall cities.

The *Gemora* asks: Those houses are explicitly mentioned in the verse, "*Like the fields of the land they should be considered*" (*teaching us that they may be redeemed by relatives*)!?

The *Gemora* answers: That verse indicates that this is an obligation, and is according to the following opinion of

Rabbi Eliezer. The *braisa* states: "*And he will redeem the sale of his brother.*" This is optional. One might think it is obligatory. The verse therefore states, "*And if a person will not have a redeemer.*" Is there anyone in Israel that does not have a redeemer (*everyone is related in some way*)? Rather, it refers to someone who could redeem, but does not, that he is allowed to abstain from doing so. This is the opinion of Rabbi Yehoshua. Rabbi Eliezer says: "*And he will redeem the sale of his brother.*" This is obligatory. One might think it is optional. The verse therefore states, "*In all...redemption you should give.*" This teaches that it is obligatory.

The Rabbis said to Rav Ashi, and some say Ravina said to Rav Ashi: According to the opinion that this verse includes houses in a walled city, it is understandable as to why the verse would say, "*In all.*" However, according to the opinion that only houses in unwall cities are redeemed by relatives, why does it say, "*In all*"?

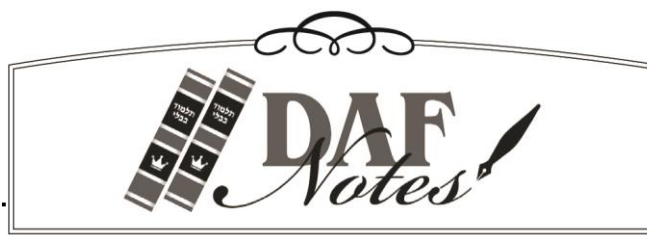
The *Gemora* notes: This is indeed difficult.

Abaye asks from a *braisa*. The *braisa* states: Why does the Torah say, "*he should redeem him,*" three times (*with respect to a Jewish servant who was sold to an idolater*)? This teaches that all redemptions should be done in this order. This *braisa* must mean that all redemptions, including houses in walled cities and Jewish servants (*sold to another Jew*), should be redeemed by relatives!

The *Gemora* answers: No, it means that houses in unwall cities and ancestral fields can be redeemed in this fashion.

The *Gemora* asks: These have verses that state explicitly, "*Like the fields of the land they should be considered,*" meaning that they are redeemed by relatives!?

The *Gemora* answers: This is as Rav Nachman bar Yitzchak states: The closer the relative, the sooner they are



obligated to redeem (*before other relatives*). Here, too, the verse means that the closer the relative, the sooner they are obligated to redeem.

Regarding what topic did Rav Nachman say this law? It was regarding the inquiry: If a Jewish servant is sold to Jews, is he redeemed by relatives or not? According to Rebbe (15b), this is not a question, as he derives that someone who does not go out with “these” (*relatives*) is redeemed after six years. Obviously, he holds that he may not be redeemed by relatives. The question is according to the Rabbis. Do we derive from “*sachir-sachir*” that he is also redeemed with relatives (*just as a servant sold to gentiles*), or do we say that “*he will be redeemed*” refers to this person (*sold to a gentile*) and nobody else?

The *Gemora* attempts to answer this question from a *braisa*. The *braisa* states: “*In all...you will give redemption.*” This includes houses and Jewish servants. It must be that the houses being included are the houses in walled cities and the servants are those that were sold to Jews!

The *Gemora* rejects this proof: No, it is possible it is referring to servants sold to gentiles.

The *Gemora* asks: Servants sold to gentiles are explicitly discussed in the verse, “*Or his uncle, or the son of his uncle will redeem him*”!?

The *Gemora* answers: That verse is meant to establish that it is obligatory, even according to Rabbi Yehoshua (*who says that relatives do not have to redeem an ancestral field*).

The *Gemora* attempts to resolve this question from a *braisa*. The *braisa* states: Why does the Torah say, “*he should redeem him*,” three times (*with respect to a Jewish servant who was sold to an idolater*)? This teaches that all redemptions should be done in this order. This *braisa*

must mean that all redemptions, including houses in walled cities and Jewish servants sold to another Jew, should be redeemed by relatives!

The *Gemora* rejects the proof: No, it means that houses in unwalled cities and ancestral fields can be redeemed in this fashion.

The *Gemora* asks: These have verses that state explicitly, “*Like the fields of the land they should be considered*,” meaning that they are redeemed by relatives!?

Rav Nachman bar Yitzchak answers: The closer the relative, the sooner they are obligated to redeem (*before other relatives*). (21a – 21b)

### **Piercing**

The verse states, “*And his master will pierce his ear with an awl.*” [*This is how we know a nirtza is acquired with piercing.*]

The *Mishna* had stated: A *nirtza* acquires himself with *Yovel* and the death of the master.

The verse states, “*And he will serve him*,” implying that he does not serve the son or daughter of the master. “*Forever*,” means for the entire period of *Yovel*.

The *braisa* states: “*An awl.*” How do we know that a sharp piece of wood, a thorn, a needle, a sharp piece of metal, and an engraving tool can also be used? The verse states, “*And you will take*,” implying anything that can be taken in one’s hand. These are the words of Rabbi Yosi the son of Rabbi Yehudah. Rebbe says: Just as an awl is made of metal, so too, anything made of metal can be used. Alternatively, this includes a great awl.

Rabbi Elozar says: Yudan b’Ribi derived: When the piercing is done, it is only done in the earlobe (*and not in*

the ear's cartilage). The *Chachamim* say: A servant who is a *Kohen* cannot become a *nirtza*, as this makes him have a blemish (which would disqualify him from performing the service in the *Beis Hamikdash*). If the *Chachamim* would hold that the piercing is only in the earlobe, why would they say a *Kohen* cannot become a *nirtza* (for a hole in the earlobe would not be regarded as a blemish for a *Kohen*)? It must be they hold that he is pierced higher up (in the cartilage) in his ear.

What is their argument (regarding what implements can be used)? Rabbi used the method of general and specific. "And you will take," is general, "an awl," is specific, and "in his ear...by the door," is general. In such a case, we say that the rule is similar to what is specific. Just like an awl is made out of metal, so too, anything that is used for the piercing must be metal. Rabbi Yosi used the method of inclusive and exclusive. "And you will take," is inclusive, "an awl," is exclusive, and "in his ear...by the door," is inclusive. This means that everything is included besides one thing. What is excluded? We exclude an acidic liquid (to pierce his ear).

The *braisa* states: "the awl," this includes a great awl. How is this implied?

The *Gemora* answers: Just as the word "the thigh" implies the most important (the sciatic nerve on the right) thigh, so too, "the awl" implies the great awl. (21b)

### Special for a Kohen

Rabbi Elozar says: Yudan b'Ribi derived: When the piercing is done, it is only done in the earlobe (and not in the ear's cartilage). The *Chachamim* say: A servant who is a *Kohen* cannot become a *nirtza*, as this makes him have a blemish (which would disqualify him from performing the service in the *Beis Hamikdash*).

The *Gemora* asks: Let him be a *Kohen* with a blemish!

Rabbah bar Rav Shilo answers: The verse states, "And he will return to his family," implying that a servant has to be able to return to his family's status (which is that he is fit to perform the Temple service).

The *Gemora* inquires: Can the master of a *Kohen* servant give him a Canaanite slavewoman? Do we say that being that this is a novel permission (which normally does not apply to Jews either), it does not matter if the servant is a regular Jew or a *Kohen*? Or do we say that a *Kohen* is more stringent, as the Torah included him in being commanded in more commandments?

Rav says: This is permitted. Shmuel says: This is forbidden.

Rav Nachman said to Rav Anan: When you were by Shmuel, were you playing with *iskumadri* (a game with wooden pieces)? Why didn't you ask him that the *Chachamim* say that a servant who is a *Kohen* cannot become a *nirtza*, as this makes him have a blemish. If you will say that his master cannot give him a Canaanite slavewoman, he could not become a *nirtza* because he would not be able to say, "I love my master, wife (referring to a Canaanite slavewoman), and children"? There is no answer to this question.

The *Gemora* inquires: Can a *Kohen* take a beautiful captive (gentile woman in battle)? Do we say that being that this is a novel permission (which normally does not apply to Jews either), it does not matter if he is a regular Jew or a *Kohen*? Or do we say that a *Kohen* is more stringent, as the Torah included him in being commanded in more commandments?

Rav says: This is permitted. Shmuel says: This is forbidden. Everyone agrees that the first time they cohabit is permitted for a *Kohen* as well, as the reason that it is permitted is that there is such a strong evil inclination in this situation. They argue whether or not this is permitted

a second time. Rav says it is permitted, as once the Torah permitted this behavior, it is permitted it for all. Shmuel says it is forbidden, as she is no better than a convert who is not permitted to marry a *Kohen*.

There is another version of how to explain their argument. Everyone agrees that the second act of cohabitation is forbidden, as she is a convert who is not fit for a *Kohen*. The argument is regarding the first time. Rav says it is permitted, as the Torah only sanctioned this behavior because of the strong evil inclination at this time. Shmuel says it is forbidden, as only when the Torah permits, “*And you will bring her into your house,*” does it also permit, “*And you will see amongst the captives (...and you will have relations etc.)*.” (21b)

## INSIGHTS TO THE DAF

### USING A KOHEN

The Rambam rules that a Jewish servant who is a *Kohen* cannot become a *nirtza*, for he will be rendered a *baal mum* (a blemish, which will disqualify him from performing the Temple service).

The Mishnah La’melech asks that the Maggid Mishnah understands in the Rambam that there is no required amount for how large the piercing of the servant’s ear must be. If so, why can’t the *Kohen* servant become a *nirtza*, and they will pierce his ear in a manner which will not cause a blemish?

He answers based upon a Yerushalmi which says that we are concerned that they will forget and create a large hole, which will render him a *baal mum*.

The Sma”g writes that it is evident from our *Gemora* that it is permitted to have a *Kohen* work for you as a servant.

He says that the prohibition is only when the *Kohen* is working for free; however, if he is receiving compensation for the work, it is permitted.

The Makneh asks: Accordingly, the *Kohen* servant should not be allowed to become a *nirtza* because then, he will be working for free!?

He answers based upon the Mordechai in *Gittin*, who says that the *Kohen*, if he so desires, can be *mochel*, and then it would be permitted for him to work for you.

The Mordechai (*Gittin* 461) relates that Rabbeinu Tam once instructed a *Kohen* to pour him some water. This caused one of his students to inquire as to how he could allow a *Kohen* to serve him, being that the Yerushalmi states that whoever uses a *Kohen* for his own needs is in violation of the prohibition of *me’ilah* (since the *Kohen* is sacred). Rabbeinu Tam’s response was that the *Kohen* who served him in 12th century France was without the clothing of the *Kohen* and, therefore, not a *Kohen* (based upon the *Gemora Sanhedrin* 83b). The student persisted that if so, we shouldn’t give a *Kohen* the first *aliyah*. Rabbeinu Tam remained quiet. Rabbeinu Peter then suggested that a *Kohen* can voluntarily forfeit the respect due to him as a *Kohen* and, therefore, there was no problem with Rabbeinu Tam’s use of him.

The Ta”z asks that the *Kohen* is not permitted to forfeit his *kedushah* and marry a divorcee!? What is the difference between the two?

## DAILY MASHAL

### Six-finger Kohen

When an eved ivri [Jewish slave] wants to continue working for his adon [master] after the six-year period of work delineated in the Torah, the master must pierce the slave’s ear to extend the period of service. In this gemara





we find that if not for the special drasha of a verse in the Torah, it would have been permitted to pierce the ear of a Kohen serving as a slave, even though a pierced ear is considered a deformity that disqualifies him from working at the Beis HaMikdash.

One hundred and fifty years ago a baby with six fingers was born to a Kohen. The sixth finger, which was attached to the thumb, looked like a normal finger. As the gemara explains (Bechoros 45b) in such a case the baby is not considered a baal mum, and is fit to serve in the Beis HaMikdash upon adulthood.

One day a doctor—a specialist in amputating defects and growths—came to town. The doctor examined the baby's finger and claimed that he would be able to permanently remove the extra appendage. But the father had yiras shamayim and was concerned that such an operation might be prohibited since a Kohen who is missing any of his organs or appendages is considered a baal mum.

The father contacted the Baal Shoel U'meshiv to ask whether such a procedure would be permitted. In posing his question he posited that according to our gemara only a special verse forbids piercing the Kohen-slave's ear. Inflicting another mum upon any Kohen should be permitted. Yet the Baal Shoel U'meshiv (First Edition, Part III) rejected this proof, citing Rashi's comments on our gemara (s.v. v'ye'aseh). "And isn't piercing a slave's ear a mitzvah?" writes Rashi, indicating that he would have only been permitted to render him a baal mum in cases where a mitzvah is involved.

Nevertheless the Baal Shoel U'meshiv ruled that the father would be allowed to instruct the doctor to remove the additional finger, arguing that as long as the Beis Hamikdash is not standing and Kohanim are unable to serve, there is no prohibition against rendering a Kohen a baal mum. Since today's Kohanim have never actually engaged in their sacred service, rendering a Kohen into a

baal mum does not diminish his sanctity. To support his assertion he points out that the Rosh and the Ramban made no mention of hilchos mumei Kohanim, indicating that this does not apply today.

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

Q: What is derived from the verse, "*b'gapo yetzei*"?

A: Either that he does not go free if his master cuts off one of his limbs, as does a Canaanite slave, or that if he comes into slavery with a wife and child, his master can give him a Canaanite slavewoman (*to have relations with*). Otherwise, he cannot.

Q: What sin causes a person to become so impoverished that he will be forced to sell many of his possessions, and eventually his daughter and even himself?

A: Conducting business with *shemita* produce.

Q: If a Jewish servant's value increases or decreases, how is he redeemed?

A: According to the lesser value.