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Kiddushin Daf 22

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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

Becoming a Nirtza

The *braisa* states: “If he (the servant) will surely say.” This teaches that he must insist twice on staying with his master. If he only said this at the beginning of his servitude, but not at the end of the sixth year, he does not become a *nirtza*. This is as the verse states, “I will not go out free” (implying that when he is about to go free, he says he will not do so). If he only says this at the end of the sixth year, but not at the beginning of his servitude, he does not become a *nirtza*. This is as the verse states, “If the servant will surely say” (implying that he must say so when he is more of a slave than when he is about to go free at the end of his sixth year).

The previous *braisa* stated: If he only said this at the beginning of his servitude, but not at the end of the sixth year, he does not become a *nirtza*. This is as the verse states, “I will not go out free.”

The *Gemora* asks: Why do we need to derive this from the verse, “I will not go out free”? We can derive this from the verse, “I love my master, wife (Canaanite slavewoman), and children,” as at the beginning of his servitude, his master did not yet give him a Canaanite slavewoman? Additionally, how can the *braisa* say that he must say this at the beginning of his servitude, as otherwise he is not a “servant?” Why isn’t he considered a servant at the end of his servitude?

Rava answers: When the *braisa* says, “the beginning,” it means when there is more than a *perutah* of value left in

his servitude. “At the end of the sixth year,” refers to the last *perutah* of his servitude.

The *braisa* states: If he has a wife and children, but his master does not, he does not become a *nirtza*. This is as the verse states, “For I love him and his house” (and we know that “house” refers to a wife, see Yoma 2a). If his master has a wife and children, but he does not, he does not become a *nirtza*. This is as the verse states, “I love my master, wife, and children.” If he loves his master, but his master does not love him, he does not become a *nirtza*. This is as the verse states, “For it is good for him with you.” If his master loves him, but he does not love his master, he does not become a *nirtza*. This is as the verse states, “For he loves you.” If he is sick and his master is not sick, he does not become a *nirtza*. This is as the verse states, “For it is good for him with you.” If his master is sick and he is not sick, he does not become a *nirtza*. This is as the verse states, “with you.”

Rav Bibi asked: If both are sick, what is the law? Do we say that “with you” is fulfilled in this case, and therefore he can become a *nirtza*? Or do we say that “For it is good for him with you,” is not being fulfilled (as he is sick)? The *Gemora* leaves this question unresolved. (22a)

Buying a Master

The *braisa* states: “For it is good for him with you.” This teaches us that he should be with you in food and drink. You should not eat fine bread while he eats coarse bread, or drink old wine while he drinks new wine, or sleep on

feathers while he sleep on straw. This law created the phrase: Someone who buys a servant is as if he has bought himself a master. (22a)

Obligations to Family

The *braisa* states: “*And he will go out from you, him and his sons with him.*” Rabbi Shimon says: Just because he is sold, does this mean his sons and daughters are also sold? This teaches us that the master is obligated to support his children. Similarly, the verse says, “*If he is married, his wife goes out with him.*” Rabbi Shimon says: Just because he is sold, does this mean his wife is sold as well? This teaches us that the master is obligated to support his wife. Both teachings are necessary. If the Torah would only say that he is obligated to provide for the servant’s children, we would think this is because they do not normally work. However, a woman who commonly works for her food should perhaps not be supported by the master. [This is why the Torah had to say the wife is also supported.] If it would only say a wife is supported, one might think that this is because she does not normally beg people for money (as it is not appropriate for a woman to do so unless she is in very dire straits). However, minors who can do this, should do so. [This is why the Torah also mentioned that minors are supported by the master.] (22a)

Piercing

The *braisa* states: If the Torah would have stated, “*his ear by the door,*” I would have thought this means the door next to where his ear was placed should be pierced (not his ear).

The *Gemora* asks: Why wouldn’t we think his ear is pierced? Doesn’t the verse say, “*And he will pierce his ear with an awl*”?

The *Gemora* answers: Rather, we would have thought that one could pierce his ear far from the door, and then put his ear by the doorpost and pierce the door post opposite his piercing. This is why the verse states, “*In his ear, by the door.*” How is it done? One pierces his ear until the awl hits the door.

The *braisa* continues: One might think the door does not have to be attached (and that it could even be lying on the ground). The verse states, “*doorpost.*” This teaches that just as the doorpost is standing, so too, the door must be standing.

Rabbi Yochanan ben Zakai taught this verse like a necklace (beautifully). Why was an ear picked more than other limbs of a person’s body? Hashem says that the ear that heard on Mount Sinai, “*For to Me Bnei Yisroel are servants,*” and not servants to servants, and he went anyway and chose a master for himself, his ear should be pierced.

Rabbi Shimon the son of Rebbe taught this verse like a necklace. Why are a door and doorpost singled out from all other items in the house? Hashem said: The door and doorpost were witnesses in Egypt when I skipped over the lintel and two door posts. I proclaimed “*For to Me Bnei Yisroel are servants,*” and not servants to servants, and I took them from bondage to freedom, and this person went and took a master for himself anyway! He should therefore become a *nirtza* in front of them. (22a – 22b)

Mishna

A Canaanite slave is acquired through money, document, and *chazakah*. He acquired himself if the master is given cash on his behalf, or if he himself receives a document freeing him. These are the words of Rabbi Meir. The *Chachamim* say: He acquires himself with money on his own (he gives the redemption money to his master), with a document received by others, as long as the money is

given to him by others (*on condition that his master not take ownership of the money*). (22b)

Acquiring a Slave

The *Gemora* asks: How do we know this?

The *Gemora* answers: The verse states, “*And you will bequeath them to your sons after you to inherit an “Achuzah” -- “holding.”*” The Torah implies that we should compare these slaves to an ancestral field. Just as this type of field is acquired through money, documents, and *chazakah*, so too, a Canaanite slave is acquired in these fashions.

The *Gemora* asks: If so, should we say that just as this field goes back to its owners on *Yovel*, so too, the Canaanite slave should go back to himself on *Yovel*? The verse therefore states, “*Forever you should work them.*”

The *braisa* states: They are also acquired with *chalifin*.

The *Gemora* asks: Why didn’t our *Tanna* include *chalifin*?

The *Gemora* answers: Our *Tanna* only included modes of acquisition that do not apply to movable objects.

Shmuel says: A Canaanite slave can be acquired through pulling (*him near*). How does one do this? If one grabs him and pulls him, he acquires him. If he merely calls him and he comes, this is not a mode of acquisition.

The *Gemora* asks: It is understandable why our *Mishna* did not mention Shmuel’s mode of acquisition, as it only mentioned modes that do not apply to movable objects. However, how can Shmuel explain why the *Tanna* of the *braisa* did not mention pulling?

The *Gemora* answers: The *braisa* wanted to mention another mode that applied to both movable objects and

land. Pulling, on the other hand, only applies to movable objects and not to land.

Shmuel said: How does one do this? If one grabs him and pulls him, he acquires him. If he merely calls him and he comes, this is not a mode of acquisition.

The *Gemora* asks: If he calls him and he comes, is he not acquired? Doesn’t the *braisa* state: How is an animal given over (*as a mode of acquisition*)? If he grabbed its hooves, hair, saddle, load, bit, or bell on its neck, he acquires it. How does he acquire it through pulling? If he calls it and it comes, or he hits it with a stick and it runs before him, once its hand and hoof moved from its spot, he acquires it. Rabbi Assi, and some say Rabbi Acha say: Until it walks before him a full length (*of its body size*). [Accordingly, why shouldn’t a slave be acquired if he comes when called?]

The *Gemora* answers: When an animal comes when called, it is doing so because the master called it (*as it has no independent knowledge*). When a slave complies, he is doing so because this is what he wants to do.

Rav Ashi says: A servant who is a minor is like an animal in these matters (*for he has no independent knowledge*).

The *braisa* states How is he acquired through holding? If he takes off his master’s shoe, or takes his clothing with him to the bathhouse, takes off his clothing, bathes him, anoints him, scrubs him, dresses him, puts his shoes on, and picks him up, he has acquired him. Rabbi Shimon says: Holding should not be more stringent than picking up, as picking up acquires anywhere. What does he mean? Rav Ashi says: [The *Tanna Kamma* holds] If he picked up his master, his master acquires him. However, if his master picks him up, he has not acquired him. Rabbi Shimon says: Holding should not be more stringent than picking up, as picking up acquires anywhere.

The *Gemora* asks: If we say that if he picks up his master, his master acquires him, we should also say that a Canaanite slavewoman should be able to be acquired through cohabitation (*for it is like she is lifting him*)!?

The *Gemora* answers: The only way this works is if the servant is exerting himself in a difficult fashion, and the master is receiving benefit. When both are receiving benefit, there is no acquisition (*for it cannot be regarded as an act of service*).

The *Gemora* asks: What if he cohabits with her in an abnormal fashion (*and she is therefore not benefiting*)?

Rav Achai bar Adda from Acha says: Who says that they are both not benefiting? Additionally, the verse says, “*the copulations of a woman*,” implying that whatever applies to normal relations applies to abnormal relations as well. (22b)

INSIGHTS TO THE DAF

THE BEAUTIFUL CAPTIVE

The *Gemora* teaches regarding a “beautiful captive” that she should not be subjugated by the soldier during battle.

Rashi learns that the soldier should not cohabit with her during the battle. Cohabitation is not allowed until the captive is brought to the soldier’s house and converts to Judaism.

Tosfos asks four questions on Rashi.

- 1) Why does the *braisa* state that the Torah’s permission for a soldier to have relations with a captive is based upon the Torah’s recognition of the strength of one’s Evil Inclination? If according to Rashi, he may not cohabit with her until she converts in his

house, how is his desire appeased during the war? Shouldn’t we still be concerned that the beautiful female captives would represent an overwhelming temptation for the Jewish soldier, and he will engage in illicit relationships with them?

Tosfos answers that since she will be permitted to him after some time, we are not concerned that he will be tempted to engage in an illicit relationship with her during the war. He will be able to overcome this desire and wait until she will be permitted to him. This is based upon the concept of having “bread in his basket.”

- 2) Why does the *braisa* compare the permission of the beautiful captive with eating meat from a slaughtered animal that had been dangerously ill? It is not so proper to eat such meat, as the *Gemora* in Chullin (37b) considers it repulsive to eat such meat! But according to Rashi, cohabitation with the captive after her conversion is completely permitted and allowed! What is the comparison between the two?

Tosfos answers that it is nevertheless regarded as a permission *b’dieved*, because since the conversion is done without her consent, it is not regarded as a bona fide conversion.

- 3) The *Gemora* in Sanhedrin (21a) records that Tamar was the daughter of a beautiful captive, Maachah, whom David had taken as a wife. Tamar was therefore permitted to Amnon, David’s son, for she was not regarded as David’s daughter. However, according to Rashi that David did not have relations with Maachah until she converted, why would Tamar be permitted to Amnon? Since she was

born from her mother after she converted, it emerges that she was Amnon's sister, for they shared the same father!?

Tosfos answers that Rashi will learn that Tamar was not the daughter of David at all; rather, Maachah was pregnant with her even before David had taken her from the battle.

4) However, Tosfos concludes that he has no explanation according to Rashi why the *Gemora* above said that there is a distinction with respect to a *Kohen* between the initial act of cohabitation and the second act. This is only understandable if the initial act is done during the battle and the second act is done after she converts (*which is the way Rabbeinu Tam learns the Gemora*). However, according to Rashi, both the second act of cohabitation and the first one are only after she converts! Why would the first be permitted and the second would be forbidden?

A: Houses in a walled city cannot, whereas houses in a courtyard can.

Q: Is a *Kohen* permitted in a "beautiful captive?"

A: According to the first version: Everyone holds that the initial act of cohabitation is permitted and there is an argument between Rav and Shmuel regarding the second act. According to the second version: Everyone holds that the second act is prohibited; the dispute is regarding the initial act.

QUESTIONS AND ANSWERS FROM YESTERDAY'S DAF

to refresh your memory

Q: What enhancement in strength does a consecrator of an ancestral field have that a seller of a house in a walled city does not have?

A: The ancestral field can be redeemed forever, and the house in a walled city can only be redeemed in the first year after its purchase.

Q: Which houses can be redeemed by relatives, and which cannot?