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Kiddushin Daf 50

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**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

### **Mishna**

If a man says to a woman, “Become betrothed to me on the condition that I am a *Kohen*,” and he was found to be a Levi; “a Levi,” and he was found to be a *Kohen*; “a *nasin*,” and he was found to be a *mamzer*; “a *mamzer*,” and he was found to be a *nasin*; “a townsman,” and he was found to be a city dweller; “a city dweller,” and he was found to be a townsman; “on condition that my house is close to the bathhouse,” and it was found to be far away; “far away from it,” and it was found to be close by; or if he stipulates that he has a daughter or a maidservant who is an adult, and he has none; or if he stipulates that he does not have, and he has; or if he stipulates that he has no children, and he has; or if he stipulates that he has children, and he has none. In all these cases, even if she says, “In my heart, I intended to marry him anyways,” the *kiddushin* is nevertheless not valid.

And the same *halachah* would apply if she would mislead him. (49b)

### **Words in the Heart are not Words**

There was a man that sold his possessions with the intentions of moving to *Eretz Yisroel*, but as he was selling them, he did not say anything.

Rava said: The principle is that “words that are only in the heart are not regarded as words” (*they are not legally binding, and therefore, the sale is valid*).

The *Gemora* asks: How does Rava know this? Perhaps it is from the following *braisa*: It is written regarding a sacrifice: *He shall bring it*. This teaches us that we force him to fulfill his obligation. Perhaps, you might think that he brings the *korban* even against his will. The Torah writes: *Of his will*. This teaches us that we compel him to bring the sacrifice until he says that he is willing to bring it. Evidently, the sacrifice is valid even though, in his heart, he does not want to bring it. This proves that words that are only in the heart are not regarded as words.

The *Gemora* rejects this proof: Perhaps there it is different, for everyone wishes to receive atonement (*and he is really willing to bring the korban*).

Rather, it may be proven from the latter part of that *braisa*, which states: And the same is true regarding a letter of divorce and the emancipation of slaves. We compel him to give the *get* (*in cases where he is required to do so*) until he says that he is willing to give it. Evidently, the divorce and emancipation is valid even though, in his heart, he is not truly willing. This proves that words that are only in the heart are not regarded as words.

The *Gemora* rejects this proof: Perhaps there it is different, for he has a *mitzvah* to listen to the *Chachamim* (*to issue a divorce or to free his slave*).

Rather, Rav Yosef says, it is from the following *Mishna*: If a man betrothed a woman and later said, “I thought she was the daughter of a *Kohen*, but behold she is the daughter of a *Levi*,” or “I thought she was the daughter of

a *Levi*, but behold she is the daughter of a *Kohen*," or "I thought she was a poor woman, but behold she is wealthy," or "I thought she was wealthy, but behold she is poor," the *kiddushin* is valid because she did not mislead him. Evidently, the *kiddushin* is valid even though he was under a mistaken pretense. This proves that words that are only in the heart are not regarded as words.

Abaya asked: Perhaps the *Tanna* is ruling stringently (*because he is uncertain if the kiddushin is valid or not; accordingly, if she would accept kiddushin from another man, she would need a get from him as well*).

Rather, Abaye said: Rava's principle may be proven from our *Mishna*: In all these cases, even if she says, "In my heart, I intended to marry him anyways," the *kiddushin* is nevertheless not valid. Evidently, the *kiddushin* is not valid even though she stated that she intended to marry him anyways. This proves that words that are only in the heart are not regarded as words.

The *Gemora* rejects this proof: Perhaps these cases are different because the man stated his stipulation (*and she remained quiet*), she is not able to uproot his condition.

Rather, Rav Chiya bar Avin said: Such an incident occurred in the Beis Medrash of Rav Chisda, and Rav Chisda went to the Beis Medrash of Rav Huna to ask them for a ruling. They resolved it from the following *Mishna*: If one tells his agent, "Bring me money from the window or from the box (*and use them for me at the market*)," and the agent used consecrated money (*by mistake*), the sender is guilty of *me'ilah* (*one who has unintentionally benefited from hekdash or removed it from the ownership of the Beis Hamikdash has committed the transgression of me'ilah, and as a penalty, he would be required to pay the value of the object plus an additional fifth of the value; he also brings a korban asham*) even though he said that he wanted the agent to use the money from a different purse. Now, why is the sender guilty? He said that, in his

heart, his intent was that the agent should use the other monies (*and the agent did not follow instructions; accordingly, the agent should be the one guilty of me'ilah*)! This proves that words that are only in the heart are not regarded as words.

The *Gemora* rejects the proof: Perhaps, in this case, we do not believe the sender, for he wishes to exempt himself from offering the *korban*.

The *Gemora* asks: If he merely wishes to avoid bringing the *korban*, he could have said, "I did this intentionally" (*for me'ilah is only where he performed inadvertently*)!?

The *Gemora* answers: A person would not be willing to make himself into a wicked person.

The *Gemora* asks: But he could have said, "I reminded myself that the money was consecrated before the agent used them (*and then, he would not be liable for me'ilah*)!?" For we learned in a *braisa*: If the sender remembered (that the money was consecrated) and the agent did not remember, the agent is guilty of *me'ilah*!? [We can therefore prove from here that words in the heart are not regarded as words.]

There was a man that sold his possessions with the intentions of moving to *Eretz Yisroel* (*and he said so*), but he went there and could not live there (*so he returned, and now wanted his possessions back*).

Rava said: If he sold because he had the intentions of going to *Eretz Yisroel*, he certainly intended to remain there. This person, who returned, did not fulfill the condition (*and he may reclaim his possessions*).

According to others, Rava said that he intended to go to *Eretz Yisroel*, and he did (*and he therefore cannot reclaim his possessions*).



There was a man that sold his possessions with the intentions of moving to *Eretz Yisroel* (and he said so), but he did not end up going.

Rav Ashi said: If he truly wanted, he could have gone (*the fact that he did not, will not void the sale*).

According to others, Rav Ashi said: If he had wanted, could he not have gone?

The *Gemora* explains: The difference between the two versions is in a case where a danger arose on the road (*such as bandits*). [According to the first version, the sale would still be valid because he still could have found a way to go (perhaps with a large caravan of people). According to the second version, he can reclaim his possessions because there is something blocking him from going.] (49b – 50a)

### **Mishna**

If a man says to his agent, “Go out and betroth for me a woman named So-and-so in Such-and-such a place,” and he betrothed her in a different place, she is not *mekudeshes*. If he merely said, “She is in Such-and-such a place,” and he betrothed her in a different place, she is *mekudeshes*. (50a)

### **Specific Location**

And we have learned a similar *Mishna* with respect to *gittin*: If the husband told someone, “Go and give this *get* to my wife in Such-and-such a place,” and the agent gives it to the wife in a different place, the *get* is not valid (*because the husband did not want people there to speak ill of him*). However, if the husband merely said, “She can be found in Such-and-such a place,” and he found her someplace else, the *get* is valid.

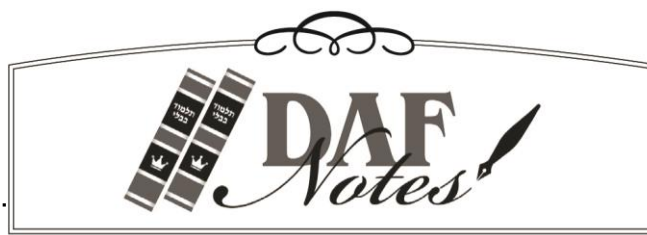
The *Gemora* explains that both *Mishnayos* are necessary, for if this *halachah* would only be mentioned by *kiddushin*, we might have thought that where he wants to bring the woman closer to him (*in marriage*), he might say, “In this city, they like me, and they won’t talk bad about me, but in the other place, they hate me, and they will speak bad of me.” [This is why he wants to marry her in that particular location.] However, by *gittin*, where he is attempting to distance himself from her, it makes no difference to him where he divorces her. And if it would have been mentioned only by *gittin*, we might have thought that he might say, “In this city, I don’t mind being embarrassed, but in the other city, I do mind,” [This is why he wants to divorce her in that particular location.] However, by *kiddushin*, it makes no difference to him where he marries her. That is why both *Mishnayos* are necessary. (50a)

### **Vows and Blemishes**

If a man married a woman on the condition that she has no current vows, and he found that she had existing vows, she is not *mekudeshes*. If he married her without any conditions, and he found that she had existing vows, he can divorce her without giving her a *kesuvah*.

If a man married a woman on the condition that she has no blemishes, and he found that she had blemishes, she is not *mekudeshes*. If he married her without any conditions, and he found that she had blemishes, he can divorce her without giving her a *kesuvah*, for all blemishes that disqualify *Kohanim* from performing the Temple service also disqualify women from marriage.

The *Gemora* explains that this *Mishna* is repeated in *Kesuvos*. It is said there to teach the *halachah* of her *kesuvah*, and it is mentioned here to teach the *halachah* of *kiddushin*. (50a)



### **Mishna**

If a man betroths two women with a *perutah* (each one getting half), or if he betroths a woman with less than a *perutah*, she is not *mekudeshes* even if he sends her bridal presents afterwards, for he has sent those presents only based on his earlier *kiddushin* (but they are not intended to effect a new *kiddushin*). The same *halachah* would apply to a minor who betroths a woman (and sends her bridal presents afterwards). (50a – 50b)

### **Bridal Presents**

The *Gemora* explains why the *Mishna* lists three examples of the bridal presents.

It was stated: Rav Huna said that we concern ourselves with the bridal presents that a man sends to a woman (who he previously agreed to marry, and we assume that they were intended for *kiddushin*). Rabbah also stated like that.

Rabbah asked from our *Mishna*: She is not *mekudeshes* even if he sends her bridal presents afterwards!?

Abaye said to him: In the *Mishna's* case (where he attempted to betroth her first), it states the reason: the bridal presents cannot effect *kiddushin*, for he has sent those presents only based on his earlier *kiddushin* (which he thought was a valid *kiddushin*). [However, in this case, he did not previously attempt to betroth her, and therefore, the bridal presents could have been intended for *kiddushin*.]

Others say that Rabbah had used our *Mishna* as a proof to his ruling. In the *Mishna's* case (where he attempted to betroth her first), it states the reason: the bridal presents cannot effect *kiddushin*, for he has sent those presents only based on his earlier *kiddushin* (which he thought was a valid *kiddushin*). That is only because he made a

mistake. However, in a regular case (where there was no previous attempt to effect *kiddushin*), we are concerned that the bridal presents were intended for *kiddushin*.

Abaye would answer that the *Mishna* was written in a “it is not necessary to teach” format. In a regular case, where there was no previous attempt to effect *kiddushin*, it is not necessary to mention that the bridal presents will not effect *kiddushin*; but even in a case where he previously attempted *kiddushin*, the *Mishna* teaches us that the bridal presents will not effect *kiddushin*.

The *Gemora* asks: What is the halachic ruling regarding bridal presents?

Rav Pappa said: In a locality where they generally betroth a woman first and then send bridal presents, we would be concerned (that where he sent presents without betrothing her first) that his intention is to effect *kiddushin*. If they generally send bridal presents first and then betroth, we will not be concerned (for it is customary to send bridal presents before betrothing).

The *Gemora* explains the first case: In a locality where most people betroth a woman first and then send bridal presents, but there are some people who send bridal presents first and then betroth, perhaps we should consider the minority (and therefore we should rule that the woman is not betrothed). Rav Pappa teaches us that the *halachah* is not like that. (50b)

## **INSIGHTS TO THE DAF**

### **Forced Get**

The *Gemora* asks: How does Rava know that “words that are only in the heart are not regarded as words”?

Perhaps it is from the following *braisa*: It is written regarding a sacrifice: *He shall bring it*. This teaches us that we force him to fulfill his obligation. Perhaps, you might think that he brings the *korban* even against his will. The Torah writes: *Of his will*. This teaches us that we compel him to bring the sacrifice until he says that he is willing to bring it. Evidently, the sacrifice is valid even though, in his heart, he does not want to bring it. This proves that words that are only in the heart are not regarded as words.

The *Gemora* rejects this proof: Perhaps there it is different, for everyone wishes to receive atonement (*and he is really willing to bring the korban*).

Rather, it may be proven from the latter part of that *braisa*, which states: And the same is true regarding a letter of divorce and the emancipation of slaves. We compel him to give the *get* (*in cases where he is required to do so*) until he says that he is willing to give it. Evidently, the divorce and emancipation is valid even though, in his heart, he is not truly willing. This proves that words that are only in the heart are not regarded as words.

The *Gemora* rejects this proof: Perhaps there it is different, for he has a *mitzvah* to listen to the *Chachamim* (*to issue a divorce or to free his slave*).

Similarly, the Rambam discusses a case when a person is obligated to divorce his wife due to the ruling of *Beis Din*. When he refuses, he is beaten until he says that he is willing.

The Rambam asks: How can a *get* that is given by force be ruled to be valid? A coerced *get* is not valid at all!?

He explains that it is only considered “forced,” if a Jew is compelled to do something that the Torah does not obligate him to do. However, if he is compelled to do something that the Torah instructs him to do, this is not considered “forced.” The explanation is as follows: A Jew

wants to perform all the mitzvos and distance himself from all sins, but his evil inclination convinces him to do otherwise. When he is beaten, his evil inclination is broken and when he says that he is willing, it is his actual intent and the *get* is valid.