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Kiddushin Daf 59

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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

### **Mishna**

If one says to his friend, “Go and betroth for me this certain woman,” and he goes and betroths her to himself, she is *mekudeshes* to the second person (*the agent*).

And similarly, if a man says to a woman, “Become betrothed to me after thirty days,” and someone else betroths her within thirty days, she is betrothed to the second person. If the daughter of a *Yisroel* married a *Kohen* (*the second man*), she may eat *terumah*.

If a man says, ““Become betrothed to me from now and after thirty days,” and someone else betroths her within thirty days, she is betrothed and not betrothed to both of them (*and she would need a get from both of them*). If the daughter of a *Yisroel* married a *Kohen* (*the second man*), or the daughter of a *Kohen* married a *Yisroel*, she may not eat *terumah*. (58b)

### **Interfering in a Transaction**

Ravin Chasida went to betroth a woman for his son, but instead ended up marrying her himself.

The *Gemora* asks: Doesn’t the *braisa* say that in such a case what is done is done, but it is a deceptive act?

The *Gemora* answers: In the case of Ravin Chasida, the girl was not going to be given to his son in any event (*the family did not agree to it*).

The *Gemora* asks: He still should have first notified his son that this was the situation before going ahead and marrying her himself!?

The *Gemora* answers: He was worried that in the interim, someone else would betroth her.

Rabbah bar bar Chanah gave money to Rav, with the instructions to buy a certain property for him with the money. Rav went and bought it for himself.

The *Gemora* asks: Doesn’t the *braisa* say that in such a case what is done is done, but it is a deceptive act?

The *Gemora* answers: The property was owned by tough people who would not let just anyone buy the property. They respected Rav enough to let him buy it, but did not respect Rabbah bar bar Chanah enough to let him buy it.

The *Gemora* asks: He still should have first notified Rabbah that this was the situation before going ahead and buying it himself!?

The *Gemora* answers: He was worried that in the interim, someone else would buy it.

Rav Gidel was trying to buy a certain property. In the interim, Rabbi Abba bought it. Rav Gidel complained about this interference to Rabbi Zeira, who forwarded the complaint to Rabbi Yitzchak Nafcha. Rabbi Yitzchak said: Wait until he (*Rabbi Abba*) comes to us for the holiday. When he arrived, Rabbi Yitzchak asked him: What is the law regarding someone who interferes with a poor person who is trying to

get a loaf? Rabbi Abba answered: He is called an evildoer. Rabbi Yitzchak replied: Then why did you do this? Rabbi Abba replied: I didn't know that Rav Gidel was trying to buy the property! Rabbi Yitzchak asked: Why not sell it to him? Rabbi Abba replied: I can't, as this is the first property I have ever bought, and it is not a good sign to sell such a property. However, I have no compunctions about giving it to him as a present. Rav Gidel did not want to use it, as the verse states, "And one who hates presents lives." Rabbi Abba also did not use it, because he had interfered with Rav Gidel. Being that neither of them used it, it became known as "the land of the Rabbis" (*any student who wanted to use it could do so*). (59a)

### **Kiddushin in Thirty Days**

The *Mishna* had stated: And similarly, if a man says to a woman, "Become betrothed to me after thirty days," and someone else betroths her within thirty days, she is betrothed to the second person.

The *Gemora* asks: If nobody else betrothed the woman within thirty days (*in the case of our Mishna*), what is the law?

Rav and Shmuel agree: The woman is *mekudeshes*, even if the money was already used by her within those thirty days. Why? The reason is because the money is not considered a loan, nor a deposit. It is not a deposit, as a deposit is eaten in its owner's possession, and this was eaten in her possession. It is unlike a loan, as a loan is for spending, but this money was so that she should become betrothed to him.

The *Gemora* asks: What if nobody else betrothed her, but she verbally retracted from the *kiddushin* within the thirty days?

Rabbi Yochanan says: Her retraction is effective, as her verbal retraction can undo the verbal *kiddushin*. Rish Lakish says: She cannot retract, as her verbal retraction cannot undo the verbal *kiddushin*.

Rabbi Yochanan asked a question on Rish Lakish from a *braisa*. The *braisa* states: If someone canceled his messenger who he had previously sent to take off *terumah* from his produce, if the messenger has not yet taken *terumah*, his retraction is valid. We see here that his verbal retraction is valid to negate a verbal appointment!

Rish Lakish answers: Our case is different, as he gave money to the woman. This is therefore like an action, which mere words cannot negate.

Rabbi Yochanan asks another question from a *braisa*. If someone sent a messenger to give a *Get* to his wife, and he met up with the messenger, or sent another messenger after him telling him that the *Get* that he sent is null and void, the *Get* is indeed invalid. Giving a *Get* should be like giving a woman *kiddushin*, yet we see that the nullification is valid!?

The *Gemora* answers: As long as the *Get* does not reach her hand, it is just mere words negating words (*unlike our case where the kiddushin money was already given to her*).

Rish Lakish asked a question to Rabbi Yochanan from a *Mishna*. The *Mishna* states: All vessels can become impure once one thinks (*they are in a finished state and he will not work on them further*), and can only be taken out of this status if an action is done. An action nullifies a contradictory action or a thought, whereas a thought does not nullify either. It is understandable that the thought does not take away an action, as words cannot take away an action. However, why can't it take away another thought (*according to you who says that words can take away words, thoughts should take away thoughts*)?

The *Gemora* answers: Thoughts of making a vessel susceptible to becoming impure are like actions (*for this itself is a change in its status*). This is apparent from a statement of Rav Papa. He says: "if he shall place," is read "if it should be placed." What is the significance of this? "If he shall place," is compared to "if it should be placed." Just as

the latter applies when it is pleasing for him, so too, the former is when it is pleasing for him. [*This shows that doing an action to make something susceptible to becoming impure is similar to just a thought that if that action happened by itself without him doing it, that he is happy with that action.*]

Rav Zevid understood that Rabbi Yochanan's argument with Rish Lakish was based on a different case. The *Mishna* (later) states: If she gave a messenger permission to accept *kiddushin* for her, and she then went and received *kiddushin* on her own, if her act of *kiddushin* was first, it is valid. If her messenger accepted *kiddushin* first, her act of *kiddushin* is invalid. If she did not accept any *kiddushin*, and she retracted the messenger, what is the law (*if he later accepts kiddushin for her*)?

Rabbi Yochanan says: Her retraction is effective, as her verbal retraction can undo the verbal *kiddushin*. Rish Lakish says: She cannot retract, as her verbal retraction cannot undo the verbal *kiddushin*.

Rabbi Yochanan asked a question on Rish Lakish from a *braisa*. The *braisa* states: If someone canceled his messenger who he had previously sent to take off *terumah* from his produce, if the messenger has not yet taken *terumah*, his retraction is valid. We see here that his verbal retraction is valid to negate a verbal appointment!?

Rava answered: The case here is where the owner went and first took his own *terumah*. This is an action that negates a verbal appointment.

Rish Lakish asked a question to Rabbi Yochanan from a *Mishna*. The *Mishna* states: All vessels can become impure once one thinks (*they are in a finished state and he will not work on them further*), and can only be taken out of this status if an action is done. An action nullifies a contradictory action or a thought, whereas a thought does not nullify either. It is understandable that the thought does not take away an action, as words cannot take away an action.

However, why can't it take away another thought (*according to you who says that words can take away words, thoughts should take away thoughts*)?

The *Gemora* answers: Thoughts of making a vessel susceptible to becoming impure are like actions (*for this itself is a change in its status*). This is apparent from a statement of Rav Papa. He says: "*if he shall place*," is read "*if it should be placed*." What is the significance of this? "*If he shall plac*," is compared to "*if it should be placed*." Just as the latter applies when it is pleasing for him, so too, the former is when it is pleasing for him.

Rabbi Yochanan asks another question from a *braisa*. If someone sent a messenger to give a *Get* to his wife, and he met up with the messenger or sent another messenger after him telling him that the *Get* that he sent is null and void, the *Get* is indeed invalid. Giving a *Get* should be like giving a woman *kiddushin*, yet we see that the nullification is valid! This is a strong question on Rish Lakish. [*The Gemora's answer to this question in the first version of their argument is inapplicable in this version, as she never accepted any money in this version.*]

The law follows Rabbi Yochanan, even in the first version of the *Gemora*. Even though we answered the question above in the first version by saying that in that case an action was done as she received money, we hold that speech can negate speech.

The *Gemora* asks: This means that we have contradictory rulings, one like Rabbi Yochanan and one like Rav Nachman! We asked: Can a person use a *Get* he had previously nullified? Rav Nachman says he may, while Rav Sheishes says he cannot. We rule like Rav Nachman (*who seemingly holds the Get can be used because his verbal retraction does not nullify the verbal instruction to give the Get*).

The *Gemora* answers: The reasoning behind Rav Nachman's law is that while he invalidated the messenger, he never

invalidated the *Get* itself. [*His law therefore has nothing to do with words nullifying other words.*] (59a – 59b)

### **The Second Kiddushin**

The *Mishna* had stated: And similarly, if a man says to a woman, “Become betrothed to me after thirty days,” and someone else betroths her within thirty days, she is betrothed to the second person.

Rav says: She is forever *mekudeshes* to the second person (*who gave her kiddushin within thirty days after someone else had given her kiddushin that was supposed to take effect after thirty days*). Shmuel argues: The *kiddushin* is only valid until the thirty days are over, after which the first *kiddushin* is valid.

Rav Chisda had difficulty with Shmuel’s statement. How does the second *kiddushin* simply go away?

Rav Yosef answered him: You thought Shmuel was discussing the first part of the *Mishna* and therefore cannot understand it. Rav Yehudah understands that it is referring to the second part of the *Mishna*, and therefore he understands it. The case it is referring to is where he said the *kiddushin* should be valid from now, and after thirty days. Rav says: This is a doubtful *kiddushin*. Shmuel says: The doubt is only until the thirty days are over. After thirty days, the second person’s *kiddushin* has no validity.

Rav looks at this first person’s adding “after thirty days” as possibly having been a condition that enabled him to back out within thirty days, or as a statement that the *kiddushin* will indeed only take effect after thirty days (*contradicting his earlier statement “from now”*). Shmuel understands that it is clearly a condition enabling him to back out (*but that the kiddushin is valid “from now”*).

This is similar to the following Tannaic argument. The *braisa* states: If someone says he is giving his wife a *Get*, “From

today and after he dies,” it is a doubtful *Get* according to the *Chachamim*. Rebbe says: Such is a *Get*.

The *Gemora* asks: Why, then, doesn’t Rav merely say that the law follows the *Chachamim*, and Shmuel say that the law follows Rebbe?

The *Gemora* answers: Both cases are necessary. If Rav would say that the law follows the *Chachamim*, one might think that this only applies in a case where he is trying to distance himself from her (*by divorcing her, and therefore, his words might be regarded as a retraction*), however, that would not apply where he is trying to draw her closer to him. Perhaps in such a case he would agree to Shmuel. If Shmuel merely said the law is like Rebbe, I would think that this is because one cannot give a *Get* after he dies. However, one can give *kiddushin* after thirty days. In such a case, Shmuel perhaps would agree to Rav. This is why they had to explicitly argue about their case as well. (59b)

### **INSIGHTS TO THE DAF**

#### **Food for Thought**

\*\*\* The *Mishna* had stated: And similarly, if a man says to a woman, “Become betrothed to me after thirty days,” and someone else betroths her within thirty days, she is betrothed to the second person.

The Ramban writes that the first *kiddushin* was not totally voided, and therefore, if within the thirty days, the second man dies or divorces her, the first *kiddushin* will be valid. Proof to this is from the language of the *Mishna* when it states that she is *mekudeshes* to the second one, and it does not say that she is not *mekudeshes* to the first one.

The Rashba disagrees and holds that the action of the second marriage negates the verbal arrangement of the first one. He adds that the language of the *Mishna* does not prove otherwise, for once we have established that the second marriage is valid; it is obvious that the first one is voided.



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The *Gemora* answers: In the case of Ravin Chasida, the girl was not going to be given to his son in any event (*the family did not agree to it*).

The *Gemora* asks: He still should have first notified his son that this was the situation before going ahead and marrying her himself!?

The *Gemora* answers: He was worried that in the interim, someone else would betroth her.

The Ritva asks: Why was he concerned? Doesn't the *Gemora* (Moed Katan 18b) say that every day a Heavenly voice pronounces: "The daughter of this individual is designated for that man"?

He answers that this was Ravin Chasida's second marriage, for he already had a son, and the Heavenly voice only makes this proclamation by a first marriage.

Furthermore, he answers that perhaps someone will marry her as a result of their prayer. The *Gemora* in Moed Katan even states that another man might desperately want a certain woman as a wife and he cannot bear the fact that she will be married to another man; subsequently he will pray that she dies.

\*\*\* The *Gemora* asks: What is the law regarding someone who interferes with a poor person who is trying to get a loaf? Rabbi Abba answered: He is called an evildoer.

Rashi writes that the poor man saw a loaf that was abandoned by its owner, and he wanted to acquire it for

himself. If another person snatches it away from him, he is a wicked man.

Tosfos writes that there is no ethical breach to do this when the item is ownerless, for if the other person will not acquire the loaf, he will not be able to get it anywhere else. He is not required to lose because of the poor man. The poor man only has a claim to the object when he wishes to purchase the item from another; there the poor person can claim that the "snatcher" is ruining his opportunity to profit.

## DAILY MASHAL

### Actions Override Thoughts

The *Gemora* tells us that in order to counteract an action, a new action is required, but a mere thought is insufficient. The Shem Mishmuel asks: Based on this, how does repentance that is comprised of thoughts (regret and acceptance for the future) and speech (confession) overturn a sin that was an action?

He answers based on the Arizal that when a person commits a sin, his neshamah is no longer part of him, and in fact the neshamah leaves him as soon as he considers the idea of committing the sin. Therefore, the only punishable aspect of the sin is the thought that he had when he initially contemplated it, and this thought can be corrected by the thoughts and words of teshuvah.

R' Yisrael Salanter zt"l was once insulted by someone. In response, R' Yisrael went over to him and asked him if he could be of any assistance to the man in any way. The man was taken aback, and asked him why he was looking to do him a favor. R' Yisrael answered him that he recognized that he had felt offended and was upset at the man, and in order to eradicate these thoughts he wanted to go out of his way to perform an act of kindness for him, as we see from our *Gemora* that actions can override thoughts.