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Kiddushin Daf 62

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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

Double Conditions

The *Gemora* asks: It is understandable according to Rabbi Chanina ben Gamliel why the verse states, “If a man did not sleep with you, and you did not turn away and become impure while married, you should be clean etc.” [The verse does not have to double back and say, “If a man did sleep with you,” as he holds that a double condition is unnecessary.] However, how can we explain this verse according to Rabbi Meir? The verse should say, “(If you did etc.) you should be strangled!” [This would complete the double condition.]

Rabbi Tanchum answers: The verse states, “Hinaki” -- “you should be clean” (implying that if she is not innocent, “Chinaki” -- “she should be strangled”).

The *Gemora* asks: The choice of the word “Hinaki” is understood according to Rabbi Meir. However, according to Rabbi Chanina ben Gamliel, why indeed did the Torah use a peculiar word such as “Hinaki”?

The *Gemora* answers: According to Rabbi Chanina, it was also necessary. One might think that if she did not do anything, she will be cleansed, but if she did do something, she will not be cleansed, nor strangled; she will have merely transgressed. The Torah therefore implies that she will be strangled.

The *Gemora* asks: According to Rabbi Meir, the following verse is understandable. The verse states: “He will be cleansed (*sprinkled*) with it on the third and seventh day, and then become pure. But if he will not be cleansed with it on the third and seventh day he will not become pure.” However, according to Rabbi Chanina, why is the second part of the verse necessary?

The *Gemora* answers: One would think the verse means that he should be cleansed with it on the third and seventh day, but if he does one of them, he may also become pure. This is why the second half of the verse is needed (*to state that he will not become pure at all if he only does one cleansing*).

The *Gemora* asks (*according to everyone*): Why does the verse say again, “And the pure one will sprinkle on the impure one on the third and seventh day”?

The *Gemora* answers: One might think that only if one sprinkled too early, for example the second and sixth day, are they still impure because they lessened the amount of days they were pure before the sprinkling. However, if one was sprinkled on the third and eighth day, meaning that he increased days of becoming pure before a sprinkling, perhaps it would be valid. The verse therefore states that it only works if it is on the third and seventh day. [The two sprinklings must be four days apart, and start at least three days after becoming impure.]

The *Gemora* asks: Why does it say, “And he will be cleansed on the seventh day”?

The *Gemora* answers: One might think that this is the rigid laws for becoming pure to eat *kodoshim*, but not for *terumah*, where perhaps one sprinkling is enough. This is why the verse states, “And he will be cleansed on the seventh day.” (62a)

Mishna

If someone betroths a woman, and he says that he thought she was a *Kohenes* and she turned out to be a *Levi* or visa versa, or he thought she was poor and she was in fact rich or visa versa, the *kiddushin* is valid, as she did not mislead him. If a person says to a woman that she should become betrothed to him after he or she converts, or after he or she is freed from slavery, or after her husband or sister dies, or after she receives *chalitzah*, the *kiddushin* is invalid. Similarly, if someone says to his friend that if his friend’s wife gives birth to a girl, she should become betrothed to him, the *kiddushin* is invalid. (62a)

Not Yet in the World

The *Mishna* states: One cannot take off *terumah* from what is detached from the ground in order to exempt things still attached to the ground. If he does, it is invalid.

Rav Assi asked Rabbi Yochanan: If someone says that the fruit of this row that is detached should be *terumah* for the fruit of this row that is still attached or visa versa, but he adds that this should take effect when the fruit becomes detached, what is the law? [*Perhaps the attached fruit should be regarded as something that*

has not yet come into the world (for it is not yet subject to the halachos of terumah)?]

Rabbi Yochanan answered: Anything that is in his hands to do is not considered as if it is lacking an action (*and it is therefore valid*). [*If one has the ability to change its status, the transaction can be valid, even though it presently is still not in the world.*]

The *Gemora* asks a question from our *Mishna*. The *Mishna* states: If a person says to a woman that she should become betrothed to him after he or she converts, or after he or she is freed from slavery, or after her husband or sister dies, or after she receives *chalitzah*, the *kiddushin* is invalid. While most of these are not in one’s hands (*and therefore are not a question on Rabbi Yochanan*), a person can decide to convert!?

The *Gemora* answers: This is also not in his hands. This as stated by Rabbi Chiya bar Avin in the name of Rabbi Yochanan: A convert requires three people to convert him. Why? It is called a “law” just as judgment is called a law (*and it requires three people*). Who says that three people will be willing to convert him (*and therefore, he is not completely in control of the situation*)?

Rabbi Abba bar Mamal asked: If someone gives a *perutah* to his maidservant and says that she should become betrothed to him after he frees her, the *kiddushin* should be valid, as it is clearly up to him to free her!?

The *Gemora* answers: Beforehand, she is considered to be like an animal (*kiddushin does not apply to slaves at all*). When she is freed, she is considered to have her own knowledge (*therefore it is considered as if she is a*

different entity beforehand, and the kiddushin is invalid).

The *Gemora* asks a question from a statement of Rabbi Oshaya. Rabbi Oshaya says: If someone gives a *perutah* to his wife and says that this is her *kiddushin* for after he divorces her, it is invalid. However, according to Rabbi Yochanan this should be valid!?

The *Gemora* answers: Although he can indeed divorce her, he cannot make her accept *kiddushin* afterwards (*this is not "in his hands"*).

We should therefore be able to answer Rabbi Oshaya's question. He asked: If someone gives two *perutos* to a woman, and says, "With the first one, I am betrothing you today, and with the second one, I am betrothing you after I divorce you," what is the law? According to the above statement (*he cannot make her accept kiddushin*), the *kiddushin* should be invalid!?

The *Gemora* answers: Being that she is already accepting *kiddushin* from him now, it is possible that the *kiddushin* after future divorce is also valid.

The *braisa* supports Rabbi Yochanan. The *braisa* states: One cannot take off *terumah* from what is detached from the ground in order to exempt things still attached to the ground. If he does, it is invalid. What is the case? If someone says that the fruit of this row that is detached should be *terumah* for the fruit of this row that is still attached or visa versa, he has said nothing. However, if he adds that this should take effect when the fruit becomes detached, it is valid. Moreover, Rabbi Eliezer ben Yaakov says: Even if someone says that the fruit of this row that is detached should be *terumah* for the fruit of this row that is still attached or visa versa, and he stipulates that this should happen when they

are one third grown and they become detached, it is valid.

Rabbah says: Rabbi Eliezer ben Yaakov only said his law regarding produce grown to a state where it can be used for animal food, not regarding "*agam*," meaning grain that is slightly grown. Rav Yosef says: He even said it in such a case. Where do we see that "*agam*" is used to mean slightly grown? The verse states, "Will one bend his head like an *agmon*?" [*This refers to shoots that its head already slightly bends over.*]

The *Gemora* asks: Who is the author of a *Mishna* stating that if someone says to his friend that if his friend's wife gives birth to a girl she should become betrothed to him, the *kiddushin* is invalid? Rabbi Chanina added that this is only invalid if his friend's wife is not pregnant, but it is valid if his friend's wife is pregnant (*and his friend accepts the kiddushin*).

The *Gemora* answers: This could be according to Rabbah (*above*) if she is noticeably pregnant, and it could be according to Rav Yosef even if she is not noticeably pregnant.

The *Gemora* quotes an alternate version of this discussion. Rabbah says: Rabbi Eliezer ben Yaakov only said this when the field dealt with is watered by rainwater, not by a field which depends on people watering it (*for there is a good possibility that they will never grow to the stage where they are subject to the halachos of terumah*). Rav Yosef argued. His law is even in this case.

The *Gemora* asks: Who is the author of a *Mishna* stating that if someone says to his friend that if his friend's wife gives birth to a girl she should become betrothed to him, the *kiddushin* is invalid? Rabbi Chanina added this



that it is only invalid if his friend's wife is not pregnant, but it is valid if his friend's wife is pregnant (*and his friend accepts the kiddushin*).

The *Gemora* answers: The case is when she is noticeably pregnant, and everyone agrees that this is the law. (62a – 62b)

INSIGHTS TO THE DAF

TEACHING TORAH TO A GENTILE PLANNING ON CONVERTING

The Rambam (Issurei Bi'ah 14:2) writes that we inform the prospective convert the essentials of the faith, which is the unity of God and the prohibition of idolatry, and they go on at great length about these matters.

The Machaneh Chaim (Y"D II, 45) asks: Why isn't this forbidden on account of a gentile studying Torah? The *Gemora* in Sanhedrin (59a) states explicitly that a non-Jew who studies Torah is liable for death.

He answers by citing a *Medrash Tanchuma* in Parshas Vayelech: The numerical value of Torah is six hundred and eleven. The remaining two mitzvos which complete the six hundred and thirteen are the two mitzvos which were given by Hashem directly at Har Sinai. This is the explanation of the verse: The Torah that Moshe commanded us to observe. Moshe instructed us regarding six hundred and eleven mitzvos; the other two were from Hashem.

The prohibition against teaching an idolater Torah is only applicable to the six hundred and eleven mitzvos that Moshe taught us. The other two, I am Hashem your God and the Unity of God; one would be

permitted to teach to them. This is where the Rambam derived his ruling from; we can go on with great length discussing the unity of God and the prohibition of idolatry.

The Maharsha (Shabbos 31a) writes that it is permitted to teach Torah to an idolater who wishes to convert. He proves this from the incident with Hillel and the convert.

Reb Akiva Eiger (41) disagrees and maintains that it is forbidden to teach Torah to an idolater even if he is planning on converting. Hillel taught the convert Torah only after he converted.

Two Perutos

The *Mishna* states: One cannot take off *terumah* from what is detached from the ground in order to exempt things still attached to the ground. If he does, it is invalid.

Rav Assi asked Rabbi Yochanan: If someone says that the fruit of this row that is detached should be *terumah* for the fruit of this row that is still attached or visa versa, but he adds that this should take effect when the fruit becomes detached, what is the law? [*Perhaps the attached fruit should be regarded as something that has not yet come into the world (for it is not yet subject to the halachos of terumah)?*]

Rabbi Yochanan answered: Anything that is in his hands to do is not considered as if it is lacking an action (*and it is therefore valid*). [*If one has the ability to change its status, the transaction can be valid, even though it presently is still not in the world.*]



DAILY MASHAL

The *Gemora* asks a question from a statement of Rabbi Oshaya. Rabbi Oshaya says: If someone gives a *perutah* to his wife and says that this is her *kiddushin* for after he divorces her, it is invalid. However, according to Rabbi Yochanan this should be valid!?

The *Gemora* answers: Although he can indeed divorce her, he cannot make her accept *kiddushin* afterwards (*this is not "in his hands"*).

We should therefore be able to answer Rabbi Oshaya's question. He asked: If someone gives two *perutos* to a woman, and says, "With the first one, I am betrothing you today, and with the second one, I am betrothing you after I divorce you," what is the law? According to the above statement (*he cannot make her accept kiddushin*), the *kiddushin* should be invalid!?

The *Gemora* answers: Being that she is already accepting *kiddushin* from him now, it is possible that the *kiddushin* after future divorce is also valid.

What would be the *halacha* if one purchased a field with one *perutah* and stipulated that he is buying it back after he gives it back to the seller?

The Rashba proves from out *Gemora* that it will be ineffective because the *Gemora* needs to say a case where there were two *perutos*.

The Chasam Sofer makes a distinction: Our *Gemora* needs to discuss a case with two *perutos*, for *kiddushin* cannot take effect without a *perutah*. However, regarding a field, there are other ways to acquire a field, and it would not be necessary to have two *perutos*.

The Gemara tells us that a conversion requires a Beth Din with three members. The source for this is a verse that uses the word *mishpat*, judgement, in conjunction with laws relating to a convert.

The Shem Mishmuel asks that the term judgement implies the presence of two litigants, and is therefore not a fitting term to be used in defining a conversion.

He answers that this is comparable to the process of *Kidush Hachodesh*, the sanctification of the New Moon, which also requires a Beth Din of three. The Gemara in Rosh Hashana explains that here too the reason is because the word *mishpat* is used to describe this process. This is because the waning of the moon at the end of the preceding month allows spiritually impure forces to gain strength, and the sanctification of the New Moon causes that to be redressed.

By a conversion, there is a similar transfer taking place. The soul of a convert is inherently destined to belong to the Jewish nation, but was in some way taken captive by other forces. At the time of the conversion, the Beth Din is adjudicating that those other forces will no longer have any power over this soul, and therefore the term *mishpat* is an appropriate description of the conversion process.