

9 Sivan 5782
June 8, 2022



Yevamos Daf 93

Produced by Rabbi Avrohom Adler, Kollel Boker Beachwood

Daf Notes is currently being dedicated to the neshamah of

Tzvi Gershon Ben Yoel (Harvey Felsen) o"n

May the studying of the Daf Notes be a zechus for his neshamah and may his soul find peace in Gan Eden and be bound up in the Bond of life

Rabbi Akiva's Position on Davar Shelo Ba La'Olam

The Gemora proves that Rabbi Akiva holds *adam makneh davar shelo ba la'olam* (meaning that a person can effect transactions regarding things that have not yet materialized) from his position in the Mishnah in Nedarim (85a). The Mishnah there discusses a case where a woman swore that her earnings should be forbidden to her husband. The Tanna Kama states that her husband does not have to be *meifer* (*Torah process of a husband nullifying his wife's vows*) the vow, as she has no right to make such a vow. Being that when she married her husband, she essentially gave over the rights to her earnings to her husband, her vow is meaningless, as it contradicts her prior commitment.

However, Rabbi Akiva argues that the husband should make sure to annul the vow. Being that the Mishnah in Kesuvos (64b) states that there is a limit to the amount of earnings that must be given to one's husband, and any amount over that limit can be kept by the wife, the vow is valid, as it can be assumed to relate to future earnings above that amount. This shows that Rabbi Akiva even considers monies that do not currently exist to effect vows. It therefore follows that Rabbi Akiva holds *adam makneh davar shelo ba la'olam*.

Rav Huna the son of Rav Yehoshua, however, understands the case of the Mishnah in Nedarim differently. He understands that the case is where the woman states her hands should be considered holy to the One Who made them. This would take away our proof regarding Rabbi Akiva's position, as the hands that are the topic of her vow are clearly extant when she makes the vow. Whatever the reason for the argument between Rabbi Akiva and the Tanna

Kama, it would not seem to involve *davar shelo ba la'olam*. (92b3 - 93a1)

Rav Nachman's List

The Gemara explains that Rav Huna's way of understanding the Mishnah argues with Rav Nachman bar Yitzchak, for Rav Nachman bar Yitzchak lists many Amoraim and Tannaim who have the opinion that *adam makneh davar shelo ba la'olam*, with the earliest opinion being that of Rabbi Akiva, which he deduces from this Mishnah. The Gemora now starts to provide the sources for every Amora and Tanna on Rav Nachman's list, proving Rav Nachman's words that they indeed hold *adam makneh davar shelo ba la'olam*.

What is the ruling of Rav Huna? For it was stated: A person (during the rainy season) sold the dates that would (hopefully) grow on his palm tree to his friend, before the fruit even appeared on the tree, Rav Huna states that the deal can be retracted before the fruits appear. Once the fruit appear, he cannot retract (the transaction is automatically ruled to be valid). [This is despite the fact that the transaction was clearly made at a time when there was no fruit on the tree. This shows that Rav Huna holds *adam makneh etc.*] Rav Nachman indeed argues on this principle, and therefore states that even when the fruit appears on the tree, he may retract (the deal is nonbinding, as the sale was done at a time when the goods were not extant). Rav Nachman agrees that if the two appear to stick to their deal and the buyer starts eating the fruit, we don't take the fruit away from him. (93a1)

We can prove that Rav, the second Amora on Rav Nachman's list, holds *adam makneh etc.* from a statement which is

attributed to him by Rav Huna. Rav Huna states in the name of Rav that someone told his friend he was about to purchase a field. He then proceeded to say that when he purchases the field, he wants his friend to own it retroactive to this very moment. [This clearly doesn't mean that his friend will literally own it retroactively, as someone else currently owns the field. The actual meaning of his words is that he (the purchaser) will not be able to retract his decision to give this gift to his friend once he has purchased the field.] Rav states that the gift is valid, and he cannot retract. This shows that he also holds *adam makneh* etc. (93a2)

It is apparent that Rabbi Yannai holds like Rabbi Chiya from the following story. Rabbi Yannai used to have a sharecropper that would bring a basket of fruit every Erev Shabbos. One Erev Shabbos, the sharecropper did not arrive on time. Rabbi Yannai relied on the fruit that he knew the sharecropper would eventually bring, and counted them in his taking of terumos and ma'asros. He came before Rabbi Chiya. Rabbi Chiya endorsed his action by citing the following verse: "In order that you should learn to fear Hashem all of the days," and stating that the verse indicates that this includes Shabbos and Yom Tov.

The Gemora asks: What is the halachic question that Rabbi Yannai discussed with Rabbi Chiya, and that Rabbi Chiya endorsed? If it was a question of whether or not he was allowed to take off ma'asros on Shabbos, Rabbi Chiya's verse does not seem relevant to the topic. Being that moving untithed produce is merely a Rabbinic prohibition, and was never discussed by the verses, it would not seem that a verse would shed light on whether or not this is a permitted action. It must be that Rabbi Chiya was hinting to him (by using a verse discussing future Shabbasos) that one can even take ma'asros (for the purpose of oneg Shabbos – pleasure on Shabbos) for produce that he does not have in his possession (but he knows that he will eventually receive).

Rabbi Yannai later asked Rabbi Chiya: If my actions were proper, why then did I have a dream where I was read a verse with the words "Kannah Ratzutz" -- "a reed that is

stuck?" Rabbi Chiya understood his question, and explained that he should not think that his dream referred to the verse in Melachim Beis (18:21) where the King of Ashur asked King Chizkiyahu if he was relying on the Egyptians, whom he degradingly called a "Kannah Ratzutz." Rather, Rabbi Chiya explained, your dream referred to the verse in Yeshaya (42:3) which states that a "Kannah Ratzutz" will not break, and it will not extinguish flickering flax. [This shows, Rabbi Chiya reassured Rabbi Yannai, that his actions were correct.] (93a2 – 93b1)

Rebbe, next on Rav Nachman's list, clearly holds *adam makneh* etc. as well. This is apparent from a Baraisa: "Lo Sasgir Eved El Adonav" -- "do not close a servant unto his master" (*Devarim 23:16, meaning that a master cannot work his slave once he has already been freed*). Rebbe said: Scripture refers to a case where one purchased a slave on condition that he frees him. What are the circumstances of the case? Rav Nachman bar Yitzchak explains that the case is where a person (when he was buying a Canaanite slave) wrote: "when I purchase you, you (the slave) will acquire yourself (retroactively) from now" (he is indeed not allowed to use him for any labor after the purchase). [This indicates that Rebbe must hold *adam makneh* etc., as otherwise the condition would not be valid.] (93b1)

Rabbi Meir, next on Rav Nachman's list, also clearly holds *adam makneh* etc. This is apparent from his ruling taught in a braisa: If a man said to a woman, "You shall be betrothed to me after I convert," or "After you shall convert," or "After I shall have been set free from slavery," or "After you have been set free," or "After your husband dies," or "After your sister (*my wife*) dies," or "After your *yavam* has submitted to *chalitzah* from you," she is not betrothed. Rabbi Meir ruled: She is legally betrothed! [*The kiddushin is effective when the respective conditions are fulfilled, though at the time of the betrothal they were still unfulfilled; this indicates that an act that involves something that is not yet in existence is nevertheless, valid.*] (93b1)

Rabbi Eliezer Ben Yaakov, next on the list, clearly holds this way from that which was taught in the following Baraisa: [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. [Although he agrees that the separation only actually takes effect when all of the produce are eligible for separation, he holds that the verbal designation can occur earlier, even at a time when the produce is not yet in existence.] (93b1 – 93b2)

As stated above, Rav Nachman then proves that Rabbi Akiva, the last Tanna on his list, holds that one can effect a legal act for something that is not yet in existence, based on that which we learned (according to the simple interpretation) in a Mishnah (in Nedarim 85a): If a woman vows that her husband should not benefit from her work, he does not have to revoke the vow (*as she is already bound to give him the proceeds of her work*). Rabbi Akiva says: He should revoke the vow, as she might produce more than she must give to him (*and he will not be able to benefit from it*). (93b2)

Can One Witness Enable a Woman to fall to Yibum?

Rav Sheishes was asked: Can one witness (who testifies that a man died) enable a woman to fall to yibum? Do we say that the reason a single witness is normally believed to allow a woman to remarry is because we assume the witness is telling the truth about a person, who, if alive, would clearly turn the witness into a liar (and the witness therefore would not lie)? Or do we say that one witness is usually believed

because we know that the woman herself is careful to ascertain that her husband is really dead before she would remarry? If this is the case, we might not accept one witness to allow yibum, as it is possible that the widow likes her brother-in-law and won't carefully ascertain her husband is dead before yibum?

Rav Sheishes answered the question by citing the Mishnah (92a). If they said to her, "Your son died, and afterwards your husband died," and she was married by *yibum*, and afterwards they said to her, "The reverse was the case," she must leave the *yavam*, and the first and last child is a *mamzer*.

The Gemora analyzes the Mishnah: What was the case? If the original testimony was from two witnesses, and the second testimony was also from two witnesses, why should we rely on the latter more than the former? Additionally, this would only make her child at most a possible mamzer, not a definite mamzer!? One cannot suggest that the Mishnah is not being didactic in its ruling about the mamzer (and in truth, the child is indeed only a possible mamzer), as the latter part of the Mishnah states that (in a case if they (one witness; for this is not a case of a yavam) said to her, "Your husband died," and she married, and afterwards they (two witnesses) said to her, "He was alive (*at the time in which you remarried*), and he died since then," she must leave the second husband) the first child is a (definite) *mamzer*, and the last is not a *mamzer*. This proves that the Tanna taught his ruling precisely (and the child is a definite mamzer). It must therefore be, concludes Rav Sheishes, that the first testimony was from one witness, and his testimony was overturned by two witnesses. From the fact that the testimony of the first witness was accepted, we see that one witness is also permitted to enable a woman to undergo yibum. (93b2 – 93b3)

There are those that say that one witness is certainly believed to enable a woman to fall to *yibum*, for even the *yevamah* herself would be believed, as we learned in the following *Mishnah*: A woman that said her husband had died

is permitted to remarry. If she said that her husband had died, she is permitted to the *yavam*. The inquiry to Rav Sheishes was the following: Do we accept the testimony of one witness to permit the *yevamah* to marry another man (*he claims that the only yavam died*)? What is the reason that we accept the testimony of one witness? Is it because something that is likely to be revealed to the public, he would not lie about; here too, the witness would not lie. Or perhaps, we believe the single witness because the woman will investigate before she remarries; here, she might not investigate because she hates the *yavam*.

Rav Sheishes cites our *Mishnah*: The *Mishnah* states: If a woman's husband and (*only*) son went overseas, and they came and said to her, "Your husband died, and afterwards your son died (*as the son was alive when his father died, the widow is not subject to yibum or chalitzah*)," and she married, and afterwards they said to her, "The reverse was the case (*the son died first, so that when his father died afterwards, the widow was subject to yibum or chalitzah*)," she must leave her second husband, and the first (*before they knew that the order was reversed*) and last child is a *mamzer*.

What is the case of the *Mishnah*? If both testimonies were given by two witnesses, why would we choose to rely on the second set of witnesses more than the first set? And furthermore, the child born from such a union cannot be a definite *mamzer*; the child can only be a possible *mamzer*.

Evidently, the case of the *Mishnah* is where initially one witness testified that she was not subject to *yibum*, and later two witnesses testified that she was subject to *yibum*.

Rav Sheishes concludes his proof: The reason why the first witness is not believed that the woman was not subject to *yibum* is because he was contradicted by two witnesses, otherwise, he would have been believed. This is a proof that one witness is indeed believed to permit the *yevamah* to marry another man.

The *Gemora* rejects the proof: Really, the *Mishnah's* case is where two witnesses testified that she is not subject to *yibum*, and later, two witnesses testified that she is subject to *yibum*. (*Why do we believe the second set of witnesses, and not the first?*) Rav Acha bar Minyomi states that our *Mishnah* is dealing with a case of *hazamah*. ("*Eidim zom'min*," *conspiring witnesses means that two witnesses testify regarding a certain incident and another set of witnesses disqualify that testimony by saying that the first set of witnesses were with them in a different place at the time that the first set of witnesses claim that the act took place. The first witnesses are termed "eidim zom'min." The Torah commands that the second set of witnesses are believed, rather than the first.*) (93b4 – 94a1)

INSIGHTS TO THE DAF

Kinyan Kesef for an Idolater

The *Gemora* proves that Rabbi Meir holds a man may sell something that is not yet in existence from the following *Baraisa*: If a man said to a woman, "You shall be betrothed to me after I convert," or "After you shall convert," or "After I shall have been set free from slavery," or "After you have been set free," or "After your husband dies," or "After your sister (*my wife*) dies," or "After your *yavam* has submitted to *chalitzah* from you," she, Rabbi Meir ruled, is legally betrothed! [*The kiddushin is effective when the respective conditions are fulfilled, though at the time of the betrothal they were still unfulfilled; this indicates that an act that involves something that is not yet in existence is nevertheless, valid.*]

The Acharonim ask: The *Gemora* in Bava Kamma (70b) explains that the acquisition using money (*kinyan kesef*) functions in the following way: When the seller receives the money, he becomes obligated to give the item being exchanged with the money. Now according to those that hold that it is permitted to steal from a gentile, how can the idolater betroth this woman with money after he converts? The woman is not obligated to return the money, and if she

will lose the money, she would not be required to compensate him! If so, where is the *kinyan*?

Reb Shimon Shkop answers based upon the opinion of the Yereim, who says that even according to those that hold that it is permitted to steal from a gentile, one cannot fulfill his *mitzvah* with an esrog that he stole from a gentile. This is because it is not regarded as “his,” for the Torah did not render their money ownerless that anyone has the right to possess their money. “Stealing from an idolater is permitted” means that there is no prohibition against keeping that which was stolen from them. However, since it does not belong to the Jew, he still has an obligation to return it to its rightful owner, and he would be liable to compensate the gentile if he would lose it. Accordingly, the *kinyan* of money would still apply to an idolater.

DAILY MASHAL

FEAR OF HEAVEN ON SHABBOS

The *Gemora* relates the following incident: Rabbi Yannai used to have a sharecropper that would bring a basket of fruit every Erev Shabbos. One Erev Shabbos, the sharecropper did not arrive on time. Rabbi Yannai relied on the fruit that he knew the sharecropper would eventually bring, and counted them in his taking of Terumos and Ma’asros. Rabbi Chiya endorsed his action by citing the following verse: “*In order that you should learn to fear Hashem all of the days,*” and stating that the verse indicates that this includes Shabbos and Yom Tov.

Rashi explains: One should ensure that his requirement of having pleasure on Shabbos should not be disturbed because of the prohibition of eating *tevel* (*produce which has not been tithed yet*). Take precautionary measures to remove the prohibition in order that the produce can be consumed and enjoyed.

Rabbi Yosef Lieberman in his sefer, *Mishnahs Yosef* comments that this verse is also teaching us how one has to have a fear of Hashem on Shabbos and *Yom Tov*, even more

than he does during the weekdays, for the laws of Shabbos are like mountains hanging on a hair, for they have few Scriptural allusions, but many halachos. It is extremely easy to stumble and transgress one of the many prohibitions on Shabbos.

Furthermore, he writes that these are days of pleasure and enjoyment; a time that is vulnerable for sin, like the Tur (O”C 529) writes. One should sit on Shabbos with a tremendous trepidation so that he does not inadvertently sin on Shabbos. And one who attempts to purify himself, Hashem will assist him.

The *Gemora* says elsewhere that one does not need to be concerned about eating *d’mai* (*produce purchased from an am ha’aretz, and we are uncertain if ma’aser was taken from it*) on Shabbos because we can ask the *am ha’aretz*, and we are confident that he will not lie on Shabbos.

I once heard from Rav Shmuel Feivelson the following explanation: Shabbos is a sampling of the World to Come. We are basking in the presence of the Shechinah. It is impossible to lie when the truth is staring you straight in the face.