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Gittin Daf 59

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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

***Supreme in Torah and Authority***

Rabbah the son of Rava, or as some say, Rabbi Hillel the son of Rabbi Valas also said: Between the days of Moshe and Rebbe we do not find one who was supreme both in Torah and in authority. The *Gemora* asks: Is that so? Was there not Yehoshua? The *Gemora* answers: There was Elozar with him (*who was equal to him in Torah*). But there was Elozar (*after Yehoshua died*)? There was Pinchas with him (*who was equal to him in Torah*). But there was Pinchas (*after Elozar died*)? There were the Elders with him (*who were equal to him in Torah*). But there was Shaul (*who was the king and a tremendous Torah scholar*)? There was Shmuel with him. The *Gemora* asks: But Shmuel died before Shaul? The *Gemora* answers: We meant that he was supreme his entire life. But there was David? There was Ira the Yairite with him (*who in Torah was even greater than David*). But he died before David? We meant that he was supreme his entire life. But there was Solomon (*who was the king and a tremendous Torah scholar*)? There was Shimi ben Geira with him. But Solomon killed him? We meant that he was supreme his entire life. But there was Chizkiyah (*who was the king and a tremendous Torah scholar*)? There was Shevna with him (*who in Torah was even greater than Chizkiyah*). But he was killed? We meant that he was supreme his entire life. But there was Ezra? There was Nechemiah son of Chachalyah with him.

Rav Acha the son of Rava said: I, too, say that between the days of Rebbe and Rav Ashi we do not find one who was supreme both in Torah and in authority. The *Gemora* asks:

Is that so? Was there not Huna bar Nassan with him? The *Gemora* answers: Huna bar Nassan was different because he used to defer to Rav Ashi. (59a1 – 59a2)

***Mishnah***

A deaf-mute may communicate and be communicated with by gestures (*with his hands or his head, but not with mere lip movements*). [*The Rabbis allowed this method to be valid for certain transaction in order to benefit the public; specifically, the deaf-mute.*] Ben Beseira said: He may use lip movements and other can move their lips to him; this is for movable property. The purchases and sales that young children transact with movable objects are valid. (59a2)

***Divorce through Lip Movements***

Rav Nachman said: The dispute in the *Mishnah* pertains to movable property; however, all would agree regarding a divorce that a deaf-mute can only divorce his wife through gesturing (*with his hands or his head, but not with mere lip movements*). Surely this is obvious; Ben Beseirah says distinctly ‘movables’? — You might take this to mean ‘where movables also are concerned’; hence we are told [that this is not so].

The *Gemora* cites another version where Rav Nachman said that the *Mishnah’s* dispute applies not only by movables but by divorce as well. — But the *Mishnah* said ‘movables’? Let us say he means also movables. (59a3)

### **Transactions of a Minor**

The *Mishnah* had stated: The purchases and sales that young children transact with movable objects are valid.

The *Gemora* asks: What is the youngest age at which they can do so? Rav Yehudah showed (*with his fingers*) to Rav Yitzchak his son: About six or seven. Rav Kahana said: About seven or eight. In a *Baraisa* it was taught: About nine or ten.

The *Gemora* notes: There is no argument: Each child varies according to his intelligence.

The *Gemora* asks: For what reason did the Rabbis allow the minor to buy and sell in the case of movables?

Rabbi Abba bar Yaakov said in the name of Rabbi Yochanan: It was in order that they may procure their essential necessities.

And he said to the one that was over the meltachah, "Bring forth vestments for all the worshippers of Baal." What is meltachah? — Rabbi Abba bar Yaakov said in the name of Rabbi Yochanan: Something which is drawn out thin by fingering [nimlal ve-nimtach]. When Rav Dimi came [from Eretz Yisroel] he said in the name of Rabbi Yochanan: Bunyam son of Nunyam sent to Rebbe [cloaks made out of] sivni, chomes, salsela and malmela. The sivni and chomes [folded tip] into the size of a nut and a half, the salsela and malmela into the size of a pistachio-nut and a half. What is malmela? Something which fingering draws out thin.

The *Gemora* asks: If the minor makes a mistake in the price (*by either overpaying or undercharging*), how much can it be different from the actual value? [*By an adult, the sale is void if it is more than a sixth.*]

Rabbi Yonah said in the name of Rabbi Zeira: Up to a sixth, as with an adult.

Abaye inquired: What is the *halachah* regarding a gift given by a minor?

Rav Yeimar said: His gift is no gift. Mar the son of Rav Ashi, however, said that it is a valid gift.

The students in the Beis Medrash communicated this statement to Rav Mordechai with the names reversed. He said to them: Go and tell Mar the son of Rav Ashi: Isn't this what happened? As Rav Ashi was standing with one foot on the ground and one on the steps, we asked him: What is the *halachah* regarding a minor's gift? He answered us: His gift is a valid gift, whether he gives it when he is ill or when he is well, whether it is a big gift or a small one. (59a3 – 59a4)

### **Mishnah**

These are the things that they decreed in the interest of promoting peace: A *Kohen* reads first (*from the Sefer Torah*), and after him a *Levi*, and after him a *Yisroel*; this was instituted in the interests of peace (*so there would not be fighting as to who should be called up first*).

They make an *eruv* in an old house, in the interests of peace. [*If several houses open into a courtyard, one is Rabbincally forbidden to carry from the house into the courtyard and vice versa, unless they make an eruv. Bread, which is owned by all the residents, is placed in one of the houses. They are now regarded as if they have a common residence and the courtyard is their private domain. They are now allowed to carry from the merged houses into the courtyard and vice versa. This Mishnah teaches us that if the eruv was initially placed in one house, it should not be switched to another in the interest of peace.*]

The pit which is closest to the water-canal is filled first, in the interests of peace. [*The farmers would dam the public water channel for their private use. To avoid fighting, it was established that whomever's cistern was further upstream, they would have the first right to the water.*]

The prey caught in the traps for wild animals, birds and fish are treated as theft, in the interest of peace. [*Biblically, it is not regarded as stealing, for the owner did not take possession of them yet.*] Rabbi Yosi says: It is actual theft.

An object found by a deaf-mute, an insane person, or a minor are treated as theft, in the interest of peace. Rabbi Yosi says: It is actual theft.

A poor person who is gleaning olives at the top of the tree, whatever is under him is treated as theft, in the interest of peace. Rabbi Yosi says: It is actual theft.

We do not prevent the poor idolaters from taking *leket*, *shich'chah* and *pe'ah*, in the interests of peace. (59a4 – 59b1)

### **Kohen Takes Precedence**

The *Mishnah* had stated: A *Kohen* reads first (*from the Sefer Torah*), and after him a *Levi*, and after him a *Yisroel*; this was instituted in the interests of peace.

The *Gemora* asks: From where is this known?

Rav Masnah said: It is because it is written: *And Moshe wrote this Torah and gave it to the Kohanim the sons of Levi*. Now do we not know that the *Kohanim* are the sons of *Levi*? The Torah must be teaching us that a *Kohen* reads first and then a *Levi*.

Rabbi Yitzchak Nafcha said: We derive it from this verse: *And the Kohanim the sons of Levi shall come near*. Now do we not know that the *Kohanim* are the sons of *Levi*?

The Torah must be teaching us that a *Kohen* reads first and then a *Levi*.

Rav Ashi derived it from this verse: *The sons of Amram were Aaron and Moshe, and Aaron was separated to sanctify him as holy of holies*.

Rabbi Chiya bar Abba derived it from the following verse: *And you shall sanctify him*. This implies that the *Kohen* should be given precedence in every matter which involves sanctification.

A *Tanna* of the Beis Medrash of Rabbi Yishmael taught: *You shall sanctify him* teaches us that in all matters pertaining to holiness, the *Kohen* takes precedence. He should be the first one called to read the Torah. He should be the first to recite the blessing by a meal. He takes the first portion (*if he is dividing something with a Yisroel, the Kohen has the right to choose the first portion*).

Abaye asked Rav Yosef: Is this rule only a Rabbinical one in the interests of peace? But is it not derived from the Torah?

Rav Yosef answered: It is derived from the Torah, but the purpose of this rule is to maintain peace.

The *Gemora* asks: But the entire Torah is also for the purpose of promoting peace, as it is written: *Her ways are ways of pleasantness and all her paths are peaceful?*

Rather, Abaye answers: The *Mishnah's* rule applies for the following *halachah* discussed by Rabbah: It was taught in a *Baraisa*: Two people wait for one another before eating (*if one stops eating, the other should stop as well*), but if there are three, they do not need to wait for the one. The one who recites the blessing and breaks the bread may help himself first to the condiments, but if he wishes to honor his teacher or to one greater than himself, he may do so. Commenting on this, my Master, Rabbah said: This

applies only to the table, but not to the synagogue (*a Kohen cannot defer to a Levi, and a Levi cannot defer to a Yisroel*), since such deference might lead to quarrelling. [And that is what the Mishnah meant when it said that a Kohen precedes a Levi in the interests of peace.]

Rav Masnah said: What you have said about the synagogue is true only on *Shabbos* and *Yom Tov*, when there is a large congregation, but not on Mondays and Thursdays.

The *Gemora* asks: Is that so? Did not Rav Huna read first as a *Kohen* even on *Shabbos* and *Yom Tov*?

The *Gemora* answers: Rav Huna was different, since even Rabbi Ami and Rabbi Assi, who were the most distinguished *Kohanim* of *Eretz Yisroel* paid deference to him. (59b1 – 59b3)

Abaye said: We assume the rule to be that if there is no *Kohen* there, the arrangement no longer holds. Abaye further said: We have it on tradition that if there is no *Levite* there, a *Kohen* reads in his place. Is that so? Hasn't Rabbi Yochanan said that one *Kohen* should not read after another, because this might cast a suspicion on the first, and one *Levite* should not read after another because this might cast a suspicion on both? — What we meant was that the same *Kohen* [should read in the place of the *Levite*].

Why just in the case of the *Levites* should there be a reflection on both of them? Because, [you say,] people will say that one [or other] of them is not a *Levite*? If one *Kohen* reads after another, they will also say that one of them is not a *Kohen*? — We assume that it is known that the father of the second was a *Kohen*. - But in the same way we may say that it is known that the father of the second [*Levite*] was a *Levite*? — They might say that he [the father] married a *mamzer* or a *nesinah* and disqualified his offspring. In the same way they might say

that [the father of the second *Kohen*] married a divorced woman or a *chalutzah* and disqualified his offspring? — In any case [if he were suspect] would he read as *Levi*? And who would suspect him? Those who remain in the synagogue? They see [that he counts as one of the seven]! — It must be then, those who go out of synagogue. (59b3 – 59b4)

## INSIGHTS TO THE DAF

### *Kohen Takes Precedence (even after resurrection)*

It is written [Vayikra 21:8]: *You shall sanctify him, for he offers the bread of your God*. And it was taught in the *Beis Medrash* of Rabbi Yishmael: *You shall sanctify him* teaches us that in all matters pertaining to holiness, the *Kohen* takes precedence. He should be the first one called to read the Torah. He should be the first to recite the blessing by a meal. He takes the first portion (*if he is dividing something with a Yisroel, the Kohen has the right to choose the first portion*).

The *Gemora* in *Megillah* records the following incident: *Rabbah* and *Rabbi Zeira* ate the *Purim* meal together. They became intoxicated. *Rabbah* got up and slaughtered *Rabbi Zeira*. On the following day, *Rabbah* pleaded for mercy and he revived *Rabbi Zeira*. On the next year, *Rabbah* invited *Rabbi Zeira* to eat with him. *Rabbi Zeira* replied: A miracle does not occur at all times.

The *Kli Chemda* at the end of *Parshas Breishis* cites a *kuntras* called *Over Oreach*. In this sefer, a question is asked: The *Gemora Brochos* (46a) records an incident where *Rabbi Avahu* honored *Rabbi Zeira* to recite the blessing and cut the bread. The *Rashba* asks that this is inconsistent with the *halachah* which states that this honor should be reserved for the host. The *Rashba* answers: since the meal was on behalf of *Rabbi Zeira* (*he had recovered from a sickness*), *Rabbi Zeira* was considered the host. Why didn't the *Rashba* answer that

Rabbi Zeira was a *Kohen* (Yerushalmi Brochos 8:6)? He answers that since this incident happened after the episode of Rabbah with Rabbi Zeira mentioned in Megillah (*Rabbah slew him and the following day revived him*), Rabbi Zeira lost his sanctity of being a *Kohen* and did not merit the right of this honor.

The Kli Chemda is greatly perplexed by this answer. Every *Kohen* is considered a *Kohen* because his father was a *Kohen*. It is obvious that he did not lose his relations with his relatives because he dies, so why shouldn't he be a *Kohen*? (*Rabbi Chaim Berlin cites a Gemora in Sanhedrin, proving that the Kehunah remains even after resurrection.*) Perhaps he would have required a new inauguration to serve in the Beis Hamikdosh but he definitely did not lose the status of being a *Kohen*. He cites proof from the story with Elisha that one does not relinquish his relations with his relatives after he dies.

(*Look at the Ramban in the beginning of Parshas Emor, where he writes that a Kohen has certain halachos because he is a descendant of Aharon HaKohen and other halachos are because he is a Kohen himself.*)

After his resurrection, would he be required to marry his wife again? Reb Elchonon Wasserman discusses the status of the wife of Eliyahu after he ascended to Heaven without dying.

#### QUESTIONS AND ANSWERS FROM YESTERDAY'S DAF

to refresh your memory

Q: How many Tinokos Shel Bais Rabban were there in Beitar?

A: 64,000,000

Q: If the owner of the field writes a Shtar to the Sikerikon does he still have claim to the field?

A: According to Rav he loses his claim. According to Shmuel he still has a claim unless grants Achrayos in the Shtar.

Q: When the Mishnah says that the buyer of the field from the Sikerikon pays a quarter what does that mean?

A: According to Rav it means either 1/4 of the money he paid or a portion of the field equal to 1/4 of the money he paid (i.e. 1/5 of the field). According to Shmuel either 1/4 of the field itself or 1/3 of the money he paid.