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Kiddushin Daf 6

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Daf Notes is currently being dedicated to the neshamot of

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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

Terms of Kiddushin

The *Baraisa* states: If someone states, “Behold, you are my wife,” or “Behold, you are my betrothed,” or “Behold, you are acquired to me,” the *kiddushin* is valid. If he says, “Behold, you are mine,” or “Behold, you are in my possession,” or “Behold, you are connected to me,” the *kiddushin* is valid.

The *Gemora* asks: Why doesn’t the *Baraisa* state all of these cases at once and conclude that the *kiddushin* is valid (*instead of breaking it up into two parts with three cases each*)?

The *Gemora* answers: The *Tanna* heard these two sections separately, and combined them into one *Baraisa*.

The *Gemora* inquires: What if someone says, “You are set aside for me,” or “You are designated to me,” or “You are my helper,” or “You are my opposite (*from the verse “eizer k’negdo”*),” or “You are my gathered one (*my one who stays at home*),” or “You are my rib, or “You are my closed one,” or “You are my replacement,” or “You are the one I have seized,” or “You are the one that I have taken”?

The *Gemora* says: One of these (*lekuchasi*) we can answer, as the *Baraisa* states that if someone says, “You are the one that I have taken,” the *kiddushin* is valid. This is because he is using the terminology from the verse, “*When a man will take a woman.*”

The *Gemora* inquires: What about “*charufasi (designated)*”?

The *Gemora* answers from a *Baraisa*. The *Baraisa* states: If someone says, “*charufasi*,” it is a valid *kiddushin*, as this is a term used in Judea to refer to someone who is betrothed.

The *Gemora* asks: Is Judea most of the world (*that because of it we should rule that this is always a valid term for kiddushin*)?

The *Gemora* answers: The real reason is because the verse states, “*And she is a maidservant who is necherefes (designated) to a man*,” indicating that this is a term for marriage. Additionally, this is the term used in Judea for a betrothed woman.

The *Gemora* asks: Does the verse need a proof from a custom in Judea?

The *Gemora* answers: Rather, the statement should be that if someone says, “*charufasi*” in Judea (*as opposed to in the rest of the world*), the *kiddushin* is valid, as a betrothed woman is called a *charufah* in Judea.

The *Gemora* asks: What is the case (*of all of these terms mentioned above*)? If the case is where there was no prior discussion of getting married or getting divorced before the term was used, how should she know what he means? Rather it must be that they were discussing the topic when this was said. If that is the case, then even if he said

nothing, the *kiddushin* is valid! This is as the *Mishnah* states: If a man was discussing *kiddushin* or *gittin* with a woman and he gave it (*money*) to her without saying anything, Rabbi Yosi says that is enough to make it valid, and Rabbi Yehudah says that it must be explicitly stated. Rav Huna says in the name of Shmuel: The law follows Rabbi Yosi. [Accordingly, what is the case where we are debating whether or not these terms are valid?]

The *Gemora* answers: The case is where he was indeed talking to her about the subject. If he had said nothing, it certainly would be valid. However, the question is when he adds these terms. We are unsure if these terms connote *kiddushin* or work (*and therefore there is a question*).

The *Gemora* leaves this question unresolved. (6a1 – 6a3)

The *Baraisa* quoted previously states: If a man was discussing *kiddushin* or *gittin* with a woman and he gave it to her without saying anything, Rabbi Yosi says that is enough to make it valid, and Rabbi Yehudah says that it must be explicitly stated. Rav Yehudah says in the name of Shmuel: This is if they were dealing with the topic. This was also stated by Rabbi Elozar in the name of Rabbi Oshaya. This is in fact an argument among *Tannaim*. The *Baraisa* states: Rebbe says that they must be dealing in the topic, while Rabbi Elozar the son of Rabbi Shimon says (it is not necessary) even if they were not dealing with the topic.

The *Gemora* asks: If they are not dealing with the topic, how would she know what he is saying?

Abaye answers: They were dealing with things related to the topic (*like what each side would contribute towards the marriage etc.*).

Rav Huna says in the name of Shmuel: The law follows Rabbi Yosi.

Rav Yeimar asked Rav Ashi: Does the statement of Rav Yehudah in the name of Shmuel, that whoever does not know the laws of *kiddushin* and *gittin* well should not deal with them (*in these matters*), also apply to people who do not know the law is like Rabbi Yosi? [*Rashi explains that his question was whether or not this is a common law that must be known by people who deal with gittin and kiddushin.*] He answered that it is. (6a3 – 6a4)

Other Terms

Shmuel had stated above: Similarly regarding divorce, if a man gives his wife a *Get* and says, “Behold, you are sent away,” or “Behold, you are divorced,” or “Behold, you are permitted to any man,” it is valid. If he says, “I am not your *isheich* (*your spouse*),” or “I am not your *boalayich* (*your husband*),” or “I am not your *arusayich* (*your arus*),” it is not a divorce at all.

The *Gemora* asks: It is obvious that if someone says to his wife, “You are a free woman,” he has not said anything. Likewise, if he said to his slavewoman, “You are free to marry any man you wish,” he has not said anything. If he said to his wife, “You are to yourself,” what is the law? Did he mean that she is totally be herself now (*meaning divorced*), or did he mean this regarding her work?

Ravina said to Rav Ashi: We can prove this from the *Mishna*. The *Mishna* states: The main part of the document freeing a slave is, “You are a free woman,” or “You are to yourself.” If when a person owns a slave and he says, “You are to yourself,” the servant acquires his body, a person whose body is not owned by her husband should certainly be set free by these words!

Ravina asked Rav Ashi: What is the law if a master said to his slave, “I have no more dealings with you”?

Rav Nachman said to Rav Ashi, and some say Rav Chanin from Chuzna'ah said to Rav Ashi: Let us prove this from the following *Baraisa*. The *Baraisa* states: If someone sells his slave to a gentile, the slave automatically goes free, but he requires an emancipation document from his first master. Rabban Shimon ben Gamliel says: This is only if he did not write an "ono" -- "sale document" when he sold him to a gentile. If he did, the sale document is his bill of freedom.

What does the word "ono" mean? Rav Sheishes explains: It means that he wrote to the slave, "When you run away from him, I will have no more dealings with you." (6a3 – 6b1)

Betrothing with a Loan

Abaye says: If one betroths a woman by giving her a loan (*that he had lent her*), it is invalid (*for he is not giving her anything now, and the money of the loan was hers already, for it was meant to be spent*). If he gives her the benefit of a loan (*to be explained later*), it is valid. However, one may not do so, as there is a Rabbinic prohibition regarding *ribis* (*interest*) involved.

The *Gemora* asks: What is the case of "the benefit of a loan?" If he had originally lent her four (*coins*) in order to be paid back five, and now he says that she may keep the fifth coin as *kiddushin*, this type of interest is certainly prohibited! Additionally, it is the same as doing *kiddushin* with a loan!?

The *Gemora* answers: Rather, the case is where he gives her more time to pay back a loan. [*Rashi explains that she would have had to pay someone to convince him to extend her loan. This benefit is what she is receiving as her kiddushin. It is nevertheless Rabbinically forbidden to do so because she becomes betrothed to him on account of the loan.*] (6b2)

On the Condition of Return

Rava says: If someone says, "Take this *maneh* on condition that you return it to me," it cannot work to effect a sale, *kiddushin*, or redemption for one's son. While one could fulfill giving *terumah* in this fashion, it is forbidden to do so, as it appears as if the *Kohen* is helping out in the silo (*a forbidden method of using terumah for benefit, by promising it to a Kohen who happens to be "helping" in one's silo*).

The *Gemora* inquires: What does Rava hold? If he holds that a present given on condition to give it back is indeed called a present, even all of the cases listed above should be valid! If he does not hold this way, even the *terumah* should be invalid! Additionally, Rava is the one who says that it is valid, as is evident from the following statement. Rava says: If someone says, "Take this esrog on condition that you return it to me," if he takes it and indeed gives it back, he has fulfilled the *mitzvah*. If he does not give it back, he does not fulfill the *mitzvah*!?

Rather, Rav Ashi says: In all of the cases above, the transaction is valid, besides for *kiddushin*, as a woman cannot be acquired through *chalifin* (*and this appears like a kinyan chalifin*).

Rav Huna Mar, the son of Rabbi Nechemiah, said to Rav Ashi: They say in Rava's name that he actually said the same as what you have now said. (6b2 – 6b3)

INSIGHTS TO THE DAF

If he doesn't know the laws

Rav Yehudah said in the name of Shmuel: Whoever does not know the laws of *kiddushin* and *gittin* well should not deal with them.

Rashi understands this to mean that one who is not an expert in these *halachos* should not judge these cases, for he can mistakenly permit a married woman to marry another man, and the offspring will be illegitimate. This would be an error that is irreversible!

The Ta"z rules that this *halachah* applies to the one arranging the *get* as well. He should not prepare a *get* if he does not know all the intricate *halachos*. However, with respect to marriage, he can be the "*mesader kiddushin*," for there are not so many details. And indeed, the custom was to honor someone to be the "*mesader kiddushin*," even though he was not fluent in all the marriage *halachos*.

The Shvus Yaakov disagrees, and holds that one should not be a "*mesader kiddushin*" unless he is familiar with the laws of marriage.

Tosfos cites an alternative explanation from Rabbeinu Ezriel: The *Gemora* means that one who does not these laws should not talk with women regarding marriage matters because he might unknowingly betroth her.

Tosfos asks: This is understandable regarding the laws of marriage, but what is there *to be concerned about if the wife is divorced, and she is not aware of it?*

Perhaps, he suggests, it would be a problem if the husband is a Kohen, for he would not be allowed to remain married to her.

Tosfos HaRosh explains that there would be a concern in a case where she accepted kiddushin from another man.

DAILY MASHAL

The witnesses were busy eating

In our day, when many young couples do not understand the importance of halachic kiddushin, the *halachah* is that

only an expert in this field may officiate at a wedding. A wedding held in Tzfas some ten years ago illustrates the reason (See Gesher Yehoshua, Laws of Ishus 1,2). A family member was given the honor of officiating over the ceremony. Later, a video of the wedding revealed that he took no notice of the fact that the witnesses, who were supposed to be watching the proceedings, were instead helping themselves to the smorgasbord.

QUESTIONS AND ANSWERS FROM YESTERDAY'S DAF to refresh your memory

Q: Why can a document serve to effect a *kiddushin* and a divorce? How can a defender become a prosecutor?

A: Each document contains different wording.

Q: When would cohabitation, a document and money help against the woman's will?

A: Cohabitation – by a *yevamah*; document – by a divorce; money – when a father sells his daughter as a maidservant.

Q: What is the *halachah* if the man gives the money, but the woman enunciated the declaration?

A: There are two versions in the *Gemora*: Either it is not a *kiddushin* at all, or it is a matter of doubt.