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Kiddushin Daf 46

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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

Blocking the Kiddushin

It was stated: Regarding a minor who accepted *kiddushin* without the knowledge of her father, Rav said: She and her father are able to prevent the *kiddushin* from taking effect (*by protesting to it*). And Rav Assi says: Only the father can prevent it, but not her.

Rav Huna asked Rav Assi, and others say that Chiya bar Rav asked Rav Assi from the following *braisa*: It is written: *And if the girl's father indeed refuses to give her to the man who seduced her*. We would only know that the father can prevent the marriage from occurring by a case of seduction. How do we know that she has the ability to prevent this marriage? It is written: *If the girl's father indeed refuses*. The repetitive language teaches us that even she can refuse the marriage. [*It would seem from this braisa that the girl has a right to protest the marriage!?*]

Rav said to them: Do not pay heed to an incorrect proof. Rav Assi could answer that the *braisa* is discussing a case where the man seduced her, but not for the purpose of marrying her.

The *Gemora* asks: Why would a verse be necessary to teach us that they can prevent the marriage from taking effect? [*If it was not intended for marriage, a*

marriage would not be effected even without their protest!?]

Rav Nachman bar Yitzchak answers: The *braisa* means that he will be required to pay the fine for seducing the woman (*if she refuses to get married to him*). (46a)

Mishna

If a man says to a woman, “Become betrothed to me with this date” (*which he gives her*), and then (*giving her another date*), he says, “Become betrothed to me with this one,” if any one of the dates was valued as a *perutah*, she is *mekudeshes*. But if not, even if together they equal a *perutah*, she is not *mekudeshes*. If, however, he says, “Become betrothed to me with this, with this and with this,” if the dates combined are valued at a *perutah*, she is *mekudeshes*, but if not, she is not *mekudeshes*. If she was eating them one by one (*as soon as one was given to her, she ate it*), she is not *mekudeshes* unless one of the dates was valued at a *perutah*. (46a)

The Tanna of our Mishna

The *Gemora* asks: Who is the *Tanna* who holds that by saying “become betrothed to me” each time, they are viewed as separate acts of *kiddushin*?



Rabbah answered: It is Rabbi Shimon, for he says (*regarding one who falsely swears to a group of depositors*) that it is regarded as one oath unless he states "I swear" to each and every one of them. (46a)

One by One

The *Mishna* had stated: If she was eating them one by one (*as soon as one was given to her, she ate it*), she is not *mekudeshes* unless one of the dates was valued at a *perutah*.

The *Gemora* asks: On which case of the *Mishna* is this ruling referring to?

It cannot be referring to the case where he said, "Become betrothed to me with this date" (*which he gives her*), and then (*giving her another date*), he says, "Become betrothed to me with this one," because even if she would have left the dates as is, she would not become *mekudeshes* unless one of them was valued at a *perutah* (*and the Mishna would not have had to state the case where she ate them*)! Rather, it is referring to the last case (*where he said, "Become betrothed to me with this, with this and with this," and the Mishna ruled that if the dates combined are valued at a perutah, she is mekudeshes, but if not, she is not mekudeshes*). But the *Gemora* asks: Would this be true even if it was the first date that was valued at a *perutah*? But why should that be? It should be regarded as loan (*until he gives her all the dates; and we learned that kiddushin is not valid with a loan*)!?

Rabbi Yochanan exclaimed: We have the table, the meat and the knife before us, but we have nothing to eat! [*We cannot determine the correct interpretation of the Mishna.*]

Rav and Shmuel both answer: It is referring to the first case of the *Mishna*, and it is written in a "it was not necessary to state" format. Certainly, if she leaves the dates as is, the *halachah* is as follows: If one of them is valued at a *perutah*, the *kiddushin* is valid; otherwise, it is not. However, if she eats them one by one, perhaps she will be *mekudeshes* even if there is not one of them which is valued at a *perutah*. This would be because she derives the benefit from them immediately, and perhaps she decides to give herself to him even though it is less than a *perutah*. The *Mishna* teaches us that this is not so.

Rabbi Ami said: It is referring to the latter case mentioned in the *Mishna*, and when the *Mishna* rules that she is not *mekudeshes* unless one of the dates was valued at a *perutah*, this means that the last date must be worth at least a *perutah*.

Rava comments: We can learn three things from that which Rabbi Ami said: We can learn that if one betroths a woman with a loan, she is not betrothed. We can learn that if one betroths a woman with a loan and a *perutah*, her mind is on the *perutah* (*and the kiddushin will therefore be valid*). And we may also learn that money, which was given to a woman but did not effect *kiddushin*, must be returned to the man (*for then it is regarded as a deposit until he decides if he is going through with the kiddushin or not; if she consumes them before the kiddushin takes effect, she owes it to the man; if, however, she does not have to return the money to the man, it is obviously regarded as a gift – and in that case, even if she consumes it before his decision, it could still be regarded as kiddushin money, and not as a loan*). (46a – 46b)

It is Obviously a Gift

It was stated: If one betroths his sister, Rav said: The money is returned to him. Shmuel said: The money is considered a gift.

The *Gemora* explains: Rav holds that the money is returned to him, for a person knows that *kiddushin* cannot take effect with his sister (*and the money was obviously not given for kiddushin*), and he gave the money to her as a deposit.

The *Gemora* asks: Why doesn't he tell her that the money is being given as a deposit?

The *Gemora* answers: It is because he thinks that she will not accept it.

Shmuel maintains that the money is considered a gift, for a person knows that *kiddushin* cannot take effect with his sister (*and the money was obviously not given for kiddushin*), and he gave the money to her as a gift.

The *Gemora* asks: Why doesn't he tell her that the money is being given as a gift?

The *Gemora* answers: He thinks that she will be embarrassed to accept it as a gift.

Ravina asks on Shmuel's ruling from a *Mishna*: If one separates his *chalah* (*a portion of dough which is separated and then given to a Kohen; has halachos like terumah*) from flour, it is not *chalah* (for *chalah* is only taken from dough), and it is regarded as stolen in the hands of the *Kohen*. Why don't we say that a person knows that *chalah* cannot be separated from flour, and he obviously wishes to give it to the *Kohen* as a gift?

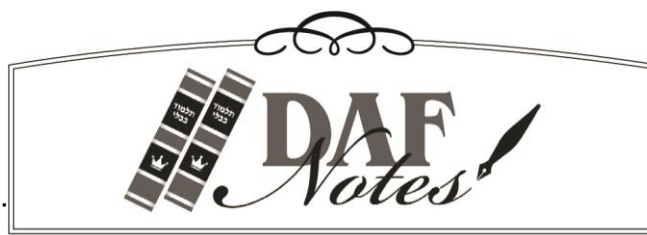
The *Gemora* answers: It is different by *chalah*, for if we would allow the *Kohen* to keep it, a mishap could

happen as a result from it. For perhaps a *Kohen* would have less than five quarters of a *kav* (*the amount where one becomes obligated to separate chalah from*) of flour by him, and the *Kohen* will knead them both together (*creating a mixture which contains more than the required amount*), and he will think that this dough can now be eaten (*for he thinks that it does not combine to create an obligation since the flour that was given to him was already chalah*). It will emerge that he will be eating *tevel* (*untithed produce*).

The *Gemora* asks: Why are we concerned for such a calamity? Didn't we say that people know that *chalah* cannot be separated from flour?

The *Gemora* answers: he knows, but he doesn't know. He knows that *chalah* cannot be separated from flour, but he does not the correct reason for it. He thinks that *chalah* cannot be separated from flour because it would be a burden to the *Kohen* (*to make it into dough*), but here, this is not a concern, for he is willing to forgo the burden (*and accept it while it is still flour*).

The *Gemora* asks: Why don't we rule that the flour should be regarded as *terumah*, but the *Kohen* cannot eat it until he separates *chalah* for it from some other place? We see from the following *Mishna* that there are such decrees: If a man separated *terumah* of a perforated plant-pot (*which is subject to terumah because a plant in a perforated pot is deemed to be growing from the ground since it derives its nourishment through the holes of the pot from the ground itself*) for the produce of a non-perforated pot (*which is not subject to terumah, since it has not grown directly from the ground*), the *terumah* is valid, but the *Kohanim* cannot eat from it until *terumah* is separated again for the produce of the non-perforated pot.



The *Gemora* answers that the two cases are not comparable. In the case of produce grown in two different vessels (*the produce designated as terumah grew in one kind of pot while the other produce grew in another kind of pot*) a man would obey to separate *terumah* again; however, in the case of the flour, he might not obey (*to give chalah again, were the portion he has set aside was allowed to retain the name of chalah; he would argue that, in view of the validity of the Yisroel's act, no further chalah should be separated; hence it was ordained that it is not to be regarded as chalah and the Kohen must return it*).

Alternatively, the *Gemora* answers that the *Kohen* will listen to the decree, but we are concerned that the original owner (*the Yisroel who separated the chalah*) will think that his dough can be eaten, and it will emerge that he will be eating *tevel*!

The *Gemora* asks: Why are we concerned for such a calamity? Didn't we say that people know that *chalah* cannot be separated from flour?

The *Gemora* answers: he knows, but he doesn't know. He knows that *chalah* cannot be separated from flour, but he does not the correct reason for it. He thinks that *chalah* cannot be separated from flour because it would be a burden to the *Kohen* (*to make it into dough*), but here, this is not a concern, for the *Kohen* seems to be willing to forgo the burden (*and accept it while it is still flour*).

The *Gemora* asks: Why don't we rule that the flour should be regarded as *terumah*, but the owner must separate *chalah* again? We see from the following *Mishna* that there are such decrees: If a man separated *terumah* of a non-perforated plant-pot for the produce

of a perforated pot, the former becomes *terumah*, but he must separate *terumah* again from the remainder.

The *Gemora* answers that the two cases are not comparable. In the case of produce grown in two different vessels (*the produce designated as terumah grew in one kind of pot while the other produce grew in another kind of pot*) a man would obey to separate *terumah* again; however, in the case of the flour, he might not obey.

The *Gemora* asks: Is it true that he will not obey by one utensil? But we learned in a *Mishna*: If one separated *terumah* from cucumbers on other cucumbers, and they were found to be bitter (*and not edible*). Similarly, if one separated *terumah* from melons on other melons, and they were found to be spoiled, the *terumah* is valid, but he must separate *terumah* again. [*Although it involves only one utensil, the Rabbis decreed that he must separate terumah again, and they were not concerned that they would not be obeyed!?*]

The *Gemora* answers: that case is different, for according to the Biblical law, it is legitimate *terumah*. This is based on Rabbi Ilai, who said: One who separates *terumah* from inferior quality produce for a superior quality, his *terumah* is valid. Rabbi Ilai provides a Scriptural source for this. (46b)

INSIGHTS TO THE DAF

Accepting Less than a Perutah

The *Mishna* had stated: If she was eating them one by one (*as soon as one was given to her, she ate it*), she is not *mekudeshes* unless one of the dates was valued at a *perutah*.

The *Gemora* asks: On which case of the *Mishna* is this ruling referring to?

Rav and Shmuel both answer: It is referring to the first case of the *Mishna*, and it is written in a “it was not necessary to state” format. Certainly, if she leaves the dates as is, the *halachah* is as follows: If one of them is valued at a *perutah*, the *kiddushin* is valid; otherwise, it is not. However, if she eats them one by one, perhaps she will be *mekudeshes* even if there is not one of them which is valued at a *perutah*. This would be because she derives the benefit from them immediately, and perhaps she decides to give herself to him even though it is less than a *perutah*. The *Mishna* teaches us that this is not so.

Tosfos Yeshanim writes that although the *halachah* is clear that *kiddushin* cannot take effect with an object valued at less than a *perutah* even if the woman consents to it; nevertheless, it is sufficient enough of a reason to explain why it was necessary for the *Mishna* to state such a case.

Poras Yosef explains based on a *Gemora* above (8a), which states: Rav Kahana indeed used to accept a (*special male*) head covering for the firstborn redemption, and he would say, “For me this is worth five *sela'im*.” The Ra”n there was uncertain if that logic could work for something that is not worth a *perutah*, and the person says, “To me, it is worth a *perutah*.” He specifically mentions *kiddushin* as a practical application for this. The reason to distinguish between the two is that perhaps something that is not “money” (*if it less than a perutah*), cannot be made into “money” by the fact that someone accepts it to be worth more than it actually is. Accordingly, it can be said that this is the novelty that our *Mishna* is teaching us. Although the woman accepts the date to be worth more than a

perutah to her, the *kiddushin* is not valid, for the date (*being valued at less than a perutah*) is not regarded as “money” at all.

DAILY MASHAL

At a Chasunah that the Chozeh of Lublin arranged for one of his sons, the assembled guests davened Mincha before the Chupah. The Chozeh’s Shemona Esrei took an extraordinarily long time, which of course, piqued the curiosity of the Chasidim. Later, during the Seudah, the Chozeh explained to them that the Gemara (Shabbos 130a) states that there is no Kesubah (i.e. wedding) that does not involve some disagreement. The Gemara (Sotah 2a) also states that forty days before a child is conceived, the Bas Kol calls out: whose daughter will marry whom. At the same time, the Bas Kol also calls out when the Chasunah will take place, which year, which month, day, hour and even minute. If the Mechutanim attempt to start the Chupah too soon, before the decreed minute, then the disagreements spring up, delaying until the proper time has arrived. “Since I sensed that the moment of my son’s Chupah had not yet arrived, I prolonged my Shemona Esrei to take up the time, to avoid the need for Machlokes.”