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Kiddushin Daf 49

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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

### **Showing him a way**

Abaye said: Rabbi Shimon, Rabban Shimon ben Gamliel and Rabbi Elozar all hold that when someone instructs an agent to do something in an easy way and the agent chooses to do it in a difficult manner, it is not regarded as deviating from the agency, but rather the principal was merely “showing him a (*simple*) way” to do it.

Rabbi Shimon said this in the *Mishna* above (*when the woman said “silver,” she meant that the agent may accept even silver*). Rabban Shimon ben Gamliel subscribed to this view in a different *Mishna*, for we learned in a *Mishna*: A plain document - its witnesses are inside it (*on the bottom*). And a folded one - its witnesses are on the reverse (*between one fold and the next*). [*They began by writing a single line or a number of lines of the essence of the document, and they folded the written part upon the part below and sewed them together. Another line or lines were written, and again the parchment was sewn down, and the procedure was repeated until the last fold. Each such fold was known as a kesher, and that is why it is called a get mekushar. The Gemora explains that the folded document type was ordained by the Rabbis primarily for gittin. They instituted it for the hot-tempered Kohen who might in a fit of anger decide to divorce his wife. Unlike any other Jew, a Kohen may not marry a divorcee, including his own ex-wife. They therefore instituted the folded deed which cannot easily be written quickly in order to allow*

*time for the Kohen’s temper to cool. As this document type was ordained for divorce, the Rabbis also instituted it for other documents, for bills of indebtedness as well as for bills of sale so that one may choose the folded document, so as not to differentiate between bills of divorce and other documents.*] A plain one whose witnesses signed on its reverse and a folded one whose witnesses signed inside it - both are invalid. Rabbi Chanania ben Gamliel says: A folded one whose witnesses signed inside it is valid, because he can make it a plain one (*by not sewing the knots; and even though there are spaces between one line and the next, one need not be concerned about that, as there are many unskilled scribes who leave considerable space between one line and another*). Rabban Shimon ben Gamliel says: All is in accordance with the custom of the place. And the *Gemora* asks: Does not the first *Tanna* hold of the principle of the ‘custom of the place’? And Rav Ashi replied: Where it is the custom to use plain documents and one said to the scribe, “Prepare for me a plain document,” and he prepared for him a folded one, everyone would agree that he would have a right to object. Where it is the custom to use folded documents and one said to the scribe, “Prepare for me a folded document,” and he prepared for him a plain one, everyone would agree that he would have a right to object. Their dispute relates to a place where both plain and folded documents are in use, and he said to the scribe, “Prepare for me a plain document,” and he prepared for him a folded one. The *Tanna Kamma* is of



the opinion that an objection may be raised by the sender, and Rabban Shimon ben Gamliel is of the opinion that he was merely showing him a way to do it (*but it did not have to be done in that exact way*).

Rabbi Elozar also subscribes to this opinion, for we learned in a *Mishna*: If the wife said, "Accept my *get* for me in Such-and-such a place," and the agent accepted it for her in a different place, the *get* is not valid. Rabbi Elozar said that it is valid. Evidently, he holds that the woman is not particular about the place to receive the *get*; she is merely indicating where the husband may be found. (48b – 49a)

### ***Advantageous Mistakes***

Ulla said: The argument in the *Mishna* is where the mistake was for the woman's monetary benefit (*where Rabbi Shimon would hold that she is mekudeshes because she is pleased with the result*). However, if the mistake was for the woman's benefit concerning lineage (*he claimed he was a mamzer, but in truth, he was a nasin*), everyone would agree that the *kiddushin* is not valid. This is because she would say, "A shoe that is too large for my foot, I do not need" (*he will act haughtily with her*). The *Gemora* cites a *braisa* where Rabbi Shimon explicitly states that he would admit in such a case.

Rav Ashi said: This can be inferred from our *Mishna* (*the latter part*) as well. For our *Mishna* states: "On the condition that I am a *Kohen*," and he was found to be a Levi; "a Levi," and he was found to be a *Kohen*; "a *nasin*," and he was found to be a *mamzer*; "a *mamzer*," and he was found to be a *nasin*, the *kiddushin* is not valid, and yet, Rabbi Shimon does not disagree with the ruling.

Mar bar Rav Ashi asks: But that very same *Mishna* states: "on the condition that I have a daughter or a maidservant who is an adult," and he has none; or, "on the condition that I do not have," and he has. Now this is a case where there is a monetary benefit (*for she can help out in the household chores*), and Rabbi Shimon does not argue? Evidently, when Rabbi Shimon states his opinion in the first part of the *Mishna*, he is referring to all cases, including those mentioned in the last part of the *Mishna* (*which would include the lineage cases*).

The *Gemora* disagrees with this logic: With respect to the cases of the daughter and the maidservant, it is understandable that Rabbi Shimon did not have the necessity to state his dissenting opinion twice, for he already argued regarding monetary matters. However, if he would argue regarding the lineage cases, it would be necessary for him to state his opinion there (*for he never argued in any similar cases*).

The *Gemora* offers an alternative answer to Mar bar Rav Ashi's question: The latter part of the *Mishna* is also dealing with a lineage benefit, for when the *Mishna* said that she was a *megudeles*, it did not mean that she was an adult, but rather, it meant that she is a respected person. Accordingly, the woman will say, "It is not pleasing for me to have this woman in my house, for she will say over to the neighbors things that she hears from me." (49a)

### ***Special Stipulations***

The *Gemora* cites a *braisa*: If a man says to a woman, "Become betrothed to me on condition that I am a reader of Scripture," if we have established that he has read three verses from the Torah in a synagogue, she is *mekudeshes*. Rabbi Yehudah said: He is not considered "a reader" unless he reads the verses and translates



them (*meaning – Onkelos' translation*). However, if he says, "Become betrothed to me on condition that I am an expert in Scripture," she will not be *mekudeshes* unless he reads precisely all of the Chumash, Prophets, and Writings.

If he says, "Become betrothed to me on condition that I am one who learns," Chizkiyah said: She is *mekudeshes* if he has learned *halachos* (*l'Moshe mi'Sinai*). Rabbi Yochanan said: She is *mekudeshes* if he has learned Torah.

The Gemora asks on Rabbi Yochanan from a *braisa*: What is *Mishna*? Rabbi Meir says: It is the *halachos*. Rabbi Yehudah says: It is *Medrash*. [*Rabbi Yochanan seems to be against both opinions!?*]

The *Gemora* answers: When Rabbi Yochanan said Torah, he meant the *Medrashim* of the Torah.

The *Gemora* Notes: If he says, "Become betrothed to me on condition that I am a *Tanna*," she will be *mekudeshes* if he has learned the *halachos*, Sifra, Sifri and Tosefta.

If he says, "Become betrothed to me on condition that I am a Torah student," he is not required to be of the caliber of Shimon ben Azzai or Shimon ben Zoma. He is regarded as a Torah student if they ask him something that he is presently learning, and he can reply to it. This applies even if he is learning the Tractate of Kallah (*a short one*).

If he says, "Become betrothed to me on condition that I am a wise man," he is not required to be of the caliber of the Sages of Yavneh; meaning like Rabbi Akiva and his friends. He is regarded as a wise man if they ask him

something that requires logic to answer, and in fact, he replies to them.

If he says, "Become betrothed to me on condition that I am a strong man," he is not required to be of the caliber of Avner ben Ner (*King Shaul's general*) or Yoav ben Tzeruyah (*King Dovid's general*). He is regarded as a strong man if his fellows are afraid of him due to his strength.

If he says, "Become betrothed to me on condition that I am a wealthy man," he is not required to be as wealthy as Rabbi Eliezer ben Charsom or Rabbi Elozar ben Azaryah. He is regarded as wealthy if the people in his city respect him due to his wealth.

If he says, "Become betrothed to me on condition that I am a righteous person," she is *mekudeshes* even if he is completely wicked, because perhaps he intends to repent.

If he says, "Become betrothed to me on condition that I am a wicked person," she is *mekudeshes* even if he is completely righteous, because perhaps he intends to commit idolatry. (49a – 49b)

### **Ten Measures**

Ten measures of wisdom entered the world. *Eretz Yisroel* took nine, and the rest of the world took one.

Ten measures of beauty entered the world. *Yerushalayim* took nine, and the rest of the world took one.

Ten measures of wealth entered the world. The original Romans took nine, and the rest of the world took one.



Ten measures of poverty entered the world. Bavel took nine, and the rest of the world took one.

Ten measures of haughtiness entered the world. Eilam took nine, and the rest of the world took one.

The *Gemora* cites a Scriptural source which proves that haughtiness was rampant in Bavel.

The *Gemora* explains that originally, it went to Bavel, but later, it went to Eilam.

The *Gemora* asks: But it was said that poverty is a sign of haughtiness, and poverty was rampant in Bavel!?

The *Gemora* answers: Poverty in Torah is a sign of haughtiness (*for they do not listen to their Torah leaders*).

Ten measures of strength entered the world. The Persians took nine, and the rest of the world took one.

Ten measures of lice entered the world. The Medians took nine, and the rest of the world took one.

Ten measures of witchcraft entered the world. The Egyptians took nine, and the rest of the world took one.

Ten measures of disease entered the world. The pigs took nine, and the rest of the world took one.

Ten measures of promiscuity entered the world. Arabia took nine, and the rest of the world took one.

Ten measures of brazenness entered the world. Meishan took nine, and the rest of the world took one.

Ten measures of talking entered the world. The women took nine, and the rest of the world took one.

Ten measures of drunkenness entered the world. The Ethiopians took nine, and the rest of the world took one.

Ten measures of sleep entered the world. The slaves took nine, and the rest of the world took one. (49b)

## DAILY MASHAL

### *Opportunity to Repent*

If he says, "Become betrothed to me on condition that I am a righteous person," she is *mekudeshes* even if he is completely wicked, because perhaps he intends to repent.

The Beis Yosef writes in the name of Rabbeinu Yeruchem that if he is a *rasha* due to sins committed between his fellow man, such as a thief, he cannot be considered righteous until he returns the stolen object. And so it would be by all such sins; if he wounded his fellow man, he cannot be regarded as a Tzadik until he compensates the injured party.

However, some say that as long as he has resolved to make amends, he is considered a righteous person.

The sefer Shai Lemoreh asks: The *Gemora* in Bava Kamma states that if a person stole money and he decided that he will return it, but before he had the opportunity to return it, he died, he is not regarded as a wicked person. Yet we find that *Yom Kippur* does not atone for sins between a man and his fellow until one

asks forgiveness from the one that he offended. It emerges that even though he already repented, *Yom Kippur* will not atone for those sins!?

He answers that by *Yom Kippur*, it is different. Since the injured party is still alive, he still has the opportunity to ask him for forgiveness. So long as he does not take advantage of that opportunity, he will not be forgiven. However, one who steals and later intended to return that which he stole, but he died beforehand, he is not regarded as a *rasha*, for now, he does have the availability to make amends.

## INSIGHTS TO THE DAF

### Registering Religious Affiliation

The brilliant mind of the *posek*, HaRav Shalom HaCohen Shwadron *zt'l* (5595-5671), the author of *Responsa Maharsham*, once saved Russian Jewry from hunger that could have resulted from the capriciousness of the Russian Czar. The well-known anti-Semite passed a law requiring federal institutions to grant the Russian Karaite community equal rights. Meanwhile the law created new difficulties for religious Jews by denying them various rights, and imposing harsh decrees and stiff taxes on them.

A number of Jews came up with a bright idea: every Jew who had been adversely affected by the new law would declare himself a Karaite before government workers to spare himself from these harsh laws. The problem was that according to *halacha* it is forbidden for a Jew to save his own life by declaring himself an idol worshipper (*Rosh, Avodah Zarah 2:4; Y.D. 157:2*) since doing so is akin to acknowledging the validity of their religion and denying Torah from Sinai. Russian Jews asked the Maharsham whether they would be allowed

to declare themselves Karaites—members of a cult who “follow the plain meaning of the verses and reject the Sages’ accepted interpretations” (*Magen Avraham on the Rashbatz on Avos 1:3*).

Hundreds of thousands of Jews breathed signs of relief when the Maharsham (*Responsa Maharsham VIII §166*) allowed them to declare themselves Karaites. He based his ruling on the *Shulchan Aruch (E.H. 39:25)*, which, based on our *sugya*, allows a groom to *mekadesh* a woman on condition that he is a *kara’ah*—i.e. knows how to read Torah, *Nevi’im* and *Kesuvim* with precision.

The word *kara’ah*, writes the Maharsham, can be defined as someone who is proficient at reading verses from the *Tanach*, therefore the Jews may declare themselves Karaites to the Russian government officials. They mean, of course, that they belong to the Jewish Nation whose members read the Torah. Only unambiguous declarations are forbidden (*Nedarim 62b*). The Maharsham stresses that before their declaration they should whisper to themselves that they do not, *chalilah*, actually mean that they belong to the Karaite community.