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Kiddushin Daf 64

Produced by Rabbi Avrohom Adler, Kollel Boker Beachwood

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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

Mishna

If the father said, “I married off my daughter,” or “I married off my daughter and I accepted a divorce for her when she was a minor,” and behold, she is still a minor, he is believed (and she will be disqualified from the Kehunah).

If he said, “I married off my daughter and I accepted a divorce for her when she was a minor,” and behold, she is now an adult, he is not believed.

If he said, “She was in captivity and I ransomed her,” whether she is now a minor or whether she is an adult, he is not believed. (64a)

Believing the Father

The Gemora asks: Why in the Mishna’s first case is he believed, but in the second case, he is not believed?

The Gemora answers: When his daughter is still a minor, she is in his authority, and he still has the power to marry her off; he is therefore believed (for he has no reason to lie about this). However, when she is an adult, she is no longer under his authority (he cannot marry her off and he cannot deliver her to captors), and therefore, he is not believed.

The Gemora asks: But (when she is still a minor) he still has the power to marry her off to a chahal (a desecrated Kohen; a child born from a union between a Kohen and a woman who is forbidden to Kohanim; the child becomes disqualified from Kehunah and is allowed to marry women who are forbidden to Kohanim), which will disqualify her from the Kehunah (and he therefore should be believed that she was

taken captive, for if he wanted to lie and cause her to become disqualified, he could have just married her off to a chahal, which would have accomplished the same result)?

The Gemora answers: The Tanna of our Mishna may be following the opinion of Rabbi Dostai the son of Yehudah, who holds that a Jewish woman is a mikvah of purity for a chahal. [He holds that the daughter of a chahal is not disqualified from the Kehunah. And since it is stated that if a Kohen can marry someone’s daughter, he can marry his widow as well, it emerges that the woman married to a chahal does not become disqualified from the Kehunah. Accordingly, the father does not have it in his power to disqualify his daughter from the Kehunah.]

The Gemora asks: But he does have the power to marry her off to a mamzer (which would disqualify her from the Kehunah)?

The Gemora answers: The Tanna of our Mishna may be following the opinion of Rabbi Akiva, who maintains that kiddushin does not take effect with women who are prohibited by a negative prohibition.

The Gemora asks: But he does have the power to marry off his daughter, who was once widowed, to a Kohen Gadol (which would disqualify her from the Kehunah)? And even according to Rabbi Akiva, the kiddushin, in this case, will take effect, as Rabbi Simai said: Any woman who is subject to a negative prohibition (even if she is not a relative) will produce a mamzer except for a widow to a Kohen Gadol. This is proven from the fact that the Torah writes: The Kohen Gadol shall not take a widow for a wife, and he shall not

profane his seed. This teaches us that if he would marry a widow, the children will be *chalalim*, but not *mamzeirim*.

The *Gemora* answers: The *Tanna* of our *Mishna* is following the opinion of Rabbi Yesheivav, who said that we should protest against Akiva the son of Yosef (*for according to him, there will be an abundance of mamzeirim in Klal Yisroel*), who said: If a man cohabits with any woman forbidden to him, the offspring will be a *mamzer* (*and accordingly, a Kohen Gadol's kiddushin with a widow will not take effect*).

The *Gemora* asks: This is fine if Rabbi Yesheivav is offering his own explanation of Rabbi Akiva's opinion. However, if he is merely disagreeing with Rabbi Simai, then we can ask that the father would still have the power to marry off his daughter to someone prohibited to her through a positive commandment (*for Rabbi Yesheivav was only arguing with Rabbi Simai's exception of a widow to a Kohen Gadol; however, he would agree that kiddushin could take effect with a man prohibited to her through a positive commandment*)!?

Rav Ashi asks (*on our explanation of the Mishna*): Can it be said that the father is believed because he has the power to marry her off? But he does not have the power to have her divorced from that man (*and yet, the Mishna states that he is believed regarding that as well*)?

And furthermore, if the man does not wish to marry his daughter, can he marry off his daughter against the will of the man?

Rather, Rav Ashi explains the *Mishna* according to what Rav Huna said in the name of Rav, for Rav Huna stated in the name of Rav: How do we know that a father is believed to forbid his daughter (*from marrying*) according to the Torah? The Torah states "I gave my daughter to this man for a wife." When the father said that he married her off to a man, she became forbidden to all men (*for he did not yet identify who the betrother was*), but when he said, "to this man," she becomes permitted to him. Rav Ashi concludes: We only

believe the father with respect to marriage (*and only when she is a minor or a na'arah, not an adult*), not regarding captivity. (64a)

Mishna

Whoever says at the time of his death, "I have children (*and therefore my wife does not fall for yibum*)," is believed. If he said, "I have brothers (*and therefore my wife does fall for yibum*)," he is not believed. (64a)

Betrothing with his Services

The *Gemora* infers from the *Mishna* that the husband is believed to permit his wife (*to marry anyone, by saying that he has children, and she is not required to wait for the yavam*), but he is not believed to forbid her (*from marrying anyone, by saying that he has brothers, and she would therefore required to wait for the yavam*). If so, then our *Mishna* would not be in accordance with Rabbi Nassan, for we learned in a *braisa*: If a man, at the time of *kiddushin*, said to the woman he was marrying that he has children, but at the time of his death, he said that he has no children, or, if at the time of *kiddushin*, he said that he had no brothers, but at the time of his death, he said that he has brothers, he is believed to permit his wife (*as he said initially*), but not to forbid her; these are the words of Rebbe. Rabbi Nassan said: He is even believed to forbid her.

Rava answered: The *braisa's* case is different, for at the time of his death, he retracted from his earlier statement, and perhaps he is saying the truth.

Abaye asked: On the contrary! In the *Mishna's* case, where he is not contradicting his initial words, we should assume that he is saying the truth!?

Rather, Abaye says: The *Mishna* is dealing with a case where we have no presumption that he has brothers, and there is no presumption that he has children (*and therefore, we assume that if he dies, his wife will not fall for yibum*).

Therefore, when he, at the time of his death, says that he has sons, we believe him (*for he is merely reinforcing the status quo that she will not fall for yibum*). If, however, he says that he has brothers, he is not believed, for he does not have the power to forbid her from marrying the entire world. The *braisa*, however, is dealing with a case where we had a presumption that he had brothers, and there was no presumption that he had children. When, at the time of *kiddushin*, he said that she will not fall for *yibum* (*against our present assumption*), we believe him, for we apply the principle of “why should I lie.” If he wants her to be free of *yibum*, he can tell her that she should be divorced a moment before his death. Rebbe holds that the logic of “why should I lie” is so strong, it is comparable to witnesses. Therefore, the witnesses come and uproot completely our original presumption. [*When, at the time of his death, he retracts from this testimony, and he says that she should not fall for yibum, he is not believed.*] Rabbi Nassan holds that the logic of “why should I lie” is similar in strength to a presumption, and one presumption cannot uproot a different one. [*When, at the time of his death, he retracts, and he says that she should not fall for yibum, he is believed for the original presumption was never completely uprooted.*] (64a – 64b)

Mishna

If one marries off his daughter to a man, but he does not specify which daughter he is giving, the adult daughters are not included (*for the father has no authority over them*).

If a man has two sets of daughters by two wives, and he declares, “I have given my elder daughter in betrothal, but I do not know whether it was the eldest of the elder group (*the first marriage*) or the eldest of the younger group (*the second marriage*), or the youngest of the elder group, who is older than the eldest of the younger group,” they are all forbidden, except for the youngest of the younger group. This is Rabbi Meir’s opinion. Rabbi Yosi said: They are all permitted except for the eldest of the elder group (*a person doesn’t put himself into a situation of doubt, and obviously*

when he said “elder,” he meant the eldest of the elder group).

If a man has two sets of daughters by two wives, and he declares, “I have given my younger daughter in betrothal, but I do not know whether it was the youngest of the younger group (*the second marriage*) or the youngest of the elder group (*the first marriage*), or the eldest of the younger group, who is younger than the youngest of the elder group,” they are all forbidden, except for the eldest of the elder group. This is Rabbi Meir’s opinion. Rabbi Yosi said: They are all permitted except for the youngest of the younger group. (64b)

A Marriage

without the Possibility of Cohabitation

The *Mishna* had stated: If one marries off his daughter to a man, but he does not specify which daughter he is giving, the adult daughters are not included (*for the father has no authority over them*).

It can be inferred from here that his minor daughters are included (*and they all would require a get*). But why should this be? It is a case where the marriage does not have the possibility of cohabitation. This proves such a marriage is nevertheless valid!

The *Gemora* rejects this proof: The *Mishna* is dealing with a case where he only had one adult daughter and one minor daughter (*the key point being that there was only one minor daughter, for she is the only one that the father could have married off*).

The *Gemora* asks: What then is the novelty of this *Mishna*?

The *Gemora* answers: The *Mishna* is referring to a case where the adult daughter appointed her father as her agent to accept *kiddushin* for her. You might have thought, that in this case, the father is accepting *kiddushin* for his adult daughter. The *Mishna* teaches us that the father would not leave something from which he would derive benefit (*the*

kiddushin money that he receives for marrying off his minor daughter).

The *Gemora* asks: Are we not referring to a case where the adult daughter told the father that he can keep the *kiddushin* money?

The *Gemora* answers: The father would not leave a *mitzvah* that he is obligated to perform (*marrying off his minor daughter*) and perform a *mitzvah* that is not his obligation (*accepting kiddushin for his adult daughter*). (64b)

Puts Himself in a Situation of Doubt

The *Mishna* taught two cases: If a man has two sets of daughters by two wives, and he declares, "I have given my elder daughter in betrothal, but I do not know etc. and if a man has two sets of daughters by two wives, and he declares, "I have given my younger daughter in betrothal, but I do not know etc.

The *Gemora* explains the necessity for both of these cases.

The *Gemora* asks: Do you mean to say that Rabbi Meir holds that a person puts himself into a situation of doubt, and Rabbi Yosi maintains that a person does not put himself into a situation of doubt? But we learned in the following *Mishna* exactly the opposite: If a person vowed not to derive benefit from another person until Pesach, he is forbidden until *Pesach*, but not including Pesach. If he said "until it will be Pesach," he is forbidden until Pesach is over. If he said, "until before the Pesach," Rabbi Meir says: He is forbidden until Pesach arrives. Rabbi Yosi says: He is forbidden until after Pesach. [*Rabbi Meir holds that even though it could be said that "until before" means until one moment before the end of the last day of Pesach, we don't say that, because a person doesn't put himself into a situation of doubt about the second and third days and all the rest of the days of Pesach. So when he says, "until before the Pesach," he means "until before the first day." Rabbi Yosi maintains that a person does put himself into a situation of doubt.*] !?

Rabbi Chanina bar Avdimi said in the name of Rav: Our *Mishna* switched the names of the Tannaim. (*In truth, Rabbi Yosi ruled that he is forbidden until Pesach arrives and Rabbi Meir said that he is forbidden until after Pesach.*) The *Gemora* cites a *braisa*, which supports this switch. (64b)

INSIGHTS TO THE DAF

Witness to Disqualify from Kehunah

The *Mishna* stated: If a man said, "My daughter was in captivity and I ransomed her," whether she is now a minor or whether she is an adult, he is not believed (*and she will not be disqualified from the Kehunah*).

The Tosfos Rid holds that in order to testify that a woman is a divorcee (*and therefore she is disqualified for Kehunah*), two witnesses are required, for there cannot be testimony regarding a *davar she'b'ervah* with less than two witnesses. The Rambam, however, maintains that one witness is believed to testify that a woman is a divorcee, or a *chalalah*, and based upon this testimony, she will be disqualified from the *Kehunah*.

The Shaar Hamelech asks on the Rambam from our *Mishna*. Why isn't the father believed that his daughter was taken into captivity? Is the father any worse than an ordinary witness?

He answers that our *Mishna* is discussing a case where the daughter asserts that she was taken as a captive. Even in cases where we believe one witness, that is only if there isn't any contradicting witness.

Born into a Mixture

The *Mishna* states: If a man has two sets of daughters by two wives, and he declares, "I have given my elder daughter in betrothal, but I do not know whether it was the eldest of the elder group (*the first marriage*) or the eldest of the younger

group (*the second marriage*), or the youngest of the elder group, who is older than the eldest of the younger group," they are all forbidden, except for the youngest of the younger group. This is Rabbi Meir's opinion.

The Makneh asks: Why are they all forbidden? Let us apply the principle of "following the majority"! We should say that each one of these women came from the majority of women that are permitted!?

He answers based upon the following opinion of the Mordechai: We say that something becomes nullified in a majority only when it was once recognized, and afterwards it became intermingled with others. However, something which was created in a state of mixture, it is not possible for it to be nullified by the majority. In our case, we never knew which daughter he was referring to and therefore they will all be forbidden.

Helping a Son or Daughter to Marry

The Gemara (*Kesubos* 52b) infers from the *pasuk Yirmiyahu* (29:6), "Take wives for your sons, and give your daughters to husbands" that a father is obligated to marry off his sons and daughters. Since it is not a woman's task to search for a husband, the father must provide a dowry for his daughter so that men will want to marry her (*Kiddushin* 30b, and Ran *ibid.*, *Kesubos* 52b).

Financial assistance for sons: Sometimes a father must also help his son financially, such as buying presents where the custom is for the *chassan* to send presents to the *kallah* before they are married (Maharit, *Y.D.* §27). However, our *Daf* seems to present a certain difficulty regarding daughters.

Our *Mishnah* deals with a man who had two daughters, a *bogeres* [adult] and a *ketana*. The older girl appointed her father as her *shaliach* to accept *kiddushin* from a man whom her father would consider worthy. When the father accepted the *kiddushin* money from the man he did not

specify that he meant his older daughter, saying only, "Marry my daughter." The *Mishnah* tells us that since it is unclear which daughter he meant, Chazal assume he meant for the man to marry his younger daughter. The Gemara explains that surely a person first tries to fulfill the *mitzvah* he is obligated in, and the father is only commanded to marry off his daughter who is a *katanah*. Evidently the *mitzvah* for the father to assist his daughters to marry does not refer to an adult daughter. Is he not obligated to help by providing his older daughter with a dowry?

The *Ezer Mikodesh* (§1) explains that surely the father has a *mitzvah* to marry off his older daughter as well, but Chazal assume that he wants perform *kiddushin* for his daughter the *ketanah* who cannot marry herself off since she is not able to receive *kiddushin* herself, unlike her older sister who can marry without her father receiving the *kiddushin* for her.

DAILY MASHAL

Can an older son or daughter be "skipped over?" HaRav Moshe Feinstein *zt'l* (*Igros Moshe, E.H.* II §1) proves from our *Daf* that younger brothers and sisters are not required to wait until their elder siblings marry. Since in our Gemara Chazal assumed the father wanted to marry his younger daughter before her older sister, surely such a marriage cannot be forbidden.