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Daf Notes is currently being dedicated to the neshamot of

**Moshe Raphael ben Yehoshua (Morris Stadtmauer) o”h**  
**Tzvi Gershon ben Yoel (Harvey Felsen) o”h**

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

**1. Examining a Youth**

Rav Nachman said in the name of Shmuel: A youth (*a boy at thirteen and a girl at twelve years old*) are examined (*to determine whether they have the signs of maturity – two pubic hairs*) with respect of betrothal, divorce, *chalitzah* and *mi’un*. [*A girl whose father had died could be given in marriage while still a minor (under the age of twelve) by her mother or older brother. This marriage is only valid Rabbinically. As long as she has not attained the age of twelve, she may nullify the marriage by refusing to live with her husband. This act of refusal, referred to as mi’un nullifies the marriage retroactively.*] But in regard to selling the father’s estate, he cannot do so until he becomes twenty years old.

The *Gemora* asks: Once he was examined with respect of his betrothal, what is the necessity to check him again with respect of his divorce?

The *Gemora* answers: It would be required for a case of *yibum* (*levirate marriage - the act of the brother-in-law (in this case – a youth) marrying his widowed sister-in-law, when the brother died without children*). For we learned in a *Mishna*: If a boy who is nine years and one day old cohabits with his sister-in-law, he has acquired her as a wife, but he may not divorce her until he becomes an adult.

That which it was stated that he must be examined with respect of *chalitzah* excludes the ruling of Rabbi Yosi, who said: It is written “a man” regarding *chalitzah*, but as to a woman, even if she is only a minor, her *chalitzah* is valid. It was therefore necessary to teach us that a woman is compared to a man (*and even she needs to have reached adulthood*), which is contrary to the opinion of Rabbi Yosi.

And that which it was stated that he must be examined with respect of *mi’un* excludes the ruling of Rabbi Yehudah, who said: [*She is not regarded as an adult*] until those hairs give an appearance in that area of more black than white (*the hairs are so long that when they lie along her skin, the pubic area appears black*). It was therefore necessary to teach us not like the opinion of Rabbi Yehudah.

And that which it was stated that with regard to selling the father’s estate, he cannot do so until he becomes twenty years old excludes the opinion who holds that he may do so when he becomes eighteen years old.

The *Gemora* issues several rulings: The *halachah* is that during the time (*during his twentieth year*), one is regarded as being before his time (*and he cannot sell his father’s estate until he turns twenty*). The *halachah* is in accordance with Giddal bar Menashya (*that a thirteen year old may sell his father’s estate if he has good business sense*). The *halachah* is in accordance with Mar Zutra (*that a thirteen year old who does not have good*

*business sense may offer testimony with regards to movables, but not land*). The *halachah* is in accordance with Ameimar (*that a thirteen year old who does not have good business sense may nevertheless give from his father's estate as a gift*). And the *halachah* is in accordance with all that Rav Nachman said in the name of Shmuel (*regarding the examination of a youth*). (156a)

## 2. Mishna

If a man verbally divides his property among his inheritors, Rabbi Elozar says that whether he is healthy or dangerously ill (*he is required to make a formal kinyan to transfer his property*), real property (*land*) can be transferred only by money payment, by document, or by an act of possession (*chazakah; displaying ownership*), and movable property may be transferred only by pulling (*a kinyan meshichah*). The *Chachamim* say that transference of ownership (*by a deathly ill person*) can be accomplished in both cases by his mere word of mouth. The *Chachamim* said to him: There is the case of the mother of the sons of Rocheil who was ill and said, "Let my brooch be given to my daughter; it is worth twelve *maneh*." She then died and the *Chachamim* carried out her instruction! He replied: The sons of Rocheil — may their mother bury them! [*They were sinners and no proof can be brought from them.*] (156a – 156b)

### ***Kinyan by a Shechiv Mei'ra***

The *Gemora* cites a *braisa*: Rabbi Elozar said: There once was a man from Maron who was in Yerushalayim and he possessed much movable property which he desired to give away as a gift. They told him, however, that there was no means of carrying out his wish unless he transferred possession to the recipients by virtue of land (*given to them at the same time*). He consequently went and purchased a *beis sela* piece of land near

Yerushalayim and gave the following instructions: Its northern part shall be given to So-and-so, and together with it, a hundred sheep and a hundred casks. And when he died, the Sages carried out his instructions. [*Evidently, even a shechiv mei'ra can only transfer property to another with a formal kinyan!*]

The *Chachamim* said to Rabbi Elozar: From there, you bring a proof!?! The man from Maron was in good health at that time (*and therefore a formal acquisition was necessary*). (156b)

## 3. Rabbi Elozar's Opinion

The *Mishna* had stated: He replied: The sons of Rocheil — may their mother bury them!

The *Gemora* asks: Why did Rabbi Elozar curse them?

Rav Yehudah answered in the name of Shmuel: They violated the prohibition of *kilayim* (*the prohibition against planting together different species of vegetables, fruit or seeds; kilayim of a vineyard is forbidden for all benefit*) by maintaining thorns in a vineyard. Rabbi Elozar follows his own opinion, for we learned in a *Mishna* that if one maintains thorns in a vineyard, Rabbi Elozar holds that one cannot benefit from the grapevines (*because one is forbidden to plant even thorns in a vineyard*). The *Chachamim* disagree and hold that the vineyard is not forbidden unless one maintains something that most people would maintain in his field, and people do not plant thorns.

The *Gemora* asks: It is understandable why crocus would render the vineyard forbidden, for it is suitable for use (*people maintain crocus in a field*), but why would maintaining thorns cause the vineyard to become forbidden?

The *Gemora* answers: Rabbi Elozar's rationale is that in Arabia, people plant thorns for camel food.

Rabbi Levi said: A formal acquisition is done with a *shechiv mei'ra* even on *Shabbos* (where ordinarily, it is forbidden to make a *kinyan* on *Shabbos*). This is not due to a consideration of Rabbi Elozar's viewpoint (that every *shechiv mei'ra* gift requires a *kinyan*); but rather, it is due to the possibility that his state of mind might deteriorate (if he thinks that his mere instructions will not be fulfilled). (156b)

#### 4. Mishna

Rabbi Eliezer (according to some, it is the *Chachamim*) said: On *Shabbos*, the words of a *shechiv mei'ra* are valid, because he cannot write, but not on a weekday (until a *kinyan* is performed and it is written down). Rabbi Yehoshua says: They said this about *Shabbos*, all the more so on a weekday (for he is able to make a *kinyan* and write it; and a flour-offering that is fit for mixing (of the flour and the oil of the offering; with one log of oil for sixty *esronim* of flour, and a maximum of sixty *esronim* in one pan, perfect mixing is possible), the mixing is not critical to it (and the offering will be valid even without mixing). Similarly, one may acquire for a minor (for he cannot acquire for himself; the *Chachamim* therefore established that someone else can acquire for him) and one may not acquire for an adult (for he can acquire himself). Rabbi Yehoshua says: They said this of a minor (although he cannot acquire himself), all the more so for an adult (for he can acquire himself). (156b)

#### Who Holds What?

The *Gemora* asks: According to which *Tanna* is the *Mishna* following?

The *Gemora* answers: It is the opinion of Rabbi Yehudah, for it was taught in a *braisa*: Rabbi Meir said: Rabbi Eliezer said: During the weekdays, the words of a *shechiv mei'ra* are valid, because he is able to write, but not on *Shabbos*. Rabbi Yehoshua said: They said this about the weekday (that his words are valid even though he is able to write), all the more so on *Shabbos* (for he is not able to write it; so the *Chachamim* instituted that that his words shall be valid due to the possibility that his state of mind might deteriorate if he thinks that his instructions will not be fulfilled). Similarly, one may acquire for an adult (for he can acquire for himself) and one may not acquire for a minor (for he cannot acquire himself); these are the words of Rabbi Eliezer. Rabbi Yehoshua said: They said this of an adult, all the more so for a minor. Rabbi Yehudah said: Rabbi Eliezer said: On *Shabbos*, the words of a *shechiv mei'ra* are valid, because he cannot write, but not on a weekday (until a *kinyan* is performed and it is written down). Rabbi Yehoshua says: They said this about *Shabbos*, all the more so on a weekday (for he is able to make a *kinyan* and write it). Similarly, one may acquire for a minor (for he cannot acquire for himself; the *Chachamim* therefore established that someone else can acquire for him) and one may not acquire for an adult (for he can acquire himself). Rabbi Yehoshua says: They said this of a minor (although he cannot acquire himself), all the more so for an adult (for he can acquire himself). (156b – 157a)

#### INSIGHTS TO THE DAF

##### Money as a *Kinyan* on a Gift

The *Mishna* had stated: If a man verbally divides his property among his inheritors, Rabbi Elozar says that whether he is healthy or dangerously ill (he is required to make a formal *kinyan* to transfer his property), real



property (*land*) can be transferred only by money payment, by document, or by an act of possession (*chazakah; displaying ownership*), and movable property may be transferred only by pulling (*a kinyan meshichah*).

This would be a proof that one may give a gift through a *kinyan* of money, for the words of a *shechiv mei'ra* are merely a gift, and yet, Rabbi Eliezer said that he may transfer property through a *kinyan* of money.

The Netziv points this out in his He'emek Shailah. However, he cites a She'iltos that omits the *kinyan* of money. The She'iltos writes that his transfer of property can be accomplished through a *chazakah* (*propriety act*), a document or *chalifin* (*exchange*), but there is no mention of money. It would seem that the Tur also holds like this.

This would be dependent on the dispute between the S"ma and the Ta"z regarding the mechanism of a *kinyan* with money. The S"ma holds that money is the value of the purchase and it is used as part of the payment. Accordingly, this would not apply when one is giving a gift to another. However, according to the Ta"z, who holds that money is an act of acquisition similar to others; one can use the *kinyan* of money to acquire a gift.

## DAILY MASHAL

### *Extra Room in the Taxi*

It once happened that HaRav Aharon Kotler zt"l, the Rosh Yeshiva from Lakewood, was visiting Israel, hired a taxi to transport him from Tel Aviv to Yerushalayim, and since there was extra room in the vehicle, he stipulated with the driver that when he would notice a Jew standing on the side of the road, intending to travel to Yerushalayim as well, he should stop and pick him up.

Rav Shimon Zalaznik was accompanying the Rosh Yeshiva on his journey, and he was troubled by this arrangement. He asked the Reb Aharon, "Is the Rosh Yeshiva not aware that there has been several incidents where Arabs have been disguising themselves as Jewish hitchhikers, and they have been murdering Jews; perhaps one of them will enter the taxi and we will be endangered!?"

The Rosh Yeshiva responded, "I am far more afraid of the Gemora in Yevamos, which states: A man shall not pour the water out of his pit, so long as others may require it. There is plenty of room in the taxi and I am anyway paying the fare; this is the condition that I made up with the driver."

Reb Aharon continued, "And regarding the danger, what is there to be concerned about? If a terrorist would Heaven-forbid enter the vehicle, he is only one person, and I, you and the driver are three! We can surely overpower him!"

The Rosh Yeshiva at the time was in the latter stages of his life.