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Yevamos Daf 108

Produced by Rabbi Avrohom Adler, Kollel Boker Beachwood

Daf Notes is currently being dedicated to the neshamah of

Tzvi Gershon Ben Yoel (Harvey Felsen) o”h

May the studying of the Daf Notes be a zechus for his neshamah and may his soul find peace in Gan Eden and be bound up in the Bond of life

Rav Yehudah stated, and others say that it was taught in a braisa: Originally, a certificate of *mi'un* was written, as follows: “I do not want him, and I do not desire him, and I do not wish to be married to him.” When, however, it was observed (by the Rabbis) that the formula was too wordy, and it was feared that people might mistake it for a letter of divorce (and use this language for a get); therefore, the following formula was instituted: On such-and-such a day, So-and-so, the daughter of So-and-so, made a declaration of refusal in our presence. (107b6 – 108a1)

Our Rabbis taught in a *braisa*: What is regarded as *mi'un*? If she said, “I do not want So-and-so my husband,” or “I do not want the betrothal which my mother or my brothers have arranged for me.” Rabbi Yehudah said even more than this: Even if while sitting in the bridal litter, and being carried from her father's house to the home of her husband, she said, “I do not want So-and-so my husband,” her statement is regarded as a declaration of refusal. Rabbi Yehudah said more than this: Even if, while the wedding guests were reclining on their dining couches in her husband's house and she was standing and waiting upon them, she said to them, “I do not want my husband So-and-so,” her statement is regarded as a declaration of refusal. Rabbi Yosi ben Yehudah said more than this: Even if, while her husband sent her to a shopkeeper to bring him something for himself, she said, “I do not

want So-and-so my husband,” you can have no *mi'un* more valid than this one. (108a1)

The Mishna had stated: Rabbi Chanina ben Antigonus says that any child [who cannot guard what she has received as *kiddushin* does not have to do *mi'un*].

Rav Yehudah said in the name of Shmuel: The halachah is in accordance with Rabbi Chanina ben Antigonus. (108a1)

A Tanna taught: If a minor who did not make a declaration of refusal married herself again, her marriage, it was stated in the name of Rabbi Yehudah ben Beseirah, is to be regarded as her declaration of refusal.

They inquired: What is the law where she was only betrothed (to another man)? (*Is that regarded as a refusal?*)

Come and hear from the following braisa: If a minor who did not make a declaration of refusal betrothed herself to another man, her betrothal, it was stated in the name of Rabbi Yehudah ben Beseirah, is regarded as her declaration of refusal.

The question was raised: Do the Rabbis disagree with Rabbi Yehudah ben Beseirah or not? If you will conclude that they do disagree, it may be asked

whether only in respect of betrothal, or even in respect of marriage? And should you conclude that they differ even in respect of marriage, the question arises whether the *halachah* is in agreement with him or not? And if you conclude that the *halachah* is in agreement with him, it may be asked whether only in respect of marriage or also in respect of betrothal?

Come and hear: Rav Yehudah stated in the name of Shmuel that the *halachah* is in agreement with Rabbi Yehudah ben Beseirah. Since it was necessary to state that the *halachah* is so, it may be inferred that they indeed disagree.

The question, however, still remains whether the minor spoken of is one who was married in the first instance, or perhaps she is one who was only betrothed?

Come and hear: The daughters-in-laws of Abdan rebelled against their husbands. When Rebbe sent a pair of Rabbis to interrogate them, some women said to them, "Look, your husbands are coming." The daughter-in-laws replied, "Let them be your husbands." Rebbe decided: There is no *mi'un* greater than this. Was this not a case of marriage (and, nevertheless, Rebbe decided that a non-explicit remark is regarded as a *mi'un*)?

The Gemora rejects the proof: No, it was one of betrothal only.

The Gemora rules: The *halachah*, however, is in agreement with Rabbi Yehudah ben Beseirah, even where marriage with the first husband has taken place. (108a1 – 108a2)

Rabbi Eliezer had stated: The act of a minor has no validity.

Rav Yehudah stated in the name of Shmuel: I have surveyed the rulings of the Sages from all aspects and I could not find any man who was so consistent in his treatment of the minor as Rabbi Eliezer. For Rabbi Eliezer regarded her as one taking a walk with her husband in his courtyard, who, when she rises from his bosom, performs her ritual immersion and is permitted to eat *terumah* in the evening (*if she is the daughter of a Kohen*). [The cohabitation with a minor is regarded as a mere stroll in the courtyard – one that has no marital significance – even on a Rabbinic level.] (108a2)

It was taught in a braisa: Rabbi Eliezer stated: There is no validity whatsoever in the act of a minor, and her husband is entitled neither to anything she may find, nor to her earnings, nor may he annul her vows; he does not inherit her and he may not contaminate himself for her. This is the general rule: She is in no respect regarded as his wife, except that it is necessary for her to make a declaration of refusal. Rabbi Yehoshua stated: Her husband has the right to anything she finds and to her earnings, to annul her vows, to inherit her and to contaminate himself for her. The general principle being that she is regarded as his wife in every respect, except that she may leave him by a declaration of refusal. Rebbe said: The opinion of Rabbi Eliezer is more acceptable than that of Rabbi Yehoshua, for Rabbi Eliezer is consistent throughout in his treatment of the minor while Rabbi Yehoshua makes distinctions.

The Gemora asks: What unreasonable distinctions does he make?



The Gemora answers: If she is regarded as his wife, she should also require a letter of divorce.

The Gemora asks: But according to Rabbi Eliezer also it may be argued, if she is not regarded as his wife, she should require no *mi'un* either?

The Gemora answers: Should she then depart without any formality at all? (108a3 – 108a4)

The Mishna had stated: Rabbi Eliezer ben Yaakov states [that any hindrance that is because of the groom makes her (*meaning that it does not stop her from having a law as*) his wife. Any hindrance that is not due to the groom makes it as if she is not his wife].

The Gemora asks: What is to be understood by a hindrance that is because of the groom and a hindrance that is not due to the groom?

Rav Yehudah replied in the name of Shmuel: If when she (a Rabbinically married minor) was asked to marry, she replied, "I must refuse the offer, owing to So-and-so my husband"; such a hindrance is one that was due to the husband (since she has displayed her desire to remain married to him). If, however, she refused the offer because she said, "The men who proposed are not suitable for me"; such a hindrance is one that was not due to the husband.

Both Abaye bar Avin and Rabbi Chanina bar Avin gave the following explanation: If he gave her a get, the hindrance is one that was due to the husband, and therefore, he is forbidden to marry her relatives and she is forbidden to marry his relatives, and he also disqualifies her from marrying a Kohen. If, however, she exercised her right of refusal against him, the hindrance is one that was not due to the husband, and

therefore, he is permitted to marry her relatives and she is permitted to marry his relatives, and he does not disqualify her from marrying a Kohen.

The Gemora asks: But surely, this (distinction between *mi'un* and a get) was specifically stated below in a Mishna: If a minor made a declaration of refusal against a man, he is permitted to marry her relatives and she is permitted to marry his relatives, and he does not disqualify her from marrying a Kohen; but if he gave her a get, he is forbidden to marry her relatives and she is forbidden to marry his relatives, and he also disqualifies her from marrying a Kohen!?

The Gemora answers: The Mishna (below) is merely an explanation (of the previous Mishna). (108a4)

The Mishna states: If she refuses a man, he is permitted to her relatives, and she is permitted to his relatives, and she is not disqualified from the *Kehunah*. If he gave her a bill of divorce, he is prohibited to her relatives and she is prohibited to his relatives, and she is disqualified from the *Kehunah*. If he gave her a bill of divorce and took her back; she then refused him and married another, and she was widowed or divorced, she is permitted to return to him. If she refused him and he took her back, he gave her a bill of divorce and she married another, and she was widowed or divorced, she is prohibited from returning to him. This is the general rule: A bill of divorce after refusal, she is prohibited from returning to him. Refusal after a bill of divorce, she is permitted to return to him.

If she refused a man, and married another, and he divorced her; another, and she refused him; another, and he divorced her; another, and she refused him; from whomever she went forth by a bill of divorce, she



is prohibited from returning to him; by refusal, she is permitted to return to him. (108a4 – 108b1)

The *Gemora* asks: It is thus evident that *mi'un* has the power to cancel divorce; but this, surely, is contradicted by the latter part of the *Mishna* which states: If she refused a man, and married another, and he divorced her; another, and she refused him; another, and he divorced her; another, and she refused him; from whomever she went forth by a bill of divorce, she is prohibited from returning to him; by refusal, she is permitted to return to him. From here it is evident that *mi'un* against his fellow has no power to cancel his own divorce!

Rav Yehudah said in the name of Shmuel: There is indeed a contradiction; the one who taught the former did not teach the latter.

Rava said: But what contradiction is this? It is possible that *mi'un* cancels his own divorce, but that the *mi'un* against his fellow does not cancel his own letter of divorce!

The *Gemora* asks: But in what way is the *mi'un* against his fellow different that it should not cancel his own divorce? It is obviously for the reason that as she is familiar with his hints and lip movements, he might allure her and marry her again. But if this is the case, *mi'un* against himself also should not cancel his divorce, for the same reason that as she is familiar with his hints and lip movements, he might allure her and marry her again!

The *Gemora* answers: Surely, he had already tried to allure her, but she did not succumb.

If a contradiction, however exists, it is that between one ruling concerning his fellow against another ruling concerning his fellow. For our *Mishna* stated: If she refused him and he took her back, he gave her a bill of divorce and she married another, and she was widowed or divorced, she is prohibited from returning to him. The reason why she is forbidden to return to him is because she was widowed or divorced, but had she exercised her right of refusal, she would have been permitted to return to him, from which it is evident that the *mi'un* against his fellow has the power to cancel his own divorce. But this view is contradictory to the latter part of the *Mishna* which stated: If she refused a man, and married another, and he divorced her; another, and she refused him; another, and he divorced her; another, and she refused him; from whomever she went forth by a bill of divorce, she is prohibited from returning to him; by refusal, she is permitted to return to him. From this, then, it is evident that the *mi'un* against his fellow has no power to cancel his own divorce!

Rabbi Elozar replied: There is indeed a contradiction; the one who taught the former did not teach the latter.

Ulla replied: The latter part of the *Mishna* refers to a case where she was divorced three times, so that she appears like an adult. (108b1 – 108b2)

The *Gemora* asks: Who is the Tanna (about whom it was said that the one who taught the former did not teach the latter)?

Rav Yehudah replied in the name of Rav: What is the meaning of that which is written: *We have drunk our water for money; our wood comes to us for a price.* In the time of danger (when there was governmental decrees against the learning of Torah), the following

halachah was inquired for: If a minor left her first husband with a get and her second husband through mi'un, may she return to her first husband? They hired a man for four hundred zuz, and through him, they addressed the enquiry to Rabbi Akiva in prison, and he stated that she was forbidden. Rabbi Yehudah ben Beseirah also was asked at Netzivin and he too forbade her. Rabbi Yishmael son of Rabbi Yosi said: There was no reason for us to ask such a question (for she surely is permitted to marry her former husband again), for if in a prohibition involving the penalty of kares (relations with a married woman), he has been permitted (on account of the mi'un), how much more so (it should be permitted) in one involving only the penalty of a negative commandment (such as the prohibition of remarrying one's divorced wife after she married another man)!

But (R' Yishmael continues), the enquiry was in this manner: If a minor was the wife of his mother's brother, and consequently forbidden to him as a secondary ervah, and his paternal brother subsequently married her, and died (without children, causing her to fall for yibum), may she now exercise her right of mi'un, and thus uproot her first marriage, and so be permitted to be taken by him in yibum?

The Gemora explains: Is mi'un valid after a husband's death where a mitzvah (of yibum) is involved, or not? Two men were hired for four hundred zuz and when they came and asked Rabbi Akiva in prison, he ruled that yibum was forbidden (for a mi'un, after the death of her first husband, is ineffective – even in a case of yibum); and when Rabbi Yehudah ben Beseirah also was asked at Netzivin, he also decided that it was forbidden.

Rav Yitzchak bar Ashian stated: Rav (who maintains that a minor will always be forbidden to her first husband who divorced her, even after she performed mi'un with her second husband), however, admits that she is permitted to marry the brother of the man whom she is forbidden to remarry (for regarding him, the mi'un performed to the second husband retroactively nullified the get from the first husband, and he is not considered 'her ex-husband's brother').

The Gemora asks: Is this not obvious? For it is only he (her husband) with whose gestures and lip movements she is familiar but not his brother!?

The Gemora answers: It might have been assumed that marriage with the one (the brother) should be forbidden as a preventive measure against the other (the other); therefore, we were taught (that his brother may marry her).

Another version: Rav Yitzchak bar Ashian stated: As she is forbidden to him, so is she forbidden to his brothers.

The Gemora asks: But, surely, she is not familiar with their gestures and lip movements?

The Gemora answers: His brothers were forbidden as a preventive measure against marriage with him. (108b3 – 108b4)