

## OVERVIEW of the Daf

### 1) Kiddushin with money (cont.)

The novelty of Shmuel's earlier-ruling is identified.

### 2) The language of kiddushin

A Baraisa presents different expressions that effect a valid kiddushin.

The Gemara explains why the cases were presented in two sets of three.

The Gemara inquires whether other expressions effect kiddushin and the Gemara is only able to resolve one of those cases.

The use of the term חרופה or kiddushin is discussed.

The exact circumstances surrounding the use of the earlier expressions are explored and after the Gemara explains the circumstances it declares that there is no resolution to the Gemara's inquiry.

### 3) Giving kiddushin in silence

The Gemara cites the dispute between R' Yosi and R' Yehudah about whether it is always necessary for the man to explain his intent to perform kiddushin.

R' Yehudah in the name of Shmuel asserts that R' Yosi's opinion that a declaration is unnecessary applies only when the couple had been previously discussing kiddushin.

It is noted that this qualification is a matter debated by Tannaim.

The view that holds that it is unnecessary for the couple to have been discussing kiddushin is explained.

R' Huna in the name of Shmuel states that the halacha is like R' Yosi.

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## REVIEW and Remember

1. How can one prove that it is important to repeat teachings as they were taught?

2. Is a formal declaration of kiddushin necessary?

3. Does the phrase "You are to yourself" emancipate a slave?

4. Is a gift given on condition a valid gift?

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## Distinctive INSIGHT

*A person who is not competent should not be involved*

כל שאינו יודע בטיב גיטין וקידושין לא יהא לו עסק עמהם

Rashi explains that anyone who is not expert in the details of kiddushin and divorce should not be involved in judging and ruling in such cases. He might inadvertently permit a married woman to marry someone else, resulting in potential tragic circumstances. Rashi's comment suggests that the only area in which an incompetent person is prohibited to participate is in acting as a judge in such cases. E.H. 49:#3 writes (E.H. 49:#3) that the writing of a גט involves many complicated details, so a person who is not fully aware of the halachos should not be involved in writing such documents. Arranging kiddushin is not as complex, so here we allow even one who is not fully aware of the halachos to officiate. E.H. 49:#3 adds that this is the custom we follow, as we honor important people to arrange kiddushin, even if they are not experts in this field.

Tosafos explains that the warning in our Gemara for a "non-expert not to be involved" is not referring to one acting as a judge, but it is rather an admonition against an average man-in-the-street not to speak with women about becoming betrothed. He might unknowingly use a phrase which is a valid statement of betrothal, not realizing that he has just offered kiddushin to this woman. This would result in a tragic situation of a woman being married and not knowing it. This is why a person must be careful if he is not proficient in the details of kiddushin. Regarding divorce, Tosafos notes that if a man unknowingly divorces his wife, there does not seem to be any danger, as in the worst case the husband who might unknowingly divorce his wife will simply continue to live with her. This is not problematic, as this only means that he is remarrying her. Nevertheless, Tosafos suggests that this, too, is a danger. If the husband is a kohen he is prohibited to marry even his own divorcée. Tosafos Harosh adds that if at this point this woman accepts kiddushin from another man she will assume that this second kiddushin is meaningless, as she is still under the understanding that she is married to her first husband. This would be an unfortunate situation where she really is married to the second man, and never know it.

In his שיעורים, R' Elchonon asks that if a man has no idea that the kiddushin or gittin is valid due to his incompetence, neither he nor the woman have any intention that the kiddushin or gittin being offered has any meaning at all. Therefore, this act is lacking intent. R' Elchonon answers that the man might use an expression that he does not understand, but objectively, everyone else who hears it knows that it is certainly a valid offering of kiddushin. His subjective lack of awareness is not enough to undermine the kiddushin. ■

# HALACHAH Highlight

## The Mesader Kiddushin

כל שאינו יודע בטיב גיטין וקידושין לא יהא לו עסק עמהן

Who does not know the halachos of gittin and kiddushin should not have involvement with them

**M**aharsha<sup>1</sup> wonders why R' Yehudah stated that one should be an expert in matters of "gittin" first and then "kiddushin" when the correct chronological order is "kiddushin" and then "gittin." He answered that to permit a single girl to marry does not require any expertise in halacha and people are generally knowledgeable enough to preside over a woman's first marriage. The halachos of gittin are more numerous and complex and since it also carries the weight of permitting a married person to remarry only one who is an expert in these areas should preside over a woman's divorce.

Shulchan Aruch<sup>2</sup> rules that one who is not an expert in matters of gittin and kiddushin should not get involved in these areas to issue halachic rulings (להורות בהם) since one could easily make an error and issue an erroneous permissive ruling related to arayos. Taz<sup>3</sup> infers from the wording of Shulchan Aruch that the restriction against involvement in gittin and kiddushin for those who are not experts is limited to issuing halachic rulings about these matters. It is permitted, however, for someone who is not an expert to preside over a wedding (מסדר קידושין) since this role does not involve issuing halachic rulings. Pischei Teshuvah<sup>4</sup> cites authorities who disagree with Taz's position and maintain that it is prohibited even to preside over a marriage if someone is not an expert in matters of gittin and kiddushin. They base their strict position on the wording of the Gemara that states that one who is not an expert should have no dealings (עסק) with them. This language implies any involvement, even to serve as the Mesader Kiddushin. Sefer **את יוסף אחיו**<sup>5</sup> discusses at length the status of a person who developed an expertise in one area but not both. For example, if a person is well

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R' Ashi told R' Yeimar that this is a halacha that people involved with marriage and divorce must know.

### 4) Language of divorce

Shmuel's earlier statement related to the language of divorce is cited and it leads the Gemara to ask whether the statement, "You are to yourself," is a language of divorce.

Ravina cites a Baraisa that indicates that it is a valid declaration of divorce.

Ravina asks whether the statement, "I have no dealings with you," is a language of emancipation.

A Baraisa is cited that indicates that it is a declaration of emancipation.

### 5) Kiddushin with a loan

Abaye rules that kiddushin with a loan is invalid but if it is with the benefit of a loan it is valid.

The case of kiddushin with the benefit of a loan is explained.

### 6) A gift on condition that it be returned

Rava issues four rulings that relate to giving money on condition that it be returned.

It is noted that these rulings are contradictory.

R' Ashi states that in all cases the transaction is valid except for kiddushin because it looks like חליפין.

R' Ashi is told that his aversion of Rava's rulings is accurate. ■

versed in the halachos of kiddushin but not in the halachos of gittin is he permitted to be involved in kiddushin related matters or perhaps a person requires an expertise in both areas in order to issue any type of related rulings. ■

1. מהרש"א ח"א לקמן י"ג :
2. שו"ע אה"ע סי' מ"ט סעי' ג'.
3. ט"ז שם סק"א.
4. פת"ש שם סק"א.
5. יוסף את אחיו מערכת ג' אות ד'. ■

# STORIES Off the Daf

## Five Coins

הילך מנה על מנת שתחזירנה לי...אין הבן פדוי

**A**certain young man needed to redeem his firstborn son. The problem was that he didn't have the five selaim with which to do it. He heard that Rav Aryeh Levin, zt"l, had retained such coins from the time of the Ottomans, so he took them from him. He figured that he would redeem them from the kohein after the ceremony and return them to Rav Levine.

He invited his entire family and friends to the pidyon haben and presented the kohein with the coins to redeem his son. Immediately after the pidyon, the baal simcha's

father-in-law approached the kohen and requested to buy the coins off of him. The kohen figured that the grandfather was acting on behalf of the father and agreed.

After the meal, when the father approached the kohen to acquire the coins, he was shocked to hear that his wife's father had already purchased them.

When he approached his father-in-law for the coins, the man refused to give them up. "If you gave them to the kohein with your whole heart they are mine. If you gave them to him as a **מתנה על מנת להחזיר** the child is not redeemed, as we find in Kiddushin 6..."

The father-in-law was kidding and after playing around a bit more, he relinquished the coins.

The Tchebiner Rav, zt"l, was present at the pidyon but did not intervene. When he was on his way home with Rav Yehudah Rabinovitch, zt"l, he said, "The truth is that the son-in-law was correct. The father-in-law was obligated to give back the coins and the redemption was good.

"The proof is from the **ט"ז** who writes that if one sold his **חמץ** to a **גוי** and another Jew redeemed it, he is obligated to sell it back to the original owner. The reason is because that is the custom of merchants as a courtesy.

"I didn't say anything since I could tell that the zeide was just trying to make things lebidik!"<sup>2</sup> ■

1. או"ח, סימן תמ"ח, ס"ק ד'
2. בצל חמדתי, עמוד צ"צ"א