

OVERVIEW of the Daf

1) Kiddushin by cohabitation (cont.)

The Gemara continues to record the exchange between Rebbi and R' Yochanan concerning the phrase בעולת בעל.

The Gemara inquires whether it is the beginning or end of cohabitation that effects kiddushin.

Two practical differences between these two positions are highlighted.

Ameimar in the name of Rava answers that it is the end of cohabitation that effects kiddushin.

The Gemara inquires whether cohabitation also effects nissuin or only kiddushin.

A number of different unsuccessful attempts are made to resolve this inquiry.

In the third attempt the Gemara cited a dispute between Yochanan ben Bag Bag and R' Yehudah ben Beseirah of Netzivim.

Ravina suggests a second reason why the earlier-cited Baraisa does not resolve the inquiry. ■

REVIEW and Remember

1. What is the point of dispute between R' Oshaya and R' Yonasan?

2. What are the practical differences whether cohabitation effects kiddushin or even nissuin?

3. What was the dispute between Yochanan ben Bag Bag and R' Yehudah ben Beseirah?

4. What is סימפון?

Distinctive INSIGHT

What is the proof from the Mishnah in Kesuvos?

האב זכאי בבתו בקידושיה בכסף בשטר ובביאה, וזכאי במציאתה ובמעשה ידיה

The Gemara had posed an inquiry to determine whether ביאה functions to create a status of kiddushin only, or whether the nature of the relationship immediately advances to one of נישואין—marriage. The technical difference is whether the man is eligible already at this point to inherit from her, attend her funeral (if he is a kohen) and whether he can nullify her vows without the cooperation or assistance of the father. There are many other practical applications to this question of whether the woman is simply betrothed at this point or if she is married, but the Gemara chose to illustrate those which directly affect the husband.

Abaye cites a Mishnah from Kesuvos (46b) to resolve this question. “A father has the rights to arrange kiddushin for his underage daughter by means of money, a document, or with ביאה. The father still receives the rights to any object she finds, etc. When she later marries, the husband has additional rights to benefit from the מלוג property she brings into the marriage.” We see, observes Abaye, that the Mishnah lists all three methods of kiddushin, including ביאה, together in the same category to advance the woman to be betrothed, but not to be married. The Gemara refutes this Mishnah as a proof that ביאה results only in kiddushin, as when the Mishnah rules that the woman is only betrothed, it might be referring to the other methods (כסף and שטר), but ביאה might actually result in marriage.

In describing the father's right to assign his daughter to be betrothed by כסף or שטר, Rashi explains that this means that if the father makes this arrangement, he receives the cash or the document. Regarding ביאה, Rashi explains that it is the father who can choose who the husband will be, even without his young daughter's consent. In fact, in order to emphasize the father's exclusive right, Rashi directly notes that the father may even choose an undesirable husband, such as a man who is despicable or one who is diseased (מנוול ומוכה שחין). Tosafos (3b, ד"ה האב) cites the Yerushalmi which says that the father can assign his daughter for ביאה, and the father is the one who will receive any financial payment a man wishes to offer for the privilege of betrothing the girl with ביאה. ■

Today's Daf Digest is dedicated
 כ"ק מרן הרה"צ
 רבי יהושע העשיל אייכענשטיין זצלה"ה
 האדמור מזידטשוב- שיקאגו
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HALACHAH Highlight

A father accepting a גט for his daughter

ומקבל את גיטה

And he accepts her גט

The Gemara cites a Baraisa which discusses the different rights that a father has regarding his daughter. One of the rights enumerated is the right the father has to accept a גט for his daughter. Rashi¹ explains that the case refers to a na'arah who had only reached the stage of eirusin. Tosafos Rid² clarifies that the reason Rashi emphasized that the Baraisa refers to a girl who is an arusah is that once she is a nesu'ah the father would not have the authority to act on her behalf, even if she was still a minor. This position, however, contradicts Rashi's comment in Yevamos (109a). Rashi³ there writes that the father of a minor (קטנה) accepts the גט for his daughter and he bases this comment on our Baraisa that states that a father can accept a גט on behalf of his daughter.

Teshuvos Maharam Padawe⁴ suggests that the resolution to the contradiction is to distinguish between a minor and a na'arah. A girl who is married and reaches the age of being a na'arah is no longer in her father's domain

and he loses the right to accept a גט on her behalf. If she is still a minor her father retains the right to accept a גט on her behalf even if she was fully married. Sha'ar Hamelech⁵ rejects this resolution and suggests that Rashi's contradictory comments reflect the fact that Rashi changed his view on whether a minor has the capacity to accept her own גט.

Interestingly, Shulchan Aruch also records contradictory rulings on this matter. In one place Shulchan Aruch⁶ rules that a father does not have the right to accept a גט for his daughter who is a minor if she reached the stage of nisuin. In contrast, Shulchan Aruch⁷ discusses the yibum ramifications of a girl who is a minor who was married off by her father and then her father accepted a גט on her behalf. The discussion of this case clearly indicates that a father does have the authority to accept a גט on behalf of his daughter who is a minor. ■

1. רש"י ד"ה ומקבל את גיטה.
2. תוס' ר"י ד' לסוגייתינו.
3. רש"י יבמות ק"ט. ד"ה קטנה.
4. שו"ת מהר"ם פדוואה סי' ט"ו.
5. שער המלך פ"ב מהל' גירושין ה"ח ד"ה ולעיקר.
6. שו"ע אה"ע סי' קמ"א סעי' ה'.
7. שם סי' קע"ג סעי' ט"ז. ■

STORIES Off the Daf

The Importance of Bekiyus

"מוחזקני בך שאתה בקי בחדרי תורה..."

Many wonder how to master the many pages of intricate teachings that make up shas and poskim. Should one focus on learning in depth or emphasize learning the breadth of Torah?

By and large people are unaware that someone once asked Rav Yisrael Salanter, zt"l, this very question. "You must learn the great span of Hashem's holy Torah."

The Chofetz Chaim, zt"l, explained this statement with the following parable:

"Someone who focuses his entire

attention on one area of Torah and neglects the rest is like a man who spends every cent he has on the best hat money can buy. Sadly, the rest of him is dressed in rags and his feet are bare!"

Rav Elchonon Wasserman, zt"l, explained the importance of learning bekius from another angle. "Words of Torah illuminate one another. As the Yerushalmi states, 'Where they are poor in one place, they are wealthy in others.' Rav Chaim Brisker, zt"l, would always say: 'In Kiddushin we find that Rabbi Yehudah ben Beseirah sent a message to Yochanan ben Bag Bag, "I accepted as true that you are an expert in all areas of Torah. Do you not know a קל וחומר?"

"This seems enigmatic. What does

knowing all areas of Torah have to do with expositing a קל וחומר? Although קל וחומר does not require breadth of knowledge, knowing how to exposit a viable one does. One who doesn't know everything can't put together a real קל וחומר since a קל וחומר in hilchos Shabbos may be refuted from the halachos of tumah. If he doesn't know this area, how can he be sure his קל וחומר is true?"

"Rav Chaim would conclude, 'The same holds true today. One who says a sevarah in a sugyah without a broad knowledge that encompasses shas with Rashi and Rambam cannot be sure there is not a clear proof against his reasoning!'"¹ ■

¹אור אלחנן, חלק א', עמוד קפ"ד