

OVERVIEW of the Daf

1) Making a transaction on something that has not yet come into the world (cont.)

Abaye cites the opinions of Rebbi and R' Meir who also subscribe to the position that one can make a transaction on something that has not yet come into the world.

Details related to the Baraisa that contains R' Meir's opinion are clarified.

The Gemara suggests that R' Akiva should also be included in the list of Tannaim who maintain that one can make a transaction on something that has not yet come into the world.

It is explained why Abaye did not include R' Akiva in his list.

2) MISHNAH: The Mishnah discusses the meaning of additional conditions attached to kiddushin.

3) Clarifying the Mishnah

Reish Lakish asserts that giving kiddushin on condition that he performs some labor for her requires that he also give her a perutah.

This qualification is challenged.

The Gemara offers a resolution to the challenge on behalf of Reish Lakish.

Rava explains what compelled Reish Lakish to interpret the Mishnah as he did.

4) MISHNAH: The Mishnah discusses the halachos of a kiddushin that was done on condition that her father will consent.

5) Defining "consent"

The Gemara inquires after the meaning of the phrase "On condition your father will consent."

In order to explain the Mishnah, the Gemara is forced to explain that the first part of the Mishnah deals with one case and the middle and last parts deal with another case.

R' Yannai explains why it is preferred to explain that the Mishnah refers to different cases rather than explain that the Mishnah contains a dispute.

R' Yosef bar Ami offers an alternative explanation of the Mishnah.

6) MISHNAH: The Mishnah discusses cases of a father who accepted kiddushin and does not remember who the husband was.

7) Clarifying the Mishnah's first ruling

Rav asserts that the man who identifies himself as the husband is only believed regarding a וט but he is not believed to marry the girl.

Rav explains the rationale behind his opinion.

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Distinctive INSIGHT

His "wages" accrue gradually

ותנא דידין סבר ישנה לשכירות מתחילה ועד סוף

The Mishnah taught that if a man offers a woman kiddushin promising her the benefit that he will speak to a government official on her behalf, the kiddushin is valid if he keeps his word. According to Reish Lakish, the Mishnah actually holds that the man must give the woman a peruta as he speaks, and the kiddushin is valid due to the peruta, but the benefit of speaking to the ruler is not adequate for kiddushin. Rashba explains that the reason that the case in the Mishnah would not work without the peruta is that the benefit the man earns by doing a favor for the woman is considered the man's earned wages she owes him, which he then foregoes. Wages for a job are understood as being accrued as the job or task is gradually completed, and when the man dismisses the woman's need to pay it, this is as if the man is dismissing a loan she owes him, and this is not a good kiddushin.

Tosafos Ri"d and Rashba ask why the case in the Mishnah, without the peruta of Reish Lakish, necessarily fails. The man told the woman that he would do a favor for her, and even if his benefit accrues as he provides his service, the woman receives each peruta as it accumulates, and the case should not revert to being a loan. Why is this different than the case (47a) where a man offers "these dates" as kiddushin, where the kiddushin is valid even if the woman eats the dates one at a time as she receives them. Rashba answers that all the dates are in front of the man as he proposes kiddushin, which allows us to see them all as combined. Wages, however, only are owed as the task is gradually accomplished.

A Baraisa cited in the Gemara differs in this regard, and it holds that earned wages are due only at the completion of the task, so the kiddushin would be valid when the man forgives her having to pay, as the woman is immediately realizing a benefit by not having to pay the money. ■

REVIEW and Remember

1. How many opinions, in total, subscribe to the view that one may perform a transaction on something that has not yet entered the word?

2. What is the meaning of the term "consent"?

3. Why does Rav explain that the father is believed that his daughter requires a וט but not that she should marry?

4. To what degree is a father believed about the age of his children?

HALACHAH Highlight

The degree to which a father is believed about the man who gave him kiddushin for his daughter

קדשתי את בתי ואיני יודע למי קידשתי

I betrothed my daughter and I do not know to whom I gave her in betrothal

There was once a man who claimed that he accepted kiddushin for his daughter who was a minor. To further complicate the matter, which was his intent, he did not reveal who were the witnesses to the kiddushin. He claimed that his estranged wife's relatives would seek to take revenge against them and thus he wanted to hide their identity. Many halachic issues related to this circumstance arise and one of them is whether the father is believed when he asserts that he accepted kiddushin for his minor daughter when it is clear that he did so out of anger towards his wife or daughter.

Rav Menashe Klein¹, author of Teshuvos Mishnah Halachos, wrote that it is clear that the father is believed in his claim because the Gemara relates that a man is authorized to marry off his daughter to a mamzer, someone who is repulsive or some other disqualification. Its clear, explains Mishnah Halachos that only a father who is angry about something would marry off his daughter to a mamzer or someone who is repulsive and nevertheless the Gemara relates that the kiddushin is valid.

Another one of the related issues is whether a father who initially claims that he does not remember which man gave him kiddushin for his daughter can later claim that he remembers who the man is. Shulchan Aruch rules that a father is believed to come later and identify the man who performed

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R' Assi disagrees and the Gemara qualifies his position. Rav's position is unsuccessfully challenged. A Baraisa is cited that supports R' Assi's view.

8) A father's testimony that he betrothed his daughter

The Gemara inquires whether a girl would get stoned if her father testified that he accepting kiddushin on her behalf.

Rav ruled that she would not be stoned but R' Assi rule that she would.

Each Amora presents the rationale behind his opinion. R' Assi qualifies and clarifies his position.

R' Chisda asserts that whether the father testifies about his daughter or whether a woman testifies about herself we would not stone her on the basis of that testimony.

It is shown how R' Chisda is expressing a position consistent with another one of his rulings.

A Baraisa is cited that supports R' Chisda's position. ■

the kiddushin. This authority is based on the pasuk, **את בתי הזה** – I gave my daughter to this man. When the verse states **לאיש הזה** – to the man, it prohibits his daughter from marrying others but when it adds **הזה** – it permits her to that man. The only uncertainty regarding this halacha is whether the father is believed to the degree that the man and his daughter could marry or only that he would have to give her a **גט**. Mishnah Halachos cites Ritva² to our Gemara who writes that it is logical to him that the authority granted to a father by the Torah to identify the man who betrothed his daughter permits the man and his daughter to even marry. ■

1. שו"ת משנה הלכות ח"י"ד ס"י ס"ג.
2. ריטב"א ס"ג: ד"ה ואינו נאמן. ■

STORIES Off the Daf

The unknown husband

"נאמן ליתן גט..."

A certain young woman was hurriedly married to a certain suitor due to troubled times. This was often considered the best way to protect a girl since it was less likely that she would be carried off by non-Jews if she was a married woman, no matter how young. Sometimes this worked, but at other times it didn't. Unfortunately, in their case, the couple had to flee for their lives. In the course of running away, the two were separated. After the upheaval,

life returned to normal but the unfortunate woman could not locate her husband. She had no idea if he had been killed in the pogrom or had escaped with his life.

Ten years after their ordeal someone got in touch with the woman who claimed to be her husband. It was perhaps not so surprising that after ten years apart, the woman could not recognize her former partner. When the woman met with him she said, "It's been so long, I think the best thing is for us to divorce."

The man who claimed to be her husband agreed to divorce her. But when the woman asked her rabbi, he was unsure if this was permitted. "Perhaps he needs to

bring some kind of proof of his identity..."

The rabbi decided to consult with Rav Yitzchak Elchonon Spector, zt"l. "The person claiming to be her husband may certainly divorce her even if he has no compelling proof. We see this from Kiddushin 63. The Gemara states that if a man claims to be married to a certain woman and she doesn't recognize him, we only believe him to divorce her. Even though in our case, the husband initially wished to marry her and only acquiesced to her request for a divorce, the Sha'ar Hamelech rules like the opinions that hold that this is also permitted."¹ ■

1. שו"ת עין יצחק, חלק א', אה"ע, סימן ס'

