

OVERVIEW of the Daf

1) Clarifying the dispute between R' Meir and R' Yosi (cont.)

R' Ada bar Ahava concludes his challenge against Abaye's assertion that the dispute between R' Meir and R' Yosi applies when there are two sets of daughters.

The Gemara resolves this challenge.

R' Huna the son of R' Yehoshua presents another unsuccessful challenge to Abaye's understanding of the dispute.

2) MISHNAH: The Mishnah presents numerous different cases where there is a dispute whether kiddushin was done.

3) Clarifying the Mishnah

The Gemara explains why it was necessary for the Mishnah to present four different cases that relate to the same principle.

Rav and Shmuel disagree whether we force the man to write a גט or do we merely request him to give a גט.

The Gemara is initially uncertain which case Rav and Shmuel debate and concludes that they do not, in fact, disagree and they refer to different circumstances.

This interpretation is supported from another quote of Rav.

4) Kiddushin in the presence of one witness

R' Yehudah rules that kiddushin performed in the presence of a single witness is invalid.

R' Yehudah was asked whether the halacha would be different when both parties admit to kiddushin performed in the presence of a single witness and he never gave a definitive ruling.

R' Nachman in the name of Shmuel ruled that even when both parties agree, the kiddushin is invalid.

Two unsuccessful challenges to this ruling are presented.

Additional Amoraim rule that kiddushin performed in the presence of a single witness is invalid.

R' Achdavoï unsuccessfully challenges the assertion that kiddushin may not be performed in the presence of a single witness.

R' Kahana and R' Pappa disagree whether we are concerned for kiddushin performed in the presence of a single witness.

R' Kahana's position that we are not concerned for a kiddushin performed in the presence of a single witness is unsuccessfully challenged.

5) The testimony of a single witness

In response to a question posed to him by two brothers, R' Ashi commented that witnesses for monetary matters are needed only to refute liars but not to validate the transaction.

The Gemara begins to present three teachings of Abaye related to the testimony of a single witness. ■

Distinctive INSIGHT

The concept of שויה אנפשיה

האומר לאשה קדשתך והיא אומרת לא קדשתני, הוא אסור קרובותיה והיא מותרת בקרוביו

The Mishnah teaches that if a man declares that he had given kiddushin to a particular woman, but the woman denies it, saying that she never received kiddushin from the man, the halacha is that the man is prohibited to marry her relatives, but the woman is permitted to marry his relatives.

Rashi explains that the reason the man becomes prohibited to the relatives of the woman is due to שויה אנפשיה—he has declared upon himself a status of being prohibited from the woman's family by admitting that he is married to her. Although his words are not accepted and believed objectively, in regards to his own self he must live with the reality he insists is correct. The Achronim deal with the underlying reason to explain this halachic condition.

K'tzos Hachoshen (34:4) concludes that this is a form of being believed and trusted about one's self (נאמנות). This is similar to הודעת בעל דין—a confession of one of the litigants," which is based upon a verse "כי הוא זה" (Shemos 22:8). This teaches us that we accept testimony about one's own self in court, specifically if it is to obligate one's self. רבי שמואל explains that in a financial matter, once a person admits fault, he may not retract his statement, because the other party has already merited due to the confession. However, in our case of שויה אנפשיה, if the person later comes with a credible excuse or explanation (אמתלא) to justify his words, he would be able to conduct himself according to his lenient understanding (based upon Kesuvos 22a).

שויה אנפשיה disagrees and says that תרומת הכרי is not a

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REVIEW and Remember

1. When is the "face of Pesach"?
2. If kiddushin is performed without the presence of two witnesses, is it valid?
3. When are witnesses to seclusion assumed to be witnesses to relations?
4. Why is the admission of a couple that they did kiddushin not accepted by Beis Din?

HALACHAH Highlight

The effect of a גט that was given לחומרא

היא אומרת קדשתני והוא אומר לא קדשתניך

She claims, "You betrothed me," and he answers, "I did not betroth you."

There was once an incident in which Reuven betrothed the daughter of Yehudah. After that kiddushin Shimon claimed that Yehudah's daughter was betrothed to his son who had appointed him as his agent. Yehudah and his daughter disputed this claim but Shimon claimed he had witnesses to the betrothal but they were out of the country. The Beis Din ruled that Shimon's son should give a גט to Yehudah's daughter. Even though our Gemara rules that when a man claims to have betrothed a woman and she disputes his claim a גט is not needed, nevertheless, it is better to be safe when it comes to marriage related matters and they had a גט executed. Some time later, one of the witnesses that Shimon claimed would confirm his claim returned and denied Shimon's claim entirely. This raised the question of whether it is necessary for Yehudah's daughter to wait three months before marrying Reuven. Normally it is necessary for a woman to wait three months between marriages in order to be able to distinguish between the offspring of her two husbands but in this case there were those who argued that it should be unnecessary since it turned out that the גט she received was null and void.

Rashba¹ ruled that it was unnecessary for her to wait three months before marrying since the first גט was invalid. Furthermore, since the גט was null and void she is not categorized as a divorcée and remains permitted to marry a kohen and may even marry the relatives of the one who gave her a גט. A difficulty with this ruling, notes Rashba, is our Gemara

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form of official נאמנות, but it is rather a logical situation. If the person himself knows that something is prohibited for him, he is obligated to stay away from it. Even though the Beis din has no independent knowledge of the situation, they must enforce the person's own need to abstain from partaking of the situation.

שויה אנפשיה cites a source that explains that שער המלך is a type of personal oath, where the person accepted upon himself to not indulge in this item.

סופר points out that the practical difference between these approaches would be where the person himself knows that what he is saying is not true. If שויה וכו' is a function of believing the person, he could violate his restriction when he is in private. If it is considered an oath, he would not be allowed to violate it at all, even if he knows it to be untrue. ■

that relates that when a woman claims that a man betrothed her and he denies it we cannot force the husband to give her a גט since it would prohibit him to her relatives. Why, in our case, when the woman denies the kiddushin and receives a גט she is not prohibited to his relatives and yet in our Gemara the man becomes prohibited to her relatives even though he denies the existence of kiddushin? Rashba answers that in the case in our Gemara, Beis Din does not have definitive knowledge that the kiddushin never occurred, therefore, despite his denial there is a concern that a kiddushin took place and the man is prohibited to marry the woman's relatives. In our case the Beis Din investigated the facts and concluded definitively that the kiddushin never occurred and thus the גט was unnecessary and she is permitted even to marry the relatives of the one who gave her a גט. ■

1. שו"ת הרשב"א ח"ד סי' ש"ד. ■

STORIES Off the Daf

A conundrum

אי מה להלן הודעת בעל דין כמאה עדים דמי

One of the functions of a great Torah scholar is to analyze situations and questions that are not explicitly dealt with in the original sources and extrapolate the Torah's response to new conditions.

The Divrei Chaim, zt"l, was one of the greatest geonim of his time. From a very young age, his brilliance was legendary.

A certain well-known Rav was summoned to test the young prodigy. But

what could you ask a child who already knows shas and poskim? This Rav finally decided to ask a difficult yet obvious question that would demand the acumen of a great scholar to untangle.

After greeting the young man in a very kindly fashion he asked, "Clearly, when Adam harishon married Chavah there was no person to witness this since they were alone in the world. So tell me, where were the witnesses at their marriage?"

The young man replied immediately as was his wont: "In Kiddushin 65 we find that the reason we need witnesses at every marriage is learned from the fact that it says 'davar' by both money and marriage. The Gemara asks: Since we learn this

from money, perhaps if both the man and wife admit that they are married, albeit without witnesses, this would be efficacious just as in money matters? The Gemara explains that where I claim to owe money is not relevant to others. By the two admitting they are married we see that they are prohibiting her from everyone else. This requires witnesses.

The young Divrei Chaim concluded, "In light of this, your honor's question is not difficult at all. Since they were the only two people in the world, they did not require witnesses since their marriage didn't prohibit Chavah from marrying anyone else. There was no one else!"¹ ■

¹גן יוסף, אות ד'

Daf Digest is published by the Chicago Center, under the leadership of

HaRav Yehoshua Eichenstein, shlit"a

HaRav Pinchas Eichenstein, Nasi; HaRav Zalmen L. Eichenstein, Rosh Kollel; Rabbi Tzvi Bider, Executive Director, edited by Rabbi Ben-Zion Rand.

Daf Yomi Digest has been made possible through the generosity of Mr. & Mrs. Dennis Ruben.