

## OVERVIEW of the Daf

1) Whatever cannot happen consecutively cannot happen even simultaneously (cont.)

Abaye unsuccessfully challenges this principle.

Two additional unsuccessful challenges to this principle are presented.

2) Clarifying the Mishnah's first ruling (cont.)

The Gemara explains why Rava felt compelled to explain that the Mishnah follows Rabbah's principle.

3) Kiddushin that does not allow for relations

Abaye and Rava disagree about the validity of kiddushin that does not allow for relations.

Rava identifies the source for his position that the kiddushin is invalid.

The Gemara challenges Rava's position.

Rava responds by noting that another part of the Mishnah poses a difficulty for Abaye.

Abaye and Rava offer different interpretations of the Mishnah that are consistent with their respective positions.

An unsuccessful attempt to refute Rava is presented.

An unsuccessful attempt to refute Abaye is presented.

Another unsuccessful attempt to refute Abaye is recorded.

Another unsuccessful attempt is made to prove that kiddushin that does not allow for relations is a valid kiddushin. ■

## Distinctive INSIGHT

*Kiddushin to a group where sisters are present*

אלא לאו דאמר להו אחת מכם

Rava and Abaye argue regarding the halacha in a case where a man offers kiddushin to a woman in a way where it is impossible for the marriage to ever take place. For example, if two sisters are present, and a man offers kiddushin to one of them but does not specify which one. Here, the man cannot marry either one, as we do not know which is his wife and which is his wife's sister, who is prohibited for him to marry. Rava holds that the kiddushin is not valid, while Abaye holds that the kiddushin to the one sister is valid.

Rava cites the end of the Mishnah from 50b to help clarify his halacha. A man addressed a group of five women, and among them were two sisters. The man gave them a basket of figs and declared, "הרי כולכן מקודשות לי" – all of you are betrothed to me." There is some question regarding the intent of the man's statement. The Mishnah rules that the sisters are not betrothed. Rava determines that the case must be where the man actually said that he is only offering kiddushin to the non-related women and to one of the sisters, although he did not specify which of the sisters it was. The halacha is that the non-related women are betrothed, but the kiddushin to the sisters is not valid. This seems to prove Rava's contention that kiddushin that cannot result in actual marriage is not valid.

Rashba explains that the case cannot be where the man said that he is offering kiddushin to one of the five women, but rather where all of the non-related women are being addressed, plus one of the sisters. The proof to this is the statement of Rav later (52a) who says that we can prove from our Mishnah that a woman can be a messenger to accept kiddushin for another woman, even if her actions will result in the second woman becoming her צרה—her co-wife. If the case of the Mishnah was where the man only offered kiddushin to one woman, Rav would have no proof to his rule. Furthermore, in the Mishnah the case is where the man said, "כולכן—all of you," which suggests that the man is not simply offering to marry only one woman.

Rashash notes that although the man did not specify which of the sisters was betrothed, we should say that the sister who accepts the kiddushin should be the one intended as the wife. Later on our daf, the Gemara teaches that

## REVIEW and Remember

1. How do three animals become sanctified as the ma'aser animal?

2. What is the point of dispute between Abaye and Rava?

3. What case teaches that a person would never miss an opportunity to earn money?

4. What is the difference between the phrase אינו יודע and אינו ידוע?

# HALACHAH Highlight

**Is a father permitted to serve as his adult daughter's agent for her kiddushin?**

הכא במאי עסקינן דשויתיה שליח

Here what are we dealing with? Where the adult daughter appointed her father as her agent

Rosh<sup>1</sup> cites a ruling of Rashba<sup>2</sup> that a father may not act as the agent and accept kiddushin on behalf of his adult daughter. Rosh commented that he does not know the definitive reason for this ruling but suggests that it may be related to the concern that one will confuse adult daughters with minor daughters. In other words, people will mistakenly assume that just as a father is authorized to accept kiddushin for his daughter who is a minor so too he is authorized to accept kiddushin on behalf of his adult daughter. To avoid this confusion a decree was enacted that a father may not accept kiddushin for his adult daughter. Achronim challenge this ruling from our Gemara which clearly indicates that a father can act as the agent of his adult daughter to accept her kiddushin.

Bach<sup>3</sup> suggests that Rashba did not intend to disqualify the kiddushin a father accepts for his adult daughter when she appointed him to act as her agent; rather the intent was that לכתחילה he should not act as her agent but after the fact the kiddushin is valid and in defense of Rashba we will assume that the Gemara refers to a case of בדיעבד. Chelkas M'chokeik<sup>4</sup> writes that it is permitted even לכתחילה for a daughter to appoint her father to act as her agent as indicated

(Insight...Continued from page 1)

if a father accepts kiddushin for one of two daughters, without specifying which one, we say that he certainly intended to accept for the younger (קטנה), as this is where he will get the money and this is what was beneficial for him. Here, too, we should say that the sister who receives the money is the one who is betrothed. Rashash answers that only regarding a father do we say that the one daughter's kiddushin is more beneficial than the other. When one sister accepts the kiddushin for the group, it is not clear that it is in her best interest to be the wife of this man rather than her sister. ■

by our Gemara and the restriction of Rashba refers to a case where the husband asked the girl's father to act as his agent to deliver to her the kiddushin. The reason the father should not serve as an agent in this capacity is out of concern that the daughter may not be interested in accepting kiddushin from this man but will be embarrassed to express her hesitation to her father. Accepting kiddushin when the woman feels that she has no choice is akin to forcing her to accept kiddushin against her will and it is in this type of case that Rashba ruled that the father should not serve as an agent for his adult daughter's kiddushin. ■

1. שו"ת הרא"ש כלל ל"ה סי' ג'.
2. שו"ת הרשב"א ח"ז סי' רי"ד.
3. בי"ח אה"ע סי' ל"ו ד"ה כתב הרשב"א.
4. חלקת מחוקק שם סק"י. ■

# STORIES Off the Daf

**An unfortunate accident**

"דלא שביק איניש מידי דאית ליה הנאה מיניה..."

A certain man planned to travel from Israel to America for a short time. He decided that he would purchase a very valuable electric appliance which cost over twice the price in Israel. When he mentioned this plan to his neighbor, the neighbor requested that he purchase the same appliance for him as well. The man slated to travel took the money in front of witnesses and left.

He flew to the U.S. but heard that the law is that if one brings more than

one such appliance into Israel, he would be required to pay one hundred percent tax. Understandably, he purchased only one. He flew home as scheduled with the appliance but tragically, as he was driving home, he was killed in a car crash.

After the shloshim, the neighbor approached the heirs, apologized for his rudeness, and explained about the arrangement between himself and their father. He respectfully requested his money back.

The oldest heir protested, "But we don't owe you anything! Our father brought home one such appliance. Unfortunately, it was destroyed in the car crash that cost him his life."

"What do you mean? If he only brought one over then clearly he meant

it to be for himself and you owe me the money."

The heir once again objected, "How do you know? 'Hamotzei meichaveiro alav hara'ayah'—the burden of proof is on the plaintiff."

However, Rav Yitzchak Zilberstein, shlit"a, ruled in favor of the neighbor when consulted regarding this case. "This is a clear Gemara in Kiddushin 51. There we see that one doesn't choose to do an act from which he has no personal benefit over an act from which he receives personal gain. The same holds true here. Clearly, the deceased purchased the implement for himself, and the heirs must return the neighbor's money." ■

1. עלינו לשבח, חלק ו', עמוד תקס"ח-תקס"ט

