

OVERVIEW of the Daf

1) Partial declarations that are inconclusive (cont.)

Abaye's position that all Tannaim agree that partial declarations that are inconclusive are not binding is unsuccessfully challenged.

Another challenge to Abaye is presented and this challenge forces Abaye to admit that his position is only consistent with Rabanan.

The Gemara inquires whether this means that Rava is limited to the opinion of R' Yehudah.

Rava explains how his position is consistent even with Rabanan.

2) Partial declarations for kiddushin

R' Pappa inquires whether there are partial declarations for kiddushin.

The question is clarified.

The Gemara challenges whether R' Pappa was troubled by this matter when he seems to hold that partial declarations for kiddushin are binding.

The reason for the inquiry is explained.

3) Partial declarations for פאה

R' Pappa inquires whether there are partial declarations for פאה.

The question is clarified.

Essentially R' Pappa wonders whether the heikesh between korbanos and פאה teaches that just as partial declarations are valid for korbanos so too they are valid for פאה.

The heikesh between korbanos and פאה is identified.

Distinctive INSIGHT

Why would we think that a יד works with kiddushin?

בעי ר' פפא יש יד לקדושין או לא

Tosafos questions why there should be reason to believe that יד works in reference to kiddushin. In fact, even by vows we would not consider an expression which is lacking in specificity to be valid except from the fact that the verse associates vows to the laws of nazir, where יד is learned from a verse (see 3a). And later where the Gemara probes to determine whether expressions of יד work in reference to פאה and tzeddakah, once again the question is whether the association to תוספתא קרבנות earns them this distinction or not. But without a direct lesson from a verse or an association to a related topic, there should be no reason to assume that such an expression should be valid for kiddushin.

Tosafos explains that the Gemara was comparing the process of kiddushin and consecration (הקדש). Kiddushin results in the wife's becoming prohibited for everyone except for her husband, and consecration is where an object is designated for the Beis Hamikdash and is thereby off-limits to everyone. Being that יד works with הקדש, the Gemara asks if it also works in the realm of kiddushin.

Ran and Rashba explain that the Gemara felt that perhaps we could learn the law of kiddushin from that of oaths through a מה מצינו. On the one hand, the Torah may be using oaths as a prototype for the case of kiddushin. On the other hand, perhaps oaths are unique in this regard, for we find that this halacha is affected by a mere verbal statement. This is opposed to kiddushin, where a statement alone has no meaning unless it is accompanied with a formal act of giving money, a document, or ביאה. Therefore, we might not be able to assume that the law of יד would work for kiddushin, where the standards are different than we find with oaths. Accordingly, Ran learns that the question of the Gemara is whether any type of יד should work, whether it is אינו מוכיח or even if it is מוכיח.

Tosafos, however, learns that the question of the Gemara is in a case of ידים שאינם מוכיחות according to the opinion that in general this is adequate, or in a case of ידים מוכיחות in a case where the man first offered kiddushin to another woman. ■

REVIEW and Remember

1. What language is necessary to designate an animal as a חטאת?
2. Why doesn't a גט require conclusive language?
3. What is an example of a partial kiddushin declaration?
4. What is an example of a partial פאה declaration?

HALACHAH Highlight

Partial kiddushin declarations

בעי ר' פפא יש יד לקידושין או לא

R' Pappa inquired, is a partial kiddushin declaration valid or not?

Ran and Rosh elaborate on the case of the Gemara and the following is the summary of their explanation as presented by Rav Yechezkel Michel Epstein¹, the Aruch Hashulchan. At the time Yaakov is betrothing Rochel he gives her two perutahs and declares, "Behold you are betrothed to me." He then asks Leah, "ואת נמי – And you also?" If Leah agrees, she is betrothed to Yaakov since Rochel accepted the betrothal money on her behalf. The question one could ask, however, is why is the kiddushin valid? If Rochel never confirmed that she was acting as an agent for Leah to accept kiddushin on her behalf nor was there any confirmation that Leah wanted Rochel to act as her agent, how is it possible to assume that Rochel was acting as Leah's agent? Aruch Hashulchan answers, since Yaakov made his intention, clear

if Leah or Rochel were opposed to his plan they should have protested. Since they remained silent and allowed the transaction to take place it is assumed that Leah agrees to allow Rochel to act as her agent and that Rochel agrees to perform that agency.

If, however, Yaakov only said, "ואת – And you?" the betrothal to Leah is in doubt (ספק קידושין). The reason is that he may not have intended to ask Leah whether she would accept a betrothal offer, he may have simply asked her to witness the betrothal he was performing with Rochel. Although that possibility is somewhat far-fetched, as long as there is another possible meaning to Yaakov's words his statement is considered a partial declaration and as such the kiddushin will remain in doubt. Aruch Hashulchan adds that although unclear partial declarations (ידיים שאין מוכיחות) are not valid, this is considered a case of a clear partial declaration (ידיים מוכיחות) and is subject to the dispute in the Gemara whether partial declarations are valid for kiddushin. ■

1. ערוה"ש אה"ע סי' ל"ו סע' י"ד ■

STORIES Off the Daf

The split Alef

דאין אדם מגרש את אשת חבירו

During the 1890's there were abundant incidents of persecution of Jews in all of Eastern Europe. Not surprisingly, many felt that the only solution was to move to America, the land of opportunity, to flee the relentless harassment and inhumanity.

Tragically, as a result of the hardships and expense, many husbands fled and made the journey without even consulting their wives. This was not only heartless

and cruel because the poor women would have to fend for themselves and their children. The worst of this was that the trend created a crisis of agunos with virtually no hope for a reprieve. It was not realistic to track the husbands down in the "New Country" to secure gittin. Quite often, even if the husbands died abroad, the abandoned wives would never hear news of their passing.

One runaway husband did have a spark of decency in him. He had a גט written k'halachah and sent it back with a landsman returning to the "Old Country." Unfortunately, the aleph of the

word מינאי was noticeably split. The question was raised if the divorce was valid.

This issue was referred to Rav Yitzchak Elchonon Spector, zt"l. He answered, "Virtually all the authorities hold that one may not divorce without writing מינאי. The only two exceptions are the Ran in Nedarim 6a and the Rashbah who writes this halachah but not l'maaseh. However, in our case this divorce is valid. One reason why is even if you discount the split aleph completely, you are still left with the word מיני which also means 'from me'!" ■

