



Today's Daf In Review is being sent l'zecher nishmas Habachur Yechezkel Shraga A"H ben R' Avrohom Yehuda

### Kiddushin Daf Samach Daled

#### MISHNA

- If a father says "I accepted kiddushin for my daughter while she was a minor" or "I accepted kiddushin and then accepted a get for her while she was a minor", and she is still a minor when he says this, he is believed. If she was already an adult when he said this, he is not believed.
- If a father says "my daughter was captured by goyim and I redeemed her", whether she is a minor or an adult, he is not believed.

#### GEMARA

- **Q:** What is the reason for all the rulings in the Mishna? **A:** In the case when she is still a minor, since it is in his power to marry her off now, he is believed. In the case when she is already an adult, it is not in his power, and it is also not in his power to have her captured by goyim, and he is therefore not believed.
  - **Q:** Although he has no right to get her captured, if she is still a minor he has the right to marry her off to a chalal and make her assur to marry a Kohen, which is the same result of a woman who is captured, so why is he not believed regarding that when she is a minor? **A:** That Tanna holds like **R' Dustai**, who says that a woman who marries a chalal may still marry a Kohen.
  - **Q:** He has the right to marry her off to a mamzer, in which case she would be assur to a Kohen, so he should be believed to say that his minor daughter was captured!? **A:** The Tanna follows **R' Akiva**, who says that kiddushin is not effective on someone assur with a lav, and therefore the father has no right to marry her off to a mamzer.
  - **Q:** Even according to **R' Akiva** the father would be able to take her as a widow and marry her off to a Kohen Gadol, which would make her assur marry a Kohen!? **A:** The Tanna holds like **R' Yesheivav**, who holds that **R' Akiva** says that even in this case kiddushin will not take effect.
  - **Q:** He can still marry her off to someone she is assur to marry with an assei, and make her assur to marry a Kohen based on that!? **A:** **R' Ashi** said, we can't explain the beginning of the Mishna to be based on the fact that he has the power to do this to his daughter, because he can accept kiddushin for her, but can he make her get divorced!? Also, even accepting kiddushin is only if the man agrees to give it!? Rather the reason he is believed is based on **R' Huna's** drasha of the pasuk "es biti nasati la'ish hazeh". However, the Torah only believes him regarding marriage of a minor, not regarding her capture.

#### MISHNA

- If a man is dying and says "I have children" (making his wife not subject to yibum) he is believed. If he says "I have brothers", he is not believed.

#### GEMARA

- **Q:** The Mishna seems to say that a man is believed to make his wife mutar, but not to make his wife assur. This would mean that the Mishna can't follow **R' Nosson**. A Braisa says, if at the time of kiddushin a man says that he has children and at the time of death he says that he does not, or if at the time of kiddushin he says that he does not have brothers, and at the time of death he says that he does, **Rebbi** says he is only believed to make her mutar and not to make her assur. **R' Nosson** says he is even believed to make her assur!? **A:** **Rava** said, the case of the Mishna is different. In the Braisa he is retracting an earlier statement, which therefore gives him some

credibility. In the Mishna, it is the first statement he is making on the subject, and that is why he is not believed.

- **Q: Abaye** asked, if anything, the fact that he is not retracting a statement should make him *more* believable in the Mishna!? **A: Abaye** therefore said, the Mishna is talking about a case where he is presumed not to have any brothers or any children (based on this presumption she is not subject to yibum). Therefore, when he says he has children (meaning that she is not subject to yibum) he is agreeing with our presumption and is therefore believed, but when he says he has brothers he is going against our presumption and is therefore not believed to make her assur. In the Braisa, there is a presumption that he has brothers but that he has no children. The reason we believe him at the time of kiddushin although he is going against the presumption is that he has no reason to lie, because if he wants to make her patur from yibum, he can just give a get to take effect a moment before he dies.
  - Based on this, the machlokes between **Rebbi and R' Nosson** is that **Rebbi** holds that the fact that he had no reason to lie when he went against the presumption is a very strong level of belief, and therefore, if he later tried to retract that, we don't believe him. **R' Nosson** holds that the level of belief is equal to the belief of the prior presumption, and therefore we have no reason to believe one more than the other, and we therefore believe him when he retracts his earlier statement.

#### MISHNA

- If a man accepts kiddushin for his daughter, without specifying which daughter, the daughters who are already a bogeres are certainly not in the possibility of having been the daughter that kiddushin was accepted for.
- If a man has 2 daughters from one wife, and then has 2 daughters from another wife, and he says "I was mekadesh my older daughter, but I do not know if it was the older of the older set, the older of the younger set, or the younger of the older set who is older than both of the younger set", **R' Meir** says all the daughters become assur to marry (since they may already be mekudeshes) except for the youngest of the younger set. **R' Yose** says they are all mutar except for the oldest of the older set.
- If a man has 2 daughters from one wife, and then has 2 daughters from another wife, and he says "I was mekadesh my younger daughter, but I do not know if it was the younger of the younger set, the younger of the older set, or the older of the younger set who is younger than both of the older set", **R' Meir** says all the daughters become assur to marry (since they may already be mekudeshes) except for the oldest of the older set. **R' Yose** says they are all mutar except for the youngest of the younger set.

#### GEMARA

- **Q:** The Mishna seems to say that all the minor daughters are possibly married and therefore a get must be given to each one of them. This would mean that the Mishna is saying that a kiddushin which does not have the possibility to lead to bi'ah is considered to be an effective kiddushin!? **A:** The case of the Mishna is where there was only one adult daughter and one minor daughter.
  - **Q:** The Mishna said "adult daughters" – in the plural!? **A:** It is referring to all cases of adult daughters, not to the plural in this specific case.
  - **Q:** If there is only one minor daughter, what is the chiddush of the Mishna? **A:** The case is that the adult daughter made her father a shaliach to accept kiddushin for her. We would think that maybe he therefore accepted the kiddushin for her. The Mishna teaches that he will first accept kiddushin for his minor daughter, because he keeps that kiddushin money.
    - **Q:** Maybe the case is that the adult daughter told him to keep the money from her kiddushin as well!? **A:** The Mishna teaches, that a person will first do a mitzvah that is incumbent on him (to marry off his minor daughter) rather than a mitzvah that is not incumbent on him (for his adult daughter to get married).

- Both cases of the Mishna are needed (when he says his older daughter and when he says his younger daughter). If we would only say the first case, we would say only there **R' Meir** says that the father refers to each daughter as being an "older daughter", except for the youngest, but when he refers to his "younger daughter", we would say that **R' Meir** agrees with **R' Yose** that only the very youngest is called the "younger daughter". If we only had the second case we would say that only there **R' Yose** argues, but in the first case maybe he agrees with **R' Meir**. Therefore the Mishna needed to say both cases.
- **Q:** Does the Mishna mean to say that **R' Meir** holds that a person would place himself into a situation of safek and that **R' Yose** holds that one would not? We have learned a Mishna which seems to say the opposite!? A Mishna says, if a person makes a neder stating that he would assur "until Pesach", he is assur until Pesach begins. If he said "until it is Pesach", he is assur until Pesach is over. If he says "until the beginning of Pesach", **R' Meir** says he is assur until Pesach begins, and **R' Yose** says he is assur until Pesach is over. We see that it is **R' Meir** who says a person would not enter in a safek (and therefore his statement is understood in the most straightforward way) and it is **R' Yose** who says a person would say something that would put him in a safek!? **A:** **R' Chanina bar Avdimi in the name of Rav** said, we must reverse the shitos in this Mishna. In fact we find a Braisa that suggests that the shitos in this Mishna must be reversed.
- **Abaye** said, the machlokes is only when there are 2 groups of daughters. However, when there is only one group, all would agree that "older daughter" is the oldest, the "younger daughter" is the youngest, and all other daughters would be referred to by their names.
  - **Q: R' Ada bar Masna** asked **Abaye**, in the Mishna **R' Meir** said that even the middle daughter of the younger group is assur, because she is older than the youngest. Now, according to your explanation, since she is not older than a whole group, she should certainly not be included in the possibilities of "older daughter"!? **A:** The case is that the second group only has 2 daughters – an older one and a younger one.
  - **Q: R' Ada bar Masna** asked **Abaye**, the case of the neder "until the beginning of Pesach" is like a case of only one group of daughters, and yet we find that they argue there as well!? **A:** There they are arguing in something else totally. They argue in the meaning of the words "pnei haPesach". One holds it means until before Pesach, and the other holds that it means until Pesach has passed.