



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

### Kiddushin Daf Samach Zayin

GEMARA

- **Q: R' Shimon** asked **R' Yochanan**, is it is absolute rule that whenever kiddushin can take affect and there is no aveirah done with this marriage, that the child takes on the status of the father? We have the case of a ger who marries a mamzeres, in which case kiddushin is effective and there is no aveirah (according to **R' Yose**), and yet **R' Yose** in a Braisa says that the child of this marriage would be a mamzer!? We see that we don't always follow the father's status in such a case!? **A: R' Yochanan** said, our Mishna follows **R' Yehuda**, who argues and says that a ger may not marry a mamzeres, and therefore such a marriage is an example of a kiddushin that is effective, but is done with an aveirah, in which case the Mishna said that the child takes on the status of the blemished parent.
  - **Q:** If this is true, the Mishna should list this case along with the examples for the second general rule (kiddushin that is effective, but is done with an aveirah, the child takes on the status of the blemished parent)? **A:** The Mishna said "kol makom" ("in any place") as a catch-all phrase, which is meant to capture any other example that is not specifically taught in the Mishna. **A2:** We can say that the Mishna follows **R' Yose**. Although that would mean that the first rule is not absolute, we can say that that is precisely what the Mishna meant when it said "v'eizo zu" – for example. It is saying that the examples that follow are included in the parameters of the rule, but there are some cases of where kiddushin can take affect and there is no aveirah done with this marriage, and yet the child will take on the status of the blemished parent.
    - **Q:** This would mean that we are limiting application of the rule to the examples listed in the Mishna. However, there are other examples of the rule that are not listed in the Mishna!? For example, if a Kohen who is a chalal marries a Yisraelis, kiddushin is effective and there is no aveirah, and yet the child follows the status of his father!? **A:** The Tanna of the Mishna holds like **R' Dustai ben R' Yehuda**, who says that in this case the child is *not* a chalal, and therefore does *not* follow the status of the father.
    - **Q:** There is the case of the Yisrael who marries a chalala, where the kiddushin is effective and there is no aveirah, and yet the child follows the status of its father (if they have a daughter, the daughter could marry a Kohen)!? **A:** The Mishna in the first case said "kol makom" ("in any place") as a catch-all phrase, which is meant to capture any other example that is not specifically taught in the Mishna.
      - **Q:** Why wouldn't the Mishna teach this case explicitly in its examples?  
**A:** There is no way to succinctly teach this case. Therefore, the Tanna chose not to teach it explicitly.
    - **Q:** There is the case of **Rabbah bar bar Chana** who said in the name of **R' Yochanan**, that if a second generation Mitzri ger marries a first generation Mitzri geyores, the child is considered to be a 3<sup>rd</sup> generation Mitzri ger, and can therefore marry a regular Yisraelis. This is another case of where the kiddushin is effective and there is no aveirah, and the child follows the status of its father!? **A:** The Mishna in the first case said "kol makom" ("in any place") as a catch-all phrase, which is meant to capture any other example that is not specifically taught in the Mishna. According to **R' Dimi**, who says that the child of this marriage would have the status of a second generation Mitzri ger, we would have to say that when the Mishna says "v'eizo zu" – for example – it is saying that the examples that follow are included in the parameters of the rule,

but there are some cases of where kiddushin can take affect and there is no aveirah done with this marriage, and yet the child will take on the status of the blemished parent.

- **Q:** There is the case of **Ravin** who said in the name of **R' Yochanan**, that when dealing with the status of goyim (whether they are from the 7 nations of Eretz Knaan or not) we follow the status of the child's father, but if they convert the child is given the status of the more blemished of the parents!? **A:** When the Mishna says "v'eizo zu" – for example – it is saying that the examples that follow are included in the parameters of the rule, but there are some cases of where kiddushin can take affect and there is no aveirah done with this marriage, and yet the child will take on the status of the blemished parent.
- **Q:** We said earlier that the Mishna may follow the view of **R' Yose**. Now, if we say that the Mishna follows **R' Yehuda**, we can say that the "kol makom" inclusion of the first part of the Mishna comes to include the cases of a Yisrael who marries a chalala and the case of **Rabbah bar bar Chana**, and the "v'eizo zu" comes to exclude the case of **R' Dimi** and of **Ravin**. We could also say that the "kol makom" of the next part of the Mishna comes to include the case of the ger that married a mamzeres. However, if the Mishna follows **R' Yose**, how would we explain the "kol makom" of the second part of the Mishna? **A:** Even according to **R' Yehuda** we will have a difficult time explaining the "eizo zu" of the second part of the Mishna. We will have to say that it truly is not there to teach anything, rather it is there to keep the style consistent with the first part of the Mishna. We can say the same thing regarding the "kol makom" of the second part of the Mishna according to **R' Yose**, that it was taught for consistency of style to the first part of the Mishna.
- The Gemara previously mentioned the case of **Ravin** who said in the name of **R' Yochanan**, that when dealing with the status of goyim (whether they are from the 7 nations of Eretz Knaan or not) we follow the status of the child's father, but if they convert the child is given the status of the more blemished of the parents.
  - **Q:** What is meant that when dealing with the status of goyim we follow the status of the child's father? **A:** It is as stated in a Braisa, which learns from a drasha of pesukim, that we follow the status of the father when determining if the child is of the 7 nations of Knaan, and must therefore be killed, or whether he is of another nation, and may therefore be purchased as a slave.
  - **Q:** What is the case of his second statement, that if they convert the child is given the status of the more blemished of the parents? It can't be discussing where a male ger Mitzri marries a female ger Amoni, because in that case the mother has no psul whatsoever. **A:** The case must be where a male ger Amoni marries a female ger Mitzri. In that case, if a boy is born he is forever passul like his father, and if a girl is born, she is passul like her mother.

#### KOL SHE'EIN LAH ALAV KIDDUSHIN

- **Q:** How do we know this? **A:** **R' Chiya bar Abba in the name of R' Yochanan** (others had versions that quoted other names) said, the pasuk says "v'halcha v'huysa l'ish acher". This teaches that kiddushin is only effective when it is done with a stranger, and not with a relative for whom there would be a kares penalty.
  - **Q:** **R' Abba** asked, maybe we should darshen to limit the ineffectiveness of the kiddushin when it is given by the son of the former husband, but when it is given by any other relative it will be effective!? **A:** That is learned explicitly in the pasuk of "lo yikach ish es eishes aviv". Therefore, the drasha must be for other relatives.
    - **Q:** Maybe both are needed to teach regarding the son – one to teach that l'chatchila he should not marry her, and the other to teach that b'dieved it will not be effective? **A:** We learn that he may not marry her l'chatchila from the issur of a man marrying his wife's sister. If in that case, which is only an issur kares, he may not marry her, then surely a son, who would be subject to the death penalty, may not marry his father's wife.
    - **Q:** Maybe the pasuk of "acher" teaches that kiddushin by a man to his wife's sister is not effective, and although there is another pasuk for that, we can say that one pasuk is needed for l'chatchila and one is needed for b'dieved? **A:** This

is actually the case – that the pasuk of “acher” teaches that kiddushin with a wife’s sister is not effective. We then learn all other arayos from the case of a wife’s sister, as follows. Just like a wife’s sister is an ervah for which one gets kares if done b’meizid, and must bring a chatas if done b’shogeg, and kiddushin is not effective, so too all arayos that carry the kares and chatas penalties also have the halacha that kiddushin with them is not effective.

- **Q:** We can learn all arayos like this, except for the ervah of a married woman and of a brother’s wife, because a brother’s wife is different in that there is a time when it is actually a mitzvah to marry her (in yibum), and a married woman is different in that she can become mutar during the life of her husband (if he divorces her)!? **A: R’ Yonah** (and some say it is **R’ Huna the son of R’ Yehoshua**) said, we learn all arayos from a wife’s sister based on the pasuk of “kol asher yaaseh mikol hato’eivos ha’eileh v’nichrisu”, which creates a hekesh between all arayos, and teaches that just like kiddushin is not effective for a wife’s sister, it is also not effective for any of the arayos.
- **Q:** If so, kiddushin also should not be effective when given to a niddah, and yet **Abaye** said that it is!? **A: Chizkiya** said, regarding niddah the pasuk says “utehi nidasa alav”, which teaches that kiddushin is effective while she is a niddah.
- **Q:** We have the choice of comparing all arayos to niddah, in which case kiddushin would be effective, or comparing them all to a wife’s sister, in which case kiddushin would not be effective. Why do we choose to compare them to a wife’s sister? **A:** When faced with a decision to compare in a way that will lead to a chumrah or in a way that will lead to a kulah, we always choose to compare in a way that will lead to a chumrah.