Daf In Review – Weekly Chazarah

Maseches Kiddushin, Daf מא – Daf מז

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----------Daf מא---41----------

PEREK HA'ISH MEKADESH -- PEREK SHEINI

MISHNA

- A man can be mekadesh a woman on his own or through a shaliach. A woman can accept kiddushin on her own or through a shaliach. A man can give his daughter in kiddushin when she is a naarah, either by accepting the kiddushin on his own or through a shaliach.

GEMARA

- **Q:** If the Mishna is saying that a man can give kiddushin through his shaliach, it is obvious that he can do so on his own!? **A: R' Yosef** said, the Mishna is teaching that it is a greater mitzvah for him to give the kiddushin himself, than to give it through a shaliach, as we find that **R' Safra** would himself prepare the meat for Shabbos and **Rava** would salt the fish.
    - **Others** say that there is an issur to give kiddushin through a shaliach, as **R' Yehuda in the name of Rav** said, that a person must see the woman before he gives her kiddushin, so that he not find something about her to be disgusting after the marriage, which will make her become disgusting to him (he should have seen this before the marriage and not gotten married), which would go contrary to the pasuk of "v'ahavta l'rei'acha kamocha". According to this view, **R' Yosef's** statement was made regarding a woman using a shaliach to accept her kiddushin. In that case, she may do so, but it would be better for her to accept on her own, because the mitzvah is greater when done by the person herself. In this case there would be no problem of him becoming disgusting to her, because a woman just wants to be married, no matter who the husband may be.

HA'ISH MEKADESH ES BITO KISHEHI NAARAH

- This suggests that he can marry her off when she is a naarah, but not when she is a minor. This is a proof to **Rav**, who said that a person may not marry off his minor daughter until she gets older and is able to say who she wants to marry.
- **Q:** How do we know that a shaliach may be used for kiddushin as stated in the Mishna? **A:** A Braisa says, the pasuk regarding gittin uses verbiage of "v'shilach", which teaches that the man may make a shaliach, the pasuk uses the extra "hey" and says "v'shilch**ah**" which teaches that the woman may make a shaliach. The Torah later again uses this verbiage, which then teaches that a shaliach may even appoint another shaliach to do the job.
    - **Q:** This can be the source for using a shaliach for a get. How do we know a shaliach can be used for kiddushin? We can't learn this from gittin, because gittin is different in that it can be given to a woman against her will!? **A:** We have the hekesh of "v'yatza…v'huysa" which compares get to kiddushin and teaches that a shaliach may be used for kiddushin as well.
    - **Q:** A Mishna says that a shaliach can be used to separate terumah. How is this known? We can't learn this from a get, because a get is a matter that is not of hekdesh!? **A:** The pasuk regarding terumah adds the extra word "***gam*** atem" which teaches that a shaliach can be used.
        - The Torah could not have written the concept of shaliach regarding terumah and then learned from there to gittin and kiddushin, because terumah is different in that it can be designated in a person's mind.
    - **Q:** A Mishna says that a shaliach can be appointed to shecht a Korbon Pesach for other people. How is this known? It can't be learned from gittin, kiddushin, and terumah, because these matters are considered as non-hekdesh when compared to a korbon!? **A:** It is learned from the drasha of **R'**

Yehoshua ben Karcha, who says that the pasuk says "v'shachatu oso kol khal adas Yisrael", which means that all of the Yidden are to shecht the Korbon. In actuality, it is only one person shechts the korbon!? Rather, we see from here that a person's shaliach is considered as the person himself.

- **Q:** Why couldn't the Torah teach the concept of shlichus regarding kodashim and we can learn the other areas from there? **A:** We would have said that kodashim are different since most of the Avodah of a korbon is done by a shaliach (the Kohen).
  - **Q:** We see that we can't learn out one from one, but maybe we can learn out one from two? **A:** We can't learn out kodashim from get and terumah, because they are non-hekdesh. We can't learn out get from terumah and kodashim, because terumah and a korbon can be designated in a person's mind. However, we actually can learn out terumah from get and kodashim.
    - **Q:** If so, why do we need the extra word "***gam*** atem"? **A:** We need it for the drasha of **R' Yannai**, who says that this teaches that a shaliach must be a Yid, not a goy.
    - **Q:** We know this halacha from **R' Chiya bar Abba in the name of R' Yochanan**, who says that a slave can't be a shaliach for a get, because he is not included in the concept of get. For this same reason we would say that he cannot be a shaliach for terumah or kodashim either, so why is the pasuk needed!? **A:** We would say that since a Mishna says that if a goy separates terumah from his produce it is given the status of terumah, maybe he can become a shaliach for purposes of terumah. The pasuk therefore teaches that he cannot be a shaliach to separate terumah.
    - **Q:** According to **R' Shimon**, who says that a goy's terumah does not have the status of terumah, why is the pasuk needed? **A:** We would think that since we have learned that the word "Atem" comes to exclude terumah separated by a sharecropper, and by a partner, and by an apitrapis, and by a person who doesn't own the produce, maybe it also comes to exclude a shaliach!? The word "gam" therefore comes to teach that a shaliach may be used.

----------Daf מב---42----------

- **Q:** The Gemara previously said that we learn the concept of shlichus for kodashim from the pasuk of "v'shachatu oso kol khal adas Yisrael". The Gemara now asks, that can work according to **R' Yehoshua ben Karcha**, However, **R' Yonason** uses this pasuk to teach that all of Klal Yisrael can be yotzeh their Korbon Pesach with one animal, so how does he learn the concept of shlichus by kodashim? **A:** Even according to him the pasuk is still saying that one person can shecht it for everybody, and would therefore still teach the concept of shlichus.
  - **Q:** Maybe there is shlichus in that case because, the people are all partners in the animal and he is doing the act for himself as well. How do we know that a shaliach can act even when the act is not needed for himself? **A:** Rather, the source for shlichus by kodashim is the pasuk that says "v'yikchu lahem ish seh l'beis avos seh labayis", which teaches that one person can take the animal on behalf of others.
  - **Q:** That pasuk again is where they are partners in the animal, and maybe it is only then that shlichus can be done? **A:** We already know that shlichus can be done when he is a partner from the other pasuk. Therefore, this pasuk must be coming to teach shlichus even when he is not a partner.
    - **Q: R' Yitzchak** uses this pasuk to teach that only an adult has the capacity to purchase on behalf of others, and a minor does not. If so, the pasuk is not available to teach shlichus in the case where the shaliach is not a partner!? **A: R' Yitzchak's** drasha can be learned from the pasuk of "ish lefi achlo", which leaves the other pasuk available to teach shlichus.
    - **Q:** The pasuk of "ish lefi achlo" is needed to teach that a single person, without a group, can bring his own Korbon Pesach!? If so, it can't be used for the drasha of **R' Yitzchak**, which means that the pasuk of "v'yikchu lahem ish…" is not available to teach shlichus!? **A: R' Yonason** must hold like the view that holds that a single individual may not bring his own Korbon Pesach, and therefore the pasuk of "ish lefi achlo" is available for the drasha of **R' Yitzchak**.
  - **Q: R' Gidal in the name of Rav** learns shlichus from the pasuk of "v'nasi echad nasi echad mimateh", written regarding dividing EY. Why doesn't he instead learn the concept from the other sources we have

given? **A: R' Gidal in the name of Rav** is not learning shlichus from that pasuk, as can be proved from the fact that the Nasi was also acting on behalf of minors, who can't make a shaliach! Rather, he is learning from that pasuk the concept that we can be zoche for a person even if the person is not aware of it.

- **Q:** How can he learn that concept from the division of EY? Some people would presumably not be happy with the portion that they got, and therefore the nasi would not be acting in the capacity of "zoche"!? **A:** Rather, **R' Gidal in the name of Rav** was learning from this pasuk that at times a person can act on another's behalf even if the person is not happy with the results. This is applied when Beis Din sets up an apitrapis for orphans to divide their father's estate. As long as the apitrapis has the best interests of the child in mind, then even if the child is not happy with the portion that he receives, the apitrapis' act is considered a valid act and choice on behalf of the child. This is learned from the fact that the nasi was able to choose the portion for the people, even if they were not happy with the portion.
- **R' Nachman in the name of Shmuel** said, that if a court appointed guardian divides the property of an estate among the orphans, when the orphans become adults they may not dispute the way it was divided, because if we say that they may, how is Beis Din any better than anyone else?
    - **Q:** A Mishna says, if property is sold by Beis Din and was sold at a sixth less or more than its true value, the sale is void. **R' Shimon ben Gamliel** says the sale is valid, because if not, in what way is Beis Din better than anybody else? And, **R' Huna bar Chinina in the name of R' Nachman** paskens like the **T"K**!? We see that **R' Nachman** does not agree with the argument of "how is Beis Din better than anyone else"!? **A:** The Mishna is discussing where Beis Din made an error. In such a case **R' Nachman** says that we do not need to be concerned for them. In the case of the guardian they did not make a mistake, and we therefore must respect their decision.
        - **Q:** If no mistake was made, what are the orphans complaining about? **A:** They are complaining that they wanted a portion on the other side of the field, but the portions were of equal value.
- **R' Nachman** said, when brothers divide their father's estate they are treated as purchasing their share from the other. Therefore, if the division turns out not to have been equal, if the discrepancy is less than 1/6, the transaction remains valid. If it is more than 1/6, it becomes batel. If it is exactly 1/6, the transaction is valid but the amount must be returned to the brother who received the lesser portion.
    - **Rava** said, the only time the transaction remains valid even if it is less than 1/6 is when it was not done through a shaliach. If it was, he can tell the shaliach, I sent you to benefit me, not to hurt me.
    - **Rava** said, when it is more than 1/6 it becomes batel only if they had not agreed to use, but did ultimately use, the appraisal of a Beis Din. If they did agree beforehand, the transaction would remain valid.
    - **Rava** said, when we said that if it is exactly 1/6 the transaction is valid but the overage must be returned, that is only if they divided moveable property, but if they divided land it would not have to be returned, because there is no concept of "ona'ah" by land. However, that is only if they divided the land based on value. If they divided based on measurement, the overage must be returned, because **Rabbah** said that when something is sold based on measurement, weight, or number, even a slight overage must be returned.

- **Q:** Once we have now established the concept of shaliach, why does a Mishna say that if a shaliach causes a fire that causes damage, the shaliach himself is chayuv? If he is a shaliach, the principle should be chayuv!? **A:** That case is different, because we say that there is no shlichus to do an aveirah, because when faced with listening to the sender or to Hashem, the shaliach should have chosen to listen to Hashem and not done the aveirah.

- **Q:** A Mishna says that it is possible for the act of a shaliach to cause the principle to be chayuv for me'ilah. Now, if we don't apply the concept of shlichus to an aveirah, why do we apply the concept of shlichus in this case? **A:** The case of me'ilah is different, because we learn from a gezeirah shava on the word "cheit" from terumah, that just as there is shlichus by terumah, there is also shelichus for me'ilah.
- **Q:** Let me'ilah be the standard from which we learn to all other places that there is shlichus even for an aveirah!? **A:** We find that there is shlichus for the aveirah of a shomer using the item for himself (which he may not do). Therefore, the case of the shomer and the case of me'ilah are two pesukim teaching the same concept, in which case we cannot use them to teach in other cases.
    - The case of the shomer is actually a machlokes between **B"S and B"H**. **B"H** say that the pasuk there teaches that he would be chayuv if his shaliach acted on his behalf. **B"S** says the pasuk teaches something else – that a shomer would become responsible for the item if he even had a thought to use the item.
    - **Q:** According to **B"S**, why can't we learn from me'ilah to all over? **A:** The case of me'ilah and the case of one who stole an animal and then slaughtered it or sold it are two pesukim that teach one concept (the concept of shlichus applies to that case as well), and therefore, even according to **B"S** we cannot learn from me'ilah and apply it to all other cases.
        - We learn that shlichus applies to the case of the stolen and slaughtered or sold animal as follows.
            - The Gemara says that just as a sale is done with another person, so too the slaughter can be done by another person.
            - In the Yeshiva of **R' Yishmael** they said that the word "oy" in the pasuk comes to include the case of the act done by a shaliach.
            - In the Yeshiva of **Chizkiya** they said that the word "tachas" in the pasuk comes to include the case of the act done by a shaliach.

----------Daf מג---43----------

- **Q:** The previous Gemara said that we can't learn from me'ila and the case of the shomer using the subject property, or from the case of me'ila and the case of the stolen and slaughtered or sold animal, that shlichus can work even for an aveirah, because these are 2 pesukim saying the same concept, and when 2 pesukim say the same concept, they cannot be a source to teach to other places. Now this is true only according to the view that when we have 2 pesukim like that we cannot use them to teach elsewhere. However, according to the view that they can be used to teach to elsewhere, why can't these pesukim serve as the source that shlichus can even work for an aveirah!? **A:** The Torah uses the excluding term of "hahu" regarding one who shechts a korbon outside of the Beis Hamikdash, and this teaches that a shaliach could not make a person liable for that. We then learn all other cases for this case.
    - **Q:** Why are we learning from the case of shechting outside the Beis Hamikdash, which teaches that there is no concept of shlichus for an aveirah, why don't we instead learn from me'ilah or the others and teach that there is a concept of shlichus for an aveirah!? **A:** The pasuk regarding shechting the korbon outside of the Beis Hamikdash complex again uses the limiting word of "hahu", which is not needed for this case (since it was learned from the first word of "hahu") and therefore teaches regarding all other cases in the Torah, that there is no shlichus for an aveirah.
    - **Q:** According to the view that we can't learn from 2 pesukim that are teaching the same thing, and we therefore don't need to learn this from the case of shechting outside of the Beis Hamikdash, how do we darshen the words of "hahu"? **A:** They would say that one "hahu" comes to exclude the case where 2 people held the knife together and shechted, and the other "hahu" comes to exclude the cases of oneis, of shogeg, and of where he was tricked into shechting there.

        - The other view will say that the pasuk could have said "hu" and instead says "hahu", and we darshen that to teach these halachos. The opposing view will not darshen the extra "ha" of the word "hahu".
- **Q:** A Braisa says, if a person sends a shaliach to kill somebody, and the shaliach does so, the shaliach is chayuv. **Shammai Hazaken in the name of Chagai Hanavi** says that the principle would be chayuv, as we learn that Dovid Hamelech was given blame for the death of Uri even though he didn't actually kill him, but had him sent to the front lines of the war to be killed there. How can **Shammai** say that when we have just shown that there is no concept of shlichus for an aveirah!? **A:** He holds that we can learn from two pesukim that teach the same thing, and therefore can learn from me'ilah that there is shlichus for an aveirah, and he also does not darshen the "hu" and "hahu" drasha. Therefore, he has no place that teaches that there is no shlichus for an aveirah. **A2:** He agrees to the drasha of "hu" and "hahu", and he means that the principle would be chayuv in the Heavenly Court, but he would not be chayuv in Beis Din.
    - **Q:** This would mean that the **T"K** holds that the principle would be patur even by the Heavenly Court, which seems hard to believe!? **A:** He agrees that the principle would be chayuv by the Heavenly Court, but he says that would be to a lesser degree than **Shammai** says.
    - **A3:** We can also say that although **Shammai** agrees that in general there is no shlichus for an aveirah, the aveirah of murder is different, as is taught to us in the pasuk regarding Dovid Hamelech.
        - **Q:** How does the **T"K** understand that pasuk? **A:** He will say that the Navi was telling Dovid, just as you have no guilt for the people killed by the enemy at war, you likewise have no guilt for the death of Uri. The reason for that is, because Uri was considered to have rebelled against the king, in which case the halacha is that he is chayuv misah.
    - **Rava** said, even according to the first answer, that **Shammai Hazaken** holds that there is the concept of shlichus for an aveirah, **Shammai** would agree that if a person tells a shaliach to go and be mezaneh or to go and eat cheilev, that it is the shaliach who would be chayuv, and not the principle. This is because we don't find any place in the Torah where one person is chayuv for the benefit that was had by another.
- We have learned that **Rav** says a shaliach can also be a witness to the transaction that he was sent to do, and in the yeshiva of **R' Shila** they said that a shaliach cannot be a witness for that transaction.
    - **Q:** What is the reason for the view of **R' Shila**? If it is because the shaliach wasn't asked to be a witness, we find that if someone gave kiddushin in front of two people without having asked them to be witnesses, the kiddushin is valid, so we see that a witness need not be asked!? **A:** Rather, we must say that **Rav** holds the shaliach can serve as a witness, because his having been the shaliach makes him a more reliable witness. **R' Shila** holds that he cannot serve as a witness, because he holds that since a shaliach is considered to be the same as the principle, he cannot serve as a witness for the principle.
    - **Q:** A Braisa says, if a person told 3 people, "Go and be mekadesh a woman for me", **B"S** say one of them acts as the shaliach and the other two can be the witnesses. **B"H** say that they all act as the shaliach, and a shaliach cannot act as a witness. Now, it is only when there are 3 people that **B"S** seems to argue and say that they can act as witnesses. It seems that if there were only 2 people, even **B"S** would agree that they cannot act as witnesses, because a shaliach cannot act as a witness. This refutes the view of **Rav**!? **A: Rav** holds like another version of this machlokes in a Braisa where **R' Nosson** says that **B"S** holds that even if only 2 people were sent, one can act as the shaliach, and the two of them together can then be the witnesses, and **B"H** say that there must be two witnesses besides the shaliach.
        - **Q:** This would mean that **Rav** is saying like **B"S** (which is not the accepted view)!? **A:** We must reverse the shitos in the Braisa with **R' Nosson**, so that it is **B"H** who hold that the shaliach can act as the witness. Based on this, **Rav** holds like **B"H**.
    - **R' Acha the son of Rava** said that **Rav** is the one who holds that a shaliach cannot be a witness, and **R' Shila** is the one who says that a shaliach can be a witness.
    - The Gemara paskens that a shaliach can act as a witness as well.

- **Rava in the name of R' Nachman** said, if a person tells two people, "Go and be mekadesh a woman for me", they can be the sheluchim and the witnesses. The same is true for a case of gittin. The same is for a monetary case.
  - He needed to delineate all 3 cases. If he would have only said the case of kiddushin, we would think in that case we can believe them as witnesses, because they don't stand to benefit by lying, since by saying she was given kiddushin makes her assur to them, but in a case of gittin, where we must be concerned that they are lying so that she becomes mutar to them, maybe we shouldn't believe them. And, if we would say the case of gittin, we would say that we can believe them there, because at best she would become mutar to only one of them, and the other person wouldn't lie to help the first person. Therefore they are believed. However, in a monetary case, where they could be lying to split the money, maybe they shouldn't be believed. That is why all 3 cases are necessary to be stated.
  - **Q:** If **R' Nachman** holds that when one borrows in front of witnesses he must pay back in front of witnesses, then how can the shiluchim be the witnesses? If they don't testify that they paid back the money to the creditor as instructed by the debtor, then they will be required to pay the money back to the debtor. So they can't be trusted to say that they paid the money to the creditor!? If he holds that witnesses are not needed when returning the money, then the whole conversation does not even begin!? **A:** Really he holds that witnesses are not needed to pay back a loan. However, in this case, since the debtor is unable to say with certainty that the money reached the lender, he needs the witnesses to say that the money was returned to the lender. Now, since the witnesses would be believed by Beis Din if they said "we took the money and gave it to the debtor", they are also believed to say that they gave it to the lender.
    - After the institution that a person who fully denies something must swear, the shiluchim would no longer be believed to say that they gave the money to the lender. Instead, they would have to swear to the debtor that they gave the money to the lender, the lender would then have to swear that he never received the money, and the debtor would be forced to pay the lender for the debt again.

----------Daf מד---44----------

HA'ISH MEKADESH ES BITO

- A Mishna says, with regard to a naarah hame'orasa, the girl herself or her father may accept the get for her. **R' Yehuda** says, it cannot be that two people can be koneh for one person at one time, therefore, only the father has the authority to accept the get for her. Also, any girl who is not able to take care of her get (she is not mature enough, etc.) cannot be divorced.
  - **Reish Lakish** said, just as there is a machlokes regarding get, the same machlokes applies regarding kiddushin. **R' Yochanan** said, this machlokes is only regarding get, but regarding kiddushin everyone would agree that only the father can accept her kiddushin.
    - **R' Yose the son of R' Chanina** explained, the reason for the view of the **T"K** according to **R' Yochanan** is that regarding a get, where she is returning to the reshus of the father, even she can accept the get. Regarding kiddushin, where her acceptance removes her from her father's reshus, only her father can accept the kiddushin.
    - **Q:** A Mishna regarding maamar (which is like kiddushin and is received from a yavam) says that a naarah can accept it on her own without the consent of her father!? **A:** We must say that **R' Yose the son of R' Chanina** said, the reason for the view of the **T"K** according to **R' Yochanan** is that regarding kiddushin, since it must be done with the woman's consent, only the father can accept the kiddushin for her, because he acts as the consent for the naarah. However, regarding a get, which can be given to her even against her will, even the woman can accept the get on her own behalf.
    - **Q:** Maamar can also only be done with the woman's consent, and yet the Mishna says that woman can accept it on her own!? **A:** The Mishna follows **Rebbi**, who says that maamar can

even be given against the woman's will. **Rebbi** teaches this in a Braisa through a drasha from the bi'ah of yibum. Just as the bi'ah can be koneh her against her will, so too the maamar can be koneh her against her will.

- Based on this Braisa we can bring a proof to **R' Yochanan**. The Braisa continues and says, that although a woman can accept her maamar, she cannot accept her kiddushin. This is consistent with the view of the **Rabanan** (the **T"K**) according to **R' Yochanan**.
- **Q:** We should say that this totally refutes the view of **Reish Lakish**!? **A:** He would answer that the Braisa is following the view of **R' Yehuda**, who says that it can't be that two people can have the authority to accept kiddushin for a woman at the same time.
    - **Q:** If the Braisa is following **R' Yehuda**, it should have said that although a woman can accept her maamar, she cannot accept her get!? **A:** In truth he could have said that. However, since the Braisa was discussing maamar, which is similar to kiddushin, he contrasts it with kiddushin.
    - **Q:** According to **R' Yehuda**, why is it that maamar is different, and a naarah may accept her own maamar? **A:** Mammar is different because she is already connected to the yavam with zikah.
    - Once we have this answer, we can even go back to the original explanation of the view of the **Rabanan** according to **R' Yochanan**, and the reason why maamar is different is because she is already connected to the yavam with zikah.

- **Q:** Our Mishna says that a father, either on his own or through a shaliach, can accept the kiddushin for his daughter who is a naarah. Now, this suggests that the naarah herself could not accept her kiddushin. This refutes **Reish Lakish**!? **A:** He will answer that this Mishna also follows the view of **R' Yehuda**, but the **Rabanan** would in fact argue and say that she can.
    - **Q:** From the next part of the Mishna (on a later daf) we see that this Mishna follows the view of **R' Shimon**, and not of **R' Yehuda**!? **A:** The entire Mishna follows the view of **R' Shimon**, and with regard to whether a naarah can accept her own kiddushin, **R' Shimon** holds like **R' Yehuda**.
- **R' Assi** once did not go to Beis Medrash. He asked **R' Zeira** to tell him what he missed. **R' Zeira** said he also hadn't gone that day, but that **R' Avin** had gone and told him that all the **Chachomim** sided with **R' Yochanan** that a naarah cannot accept her own kiddushin. Although **Reish Lakish** protested based on the hekesh of "v'yatza v'huysa", no one listened to him.

- **Q: Rava** asked **R' Nachman**, according to the **Rabanan**, can a naarah appoint a shaliach to accept her own get from her husband? Is she considered to be like the hand of her father, and just as her father can appoint a shaliach, she can as well, or is she like the chatzer of her father and the get will therefore not take effect until it reaches her hand?
    - **Q:** How can **Rava** have had this question? We find that **Rava** says that if a husband puts a get into the hand of a slave of his wife, then if the slave was sleeping and the wife was there to guard him, the get is valid. If he was awake the get is not valid even if she was guarding him. Now, if the naarah is like the chatzer of her father, then even when the get reaches her hand the get should not be effective, because she is like a chatzer that is not being guarded by the father!? **A:** Rather, **Rava's** question was, is the naarah like the hand of her father in a way that is strong enough that she can even appoint a shaliach like he can, or do we say that she cannot? **R' Nachman** answered, she cannot appoint a shaliach.
        - **Q:** A Mishna says that if a minor girl appoints a shaliach to accept a get for her, the get is not effective until it reaches her hand. This suggests that a naarah could appoint a shaliach to accept a get for her!? **A:** The Mishna is discussing a case where there is no father. In that case a naarah could accept the get on her own behalf and could make a shaliach.
        - **Q:** That Mishna continues and says that if the father appointed a shaliach to accept the get for his minor daughter, the get is effective as soon as it reaches the hand of the

shaliach. We see that the Mishna is discussing where there is a father!? **A:** The Mishna is missing words and should be understood as saying, a minor cannot appoint a shaliach to accept her get, but a naarah could. Now, that is only if there is no father. However, if there is a father, he may appoint a shaliach for his minor daughter.

- We have learned, if a minor accepts kiddushin without the knowledge of her father, **Shmuel** said she is required to receive a get *and* to do "mi'un".
  - **Q: Karna** asked, if she needs a get why does she also need mi'un!? And if she needs mi'un, why does she need a get!? **A:** They sent this question to **Rav** and he strongly agreed with **Shmuel's** ruling.
    - **R' Acha the son of R' Ika** explained, we require her to receive a get for the possibility that the father will consent to the marriage when he finds out about it, and thereby make it a valid kiddushin. We require her to do mi'un, because by receiving a divorce people will say that if this man then gives kiddushin to this girl's sister, the kiddushin will not take effect (since she is the sister of his divorcee). However, if the father never really consented, then the first kiddushin never took effect, and this second kiddushin does take effect. We therefore require her to do mi'un which lets people know that the first kiddushin may have not been a kiddushin at all, and will therefore let them all know that a subsequent kiddushin given to her sister may be an effective kiddushin.
    - **R' Nachman** said, the kiddushin with the minor only requires the divorce and mi'un if the minor and the man had discussed getting married before the giving of the kiddushin. If they had not, the kiddushin is totally invalid.
    - **Ulla** argued on **Rav and Shmuel** and said that a minor who accepted kiddushin does not even need mi'un, because the kiddushin is certainly invalid.
      - **Q:** Was this said even if they had previously discussed getting married? **A:** We must say that the one who taught **Ulla's** statement is not the same one who taught **R' Nachman's** statement.
      - **Others** say that **Ulla** made his statement as a standalone statement, not connected with the ruling of **Rav and Shmuel**.
      - **Q: R' Kahana** asked, a Mishna says that if a yevama is the daughter of the yavam, and she had done mi'un from her husband, her co-wives are mutar to her father to do yibum. Now, how can it be that the father is alive and yet she did mi'un? It must be that she accepted the kiddushin as a minor and we see that such an acceptance requires a mi'un, which refutes **Ulla**!? **A:** The case may be where her father had originally married her off and she was then divorced. In such a case, since she is really considered to be out of the reshus of her father, if she were to then accept her own kiddushin it would be effective unless she would later do mi'un.
      - **Q: R' Hamnuna** asked, a Braisa says that a father may sell his daughter who is a widow to a Kohen Gadol. Now, if she was widowed from a marriage accepted by the father, he would not be allowed to sell her!? Rather, the case must be where she accepted her own kiddushin and the husband then died, and we see that she is given the status of a widow, which means her acceptance had some legal effect, which refutes **Ulla**!? **A: R' Amram in the name of R' Yitzchak** said, the case here is that this girl had been married through "yi'ud" and the Braisa follows the view of **R' Yose the son of R' Yehuda**, who says that the purchase money upon the girl's sale is not considered to be money of kiddushin at the time it is given. Therefore, when she married with yi'ud it is not considered as if the father married her off, and therefore, if she is widowed, the father retains his right to sell her.

Daf In Review – Weekly Chazarah

----------Daf מה---45----------

- If a man gave kiddushin to a minor without her father's knowledge and the husband then died without children, and she therefore falls to yibum to his brothers, **R' Huna in the name of Rav** said, if the brother gave maamar, she needs mi'un from the maamar as well as a divorce and chalitza in order to be free to marry another man. If no maamar is done, she only needs chalitza and nothing further.
    - The Gemara explains, she needs a get, because maybe the father agreed to the maamar of the brother, and she needs chalitza, because maybe the father agreed to the kiddushin of the dead husband. She is also required to get mi'un, because maybe the father did not agree to the kiddushin of the first or of the second man, and people will think the kiddushin was effective and therefore if the brother then gives her sister kiddushin, people will say that this kiddushin is not effective (when in reality it is, because neither of the men were even married to the first girl).
    - The Gemara explains, if no maamar was given, she only needs chalitza. You will suggest that she should do mi'un as well, so that people not say that a kiddushin then given to her sister is not effective. However, that is not necessary, because everyone knows that the sister of a woman to whom you have given chalitza is only assur D'Rabanan, and therefore a kiddushin given to the sister would definitely be effective. As we find that **Reish Laskish** said that **Rebbi** said, the sister of a man's divorcee is assur D'Oraisa, and the sister of a man's chalutza is only assur D'Rabanan.
- There were 2 people drinking wine under a willow tree in Bavel. One of them took a cup of wine and gave it to the other and said "Let your daughter become mekudeshes to my son with this cup of wine". **Ravina** said, even according to the view that when a minor girl accepts kiddushin without the knowledge of her father, we must be concerned that the father will later agree to the kiddushin and thereby make it effective, in this case we need not be concerned that the son will later agree to the kiddushin done without his knowledge, and therefore this kiddushin is not effective. The **Rabanan** asked **Ravina**, maybe we should be concerned that the son appointed the father as a shaliach to give the kiddushin!? **Ravina** said, no one would have the chutzpah to appoint his father as a shaliach.
    - **Q:** Maybe we should be concerned that the son previously told the father that he wanted to marry that girl? **A: Rabbah bar Simi** said, I have been told that **Ravina** does not hold like **Rav and Shmuel** (who are concerned that the father of the girl will later agree to the kiddushin) and he therefore is also not concerned that the father was appointed as the son's shaliach.
- There was a person who was mekadesh a minor girl in the marketplace without knowledge of the father, using a bundle of vegetables. **Ravina** said, even according to the view that we have to be concerned that the father will agree to the kiddushin, that is only when it is given in a respectable way. Here, it was not done so, and therefore there is no concern.
    - **Q: R' Acha Midifti** asked **Ravina**, was this not respectable because it was a bundle of vegetables, or because it was done in the marketplace? **A: Ravina** said, each aspect on its own makes it be considered as not respectable.
- There was a couple who had an argument. The husband wanted their minor daughter to marry his relative and the wife wanted her to marry her relative. The wife finally convinced the husband to her view. As they were at the party to celebrate the kiddushin that was to take place, the husband's relative went and gave kiddushin to the minor without her father's knowledge. **Abaye** said that we can assume that the father will not agree to that kiddushin since he already gave his word to his wife that the daughter will marry her relative. **Rava** said, we can assume that the father would not agree with that kiddushin, because he had already spent the money on the party for the kiddushin to the other man. The difference between these views would be if no party was thrown yet.
- If a minor was mekudeshes with her father's knowledge and consent, and the father then went overseas and the minor then entered into nissuin without the father's knowledge, **Rav** said that she may eat terumah (if the husband is a Kohen) until her father comes back and protests to the nissuin. **R' Assi** said, she may not eat terumah, because we are concerned that her father will come and protest the nissuin, which will cause that retroactively she has eaten terumah when she was not allowed to do so.

- When faced with an actual case, **Rav** was machmir like **R' Assi**.
- **R' Shmuel bar R' Yitzchak** said, **Rav** would agree that if the girl were then to die, the husband would not inherit her.
- If the minor was mekudeshes with her father's knowledge and consent, and then entered into nissuin without his knowledge, but the father was local (and not overseas), **R' Huna** said she may not eat terumah, and **R' Yirmiya bar Abba** said that she may eat terumah.
  - **R' Huna** said, even according to **Rav** who said that she may eat terumah when the father was overseas, in this case she may not eat terumah, because the fact that he is local and remains silent shows that he is angry and not agreeable to the nissuin. **R' Yirmiya bar Abba** said, even according to **R' Assi** who said that she may not eat terumah when the father was overseas, in this case she may eat terumah, because he is local and has not protested, which shows that he is agreeable.
- If a minor was mekudeshes without the knowledge of her father and entered into nissuin without the knowledge of her father, and her father is local, **R' Huna** said she may eat terumah and **R' Assi** said that she may not eat terumah.
  - **Ulla** said, this can't make sense. If in the case where there is a definite kiddushin **R' Huna** said that she may not eat terumah, then in this case she should surely not be able to eat terumah!? Therefore, it must be that **R' Yirmiya** is correct.
    - **Rava** said, this is not so. The reason of **R' Huna** is that since she entered into kiddushin and nissuin without his knowledge and he did not protest, she is treated as an orphan in her father's lifetime, and therefore she may eat terumah based on these acts.

- We have learned, if a minor accepted kiddushin without her father's knowledge, **Rav** said that both she and her father have the ability to stop the kiddushin from taking effect. **R' Assi** said, only her father has the ability to do so.
  - **Q: R' Huna** asked **R' Assi**, a Braisa says that a pasuk teaches that a girl can refuse to marry her seducer. Presumably this includes the case of where the seduction was done with a minor for the purpose of marrying her, without the father's knowledge. We see that the girl has the ability to stop the kiddushin from taking effect!? **A: Rav** said, we can say that the Braisa is discussing where the seduction was done not for purposes of marriage, and therefore doesn't prove anything for a case of actual kiddushin.
    - **Q:** We would not need a pasuk to teach that the father or the girl can stop the marriage from happening if the seduction was done with other than the intent to marry her!? **A: R' Nachman bar Yitzchak** said, the pasuk could be teaching that if the girl later refuses to marry him, that refusal would make him obligated to pay the penalty of a seducer.

----------Daf מו---46----------

MISHNA

- If a man tells a woman "be mekadesh to me with this date" and after giving it to her he then presents a second date and says "be mekadesh to me with this date", then if either of the dates are by themselves worth a prutah, she is mekudeshes. If not, she is not mekudeshes.
  - If he tells her "bemekadesh to me with this date and this date", then if there is a combined value of a prutah she is mekudeshes, and if there is not, she is not mekudeshes.
  - If as the dates were being given to her she ate them, she would not be mekudeshes unless a single date has the value of a prutah on its own.

GEMARA

- **Q:** Who is the Tanna who holds that the phrase "be mekadesh to me" is considered to divide the acts of giving the dates so that the value of the dates can't combine? **A: Rabbah** said it is the view of **R' Shimon**, who says regarding a person who admits to having sworn falsely to a number of people, that each swearing is considered separate if he said to them "I swear to you, and I swear to you, etc."

BEZU UBEZU UBEZU IHM YEISH BIKULAN SHAVA PRUTAH…

- **Q:** What part of the Mishna is the last case said about? If it is on the first case, then why do we need the woman to have eaten the dates? Even if she just left them there it would still not be a good kiddushin!? If it was said on the second case, then how is it that she is mekudeshes? By her eating the date she becomes obligated to pay for it, and it thus becomes a loan, and the halacha is that a woman cannot become mekudeshes with a loan!? **A: R' Yochanan** said the Mishna cannot be explained. **Rav and Shmuel** said this case is being said on the first case of the Mishna and the Mishna should be understood as saying "it goes without saying", as follows: For sure if she just left the date there it will not be a good kiddushin if it is not worth a prutah, but even more so, even if she ate the dates, in which case we may have said that the eating provides her a greater benefit and value than the actual worth and therefore maybe it is a valid kiddushin. The Mishna therefore teaches that even in that case the kiddushin is not valid unless one of the dates is actually worth a prutah. **R' Ami** said, the case is going on the last case of the Mishna, and when the Mishna says the kiddushin is only valid "when at least one of them is worth a prutah", it means that the last one has to be worth a pruta (because that is the only one that would not be considered a loan, because the act of kiddushin is final as soon as he hands it to her).
    - **Rava** said, we can learn 3 things from the statement of **R' Ami**. First, that one who gives kiddushin with a loan would not be considered a valid kiddushin. Second, if one gives a loan and a prutah as kiddushin, we say the woman focuses on the prutah and not on the loan, and therefore the kiddushin is valid. Third, if money was given to woman for a kiddushin that was ultimately invalid, the money must be returned to the man.
    - We have learned, if a man gives kiddushin to his sister, **Rav** said, since the kiddushin is obviously not valid, she must return the money to him, and **Shmuel** said, the sister may keep the money as a present.
        - The Gemara explains, **Rav** holds that everyone knows that kiddushin with a sister in ineffective, and he must have given her the money to guard for him. The reason he didn't tell her this outright is because he felt she would not accept the money to guard it for him. **Shmuel** holds that everyone knows that kiddushin with a sister in ineffective, and he must have given her the money as a gift. The reason he didn't tell her this outright is because he felt she would be embarrassed and would not accept the gift.
        - **Q: Ravina** asked, a Mishna says that if one gives flour to a Kohen as challah (the challah obligation only applies to dough, and not to the ingredients), the Kohen must return it to the person and if he doesn't it is considered as stolen by the Kohen. Now, we should say that everyone knows that challah is not given from flour, and therefore, according to **Shmuel** we should say that the flour was given to the Kohen as a gift!? **A:** In that case, if we allow the Kohen to keep the flour, it can lead to a big problem. If the Kohen were allowed to keep it, he would consider it as challah, and therefore if the Kohen were to mix this flour with other flour and combine it to reach an amount that would then be chayuv in challah, the Kohen would think that there is no challah obligation, because part of the flour is (in his mind) challah already. He would then make a dough and eat it without separating challah. It is for this reason that in this case we don't allow the Kohen to keep the flour.
            - **Q:** We have said that everyone knows that challah can't be given from flour!? **A:** People know that this is the case, but the Kohen believes this is based on the fact that we don't want to make the Kohen have to bother to make the flour into dough. The Kohen therefore says that he is mochel on that consideration and is willing to accept the flour as challah and thinks that it will therefore have the status of challah. However, in truth, it will not have the status of challah.
            - **Q:** Why don't we say that the Kohen may keep the flour, but that he must remove challah from the flour itself? We find a similar concept where one separated terumah from a flowerpot with a hole for the produce of a flowerpot without a hole, and in that case we say that the Kohen may keep what was given for him, but that he must separate terumah and maaser on what was given to him!? **A:** When dealing with two separate items (the two flowerpots) he will listen when we tell him that he must separate. When

dealing with the one portion of flour (in the case of challah) he will not listen. **A2:** Although the Kohen will listen when we tell him that he must separate terumah, the reason we make him return the flour is because if we do not, the person who gave the flour will think that he has satisfied his challah obligation. By making it be returned to him, we are showing him that he has not yet given challah.

- **Q:** We have said that everyone knows that challah can't be given from flour!? **A:** People know that this is the case, but they believe this to be based on the fact that we don't want to make the Kohen to have to bother to make the flour into dough, and he says that the Kohen is mochel on that consideration and is willing to accept the flour as challah and it will therefore have the status of challah. However, in truth, it will not have the status of challah.
- **Q:** Why don't we say that the Kohen may keep the flour, but that the giver must remove challah again from the dough? We find a similar concept where one separated terumah from a flowerpot without a hole for the produce of a flowerpot with a hole, and in that case we say that the Kohen may keep what was given for him, but that the giver must separate terumah and maaser again!? **A:** When dealing with two separate items (the two flowerpots) he will listen when we tell him that he must separate. When dealing with the one portion of flour (in the case of challah) he will not listen.
- **Q:** We find in other places that a person will sometimes separate terumah (like when he separates a spoiled cucumber or melon), and we say that the Kohen keeps what was given, but that the person must separate terumah again!? **A:** In that case we allow that, because D'Oraisa the terumah that was separated was valid, and therefore if terumah is not separated again, it is not the end of the world.

----------Daf מז---47----------

- **R' Ami** had said earlier that the last part of the Mishna is going on the second part of the Mishna, and is to be understood as saying, that where the man tells the woman he is being mekadesh her with "this date" and she then eats it, and he then says "with this date" and she then eats that, the value of the dates can't be combined to arrive at the necessary prutah of value needed for kiddushin. **Rava** says, this is only if he divides his statement by saying "with this one, and with this one, etc." However, if he said "be mekudeshes to me with these" and she then eats the dates, she is mekudeshes, because all the dates are already considered to be hers before she ate them.
  - There is a Braisa that says like **Rava** as well. The Braisa says, if a man said to a woman, become mekudeshes to me with an acorn, with a pomegranate, and with a nut, or if he said to her become mekudeshes to me with these, then if there is a prutah of value among them all, she is mekudeshes, and if not, she is not mekudeshes. If he said to her "with this" and she took it and ate it, and then he said "with this" and she took it and ate it as well, etc., she is not mekudeshes unless one of the items was itself a prutah value. Now, what is the first case of this Braisa? If the case is where he said be mekudeshes with the acorn *or* the pomegranate *or* the nut, then since the word "or" divides them, we should not look at the combined value to see if there was a prutah!? Rather, we must say that the case is where he said "and" instead of "or". If so, that is the same case as "with this one, with this one, etc."!? Rather it must be that he said "with these", and we are to understand the second clause of the Braisa as explaining the case of the first clause of the Braisa (that it is referring to "with these"). We see from this Braisa that in the first case there is no difference whether she ate them or left them there, as long as he said "with these", we will look at the combined value for a prutah. This is a proof to what **Rava** said.
  - **Rav and Shmuel** had said that the last part of the Mishna (where she ate the dates as they were given to her) was going on the first case of the Mishna, and the chiddush was, that although she is eating the dates, and she therefore has a higher level of benefit, if the date is not worth a prutah, the kiddushin is

not a valid kiddushin. According to them, we will have to explain this Braisa, that the last part of the Braisa that discusses the case of the woman eating the dates as they are given to her, is following the view of **Rebbi**, who holds that we view these statements as divided statements, and not one of "with these". Based on this, the Braisa at the end is again teaching, that although she is eating it and having instant benefit, if it is not worth a prutah, she is not mekudeshes.

- **Rav** said, if one is mekadesh with a loan, the kiddushin is invalid, because a loan is given to be spent however the borrower desires, which means that the borrower is considered to be the owner of the money.
    - **Q:** Maybe we can say that it is actually a machlokes among Tannaim. A Braisa says, if one is mekadesh with a loan, the kiddushin is invalid, but some say that it is valid. Presumably the machlokes is that the **T"K** holds that a loan may be spent in any way, whereas the "some say" holds that the borrower may not spend the loan however he wants, and must instead invest it in a way that it is always available to be used to pay back the loan!? **A:** This can't be the point of machlokes, because the Braisa says that all agree that the money of a loan can be used to make a kinyan on a piece of land from the borrower to the lender, and if the **T"K** holds that the loan is viewed as belonging to the borrower, how can that money be used as a kinyan from the lender to the borrower? **R' Nachman** therefore said, that **R' Huna** explained, the case of a loan for kiddushin is totally different than thought. The case is where he told her to be mekudeshes to him with a maneh, and the maneh he gave her was short one dinar, so he says let that be a loan from you to me and I will pay you for it later. In that case, the **T"K** holds that she will be embarrassed to collect on that loan and therefore the kiddushin is invalid, and the other Tanna holds that she will not be embarrassed, and therefore the kiddushin is valid.
        - **Q:** We have learned that **R' Elazar** said, if a man says "be mekudeshes to me with a maneh" and he then gives her only a dinar, the kiddushin is valid and the man must pay her the balance of the maneh. Based on what we have just said, must we say that this statement of **R' Elazar** is actually a machlokes among Tanna'im? **A:** When the maneh is missing only one dinar, she will be embarrassed to collect. When the maneh is missing 99 dinars she will not be embarrassed to collect, and therefore the kiddushin is valid.
    - **Q:** A Braisa says, if a man tells a woman "be mekudeshes to me with the item that I had given to you for safekeeping", and she then went to get that item and discovered that it was lost or stolen, if there is a prutah of the item remaining, she is mekudeshes. If not, she is not. With regard to a loan, even if she does not have a prutah of the loan remaining, she is mekudeshes. **R' Shimon ben Elazar in the name of R' Meir** says, the case of the loan is considered to be the same as the case of the item left for safekeeping. Now, they only argue whether or not a prutah of the loan must be remaining. They both seem to agree that a loan can be used for kiddushin!? **A: Rava** said, this Braisa can't be used to ask a question, because it is mistake. With regard to the case of the object left for safekeeping, it can't be discussing where she accepted responsibility if the object was lost or stolen, because then she would be obligated to pay for it, and it would be the same case as that of a loan! If the case is that she didn't accept responsibility, then why did the Braisa use the case of a loan to contrast, it could have contrasted using the same case of the guarded object, only one is where she didn't accept responsibility and one is where she did (which is the case of a loan)!? Rather, we must say, the Braisa should be read as saying, in the case of a loan, even if there is a prutah remaining she is not mekudeshes, and **R' Shimon ben Elazar in the name of R' Meir** says the case of the loan is considered to be the same as the case of the item left for safekeeping. Therefore, if there is a prutah remaining, she is mekudeshes.
        - **Q:** What is the point of machlokes between the **T"K** and **R' Shimon ben Elazar in the name of R' Meir** in the Braisa? **A: Rabbah** said, the machlokes is whether a loan that has not yet been spent is considered to belong to the lender (i.e. he can still take the money back at this point) or to the borrower. The **T"K** says it belongs to the borrower and that is why it cannot be used for kiddushin from the lender, and **R' Shimon ben Elazar in the name of R' Meir** says that it is considered to belong to the lender.
            - **Q:** We find that **R' Huna** says that if one borrows an ax, he is not koneh it to be his for the period of the borrowing until he actually uses the ax. Shall we now say that this is

actually dependent on the machlokes Tanna'im in the Braisa? **A:** With regard to an item (as opposed to money), all would agree that since the actual item must be returned, it is not considered to belong to the borrower until he uses it and begins the borrowing process. However, with regard to money, since the actual coins borrowed need not be returned, that is where there is a machlokes.

- **Q:** Maybe the halacha of **Rav** is a machlokes among Tanna'im in a Braisa. A Braisa says, if a man says "be mekudeshes to me with this promissory note" or, he is owed money by other people and he gives her the right to collect this money, **R' Meir** says the kiddushin is valid, and the **Chachomim** say it is not valid. Now, what is the case of the promissory note? If it is from someone else who owes him money, that is essentially the next case of the Braisa!? We must say that it is a promissory note for money that she owes him, and we see that the machlokes is whether a loan is a valid form of kiddushin!? **A:** The promissory note is actually from somebody else. The two cases of the Braisa are the case of an oral loan and the case of a written loan, and the machlokes Tanna'im is regarding both these types of loans. Regarding the written loan the machlokes is like the machlokes between **Rebbi and the Rabanan**, whether one can be koneh a promissory note by simply handing it over to another person – **R' Meir** says that she is koneh simply by receiving the note, and the **Rabanan** say that she is not koneh and therefore does not become mekudeshes. They also may argue in the halacha of **R' Pappa**, who says that when a document is being transferred, the seller must write that he is transferring the document and all encumbrances, and this was not done in the Braisa – **R' Meir** doesn't hold of **R' Pappa** and the **Rabanan** do. We can also say that they argue regarding the halacha of **Shmuel**, who says that if one sells his document, he still has the power to be mochel the loan – **R' Meir** does not hold like this, and therefore the document can be used for kiddushin, and the **Rabanan** hold like **Shmuel**, and therefore it can't be used for kiddushin, because the husband still has the power to render the document worthless. We can also say that they both hold like **Shmuel** and argue whether a woman believes that the man would be mochel the loan and hurt her financial interest.
    - With regard to the oral loan, the machlokes is regarding the halacha of **R' Huna in the name of Rav**, who says that one may tell his debtor to pay a third party instead of giving the money back to him, and if he does so with all 3 parties present, this third person is koneh the rights to the loan. That is the case in the Braisa. The **Rabanan** say that **Rav** only said this halacha regarding an item given for safekeeping, and therefore the loan was never transferred to the woman, and can't be used for kiddushin. **R' Meir** says the halacha was even said for a loan, and therefore the loan was given to the woman, and she is mekudeshes.