

שבת קודש פרשת ויצא | מסכת כתובות דף ו'

INSIGHTS FROM OUR CHABUROS

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 ותקרב 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 מנה 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 שאינם מוכיחות ידים according to the opinion that in general this is adequate, or in a case of מוכיחות ידים in a case where the man first offered kiddushin to another woman.

PARSHA CONNECTION

In this week's daf, the גמרא discusses **יד** לקידושין which is described as a case of a person telling one lady that he wants to marry her and then tells her friend "and you". The question revolves around the lack of clarity in his statements. פרשת ויצא contains the most explicit statement possible regarding a prospective marriage. יעקב told לבן regarding his daughter "ברחל בתך הקטנה" which is the classic example of a clear statement that leaves nothing to chance. Yet, despite the unambiguous statement by יעקב, he was tricked by לבן who substituted לאה instead of רחל. The גמרא gives רחל a lot of credit, for helping her sister avoid a terrible embarrassment by sharing with her the "סימנים". While רחל clearly did a tremendous חסד with לאה, why did לאה agree to be married to יעקב instead of her sister? Furthermore, we find a very difficult statement by לאה, later in the פרשה which seems like she is an ingrate and didn't appreciate what רחל did for her. The possuk (בראשית ל' ט"ו) says: **"ותאמר לה המעט קחתך אתי אישי ולקחת גם אתי דודאי בני ותאמר"**

רחל לכן ישכב עמך הלילה תחת דודאי בנך: Leah tells רחל that it's not enough that you took "my husband" and now you also want to take the דודאים that my son brought me. How can she possibly "accuse" רחל of taking HER husband, when we know that it's was actually לאה who took רחל's husband? The מדרש תנחומא offers a fascinating insight that explains why לאה made this comment. Before getting married, יעקב sent gifts to רחל via לבן. Instead of giving the gifts to רחל, לבן gave them to לאה and this implied to לאה that יעקב is looking forward to marrying her! רחל never told לאה that those gifts were meant for herself and not for לאה, leading לאה to believe that she was יעקב's chosen wife all along. This is why she was happy to get married to יעקב and explains why she thought that רחל took HER husband and not the reverse.

STORIES OF 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 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 אימי 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 אימי. The only two exceptions are the Ran in Nedarim 6a and the Rashbah who writes this halachah but not I'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 ימי which also means 'from me'!"

HALACHA 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 the Aruch Hashulchan¹. At the time Yaakov is betrothing Rochel he gives her two perutahs and declares, "Behold you are betrothed to me." He then asks Leah, "חַי וְאֵת—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 farfetched, 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

POINT TO PONDER

The משנה מעשר שני פרק ז' writes that there is no need to say anything in order to be דתנן היה מדבר עם אשה על עסקי גיטה וקידושיה ונתן לה גיטה וקידושיה ולא מקדש a woman: פירש ר' יוסי אומר דיו קדושין is valid since it is clear from the circumstances that he wants to marry this woman, how can there be a question with regards to whether יש יד לקידושין?

Response to last week's Point to Ponder:

The Gemara wants to bring a proof from גיטין regarding מוכיחות. Since in נדרים we have a special דרשה that ידיים help, how can we compare it to גיטין where we have no such דרשה?

Although the Gemara refers to both cases as ידות, they have different characteristics. יד with regards to a גט is a partial sentence which may work as well as a full sentence because we understand the overall intent. However with regard to a נדר, the יד alone without any additional elements proving intent is sufficient, which is why we need a דרשה (אורה יקר).

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?

MUSSAR FROM THE DAF

Connection
through
speech

בעי רב פפא: יש יד לקידושין, או לא

Rav Pappa raised a dilemma: Is there Yados for kiddushin or not?

Rav Pappa asks in our Gemara if there is a concept of ידות for Kiddushin. Many Achronim ask, why should there be an ענין of ידות for Kiddushin? Regarding Nedarim it makes sense as one needs a דיבור to make a נדר, but why does there need to be a דיבור within Kiddushin?

The תורת גיטין (Siman 141, Sif 66) explains that we see from here that Kiddushin requires a דיבור. However, one can ask why does Kiddushin in fact need a דיבור?

Let's look at another question. Rav Shlomo Wolbe ז"ל asks why does one need to speak to Hashem when they daven. Shouldn't it suffice for a person to simply think about what he wants to say to Hashem. After all, Hashem understands our thoughts as well? Rav Wolbe answers that דיבור is the way one connects to another person. And therefore, one can connect to Hashem on a higher level if they speak to Hashem as opposed to merely thinking about what one wants to say to Hashem.

In our sugya the same idea can apply. Kiddushin is not only the husband acquiring his wife with the כסף קידושין. Rather, the man is creating a connection with his wife so that they can unite as one. Therefore, a person needs a דיבור to begin creating the connection and oneness that permeates all of marriage.

We see from our sugya that one can't simply relate to their spouse as a part of their family, rather their spouse is an extension of themselves that evolves through endless actions of connecting.

For more points to ponder by Rabbi Yechiel Grunhaus, or insights by Rabbi Yitzchok Gutterman, please visit our website, dafaweek.org, or download the app

To share an insight from your Chabura please email info@dafaweek.org

The shavua matters is published by the Daf a week program under the rabbinical guidance of Harav Meir Stern shlita and Harav Shmuel Kamenetsky shlita

To sponsor a publication, please contact Rabbi Zacharia Adler, Executive Director at info@dafaweek.org or call 507-daf-week. Sponsorship for one week is \$100

Sections reprinted with permission from the Chicago Torah Center