

# Daf Notes

Insights into the Daily Daf

27 Tishrei 5769

Kiddushin Daf 18

Oct. 26, 2008

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## Daily Daf

### *A Gentile's Inheritance*

Rav Chiya bar Avin says in the name of Rabbi Yochanan: A gentile inherits his father according to Torah law. This is as the verse states, "*For an inheritance to Esav I gave Mount Seir.*"

The *Gemora* asks: Perhaps an apostate Jew (*does not keep the mitzvos on purpose*) is different?

The *Gemora* answers: Rather, the proof is from the verse, "*For to the children of Lot I gave Ar as an inheritance.*"

The *Gemora* asks: Why didn't Rav Chiya bar Avin say the same proof as Rava (17b)?

The *Gemora* answers: Does it say, "*And he will calculate with the one who bought him,*" but not the inheritors of the one who bought him?

The *Gemora* asks: Why didn't Rava give the same proof as Rav Chiya bar Avin?

The *Gemora* answers: It could be that the Torah said he had an inheritance to honor Avraham (*his cousin*). (18a)

### *Male Servant and Female Servant*

The *braisa* states: There are laws regarding a male servant that do not apply to a female servant, and visa

versa. A male servant goes free after a set amount of years, *Yovel*, and the death of the master, as opposed to a female servant. A female servant goes free if she has signs of maturity, cannot be sold more than once, and is redeemed against the master's will, as opposed to a male servant.

The *Gemora* asks: How can it be said that a male servant has advantages over a female servant, when the *braisa* continues that she has an extra advantage that she also goes out with signs of maturity?

The *Gemora* answers: All of the methods of going free do not apply to a female servant if her master performs *yiud* (*marries her, after which she would require a Get*).

The *Gemora* asks: This is obvious, as she then requires a *get*!

The *Gemora* answers: One might have thought that she still has the laws of a regular maidservant. This is why the *braisa* must say that she doesn't.

The *Gemora* asks: If so, why does she still go out with signs of maturity?

The *Gemora* answers: The *braisa* means to say that if the master did not do *yiud*, she goes out with signs of maturity.

The *Gemora* asks: By stating that a maidservant cannot be sold twice, the implication is that a male servant can be sold twice. Doesn't the *braisa* say: "With his stealing," implying that he does not get sold because of *keifel* (double payment as a fine for stealing), if he was a *zomeim* witness (testified falsely in a way in which the punishment is that he is required to pay what he intended to cause others to pay) against someone who stole, or if he was already sold once?

Rava answers: This *braisa* is referring to the law that he is not sold more than once to cover a large amount of money that he stole at one time. However, he can be sold twice for two different thefts.

Abaye asks: "With his stealing," implies that multiple thefts can be combined!

Rather, Abaye says: He cannot be sold multiple times to one master, but can be sold multiple times to different people.

The *braisa* states: If he stole one thousand and his servitude is worth five hundred, he is sold twice. If he stole five hundred and is worth one thousand, he is not sold at all. Rabbi Eliezer says: If the theft is exactly how much he is worth, he is sold. Otherwise, he is not sold. Rava says: In this, Rabbi Eliezer bested the *Chachamim*, for why is someone not sold if he steals five hundred and is worth one thousand? This is because the Torah states, "And he will be sold," implying he is totally sold, not halfway sold. Here too, the Torah states he is sold "for his stealing," implying that he is sold for all the money with which he stole, not for half of it. (18a)

### ***Redeemed Against his Will***

Rava understood that the *braisa* above means that she is redeemed against the will of her master.

Abaye asked him: What is the case? If it is that she can write him a document that she owes him her value, would we force him to take a piece of earthenware (*an i.o.u*) in exchange for the diamond (*maidservant*) he has in his hand?

Rather, Abaye says: It must be that the *braisa* means that the father is forced to redeem his daughter if he

has the money, due to the embarrassment this causes to the family.

The *Gemora* asks: If so, let the father (*or relatives*) be forced to redeem a regular servant as well?

The *Gemora* answers: He will just go and sell himself again.

The *Gemora* asks: Why won't the father sell the daughter again?

The *Gemora* answers: The *braisa* said that she cannot be sold twice.

The *Gemora* asks: Who is the author of this *braisa*?

The *Gemora* answers: It is Rabbi Shimon. The *braisa* states: A person can accept *kiddushin* for his daughter again (*if she became widowed or divorced after betrothal*), he can sell her again, and he can marry her off after selling her as a maidservant. However, he cannot sell her after marrying her off. Rabbi Shimon says: Just as he cannot do this, he cannot sell her as a maidservant after he already sold her once.

This is like the argument of the following *Tannaim*. The *braisa* says: "When he betrayed her." Once he spread his cloak over her (*in marriage*), he cannot sell her; these are the words of Rabbi Akiva. Rabbi Eliezer says, "When he betrayed her," teaches that once he betrayed her (*sold her as a maidservant*) he cannot sell her.

What is their argument? Rabbi Eliezer says: The way the word is written in the Torah is important. Rabbi Akiva says: The way it is read is important. Rabbi Shimon says: Both are important. ["Important" here refers to how we understand the intent of the Torah. If we focus on the word as it is read, it refers to clothing, while if we focus on the letters, it refers to being sold.] (18a – 18b)

### ***Yiud***

Rabbah bar Avuha inquired: Does *yiud* create a completed status of marriage (*nisuin*) or does it effect only *erusin*? What is the difference? The difference is regarding inheriting her, becoming impure to her (*if he is a Kohen*), and nullifying her vows. What is the law?

The *Gemora* tries to prove this from the previous *braisa*. The *braisa* states: Once he spread his cloak over her, he cannot sell her. This implies that (*after she is widowed or divorced from yiud, and she is not yet a bogeres*) he cannot sell her, but he can betroth her. If she had actually gotten married, it would be clear that her father would not have any possession of her. It must be that *yiud* only makes betrothal.

Rav Nachman bar Yitzchak says: Here the *braisa* is referring to regular *kiddushin* (not *yiud*). It is saying that once the father gave her over to someone who is obligated to provide her with support, clothing, and marital relations, her father cannot sell her any longer.

The *Gemora* tries to prove this from another *braisa*. The *braisa* states: He cannot sell her to relatives (*for they cannot perform yiud with her*). In the name of Rabbi Eliezer it was said: He can sell her to relatives. They agree that he can sell a widow to a *Kohen Gadol*, or a divorcee or *chalutzah* to a regular *Kohen*.

The *Gemora* asks: What is the case? What is the case of the widow who is sold? If as a minor, she accepted *kiddushin* on her own, she is not called a widow (*as she was never married*)! If her father accepted her *kiddushin*, can he now go and sell her afterwards? Didn't the *braisa* say previously that a person cannot sell his daughter after he already took *kiddushin* for her?

Rav Amram says in the name of Rav Yitzchak: The case here is where he took *kiddushin* for *yiud*. It is according to the opinion of Rabbi Yosi the son of Rabbi Yehudah who says that the original money (*given by the master for the purchase to the father*) is not for *kiddushin* (*yiud*). [*According to Rabbi Yosi, yiud is not considered kiddushin through the father, and he therefore he can sell her after yiud.*] If you will say *yiud* causes marriage, he should not be able to sell her again (*as a father can never sell his daughter after she is married*).

Rather, what will you say? *Yiud* effects only *erusin*! How can we explain the *braisa* which states that they both agree that the father can sell his daughter to a *Kohen Gadol*? Didn't we say that a father may not sell his daughter as a servant after marriage (*even if it only erusin*)?

Perhaps you will differentiate between her *erusin* (*yiud; and then the father can still sell her*) and his *erusin*. If that is the case, we can even assert that *yiud* effects *nisuin*, but there is a difference between her *nisuin* and his *nisuin*!?

The *Gemora* asks: It is logical to differentiate between the two cases of *erusin*, but not by *nisuin* (*since in any event, she leaves her father's jurisdiction after nisuin, and he should not be entitled to sell her even if she was the one who effected the nisuin*)!? [We therefore must conclude that *yiud* effects *erusin*, and not *nisuin*!] (18b – 19a)

## INSIGHTS TO THE DAF

### *Esav the Apostate*

Rabbi Chiya bar Avin said in the name of Rabbi Yochanan that an idolater inherits his father according to Torah law! This is apparent from the verse, “For an inheritance to Esav I gave Mount Seir.”

The *Gemora* asks: Perhaps an apostate Jew, such as Esav, is different (*and this law does not apply to a genuine gentile*)?

The *Gemora* answers: Rather, the proof is from the verse, “For to the children of Lot I gave Ar as an inheritance.”

Rabbeinu Bachye writes that Esav was considered an apostate because he was the child of the Forefathers, but yet, he did not follow in their path.

Reb Tzadok HaKohen writes that he was regarded as an apostate because he was not circumcised. Although the Chasam Sofer (responsa Y”D 245) writes that this was because he was red (*Admoni*) and that exempted him from performing this *mitzvah* (*on account of the danger*), this argument can be rejected because before the Giving of the torah, there was no commandment of “*You shall live by the mitzvos*,” and therefore, even though there was a health concern, he still would have been obligated to be circumcised.

In the sefer *Torascha Shashuay*, he explains why Yaakov was allowed to say, “*I am Esav, your first-born*” based upon the fact that Esav was an apostate.

Accordingly, it would have been forbidden for Yitzchak to eat from Esav's *shechitah*. The *halachah* is that one is permitted to lie in order to prevent someone else from transgressing a prohibition. If one is allowed to lie for the sake of peace, he certainly can lie to protect someone from sinning!

### ***Father and Mother***

The *braisa* states: A person can accept *kiddushin* for his daughter again (*if she became widowed or divorced after betrothal*), he can sell her again, and he can marry her off after selling her as a maidservant. However, he cannot sell her after marrying her off. Rabbi Shimon says: Just as he cannot do this, he cannot sell her as a maidservant after he already sold her once.

This is like the argument of the following *Tannaim*. The *braisa* says: "When he betrayed her." Once he spread his cloak over her (*in marriage*), he cannot sell her; these are the words of Rabbi Akiva. Rabbi Eliezer says, "When he betrayed her," teaches that once he betrayed her (*sold her as a maidservant*) he cannot sell her.

What is their argument? Rabbi Eliezer says: The way the word is written in the Torah is important. Rabbi Akiva says: The way it is read is important. Rabbi Shimon says: Both are important. [*"Important" here refers to how we understand the intent of the Torah. If we focus on the word as it is read, it refers to clothing, while if we focus on the letters, it refers to being sold.*]

This is similar to a debate in the *Gemora* in *Sukkah* which discusses if a *sukkah* requires two full walls and a third wall that is at least a *tefach*, or should there be three complete walls. This debate is based on whether one reads the word *Sukkos* in the Torah with the letter *vav* or without the letter *vav*. The *Chachamim* maintain that we say *yeish eim lemasores*, the transmitted written form has primacy, whereas Rabbi Shimon maintains that *yeish eim lemikra*, the pronounced form has primacy.

The Rif was questioned as to why the *Gemora* uses the word *eim*, which means mother, and not *av*, which means father. A similar question would be that the *Gemora* refers to one of the thirteen principles of

Biblical hermeneutics as a *binyan av* and not a *binyan eim*.

The Rif initially responded that he never heard anyone shed light on this matter, but then he proceeded to offer a possible explanation. When the purpose of a principle is to teach a concept in a different area, the *Gemora* uses the term *av*, whereas if the discussion at hand is regarding relying on a principle, the *Gemora* uses the word *eim*.

*Shearim Mitzuyanim B'Halacha* explains the words of the Rif. The mother is the *akeres habayis*, the mainstay of the house as it is said *every honorable princess dwelling within*. For this reason we say *yeish eim lemikra* or *yeish eim lemasores*, as the mother is the central figure in the house and it is the mother who everyone is dependant upon. The father, on the other hand, is not usually found in the house, as he leaves the house to seek a livelihood. The principle of a *binyan av*, however, is that we are building from one location to another, and this is analogous to a father who influences others. (*See Rabbeinu Bachye to Devarim 33:8 for further discussion on the differences between the father and mother.*)

### **QUESTIONS AND ANSWERS FROM YESTERDAY'S DAF**

to refresh your memory

Q: Why does the runaway servant not receive gifts? Isn't he required to complete his term of servitude?

A: It is referring to a case where *Yovel* intervened.

Q: When would a sick servant (*who could not even sew*) be required to make up the years that were lost?

A: If he was sick for longer than three years.

Q: What is the required total amount of the value of the severance gifts?

A: Either 15, 30 or 50 *selaim*.