

Kitzur Notes #4

Shiur 80 (23a-b)

- Does Eved Kenani keep the possessions he had from before he was bought? Yes -- adon only gets what he makes מלאן ולהבא.
- Is it a זכות for an עבד to go free? **Gittin 11b: Chachamim:** Yes. **R' Meir:** No; עבד בהפקרא ניחא ליה.
- If something is probably a Chovah, does זכין work if the recipient later says he's happy with it? **Nesivos 195:8:** No; has to be a probable זכות from the outset.
 - by Eiruv Tavshilin: Rav shouldn't make it for the kehillah until right before Shekiah since they probably want to make their own until very late.
- If we hold it's a zechus, can the Eved Kenani be Mocheh and stay a slave? **Rif + Rambam דב: זכוימ** -- yes. **Rashba here (+ maybe Rashbam BB 138a):** No -- you can't be Mocheh here since it's both a זכות גמורה and his da'as isn't needed.
 - This Rashba was applied (incorrectly) to make a husband in jail give a get to his wife based on זכין -- that it's a זכות for the husband to give the get since he'll burn in גיהנום otherwise. Rebbe's ta'anas: 1) Paskining against Rambam/Rif 2) Rashba never said it by when the person's da'as is needed.
 - Such a suggestion was used earlier to give gittin to wives whose husbands were MIA. **R' Herzog** back then didn't like it, because he felt it would lead to giving gittin to women whose husbands were present and protesting!. VeKach Haya!
 - Is there Zechiyah for a Shoteh? **שו"ע:** Yes. Unclear if this is mideoriatah or miderabanan. **Rebbe** thinks only miderabanan. [See main notes for elaboration]
- How many Tefachim are needed for הגבהה? **Rabbeinu Tam:** 1. **Rashi:** 3. **Acharonim:** Rashi only says this when you're being קונה from a קמה since הגבהה transfers רשות. If being koneh from hefker, kinyan yad would work below 3 tefachim.
- **Ketzos 200:** Gittin only needs a מעשה נתינה, not an actual kinyan.
- If R' Yehuda regularly holds תנאו קיים שכתוב בתורה, then why doesn't על מנת work? **Rashba 23b:** When a tenai is made, all parties whose da'as is needed must agree to the Tenai. The עיימ שאין לרבך רשות בו by נקודת המח' is whether כל works by going *through* the eved or *directly* to the Adon. If the latter, the adon's da'at is needed for the tenai to work, and he doesn't want the tenai.
- Mechanics of לחירות בו שתצא בו עיימ: is the Eved actually koneh the money or does the third party own the money the whole time (like a Pikadon)? Machloket in **Shulchan Aruch**.
- **Gittin 45b:** A woman is passul to write a Sefer Torah. Can she set up a shaliach to write a sefer Torah for her? **Shagas Aryeh + Rebbe:** Of course; the Shaliach doesn't become passul by the משלה's pesul so long as the משלה is שייך to that inyan. **מנחת חינוך 613:** No.
- Are women Chayavot in כתיבת ס"ת?: **Rambam:** No since they're passul to write. **Shagas Aryeh:** Why can't they be chayavot and just set up a shaliach?! **Minchat Chinuch 613:** Gives the above vort. **Rebbe's** not a fan.

Shiur 81 (23b--24a)

- When a Sofer writes a get, is that based on Shlichus, or is shlichus not needed? Two deiot in **Tosfot Gittin 22b + 9b**. We're machmir that the ba'al set him up as a shaliach.

- If a Ba'al has no hands, can he set up a sofer as a shaliach to write the get or is it a problem of *כל מלתא דאיהו לא מצי עביד*? **Someone**: *כל מלתא* is only a problem if he's אינו בתורת. However, a technical inability doesn't prevent you from setting up a Shaliach.
- Svarah Chitzona on **41b** is that a Nochri *can* be mafrish תרו"מ. Why? **Rav Velvella**: Pasuk says that a non-Jew can't be makriv a מום בעל מום to the Mikdash. What you see is that a goy *is* a בר-הפלאה, so the same should apply to הפרשת תרו"מ.
- A goy can't be a shaliach due to *מה אתם בני ברית* — *אתם גם אתם*... But can a goy set up another goy as a shaliach since they have the same status? **תשובות משאת בנימין**: Yes. **Magen Avraham OC 448:4**: No. [by mechirat chametz]
- Can an Eved Kenani be a shaliach? **Gemara 41b**: Yes for things that he's shayach to (like accepting a get shichrur for his friend).
- Is a Beis Din necessary for a geirus to work? **Rif**: No. **We** don't paskin this way, but **Rav Soloveitchik** was machmir for the Rif that a Ger shouldn't say a bracha if they already did a giyur under a passul Beit Din (i.e. Conservative or Reform).
- **Kesubos 11a** says Beis Din can be zocheh for a non-Jewish baby to be megayer him. **Avnei Nezer Siman 251's Q**: If Zechiya works שליחות מטעם, and Jews aren't גירות (since they aren't geirim), then how can Beit Din act as the Ger's Shaliach for this? **A**: Beis Din isn't *just* shlichim for the baby; Beis Din plays an active role in the Geirus to *accept* the Ger. Because this is true, Beis Din *is* Betorat Geirut.
 - Similarly, **Yeshuot Yisrael 3:2** says if a Goy jumps into an ocean in front of a beis din without them actively consenting to the geirus, the geirus doesn't work.
- **Nedarim 35b** leaves it as an open question whether Kohanim are שלוחי דרחמנא whereas our gemara takes it as a davar pashut that they're שלוחי דרחמנא. What's up? 2 answers:
 - **Tosfot 23b + Yoma**: Gemara in **Nedarim** knew it's shluchoi dirachmana, but wanted to tie it to a Tanaitic source.
 - **Tosfot Yoma as understood by Dvar Avraham + Rav Soloveitchik**: The gemara in Nedarim knows it's really שלוחי דשמיא; the question is just are they *also* שלוחי דידן insomuch that it would violate the Neder. Meaning, although they're not our formal שליחים, maybe it's a problem by Nedarim since he's doing me a favor (like coming to my house to blow shofar).
 - **Binyan Tzion 44's chumrah** (in a הוי"א): Mishloach Manos davka needs to be done ע"י shaliach. What about if you sent a kattan (who isn't a שליחות)? **Dvar Avraham 1:13**: not a problem. The Binyan Tzion didn't mean you actually need shlichus since *לא מצי עביד לא מצי עביד לא מצי משווי שליח* -- he just meant that you should have it done ע"י אחרים, and a kattan *does* fulfill this.
- Can a מופלא סמוך לאיש be Podeh מעש"ש? **Shulchan Aruch 331:33**: Yes. **Gra**: No.
- **Kiddushin 54b**: Machloket R' Yehuda + R' Meir if מעש"ש is ממון גבוה או ממון בעלים. We paskin like R' Meir that it's ממון גבוה. Is it passed down בירושה? **Ra'avad Peirush on Sifra Bechukotai 8:2:10**: No, since it's ממון גבוה. [Our gemara seems to be against the Ra'avad] **Rambam**: Yes.
 - How can it be yarshined if it's the money of Hekdesh? **Rav Velvella (Zevachim 6a)**: Rambam (mashma from **Ishut 5:4**) doesn't understand ממון גבוה to mean it

belongs to Hekdesh; rather, it belongs to the farmer, but there would be a bizayon hakedusha if you hand it to someone else.

Shiur 82 - Tosfot 23b-24a

- *What's the mechayev of a loveh to pay back agreed-upon Ribbis?* **Classical Poskim + Avnei Nezer:** Paying for rental of the money (שכירות המעות). **Reb Chaim:** Disagreed since מלוח להוצאה ניתנה. Rather, the mechayev is a קנין מתן מעות where the amount of the חיוב is תנאי על how long it takes to pay back.
 - Is there a problem of Schar Shabbos on bank interest? **Rav Moshe:** Not on shabbos alone as it's בהבלעה since it accumulates from midnight to midnight. There *is* a problem on shabbos connected to Yom Tov and you should leave some money in the bank. **Rebbe:** Rav Moshe was assuming the mechayev is מעות שכירות; there would be no problem according to Reb Chaim's understanding.
- How does רבו קנה עבד/אשה קנה רבו differ for slave and wife? 1) Deoraitah or derabanan 2) Husband only gets peirot. 3) Husband *can* give a gift to his wife.

Shiur 83 -- 24a-b

- Why don't we paskin like the Machri'im on 24b? **Tosfot Pesachim 21a:** We only paskin like a הכרעה when the chiluk made was already mentioned by the two extreme opinions.
- Why does the **Rif** mention יוצא בראשי איברים if we aren't דיני קנסות nowadays?
Ritva/Ran: Even though we aren't דיני קנסות, דן דיני קנסות, **Kesubos 41b** says לא מפקינן מיניה תפס לא מפקינן מיניה. Here, the Eved is Tofes Be'atzmo, so he's יוצא לחירות immediately without a פסק ב"ד!
- **Nesivos 234:3** says an issur derabanan done beshogeg isn't an aveirah. What's the lomdus? **Rebbe:** issurim derabanan aren't an issur cheftza, but are rather an issur Gavra. So there's nothing inherently wrong with the action so long as it's unintentional.
 - [Do we paskin like this famous Nesivos? **Rebbe in private:** Probably not since **Chida** asks a million kashyas. See **Shut Minchas Asher 2:42 + 2:51** who rejects the Nesivos as well. **Rav Mordechai Willig** does paskin this way.]
 - If it's true that an issur gavra beshogeg doesn't have an Onesh, then how come you have to bring a Chatas if you violate shabbos beshogeg? **Ramban Vayikra 4:2 (as explained by the Deggel Reuven):** All issurei kares are issurei Cheftza.
- Neder and Shvuah. What type of issur is each? Neder: Cheftza. Shvuah: Gavra.
 - Can a neder be chal on a shvuah and vice versa? **Yerushalmi:** Neder can be chal on shvuah, but not vice versa. Why? **Ran Nedarim 18a:** All Issurei Cheftza are also issurei gavra, so neder's issur cheftza can be chal on top of shvuah's issur gavra, but the shvuah's issur gavra can't be chal on a neder since a neder is already an issur gavra.
- Are Ma'achalot Assurot an issur Cheftza or Gavra (nafka minah to whether a neder is chal on it)? **Teshuvat Harashba 615 (paskined in SA YD 215):** Cheftza. **Ritva:** Gavra.
- **[Ran 16b:** You can take a Neder that you won't do something so long as you mention the Chefetz (like a neder that you won't sit in a Sukkah). **Other Rishonim** disagree]
- Why do you have to be מתפס Hekdesh specifically for a Neder to be chal? **Ritva** (leshitaso): You're trying to make an issur cheftza (a neder), so you have to be matpis an issur cheftza. All other issurim, like מאכ"א, are issurei gavra.

with the oil), so your *inability* to do it in the lechatchila fashion makes it passul. However, by the Shemoneh Esreh case, being יוצא with Shomea Ke'oneh is always a lechatchila way of being Yotze, so the model doesn't fit.

- **Rebbe:** The **Shagas Aryeh** isa against Tosfot 25b that חציצה in mouth is a דאורי' problem of אינו ראוי לטבילה. Acc. to the Shagas Aryeh, there shouldn't be a din of אינו ראוי since going to the mikvah without being טובל your mouth is לכתחילה! Presumably, Shagas Aryeh would read like **Ritva** that this is just a גזירה דרבנן.
- Possible reasons why אינו ראוי לטבילה is passul: **Shagas Aryeh:** Unmixed Mincha isn't lechatchila, so if it *can't* be mixed, then it's passul bedieved. **Tosfot and Rashbam in BB 81:** Mincha with 61+ isronot (אינו ראוי לטבילה) is like bringing a מנחה מן הקטניות -- a totally different korban.

Shiur 85 (25b - 26a)

- If a woman is Tovel and then finds a chatzitza in her mouth afterwards but is unsure if it was there טבילה בשעת טבילה, **Shulchan Aruch YD 198:26** paskins you go lehakel. Does this prove we paskin like the Ritva (since ספק דרבנן להקל)? Some (**Maharsham, others**): yes. **Rav Moshe** says no: By a normal Chatzitza, then the water didn't definitely touch you, so you're טמא בחזקת טמא, but by חציצה בבית הסתרים ספק, since the water definitely touched the entirety of your revealed body, you're בחזקת טהור and we're meikil by safek even if חציצה בבית הסתרים is a din deoraitah.
- Kinyanim Deoraitah: Chatzer and Yad.
- Is Meshicha or Maot Konot Mideoraitah? **BM 47b:** ריש לקיש/רש"י: Meshicha. ר' יוחנן/תוס': Maot.
- Mechanics of Hagbahah: Identical to Meshicha -- form of לרשותו.
- Does Kinyan Hagbahah work on a Get? **Tosfot** (Gittin?): yes. **RAE:** No.
 - How can Tosfot say it works if he thinks הגבה/משיכה is just a kinyan derabanan? **Some Acharonim:** The מח' ר"י ור"ל was only by a sale. R' Yochanan agrees to Reish Lakish that Meshicha works by a Matanna since no money is involved in the kinyan. **Ramban** explicitly disagrees with this.
- **Rashi's** understanding of הגבה ומסירה, משיכה: All are forms of לרשותו and the Chachamim are metaken one or more of those kinyanim for each situation. **Tosfot** understands Rashi to mean that Mesirah is "better" than Meshicha, but Rashi's innocent!
- Mechanics of Kinyan Mesirah: **Rav Aharon Lichtenstein: Rashi + Rivam** understand needs Miyad Leyad since it's לרשותו, while **Ri + Rashbam** understand that Mesirah is a totally different kinyan so doesn't need מיד ליד.
- If a דבר של הפקר falls into a Chatzer being rented, who is Koneh? **Rambam:** Landlord. **Ra'avad:** Tenant since שוכר את מקומו works to be מקנה a Get with Agav! **Rav Soloveitchik's** defense for Rambam: Either one can be koneh but the landowner's tefissa is stronger. By the Get case, the landowner doesn't want to be Koneh so *he* (the tenant) is koneh.
- What's pshat in Chavilei Zemorot kinyan: **Rashi:** Elephant stands on bundle of twigs. **Tosfot/Rabbeinu Meshulam:** Wave the twigs to get the elephant to jump. **Rebbe:** Even though **R' Slifkin** has demonstrated Tosfot's case can't occur, it would still work in theory since I caused the elephant to lift itself (כח אחר מעורב בו).

- Is Kinyan Agav Mideoraitah? **Tosfot BK 12a**: no. **Tosfot Kiddushin 5a**: Yes.
- Does Pruzbul work Mideoraitah? **Tosfot Gittin 36a**: Yes. **Tosfot BK 12a + רוב ראשונים**: No; only מוסר שטרותיו לבי"ד. **Rashi Makkot 3b**: Not even מוסר שטרותיו לבי"ד.
- Why does **BK 12a** ask whether we say עבד הוקש לקרקעות for kinyan agav if it's pashut we do throughout shas? **Tosfot ibid.**: The Q is just whether we say עבד הוקש לקרקעות even by דנים דרבנן. **Ra'avad**: Karka and אחריות שיש להם are two different things: You can say Eved is like karka, and still not be like אחריות שיש להם for אגב.

Shiur 86 (26a-26b)

- **Tosfot's** two understandings of the Shtar mechira/matanna combo: Either a) You write two different shtars and show the shtar matana to the בר מצרא. Or b) You write both leshonot in the same shtar and the only reason you wrote matana was because that's the emes (but won't help with בר מצרא).
- Gemara paskins you need אגב וקני, but not Tziburin. Do you need אגב וקני when it is Tziburin? **Everyone**: Still yes. **Rambam Mechira 3:8-9**: No. (**Ra'avad** is masig.)
- Why does Pruzbul work and why must the Loveh have karka? **Tosfot here**: Either 1) It's like מוסר שטרותיו לבי"ד. Karka is needed so that the loan isn't a שכיחא דלא. Or 2) The מוסר שטרותיו לבי"ד aspect is insufficient for the פרוזבול to work, so the לוה must also have land, which is semi-דמי-כגבוי and therefore like על המשכון. Together, $.5 + .5 = 1$.
 - **Ran** questions answer one since if having land is about שכיחא דלא, the Loveh should need land הלואה, but the gemara says you can be makneh the land to the Loveh *after* making the loan. **Rebbe** questioned answer two since the two reasons of מוסר שטרותיו לבי"ד and על המשכון have nothing to do with each other, so why should they be able to add up together?
- Why did the Madoni do the kinyan agav on a piece of land *outside* ירושלים if he lived in ירושלים? **Acharonim**: Because לא נתחלקה ירושלים לשבטים, the land in ירו' wasn't really his.
- If לא נתחלקה ירושלים לשבטים ("LNYL") then how come **Zevachim 53b** says the Mizbeach had no yesod in certain areas so it wasn't in יהודה? **Tosfot Megilla**: The lack of a yesod is a הל"מ. **Rav Soloveitchik Beshem Reb Chaim**: LNYL just means that in dinei mamonos, it doesn't belong to anyone, but regarding a "חלות שם חלקו של פלוני", some is Yehuda's and some is Binyamin's.
- Why can't I use a coin for Chalipin? **BM 46**: צורתא עבידי לבטלא. **Ramban's** explanation: Just like a shtar, a coin isn't ממון גופו since it might lose its value at any moment.

Shiur 87 (27a-b)

- What issue was ר"ג trying to avoid while on the Sefina? **Rashi**: Forgot to be mafrish תרו"מ, so was making sure it wasn't tevel. **Tosfot**: He was mafrish beforehand, but the zman biur had come, so he needed to get rid of the תרו"מ.
- If you hold אין ברירה, and say "the crop which I will separate will Terumah," does it work מכאן ולהבא? **Shagas Aryeh Yeshanot 92**: Yes.
- Why was ר"ג makneh everything, but not Terumah? **Tosfot**: The moment people finish at the goren, they give Terumot to the Kohen.
 - Rejected answer: חטה אי פוטר את הכרי, so he took care of that already. Tosfot rejects this since then it's still assur miderabanan. [**Rebbe**: Doing לפטור חטה אי

הכרי is assur miderabanan. **Tosfot Harosh:** There's an issur of Tevel Miderabanan until you're mafrish a 60th.

- How can **Sukkah 42a** say you can give תרומה to a kattan; how do you fulfill your מצות תרומה if a Kattan can't be koneh? 1) **Pri Chadash:** דעת אחרת מקנה works (**Tosfot Sanhedrin 68b**). 2) **Ketzos 243:4** rejects פרי"ח since we paskin אינו ממון ממון so the Ba'alim don't really *own* the תרומה. Rather, pasuk of "חלף עבודתכם" teaches נתינת תרומה is תרומה פועלים, which a Kattan *can* be Koneh. 3) **Nesivos 243:8** rejects the Ketzos since Kohanim don't work in the תרומה ביה"מ nowadays, nor could ketanim do עבודה even if kohanim still did Avodah! Rather, the Chiyuv תרומה נתינת תרומה is just to make the Terumah *available* to the kohen. You don't need a formal Kinyan.
 - Q on **Nesivos: BM 11b** assumes Rabban Gamliel (in our story) needed to do a kinyan?! **Nesivos** answers that Mitzvat Biur is different from נתינת תרומה: For Biur, you have to actually be makneh the produce.
- According to **Tosfot's** understanding, how was ר"ג yotze his חיוב ביעור if all he's doing is *promising* to give them to the other Rabbanim. He hasn't even been mafrish it yet?! **Meiri** explains that even though אין ברירה say, the moment he's mafrish, the Terumot will immediately be נקנית to the Kohen. This is sufficient to fulfill ביעור מצוות right now.
- If a kinyan chalipin is done so that the kinyan occurs 30 days later, does it work if the Sudar is returned? **Tosfot** (see **Kiddushin 63a**) + **Ran (Nedarim 48b)**: No; כלתה קנינו; **Rambam:** It does work
- **Kiddushin 59a** (בְּתַאכְלוּ הַמַּעוֹת) says there's no problem of קנינו by maot. **Rashba ibid.** and **Tosfot Harosh Gittin 74a** explain that Kiddushei Kessef is never kalsa kinyano since if she backs out from the Kiddushin, she has to pay him back the money he gave, so there's still a vestige of the kinyan.
- Does a Kohen have Kedushat leviyah? **Rebbe:** Kohanim belong to shevet levi but don't have *kedushat* levi. **Meshech Chochma Bamidbar 3:43** (a kohen): there's no such thing as קדושת לוי. **Rebbe** we don't regularly assume this way.
- What was Ezra's knas on the levi'im? **Kesubos 26a:** If originally *only* levi'im could receive Ma'aser, then now Kohanim could *also* get. If it used to be both levi'im and kohanim, then now it was *only* a kohen.
 - **Rambam Ma'aser 1:4** is mashma that the knas no longer existed after Ezra's generation, but this is problematic since the Tannaim still discuss it! **Minchat Chinuch 395:** Rambam just meant it's going to change once mashiach comes since then תרומה will be deoraitah since we'll have Yovel and Shemitah מדאורי.
- Does Chalipin work to rent out a piece of karka? **Tosfot here:** No (just like it doesn't work on an eved ivri -- see **Tosfot Arachin 30a**). **Rosh BM 11b:** Yes.

Shiur 88 (27a-b)

- Is Zechiyah שליחות מטעם? **Chachmei Ashkenaz:** Yes. **Chachmei Sfarad:** No. [See main notes for elaboration and proofs]
- How does Apotropos work? Either a form of Zachin or the Torah makes the Apotropos like the actual Ba'alim. **Rebbe** thinks this is two deiot in **Rashba Gittin 52a**.
- **BB 44b** says that you can be משעבד מטלטלין אגב קרקע. **Tosfot Kesubos:** This would enable you to only collect from מטלטלי דלקוחין [*I think*]; why the difference?

- **Meiri quotes Rashi BK** who implies you don't need a שיעבוד נכסים to collect from Yorshim since מצוה לפרוע חוב אביהם; Shibud is only needed to collect from Lekuchot.
- What's the parameters of machloket if שיעבודא דאורי? **Rambam**: Everyone agrees there's a שיעבוד on land; machloket is just whether there's a Shibud Nechasim on metaltelin מדאורי. **Rashba ~15a**: If we hold שיעבודא דאורי, then that would include both land and מטלטלין. If there's שיעבוד דאורי סח, then there wouldn't even be a שיעבוד on land.
- Can you make a Shibud on a דשלב"ל? **BB**: Yes. **Ketzos**: This only works מדרבנן.
- Can you do a מעמד שלשתן with someone acting as the shaliach for the recipient? Are there exceptions? **BK 36b**: Doesn't work, except for by גזבר של עניים for aniyim. For apotropos on behalf of Yetomim, **Shach** says it works, **Rebbe** thinks its talui on two deiot in Rashba above.

Shiur 89 (27b)

- Does a ממזר get בכור ממוזר? **Shiltei Giborim** ("collector's item"): No since pesukim about פי שנים פי שנים are talking about when קידושין is Tofsin. **Rebbe**: We don't paskin this way.
- Is one's sister-in-law assur מדאורי to him after he does Chalitza? **Rambam Yibum 1:12** - No, only miderabanan. **Rashba** doesn't understand this Rambam.
- Is a שזינתה שומ"י Assurah to her Yavam? **Sotah 18b**: Only acc. To R' Akiva, since he holds chayavei lavin are equal to chiyuveikaret.
- Is an Arussah Shezintah Chayav Kares? Yes. **Tosfot Harosh Yevamot** (collector's item): No.
- What level issur is Sotah Safek? **Sotah 28a**: Issur Asseh "טומאה גי פעמים". Sotah Vadai? **Yevamos 11**: Lav of "Acharei Asher Hutam'ah"
- What's עוון mean with regard to the Ba'al? **Rashi**: Didn't sleep with the Sotah Safek. **Rambam Sotah 2:8**: Husband never violated any issur biah שהגדיל. Even an issur Derabanan. **Ra'avad** points out he seems to be against **Yevamot 58a** that wanted to be Mokim our Sotah casae to be when he slept with her ארוסתו בבית.
- Why doesn't a Gerusha married to a Kohen drink? **Rambam** leshitaso: Not Menukah Mi'iavon. **Rashi Sotah 24a**: Based on a Sifrei that the whole parsha of Sotah doesn't apply to a forbidden marriage.
- Husband dies before Safek Sotah drinks. Does she get Kesubah? **Sotah 25a-b**: Machloket BH (no) and BS (yes) based on whether העומד לגבות כגבוי דמי.
- Are Eidei Kinui Eidim Lekiyum Hadavar or Lebeirur? נפק"מ to whether there's an issur when ba'al is makneh her without any Eidim and then she has stirah -- is he assur to her? **Beis Haleivi**: Lekiyum Hadavar
- Is Gilgul Shevuah a new Shvuah or subsumed within the original one? Machloket in **BM**; **Rambam** says subsumed.
- What added issur is there of calling someone an עב"כ besides for Ona'as Devarim? **The Rav**: וקדשתו may be a requirement to preserve all יוחסין, not just for Kohanim.

Shiur 90 (28a-b)

- R' Yochanan's Mekor for Maos Konos? **Rashi** "ונתן הכסף וקם לו". [**Tosfot Shabbos 128**: This is a combo of different parts of a pasuk.] **Ramban**: Svarah

- Why do Kiddushei Kesef with Shaveh Kesef specifically? Drasha on top of a drasha. **R' Assaf:** לאפוקי the Karaites.
- Mechanics of Kinyan Kesef on karka: **Sma:** כסף פרעון (Dmei Hamekach/commensurate). **Taz:** “Kesef Kinyan.” Symbolic; non-commensurate.
 - Ra'ayah to the Taz: Kinyan kesef by ishah isn't כסף פרעון! (Although some **Rishonim quoted by Rashba** disagree)
- Difference between money kinyan for karka and metaltelin? By Karka it's called kesef and by מטלטלין it's called maos. **The Rav + Rav Shach:** Kinyan Kesef by karka is kesef kinyan (symbolic); Kinyan Maos by metaltelin is kesef piraon (commensurate).
- Why do you get a שפרע מי if you back out after נתינת מעות, but before משיכה? **R' Yochanan:** Since it's גזל מדאורייתא to back out -- the kinyan really happened at נתינת המעות! **Reish Lakish:** Since you violated your word and הן שלך צדק. We (probably) paskin like R' Yochanan. Was R' Yochanan Chozer to Reish Lakish's svarah?
 - Is there a Mi Shepara on land if there was נתינת המעות but no Kinyan until נתינת השטר? **Tosfot Kesubos:** Yes. **Beis Yosef CM 204:5** quotes multiple shitos and paskins there's מי שפרע סו, against Tosfot. **Rebbe:** Tosfot is against R' Yochanan's svarah since no kinyan occurred!
 - Same nafka mina applies to if there's a מי שפרע if someone pays money for a שטי"ח and then backs out. We paskin ומסירה בכתיבה so no kinyan occurred.
 - **Kesef Mishna** has two reads of what **Rambam** holds about this shayla. **Ketzos** vs. **Nesivos** which lashon of **Kesef Mishna** is correct
- How do we paskin? **Rashi:** Meshicha like Reish Lakish, since **BM 47b** says “קרא” ומתניתא מסייע ליה לריש לקיש” **Tosfot:** Maot like R' Yochanan since **Yevamot 36** says we paskin like Reish Lakish against R' Yochanan only 3 times -- and this isn't one of them!
- Is a live animal a kli? **Rashi:** No. **R' Chananel, Ri:** Yes.
- מילי במילי לא מיקני. What items are Mili?: דבר שאין גופו ממון. Chalipin, shtaros, matbea.
 - Which kinyanim are Mili? **Reb Chaim:** Hakna'ah Mida'as: Chalipin. NOT Agav.
- **Reb Chaim's** yesod by Kinyanim with Hekdesh: Hekdesh is always the seller.
- If a person promises Tzedakah and dies, is there a שעבוד on his Nechasim to collect it? **R' Yosef Karo** (in a Teshuva): Yes; considered אמירתו לגבוה. **Rema:** No. [Problem is that the Rema himself paskins that one is מחייב himself Tzedaka במחשבה.]
 - **Pitchei Teshuva Beshem Chasam Sofer + R' Chaim Ozer:** Like the שו"ע. **R' Asher Weiss:** paskined like the Rama.

Shiur 91 (29a)

- Is למקום או מצוה בין אדם לחבירו a כיבאוי"א? **Minchat Chinuch 33:** mesupak. **Maharam Shik YD 118:** more weighted to למקום.
 - Nafka Minas: 1) **MC:** When doing Teshuva, does he need to be מפי"ס parents? 2) **Maharam Shik:** If parent is מוחל on their Kavod “forever” and then says he wants the son to serve him, does the son have to be מכבד? Only if למקום.
- Is Kibbud Av V'em a Chok or a Mishpat? Rav Yosef Engel (שבעה דנחמתא): Mishpat if you're a tzaddik; Chok if you're not, since it's only a good thing to be brought into the world if you're a Tzaddik (**Tosfot Eiruvim 13b**)

- Who gets custody over children after divorce? **Kesubos**: woman gets them until 6 years old. **Beis Shmuel Siman 82**: This is just דיבר בהווה, but there are exceptions
- Can an Eved Kenani make brachot? **Tosfot Gittin 40a**: Yes, just like a woman.
Rambam (Ishitaso): No.
 - Do Avadim Kenanim have full kedushas yisrael? Might be talui on this מח'.
- Does petur of גרמא apply to מצוות דרבנן? **Rashi Brachot 20b**: No. **Tosfot ibid.**: Yes.
 - **Tosfot's Q**: Acc. to Rashi, why does the Gemara say women can't be motzi men in hallel of Yom Tov if that hallel is only miderabanan? **Brisker Rav**: Maybe Rashi holds like **Behag** that Hallel is deoraitah from ושמחת בחגך. ושמחת בחגך.
 - Are women chayavos to daven? **Brachot 20b**: Yes, דרחמי נינהו. What about Mussaf? **Mishnah Berurah/Tzlach**: No, since it's not רחמי.
- To which inyanim does the chiyuv of אף הן apply? **The Rav + Teshuvot Chasam Sofer**: Only for that which is לפרסם הנס and not that which is זכר לנס (like Tefillin).
- Does Af Hen apply to mitzvot deoraitah? **Tosfot #1**: No, only mitzvot derabanan. **Tosfot #2**: Yes, but Af Hen can only create a חיוב מדרבנן.
 - What's the svara that it wouldn't apply to mitzvot deoraitah? **Maharal + Beis Haleivi**: Torah and Mitzvot Deoraitah existed from before all of history happened, so they aren't really זכר לנס; so the svara of אף הן doesn't really apply.
- Are women chayav in שמחת יו"ט or is it the husbands chiyuv? Machloket **Amoraim** and **Rishonim (Hilchot Chagiga 1:1. Rambam**: Yes; **Ra'avad**: no)
 - Does a woman have to repeat Ya'aleh Veyavo if she forgot on Yom Tov? **First Teshuva in RAE**: Might be talui on if they're חייבות in שמחת יו"ט. **Rebbe**: Makes no sense -- the chiyuv seudah comes from כבוד ועונג, not שמחת יו"ט.
 - Does שמחת יו"ט apply only to Shabbos, or even Yom Tov? **Gemara**: Only shabbos. **Rambam Yom Tov 6:16**: Even Yom Tov.
- Why is **Pesachim 90's** svara chitzona that women would be chayavot in korban pesach if it's a מעשה זיג? **Sfas Emet**: Any time there's an *issur asseh*, the petur doesn't apply.
- Are women chayavot in שלש סעודות and לחם משנה? **Rabbeinu Tam**: Yes; אף הן. **Ran**: Yes; כל שישנו בשמור ישנו בזכור. Rav Shlomo Kluger in **Haelef Lecha Shlomo OC 114** as a Limud Zechus: We paskin like each rishon's rejection of the other, and therefore they're not chaya. **Chacham Ovadiah**: This makes no sense: If everyone agrees they're chayav, but disagree about the reason, it's pashut they're חייבות.
- Ramban says women are chayavos in ספירת העומר. Why isn't this a zman grama? **Rav Soloveitchik + Divrei Malkiel**: Taus Sofer. **Maharam Chalavah + Avnei Nezer**: The gorem of sefira is the hakravat haomer, not the day.
 - **RAE**: Nafka Minah of the gorem being the hakravat ha'omer: Is sefirah bizman hazeh mideoraitah or derabanan. If the gorem is the day = deoraitah (**Rambam**); if it's the korban = derabanan (**שאר ראשונים**).
- Why do we need a drasha to exclude women from Milah -- isn't it זמן גרמא after the 8th day since זמן חיוב never ends. **Rishonim** disagree since we paskin it's שלא בזמנו at night! **Turei Even (Lפי the Rav)**: The chiyuv is ביום ובלילה but the zman kiyum is only bayom.

- If someone didn't get a milah since מתו אחיו מחמת מילה, is he an Arel פסח קרבן פסח? **Rashi Pesachim 28:** Yes; can't eat. **Rabbeinu Tam:** Not a zar since he's not chayav in Milah.
 - **Turei Even's Q:** Acc. to ר"ת, why can't a kohen arel be makriv eimurim at nighttime since there's no chiyuv milah at night and so he's not an ערל?! **Rav Soloveitchik's** "spin" on the Turei Even: He really *is* a bar chiyuv at night, but it's just not the zman kiyum.
- Is there a chiyuv tefillin at night? **Many Rishonim:** Yes, but we don't do it שמה ינוח ויפיח. **Rambam:** No. Pattur at night. Nafka Minah: If you say like the first side, then the chiyuv never ends or breaks (and you can make up missed time by wearing tefillin for longer later); the 2nd tzad would mean you have a separate chiyuv each day.
- Why don't we wear Tefillin on Yom Tov Sheini if it's not listed in Yevamos as an example of תעשה ואל תעשה? **Rogatchover:** Maybe we should? **Ksav Sofer:** **Rav Yosef Ibn Palat + Teshuvos Rashba** both *did* have this girsa in Yevamos. **The Rav:** No question to begin with since maybe we paskin like the other Rishonim that it's one long chiyuv and you haven't missed a mitzvah.
- Are we chayav to do mitzvos based on מתן תורה's tzivui to do them before תורה? **Rambam PHM Gid Hanasheh:** No.

Shiur 92 (29a-b)

- If father doesn't do Pidyon Haben, can Beis Din do so for him? **Rema YD 305:10** quotes **Rivash:** No [see main notes for his diyuk]. **Shach, Biur Hagra, Aruch Hashulchan:** disagree; just like פורע חוב של חברו. **Chasam Sofer:** It's a safek, so Beis Din should do it without a bracha, and then kid should do it again when he becomes בר מצוה.
 - Rebbe thinks our **Tosfot 29b** is against the Rivash.
- What's the defense for the Rivash? **Chasam Sofer:** Since מכת בכורות "ואני ולא אחר". **Mishnah Lemelech:** Unsure if פורע חוב של חבירו is as if the Chov has been paid or as if the malveh has just been mochel the Chov. If you say the latter, then someone else can't be פורע חוב for Pidyon Haben since the Kohen can't be Mochel the Chiyuv!
- Is Pidyon Haben a פריעת חוב or מצוות נתינה? **Terumas Hadeshen (quoted in SA):** פריעת חוב so can't do it on Shabbos. **Zkan Aharon 1:18:** Mitzvas Nesina since ע"מ להחזיר a מתנה ע"מ להחזיר works.
- Why does our gemara assume father is chayav to pay *all* his money for הבן פדיון if **Kesubos 50a/Rema YD 157** say יותר מחומש a) Gemara just means he has 5 selaim to *spend* out of his 25. b) If Shibud Haguf is deoraitah and applies to mitzvos, then all of his נכסים are Meshubad. c) **Mishnah Berurah/Reb Chaim:** Any mitzvah whose hagdarah is paying money (besides Tzedaka), the rule of Chomesh doesn't apply.
- Does פדיון שלא בזמנו require an additional Chomesh? **Geonim:** Yes. **Rambam:** no.
- Why don't we do pidyon haben at night? Six answers given; meikkar hadin though we *can* do it at night.

Shiur 93

- How much do you have to spend on Mitzvot Asseh? **Rema YD 157:1:** 20% for Assehs; everything for שליית. **Chidah Beshem Shitah Mekubetzet:** Giving money to support

yeshivas is an exception. **Reb Chaim/MB**: Mitzvot whose hagdarah is giving money are exceptions. **Rav Moshe**: If you'd get very sick by doing the Mitzvah, also pattur.

- How much on של"ת? **Rema YD ibid.**: Everything. **Gra YD 157:5**: Even by Lavin only 20%. [Huge nafka minah to violating a lav at the expense of huge emotional loss (like a Ba'al Teshuva whose wife doesn't want to keep hilchot המשפחה).]
- Is an Asseh Docheh a Lav Habba Michlal Asseh? **Rashba Kesubos 40a** (regularly quoted by מנח"ה): Yes. **Rebbe**: Based on this, it's fundamentally a lav, so you should have to give away all your money for this.
- Is לך אשה מותרת במקום שחב לאחריני? **Kiddushin 65b** is mashma even mideoraitah but **BM** is mashma only miderabanan.
- If שעבודא דאורייתא, does that apply to metaltelin? **Rambam**: No, **Rashba 15a**: Yes.
- 3 Explanations for what "Mitzvah Shebegufo" means by Pidyon Haben: a) **Netziv 171, Seforno on יגטו**: there's an issur hana'ah on the baby until it's born. [This shitah is rejected by Acharonim]. b) Just means the chiyuv to be podedh oneself was chal before chiyuv to podedh one's kid. c) **R' Baruch Ber** - father has no chiyuv to be podedh his son; but since the son can't be podedh himself, we tell him to do it for the son [?].
- Is Chiyuv Pidyon Haben chal לידה or בשעת לידה? **Netziv**: Machloket in the gemara.
- When is the value of pidyon haben established? **Rav Moshe**: value of 5 selaim at הקמת המדינה. **Chazon Ish**: Value of 5 selaim when the chiyuv for *this child* is chal.
- What is the effect of an Apotiki? No problem of מנכסים משועבדים במקום שיש בני"ח.
- We're מרובה זמן מאחר. How long is this? **Maharam Shik**: 30 days. [Big nafka minah for birth control.]
- Stirah in Chazal whether you should get married at 18 or 20. Pashtus: start dating at 18 and make sure you're married by 20. **Rashash Kesubos 50a**: It's a machlokes based on how long one assumes it takes to become an expert in Torah -- 3 or 5 years. Don't get married until you're an expert (ריחיים בצוארו) and people don't start until 15.

Shiur 94 (29b-30a)

- Chinuch Deoraitah: The child should be taught to keep the mitzvot when he turns bar/bat mitzvah. Chinuch Derabanan: Have him practice the mitzvos now.
 - When there's a stirah between the two: **Rav Meir Shlezinger** quotes **RSZ** that you shouldn't force the kid since חיוב דאורייתא wins.
- **Gemara** says that beis din doesn't have to stop a katan from eating neveilos. What happened to Chinuch? **Some Rishonim**: Only a chiyuv on the father. **Others**: Only a chiyuv chinuch on mitzvos asseh. **SA OC 343**: machmir for both shitos: Father is chayav for both ול"ת עשין. Others chayav only to help him do mitzvos asseh.
- Is there a chiyuv chinuch on a mother or teach a daughter? **Acharonim**: Yes based on **Sukkah 2b** with Hilni Hamalka. Strange gemara in **Nazir 29a** is a unique type of chinuch and can't be learned from.
- **Beis Haleivi 1:6** - Two Dinnim in Talmud Torah: Hechsher Mitzvah of learning דינים להן, השייכים להן, ות"ת לשמה. Women are only chayavot in the first din.
- Why does **Mechaber 47:14** paskin that women do say ברכת התורה if they regularly don't make brachot on that which they aren't מחוייב in? **Magen Avraham 47:14**: Since they're

mechuyavot to learn the דינים השייכים להן. **Beis Haleivi**: No! It's a הכשר מצוה and there's no bracha חס מצוה!

- **Rosh Kesubos 7b**: We don't make brachot that weren't around in times of Chazal. What about Baruch She'amar/Yishtabach which isn't mentioned? **Rebbe**: We assume like the **משכנות יעקב + others** that the Bracha existed, but isn't mentioned. Many brachot we say aren't mentioned in the gemara, but are assumed to have been around back then.
- What about Rav Ashi in Brachos coming up with his own Bracha? **Rebbe**: He didn't make up a bracha, but was מכוון to the correct, already instituted bracha based on the כללים for nusach habrachot. Same idea to defend מגי'א who says when one moves into a house which already has a Mezuzah that he say "לדור בבית שיש בו מזוזה".
- Do we say סומכין על הנס על הגס? **Abayei (here and Pesachim 64b)**: Yes. **Rava**: No.
- Marriage or learning first? R' Yochanan: יעסוק בתורה. Shmuel: Get married. What's הוא לן והא להו mean? A) **Rashi**: Each is talking to their own country's talmidim; Shmuel is saying to get married and ditch. B) **Tosfot**: Each is talking to the opposite talmidim. C) **Rav Baruch Epstein**: R' Yochanan/Yerushalmi (quoted in **Tosfot 38a**) holds ת"ת first since פרי"ו is a mitzvah given before the Torah, and is therefore a lower level mitzvah. Shmuel/Bavli thinks it's a higher level chiyuv so get married first. D) **Ritva (in Ran)**: Bnei Bavel's wives would work, so Shmuel said they should get married since women would support them. Bnei EY's wives were spoiled and didn't work.
- Bal Tigra for מצוה שלא בשלימותה: **Beitur Halacha 34:2 + Shut Beis Halevi 1:42** based on a **Rashba RH 27**.

Shiur 95 (29b-30a)

- Two types of Apikores: **Maharil 193/4**: 1) Someone with incorrect ידיעות and אמונות is both going to גיהנום and is passul for Shechita and Eidut. 2) א מבה ת"ח gets סו, but is kosher for Shechita and Eidut.
- If Reuven hits his son and the son doesn't respond, has Reuven still violated לפני? **Yad Malachi** says it is lifnei Iver.
- How much Torah are you chayav to teach your son? **Rashi**: Torah. **Rambam**: תניך.
- How much of ק"ש is דאורייתא? **Sefer Hachinuch מצוה תכ**: First pasuk. **Rashi Brachot 2a + Shagas Aryeh במדעת הרמב"ם**: First Parsha. **Pri Chadash Beda'as Harambam**: First two Parshiyot. **Reb Chaim + Aruch Hashulchan במדעת הרמב"ם**: All 3 parshiyot.
- How are you supposed to split up learning into thirds? **Rashi**: Split up each week. **Tosfot**: Split up each day. **Rambam ת"ת איא**: Generally: be balanced in your learning.
- Why is the gemara assuming that there are an even number of letters in the Torah? **Pnei Yehoshua**: Based on the Zohar that there's 600,000 letters in the Torah.
- If a Sefer Torah is passul, can you read from it? **Rambam in Teshuva**: Yes. **Rambam in MT**: No, and you have to reread everything if you find out. **Rashba**: He clearly changed his mind; paskins like the Yad. **Beis Yosef**: We can be *somech* on the Teshuva to not repeat that which we already read.
- Can you read if it's a problem of ויתרות? **Rema**: Yes; we're not בקי'ין. **Minchat Chinuch**: This is because it's a correct spelling, even if it's not the Mesorah spelling.

Shiur 96 (30a-b)

- Is a Suma Chayav in Mitzvot? Machloket Rabanan + R' Yehuda. We probably paskin like Rabanan that they're חייב but **Magen Avraham** quotes some Rishonim who disagree.
- Why is מצווה ועושה greater? **Tosfot**: Based on לפום צערא אגרא; more Tza'ar when commanded. **Maharal Miprague/Drashot Haran**: The fact that God was mechayev some people and not others shows that the Mitzvot have a greater impact when done by those people who are מחוייב.
- What does R' Yehuda think a Suma is pattur from? **Pri Megadim Peticha Kollelet 29 + RAE YD 1:9**: Pattur only from Assehs. **Nodah Biyehuda Tinyana OC 112**: Even שלי"ת.
- What level issur is bracha levatalah? **Tosfot**: Derabanan. **Rambam**: Deoraitah. [**Chazon Ish Teshuvot 33** claims Rambam agrees it's derabanan, but **Shut Harambam 124** is explicitly against him.
- Can a woman mourning for her parent go to a party if her husband is being honored? **Rav Moshe YD 1:255**: Yes, כיבואו"א רשות אחרים עליה, undoes her חיוב of Aveilut are an independent institution from the chiyuv of כיבוד.
- **Rebbe's** understanding of a woman's petur due to רשות אחרים עליה: Anytime a request from a parent is unreasonable due to your current circumstances, you aren't chayav.
- [See main notes for Rav Soloveitchik vs. R' Tzvi Pesach Frank's understanding of a Reb Chaim story.

Shiur 97 (30b-31b)

- Can we rely on blood testing to see if someone is chayav in child support. **Tzitz Eliezer 13:104** - no, against the gemara in Niddah that the *mother* gives the blood. **Rav Herzog, Ran Tendler, Rebbe**: When the scientific community reaches a concensus, of course we accept their conclusions!
- If Kibbud means physical assistance, how can the Braitah say to be מכבד לאחר מיתה? **Rav Soloveitchik**: It's lav davka and means מורא. **Rebbe: Rashi here** says הכ"מ means that you accept your parent's yisurin upon yourself; if so, that *is* physical assistance.
- Why do mourners say Kaddish? **Rema YD 376:4** says based on a **Zohar** that kaddish can save them from gehinnom.
- Do you *write* הכ"מ even though it will be read after 12 months? **Shiltei Gibborim**: No. **Nimmukei Yosef**: Yes. **Rema YD 240:9 + Shach**: we're נוהג like the Nimmukei Yosef.
- What level issur is not wearing a kippah? **Gemaras (here + Shabbos 156b)**: It's just a מדת חסידות. **Taz**: Nowadays, it's חוקת עכו"ם of איסור דאורייתא.
- If a married woman will lose her parnassah if she covers her hair, does she have to do it? **Rav Moshe**: Yes. However, if she's a Gerusha, she doesn't have to.
- How did Rav Yosef + Rav Sheshet go blind? **Ran בשם תשובת הגאונים**: They wanted to copy Rav's מדת חסידות of never looking outside 4 amot. **Rebbe**: Can't be. It's assur to be חובל בעצמו.
- **Yerushalmi**: When R' Tarfon was sick, his mother told the Rabanan to pray for him since he was so good at כיבואו"א and the Rabanan responded that they weren't impressed. What's pshat? **Rav Soloveitchik + others**: They were saying he hadn't fulfilled his tafkid yet and therefore shouldn't be able to die.

- **Rema Sof Siman 240** Father can't stop son from marrying someone. Why? **Gra SK 36:** 1) He's stopping him from doing a mitzvah. 2) This isn't a form of service so it's not under **כיבואו"א**, and 3) It will cause **צער דגופא** which is considered **בן הפסד משל בן**.
 - Can a father stop his son from doing a **מנהג הנפוץ**? **Pitchei Teshuva:** No.

Shiur 98 -- 31b - 32a

- Source for **ע' שנה**. **Pri Megadim** quotes a **Shu"t Chavos Yair 70** that it's a gift from heaven to live that long. **Chofetz Chaim:** It's a safek if you say **שהחיינו**.
- When does someone with **Simanei Seris** or **Ailonis** become a **gadol**? 20. What about if they don't have any **Simanim**? 35 (**רוב שנותיו של אדם**).
- Why isn't a will binding based on **דברי המת**? **Tosfot Gittin 13:** This halachic concept only applies **כשהושלש ביד שלישי**. **RAE:** Still, the children have a mitzvah to listen based on **כיבואו"א**; we just aren't **כופה** them to.
- Does **אמירתו לגבוה כמסירה להקדש** apply to **Tzedaka** as well? **Shut Beis Yosef:** Yes. **Shut Rema:** No. **R' Chaim Ozer + Chasam Sofer:** Sided with Beis Yosef. **Rav Asher Weiss:** Recently sided with Rema; **Rebbe** wasn't happy.
- Do you get **malkus** for **בל תשחית**? **Rambam Melachim 6:8:** Only for cutting down trees; **לוא שבכללות** is a **לאו**.
- Does the gemara discuss theoretical cases that are never going to happen? **Tosfot Kesubos 4b + Sanhedrin 49b:** Yes. [Many of the cases aren't so theoretical anymore]
- Is there a **din** of **בטל ברוב** by human beings **מדאורי**? **Tosfot Sanhedrin:** Yes **Mideoraitah**. **Chavos Da'as** explaining **Ramban (quoted in Rashba Gittin 64a):** No.
- Is there a **chiyuv** to stand for a **שמים** **יראי/ba'al ma'asim**? **Ramban:** No. **Ran:** Yes; the only reason we stand for **ת"ח** is because it's **מעשה** **אתי לידי**.
- In a conflict between **Kavod Torah** and **Talmud Torah**: **R' Soloveitchik Beshem R' Chaim Velohiner:** Gemara in Megillah 21a says **moshe sat down** for difficult Talmud Torah **dinnim**, meaning that **תורה** trumps **ת"ח**. If so, why do we stand for a **ת"ח** even in the middle of learning? **Pnei Yehoshua:** There's a **הבטחה** that one who shows **תורה** will be more **matzliach** in their **ת"ח**.

Chazara Shiur (#2)

- **Tosfot Nazir 12a:** How can the woman set up a **shaliach** to be **mafrish Challah** for her if the dough isn't yet created? **Rema Hilchot Challah (323)** quotes the **Terumat Hadeshen** who answers it's not based on **Shlichus** but based on **Zachin**. The **Ketzos** argues this shouldn't work since it's **זכין מאדם** by being **makneh**.
 - Summary: Is there **זכין מאדם** **שלא בפניו**? **Rema + Terumat Hadeshen + R' Yitzchak Elchanan:** Yes. **Ketzos 243:8** disagrees based on a **Rashba in Nedarim**. The **Chazon Ish** rejects the **Ketzos'** proofs. **Hafrashat Terumot Uma'asrot** in **EY** works based on **זכין מאדם** (to be **makneh** the **Terumot**), like the **Terumat Hadeshen**.
 - [Machloket what the **bracha** is since really you're being **mafrish Terumah**, but we regularly say **להפריש חלה**. This is against the **Avudraham** who assumes that **Brachot** are patterned after **leshonot** of the **Torah**.]
- **Rabbeinu Tam:** **Issah** thing isn't a **דשלב"ל** since it's **בידה** to turn it into dough (based on **Kiddushin 62b**). **SA** quotes this answer, but the **Chazon Ish** thinks most **Rishonim** in

Nedarim 34b disagree since it's literally לא בא לעולם! The klal of בידו is only when the item is completed and just requires a small action to be makdish/makneh it. Here, the dough doesn't even exist yet!

- Similarly, **Rosh on Nedarim 34b** says that I can be makdish a davar shel hefker even though I don't yet own it since there's no one else around since it's בדי to be Koneh it. All the other Rishonim give different answers.
- Is an Eved Kenani mekabel tumah? **Tosfot Nazir 61b**: Eved Kenani isn't mekabel tumah ("believe it or not" category of Halacha). **RAE** says it's pashut wrong.
- **Tosfot Gittin 69a**: If a מום can be healed only through surgery or a significant medicine, it's still considered קבוע.

Chazara Shiur 3

- Definition of Gosses: **Some Rabbanim**: Anyone who is going to die within 3 days. **Rebbe**: When one of the vital organs is dead.

Chazara Shiur 4

- Chalipin. **Reb Chaim**: Kinyan Mida'as. **BB 77**: מיילי במיילי לא מקני so you can't be Koneh Shtar with chalipin. The gemara says Agav *does* work, so you see it's a regular kinyan and not a קנין מדעת.
- Kinyan Derabanan to effect a kiddushin deoraitah: **R' Yerucham + Rema**: Only אשת איש הפקר ב"ד. **Beit Yosef 28:13**: Will be a קידושין דאורייתא. Might be talui on whether הפקר can also be מקנה to others מדאורייתא or just be mafkir (**Ketzos 235:4 [makneh]** vs. **Nesivos 235:13 [mafkir]** (בְּשׂוֹת לְהַקְנוֹת) mneumonic).

Chazara Shiur 5

- If we hold karka ein nigzelet, **BK 13** has a machloket if Avadim are Hukshu lekarkaot for that. How can this be a machloket if we always say they're הוקש? **Tosfot**: Gemara's Q is only legabei dinnim derabanan. **Shach YD 95 beshem Ra'avad** - The question is whether eved is also like *real estate* (נכסים שיש להן אחריות), and not just karka.
- Does Petur Misasek apply to things besides Shabbos? **Everyone**: Yes. **Rambam**: No.
- **R' Soloveitchik's** understanding of the machloket R' Meir + Elazar by shtarot: R' Meir thinks the transfer of a shtar ra'ayah creates the kinyan. R' Elazar: Handing over the shtar in front of Eidim strengthens my da'at to create a Kinyan through da'at alone. Also, their מח' is only by שטרי קנין; שטרי ראייה, everyone agrees you need עדי חתימה.
- Did shvuat hesset exist in the times of the tannaim? **Rashi**: Yes. **Tosfot**: No - made by Rav Nachman.
- **Rif** would make Eidim swear בפך בנקיטת חפץ that they're going to tell the truth even though **Tosfot 43b** says that any Eidim who need to support themselves with a שבועה aren't נאמן.

Chazara Shiur 6

- **Ra'avad**: Two types of chalipin: Kinyan Sudar and Shaveh Beshaveh.
 - Peirot can't be used for Chalipin (how we paskin).
- עסוקין באותו ענין. **Tosfot** holds you can back out of other kinyanim as well, but we don't accept that opinion. **Rambam** says explicitly that it only works by chalipin.
- Lo Shchiach Lo Avad Takanah. 2 types: 1) When it's so unlikely that the issur deoraitah will be violated, they don't have the right to make a gzeirah. 2) Most cases: The gzeirah

was made because there's a real concern, but if the current case is so strange/not shchiach, then the gzeirah doesn't apply (that's what's going on in **28b**).

Chazara Shiur 7

- **RAE** argues that you should always do the deoraitah before the derabanan, so you should say havdalla before saying Sefira despite the idea that we like to extend Shabbos.
- Machloket Rambam/Ra'avad in Chagiga 1:1 if women are chayavot in Simcha or if the בעל just has to be משמח them.
- Is Havdallah מדאורי or מדרבנן? Are women chayavot? Three shitot:
 - **Rambam** thinks Havdalah is deoraitah based on Zachor (זכרו על היין) and women would be chayav due to hekesh to shamor
 - If it's derabanan, women would be pattur.
 - If it's based on והבדלתם בין הקודש ובין החול, women would be pattur since no hekesh.
 - Maggid Mishnah points this out. **RAE** says therefore women make the bracha themselves. If they're by themselves, we paskin they're really mechuyavot. He also says we paskin Sefirat Haomer is derabanan and therefore women are chayavot since it's not time-bound but event-based (like the Ramban).
 - Shavuot being derabanan: Rav Soloveitchik gave a whole shiur that the ikkar sefirah is on Beis Din Hagadol. Is Shavuot derabanan nowadays then? Yalkut shimoni says that Shavuot happens by itself automatically.
- **Tosfot Rabbeinu Peretz**: Tosefet Shabbos/Yom Hakippurim should be a half hour based on the word "samuch."
- Women are peturot from KS, but **BY** quotes the Sefer Ohel Moed that they should still say the first pasuk.
- **Mabit**: First Luach with Bein Adam Lemakom are written with smaller letters than those on the 2nd luach (since 2nd has fewer letters) since that's the harder part to remember.
- If a stam din in the gemara a din derabanan or deoraitah? **Rav Soloveitchik**: Deoraitah. **Pri Megadim**: Derabanan.

תם ונשלם בעזרת הא-ל