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ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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TALMUDIC METHODOLOGY

By Rav Moshe Taragin

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**Shiur #07: Employing *Shaveh Kessef* in Place of Currency for *Kiddushin***

The first *mishna* in *Kiddushin* establishes the admissibility of non-currency for *kessef* of *kiddushin*. As the well known *mishna* asserts, "A woman can be married through currency and through general items of value (*shaveh* *kessef*).” Does the extension beyond actual currency suggest that coins are irrelevant to *kiddushin* as long as VALUE is transferred? Or are currency equivalents allowed because they can be cast as “virtual currency?” Since items can easily be sold, perhaps they are “currency convertibles” and delivering them to a woman is the equivalent of actual CURRENCY delivery.

An interesting debate between Tosafot and the Ramban *Kiddushin* (2a) may revolve around this very issue. Twice in *Shas*, *shaveh kessef* is allowed in place of actual currency – once to redeem an *eved Ivri* and once to reimburse for damages. In each instance, the *gemara* offers a source to justify this rule. Yet the *gemara* in *kiddushin* offers no source to justify substituting *shaveh kessef* for actual *kessef*. Tosafot claim that the same source that allows redemption of *eved ivri* through *shaveh kessef* can imply *shaveh kessef* for *kiddushin*. Effectively, Tosafot assume the NEED for a source and manufacture one for *kiddushin*. Alternatively, the Ramban claims that no *pasuk* is necessary; it is INTUITIVE that *shaveh kessef* can replace actual *kessef*.

Perhaps these *Rishonim* differ about the nature of the *shaveh kessef* replacement option. If *shaveh* *kessef* actually mimics *kessef* and substitutes for it, we might require a source to validate this replacement, as Tosafot claim. If, however, *shaveh kessef* does not replicate *kessef* – because *kiddushin* is not driven by currency, but rather by value – the employment of *shaveh kessef* would be obvious and intuitive and would not require a *pasuk*, as the Ramban claims.

This question of whether *shaveh kessef* operates as a CURRENCY stand-in or as abstract VALUE may have triggered an interesting *machloket* between *Amora’im* about the need to assess *shaveh kessef* items before utilizing them for *kiddushin*. According to one position of the *gemara* in *Kiddushin* (7b), R. Yosef required that every item be professionally assessed before delivering it as *shaveh kessef* for *kiddushin*. Even if the item’s worth well exceeds the minimum *peruta* level and even if the woman is aware of its surpassing value, it cannot be employed for *kiddushin* unless previously assessed and tagged with a price. As the *gemara* asserts, "Just as *kessef* has a concrete and fixed value, *shaveh kessef* must similarly be tagged with a finite value." Evidently, *shaveh kessef* acts as a *kessef* stand-in and therefore must be price-tagged as *kessef*. Rabba, who argues and does not require this assessment, may have believed that *shaveh kessef* does not replicate *kessef* but acts as pure value, parallel to *kessef*'s ability to represent value. Therefore, no *kessef*-like tagging is necessary.

Several interesting comments of Rashi may indicate that he viewed the *shaveh kessef* allowance as mimicking currency and not simply exchanging value. Several *gemarot* speak of delivering "BENEFIT" to a woman as her *kiddushin* money. In each instance, Rashi only validates the *kiddushin* if the benefit is a service that is typically contracted for. For example, the gemara (*kiddushin* 6b) speaks of delivering benefit to a woman by extending the term of her loan. By offering her more time to repay the loan, the man has delivered benefit to her. Rashi claims that the *gemara* refers only to a situation in which people generally pay for the service of “loan extension.” If the woman would have paid someone to enable the loan extension and instead the potential husband extended it for her, she has received a service-based benefit and the *kiddushin* is successful.

Similarly, the *gemara* (*Kiddushin* 7a) speaks of delivering benefit to a woman by ACCEPTING her gift ([see *shiur* #05](http://www.vbm-torah.org/archive/metho74/05metho.htm)). Since the man is a dignitary, by accepting her gift, he has provided her with “benefit.” Rashi again claims that this benefit can entail *kiddushin* ONLY if a woman would typically contract someone to lobby dignitaries on her behalf to accept her gifts. Again, Rashi claims that mere benefit is insufficient unless it is a service based benefit which people typically pay for. Perhaps Rashi claimed that any items delivered must be seen as “virtual” *kessef*. Just as R. Yosef developed conditions by which ACTUAL items can be rendered as *kessef* replacements, Rashi similarly developed criteria by which benefits can be rendered as *kessef*.

An interesting comment of Rashi in *Kiddushin* (7b) also suggests that he views all *kessef* alternatives as *kessef* mimickers and not mere value. In his comments (*s.v ih*), he claims that when delivering *shaveh kessef*, the husband must declare, “I am marrying you with money and here are items (*shaveh kessef*) in their place.” Evidently, Rashi understood that *shaveh kessef* substitutes for money. The value must be verbally stipulated so that the *shaveh kessef* can be regarded as its substitute.

If indeed *shaveh kessef* is meant to mimic actual currency, we may disqualify the type of *shaveh kessef* which, for various reasons, cannot adequately mimic actual currency. For example, the Ittur disqualifies land as *shaveh kessef*. This is odd, since typically land possess robust value and should induce valid *kiddushin*. Perhaps the Ittur also believed that *shaveh* *kessef* must replicate actual currency. Portable items that can be easily sold (since they can be transported to multiple markets) can be viewed as virtual currency; the ease by which they can be transformed into ACTUAL currency allows them, under certain conditions, to be viewed as money. However, land, although valuable, is more difficult to sell. Although it possesses robust value, it cannot be viewed as *kessef* equivalent. It may not be convertible to *kessef*, and therefore may not be suited to *kiddushin*.

This approach may explain the view of the Rashba, who discusses the use of a utensil for *kiddushin*. Even though a small utensil may not possess marketable value, it does possess utility, which enables it for use in *chalipin*. Given its utility, can it be transferred for *kiddushin* purposes? The Rashba in *Shavuot* quotes those who claim it can and argues against their position. Perhaps he also demanded that *shaveh kessef* serve as virtual *kessef*. Only items possessing market value can be viewed in this manner!