

המקדש בחלקו אינה מקודשת –

If one betroths with his portion, she is not betrothed

Overview

The משנה teaches if a כהן is מקדש a woman by giving her his portion of a קרבן, she is not מקודשת. Our תוספות explains the difference between this and other non-tangible gifts.

asks: תוספות

וּאִם תֹּאמַר מִי גֵרַע מִהַמְקֹדֶשׁ עַל מִנַּת שְׂאֵדָבֶר עָלֶיךָ לְשִׁלְטוֹן¹ (לְקַמֵּן דָּף סג,א) דְּמִקְדוּשָׁתָּהּ -
And if you will say; is this worse than one who is מקדש a woman by stipulating that, 'I will speak on your behalf to the ruler', where she is מקודשת -
אִף עַל פִּי שֶׁלֹּא נָתַן לָהּ כְּלוּם² אֲלֵא שַׁעֲשֵׂה לָהּ הִנָּא -

Even though he gave her nothing tangible, but rather gave her a benefit, so here too he gave her הִנָּא, for she can either eat it (if it is קדשים קלים) or give this portion to whichever כהן she wishes.

answers: תוספות

וַיֵּשׁ לֹאמַר דְּלֹא דְמִי דְהֵתֵם יָכוֹל לִיטוֹל שְׂכָר מִדִּיבּוּרֵי וְהוּי כְּאִילוּ נָתַן לָהּ פְּרוּטָה³ -
And one can say; that the two cases are not similar, for there (by לְשִׁלְטוֹן),
he can charge money for his speaking, so it is like he is giving her a פְּרוּטָה -
אֲבָל הַכֹּהֵן הַטּוֹבֵת הִנָּא אֵינָה מְשַׁלּוּ דֵּהָא מִמּוֹן גְּבוּהָ הוּא⁴ -
However here (by הַמְקֹדֶשׁ בְּחִלְקוֹ) the benefit of the pleasure that she receives is not from him, for it is מִמּוֹן גְּבוּהָ -
וְאֵינוּ יָכוֹל לִיקַח מִמּוֹן מִהִנָּא שַׁעֲשֵׂה לָהּ⁵ -
And he cannot take money from the benefit that he gave her.

The following is the view of the תוספות ישנים on this subject:

¹ She needs a favor from the government, and he is providing for her this favor, so she received a benefit on account of his speaking to the government.

² תוספות assumes now that she is מקודשת with the favor she received from the government, even though he did not do her the favor, but since he caused that she should have this favor she is מקודשת, similarly here, even though when she receives his portion he is not giving her anything of his own, for the קדשים are גְּבוּהָ (it belongs to Hashem), nevertheless since she received a benefit through him, she should be מקודשת.

³ She is מקודשת, not because she received a favor from the government, but rather since he gave her a service for free, for which he can charge, she is מקודשת by his waiving the fee. She received something of value from him.

⁴ The כהן, when eating קדשים, is like a guest at the table of Hashem. He may eat it but it does not belong to him.

⁵ A כהן cannot sell his portion of קדשים and (even) if he sells it, the buyer is not obligated to pay him. Therefore even though she receives a benefit, however it is not from him, therefore she is not מקודשת, for he gave her nothing of his.

[אף על גב דאית ביה שוה פרוטה שיכול למוכרה לכהן⁶ –
[Even though there is a שוה פרוטה in his portion, for he can sell it to a כהן –
מכל מקום כיון שהוא ממון גבוה אינה מקודשת⁷ –
Nevertheless since it is ממון גבוה, she is not מקודשת –
ולא דמי לעל מנת שאדבר עליך לשלטון⁸. תוספות ישנים]:
And it is not similar to the case of לשלטון. The above was from ת"י.]

Summary

One can be מקדש with a service which he provides (since there is a fee for the service), however one cannot be מקדש with קדשים, since they are ממון גבוה, he is not giving her anything of his own.

Thinking it over

1. What would be the ruling if he is מקדש her (not with the קדשים per se, but) with the הנאה that she is receiving from him by giving her the קדשים?⁹
2. If a man is מקדש a woman with an object that is not worth a פרוטה for him, but is worth a פרוטה for her, is she מקודשת or not?¹⁰

⁶ The תו"י (seemingly) argues with תוספות and maintains that a כהן may sell his portion of קדשים, but nevertheless she is not מקודשת. Others maintain that the תו"י does not mean that he can actually sell it, but rather if someone will want his portion, he can ask them for money in exchange.

⁷ He is מקדש her with the קדשים which do not belong to him, they are ממון גבוה (so even though he may sell them, but as of now they are קדשים and ממון גבוה).

⁸ There he is מקדש her with his service which he is providing (and for which he can charge money), not with the benefit she receives from the שלטון.

⁹ See 51-3. # אוצר מפרשי התלמוד and נחלת משה.

¹⁰ See 60-64. # אוצר מפרשי התלמוד.