



Produced by Rabbi Avrohom Adler, Kollel Boker Beachwood

Daf Notes is currently being dedicated to the neshamot of

**Moshe Raphael ben Yehoshua (Morris Stadtmauer) o”h**

**Tzvi Gershon ben Yoel (Harvey Felsen) o”h**

May the studying of the Daf Notes be a zechus for their neshamot and may their souls find peace in Gan Eden and be bound up in the Bond of life

### ***Unsuccessful Challenge to Rabbah***

The *Gemora* cites a *Mishna*: If one brings a *get* from abroad and he is unable to say that it was written in his presence and that it was signed in his presence, if witnesses signed on the *get*, the *get* can be validated through their signatures. The students had asked: What does the *Mishna* mean when it says that the agent was unable to declare that it was written and signed in his presence? If you will say that he was a deaf-mute, is a deaf-mute halachically able to bring a *get*? But we learned in a *Mishna* below (23a): Everyone is eligible to bring a *get* except for a deaf-mute, a deranged person, and a minor. Rav Yosef had answered: We are referring to a case where the agent delivered the *get* to the woman when he had the ability to speak, but before he was able to declare that it was written and signed in his presence, he became a deaf-mute.

The *Gemora* asks: According to Rava, this explanation is understandable (*for the authentication of the witnesses' signatures can replace his declaration*). However, according to Rabbah, this is difficult (*if the declaration is necessary for the halachah of lishmah – made for the sake of the woman, what does the authentication of their signatures help*)!?

The *Gemora* answers: The *Mishna* is discussing a case after the people living abroad learned that a *get* must be written *lishmah*.

If so, the *Gemora* asks, this *halachah* (*that the get will be valid when the signatures are authenticated*) should be applicable even if the agent was able to make the declaration!?

The *Gemora* answers: There was still the necessity for the agent's declaration, for the *Chachamim* were concerned that the situation would return to its disappointing condition.

The *Gemora* asks: If so, the *get* should be disqualified even with the authenticated signatures (*for the agent is always required to declare that it was written and signed in his presence*)!?

The *Gemora* answers: The case where the agent delivered the *get* to the woman when he had the ability to speak, but before he was able to declare that it was written and signed in his presence, he became a deaf-mute, is an extremely uncommon case, and the Rabbis did not enact decrees in uncommon cases.

The *Gemora* asks: But the case where the woman herself was appointed to be an agent to deliver her own *get* is also an extremely uncommon one, and yet, we learned in the *Mishna* below (23b): The woman herself may bring the *get* from abroad, provided that she declares that it was written and signed in her presence. [*Why is the declaration necessary in this highly unusual case?*]

The *Gemora* answers: The Rabbis did not wish to differentiate between different types of agents (*and*

*therefore they ruled that any agent must make that declaration; where he becomes unable to declare that it was written and signed in his presence, they ruled that the authentication of the signatures can take its place).*

The *Gemora* asks: If so, then in a case where the husband is the agent who is bringing the *get*, he should be required to declare that it was written and signed in his presence! Yet, we learned in a *braisa* that he is not required to make that declaration!?

The *Gemora* answers: The primary reason for the declaration is out of the concern that the husband would contest the validity of the *get* and invalidate it. Here, where he himself is holding the *get* in order to divorce her, there is no reason to be concerned that he would contest the validity of the *get*. (4b3 – 5a2)

### ***Unsuccessful Challenge to Rabbah***

The *Gemora* challenges Rabbah from the following: Shmuel inquired of Rav Huna: If two witnesses bring a *get* from abroad, are they required to declare that it was written and signed in their presence? Rav Huna ruled that it is not required, for they would be believed to testify that this woman was divorced in their presence (*and it would not be necessary for the woman to produce the get*).

The *Gemora* asks: This ruling is consistent with Rava, but is difficult to reconcile according to Rabbah (*they should still be required to declare that it was written and signed in their presence to assure that the get was done lishmah*)!?

The *Gemora* answers: The *Mishna* is discussing a case after the people living abroad learned that a *get* must be written *lishmah*.

If so, the *Gemora* asks, this *halachah* should be applicable even if there was only one agent!?

The *Gemora* answers: There was still the necessity for the agent's declaration, for the *Chachamim* were concerned that the situation would return to its disappointing condition.

The *Gemora* asks: If so, even when two people bring the *get*, they should still be required to make the declaration!?

The *Gemora* answers: The case where two people deliver a *get* is an extremely uncommon case, and the Rabbis did not enact decrees in uncommon cases.

The *Gemora* asks: But the case where the woman herself was appointed to be an agent to deliver her own *get* is also an extremely uncommon one, and yet, we learned in the *Mishna* below (23b): The woman herself may bring the *get* from abroad, provided that she declares that it was written and signed in her presence. [*Why is the declaration necessary in this highly unusual case?*]

The *Gemora* answers: The Rabbis did not wish to differentiate between different types of agents (*and therefore they ruled that any agent must make that declaration; where he becomes unable to declare that it was written and signed in his presence, they ruled that the authentication of the signatures can take its place*).

The *Gemora* asks: If so, then in a case where the husband is the agent who is bringing the *get*, he should be required to declare that it was written and signed in his presence! Yet, we learned in a *braisa* that he is not required to make that declaration!?

The *Gemora* answers: The primary reason for the declaration is out of the concern that the husband will contest the validity of the *get* and invalidate it. Here,



where he himself is holding the *get* in order to divorce her, there is no reason to be concerned that he would contest the validity of the *get*. (5a2 – 5a3)

### **Another Challenge**

The *Gemora* challenges Rabbah from the following *braisa*: If one brought a *get* from abroad, and did not say that it was written and signed in his presence, if the signatures are authenticated, the *get* is valid; otherwise, it is not. The *braisa* concludes: The purpose of the declaration is not to be strict with her; rather, it is to be lenient (*in order that it would not be necessary to find witnesses to authenticate the signatures*). This ruling is consistent with Rava, but is difficult to reconcile according to Rabbah (*they should still be required to declare that it was written and signed in their presence to assure that the get was done lishmah*)!?

The *Gemora* answers: The *braisa* is discussing a case after the people living abroad learned that a *get* must be written *lishmah*.

The *Gemora* asks: But it was said above that there was still the necessity for the agent's declaration, for the *Chachamim* were concerned that the situation would return to its disappointing condition.

The *Gemora* answers: We are referring to a case where she remarried already (*and therefore, the get is ruled to be valid*).

The *Gemora* asks: [Why did the *braisa* state a different reason that the *get* is valid?] If so, [why did it state] 'the purpose of the declaration is not to be strict with her; rather, it is to be lenient'; the reason (we rule leniently) is because she has already married!?

The *Gemora* explains the *braisa* as follows: The *braisa* asks: Perhaps we should rule stringently even after she

remarried with this *get*. It answers that the declaration was intended as a leniency, but not as a stringency. The *Chachamim* were concerned that the husband would contest the validity of the *get*. Since here he did not, the *get* is ruled to be valid. (5a3 – 5b1)

### **An Earlier Dispute**

The *Gemora* notes: The dispute between Rabbah and Rava is the same as one between Rabbi Yochanan and Rabbi Yehoshua ben Levi. One of them said that the declaration is necessary because people were not familiar with the *halachah* of *lishmah*. The other one said that it was required because witnesses were not readily available to authenticate the signatures.

The *Gemora* cites a proof that Rabbi Yehoshua ben Levi is the one that maintains that the declaration is necessary because people were not familiar with the *halachah* of *lishmah*. For Rabbi Shimon bar Abba brought a *get* from abroad in front of Rabbi Yehoshua ben Levi, and he asked him if he needs to say that it was written and signed in his presence. Rabbi Yehoshua ben Levi told him that it is not required, for the decree was only applicable in the earlier generations, when they were not familiar with the *halachah* of *lishmah*. However, now, in the later generations, when we are familiar with the *halachah* of *lishmah*, it is not necessary. This proves that Rabbi Yehoshua ben Levi is the one that maintains that the declaration is necessary because people were not familiar with the *halachah* of *lishmah*.

The *Gemora* asks: But we said previously that Rabbah agrees to Rava (*that the declaration is also required in order to authenticate the signatures*)? And furthermore, aren't we concerned that the situation would return to its disappointing condition?

Rather, the *Gemora* explains that Rabbi Shimon bar Abba had another person together with him (*and we have*



learned that the declaration is not required in a case where two agents bring the get), and he wasn't mentioned out of respect for Rabbi Shimon bar Abba. (5b1)

### **Two or Three?**

It was stated: In front of how many people must the agent give over the *get* to the woman? Rabbi Yochanan and Rabbi Chanina dispute this matter. One of them says that he gives it over in front of two people and one of them says that he must give it over in front of three people.

The *Gemora* proves from an incident that Rabbi Yochanan is the one who holds that only two people are required, for Ravin bar Rav Chisda brought a *get* (from abroad) before Rabbi Yochanan (in Eretz Yisroel), and he (R' Yochanan) said to him: Go, give this *get* to her in front of two people, and say to them, "It was written in my presence and it was signed in my presence." This is indeed a proof.

The *Gemora* notes: Perhaps this dispute is dependent upon the following: The one who holds that only two people are required maintains that the declaration is necessary because people were not familiar with the *halachah* of *lishmah* (and therefore the two witnesses will later be able to testify that the *get* was valid). The one who holds that three people are required maintains that the declaration is necessary because witnesses were not readily available to authenticate the signatures (and the agent is validating the signatures in front of a Court, which consists of three people).

[The *Gemora* proves that this cannot be the correct explanation.] The *Gemora* asks: Can you really think so? But since we have established that Rabbi Yehoshua ben Levi is the one that maintains that the declaration is necessary because people were not familiar with the *halachah* of *lishmah*, evidently, Rabbi Yochanan is the one

who holds that it was because witnesses were not readily available to authenticate the signatures. How then, could Rabbi Yochanan hold that only two witnesses are required? And furthermore, didn't we state previously that Rabbah agrees to Rava (that the declaration is also required in order to authenticate the signatures; and therefore, everyone should rule that three are required)?

Rather, the *Gemora* explains the argument as follows: Everyone holds that the declaration is necessary because the signatures need to be authenticated. Here, they are arguing about whether we say that just as the agent can serve as a witness, he may also serve as a judge. The one who maintains that only two witnesses are required holds that just as the agent can serve as a witness, he may also serve as a judge (and therefore, there are a total of three judges). The one who holds that three people are required maintains that although an agent can serve as a witness, a witness cannot serve as a judge.

The *Gemora* asks: But we have established that the ruling by Rabbinic matters is that a witness may serve as a judge (and certifying a document is a Rabbinic decree)!?

The *Gemora* offers another explanation: Here, they argue about the following: One master (R' Chanina) holds that since a woman is allowed to be the agent to bring the *get*, there might be times where she brings it and they might rely on her to be one of the three (and a woman is disqualified from being a judge; therefore, three men besides the agent are always necessary). The other one (R' Yochanan) is not concerned for this because it is well known (that a woman cannot serve as a judge), and they will not rely on her. (5b1 – 5b2)

The *Gemora* cites a braisa in support of Rabbi Yochanan: If someone brought a *get* from abroad and they gave it to the woman without saying, "It was written and signed before me," he must send her out and the resulting child (from that union) is a *mamzer*; these are the words of



Rabbi Meir. The *Chachamim* say: The child is not a *mamzer*. What should he do? He should take the *get* back from her, and give it to her in front of two people while saying, "It was written and signed before me."

The Gemora asks: And Rabbi Meir – just because he did not say, "It was written and signed before me," he must send her out and the resulting child (from that union) is a *mamzer*?

The Gemora answers: Yes! Rabbi Meir is following his own reasoning, For Rav Hamnuna said in the name of Ulla: Rabbi Meir used to say that whoever deviates from the method decreed by the Sages for *gittin*, the child (*if the woman remarries based upon this get*) will be a *mamzer*. (5b2 – 5b3)

## DAILY MASHAL

### Hashem as a Witness and a Judge

The *Gemora* rules that a witness may not serve as a judge.

The commentators ask: How can the Holy One, Blessed be He, sit in judgment on what He Himself saw? The witness cannot serve as the judge!

The *Yitav Panim* answers: the reason why the witness cannot serve as a judge is due to the fact that once he himself observed the act, it is impossible for him to search for a merit in order to exonerate the defendant. This does not apply to the Holy One, Blessed be He. He, who is completely righteous, and although he observes everyone's wrongdoing says: I am the one who gave every person the Evil Inclination and it is therefore, I, who granted him the ability to sin (Rashi *Brochos* 32a). Hashem finds reasons to have compassion for a sinner, although He Himself witnessed the sin.

### Story from the Daf

A young man with undistinguished lineage once came to R' Eliezer of Dzikov to receive Semichah and to be ordained as a Dayan. R' Eliezer tested him repeatedly and vigorously until the young man became exasperated. He questioned whether he would have been subjected to the same level of intensity had he been the descendant of a famous Rabbi.

R' Eliezer responded based on our Gemara that discusses whether a witness can become a judge. The usual meaning is whether one person can serve both functions of witness and judge. However, the word *eid* can also be used to mean a piece of cloth (see *Niddah* 2b), also known as a *shmatte* in Yiddish. Our Gemara makes a distinction that *Mid'oraisa*, on the Biblical level, an *eid* can be a *dayan*, whereas *miderbanan*, on the Rabbinic level, an *eid* cannot become a *dayan*. Applying this distinction to the young man, he said that if someone comes to him *mid'oraisa*, with the supposed qualifications of Torah learning alone, then he cannot allow any *shmatte* to become a *dayan*. However if the applicant is *miderabanan*, and also has a Rabbinic upbringing, then it's easier for him to become a *dayan*.