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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

Mishna

A plain document - its witnesses are inside it (*on the bottom*). And a tied one - its witnesses are on the reverse (*between one fold and the next*). [They began by wring a single line or a number of lines of the essence of the document, and they folded the written part upon the part below and sewed them together. Another line or lines were written, and again the parchment was sewn down, and the procedure was repeated until the last fold. Each such fold was known as a *kesher*, and that is why it is called a *get mekushar*. The Gemora explains that the tied document type was ordained by the Rabbis primarily for *gittin*. They instituted it for the hot-tempered Kohen who might in a fit of anger decide to divorce his wife. Unlike any other Jew, a Kohen may not marry a divorcee, including his own ex-wife. They therefore instituted the tied deed which cannot easily be written quickly in order to allow time for the Kohen’s temper to cool. As this document type was ordained for divorce, the Rabbis also instituted it for other documents, for bills of indebtedness as well as for bills of sale so that one may choose the tied document, so as not to differentiate between bills of divorce and other documents.] A plain one whose witnesses signed on its reverse and a tied one whose witnesses signed inside it - both are invalid. Rabbi Chanania ben Gamliel says: A tied one whose witnesses signed inside it is valid, because he can make it a plain one (*by not sewing the knots; and even though there are spaces between one line and the next, one need not be concerned about that, as there are many unskilled scribes who leave considerable space between one line and another*). Rabban Shimon ben

Gamliel says: All is in accordance with the custom of the place. A plain document requires two witnesses, while a tied document requires three witnesses. If a plain document contained one witness or a tied document contained two witnesses, they are both invalid. (160a)

Two Types of Documents

The Gemora asks: How do we know that there are two types of documents (*that have separate laws*)?

Rabbi Chanina answers: The verse says: *Fields with money they will buy, and it will be written in a document and signed, and witnesses will testify.* “Fields with money they will buy, and it will be written in a document” refers to a plain document. “And signed” refers to a tied document. “Will testify” (the word “v’ha’eid” which can literally mean “a witness,” but in the Torah always refers to two witnesses) refers to two witnesses. “Witnesses” refers to three witnesses. How is this all understandable? It must be that a plain document requires two witnesses, and a tied document requires three witnesses.

The Gemora asks: Why not say that the opposite is true (*i.e. a plain document should require three witnesses and a tied document should suffice with two*)?

The Gemora answers: Being that it has many ties, it is understandable that it should have many witnesses.

Rafram says that the source for these different types of document is as follows. The verse says: *And I took the*

document of purchase, the one that is signed, the commandments and laws and the one that are revealed. “And I took the document of purchase” refers to a plain document. “And the one that is signed” refers to a tied document. “And the one that is revealed” refers to the parts of the plain document that are also in the tied document (see *Chidusei ha’Rashba* for more on this teaching). “And the one commandments and the laws” refers to the differences between a plain and tied document. What are the differences? The plain document has two witnesses while the tied document has three witnesses. The plain document has the signatures of the witnesses at the end, while the tied document has them on the back of the folds.

The *Gemora* asks: Why not say that the opposite is true (i.e. a plain document should require three witnesses and a tied document should suffice with two)?

The *Gemora* answers: Being that it has many ties, it is understandable that it should have many witnesses.

Rami bar Yechezkel says that the source for these different types of document is as follows. The verse says: *By the word of two or three witnesses will a matter be established*. If a matter is established with two, why did the Torah also say three? This teaches that there are two witnesses on a plain document and three on a tied document.

The *Gemora* asks: Why not say that the opposite is true (i.e. a plain document should require three witnesses and a tied document should suffice with two)?

The *Gemora* answers: Being that it has many ties, it is understandable that it should have many witnesses.

The *Gemora* asks: Do all of the verses quoted above come to teach us this lesson? Each one teaches a different lesson! The *braisa* states: “Fields with money they will buy, and it will be written in a document and signed” teaches good business advice. “And I took the purchase document” is

telling us what happened. “By the word of two or three witnesses will a matter be established” teaches us to compare three witnesses to two witnesses, as explained in Makos (5b) regarding the argument between Rabbi Akiva and the *Chachamim*.

Rather, the *Gemora* says: The laws of a tied document are Rabbinic in nature, and these verses are merely used as an *asmachta* (a way of “leaning” Rabbinic law on the scripture – it is used as a support).

The *Gemora* asks: Why did the Rabbis institute a “tied document”?

The *Gemora* answers: There were places where *Kohanim* resided, and they would get angry and end up divorcing their wives. [When their anger settled, the damage had been done, as a Kohen cannot marry a divorcee, even his own.] The Rabbis therefore instituted that they (i.e. *Kohanim*) should write a tied *get*, as by the time the *get* would be finished, they would be placated, and would not end up divorcing their wife.

The *Gemora* asks: This is an understandable reason for *gittin* (for women). Why would they institute that there should also be such laws regarding other legal documents?

The *Gemora* answers: This was in order not to differentiate between other documents and *gittin*. [In other words, while nobody has to make such a document for other transactions, if they do, the laws must be enforced.]

The *Gemora* asks: Where exactly do the witnesses on a tied document sign?

Rav Huna says: They sign between the ties. [The *Gemora* currently assumes this means the written line and line with their signature are tied together, and are then sown up with both writings on the inside.]



Rav Yirmiyah bar Abba says: They sign on the other side of the writing, and opposite the writing on the outside.

Rami bar Chama said to Rav Chisda: According to Rav Huna, who holds that they sign between the ties, it seems that the witnesses sign inside the sown up part of the document. However, there was a tied document that came before Rebbe. Rebbe asked: Is there no date on this document? Rabbi Shimon the son of Rebbe said to Rebbe: Perhaps it is between the ties? They opened it up and indeed saw the date. According to Rav Huna, however, Rebbe should have asked where the date and witnesses were! [*This implies that the witnesses sign on the outside!*]

Rav Chisda answers: Did you think Rav Huna meant that the witnesses sign on the inside? He meant that they sign between the ties on the outside.

The *Gemora* asks: Why don't we suspect that the person forged the rest of the document (*as the witnesses only sign on the original folds*)?

The *Gemora* answers: The end of the document says, "*sharir v'kayam*" (*verifying that the witnesses read everything until this point*).

The *Gemora* asks: Why don't we suspect that the owner of the document wrote what he wanted and then wrote *sharir v'kayam* on his own?

The *Gemora* answers: Only one *sharir v'kayam* is written per document, not two.

The *Gemora* asks: But let us be concerned that he erased the initial *sharir v'kayam*, and then he wrote whatever he wanted, and afterwards wrote *sharir v'kayam* again!?

The *Gemora* answers: Rabbi Yochanan said: If there is a "hanging" word (*if the scribe noticed that a word was missing, he may suspend the word between two lines*) and

it is certified at the end of the document (*by saying, "Such-and-such a word is hanging between the lines and it is sharir v'kayam*), the document is valid. However, if there is a place on the document where words are written over an erased portion, it is invalid – even if it is certified at the end. And words written over an erased portion disqualifies a document only if the erasure in which *sharir v'kayam* could have been written, and only if it was large enough that *sharir v'kayam* could have been written on that place. (160a – 161a)

INSIGHTS TO THE DAF

A Tied Document Nowadays

The *Mishna* states: A plain document - its witnesses are inside it (*on the bottom*). And a tied one - its witnesses are on the reverse (*between one fold and the next*). [*They began by writing a single line or a number of lines of the essence of the document, and they folded the written part upon the part below and sewed them together. Another line or lines were written, and again the parchment was sewn down, and the procedure was repeated until the last fold. Each such fold was known as a keshet, and that is why it is called a get mekushar. The Gemora explains that the tied document type was ordained by the Rabbis primarily for gittin. They instituted it for the hot-tempered Kohen who might in a fit of anger decide to divorce his wife. Unlike any other Jew, a Kohen may not marry a divorcee, including his own ex-wife. They therefore instituted the tied deed which cannot easily be written quickly in order to allow time for the Kohen's temper to cool. As this document type was ordained for divorce, the Rabbis also instituted it for other documents, for bills of indebtedness as well as for bills of sale so that one may choose the tied document, so as not to differentiate between bills of divorce and other documents.*]

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witnesses signed inside it is valid, because he can make it a plain one (*by not sewing the knots; and even though there are spaces between one line and the next, one need not be concerned about that, as there are many unskilled scribes who leave considerable space between one line and another*). Rabban Shimon ben Gamliel says: All is in accordance with the custom of the place. A plain document requires two witnesses, while a tied document requires three witnesses. If a plain document contained one witness or a tied document contained two witnesses, they are both invalid.

According to the Ramban, the *Tannaim* of the *Mishna* disqualified even a *shtar* where the witnesses signed on both sides – underneath the body of the *shtar* as in a plain document, and on the opposite side, in the manner which is done in a tied document. The reason for this is because the “*ba'al hashtar*” – the owner of the document – is particular as to how the *shtar* should be written. If he instructed them to write it as a plain document, the signatures of the witnesses on the back side of the *shtar* will ruin its “openness”; and if his instructions were to make it a tied document, their signatures on the front side remove the document from being called a tied document.

The Nimukei Yosef infers that according to the Ramban, there could be room to validate a tied document nowadays. This is because it is not the custom at all to make a tied document, and it does not enter the mind of the *ba'al hashtar* to instruct them to make it opened and not tied.

However, he says, according to other Rishonim's explanation of the *Mishna*, it would still be invalid. They explain that the reason that a plain document is invalid when the witnesses sign their names on the back is because it was not done in the manner that the *Chachamim* instituted; it has nothing to do with the *ba'al hashtar's* instructions. Accordingly, nowadays, a document where the witnesses signed on the back will be invalid, for it is not

being done according to the established practice of the *Chachamim*.

The Rem" a (42:1) cites both opinions regarding this.

The Shac" h understood that the Rem" a, at least in one opinion, is validating a *shtar* that was completely made like a tied document – meaning, the witnesses signed only on its back side. The Shac" h disagrees and holds that this would be disqualified according to everyone, for it was not done according to the established practice of the *Chachamim*.

The Tumim writes that this was never the intention of the Rem" a. He was only referring to a case where the witnesses signed on both sides – underneath the body of the *shtar* as in a plain document, and on the opposite side, in the manner which is done in a tied document.

DAILY MASHAL

It is written: and into the hearts of the wise of heart, I have placed wisdom (Shemos 31:6). The question is asked: Is it only the wise of heart who get wisdom? Why/How is it a prerequisite to be wise to attain wisdom?! The answer is: It is not the wise who get wisdom, but the wise OF HEART. You must truly demonstrate that--in your heart--you want to be wise--and this can be done by setting a personalized meaningful Torah learning program for yourself on a daily basis, and, ultimately, regaling in your own measured and wonderful accomplishments.