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Gittin Daf 17

Produced by Rabbi Avrohom Adler, Kollel Boker Beachwood

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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

Prefer the Romans

Rabbah bar bar Chanah was once ill, and Rav Yehudah and Rabbah went to inquire on his health. While they were there, they asked him the following question: If two agents bring a *get* from abroad, are they required to declare that it was written and signed in their presence, or not? He replied: They are not required, for would they not 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*)? In the meantime, a Persian man came in and took away their lamp (*for that day was one of their holidays, and it was forbidden to light a candle except in their temples*). Rabbah bar bar Chanah exclaimed: All Merciful One! Either hide us in Your shadow or in the shadow of the son of Esav (*for they respect us*)!

The *Gemora* asks: Does this mean to say that the Romans (*descendants of Esav*) are better than the Persians? But didn't Rabbi Chiya teach us in the following *braisa*: What is the meaning of the verse [Iyov 28:23]: *God understood her (the Torah's) way and he knew its place*? It means that the Holy One, Blessed be He, knew that Israel would not be able to endure the persecution of the Romans, so he exiled them to Bavel!? [*We see that the Romans are worse than the Babylonians!*]

The *Gemora* answers: There is no contradiction. The verse refers to the period before the Persians came to Bavel (*during the Chaldean kingdom the Jews were allowed to perform mitzvos*), whereas Rabbah bar bar Chanah was referring to the period subsequent to their coming (*when Koresh defeated the Chaldean king*). (16b4 – 17a1)

Two Agents

The *Mishnah* had stated: If one said that it was written in his presence and two said that it was signed in their presence, the *get* is valid.

Rabbi Ami said in the name of Rabbi Yochanan: This *halachah* was taught only when the one who said that it was written in his presence was the one who brought the *get*, for then it is regarded as if we had two witnesses on the writing (*since the agent is believed like two*) and two witnesses on the signing, but if he was not the agent, it is invalid.

The *Gemora* notes: It would seem that Rabbi Yochanan holds that two agents, who bring a *get* from abroad, are required to declare that it was written and signed in their presence (*for otherwise, the get should be valid, since we have two witnesses authenticating the signatures*).

Rabbi Assi said to Rabbi Ami: But let us consider the earlier ruling of the *Mishnah*: If two people said that it was written in their presence, and one person says it was signed in his presence, the *get* is invalid. Rabbi Yehudah says it is valid. According to you, even if both witnesses bring the *get*, would the *Tanna Kamma* still invalidate the *get*?

Rabbi Ami responded: Yes (*they were concerned that people would confuse this halachah with an ordinary authentication of witnesses, and they would say that only one witness is required*).

One time, Rabbi Assi found Rabbi Ami explaining the *Mishnah* to mean that the *get* is valid even if the witnesses to the signing were the agents (*and the witness to the writing was not*).



The *Gemora* notes: It would seem that Rabbi Yochanan holds that two agents, who bring a *get* from abroad, are not required to declare that it was written and signed in their presence.

Rabbi Assi said to Rabbi Ami: But let us consider the earlier ruling of the *Mishnah*: If two people said that it was written in their presence, and one person says it was signed in his presence, the *get* is invalid. Rabbi Yehudah says it is valid. It may be inferred that the reason that the *Tanna Kamma* invalidated the *get* is because the *get* was not brought by both of them, but if both witnesses bring the *get*, the *get* would be valid.

Rabbi Ami said to him: Yes (he agreed with Rabbi Assi).

Rabbi Assi challenged him: But on a different time, you told me the opposite (*that if both witnesses bring the get, the get is invalid!*)!?

Rabbi Ami said: It is like a peg (*my revised opinion*) that cannot be dislodged! (17a1 – 17a2)

Mishnah

If the *get* was written by day and signed by day (*the same one*), or if it was written by night and signed that night, or if it was written by night and signed the following day, it is valid. If, however, the *get* was written by day and signed the following night, it is invalid (*for it is a get mukdam; it would seem that the woman was divorced from the date written on the get, when, in truth, she did not get divorced until the next day*). Rabbi Shimon rules that the *get* is valid, for Rabbi Shimon used to say: All documents that were written by day and signed the following night are invalid (*for a creditor would collect from any real property that the debtor sold after the date written on the document, when in truth, he does not have a legal claim on that property; he may only take property that was sold by the debtor after it was signed and took effect*), except for a bill of divorce (*since it is not written for any collection purposes*). (17a2 – 17a3)

Date Decree

It was stated: Why was it established that the date should be written on a *get*?

Rabbi Yochanan said: It was on account of his sister's daughter (*who was also his wife*). [*They were concerned that she committed adultery, and the husband wishes to protect her (in order that she should not be executed) because she is his relative. He would therefore write for her a get without a date written on it and she could claim that she was not a married woman at that time. The Chachamim decreed that the date should be recorded on the get in order to preclude this.*]

Rish Lakish said: It is because of the fruit (*from his wife's melog property*). (*nichsei melog - usufruct property - the property which the woman brings in with her from her father's house, and which is not recorded in the kesuvah, as well as property which comes to her by inheritance or as a gift after the marriage; this property is hers, and her husband is not responsible for it, since he may only usufruct (the right to use and enjoy the profits and advantages of something belonging to another as long as the property is not damaged or altered in any way) it; the term nichsei melog is derived from the Aramaic word meligah, plucking, i.e., the husband plucks the property just as a chicken is plucked*) [*The husband does not have a right to sell the fruit from her melog property after the time that the get took effect. If he did, and she wants to be reimbursed for that, he, if there is no date recorded on the get, can claim that he sold them before the divorce. The Chachamim decreed that the date should be recorded on the get in order to preclude this.*]

The *Gemora* asks: Why didn't Rish Lakish answer like Rabbi Yochanan? The *Gemora* answers: Rish Lakish would say that adultery is uncommon (*and therefore it was not sufficient enough of a reason to decree that the date must be recorded on a get*).

The *Gemora* asks: Why didn't Rabbi Yochanan answer like Rish Lakish? The *Gemora* answers: Rabbi Yochanan maintains that the husband has the right to the fruits of his wife's *melog* property until the time that the *get* is given to her (and therefore the writing of the date on the *get* will not accomplish anything, for the woman will anyway be compelled to bring witnesses when she received the *get*). (173a – 17b1)

Recovering the Fruits

The *Gemora* asks: According to Rish Lakish, it is understandable why Rabbi Shimon holds that a predated *get* is valid (for he maintains that the husband loses the right to sell the fruits of his wife's *melog* property from the moment he decides to divorce her; i.e. as soon as the *get* is written); however, according to Rabbi Yochanan, for what reason does Rabbi Shimon validate a predated *get*?

The *Gemora* answers: Rabbi Yochanan stated his reason only according to the *Chachamim*; not according to Rabbi Shimon.

The *Gemora* asks: According to Rabbi Yochanan, the point of dispute between Rabbi Shimon and the *Chachamim* is understandable (for the *Chachamim* invalidate a predated *get*, for they were concerned that the husband will want to protect his niece, and Rabbi Shimon, who did not hold of that reason, maintains that the reason for the decree was because the husband will illegally sell the fruits of his wife's *melog* property, and accordingly, a predated *get* will be valid, for Rabbi Shimon holds that the husband forfeits that right as soon as he writes the *get*); however, according to Rish Lakish, what are they arguing about?

The *Gemora* answers: The fruits of his wife's *melog* property between the writing of the *get* and the signing of the *get* are the difference between them. [The *Chachamim* hold that the husband forfeits his right to those fruits only after the *get* is signed, and therefore, a predated *get* is invalid because the woman will illegally try to recover any fruit that the husband sold after the time written on the *get*. Rabbi Shimon validates

such a *get*, for he maintains that that the husband loses that right immediately after the *get* was written, and therefore the woman is within her rights to recover the fruits that he sold after the date recorded on the *get*.]

The *Gemora* asks: But we learned exactly the opposite? For it was stated: From when do we allow the woman to recover the fruits of her *melog* property sold by the husband? Rabbi Yochanan said: From the time the *get* was written. Rish Lakish said: From the time that the *get* was given over!?

The *Gemora* says that this last statement should be reversed. (17b1 – 17b2)

Challenges

Abaye asked Rav Yosef: A *Mishnah* below states: Three *gittin* are Rabbinically invalid, but if she remarries based upon this *get*, her offspring will still be legitimate. [1] *If the husband wrote the get himself and there are no witnesses signed on it*; 2) *Witnesses signed on the get, but there was no date recorded on it*; 3) *The get has a date, but there is only one witness signed on it*.] What did the *Chachamim* accomplish with their decree (if the *get* is ruled to be valid anyway)?

He answered: It helps that we do not allow her to get married in the first place.

Abaye asked: But couldn't the husband cut out the date recorded on the *get* and give it to his wife in this manner (and then he will be able to sell the fruits without reimbursing her)?

Rav Yosef answered: We are not concerned for a cheater.

Abaye persisted in his questioning: Suppose it is dated only by the seven-year period, or by the year, by the month, by the week, what is the *halachah*?

He replied: It is valid.



Abaye challenged him: What did the *Chachamim* accomplish with their decree (*if the get, in such a case, is ruled to be valid anyway*)?

Rav Yosef answered: It is of value where a question arises about the seven-year period before or the seven-year period afterwards. For if you do not say like this, even when the day is specified, do we know whether the morning or the evening is meant? The date recorded serves to distinguish it from the day before and the day after. So too here, by specifying the seven-year period, we are enabled to distinguish it from the seven-year period before and the seven-year period afterwards. (17b2 – 17b3)

DAILY MASHAL

Romans better than the Persians

Rabbah bar bar Chanah was once ill, and Rav Yehudah and Rabbah went to inquire on his health. While they were there, they asked him the following question: If two agents bring a *get* from abroad, are they required to declare that it was written and signed in their presence, or not? He replied: They are not required, for would they not 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*)? In the meantime, a Persian man came in and took away their lamp (*for that day was one of their holidays, and it was forbidden to light a candle except in their temples*). Rabbah bar bar Chanah exclaimed: All Merciful One! Either hide us in Your shadow or in the shadow of the son of Esav (*for they respect us*)!

The Maharam Schiff explains: The Romans (*descendants of Esav*) oppress the Jewish people only when *Klal Yisroel* shirk the yoke of Torah from themselves.

The Medrash states that this is actually what Yitzchak told Esav: If Yaakov's descendants cast off the yoke of Torah, then your descendants could decree destruction upon them and subjugate them. However, if Yaakov's children remain devoted to Torah, Esav would have no control over them.

It emerges that it is preferable for the Jewish people to be amidst the children of Esav, for then, *Klal Yisroel* is in control of their own destiny.

Romans and Persians

Our Gemora relates that when the Persians oppressed the Jews in Babylon, Rabbah bar bar Chana prayed to Hashem that we should either be redeemed from the exile or exiled by the Romans. What was the advantage to being oppressed by the Romans?

The Chasam Sofer answers that the Romans issued a decree that anyone who kills a Jew would receive a bounty of four zuz, whereas the Persians wanted to keep the Jews alive and torment them. He compares this to the difference between Pharaoh and Lavan. Lavan wanted to uproot everyone, but he didn't act upon the wish to kill. He preferred to keep Yaakov alive and take advantage of him, whereas Pharaoh actively drowned the newborn boys. Since the Egyptian type of exile is more bearable, Hashem took us out of Lavan's house and brought us down to Egypt. Even when we are in exile, Hashem chooses to temper the harshness with as much compassion as possible.

The Ben Yehoyada answers that the Persians received Divine permission to oppress the talmidei chachomim.

The Maharam Shik answers that the Romans who are descended from Esav have the ability only to subjugate the Jews when they are lax in their study of Torah. This is learned from the verse: when you will be aggrieved you may remove his yoke from upon your neck (Bereishis 27:40).

The Mor Deror adds that this is the reason why Yaakov was scared that he might kill Esav in their encounter after he left the house of Lavan. His concern was for his descendants who would need to be exiled and their easiest option for exile would be to be exiled along the descendants of Esav.