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Gittin Daf 5

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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

Unsuccessful Challenge to Rabbah

The *Gemora* cites a *Mishnah*: 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 *Mishnah* 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 *Mishnah* 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 – that it was written for the sake of the woman, what does the authentication of their signatures help*)!?

The *Gemora* answers: The *Mishnah* 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 would be valid when the signatures are authenticated*) should be applicable even if the agent was able to make the declaration!?

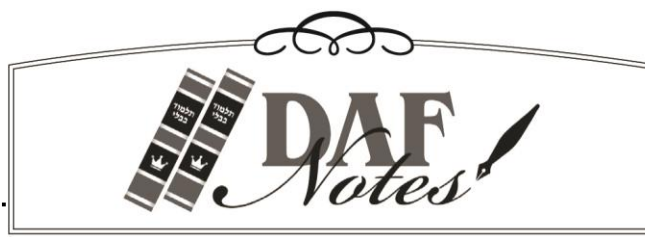
The *Gemora* answers: There was still the necessity for the agent's declaration, for the *Chachamim* were concerned that the situation would return to its disappointing condition.

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 *Mishnah* 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 *Baraisa* that if the husband brings the *get* himself, he is not required to declare that it was written and signed in his presence!?

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 *Mishnah* 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 *Mishnah* 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 *Baraisa* that if the husband brings the *get* himself, he is not required to declare that it was written and signed in his presence!?

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*. (5a2 – 5a3)

Another Challenge

The *Gemora* challenges Rabbah from the following *Baraisa*: 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 *Baraisa* 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 *Baraisa* 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 *Baraisa* state a different reason that the *get* is valid?] If so, (should the *Baraisa* have said) the purpose of the declaration is not to be strict with her; rather, it is to be lenient? It (the reason why we

are lenient in this case) is only because she remarried already!?

We must read the *Baraisa* as follows: [The *get* is valid if the signatures can be confirmed.] And should you think that if she has remarried we should be stricter and force her to leave [her second husband], we must bear in mind that the purpose of requiring this declaration is to make the process of divorce easier and not more difficult. The whole reason why it is required is as a precaution against the risk of the husband coming to challenge and invalidate [the *get*]. Seeing that here the [first] husband is raising no objection, shall we go out of our way to do so?¹ (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

¹ 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.



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: Ravin son of Rav Chisda brought a *get* before Rabbi Yochanan, and the latter said to him: Go and give it to her in the presence of two people, and say to them, "In my presence it was written and in my presence it was signed." We may therefore conclude [that Rabbi Yochanan held two to be sufficient].

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. For 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. The one 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 a witness cannot serve as a judge.

The *Gemora* challenges this explanation from the fact that the ruling by Rabbinic matters is that a witness may serve as a judge!?

The *Gemora* offers another explanation: The one who holds that three people are required is concerned that since a woman is allowed to be the agent to bring the *get*, they might rely on her to be one of the three (*and a woman is disqualified from being a judge*). The other one is not concerned for this because it is well known that a woman cannot serve as a judge. (5b1 – 5b2)

A Baraisa has been taught in agreement with Rabbi Yochanan: If one brought a get from abroad, and he gave it to the wife without declaring, "In my presence it was written and in my presence it was signed," if she marries again the second husband must end her out and a child born from the union is a mamzer; these are the words of Rabbi Meir. But the Rabbis say that the child is not a mamzer. What should be done [to rectify matters?] The bearer should take the get back from the woman, and then present it to her in the presence of two people, declaring at the same time, "In my presence it was written, and in my presence it was signed." [Are we to suppose then that] according to Rabbi Meir, because the bearer failed [in the first instance] to make this declaration, the second husband has to send the woman, and the child is a mamzer? — Yes: Rabbi Meir in this is quite consistent; for so Rav Hamnuna has told us in the name of Ulla, that Rabbi Meir used to affirm: If any variation whatever is made in the procedure instituted by the Sages for gittin, the second husband has to send the woman away and the child is a mamzer. (5b2 – 5b3)

granted him the ability to sin (Rashi *Brochos* 32a). Hashem finds reasons to have compassion for a sinner, although He Himself witnessed the sin.

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