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Gittin Daf 36

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Daf Notes is currently being dedicated to the neshamot of

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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

### ***Tikun Ha’Olam***

The *Mishna* had stated: The witnesses sign the *get* to benefit the public.

The *Gemora* asks: Are the witnesses required to sign on the *get* only because of “*Tikun Ha’Olam*” – “benefiting society”? This is a Biblical law! This is evident from the verse: *And it should be written in a document and signed.*

Rabbah says: The *Mishna’s* statement is needed according to Rabbi Elozar, who holds that the witnesses for the delivery of the document cause the (document to take effect, thus) severing (the marital bond). Nevertheless (even according to him), the Rabbis instituted that witnesses should also sign the *get* because of *tikun ha’olam*. This is because there are times when the witnesses of the delivery of the *get* might have died or went abroad (*and at least the witnesses who signed will be able to contradict the ex-husband in case he claims that he did not divorce her*).

Rav Yosef says: Even according to Rabbi Meir (*who holds that the witnesses who sign on the document cause the document to take effect*), they decreed that witnesses should specify their names in a *get*, due to *tikun ha’olam*. This is as the *braisa* states: Originally, people would sign, “I, So-and-so (*without writing his name*), have signed as a witness.” If there was a

different document with the same handwriting that was verified to be authentic, this document would also be valid. If not, it is not valid. Rabban Gamliel said: They made a great decree when they instituted that witnesses should specify their names in a *get*, due to *tikun ha’olam*.

The *Gemora* asks: Were people not allowed to sign using a mark (*or letter, indicating who they were*)? Didn’t Rav sign by drawing a fish; Rabbi Chanina would draw a palm branch; Rav Chisda the letter “samech”; Rabbi Hoshiya the letter “ayin”; and Rabbah bar Rav Huna would draw a (ship’s) sail?

The *Gemora* answers: The Rabbis are different, as their illustrations are well known.

The *Gemora* asks: How did their illustrations become well known?

The *Gemora* answers: Through general correspondence (i.e., documents of questions, answers, and letters of greetings). (36a1 – 36a2)

### ***Pruzbul***

The *Mishna* had stated: Hillel instituted the *pruzbul* (*after shemitah all debts are cancelled unless the lender wrote a pruzbul; a document which transfers all of*

*one's personal loans to the Beis Din, and their debts are not cancelled after shemita*) to benefit society.

We learned in a different *Mishna*: A *pruzbul* does not allow the obligation to be taken away. This was one of the decrees of Hillel the Elder. He saw that people were refraining from lending money to one another (*as they were concerned that the person would not pay back after shemita*). They were transgressing the Torah's command: *Be careful, lest there be an evil thought in your heart etc. [saying, "The Shemita, the year of relinquishment draws close," and your eye will be mean towards your poor brother and you will not loan him money that he wants]*. Hillel therefore established a *pruzbul*. This is the body of the *pruzbul* (document): "I give before you (*my debt documents*), So-and so and So-and-so, judges in Such-and-such a place, that any debt that So-and-so owes me I will be able to collect it whenever I want." The judges sign underneath (this statement) or the witnesses.

The *Gemora* asks: And is there such a thing that according to Biblical law, shemita cancels the loan (and the debt is null and void), and Hillel decreed that it does not cancel?

Abaye answers: He is referring to Shemita nowadays, and this is according to the opinion of Rebbe (who holds that *shemita* today is only Rabbinic in nature), as it was taught in a *braisa*: Rebbe says: *And this is the matter of shemita, relinquish* – the verse is referring to two aspects of "relinquishment" (*as indicated by the double usage of the word shemita*): one is the relinquishing of land (by not working his land) and one is the relinquishment of monies. This verse teaches us (*by referring to both together*) that at a time when one relinquishes his land, one must also relinquish loans. But at a time (such as nowadays) when one does not

relinquish his land, one is not required to relinquish loans. The Rabbis, nevertheless, instituted that shemita should cancel loans anyway, as a remembrance (of the Biblical law) of *shemita*. Hillel saw that they were refraining from lending each other, he therefore established a *pruzbul*.

The *Gemora* asks: And is there such a thing that according to Biblical law, shemita does not cancel the loan, but the Rabbis decreed that (*without a pruzbul*) that it does cancel?

Abaye answers: It is a case where one is sitting and not performing any action (*the borrower is not actively stealing, and therefore he can rely on the Rabbinic ruling that the debt is canceled*).

Rava says: This is done using the principle that whatever is declared ownerless by *Beis Din* is deemed ownerless. [*Therefore, even if shemita is a Biblical law today, the loan would be canceled, as the Beis Din deems the money owed as ownerless.*] This is as Rabbi Yitzchak states: How do we know that whatever is declared ownerless by *Beis Din* is indeed ownerless? The verse states: "*Whoever will not come in three days as per the advice of the officers and elders will have all of his possessions taken away, and he will be separated from the congregation of the exile.*"

Rabbi Elozar states that the source of this principle is from a different verse. The verse states: "*These are the inheritances that Elozar the Kohen, Yehoshua bin Nun, and the leaders of the families bequeathed etc.*" What is the connection between "the leaders," and "fathers?" [*It should have simply said, "the leaders of the tribes!"*] This teaches that just as fathers can bequeath to children whatever they want, so too the

heads of the people had the right to give out the portions of inheritance as they saw fit.

The *Gemora* inquires: When Hillel instituted *pruzbul*, did he do so only for his generation, or perhaps he instituted it for all future generations as well? What difference does it make? The difference would be whether or not the decree (in a subsequent generation) can be nullified. If you say that he instituted it only for his generation, a future generation may nullify it. However, if you would say that he instituted it for future generations as well (it cannot be nullified), there is a principle that a later *Beis Din* cannot nullify the decrees of a previous *Beis Din* unless it is greater than it (the first *Beis Din*) in wisdom and number. [*There is much discussion among the commentaries regarding what these two qualifications mean.*] What (is the answer)?

The *Gemora* tries to prove the answer from that which Shmuel said: A *pruzbul* can be written only in the *Beis Din* of Sura or Nehardea. Now, if you would think that Hillel had instituted this for future generations as well, then let them write it (a *pruzul*) in other *Beis Din*'s as well!?

The *Gemora* refutes this proof. Perhaps when Hillel instituted *pruzbul*, he decreed that it can be done only by a *Beis Din* such as his, and also like that of Rav Ami and Rav Assi, which are powerful enough to declare money ownerless; however, for other *Beis Dins*, not (a *pruzbul* cannot be written there).

The *Gemora* again tries to answer this question based on another statement that Shmuel said: The *pruzbul* is an arrogance on the part of the judges (for they, in essence, are stealing the borrower's money). If I would be strong enough, I would nullify it. The *Gemora* asks:

Would he indeed nullify it? What about the principle that a later *Beis Din* cannot nullify the decrees of a previous *Beis Din* unless it is greater than it (the first *Beis Din*) in wisdom and number? [*It must be that Shmuel understood it was only for Hillel's generation.*]

The *Gemora* answers: [*There is no proof from here.*] This is what Shmuel was saying: If I would become stronger than Hillel, I would nullify it.

Rav Nachman says: [*If I was strong enough,*] I would uphold it.

The *Gemora* asks: It is already upheld!?

The *Gemora* answers: This is what he was saying: I would institute that even though it (a *pruzbul*) was not written, it is as if it was written.

The *Gemora* inquires: When Shmuel used the word 'ulbena,' did he mean an expression of "arrogance" (for the judges were 'stealing' from the borrower), or did he mean an expression of "convenience" (for now the judges would not need to work so hard before the Shemitah year)?

The *Gemora* answers this from a statement which Ulla said: A bride who is unfaithful in her bridal chamber is "aluvah" – "shameless."

Rav Mari, the son of Shmuel's daughter, says: What is the verse that represents this? *Until the king is in his (wedding) party, my perfume gave off its fragrance (referring to their sin with the golden calf).*

Rava says: He still favors us, as is indicated by the fact that the verse says, "it gave off," not that "it putrefied".



The *Gemora* cites a *braisa*: Those who are insulted, but do not insult back, and those who hear their shame, but do not respond, and those who do God's will out of love and are happy even while they suffer, concerning them it is written: *But they who love Him shall be as the sun going forth in its might.* (36a – 36b)

## DAILY MASHAL

### ***Disgraced but did not Respond***

The *Gemora* cites a *braisa*: Those who are insulted, but do not insult back, and those who hear their shame, but do not respond, and those who do God's will out of love and are happy even while they suffer, concerning them it is written: *But they who love Him shall be as the sun going forth in its might.*

The Chidah in his seforim relates the following incident several times: There was once a very wealthy and powerful man who humiliated a Torah scholar. The Rav of the city told the Torah scholar that he should forgive the man. The scholar told him that he immediately forgave him, for it is written in the Zohar HaKadosh that the sins of the Jewish people cause the *Shechinah* much pain, Heaven forbid, and if he would not forgive him, it would be regarded as a grave sin for the wealthy person. He, therefore, immediately forgave him, for this way, the *Shechinah* will not be pained.

The Chidah concludes that he wrote this over numerous times, for it is of tremendously important and extremely precious and words of *mussar*, such as these, must be constantly reiterated in order to inspire people to fear Hashem properly!

## INSIGHTS TO THE DAF

### ***Validity of Signatures***

The *Mishna* had stated: The witnesses sign the *get* to benefit the public.

The *Gemora* asks: Do the witnesses only have to sign on the *get* because of "*Tikun Ha'Olam*" – "benefiting the world?" This is a Torah law! This is evident from the verse, "And it should be written in a document and signed!"

Rabbah says: The *Mishna's* statement is needed according to Rabbi Elozar, who holds that the witnesses for the giving of the document cause the document to take effect. Even according to him, Chazal instituted that witnesses should also sign the *get* because of *tikun ha'olam*. This is because there are times when the witnesses of the giving of the *get* might have died or went overseas (*and at least the witnesses signed will be able to contradict the ex-husband in case he claims that he did not divorce her*).

Rav Yosef says: Even according to Rabbi Meir (*who holds that the witnesses for the giving of the document cause the document to take effect*), they decreed that witnesses should specify their names in a *get*, due to *tikun ha'olam*. This is as the *braisa* states: Originally, people would sign, "I, So-and-so (*without writing his name*), have signed as a witness." If there was a different document with the same handwriting that was verified to be authentic, this document would also be valid. If not, it is not valid. Rabban Gamliel said: They made a great decree when they instituted that witnesses should specify their names in a *get*, due to *tikun ha'olam*.



The *mefarshim* ask on the Rambam in Hilchos Edus (3:4), who states that the requirement for witnesses to sign on a document is only *mi'divrei sofrim* (a *Rabbinical obligation*). The *Gemora* expressly states that this is a Biblical requirement!?

The *Megillas Sefer* answers that when the *Gemora* states that it is Biblically required, it is not being completely accurate, for the verse where this obligation is derived from is a verse in *Yirmiyah*. The *Gemora* only meant to ask that from the *Mishna* it would seem that the witnesses sign only because of *Rabban Gamliel's* decree, when in truth, this was established generations beforehand!

The *Pnei Yehoshua* answers that it is only a Biblical requirement according to *Rabbi Meir*, who holds that the witnesses who sign the document are those who render it effective. However, the *Rambam* rules in accordance with *Rabbi Elozar*, who holds that the witnesses who observe the delivery of the document are those who render it effective. Therefore, the *Rambam* writes that the signatures are only a *Rabbinical* requirement.

The *Nesivos Hamishpat*, *Chasam Sofer* and others answer that the *Rambam* is only referring to proof documents, since the witnesses are obligated to testify in *Beis Din* so that the judges will have the ability to cross examine them. Testimony is valid only from the mouths of the witnesses, but not on the basis of any documents or writings. However, regarding a document that is made to affect something, either a marriage, divorce, sale etc., the *Rambam* will agree that the signatures of the witnesses are Biblically required.

*Reb Chaim Brisker* adds that a document, like a *get*, which later will be used as proof that the woman got divorced can still be Biblically valid. For once the document rendered an effect, it is as if it has been investigated in *Beis Din*, and would not any longer be disqualified because of the rule that testimony must come from their mouths and not from their writings.

#### QUESTIONS AND ANSWERS FROM YESTERDAY'S DAF to refresh your memory

Q: Why did we refrain from imposing a *shevu'ah* on a widow, but not on a divorcee?

A: For a widow will justify her *shevu'ah* on account of the trouble she has taken on behalf of the orphans (*managing their affairs*). This is not applicable by a divorcee.

Q: Is the punishment more severe for violating a *shevu'ah* or a *neder*?

A: A *shevu'ah*.

Q: Is one required to tell all the particulars surrounding a *neder* to a *Chacham* when asking him to be *matir* the *neder*?

A: *Machlokes* between *Rav Pappa* and *Rav Nachman*.