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DAF Notes
Insights into the Daily Daf
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Kesuvos Daf 89

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

Mishnah

The *Mishnah* states: If she produced a *get*, but not the *kesuvah*, she collects her *kesuvah* (*even though, normally, a creditor is not believed to say that the debt had not been paid if he cannot produce the document, a kesuvah is different, since it is regarded as an act of Beis Din, and the husband would not be believed that it was paid*). If she produced a *kesuvah*, and not a *get*: She says, "My *get* was lost," and he says, "My receipt was lost"; and similarly, if a creditor produced a loan document (*after shemitah, when all debts are cancelled unless they wrote a pruzbul; a document which transfers all of one's personal loans to the Beis Din, and their debts are not cancelled after shemitah*) and not a *pruzbul*, then these shall not be paid. Rabbi Shimon ben Gamliel says: From the time of danger (*when the idolaters decreed that mitzvos may not be performed*) and onwards, a woman may collect her *kesuvah* without a *get*, and a creditor may collect without a *pruzbul*. (88b3 – 89a1)

Writing Receipts

(*The Mishnah had stated: If she produced a get, but not the kesuvah, she collects her kesuvah.*) The *Gemora* states: It may be inferred from our *Mishnah* that in general, we write receipts for the debtor (*in cases when the creditor was not able to produce the loan document; even though, there is now a burden on the debtor to safeguard the receipt*); for if we would not write a receipt, let us be concerned that she will produce her *kesuvah* (*after the husband's death*) and demand payment for her *kesuvah* a second time? (*We are not concerned that she will produce her get during her husband's lifetime, for as soon as she collects her kesuvah, we tear up the get. We are also not concerned that she will demand payment for her kesuvah without producing the get, for the Mishnah states that she will not be able to collect in such a case. The Gemora is concerned that she will wait for her husband to die, produce her kesuvah to the inheritors, denying that she was ever divorced and demand payment for her kesuvah; if the inheritors produce a receipt, she will not get away with it.*)

Rav said: The *Mishnah* is referring to a locality where they did not generally write a *kesuvah*; it is for this reason that we allow her to write a receipt for the husband (*the halachah is that we do not force a debtor to write a receipt*).

Shmuel said: The *Mishnah* can be referring even to a case where they write a kesuvah document.

The Gemora asks: And according to Shmuel, do we always write a receipt?

Rav Anan said: It was explained to me from the master Shmuel himself that it may be referring to a case where they did not generally write a *kesuvah*, but the husband claimed that he wrote a *kesuvah*. He is required to prove that he did write a *kesuvah* (*otherwise, he must pay the kesuvah and accept the receipt from her*). It may also be referring to a case where they did not generally write a *kesuvah*, but the wife claimed that he did not write a *kesuvah*. She is required to prove that he did not write a *kesuvah* (*and if she does provide proof, he must pay the kesuvah and accept the receipt from her*).

The *Gemora* states: Rav retracted from his initial opinion. For Rav said: Whether it is in a locality where the custom was to

write a *kesuvah*, or whether they were in a locality where the custom was not to write a *kesuvah*, the following is the *halacha*: If she produces her *get*, she collects the primary amount of her *kesuvah* (*the one hundred or two hundred zuz*). If she produces her *kesuvah*, she may only collect the additional amount that was written in the *kesuvah*. (*Using this method, there will be no concern for fraud.*)

The *Gemora* questions Rav from our *Mishnah*: If she produced a *kesuvah*, and not a *get*: She says, "My *get* was lost," and he says, "My receipt was lost"; and similarly, if a creditor produced a loan document (*after shemitah, when all debts are cancelled unless they wrote a pruzbul; a document which transfers all of one's personal loans to the Beis Din, and their debts are not cancelled after shemitah*) and not a *pruzbul*, then these shall not be paid. Now, according to Shmuel, this statement is understandable since one might interpret it as applying to a locality where it was the custom not to write a *kesuvah* and the husband claimed, "I did write one." In such a case, we would tell him to produce evidence that he wrote the *kesuvah*, and should he fail to do so, he will be told to go and pay up. According to Rav, however, the question arises, granted that she will not be able to collect her primary *kesuvah*, but let her at least collect the additional amount?

Rav Yosef answers: We are referring to a case where the woman did not produce witnesses that she was divorced. The husband is able to say that he divorced her and paid her *kesuvah* with a *migu* that he could have claimed that he did not even divorce her (*therefore, she doesn't collect anything at all*).

The *Gemora* asks: (*It is evident from the latter ruling of the Mishnah that we are referring to a case where there are witnesses to the divorce.*) The *Mishnah* had stated: Rabbi Shimon ben Gamliel says: From the time of danger (*when the idolaters decreed that mitzvos may not be performed*) and onwards, a woman may collect her *kesuvah* without a *get*, and a creditor may collect without a *pruzbul*. If there are no witnesses, how will she be able to collect?

The *Gemora* answers: The entire *Mishnah* reflects the opinion of Rabban Shimon ben Gamliel and it is as if there are some words missing in the *Mishnah*. The following is what the *Mishnah* meant to say: If she produced a *kesuvah*, and not a *get*: She says, "My *get* was lost," and he says, "My receipt was lost"; and similarly, if a creditor produced a loan document and not a *pruzbul*, then these shall not be paid. When are these words applicable? It is when there are no witnesses to the divorce; however, if there are witnesses, she may collect the additional amount. And in respect to the primary amount of the *kesuvah*; if she produces her *get*, she collects it, but if not, she may not collect it. And from the time of danger and onwards, she may collect the primary amount even without producing the *get*, for Rabban Shimon ben Gamliel said: From the time of danger and onwards, a woman may collect her *kesuvah* without a *get*, and a creditor may collect without a *pruzbul*. (89a1 – 89b1)

When there are no other Options

Rav Kahana and Rav Assi asked Rav: According to you, who maintains that if the woman produces her *get*, she would collect the primary amount for her *kesuvah* (*even without producing her kesuvah*), with what evidence, may a woman, widowed from *nisuin*, offer in order to collect her *kesuvah*? The answer is obvious: She brings witnesses that her husband died! However, the question may be raised, let us be concerned that she was previously divorced, and later, she will produce the *get* and collect the primary amount of her *kesuvah* with it (*since Rav is of the opinion that we do not write a receipt for the inheritors*)?

Rav answers: She may collect her *kesuvah* only if we know that she was living with her husband until he died (*and there was no divorce*).

They asked: But perhaps, he divorced her right before he died?

Rav replied: If that was the case, he has caused the loss upon himself.

They persisted: But how can a woman, widowed from *erusin*, collect her *kesuvah*? The answer is obvious: She brings witnesses that her husband died! However, the question may be raised, let us be concerned that she was previously divorced, and later, she will produce the *get* and collect the primary amount of her *kesuvah* with it (*and we cannot answer that she was living with him up until his death because we are discussing a case of betrothal*)?

Rav is compelled to answer that in a situation, where there are no other options, we do write a receipt. For were you not to admit this [the objection might be raised even in respect of] the very witnesses [who testify to her husband's] death: The possibility should be considered that the woman might present [one pair of] witnesses to [her husband's] death before one court and so collect [her kesuvah] and then present [another pair] before another court and collect it [again]. It must he obvious, therefore, that where no other course is possible a quittance may be written. (89b1 – 89b2)

Seeking a Source

Mar Keshisha the son of Rav Chisda asked Rav Ashi: How do we know that a woman, widowed from *erusin* has a right to collect her *kesuvah* (*even without producing her kesuvah*)?

Perhaps you will say that it is derived from the following *Mishnah* (54b): A woman who was widowed or divorced, either after marriage or after betrothal, is entitled to collect everything (*the basic obligations of the kesuvah, plus any additions that the husband included*). But perhaps this *Mishnah* is only referring to a case where the husband voluntarily obligated himself to her by writing for her a *kesuvah* (*how would you know this to be true even if he didn't write for her a kesuvah*)?

And if you will say: If he wrote a kesuvah for his wife, what is the novelty of the ruling? It would be to exclude the opinion of Rabbi Elozar ban Azaryah, who states that the husband wrote the addition for her with the sole objective of marrying her (*and since he did not marry her, she may not claim it*).

The inference too [from the Mishnah cited leads to the same conclusion]. For it has been stated: [She] is entitled to collect all [that is due to her]. Now if you agree that [this is a case where] the man had written [a kesuvah] for her one can well understand why she 'is entitled to collect all [that is due to her]'. If you submit, however, that the man did not write a kesuvah for her, what [it may be objected is the justification for the expression.] 'is entitled to collect all', seeing that she is only entitled to one hundred or two hundred zuz?

Perhaps you will say that this *halachah* is derives from the following *Baraisa* taught by Rav Chiya bar Avin: If a wife from *erusin* dies, the husband is not deemed to be an *onein* (*one whose close relative passed away and has not been buried yet*), he may not become *tamei* to her if he is a *Kohen*; and similarly (*if he dies*) she is not an *onein*, she does not have to be busy with his burial. If she dies, he does not inherit her and if he dies, she collects her *kesuvah*. But perhaps this *Baraisa* is only referring to a case where the husband voluntarily obligated himself to her by writing for her a *kesuvah* (*how would you know this to be true even if he didn't write for her a kesuvah*)?

And if you will say: If he wrote a kesuvah for his wife, what is the novelty of the ruling? It would be to teach us that if she dies, he would not inherit her. (*The Gemora concludes that there is no Tannaic source teaching us that a woman, widowed from erusin has a right to collect her kesuvah even without producing her kesuvah*.) (89b2 – 89b3)

Tearing her Get

Rav Nachman asked Rav Huna: According to Rav, who maintains that if the woman produces her *get*, she would collect the primary amount for her *kesuvah* (*even without producing her kesuvah*), why aren't we concerned that she

will collect her *kesuvah* with her *get* in this *Beis Din*, and then, she will use the very same *get* to collect her *kesuvah* in a different *Beis Din*?

Perhaps you will answer that we tear up the *get* after she collects her *kesuvah* the first time; but doesn't she need the *get* in order to provide proof that she is indeed a divorcee, and thus, she will be permitted to remarry?

Rabbi Huna answers: We do tear up the *get*, but we write on it the following: "We ripped up this *get*, not because that it was invalid, but rather, it is because we do not want her collecting her *kesuvah* with it a second time." (*She still may use it in order to remarry.*) (89b3)

Mishnah

The *Mishnah* states: If a woman produced two *gittin* and two *kesuvos,* she collects two *kesuvos*; if she produces two *kesuvos* and one *get*, or a *kesuvah* and two *gittin*, or a *kesuvah* and a *get* and proof that her husband died, she collects only one *kesuvah,* for if a person divorces his wife and remarries her, he remarries her on the terms of the first *kesuvah*. (89b3 – 89b4)

INSIGHTS TO THE DAF

Menorah Lighting

The *Gemora* in *Shabbos* (21b) states that it is a *mitzvah* to place the menorah for Chanukah at the entrance to one's house. During the dangerous times, they would light the menorah on the table inside and that would be sufficient.

What would be the *halacha* nowadays? Can one light the menorah on his table and with that, fulfill his *mitzvah*? Do we say that since it is not dangerous now, the *halacha* reverts back to the original ruling that the menorah must be lit facing outside?

The Dvar Yehoshua offers proof from the beginning of Meseches Kesuvos (3b). There it says that during the dangerous times and onward, they would marry on a Tuesday, and the Rabbis did not protest. The Shitah Mekubetzes writes that even after the danger was over, they still married on a Tuesday. This was because there was a concern that it may return to the dangerous times.

Our *Gemora* states: Rabbi Shimon ben Gamliel says: From the time of danger (*when the idolaters decreed that mitzvos may not be performed*) and onwards, a woman may collect her *kesuvah* without a *get*, and a creditor may collect without a *pruzbul*.

The Rambam in Hilchos *shemitah* (9:24) rules: If a lender claims that he had a pruzbul and he lost it, he is believed, for from the time of danger and onwards, a creditor may collect without a *pruzbul*.

The Kesef Mishnah explains: Although presently, there is no danger, we do not differentiate between two different times. Accordingly, you might be able to apply the same logic regarding lighting the menorah on a table inside the house even when there is no danger.

The Reshash offers the following comment according to the Kesef Mishnah: It is for this reason that the *Mishnah* uses the precise terminology of, "and from the time of danger and onwards." This teaches us that the *halacha* is applicable even after the danger is no longer here.

Reb Yitzchak Zilberstein writes that accordingly, there would be no proof from this *halacha* to the lighting of the menorah. There, the *Gemora* states that during the dangerous times, they would light the menorah on the table inside and that would be sufficient. It does not say, "and from the time of danger and onwards." Therefore, it can be said that one would not fulfill his *mitzvah* of lighting the menorah if he lights it on the table.

Causing the Loss to Who?

Rav Kahana and Rav Assi asked Rav: According to you, who maintains that if the woman produces her *get*, she would collect the primary amount for her *kesuvah* (*even without producing her kesuvah*), with what evidence, may a woman, widowed from *nisuin*, offer in order to collect her *kesuvah*? The answer is obvious: She brings witnesses that her husband died! However, the question may be raised, let us be concerned that she was previously divorced, and later, she will produce the *get* and collect the primary amount of her *kesuvah* with it (*since Rav is of the opinion that we do not write a receipt for the inheritors*)?

Rav answers: She may collect her *kesuvah* only if we know that she was living with her husband until he died (*and there was no divorce*).

They asked: But perhaps, he divorced her right before he died?

Rav replied: If that was the case, he has caused the loss upon himself.

Reb Elchonon Wasserman in Koveitz Shiurim (319) asks: Why would the inheritors be obligated to give her the *kesuvah* in this case; the father is not causing the loss to himself; he is causing a loss to his heirs, who will now be responsible to pay her for the *kesuvah*?

The Rishonim discuss at great length other differences between the two oaths.

DAILY MASHAL

Identical Names

Rashi writes that Rav Chisda had two sons, and both of their names were identical. The older one was referred to as Mar Keshisha (meaning, “Master the old one”), and the younger one was referred to as Mar Yenuka (meaning, “Master the young one”).

The Chasam Sofer points out that it is our custom never to call two children with the same name, whether the son is only from the father or only from the mother, and whether one of the sons is deceased – we still never give an identical name to two sons. Yet, it is interesting that in the times of the Gemora, Rav Chisda had two sons with the same names, and they needed to give a nickname in order to differentiate between the two.