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גיטין כ״ג
CHICAGO CENTER FOR Torah & Chesed
בס״ד

OVERVIEW of the Daf

1) Clarifying the Mishnah (cont.)

R' Huna explains that the Mishnah's ruling that permits a deaf-mute, insane person or minor to write a גט refers only to where a competent adult is "standing over" (supervising) him.

R' Nachman unsuccessfully challenges this interpretation.

R' Nachman changes his opinion and now rules that an non-Jew is permitted to write a גט.

This permissive ruling is unsuccessfully challenged.

2) Clarifying R' Meir's position

R' Nachman asserts that, according to R' Meir, a גט is valid if one finds it in the garbage and then had witnesses sign on it.

This explanation is unsuccessfully challenged three times.

3) Clarifying the Mishnah (cont.)

R' Yehudah in the name of Shmuel offers another explanation why the Mishnah permits a deaf-mute, insane person or minor to write a גט.

This explanation is unsuccessfully challenged.

4) MISHNAH: The Mishnah discusses the participation of a deaf-mute, an insane person, a minor, a blind person and an non-Jew to deliver a גט.

5) A blind person

The Gemara questions the reason why someone who is blind may not deliver a גט.

R' Sheishes suggests an explanation.

R' Yosef challenges this explanation and offers an alternative explanation.

Abaye unsuccessfully challenges R' Yosef's explanation.

R' Ashi cites support for R' Yosef's explanation.

6) A slave delivering a גט

R' Ami was asked whether a slave is permitted to receive a גט for a woman from her husband, and he answers that it is allowed.

R' Assi in the name of R' Yochanan disagrees and rules that a slave may not accept a גט.

R' Elazar unsuccessfully challenges R' Yochanan's position.

A related statement of R' Yochanan is cited and explained.

7) MISHNAH: The Mishnah teaches that all women are trusted to deliver a גט, even the wife herself, as long as she can declare that it was written and signed in her presence.

8) Women who are not trusted to report that a woman's husband died

The Gemara challenges the Mishnah's ruling that trusts all women to deliver a גט, even those not trusted to testify that a woman's husband died.

R' Yosef suggests a resolution to the challenge.

Abaye rejects this resolution and offers an alternative explanation.

A Baraisa is cited that supports Abaye's explanation. ■

Distictive INSIGHT

Who is not eligible to bring and deliver the גט?

הכל כשרים להביא את הגט חוץ מחרש שוטה וקטן

Rambam (Hilchos Gerushin 6:7) writes that a גט is disqualified if it is delivered by someone whom the Torah considers unqualified to testify because of sins they have committed. Even if the גט itself is independently verified with proper signatories, the document is worthless due to the status of the one who brought and delivered it. For example, if a thief brings a גט, the document has no validity.

The Ra'aved in his comments (ibid.), as well as Ran and Rashba, wonder why this should be so. The list of ones who are disqualified to bring and deliver a גט are listed in the Mishnah, and the common denominator is that they are not competent or that they are not participants in the Kiddushin/Gittin process. However, as long as we have valid signatures on the document, why should a person be disqualified due his being a sinner, as long as he is competent to complete his mission, and he himself is in the scheme of Jewish marriage/divorce?

Mishne L'melech (ibid.) and Pnei Yehoshua explain the ruling of Rambam based upon a clarification of the Rosh (1:2) regarding the role of a messenger in delivering a גט. The Rosh writes: "A messenger who brings a גט is trusted to say that the husband appointed him to be his envoy, just as he is trusted to tell us that the document was written and signed לשמה. Although his holding and presenting of the גט does not prove anything in the realm of his trustworthiness, the rabbis gave him credibility in order to avoid cases of עיגונא. Accordingly, one who is disqualified by the Torah to testify is not trusted in regard to bringing a גט and to say that the husband appointed him to deliver the גט."

Mishne L'melech adds that those who argue with Rambam and allow someone to deliver a גט even though his status as a witness is disqualified must hold that the fact someone brings a גט to deliver is not a function of his serving as a witness that the husband sent him. Rather, the very fact he brings the גט is in and of itself an indication that the husband gave him this document to deliver. In fact, Mishne L'melech points out what seems to be an inconsistency in the Rosh. Earlier in the massechta, Rosh writes that the role of the messenger is fulfilled due to his being entrusted by the husband to bring the גט, which suggests that he considers the function of the messenger to be in the realm of being a witness. Nevertheless, Rosh here challenges the ruling of Rambam (see Rosh to Gittin, Perek 1, end of note 26). ■

HALACHAH Highlight

Appointing an agent over the telephone

הכא נמי בטביעות עינא דקלא

Here too, [a blind messenger will] recognize [them] from the sound of their voices

One of the common questions that arise with the advent of technology is whether a person can testify or give instructions without being present. For example, Teshuvas Sha'arai Deah[1] addresses the question of whether one can appoint an agent over the telephone to act on his behalf. He rules that as long as the parties recognize the voice of the other this is acceptable even for matters related to marriage. Proof to this principle can be found in our Gemara. The Gemara relates that a blind person and his wife are permitted to one another since he recognizes the sound of his wife's voice. Teshuvas Even Shoham[2] printed a responsa of R' Chaim Berlin who extended a ruling found in Shulchan Aruch based on this principle. Shulchan Aruch[3] writes that if a husband is going out of town and cannot wait for a גט to be written and signed, he may instruct the scribe and witnesses to write and sign the גט on his behalf. R' Chaim Berlin added that if the husband does not even have the time to track down a scribe and valid witnesses he may leave a recording in which he identifies himself and his wife and states that he is appointing so-and-so as his scribe and so-and-so and so-and-so as his witnesses. When the scribe and the witnesses are then gathered into the same room the tape should be played and they become empowered to write and sign the גט on behalf of the husband.

Aruch Hashulchan[4] addresses the question of whether the rabbi who is together with the husband may ask the rabbi who is together with the wife at a distant location whether she is willing to appoint him as her agent to accept the גט. In the event that she responds positively, the rabbi with the husband becomes her agent and the גט is delivered and becomes effective immediately.

Teshuvas Beis Yitzchok[5] rejects the premise that precedent can be drawn from our Gemara for some of the applications mentioned earlier. He asserts that hearing a voice on the telephone is not as authentic as a blind man hearing his wife's voice coming directly from her mouth. The only circumstance that permits is for a wife to instruct someone to act on her behalf but not for a husband to appoint an agent over the telephone. ■

[1] שו"ת שערי דעה ח"א סי' קצ"ד.
[2] שו"ת אבני שהם סי' ס"ד.
[3] שו"ע אה"ע סי' קנ"ד סע' ל' ול"ג.
[4] ערוה"ש אה"ע סי' ק"מ סע' י"ח.
[5] שו"ת בית יצחק אה"ע ח"ב סי' נ"ג. ■

REVIEW and Remember

1. According to R' Meir, what does the phrase וכתב לה teach?

   _____

2. What is the rationale that permits a blind man to his wife?

   _____

3. What is the exposition that teaches that a non-Jew may not separate terumah?

   _____

4. Why are the five women who are not trusted to testify to say "Her husband died" trusted to deliver her גט?

   _____

STORIES Off the Daf

Two Couriers

"הכל כשרין להביא את הגט חוץ מ...עובד כוכבים"

A certain man from Teverya wished to send a divorce writ to his wife in Tzippori, where he had a Jewish friend who could serve as a messenger. Unfortunately, the only person that he could find to transport the document from his own town to his wife's was an Arab who agreed to deliver it to the Jewish friend for a small fee. Without waiting, he sent the גט with the Arab. The witnesses who had signed the document were well known, as were the witnesses to the husband's authorization to his chosen emissary in Tzippori. Although the man's wife was glad to hear of this, the Jewish messenger wondered if the fact that a non-Jew is an invalid courier would invalidate the גט. If this was the case, he thought that he should not hand over the document, since even if he did she would still be married to her first husband. Even if a Jew handed the writ of divorce to her, maybe the fact that the Arab had carried it from Teverya to Tzippori invalidates it?

This question was sent to the Rosh, zt"l. He ruled that the גט was valid despite the use of a non-Jewish courier. "Clearly, if he had made the non-Jew a messenger to give the woman the גט it would be invalid, as we see clearly in the Mishnah in Gittin 23: 'All are permitted to be the messenger who brings a divorce on behalf of the husband except for a deaf mute, imbecile, minor, blind person, and a non-Jew.' But in our case, where the non-Jew merely transported the document to the Jewish man who was to give it on behalf of the husband, it is certainly valid.

He continued, "The reason for this is because the means by which the divorce comes to the hands of the authorized emissary who will deliver it to the woman's possession is completely irrelevant. Even if a bird were to fly it over, or an elephant or monkey were to bring it, this would be completely acceptable since neither are doing anything regarding the divorce itself. It is only a שליח להולכה or לקבלה who acts on behalf of the husband or wife and takes an active part in causing the divorce that requires halachic שליחות. In our case, the Arab did not take the place of husband or wife; he merely transported the גט and was irrelevant to the halachic enactment of the גט." [1] ■

[1] שו"ת הרא"ש, כלל י"ח, סימן י"ב

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