

OVERVIEW of the Daf

1) Clarifying Rabbah's position (cont.)

The Gemara unsuccessfully challenges the explanation of Rabbah's position.

2) Clarifying Rava's position

The Gemara asks why according to Rava's explanation are two witnesses not required.

It is suggested that it is related to the principle that a single witness is believed regarding matters of prohibition.

In response to a challenge against invoking this principle the Gemara explains that the requirement to confirm a document (קיום שטרות) is only Rabbinically mandated.

The use of this principle is unsuccessfully challenged.

3) Contrasting Rabbah's and Rava's respective positions

The Gemara records why Rava rejects Rabbah's explanation and Rabbah's response to that challenge.

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4) Clarifying Rabbah's position (cont.)

The Gemara wonders, according to Rabbah, who is the Tanna who requires writing and signing a get for the sake of the woman since it does not seem to match either the opinion of R' Meir nor the opinion of R' Elazar.

A possible answer is suggested but dismissed.

The Mishnah that presents the dispute between R' Meir and R' Elazar is presented.

A possible resolution is suggested but rejected. ■

REVIEW and Remember

1. How many people must be present when an agent delivers a גט?
2. According to Rabbah, why doesn't the agent declare that the גט was written and signed לשמה?
3. What is the dispute between R' Meir and R' Elazar?
4. What are the three גיטין that are acceptable only if she has children from her second husband?

Distinctive INSIGHT

קיום שטרות – *The status of verifying signatures of a document*

דאמר ריש לקיש עדים החתומים על השטר נעשו כמי שנחקרה עדותן בבית דין

The Gemara is probing the opinion of Rava, who holds that the purpose of the messenger telling us that the גט was written in his presence is in order to verify the authenticity of the witnesses' signatures. Should we not require two witnesses to verify the signatures? How can one witness provide us with this information?

The Gemara explains that according to Torah law, a document with two signatures on it stands on its own as being valid. The assumption is that people would not record their names unless they were sincere and honest in attesting to the contents of the document. The requirement to verify signatures is only a rabbinic level of guarantee, and in the case of a גט, the rabbis were lenient to allow a single witness to be enough in order to allow the woman to remarry and not remain an עגונה.

Rabeinu Chananel brings our Gemara as a proof that verification of a document is a rabbinic requirement.

Rambam (הלכות עדות ג:ד) seems to disagree with this premise. He writes, "The law of the Torah is that we only accept testimony from personal eye-witnesses, whether it be for monetary or capital cases, as the verse teaches, 'From the mouths of two witnesses.' From here our sages have determined that we accept testimony from the witnesses' mouths, and not from their writing. The Rabbis (מדברי סופרים) however allow accepting written testimony on a document, even if the witnesses themselves do not later appear in court. They did this in order not to shut the door in the faces of lenders."

Ramban notes that from our Gemara, as well as others, it seems that a document has validity on a Torah level.

Pnei Yehoshua notes that our Gemara can be explained according to the opinion of Rambam. Perhaps a גט which effects a divorce specifically has validity as a written document, as the Torah itself commands, "He shall write her a divorce document." Also, in this case the witnesses signed on the גט are not testifying that the man divorced his wife, but rather that this man wrote this document intending to divorce his wife. Therefore, Rambam would agree that in this case the Torah recognizes the validity of the document and the signatures of the witnesses. ■

HALACHAH Highlight

Declaring בפני נכתב in foreign languages

חדא מתלת גאיז

One word out of [a] three [word declaration] he may cut out

Rav Moshe Isserles¹, the Rema, cites an opinion who expresses uncertainty whether the declaration בפני נכתב can be said in languages other than L'shon Hakodesh. Although he writes² that he doesn't understand why reciting this declaration in other languages should not be acceptable, nonetheless, he mentions in his commentary to Shulchan Aruch³ that there is such an opinion and לכתחילה the declaration should be said in L'shon Hakodesh. In the event that the agent does not understand L'shon Hakodesh he should be guided in its recitation and someone should explain to him the meaning of the words as he reads them. Only בדיעבד is a גט acceptable if the declaration was recited in another language. Vilna Gaon⁴ disagrees with this conclusion and notes that if the גט itself could be written in other languages, how is it possible that the associated declara-

tion could not be recited in other languages?

Chasam Sofer⁵ suggests that the ruling of Rema could be explained in light of our Gemara. The Gemara states that if the witness were obligated to recite three words there is a fear that the agent would delete one of those words (חדא מתלת גאיז) but if there are only two words to recite there is no such fear and for this reason the agent declares בפני נכתב. It happens to be, observes Chasam Sofer, that if a person were to translate the words בפני נכתב into a foreign language it would not be possible to keep the declaration limited to two words (e.g. "In front of me it was written"). Once the agent will be required to make such a long declaration the concern that he will delete one of the words and thus make an incomplete declaration arises. Although this concern is expressed in the Gemara by Rabbah and we follow the dissenting opinion of Rava, nevertheless, whenever it is possible to make a גט acceptable according to all opinions that approach should be followed. ■

1. עי דרכי משה אה"ע סי' קמ"ב אות ז'.
2. ד"מ שם.
3. רמ"א אה"ע סי' קמ"ב סעי' ז'.
4. ביאור הגר"א שם ס"ק כ"ח.
5. חידושי חת"ס ד"ה חדא. ■

STORIES Off the Daf

The Testimony of One Witness

"עד אחד נאמן באיסורים..."

The halacha is well known: safek d'oraisa l'chumrah. A certain man ate a full meal that obligated him to bentch mid'oraisa. Unfortunately, he was unsure whether or not he had bentched. His ten-year-old son said with conviction, "I saw you bentch." Could the father rely on his underage son's testimony?

Rav Yitzchak Zilberstein, shlit"a, presented this question to his father-in-law, Rav Eliashiv zt"l. The posek answered, "If the father feels sure that his son is telling the truth, he may rely on him."

Rav Zilberstein explained his fa-

ther-in-law's reasoning. "Rashi in Gitin 2 explains why we believe one witness: The torah believed each and every Jew regarding...shechitah. The Ritvah brings the Yerushalmi. 'If not for this halacha one would never be able to eat at the home of his fellow Jew.' In Kesuvos 85a we find that Rava believed his wife regarding the honesty of someone who would have been required to swear. Because of his wife's testimony, he made the claimant swear—which is the halacha when we have clear testimony that the plaintiff is not trusted. But when Rav Papa told Rava that a certain document someone wished to collect with was already paid, Rava merely asked him if he had another witness. Rav Papa asked, 'What's the difference between me and your wife whom you believed alone?' Rava replied, 'I know

her, not you.'

Rav Zilberstein continued, "Rav Moshe Feinstein, zt"l, explains that Rava was not saying that his wife was more important than Rav Papa. We may not believe any witness alone even if we are sure he is telling the truth. If not, then every person will claim that so-and-so's word is impeccable and his testimony must be trusted. But if the judge knows the witness very well and that he never, ever lies, this is like seeing what the witness says himself. The dayan may rule based on what he himself sees.

Rav Zilberstein concluded, "I think this is the rationale of Rav Eliashiv. If the father knows that his son is telling the truth, he may rely on his testimony since this is as if he sees it himself." ■

