

OVERVIEW of the Daf

1) Gittin and emancipation documents (cont.)

The Gemara resolves the challenge to the assertion that the Baraisa follows R' Elazar.

Another case to be included in the Baraisa that presents characteristics shared by gittin and emancipation documents is suggested and rejected.

2) **MISHNAH:** The Mishnah rules that although a כותי who signs on a document invalidates it an exception is made for gittin and emancipation documents. A related incident is cited.

3) The reliability of כותים

It is noted that the ruling of the Mishnah concerning כותים does not follow the three known opinions regarding the reliability of כותים.

The Gemara explains how the Mishnah can conform to the position of R' Elazar.

This explanation is challenged.

In response to the challenge, R' Pappa explains that the witnesses who sign on a גט do not sign in the presence of one another.

R' Ashi explains the rationale behind this ruling.

4) Clarifying R' Elazar's statement

The Gemara challenges the necessity for R' Elazar's statement that only one כותי is accepted when it seems to be a halacha taught in the Mishnah.

The novelty of R' Elazar's ruling is explained.

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REVIEW and Remember

1. Is a כותי permitted to sign legal documents?

2. What is the dispute regarding the reliability of a כותי?

3. Why was it necessary for R' Elazar to teach that only a single כותי may sign on a גט?

4. What is the mechanism that effects the transfer the transfer of a gift of land?

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Distinctive INSIGHT

Matzah of a Cuthean is kosher and may be used for the mitzvah
 מצת כותי מותרת ואדם יוצא בה ידי חובתו בפסח

The Mishnah taught that if a Cuthean is signed as a witness upon a גט, the document is valid. If he signed upon any other type of document, however, the document is disqualified.

As the Gemara attempts to identify the author of this Mishnah, it cites a three-way dispute regarding whether matza baked by a Cuthean can be used on Pesach. Tanna Kamma holds that matza baked by a Cuthean may be used to discharge one's obligation on Pesach. Rebbe Elazar holds that matzah of a Cuthean cannot be trusted. Rabban Shimon ben Gamliel says that a Cuthean may be trusted only in areas where they are meticulous in their observance. The Gemara concludes that our Mishnah is authored by Rebbe Elazar, and that unlike in regard to other documents, when a divorce document is signed, neither of the witnesses may sign unless the other witness is present. Our case is kosher because we are dealing with a case where the second signatory is a Jew (not a Cuthean). We may assume that this Jew would not have signed together with this Cuthean unless this Cuthean was reliable in this case.

In the case of matza baked by a Cuthean, where Rebbe Elazar allows it to be eaten on Pesach, Tosafos asks why this should be true. The Cutheans understand the prohibition of "Do not place a stumbling block before one who is blind" (Vayikra 19:14) literally. The Cutheans do not interpret it, as we do, to refer to a prohibition of causing another to sin. Therefore, why do we not have to worry that the Cuthean might have been careless with this matzah, and he might not have baked it לשמה—with the necessary intention for the mitzvah? The Cuthean, based upon his distorted understanding, would have no compunctions in serving it to the Jew, as causing another to sin is not prohibited for him. Why, then, is this matza permitted to be eaten for the mitzvah?

Tosafos answers that, indeed, unless there is a compelling reason to believe that the matza is kosher, we cannot rely upon the Cuthean. Therefore, Tosafos says that R' Elazar permits it only when the Cuthean himself is also eating from it on Pesach, and we know that he is not eating from any other matzah than from this dough. Because the Cuthean is depending upon it for his own mitzvah, it must be that it is not chametz.

The Achronim ask why Tosafos is not bothered by the first halacha mentioned by R' Elazar, that it can be assumed that the matzah is not chametz. Why do we not have to be concerned about לפני עור in this case, as well? Maharshal answers that the Cuthean would not give the Jew matzah that is chametz, as he is afraid that the Jew would offer to share with the Cuthean, and he would have to accept it. ■

HALACHAH Highlight

Following the rules of the road

אמר שמואל דינא דמלכותא דינא

Shmuel said that the law of the land is the law

There were once a number of traffic accidents that occurred in a particular community that tragically took the lives of many people. The local Beis Din put together a number of enactments to improve the situation and provide greater safety for the local residents. The question was then raised whether it was appropriate for the Beis Din to take such steps since they did not obtain permission from the government to make these enactments. Rav Shmuel Halevi Wosner¹, the Shevet Halevi, assured them that they behaved properly and they should be praised for their decision to help prevent further tragedy and possible loss of life. Furthermore, this has no relationship to the issue of “the law of the land is law” - (דינא דמלכותא דינא) because the government is supposed to make enactments for the good of the community and if they do not take those steps, it becomes the responsibility of Beis Din to make the necessary enactments that will protect the residents of a community.

Shevet Halevi cites numerous sources in the Gemara that indicate that there is an obligation to take steps to assure the safety of the public domain and then cites the Gemara in Kesubos (112a) which relates that R' Chanina would remove obstructions from the roads in Eretz Yisroel to assure that people would not have a reason to complain about Eretz Yisroel. Certainly then, there is an obligation to take steps to remove dangers which put people at risk on a daily basis. Accordingly, he rules that one is not permitted to run a red light, even when there are no other cars nearby. The reason is that once someone breaches the rules

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The assertion that two כותים may not sign on a document together is challenged from the incident in the Mishnah.

Abaye suggests changing the language of the Mishnah to indicate that only one כותי may sign on a document.

Rava asserts that the language should not be changed and maintains that R' Gamliel disagrees with the earlier ruling and accepts even two כותים as witnesses.

5) **MISHNAH:** The Mishnah teaches that documents that come from courts of idolaters are acceptable and there is a dispute whether gittin and emancipation documents from courts of idolaters are also acceptable.

6) Gift documents

The Gemara asks why a gift document that comes from a court of idolaters is acceptable when the document is what effects the transaction and does not serve merely as proof of a transaction.

Shmuel answers that since the government recognizes the validity of the document it is recognized by halacha as well (דינא דמלכותא דינא).

7) Clarifying R' Shimon's position

R' Zeira asserts that R' Shimon's position that gittin produced in the courts of idolaters is valid follows the opinion of R' Elazar who maintains that the delivery witnesses effect the validity of the גט.

This explanation is challenged. ■

of the road it puts the lives of others at risk. Therefore, people should be encouraged to follow the enactments that were put in place to protect others and those who ignore those enactments should be rebuked since they put themselves and others in danger. ■

1. שו"ת שבט הלוי ח"י סי' רצ"א. ■

STORIES Off the Daf

Returned Mail

”לא מרעי נפשי...”

A certain woman was having very domestic troubles with her husband. During a particularly nasty altercation she made a startling declaration. “I have had enough. I am leaving!” These were not empty words. She packed a small bag and left. As she was at the door she told her husband that she was going to her relatives in America. Then she walked out.

At first the husband didn't want to believe this. But after a long period of waiting he realized that she apparently was not coming back. When he heard from a rela-

tive that his wife was in America at her relative's house, he understood that he had a serious problem.

When he approached the local beis din, they requested the address to inquire if she wished a divorce or wanted to try again. The letter was sent by registered mail but after waiting a long period the beis din only received a notification from the U.S. mail that she had received the letter. They did not hear back from the wife.

The Beis Din didn't know how to proceed so they consulted the Ateres Shlomo, zt"l.

He replied, “Certification from the mail authorities is like the non-Jewish courts discussed on Gittin 10. Just as regarding courts we believe them because they will not lie for fear of damaging their

reputation, so too, in the case of the mail authorities. They will not lie because they don't want the public to think that they are unreliable.”

A similar case came before Rav Moshe Feinstein, zt"l. Beis din sent three letters to a woman who rebelled against her husband. On each occasion, the mail authorities claimed that she refused to accept the letter.

When consulted on this, Rav Moshe replied, “It is pashut that we believe them. Although the mailman is likely not Jewish, since he has to write a reason why the letter was not delivered, he would not lie and claim she refused if that were not actually the case. He would be afraid she would take him to court for withholding her letter!” ■

