



THE DAF **שבת** MATTERS

שבת קודש פרשת תצוה | מסכת יבמות דף צ"א

לע"נ ברוך בענדיט וברכה גרוס ע"ה
by Mr. & Mrs. Duvy Gross

In memory of R' Pinchas Fisher

INSIGHTS FROM OUR CHABUROS

היה במזרח וכתב במערב

The Baraisa lists a number of technical situations, any of which cause a גט to be invalid. If a woman remarried while relying upon an invalid גט, she must be dismissed by her former and current husbands, and all the penalties listed in the Mishnah apply. One of these cases is when "he was in the east [side of the country], and the גט records that he was in the west [side of the country]."

Tosafos (ד"ה היה) notes that the Gemara in Gittin (80a) understands that the Baraisa is referring to the location of the scribe. In other words, if the scribe was in the east, and in the גט he misrepresented the facts and writes that he wrote the גט while standing in the west, the גט is invalid.

Tosafos questions this, however, because there does not seem to be any reason for the location of the scribe to be recorded in the גט in the first place. Accordingly, if his location is recorded inaccurately it should not invalidate the document. Therefore, Tosafos understands that when the Gemara in Gittin says "the scribe" was in the east, it really means the witnesses were in the east, and their location was written incorrectly. The Gemara says "the scribe," but this is just because the witnesses are generally standing near the scribe as the גט is being written. The location of the witnesses is critical, because if there is any question about their validity, we would need to be able to ascertain if they were conspirators (זוממין) and their precise location is part of this information.

Tosafos in Gittin, however, understands that we are, indeed, referring to the scribe's location, as well as that of the witnesses. The reason a גט becomes invalid if this information is inaccurate is that the גט appears fraudulent (מיחזי כשיקרא).

If he was in the East...Who is the he?

STORIES OFF THE DAF

גט The invalid

איבעי לה אקרריי גיטא

There once was a woman from the Caucasus who, not long after her marriage, decided that she wanted a divorce. After much pleading, her husband finally consented and signed a paper in front of witnesses and told her that it was a writ of divorce. She married again and subsequently moved to Eretz Yisrael. When the Beis Din in Yerushalayim checked her 'גט,' they found to their horror that it was not a get at all! They wrote a genuine get immediately, which her former husband duly gave her. The woman and her second husband then asked the author of V'hayah Ha'olam, zt"l, if they could remarry. Since she didn't know that the first get was invalid when she married him, why should she be held responsible and be forced to leave him as well?

The Rav responded, "The Rashba, zt"l, asks why a women who accepted marriage and didn't realize that it was binding and subsequently married a second man without a divorce, must leave both husbands. Why is she responsible? He answers that a woman with even the slightest doubt if she is married must check, since she knows the far-reaching ramifications of an error. This is similar to the halachah that a woman may remarry if one witness testified that her husband had died since she will surely be very careful before taking such a step. The consequences of a blunder are that she is prohibited to both husbands and the children are mamzerim, etc."

The V'haya Ha'olam then concluded, "So too in this case. The first husband gave her a worthless piece of paper claiming it was a get. This is similar to Yevamos 91b which tells of a sofer who got confused and mistakenly gave the receipt for the kesuva to the husband and the get to the wife. The husband 'divorced' his wife with the receipt and the wife gave her גט instead of a receipt for the kesuva money! After she married a second time they noticed this blunder. She needs a divorce from both husbands and any children are mamzerim. The Gemara explains that she should have read what she received to make sure it was really a גט. The reason why is that she knows that a mistake has such horrific consequences. If she didn't bother to check then she is to blame!"

PARSHA CONNECTION

In this week's daf the Gemara mentions תרומה that כהנים get because of their עבודה. When performing the עבודה the כהנים had to wear special garments which are discussed in this week's Parsha. The כהן גדול wore a מעיל which had bells and decorative pomegranates on the bottom, the Passuk says ועשית על שוליו רמוני תכלת וארגמן ותולעת שני על שוליו סיביב ועשית על שוליו רמוני תכלת וארגמן ותולעת שני על שוליו סיביב. Chazal discuss two possibilities for how the Pomegranates and Bells were arranged on the bottom of the מעיל. One opinion is that the bells were in the pomegranates whereby each pomegranate contained one bell (see רמב"ן) and the other opinion maintains that they were hanging side by side. If they were hanging side by side, how do we understand the words ופעמוני זהב ופעמוני זהב, which clearly says inside them? When two items are side by side each one is just as much "inside" the other? The Alshich Hakadosh offers a fascinating answer, the Torah is teaching us that the bells whose purpose was to make noise should be surrounded by two quiet pomegranates. So too, we should listen twice as much as we talk!

HALACHA HIGHLIGHT

Atonement for Inadvertent Transgressions

מאי הוה לה למיעבד מיאנס אנסה

What could she have done? She was certainly an אנוסה

Rav Meir Eisenstadt¹, the Panim Meiros, was asked whether a person needs atonement for eating from a chicken that was subsequently discovered to have been a treifa. One source that he cites is a Gemara in Beitza². Rami bar Chama observes that the Torah teaches a lesson in etiquette that a person should not eat from an animal until it has been skinned and cut up into pieces so it could be confirmed that it was not a treifah. Tosafos³ there notes that there is no prohibition against eating an animal before it is examined because chazakah indicates that it is kosher and there is no requirement to be concerned that it is a treifah. Nonetheless, if it is subsequently discovered to be a treifah atonement will be necessary since he should not have been so hasty to eat from the animal without a prior examination. This implies that had the animal been examined and it was subsequently discovered that the animal was in fact a treifah, atonement would not be necessary. Accordingly, the parameters would be as follows: A person who inadvertently transgresses a prohibition without taking steps to determine that he will not violate that prohibition requires atonement but a person who does take those steps and nevertheless, inadvertently transgresses a prohibition does not require atonement.

Rav Chaim of Sanz⁴, the Divrei Chaim, cites our Gemara as proof that atonement is necessary. R' Sheishes rules that a woman who marries based on the testimony of witnesses that her husband died is permitted to return to her first husband because what was she to do. Nevertheless, the Mishnah ruled that she is obligated to bring a Korban to atone for her transgression, clearly indicating that although her transgression is an אונס atonement is required. Furthermore, there are many instances⁵ where a person acted according to the ruling of Beis Din and nonetheless when it is discovered that their ruling was incorrect the individual who transgressed a prohibition is obligated to bring a Korban for atonement. Accordingly, the parameters are as follows: A person who inadvertently violates a prohibition because he was not thorough enough in his research is accountable. It is only in those circumstances where it is impossible to obtain the necessary information could a person be considered an אונס and thus exempt from liability.

1. שו"ת פנים מאירות ח"ב ס' מ"א והובא דבריו בפת"ש יו"ד סי' כ"ט סק"א
2. גמ' ביצה כה
3. תוס' שם ד"ה אור ארעא
4. שו"ת דברי חיים יו"ד סי' ס"ח
5. ע' רמב"ם פ"ג מהל' שגות ה"א

POINT TO PONDER

The Gemara says that it's פשיטא that a woman who remarried on the basis of an עד אחד whose first husband then returns alive becomes פסול לכהונה, and Rashi says that this is because she is a זונה. Since she got married because she assumed that her first husband died, why is she considered a זונה? Shouldn't this be considered אונס?

Response to last week's Point to Ponder:

The Gemara lists seven examples where חז"ל ruled against doing a Mitzvah because of a Rabbinic concern. Why do we need seven examples, isn't one enough? Also why did the Gemara wait to mention these examples and instead the גמרא chose only תרומה טמאה to prove its point, wouldn't something like שופר establish the point perfectly?

There are several considerations which would impact when חז"ל institute a תקנה which is התורה. For example, in the case of תרומה, there is no potential violation of an איסור תורה because מדאורייתא paying with חולין טמאים works, however חז"ל saw a need for a תקנה. In case of שופר it's a risk of חילול שבת, so if we only cited that case, it would not prove the point for a מחזור. In addition, one would have to look at how שכיח it is for a given situation, for example גרות done on פסח ערב, and who is affected. The Gemara is covering these various arguments in bringing all of these examples. (See ערוך לנר).

REVIEW AND REMEMBER

1. What is כתובת בנין זיכרין?
2. What led R' Sheishes to believe that Rav was sleeping when he ruled like R' Shimon?
3. What is the source that one is responsible to read all contracts?
4. Is it acceptable to rule in accordance with a lenient position simply because one can resolve the challenges?

ר' יוסף שמואל שמעלקא ב"ר יצחק מערמעלשטיין ז"ל, Shelly Mermelstien, לע"נ has been dedicated to Yevamos

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