

Daf Notes

Insights into the Daily Daf

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Gittin Daf 10

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Daily Daf

Mishna

Any document that has a Cuthean (*converts to Judaism after an outbreak of wild animals in Eretz Yisroel and their conversion was debated as to its validity; they observed some commandments, but not others*) witness signed on it is disqualified (*for he is suspected of lying*) except that of a *get* for a woman and for the freeing of a slave. There was an incident where they brought a *get* signed by Cutheans before Rabban Gamliel in K'far Usnai, and he ruled that it is valid. (10a)

Cuthean

The *Gemora* asks: Who is our *Mishna* going according to? It is not the *Tanna Kamma*, Rabbi Elozar, or Rabban Shimon ben Gamliel! For we learned in a *braisa*: It is permissible to eat *matzah* on *Pesach* made by a Cuthean (*for we can rely on them that they will prevent it from becoming chametz*), and the eating of such bread will discharge his obligation on *Pesach* (*it is assumed that they made the matzah with the intent that it should be used for the mitzvah*). Rabbi Elozar forbids the eating of such *matzah*, because they are not familiar with the details of the *mitzvos* (*and we are concerned that it is chametz*). Rabban Shimon ben Gamliel says that in all the *mitzvos*

which the Cutheans do observe, they are much more particular than the Jews themselves.

Whom now does our *Mishna* follow? Shall I say the *Tanna Kamma*? In that case, other documents, signed by a Cuthean witness, should also be valid!? Shall I say it is Rabbi Elozar? In that case, a bill of divorce should also be invalid (*for they cannot be trusted with respect of the details of the mitzvos*)!? Shall I say that it follows Rabban Shimon ben Gamliel? In that case, if they observe the regulations of documents, then other documents signed by them should also be valid, and if they do not observe these regulations, then even a bill of divorce signed by them should not be valid! And should you reply that in fact Rabban Shimon ben Gamliel is the *Tanna* of our *Mishna* and he holds that the Cutheans observe the regulations concerning bills of divorce and emancipation, but not concerning other documents; in that case, why does the *Mishna* speak of one Cuthean witness only? The *get* should be equally valid even if there were two Cuthean witnesses signed on it!? And if that were so, why has Rabbi Elozar stated that a *get* is valid only if there is not more than one Cuthean signature to it?

The *Gemora* answers: The *Mishna* is in fact Rabbi Elozar, and it is dealing with a case where a Jew

signs underneath the Cuthean. In this case, he can be trusted, for if he was not familiar with the details of these *mitzvos*, the Jew would never have let the Cuthean sign before him.

The *Gemora* asks: If so, then other documents signed by them should also be valid!?! Rather, it must be said (*with respect to other documents*) that the Jew (*out of respect for an older Jew*) left space above his name for an older Jew to sign. So, here too (by *gittin*), he left space above his name for an older Jew to sign (*and therefore, it should not be valid*)!?

Rav Pappa answers: This proves that the witnesses by a *get* do not sign unless they are in the presence of the other witness (*and obviously, the Cuthean was trusted*).

Rav Ashi explains: This was decreed as a preventive measure for the case of “All of you.” [*That is, if the husband said to many people, “All of you write a get for my wife,” the halacha is that one of them writes the get and all the rest of them must sign; otherwise, the get is not valid. To ensure this result, the Rabbis decreed that they all must sign in the presence of each other, for otherwise, the get might be delivered to the wife with only two witnesses signed on it. Because of this case, they decreed by every get that a witness can only sign in the presence of the other one.*] (10a – 10b)

Mishna

All documents that are processed in a court of idolaters, even if idolaters signed on them, are valid (*based on the principle known as “the law of the government is the law”*) besides that of a *get* for a woman and for the freeing of a slave. Rabbi Shimon said: Even these are valid. They were only mentioned as being invalid when they were made privately (*idolaters who are not judges*). (10b)

Documents Signed by Idolaters

The *Gemora* notes: The *Mishna* did not make any distinction between a document of sale and one of a gift. It is understandable that a document of sale can be valid even if idolaters are signed on it, for when the buyer gave the money before the judges is actually the time that he acquired the land; the document is only a proof to the sale. If the buyer had not given money in front of the judges, they would not have discredited their reputation by writing the document for him. But with respect of a gift, with what did he acquire the property? It is only through this document! But this document is equivalent to a shard! [*Why does the Mishna rule that even in this case, the document is valid?*]

Shmuel answers: The law of the government is the law (*even according to our law*).

Alternatively, the *Gemora* answers: The *Mishna* should be emended to read that any document similar to that of *gittin* is not valid. (10b)

Get Signed by Idolaters

The *Mishna* had stated: Rabbi Shimon said: Even these are valid.

The *Gemora* asks: How can the *get* be valid (*when the idolaters signed on it*)? They are not able to effect severance of a marriage! [*Since the Torah’s laws of divorce are not applicable to them, they cannot serve as a witness for a divorce. This is derived from the verse: and he writes a get... and he gives it to her. Only someone who can give a get is authorized to sign on a get.*]

Rabbi Zeira answers: Rabbi Shimon is following the opinion of Rabbi Elozar, who holds that the document is rendered effective by the witnesses who observed the delivery.

The *Gemora* asks: But Rabbi Abba had said that Rabbi Elozar agrees that the *get* is invalid if it is flawed from within? [*If the get is not signed at all,*

Rabbi Elozar holds that it is valid. However, if it is signed by ineligible witnesses, it is invalid, for we were concerned that the get will be given over to the woman before these very same witnesses.]

The *Gemora* answers: We are dealing with a case where the signatures are obviously those of idolaters (*and therefore, we are not concerned that the get will be given over to the wife in front of these witnesses*). (10b – 11a)

INSIGHTS TO THE DAF

Suspected of Lying

The *Mishna* had stated: Any document that has a Cuthean witness signed on it is disqualified (*for he is suspected of lying*) except that of a *get* for a woman and for the freeing of a slave.

The *Pnei Yehoshua* asks: Since they are suspect of lying, they should be regarded as a *rasha* (*wicked person*) with respect of monetary matters, and the *halacha* is that a thief is disqualified from all testimony!?

He answers that the *Yerushalmi* says that the Cutheans are eligible to sign on a *get* because they are only suspect with regards to monetary matters, but not with respect of illicit relations. The *Pnei Yehoshua* explains: The *Yerushalmi* holds that a witness who is suspected of stealing is only disqualified from testifying with regards to money matters, but he would still be eligible to testify on *arayos* (*relationships*). However, *l'halacha* we hold that such a person is ineligible to testify on all matters, so accordingly, how could the *Mishna* rule that the *get* is valid?

He answers that in truth, we do not know definitely that they would lie; it is only that they are suspect of lying. The *halacha* is that if they are suspected of lying, they are disqualified from testifying with respect of monetary matters, but not with respect of other testimonies.

Cuthean as a Witness

The *Mishna* had stated: Any document that has a Cuthean witness signed on it is disqualified (*for he is suspected of lying*) except that of a *get* for a woman and for the freeing of a slave.

Tosfos writes that this *Mishna* is only according to those that hold that the Cutheans were true converts to Judaism, and Biblically, they are regarded as full-fledged Jews. However, according to those who maintain that the Cutheans only converted out of fear of the lions, they are not regarded as Jews, and they cannot be eligible as a witness.

The *Ri"ף* rules that nowadays, the Cutheans are disqualified from all types of testimony, for they are considered like an ordinary idolater.

Reb Isser Zalman Meltzer asks: How can a Cuthean be qualified to testify? Even if they are not suspected to lie, but they deny the Oral Law, and certainly they should be ruled ineligible!

He writes that since this was the tradition that they accepted from their fathers, they are regarded as a child who was taken captive by idolaters (*and the fact that he does not believe in the truth of the Oral law does not disqualify him, for he never knew any different*), and therefore, they are not disqualified from being a witness.

The Law of the Kingdom is the Law

The *Gemora* notes: The *Mishna* did not make any distinction between a document of sale and one of a gift. It is understandable that a document of sale can be valid even if idolaters are signed on it, for when the buyer gave the money before the judges is actually the time that he acquired the land; the document is only a proof to the sale. If the buyer had not given money in front of the judges, they would not have discredited their reputation by writing the document for him. But with respect of a gift, with what did he acquire the property? It is

only through this document! But this document is equivalent to a shard! [*Why does the Mishna rule that even in this case, the document is valid?*]

Shmuel answers: The law of the government is the law (*even according to our law*).

The *Gemora* in Shabbos (88a) teaches that when *Bnei Yisroel* stood at Mount Sinai and heard the word of Hashem, He held the mountain over our heads. Hashem declared, "If you'll accept the Torah, all will be well. If not, this will be your burial place!" Rav Acha bar Yaakov said: This can now be used as an excuse for *Klal Yisroel* when they do not perform the *mitzvos*. For when they are summoned for judgment, they can claim that they were coerced into accepting the Torah; it was not done willingly.

The *Perashas Derachim* asks from our *Gemora* which states that the law of the kingdom is the law. If so, this should certainly apply by The Holy One blessed is He, Who is the King of all Kings. How could *Klal Yisroel* use the coercion as an excuse? The law of the kingdom is the law, and they took an oath obligating themselves to perform His *mitzvos*!

He answers that Rabbeinu *Tam* holds that the principle of the law of the kingdom is the law is only applicable if the king decrees on all his subjects. However, if the decree is issued only on part of his kingdom, this principle does not apply. Since Hashem is the King over all the nations of the world and He only forced *Bnei Yisroel* to accept His *mitzvos*, this principle would not apply and hence, a claim of coercion can be effective.

It emerges that regarding the seven *mitzvos* that were given to all *Bnei Noach*, the principle of the law of the kingdom is the law would apply, and a claim of coercion would not be valid.

According to this, the *Ketzos HaChoshen* explains the argument between Pharaoh and the midwives. Pharaoh asked them, "Why didn't you listen to my

commandment? The law of the kingdom is the law and since I the king decreed that all the Jewish children should be killed, you are obligated to listen to me!" They responded to him, "Your decree is not a universal one; it was only issued regarding the Jewish children and not to any others. Accordingly, the principle does not apply and we are not obligated to adhere to the laws of the kingdom. Thereupon, Pharaoh immediately decreed that all children born must be thrown into the sea.

Reb Shlomo Kluger uses this principle to explain Adam HaRishon's response to Hashem. He answered, "The woman which you gave to me gave me from the tree and I ate." What kind of answer was this? Adam HaRishon was saying that since his wife was here as well and she was not commanded not to eat from the tree. Therefore, the law of the kingdom does not apply and that is why he ate.