



Today's Daf In Review is being sent l'zecher nishmas Habachur Yechezkel Shraga A"H ben R' Avrohom Yehuda

Gittin Daf Ayin Aleph

- **R' Kahana in the name of Rav** said, if a healthy man got married (his marriage is D'Oraisa) and then became a deaf-mute, if he is able to communicate by writing, he may have a get written and given to his wife (and it will dissolve the D'Oraisa marriage).
 - **Q: R' Yosef** asked, this is already learned in our Mishna, when the Mishna said that if a mute nods when asked if a get should be written, we test him, but then write a get for his wife!? **A: R' Zeira** said, a mute is considered mentally competent, as can clearly be seen in a Braisa. It is a deaf-mute who is not, and that is why **Rav** had to teach this halacha regarding a deaf-mute.
 - **Q: R' Zeira** said, what I find difficult is, a Braisa says that "ihm lo yagid" teaches that a mute does not bring a korbon for swearing falsely (by nodding to an oath) that he does not know testimony. Now, according to **Rav**, the writing of the mute should be the same as his speaking, and if so he should be subject to the oath and the korbon!? **A: Abaye** said, the halachos of eidus are different, because the pasuk says "mipihem", which teaches that testimony must be oral, not written. Therefore, in this case the written is not equivalent to the spoken.
 - **Q:** A Braisa says, just as we test a mute regarding a get, we test him the same way for business transactions, for testimony, and for inheritances. We see that a mute's testimony is accepted!? **A: R' Yosef bar Menyumei in the name of R' Sheishes** said, this is referring to testimony regarding the death of a woman's husband, where the **Rabanan** were lenient, and therefore accepted their written testimony. However, in other cases their testimony would not be accepted.
 - **Q:** The Braisa said they are believed regarding inheritances!? **A: R' Avahu** said, that is referring to the mute making decisions on how to divide his own estate.
 - **Q:** The Braisa said they are believed regarding business transactions, presumably referring to testifying regarding the business transactions of other people!? **A:** It is referring to his own business transactions.
 - **Q:** A Braisa says, regarding a deaf-mute, we do not follow his motions, his mouthing, or his writing regarding gittin. We only accept them regarding moveable items!? **A:** This is a machlokes among Tana'im. Although this Braisa argues on **Rav**, another Braisa agrees with him. The Braisa says, **R' Shimon ben Gamliel** says, we don't accept his motions, his mouthing, or his writing regarding gittin only if he was always a deaf-mute. However, if he was once healthy and then became a deaf-mute, he may write a get.
 - **Q:** If he was always a deaf-mute, then his marriage was done with his motions, his mouthing, or his writing and is only D'Rabanan, so his get done in the same way should be acceptable as well!? **A:** He can divorce his wife, for the reason stated. What is being discussed here is when a yevama falls to him for yibum (which is D'Oraisa), and therefore, his motions and writing cannot divorce her.
 - **Q:** What is the case? If his brother who died was also a deaf-mute, then the yevama is also only D'Rabanan and his motions and writing should be sufficient to divorce her!? **A:** The brother who died was a healthy individual, and therefore had a marriage D'Oraisa. **A2:** The brother was also deaf-mute, but we made a gezeira that he cannot divorce this yevama as a gezeira so that he not divorce the yevama of his healthy brother.

- **Q:** If so we should make a gezeira that he can't divorce his own wife as a gezeira that he not come to divorce his healthy brother's yevama!? **A:** We have to be goizer for the case of one yevama to another. We don't have to be goizer the case of a yevama for the case of a wife.
- **Q:** We see from a Mishna that we are not goizer the case of a deaf-mute brother for the case of a healthy brother!? **A:** If so, we must use the other answer.
- **R' Yochanan** said, the earlier Braisa argues on **R' Shimon ben Gamliel** (and don't think that the earlier Braisa meant to agree with him and should be understood in that way). **Abaye** said, we can see this from a Mishna, because the Mishna says, if a husband becomes a deaf-mute he may *never* divorce his wife. Presumably this means, even if he is able to write his intention to divorce her. This clearly argues on **R' Shimon ben Gamliel**, and must be the view of the other Braisa.
 - **R' Pappa** said, if not for **R' Yochanan** we would think they do not argue, and the Mishna may mean that even if the deaf-mute seems sharp, if he cannot write he is considered to be mentally incompetent. We can also say that the term "never" is to be understood according to **R' Yitzchak** who says this means that he cannot divorce D'Oraisa.

MISHNA

- They asked a husband, "should we write a get for your wife?" and he responded "write it", if they then told a sofer to write it and instructed others to sign as witnesses on the get, and they wrote and signed and gave it to the husband who then gave it to his wife, the get is batul, because a get is not valid unless the husband himself tells the sofer to write and the witnesses to sign.

GEMARA

- **Q:** The Mishna seems to say that the get is passul, because the husband said "write it" and never said "give it". Had he said "give it" it would be valid. This means that the Mishna follows **R' Meir**, who says that words may be given over by a shaliach to another shaliach. However, the Mishna ends off by saying that the get will only be valid when the husband himself tells the sofer to write and the witnesses to sign. This seems to follow **R' Yose**, who says that words may not be given over by a shaliach to another shaliach!? **A:** We must say that the beginning of the Mishna follows **R' Meir** and the end follows **R' Yose**. **A2: Abaye** said, the entire Mishna follows **R' Meir**, and the end of the Mishna is discussing where he did not just say "give it" (but rather said "write it" as well) and that is why it is passul, because **R' Meir** would agree in that case that they cannot delegate the writing and signing to others.
 - **Q:** If that is true, then the Mishna should say "it is passul until he only says 'give it'!"? **A:** The case is where he was talking to 2 people. Even **R' Meir** says that only 3 people can be instructed to appoint a sofer and witnesses, and that is why in this case it is passul.
 - **Q:** If that is true, the Mishna should have said "it is passul unless the husband is speaking to 3 people"!? **A:** Rather, we will say that the entire Mishna follows **R' Yose**, and the reason it is passul in the beginning of the Mishna is because the husband did not specifically instruct the people to appoint a sofer and witnesses, but if he would have done so, it would have been valid.
 - **Q:** If that is true, the Mishna should have said "it is passul unless the husband specifically instructed them to do so"!? **Q2:** Also, how can we say that **R' Yose** would agree in this case that they may have someone else write the get? A Mishna says, if a sofer wrote the get and a witness signed, it is valid. **R' Yirmiya** explained, this means that if the sofer wrote and signed and another witness signed, the get is valid. **R' Chisda** said, this Mishna must follow **R' Yose** who says that words cannot be transferred to a shaliach (and the husband must have directly asked the sofer to write the get, because if he asked others who may then appoint the sofer, they will ultimately allow the sofer to sign so as not to embarrass him, and since the husband never asked him to sign, the get would

be passul. Therefore, to prevent this from happening, the **Rabanan** would have to institute that a sofer may not be a signor on the get. Since that was not instituted, it must be that we are not concerned for this situation, because a sofer cannot write the get without being specifically told by the husband to do so). If **R' Yose** agrees in a case where the husband tells them that they can appoint a sofer, this concern would still be a concern. From the fact that it is not a concern, it must be that **R' Yose** does not allow the witnesses to appoint a sofer even if the husband told them that they may!? **A:** We must answer as we did previously, that the beginning of the Mishna follows **R' Meir** and the end of the Mishna follows **R' Yose**.

- **R' Ashi** said, we can say the entire Mishna follows the view of **R' Yose**, and should be understood as saying “not only this, but even that”. The Mishna is saying, not only is it passul if the husband did not only say “give it” (but rather added “write it”), rather even if he did, they may still not appoint a sofer or witnesses. And, not only is this true when there were not 3 people that he was instructing, rather even if he instructed 3 people, they may not appoint a sofer and witnesses. And, not only is this true where he didn't specifically tell them to appoint a sofer and witnesses, rather even if he did specifically do so, it is passul.
- There is a Braisa that can be a proof to **R' Ashi**. The Braisa says, if the sofer wrote a get lishma and the witnesses signed lishma, and they wrote it, signed it and gave it to the husband who then gave it to the wife, it is passul, until the sofer and witnesses “heard the husband's voice”, so that he told the sofer “write” and told the witnesses “sign”. The Gemara says, when the Braisa says “until they heard...” that comes to exclude the view that says that **R' Yose** agrees that they may appoint a sofer and witnesses when explicitly told to do so, and when the Braisa says “his voice” it comes to exclude **R' Kahana in the name of Rav**, who says that a deaf-mute can communicate in writing to divorce his wife.