DERECH B'YAM HATALMUD

A guided approach to a deeper understanding
of the Gemara and its commentaries

מס' גיטין
פרק א' – המביא גט

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OVERVIEW

Derech B'Yam HaTalmud is a new guided program to aid the teaching and learning of Gemara b'iyun. It is geared for community kollelim, outreach organizations and yeshivos to help them teach the Talmud and Meforshim in-depth. It is also intended for ba'alei batim and others looking for a serious b'iyun seder.

The following is a sample of the *Derech B'Yam HaTalmud* materials. They are written in clear English with Hebrew words throughout. They summarize the shakla v'tarya and explanations and analysis of major points in the Gemara and commentaries. Lists of ma'areh mekomos with summaries, along with questions to encourage independent learning, are provided at the beginning of each section. Additional questions are sprinkled throughout the notes.

The *Derech B'Yam HaTalmud* materials are being prepared on several perakim of Gemara throughout Shas. This initial program covers the first perek of Mesechtas Gittin.

The notes were produced as part of a shiur b'iyun given in the Yeshivas HaGra morning learning program in Ramat Beit Shemesh Aleph, Eretz Yisrael, under the auspices of Rabbi Elimelech Kornfeld, shlita.

To sign up to the distribution list to receive further material from the first perek or future mesechtos, email derechbyam@gmail.com or contact Pesach Minkin at +1 (732) 261-3666 (Phone/WhatsApp).

Please contact us for ideas of how the materials can be used and customized for particular audiences and groups.

Thank you,

Rabbi Yehuda Berinstein and Rabbi Michoel Gros, Mechabrim
Pesach Minkin, Project Director

ABOUT THE AUTHORS

Rabbi Yehuda Berinstein learned in Yeshivas Ner Yisrael in Baltimore for seven years. Afterwards, he learned in the Mir Yeshiva in Yerushalayim for ten years, primarily in the shiur of Rabbi Asher Arieli, shlita, and the chaburah of Rabbi Yaakov Friedman, shlita. Since 2002 he has taught Gemara in the Yeshivas HaGra program in Ramat Beit Shemesh Aleph. *Derech B'Yam HaTalmud* was developed from the shiurim he has been delivering there.

Rabbi Michoel Gros learned in Yeshivos Darchei Noam and Marbeh Torah in Eretz Yisrael and Madreigas HaAdam in Queens, NY. Prior to his Aliyah in 2009, he was the COO of the Atlanta Scholars Kollel. He has learned in the Gra Beis Midrash since his aliyah. He is the author of the seforim *70 Questions on Megillas Esther, Roots of Royalty: The line of Dovid HaMelech* and *Homeward Bound: Stories of Return*.

DERECH B'YAM HATALMUD
גיטין OVERVIEW # 11 -- ו: - ה:

I. HOW MUCH OF THE כתיבה MUST A שליח WITNESS?

-The גמרא and ראשונים discuss the minimal amount of knowledge which a שליח must have to be able to say "... בפני נכתב". Can he say this phrase if he did not see the actual כתיבה (but only knew about it)?

II. DOES רבא REQUIRE THE שליח TO VERIFY THAT THE גט WAS WRITTEN לשמה?

-The גמרא says that the שליח must confirm that the גט was prepared לשמה. Is this requirement only according to רבה, or does רבא agree as well?

III. DEFINING THE STATUS OF בבל REGARDING גיטין

-רב and שמואל debate whether בבל has the status of ארץ ישראל or חוץ לארץ. The מפרשים discuss the מחלוקת, and when and how the situation in בבל changed.

IV. IS IT NECESSARY TO VERIFY גיטין BROUGHT OVER A SHORT DISTANCE WITHIN בבל?

-The גמרא discusses the status of locations in or close to בבל and when it is necessary to verify גיטין. The discussion has an impact on the giving of גיטין today.

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I. How Much Of The כתיבה Of A גט Must A שליח Witness?

ה:-ו.

מראה מקומות

מ- ה: "בר הדיא" עד ו. "קמ"ל"

תוס' (ה: ד"ה "אפילו...")
רש"י (ו. ד"ה "אפילו שמע...")
רש"י (טו. ד"ה "שיטה אחת")
רא"ש (ג')

OVERVIEW OF THE סוגיא

The גמרא discusses the minimal amount of כתיבת הגט which a שליח must witness. The גמרא and ראשונים discuss if it is sufficient for the שליח to have knowledge of the preparation of the גט alone.

POINTS TO CONSIDER

Issue One – The גמרא says that a שליח needs to witness the writing of only a single line of the גט. How does this help?

The גמרא on the bottom of ה: brings opinions which hold that a שליח can verify a גט by witnesses the writing of **שיטה אחת** – only one line of it.

Which line of the גט must the שליח see?

The רבנן require the שליח to verify that the גט was signed properly (according to רבה and רבא), and also that it was prepared לשמה (according to רבה). How can either of these objectives be achieved by seeing the writing of only a single line of the text?

תוס' (ה: ד"ה "אפילו...") and **רש"י** (טו. ד"ה "שיטה אחת") discuss this requirement. What can be learnt from their words about how it helps for the שליח to see the writing of only a single line? What do their words show about how they understand the process of verifying גיטין?

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Issue Two – Verifying a גט through knowledge of its preparation alone

The גמרא on the top of דף ו. quotes **רב אשי** who says that it is sufficient for the שליח to hear the sound of the preparation of the quill and the paper. How does this fulfill the requirement of verifying that the גט was prepared לשמה?

See (ד"ה "אפילו שמע...") **רש"י** and the (ג') **רא"ש**.

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Summary of the גמרא

The גמרא towards the bottom of ה: records that בר הדיא was bringing a גט and asked רב אחי how much of the preparation he needed to witness. רב אחי told him, you must watch כל אות ואות – every letter being written.

later told רבי אמי ור' אסי בר הדיא – לא צריכת it is unnecessary to watch the writing of the entire גט. [Rather it is sufficient to see the writing of שיטה אחת.]

They said further: וכי תימא אעביד לחומרא – and if you wish to go לחומרא and witness the writing of the entire document, נמצא אתה מוציא לעז על גיטין הראשונים – you would cause people to question the authenticity of every גט which had been written previously (because they had not been prepared in such a manner).

QUESTION: How much of the גט must be written in front of the שליח according to רבי אמי ור' אסי?

(ד"ה "אפילו...") **תוס'** explains: the שליח must witness the writing of the first line of the גט [and know that it was done לשמה] because דמסתמא סיימו לשמה – if so, he can assume that the remainder of the גט had also been written לשמה.

(ד"ה "שיטה אחת") **רש"י** on טו. also says that the שליח must witness the writing of the first line, but he cites a different reason: the first line contains the names of both parties [and therefore demonstrates that it had been prepared לשמה], as well as the date.

According to תוס', verification of the first line is a testament that the whole גט was written לשמה. In all probability if the first line is written לשמה, the rest of the גט was also done so.

רש"י says that the initial line containing the names is the עיקר הגט. If it is written לשמה, that is enough.

(See the [ס' קמב:כח] **בית שמואל** who writes that it is משמע from the שלחן ערוך, טור and the רמב"ם that if the שליח witnesses the writing of the first line of the גט, the גט is considered לשמה even if the first line does not contain the names of the איש ואישה. This explanation is like תוס'.)

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The גמרא continues

The גמרא says that רבה בר בר חנה brought a גט to ארץ ישראל. Only half of the גט had been written in front of him.

רבי אלעזר says that it is sufficient to see the writing of שיטה אחת and know that it was done לשמה.

רב אשי (on the top of ו.) argues and says: even if the שליח was aware of only קן קולמוסא וקן מגילתא – the sound of the preparation of the quill and the paper – it would be sufficient.

רש"י (ד"ה "אפילו שמע...") brings two explanations of the statement of רב אשי:

(Note: רש"י has a slightly different גירסא than the גמרא, with the additional word "שמע".)

Firstly, רש"י says that it is sufficient for the שליח to hear כשחותכים – that the סופר is sharpening the קולמוס (quill) or מחליקים – smoothing the קלף. If he heard that either of these actions had been performed לשמה, the גט is valid.

The **רא"ש** (ג') explains that רש"י understands that when the סופר is doing these preparations, the שליח must hear him announce that he is preparing these items for the גט with the intention to write it לשמה.

The שליח can then assume that the סופר did in fact write the document לשמה. The רא"ש adds that the שליח must see the קלף after it was prepared (before the כתיבה), and later must recognize the גט and see that it is on the same parchment.

The second explanation of רש"י is that he heard the *sound of the writing* of the גט.

The גמרא brings a ברייתא like רב אשי – if a שליח brings a גט from מדינת הים and did not witness the writing of the complete גט, but only heard the sound of the קולמוס or קלף (i.e. he was in another room) this is considered confirmation that the גט had been written לשמה.

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The ברייתא teaches: the גט is כשר even with נכנס ויוצא – going in and out of the room.

QUESTION: When the גמרא says נכנס ויוצא, which person is it addressing?

The גמרא says: This דין would be obvious if it was speaking about the שליח. If the גט is כשר when the שליח is in a different room than the סופר, then it would certainly be כשר if he was נכנס ויוצא into the room of the סופר.

Rather the ברייתא must be speaking about the סופר. We might be concerned that the סופר went to the שוק and איניש אחרינא אשכחיה – another person there asked him to write a גט. If the names of the man and his wife match those on the גט, the סופר might write the remainder of the גט intending it to be for the couple in the שוק.

The גמרא rejects this idea. We do not need to worry about such a possibility. Rather, we can assume that the גט was written for the people for whom it was originally intended, even if the סופר was נכנס ויוצא.

II. Does רבא Require The שליח To Verify That The גט Was Written לשמה?

ה:- ו.

מראה מקומות

ו. עד "קמ"ל"

רמב"ן (ד"ה "ורגיל אני")
ריטב"א (ד"ה "רב אשי")
פני יהושע (ד"ה "אתא לקמיה...")
תוס' הראש (ד"ה "אפילו קן קולמוסא")
רא"ש (ג)

OVERVIEW OF THE סוגיא

The גמרא on ה:-ו. discusses the minimal amount of כתיבה that the שליח must witness to verify that the גט was prepared לשמה. The מפרשים argue whether this requirement applies only to רבה or to רבא as well.

POINTS TO CONSIDER

Issue One – When the גמרא here requires the שליח to verify that the גט was prepared לשמה, does this statement follow only one or both of the אמורים?

The גמרא taught earlier that both **רבא** and **רבה** agree that גיטין must be written לשמה. They only argue over the purpose why a גט brought from מדינת הים must be verified.

According to רבה, a שליח is required to say "בפני נכתב ובפני נחתם" to verify that it was written לשמה. Does רבא hold that the saying of this phrase also fulfills this requirement?

See the **רמב"ן** (ד"ה "ורגיל אני") who discusses which אמורא the גמרא here follows when it requires the שליח to verify that the גט had been prepared לשמה.

The **רמב"ן** holds that even though **רבה** and **רבא** both require the שליח to verify that the גט was prepared לשמה, they do so for different reasons. How do their approaches differ from each other?

See the **ריטב"א** (ד"ה "רב אשי") and the **פני יהושע** (ד"ה "אתא לקמיה...") who also discuss if the גמרא here follows only one or both of the אמוראים.

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Issue Two – Can a blind שליח bring a גט? If not, how does he differ from a שליח who can validate a גט even though he did not see the writing of the entire document?

The (ד"ה "אפילו קן קולמוסא") **תוס' הראש** and the (ג) **רא"ש** discuss the difference between the case in the גמרא of a שליח who is permitted to bring a גט even though he did not see its full preparation, and a blind person who is not permitted to bring a גט because he cannot attest to its validity.

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Summary of the גמרא

The גמרא on ה:-ו. discusses whether the שליח needs to witness the writing of the entire גט or only a portion of it. According to the גמרא and the מפרשים, this is necessary so that the שליח can verify that the גט had been written לשמה.

The מפרשים discuss whether the גמרא here follows only רבה, or רבא as well.

Note: Both רבא and רבה agree that the גט must be written לשמה (due to the פסוק of "וכתב לה"). The גמרא previously said that רבה requires the saying of "בפני נכתב ובפני נחתם" to verify this. The מפרשים here discuss whether רבא holds that the phrase "... בפני נכתב" also serves to verify that it was written לשמה.

The **ראב"ד** (מובא בספר הזכות להרמב"ן ר"ש פ"ירקי ן) learns that the סוגיא is going like רבה because it requires the שליח to confirm that the גט was prepared לשמה. As a result, he learns that the הלכה is like רבה.

The **רמב"ן** (ד"ה "ורגיל אני") disagrees, holding that the סוגיא here is according to רבא (because generally we rule like רבא in גיטין).

רבא holds that there is a single reason why the חכמים required the שליח to say "... בפני נכתב" – only because of a חשש that the גט will be challenged and עדים will not be available to verify it. The גמרא here follows him.

If the גמרא is going like רבא, why is there a need to verify that the גט was written לשמה?

The רמב"ן explains: In reality, it should be necessary, according to רבא, for the שליח to only say "בפני נחתם" to fulfill this requirement. However the רבנן obligated him to say the full phrase "בפני נכתב ובפני נחתם" in order דלא ליתי לאחלופי – to not mistakenly apply the דינים of verifying a גט to other שטרות.

Once the שליח is required to say the full statement, the words which he says must be accurate. Since the phrase "... בפני נכתב" implies that the גט was prepared לשמה, he must know that it was done לשמה.

He is required to fulfill the words he says, including "בפני נכתב", which obligates him to verify that the גט was indeed written לשמה.

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According to the רמב"ן, both רבה and רבא require verification of לשמה, but for different reasons:

-According to רבה, the שליח must say "... בפני נכתב" to verify that it was prepared לשמה.

-According to רבא, once we require "בפני נכתב" to be said to not confuse שטרות, the words must be true. The שליח must know that the גט was prepared לשמה.

Even though the רמב"ן at this point learns that both רבה and רבא agree that it is necessary to verify the גט and to ascertain that it was prepared לשמה, they are not entirely in agreement. The אמוראים would still argue about the דין in the two cases brought earlier:

1. Regarding a גט brought ממדינה למדינה במדינת הים, and

2. A גט brought to ארץ ישראל by two שלוחים.

רבא would hold that the verification of לשמה is not an intrinsic requirement and it occurs only when the signatures need to be verified because of "אין עדים מצויין לקיימו". Otherwise, there would not be a need to verify that the גט had been prepared לשמה.

רבה, however, holds that there is an intrinsic requirement to confirm that it was written לשמה.

From the words "וכל זה איננו שוה לי", the רמב"ן modifies his answer:

According to רבא: when the שליח is required to observe the כתיבה, he is not required to verify that it was written לשמה. Rather it is only necessary that his statement of "בפני נכתב ובפני נחתם" does not appear false. For this, the שליח does not need to actually *know* that the גט was written לשמה. It is sufficient that he only *witnesses* its writing.

The **ריטב"א** (ד"ה "רב אשי") says: the גמרא on the top of דף ו. quotes רב אשי who says it is sufficient if the שליח only heard קול הקולמוס.

The ריטב"א says that רב אשי follows רבא only. He does not require the שליח to verify that the גט had been prepared לשמה. Therefore, it is sufficient for him to hear the sound of the writing.

However since רבה requires the שליח to verify that the גט was written לשמה, he would require a greater level of knowledge. He requires the שליח to see the writing of the entire גט.

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The (ד"ה "אתא לקמיה...") **פני יהושע** learns as well that the גמרא here can even follow רבא. He explains that the primary reason for the שליח to witness the כתיבה is because of קיום הגט.

רבא holds רובא דרובא בקיאין – an overwhelming majority of people in חוץ לארץ are aware of the need for לשמה. However, it is improper to rely on a רוב to rule in הלכה if it is possible to verify the ספק. Therefore if the שליח can verify that the גט had been written לשמה, he is required to do so.

Summary

The גמרא here requires the שליח to verify that the גט had been prepared לשמה. The ראשונים discuss which אמורא it follows:

According to the **ראב"ד**: the סוגיא follows *only* רבה because it requires confirmation of לשמה.

The **רמב"ן** says it follows *both* רבה (because of an intrinsic requirement to verify לשמה) and רבא (due to a secondary requirement to confirm this).

The **ריטב"א** says רב אשי does not require verification of לשמה and that the גמרא on the top of דף ו. follows *only* רבא.

The **פני יהושע** says that the גמרא follows *both* רבא *and* רבה, but he brings a different reason than the רמב"ן. He says that even רבא agrees that since it is possible to verify whether the גט was prepared לשמה, this must be done, even if there is not a significant concern for this.

QUESTION: Can a blind שליח bring a גט? If not, how does this differ from a שליח who did not see the writing of the entire גט and still can validate it?

The גמרא on the top of ו. says that a שליח can verify the validity of a גט even though he did not see it being written.

The ראשונים discuss the difference between this case and a סומא who is unable to validate a גט because of his physical blindness:

The (ד"ה "אפילו קן קולמוסא") **תוס' הרא"ש** says that if a סומא brings a גט and says "... בפני נכתב", he is נראה כשקרן – it appears as if he is not telling the truth. However, this would not apply to a שליח who is unable to see but who only heard the writing of the גט.

(In actuality, neither the סומא nor the שליח saw the writing. However if the סומא would say "בפני נכתב, it would appear false.)

The (ג) **<u>רא"ש</u>** brings a different reason: the שליח needs to see the קלף before and after the כתיבה to verify that it is the same document. Therefore he can say "בפני נכתב ובפני נחתם", while a סומא cannot.

The ש"רא also says: according to רב אשי who holds that it is sufficient that the שליח hear the writing of the גט, he must also hear the סופר say that he intends to write it לשמה. We can then assume that it was, in fact, written לשמה.

III. Defining The Status Of בבל Regarding גיטין

ו.

מראה מקומות

ו. מ-"איתמר בבל" עד "לבר מבבל"

תוס' (ד"ה "בבל רב אמר כא'י")
חדושי הרשב"א (ד"ה "בבל רב אמר")
רש"י (ד"ה "מכי אתא רב לבבל")
תוס' (ד"ה "מכי אתא רב לבבל")
מהרש"א (ד"ה "מכי אתא רב לבבל")
תוס' הראש (ד"ה "מכי אתא רב לבבל")

OVERVIEW OF THE סוגיא

The גמרא in the middle of ו. brings a מחלוקת about the status of בבל regarding גיטין. The מפרשים discuss when and how the situation in בבל changed.

POINTS TO CONSIDER

Issue One – Understanding the source of a דיוק in תוס'

The גמרא in the middle of דף ו. brings a מחלוקת אמוראים regarding the status of בבל in respect to גיטין.

תוס' (ד"ה "בבל רב אמר כא'י") says that the גמרא is speaking about a גט brought between two regions of בבל. It is not speaking about a גט brought from בבל to ארץ ישראל because the גמרא on דף ו: discusses this point.

What is the proof of תוס'? How can he learn that the גמרא on דף ו. is not addressing גיטין brought מבבל לארץ ישראל simply because the גמרא on עמוד ב' discusses this issue?

See the **חדושי הרשב"א** (ד"ה "בבל רב אמר...") who suggests an explanation of how תוס' learns his דיוק.

Issue Two – When did the status of בבל change?

The גמרא says that בבל gained a status similar to that of ארץ ישראל regarding גיטין once **רב** arrived. **רש"י** (ד"ה "מכי אתא רב לבבל") explains why.

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The גמרא challenges this statement by quoting the opening משנה which says that *all* areas outside ארץ ישראל, including בבל, are considered מדינת הים. The גמרא answers that בבל is excluded from this definition.

Since the גמרא says that the status of בבל changed when **רב** arrived, how can it ask a question from the משנה which was written before this time?

תוס' (ד"ה "מכי אתא רב לבבל") and the **תוס' הרא"ש** (ד"ה "מכי אתא רב לבבל") bring answers from the בעלי תוס' to this question.

See how the **מהרש"א** (ד"ה "מכי אתא רב לבבל") explains the approach of **תוס'** and how it relates to the מחלוקת אמוראים of why גיטין need to be validated.

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Summary of the גמרא

In the middle of ו. the גמרא brings a מחלוקת regarding the status of בבל in respect to גיטין:

*-**רב** says בבל is like ארץ ישראל [and therefore when a שליח brings a גט, he does not say "... בפני נכתב".]*

*-**שמואל** says בבל is like חוץ לארץ.*

Defining the מחלוקת

תוס' (ד"ה "בבל רב אמר כא'י") says that the גמרא is speaking about a גט brought ממדינה למדינה בבבל – between two regions of בבל.

He explains: the אמוראים do not argue regarding a גט brought באותה מדינה – between two locations in a single region of בבל. When a גט is brought within a single מדינה in חוץ לארץ, it is unnecessary to say "... בפני נכתב" because it is possible to find עדים there.

(Since שמואל says that בבל is like חוץ לארץ regarding גיטין, and it does not have a lower status, he would say that everyone agrees that "... בפני נכתב" is not needed for a גט brought within a single region in בבל. This is similar to a גט brought between locations in חוץ לארץ.)

תוס' says that the גמרא is also not speaking about a גט brought from בבל to ארץ ישראל because the גמרא on דף ו: discusses this.

(The גמרא there quotes ר' אביתר who says the שליח does not say "... בפני נכתב" when bringing a גט from בבל to ארץ ישראל.)

QUESTION: What is the ראיה of תוס'? How can he say that the גמרא on ו. is not addressing גיטין brought מבבל לארץ ישראל simply because the גמרא on ו: discusses this issue? The גמרא can address the same issue in two different places!

The **חדושי הרשב"א** (ד"ה "בבל רב אמר...") suggests an explanation of how to know that רב and שמואל on ו. are arguing about a גט brought ממדינה למדינה בבבל:

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פרק א' – המביא גט

The גמרא later on דף ו. (starting from the words "עד היכן היא בבל") brings a מחלוקת about the borders of בבל regarding גיטין. The discussion follows the שיטה of רב who holds that בבל is like ארץ ישראל for גיטין. Therefore, it is necessary to know where בבל ends.

Since רב יוסף offers an opinion concerning the borders of בבל for גיטין, it appears that he holds like רב (that בבל has the status of ארץ ישראל for גיטין). This makes it necessary to know the borders of בבל.

If רב and שמואל had been discussing the status of a גט brought from ארץ ישראל to בבל, since שמואל holds that בבל does not have the status of ארץ ישראל (and "בפני נכתב ובפני נחתם" must be said), then רב יוסף on דף ו: would be holding like שמואל.[1]

However, this does not fit with the statement of רב יוסף later on דף ו. when he defines the borders of בבל for גיטין. There he seems to be learning according to רב (as explained above).

It must be that this understanding is incorrect. Rather it must be that רב and שמואל on ו. argue in the case of a גט brought ממדינה למדינה in בבל.

The גמרא continues

לימא בהא קא מיפלגי – The גמרא suggests that רב and שמואל argue in the same מחלוקת as רבא and רבה (whether the issue is לשמה or אין עדים מצויין לקיימה).

The גמרא rejects this suggestion because רבה אית ליה דרבא – both רבה and רבא agree with the reason that אין עדים מצויין לקיימה.

Therefore, שמואל and רב as well must both hold that בעינן לקיימו – it is necessary to validate a גט brought between two locations in בבל.

The גמרא suggests a new understanding of the מחלוקת:

***רב** (who holds that בבל is like ארץ ישראל for גיטין) holds דאיכא מתיבתא מישכח שכיחי – because of the existence of ישיבות in בבל, there was much travel. As a result, they were able to verify the names on גיטין. It became unnecessary for the שליח to say*

[1] ר' אביתר on ו: says "... בפני נכתב" is not needed for a גט brought from בבל to ארץ ישראל. The גמרא says רב יוסף challenges this statement. He would require "בפני נכתב ובפני נחתם" to be said in such a case. This would imply that he is going like שמואל if the גמרא is speaking about the same case on both ו. and ו: (a גט brought from בבל to ארץ ישראל).

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פרק א' – המביא גט

"... בפני נכתב" when bringing a גט, because it was always possible to find people to validate the signatures.

שמואל *argues and says: מתיבתא בגירסייהו טרידי – since the students of בבל were absorbed in their learning, they did not pay attention to other people's signatures.*

As a result, there would be difficulty in finding people to validate the signatures. Therefore, according to שמואל, the שליח must say "... בפני נכתב" when bringing a גט from בבל.

- תוס' (ד"ה "הני ידעי...") says: אין להם פנוי לחתום כלל – the תלמידים in בבל were so busy learning that they did not have time to sign their names.

איתמר נמי – The גמרא brings a support for רב.

- רש"י (ד"ה "איתמר נמי") explains: the availability of people in בבל and their ability to recognize signatures was due to the existence of ישיבות there.

ר' אבא quotes רב הונא who says that the situation in בבל changed when רב arrived. At that time, עשינו עצמינו בבבל כא"י – in בבל we became like ארץ ישראל.

- רש"י (ד"ה "מכי אתא רב לבבל") explains: רב established a ישיבה in סורא in בבל upon his arrival there. שמואל had also established a ישיבה in נהרדעא. The presence of these institutions made it possible to validate גיטין brought within בבל.

מתיב – The גמרא brings a question from רמיה. The משנה on ב. teaches that areas outside ארץ ישראל (including on its northern side) are considered חוץ לארץ. How can the גמרא say that בבל (which is northeast of ארץ ישראל) is considered like ארץ ישראל?

Even רבי מאיר who says that עכו on the northern side has the status of ארץ ישראל only says this because it is physically close to ארץ ישראל. However בבל is further away. How can it be considered like ארץ ישראל?

The גמרא answers: לבר מבבל – when the משנה defines all areas outside ארץ ישראל as חוץ לארץ, it is excluding בבל.

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פרק א' – המביא גט

תוס' (ד"ה "מכי אתא רב לבבל") asks: the משנה, which seems to understand that בבל is במדינת הים, was written before רב went to בבל.Why then is it problematic that בבל became like ארץ ישראל when רב arrived, according to רש"י? The דין of the משנה reflects the status of בבל before this time. The two cases are not similar.

תוס' brings an answer from רבינו תם:

When רב arrived, he ruled that בבל had already gained the status of ארץ ישראל retroactively from the time of the arrival of יכניה the king and החרש והמסגר (the members of the סנהדרין) shortly before the חורבן of the first בית המקדש.

According to this, the משנה and the גמרא are referring to the same period of time and must be consistent.

The **מהרש"א** (ד"ה "מכי אתא רב לבבל") says: תוס' is explaining that both רבא and רבה understand that בבל gained the status of ארץ ישראל from this time.

When רב arrived he said: בבל had retroactively become like ארץ ישראל centuries earlier from the arrival of יכניה and the סנהדרין. From that point, the people of בבל became learned in the דין of לשמה (addressing the concern of רבה) and ישיבות were established (addressing the concern of אין עדים מצויין לקיימה of רבא).

According to תוס', the איתמר נמי statement of the גמרא supports the position that בבל is like ארץ ישראל for גיטין.

The **תוס' הרא"ש** (ד"ה "מכי אתא רב לבבל") quotes the ריב"א to explain the words of רש"י: He says that ישיבות and לימוד התורה were present in בבל from the time of יכניה (and the time of the משנה). The study of תורה did not cease until years later when ר' חייא and his sons left בבל and moved to ארץ ישראל. From this point the status of בבל returned to being that of חוץ לארץ. It only returned to the status of ארץ ישראל when רב moved there later.

IV. Is "... בפני נכתב" Necessary For גיטין Brought Within בבל Or From Nearby Areas?

ו.-ו:

OVERVIEW OF THE סוגיא

The גמרא discusses the status of places in or close to בבל and when it is necessary to verify גיטין.

מראה מקומות

מ-ו. "עד היכן" עד ו: "ואי עבדת אהגית"

תוס' (ד"ה "הני ידעי...")
תוס' (ד"ה "והא רבא...")
תוס' (ד"ה "שאני בני מחוזא דניידי")

POINTS TO CONSIDER

Issue One – When can people be assumed to recognize others' signatures?

The גמרא discusses the ability of students in ישיבות to recognize each other's signatures, and the ability of shopkeepers and customers in the שוק to do so.

See (ד"ה "הני ידעי...") **תוס'** who contrasts the ability of these groups regarding this issue.

Issue Two – Is it necessary to verify גיטין brought over extremely short distances?

The גמרא on the bottom of דף ו. brings three אמוראים who require קיום הגט even for documents brought a short distance. **רבא** holds that this is necessary for גיטין brought within a single group of houses. The גמרא challenges this statement, saying that it should be possible to find people to validate the signatures over this short distance.

Why does the גמרא only ask this question on **רבא**?

See (ד"ה "והא רבא...") **תוס'** who discusses this issue.

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Issue Three – If a שליח delivers a גט today, is he required to validate it?

The גמרא learns that the דין taught by **רבא**, that קיום הגט is necessary even over a short distance, had to do with the nature of the city of מחוזא where he lived.

(ד"ה "שאני בני מחוזא דנדיי") **תוס'** applies the words of the גמרא to the question of whether קיום הגט is needed today.

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פרק א' – המביא גט

Summary of the גמרא

עד היכן היא בבל – The גמרא on ו. asks: where is the border of בבל?

רב פפא says that there is a מחלוקת about the borders of בבל for גיטין which parallels a dispute about its borders concerning יוחסין.
-(The Jewish population of בבל was known for its pure lineage.)

רב יוסף says that there is a מחלוקת regarding the borders of בבל for יוחסין only, but everyone agrees on the boundaries of בבל regarding גיטין.

רב חסדא says: when a גט is brought between the areas of אקטיספון and בי ארדשיר, it is necessary to say "... בפני נכתב".

-תוס' (ד"ה "ומבי ארדשיר...") explains that the גמרא is speaking about people traveling from חוץ לארץ (the city of אקטיספון) to בבל (the area of בי ארדשיר).

However, this is unnecessary when a גט is brought in the other direction to חוץ לארץ.

The גמרא initially assumes that this rule is because people in בבל were knowledgeable of the requirement for לשמה while those from חוץ לארץ were not.

The גמרא suggests otherwise. Both רבה and רבא are concerned that אין עדים מצויין לקיימו. Therefore in the statement of רב חסדא as well, the necessity of saying "בפני ... נכתב" is dependent on the availability of people who can recognize the signatures on גיטין to validate them.

והני כיון דאזלי לשוקא להתם – The גמרא explains: because it was common for people from בי ארדשיר to go to the שוק in אקטיספון (in חוץ לארץ), the merchants there were able to recognize their signatures.

-רש"י (ד"ה "אזלי לשוקא") says that people frequently bought items in the שוק on credit and signed שטרות there. The merchants of אקטיספון held onto the שטרות until payment was made, which made them familiar with the signatures.

והני בדהניך לא ידעי מ"ט דשוקייהו טרידי – However the people from בי ארדשיר were unfamiliar with the signatures of the shopkeepers in the city because they were involved in their own shopping.

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פרק א' – המביא גט

(ד"ה "הני ידעי...") **תוס'** asks: the גמרא says that the storekeepers of אקטיספון recognized the signatures of their customers, but the opposite was not true as there was no need for the customers to recognize the shopkeepers' signatures. The גמרא earlier said that שמואל holds מתיבתא בגירסייהו טרידי – the students of the ישיבות in בבל were preoccupied with their learning and did not recognize signatures.

Why does the גמרא not apply the same סברא there? It should say that even though the בני מתיבתא were unable to recognize people's signatures, other people (i.e. shopkeepers) should have been able to recognize theirs.

תוס' answers: the men in the מתיבתא were so immersed and focused in their learning that they did not even have time to sign their names.

The גמרא continues and discusses whether it is necessary to say "... בפני נכתב" when a גט is brought over a relatively short distance.

רבה בר אבוה requires "... בפני נכתב" from ערסא לערסא – one side of a street to the other.

רב ששת requires it משכונה לשכונה – even between one group of houses and another.

רבא even requires it even within a single group of houses.

The גמרא asks on רבא: why is "... בפני נכתב" required over this short distance? רבא is concerned that אין עדים מצויין לקיימו, but over this short area it should certainly be possible to find people to validate the signatures.

The גמרא answers: רבא was speaking about the city of מחוזא whose citizens were נידי – transient.

- רש"י (ד"ה "דניידי") explains: the people of מחוזא traveled frequently out of town for סחורה and did not recognize the signatures of their neighbors.

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פרק א' – המביא גט

(ד"ה "והא רבא...") **תוס'** says: the גמרא could ask this question on the other אמוראים as well. It specifically asks on רבא because he is the author of the statement that "... בפני נכתב" is required because אין עדים מצויין לקיימו.

תוס' says further: the גמרא would not have asked this question on רבא if he held that "... בפני נכתב" was needed to verify לשמה. It would be obvious that he would require the שליח to say this statement.

The words of תוס' need explanation. Why would "בפני נכתב ובפני נחתם" have to be said in מחוזא if שטרות needed verification for לשמה? The city was in בבל where people were בקיאין in the דין of לשמה!

תוס' explains that מחוזא had a large population of גרים and so it was not considered בבל regarding יוחסין or knowledge of the הלכות of גיטין.

(ד"ה "שאני בני מחוזא דניידי") **תוס'** says: from this case, רבינו תם ruled that בזמן הזה it is necessary to say "... בפני נכתב" for all גיטין. We rule that verification is needed because אין עדים מצויין לקיימו. All people today are considered ניידי and, as a result, they are unaware of other people's signatures.

The גמרא continues

רב חנין מישתעי – The גמרא says that רב חנין related a מעשה: A גט had been brought by רב כהנה. However, רב חנין did not know if it was brought from סורא to נהרדעא or in the opposite direction.

רב כהנה asked רב if it is was necessary for him to say "... בפני נכתב" when he delivered the גט.

רב answered לא צריכת – this is unnecessary. However ואי עבדת אהנית – if you already said the phrase, it is effective to validate the גט and prevent ערעור הבעל.

QUESTION: Why did the גמרא need to bring the ספק of רב חנין of whether the גט was brought from סורא to נהרדעא or in the other direction?

The (ד"ה "רב חנין משתעי...") **חשק שלומה** explains that this question was brought to רב who lived in סורא. If the גט was brought to סורא, the question was presumably asked after the delivery (i.e. in a

בדיעבד situation). If so, the answer of רב would then apply to a בדיעבד case after the גט had been brought.

However if the גט had been brought in the other direction from סורא to נהרדעא, the שליח would probably have asked about the proper procedure לכתחילה *before* leaving. The difference between whether the גט was brought from סורא to נהרדעא or in the other direction is whether the question and answers refer to a בדיעבד or לכתחילה situation.

DERECH B'YAM HATALMUD
OVERVIEW # 13 -- :ז.-ז גיטין

מס' גיטין
פרק א' – המביא גט

I. DIVINE PROTECTION FOR צדיקים AGAINST עבירות

ז.

מראה מקומות

ז. מ- "א'ר אבהו" עד "אבר מן החי"

תוס' (ד"ה "השתא...")
רמב"ן – חולין ז. (ד"ה "הא דאמרינן...")
רש"ש – גיטין (תד"ה "השתא")

OVERVIEW OF THE סוגיא

The גמרא teaches that ה' protects צדיקים from certain tragedies. The ראשונים suggest explanations for this statement.

POINTS TO CONSIDER

Issue One – How much does ה' protect צדיקים from sinning?

The גמרא on the top of דף ז. teaches that ה' protects צדיקים from committing עבירות. How does this fit with מעשים brought in the גמרא about צדיקים who inadvertently committed עבירות?

See **תוס'** (ד"ה "השתא...") and the **רמב"ן** (חולין ז. ד"ה "הא דאמרינן...") who suggest answers to this question.

How does the **רמב"ן** respond to the suggestions given by **תוס'**?

Issue Two – Are עבדים owned by a כהן permitted to eat תרומה?

In his discussion of how ה' prevents צדיקים from sinning, **תוס'** cites a case of an עבד כנעני who was owned by a כהן and was allowed to eat תרומה. The גמרא records that the wife and children of the עבד also ate תרומה, but it says that they were not permitted to do so.

This statement needs elucidation. Just as an עבד is permitted to consume תרומה since he is קנין כספו – owned property – of a כהן, his wife and children should be permitted as well. What does the גמרא say that it was prohibited for his family to eat תרומה?

See the **רש"ש** (תד"ה "השתא") who answers this question.

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פרק א' – המביא גט

Summary of the גמרא

The גמרא on the bottom of ז: and the top of ז. lists several possible negative ramifications of a person instilling <u>אימה יתירה</u> – excessive fear – in his home.

<u>האכילוהו</u> – The גמרא on ז. mentions that <u>ר' חנינא בן גמליאל</u> was fed a <u>דבר גדול</u> (which the גמרא defines as an אבר מן החי) as a result of this.

The גמרא asks: how could he have eaten this prohibited item? This would violate the rule: <u>השתא בהמתן של צדיקים אין הקב"ה מביא תקלה על ידם</u> – since ה' does not bring a <u>תקלה</u> – stumbling block – through the animals of צדיקים, then <u>צדיקים עצמן לא כ"ש</u> – He certainly does not allow צדיקים to eat food which is אסור. [2]

If so, how did it occur that <u>ר' חנינא בן גמליאל</u> was fed this item?

The גמרא answers: <u>אלא בקשו להאכילו דבר גדול</u> – they wanted to feed it to him (but did not actually do so).

<u>ומאי ניהו</u> – And what was the food they had wanted to feed him? <u>אבר מן החי</u>.

<u>QUESTION: The גמרא in several places brings examples of צדיקים who inadvertently committed עבירות. How do these cases fit with the statement in the גמרא that ה' protects צדיקים from תקלות?</u>

<u>Three answers from the ראשונים to this question</u>:

<u>Answer One</u>

(ד"ה "השתא...") **<u>תוס'</u>** cites <u>רבינו תם</u>: when the גמרא says that צדיקים are protected from committing עבירות, it is referring to <u>eating forbidden items</u> which is a גנאי to the צדיק. However צדיקים are not protected from unintentionally transgressing other עבירות.

<u>Answer Two</u>

[2] This is based on חולין ז.-ז: which says that ה' prevents the animals of צדיקים from eating items forbidden to them.

מס' גיטין
פרק א' – המביא גט

The **רמב"ן** (ד"ה "הא דאמרינן...") in מס' חולין דף ז. challenges the explanation of תוס' and learns differently.

The רמב"ן brings two ways to understand the statement of the גמרא:

First, he quotes his רבי, who explains that when the גמרא says that ה' does not allow a תקלה to occur to a צדיק, it means that He prevents תקלות from occurring to *other people* through the צדיק. (For example, the actions or decisions of a צדיק will not cause another person to eat טבל or violate לפני עור.)

The רמב"ן himself has difficulty with this explanation. עיין שם.

Answer Three

The **רמב"ן** then suggests another approach. He says it means that ה' protects צדיקים from sinning בשוגג. He quotes the teaching: הבא ליטהר מסייעים אותו – if a person comes to purify himself, he is assisted (by ה').

However, ה' only saves a צדיק from sinning בשוגג. If the צדיק is פושע, he will not receive this Divine Protection.

The רמב"ן goes through the cases cited by תוס' and explains how in each case, there was an element of negligence (פשיעה) by the צדיק.

QUESTION: תוס' (ד"ה "השתא...") cites a case of an עבד כנעני owned by a כהן who was mistaken for a כהן when he went to the threshing floor to collect gain for his master. The רבנן themselves also mistakenly thought that he was a כהן. This seemed to result in a מכשול involving אכילה, since the wife and children of the עבד improperly ate תרומה from the grain.

What was the problem of the wife and children of the עבד eating תרומה? Why would this be אסור?

Background information to understand the question:

מס' גיטין
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An עבד כנעני owned by a כהן is permitted to eat תרומה because he is the קנין כספו – owned property – of a כהן. However, if his wife and children are not owned by his master, they are not permitted to eat תרומה. In the case brought in כתובות, the wife and children were mistakenly allowed to eat תרומה because the חכמים assumed that the עבד was a כהן.

QUESTION: Were the wife and children of the עבד owned by the כהן? If they were, they would be permitted to eat תרומה.

Even if we say that they were not owned directly by the כהן, they should indirectly belong to him since the items of an עבד are also called קנין כספו of the אדון (due to the rule מה שקנה עבד קנה רבו – that which is acquired by an עבד is owned by his master).

Why are the wife and children of the עבד not included? Why was it a problem for them to eat תרומה?

The **רש"ש** (ד"ה "השתא) explains: the marriage of an עבד כנעני is not recognized as a full marriage. Consequently, his wife and children are not his קניינים. As a result, the wife and children in this case were not entitled to eat תרומה.

Understanding the מכשול which occurred in this case

In מס' חולין the גמרא asks that ה' should have prevented this case from occurring. He should not have allowed the רבנן to permit the wife and children of the עבד to eat תרומה.

According to רבינו תם brought by תוס', what is the question? The protection mentioned by the גמרא applies to צדיקים only and not to their family members.

(תוס' answers that the גמרא in חולין does not bring this case as a question [he has a different גירסא of the גמרא] and therefore this is not a challenge to the explanation of רבינו תם.)

The **רמב"ן** (ד"ה "הא דאמרינן...") says that the question of the גמרא in חולין (of how could ה' allow the רבנן to make a mistake which caused this) poses a difficulty to the approach of רבינו תם that ה' only saves צדיקים themselves from eating forbidden items.

(ד"ה "השתא...") **תוס'** explains that even though the מכשל was related to אכילה, since the צדיקים themselves (in this case the רבנן who mistakenly ruled that the עבד was a כהן) did not eat the forbidden items, the case does not conflict with the explanation of רבינו תם.

II. מלשינים – UNDERSTANDING THE איסור OF GIVING OTHER JEWS OVER TO THE AUTHORITIES

ז.

מראה מקומות

ז. מ- "שלח ליה" עד "לגניבא בקולר"

תוס' (ד"ה "השכם והערב עליהן")

OVERVIEW OF THE סוגיא

The גמרא discusses the איסור of being מלשין on a fellow Jew, in connection with a מעשה in which מר עוקבא was being harassed by another Jew and wished to report him to the authorities.

POINTS TO CONSIDER

Issue One – The power of תורה and תפילה to protect a person from harm

The גמרא records that **מר עוקבא** was being attacked by other people. **רבי אלעזר** advised him to go to the בית מדרש morning and night as a way to address the issue. Shortly thereafter, the problems disappeared.

What was the particular suggestion which **רבי אלעזר** gave him, and how did it help to resolve the issue? See (ד"ה "השכם והערב עליהן") **תוס'** for two answers, and the (ד"ה "תוס' ד'ה "השכם") **מהרש"א** who clarifies a point in **תוס'**.

מס' גיטין
פרק א' – המביא גט

Summary of the גמרא

שלח ליה – The גמרא says that מר עוקבא sent a question to רבי אלעזר:

בני אדם העומדים עלי – [Jewish] people are harassing me, ובידי למסרם למלכות – and I have the ability to turn them over to the [non-Jewish] authorities. מהו – What is the rule? (Am I permitted to do so?)

רבי אלעזר replied with a פסוק indicating that he should remain silent.

שלח ליה קא מצערי לי טובא ולא מצינא דאקים בהו – (The גמרא says that מר עוקבא sent back to him): They are causing me great trouble, and I am unable to bear it.

(Note: This was not a situation of life and death, in which it is מותר to inform on a person to the authorities.)

רבי אלעזר replied with another פסוק advising (him) to remain quiet and that ה' would eliminate the problem. He also advised him: השכם והערב עליהן לבהמ"ד – go early to the study hall against them and stay late, והן כלין מאליהן – and they will disappear on their own.

The גמרא says that מר עוקבא followed the advice with the "expected" results: נתנוהו לגניבא בקולר – the authorities put גניבא (the name of the person who had provoked him the most) into chains and took him away.

QUESTION: When רבי אלעזר advised מר עוקבא to השכם והערב עליהן לבהמ"ד, what exactly was he suggesting?

(ד"ה "השכם והערב עליהן") **תוס'** suggests two explanations for these words:

First, he was telling מר עוקבא to go to the synagogue to pray that ה' should punish them.

תוס' asks on this: The גמרא in בבא קמא teaches: המוסר דינו לשמים הוא נענש תחילה – a person who complains about another person to ה' will be punished first. If so, how could רבי אלעזר have suggested this?

מס' גיטין
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תוס' explains: if there is no other recourse, a person is allowed to pray for Divine Intervention. However, if an option exists (such as going to a בית דין), a person must pursue it. In such a case, if he prays instead that the person should be harmed, he will be punished first.

In this case because there was no other option, מר עקובא was permitted to pray that his antagonists should be removed.

Second, תוס' says: השכם והערב means: you should learn תורה, and then ה' will help you.

The (ד"ה "תוס' ד'ה "השכם") **מהרש"א** says that תוס' did not have the גירסא of the גמרא of "לבהמ"ד".

III. Defining The Prohibition Of Playing Or Singing Music

ז.

מראה מקומות

ז. מ- "שלחו ליה למר עוקבא" עד "בהיכל"

רש"י (ד"ה "זמרא")
תוס' (ד"ה "זמרא מנא לן דאסור")
משנה תורה (הלכות תענית ה:יד)
אגרות משה (אורח חיים חלק א' ס' קסו)

OVERVIEW OF THE סוגיא

The גמרא in the middle of ז. discusses the איסור of playing and listening to music after the חרבן. Three questions need to be answered:

I. Does the איסור apply uniformly to both singing and musical instruments?
II. Is the playing of music always אסור, or only under certain conditions?
III. What is the reason for the איסור?

POINTS TO CONSIDER

Issue One – Identifying a source for the prohibition of music after the חרבן

The גמרא brings a source that זמרא – music – is אסור.

This is a broad statement which needs to be defined. What types of music are included? Is any amount of music prohibited, or is there a certain level when the איסור takes effect?

See (ד"ה "זמרא") **רש"י** and (ד"ה "זמרא מנא לן דאסור") **תוס'** and the (הלכות תענית ה:יד) **משנה תורה** who discuss the particular type(s) of music included in the prohibition. **תוס'** also suggests a reason for the rule and limitations to it.

The (אורח חיים חלק א' ס' קסו) **אגרות משה** analyzes the מחלוקת ראשונים and specifically, the שיטה of the **רמב"ם**. He also brings practical הלכות related to this topic.

מס' גיטין
פרק א' – המביא גט

Summary of the גמרא

"שלחו ליה למר עוקבא" – A question was sent to מר עוקבא asking him to identify the source that זמרא – music – is אסור.

-(ד"ה "זמרא") **רש"י** says: this refers to the איסור of singing in a בית המשתאות – a house of drinking.

(This explanation is based on the משנה brought in מס' סוטה דף מח., which says that שיר בבית המשתאות became בטל when the סנהדרין ceased its operations prior to the חרבן.)

QUESTION ONE: Why would the גמרא here search for a source that music is אסור, if the משנה in סוטה brings a מקור?

QUESTION TWO: To which types of music is the גמרא referring? Does it prohibit only singing or musical instruments as well? And are these *always* אסור or do certain exceptions exist?

מר עוקבא replied by citing the פסוק of "אל תשמח ישראל אל גיל כעמים..." from הושע ט:א – "Yisrael, rejoice not like the enjoyment of the nations..."

ולישלח – The גמרא questions why מר עוקבא did not reply with the פסוק of "בשיר לא ישתו יין ימר שכר לשותיו" from ישעיה כד:ט – "they do not drink wine with song. Liquor has become bitter to those who drink it."

-(This פסוק is brought in מס' סוטה as the source for the איסור.)

אי מההוא – the גמרא responds: if מר עוקבא had given that source, one might think that only זמרא דמנא – the playing of musical instruments is אסור but דפומא שרי – singing is מותר. The פסוק which he sent of "אל תשמח..." teaches that it is אסור both to play musical instruments and to sing.

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QUESTION: Does the איסור of music apply only when drinking (as the second פסוק implies) or at all times? Is there a difference between singing and musical instruments when they are not accompanied by drinking?

תוס' (ד"ה "זמרא מנא לן דאסור") cites the explanation of רש"י (that the גמרא is speaking about music in a בית המשתאות) and adds: one should not accustom himself to regularly go to sleep or wake up to music.

(For example the ריש גלותא was accustomed to go to sleep and wake up to singing until he was rebuked by מר עוקבא.)

תוס' provides a גדר for the איסור, saying that ענג ביותר – excessive enjoyment – is prohibited. It is inappropriate after the חרבן to overly indulge oneself.

תוס' says that listening to music for excessive pleasure or as רגילות is equivalent to singing while drinking.

He adds an exception: שיר של מצוה (such as לשמח חתן וכלה) is מותר.

See the **אגרות משה** (אורח חיים חלק א' ס' קסו) who says that it would seem that there is no difference between the opinions of רש"י and תוס'.

The **משנה תורה** (הלכות תענית ה:יד) rules that it is אסור to listen to musical instruments.

He also rules that שיר בפה is אסור, but he adds: this is *specifically* when the singing is connected to drinking יין.

The רמב"ם here makes a distinction between singing (which is אסור only when drinking) and musical instruments (where this limitation does not apply).

The רמב"ם learns that once we have two פסוקים prohibiting music, the verse dealing with wine ("בשיר לא ישתו יין...") refers to the limitation of singing, and the verse which does not mention wine ("אל תשמח ישראל..."), refers to the restriction concerning musical instruments.

Summary

מס' גיטין
פרק א' – המביא גט

According to both **רש"י** and **תוס'**, playing instruments and singing are אסור only when drinking or when they are done in a excessive way. In other cases, playing instruments and singing would be מותר.

The **רמב"ם** argues. He holds that the playing of instruments is always אסור. Singing is only אסור while drinking.

The מחבר and רמ"א also argue on this point:

The **מחבר** in (תקס:ג) **שלחן ערוך** rules that the playing of musical instruments is always אסור. He does not limit this restriction to the time of drinking only. He then says that singing is אסור specifically during drinking.

(This is similar to the משנה תורה.)

The (שם) **רמ"א** brings a יש אומרים which says that the playing of musical instruments is אסור specifically because of excessive תענוג when there is a רגילות or in a בית המשתה.

(This is similar to רש"י and תוס'.)

Note: The ראשונים and ספרי הלכה all permit music לצורך מצוה.

Rabbi Moshe Feinstein in (אורח חיים חלק א' ס' קסו) **אגרות משה** asks: why does the רמב"ם differentiate between singing (which is אסור only while drinking) and musical instruments (which are always אסור)?

He suggests an approach to understand the מחלוקת ראשונים and specifically, the שיטה of the רמב"ם:

He learns that the two פסוקים brought could be speaking about either singing or playing musical instruments. However, if we had only one פסוק and a single איסור, we could only assume the smallest חידוש. We would say that the איסור applies to the more חמור case of musical instruments.[3] A second פסוק is needed to say that the איסור applies to singing as well.

[3] The case of musical instruments is more חמור because they create a more advanced level of music than singing alone and because they cause a higher level of joy.

Further, the second verse ("...בשיר לא ישתו") is clearly speaking about music during drinking. It follows that the איסור of the first פסוק applies in all cases, not only while drinking.

Therefore once we learn that both singing and musical instruments are אסור, it is logical that the more widespread איסור of the first פסוק applies to musical instruments. The פסוק which limits the איסור to only times of drinking refers to singing alone.

This can explain the approach of the רמב"ם in משנה תורה where he says that singing is only אסור while drinking wine, while musical instruments are always אסור.

Rav Moshe brings a תשובה of the רמב"ם in which he says that *all* music (singing and musical instruments) is אסור even *without wine*.

Rav Moshe writes: it is ראוי for a בעל הנפש to be מחמיר like the תשובת הרמב"ם. He rules further that musical instruments are prohibited בדין even where there is no drinking.

(However, music לצורך מצוה is still permitted by Rav Moshe. Other פוסקים are more מיקל and allow the listening of music even in other cases.)

The גמרא continues

א"ל – The גמרא in the middle of ז. quotes רב הונא who asks: what is the meaning of the verse "קינה ודימונה ועדעדה"?

רב אשי replies: מתוותא – the פסוק refers to the cities of ארץ ישראל.

רב הונא says: אטו אנא לא ידענא – Do I not know that this is the explicit meaning of the פסוק? However I am asking about an explanation from רב גביהא from ארגיזא. He suggested a דרשה to explain the meaning of the words: anyone who feels קנאה (meaning: כעס due to צער he received from another person, according to רש"י) but דומם – he remains silent and does not respond, then שוכן עדי עד (meaning: ה') will respond with דין on his behalf towards his aggressor.

א"ל – The גמרא records that רב אשי replies: אלא מעתה – if so (that you agree to the interpretation of these words), do you also interpret the continuation of the פסוק which records other city names – "צקלג ומדמנה וסנסנה" in a similar way?

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רב הונא replies: אי הוה – if רב גביהא was here, he would teach טעמא – an interpretation of these words as well.

The גמרא quotes רב אחא מבי חוזא who offers an interpretation of these words: כל מי – regarding a person who צעקת לגימא – if someone steals from him, ודומם – and he is silent, then שוכן בסנה – the One who dwells in the thorn bush (i.e. ה') will respond with דין on his behalf.

The ריש גלותא asked רב הונא: what is the מקור for the איסור of a חתן to refrain from wearing a כלילא – crown at his חתונה?

-See תוס' (ד"ה "עטרות חתנים") who lists characteristics of כלילות.

רב הונא replied: "מדרבנן" – it is a גזרה of the חכמים. He quoted the משנה from מס' סוטה: at the time of פולמוס של אספסיינוס – Vespasian's siege of ירושלים – the חכמים were גוזר that חתנים should no longer wear crowns at their חתונות.

אדהכי קם רב הונא לאפנויי – When רב הונא got up and left the room to relieve himself, רב חסדא, one of his תלמידים, quoted a פסוק as a source for this rule: "חסר המצנפת..." – when the כהן גדול no longer wears his turban (after the חרבן) then "...והרם העטרה" – other people should cease wearing crowns (from ספר יחזקאל כא:לא).

(רב חסדא quotes this פסוק not as the source for the הלכה, but as an אסמכתה. Out of כבוד for his רבי, he waited until רב הונא had left the room before disagreeing with him.)

רב הונא returned to the room and replied to רב חסדא saying: "האלקים" –you are wrong. The rule is exclusively a גזרת דרבנן. He continued: "חסדא שמך" – your name is רב חסדא and חסדאין מילך – your words are pleasant (i.e. your analysis of the פסוק was insightful), but nevertheless you are incorrect.

> -רש"י (ד"ה "האלקים מדרבנן") says: רב הונא held that the פסוק is not a hint to the גזירה. It is instead a נבואה that the מלך would stop wearing his crown and would go into גלות at the same time that the כהן גדול ceased wearing his מצנפת.

The גמרא relates that רבינא found מר בר רב אשי who was גדיל כלילא לברתיה – braiding a tiara for his daughter.

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The גמרא asks: how could מר בר רב אשי do this? Does he not hold of the prohibition of חסר המצנפת והרם העטרה?

The גמרא replies: he understood that the פסוק only prohibited crowns worn by men since they are דומיא דכ"ג – similar to the כהן גדול, but women are permitted to wear כלילות.

-(From the question and answer of the גמרא, it is clear that רבינא and מר בר רב אשי consider the לימוד of the פסוק to be an integral part of the דין.)

The גמרא asks: how can the continuation of the פסוק of "זאת לא זאת" be understood?

The גמרא answers: this refers to a conversation between ה' and the מלאכי השרת who asked Him: is this restriction (of crowns) appropriate for the Jews? Do the Jews, who said נעשה ונשמע, deserve this?

-(The גמרא in מס' שבת דף פח. teaches that the Jews at הר סיני received two crowns, one which corresponded with their saying "נעשה" and the other with their saying "נשמע".)

ה' responded: Yes. The Jews who placed an עבודה זרה in the היכל deserve this.

-ה' is saying: the גזירה prohibiting עטרות is an appropriate expression of the diminishment of the royalty of the Jewish people due to their חטא.

IV. Is An עני Who Is Supported By The Community Required To Give צדקה?

ז.-ז:

מראה מקומות

מ-ז. "דרש רב עוירא" עד ז: "סימני עניות"

טור (יורה דעה רמח:א)
טור (יורה דעה רנא:ג)
שולחן ערוך וש"ך (יורה דעה רמח:א)
ערוך השלחן (רמח:א-ד)

OVERVIEW OF THE סוגיא

The גמרא quotes a פסוק which teaches that even עניים are required to give צדקה. The ספרי הלכה discuss details of this דין.

POINTS TO CONSIDER

Issue One – Understanding the obligation of an עני to give צדקה to others

The גמרא on the top of ז: דף says that it is proper for an עני who receives צדקה to still give צדקה to others. Is this a recommendation or a requirement? How can he be required to give his money away to other עניים, when he does not have enough money for himself and needs the assistance of others?

In two places, the **טור** discusses the obligation of an עני to give צדקה to others: יורה דעה רמח:א and יורה דעה רנא:ג. There appears to be a סתירה in his words.

See how the (י"ד הלכות צדקה רמח:א) **שלחן ערוך** presents the הלכה.

The (רמח:א) **ש"ך** suggests a resolution for the seeming סתירה in the **טור.**

See the (רמח:א-ד) **ערוך השלחן** who argues with the **ש"ך** and suggests his own approach.

מס' גיטין
פרק א' – המביא גט

Summary of the גמרא

Towards the bottom of ז. the גמרא quotes רב עוירא who teaches דרשות on the פסוק from נחום א:יב of "כה אמר ה' ... וענתך לא אענך עוד".

רב עוירא teaches: the word "שלמים" in the פסוק means that מצומצמים – even people who have only enough money for מזונותיו – their own needs – are required to give צדקה. If so, then רבים – those who have more money, are certainly required to give.

Both should גוזז – shear from their money and then עבר – they will pass over and be saved from the דין of גהינום. The גמרא brings a משל of two sheep. One was shorn and was able to swim across a river. The second sheep had not been shorn and so was unable to do so.

The גמרא on the top of דף ז: quotes מר זוטרא who says if an עני המתפרנס מן הצדקה – a poor person who is supported by charity gives צדקה, then "לא אענך עוד" – he will no longer remain an עני.

רב יוסף says: "שוב אין מראין לו סימני עניות" – if the עני acts in this way – then he will no longer display signs of poverty.

QUESTION ONE: Is the rule that an עני should give צדקה a recommendation or a requirement?

QUESTION TWO: Why should an עני be חייב to give צדקה to others when he cannot meet his own needs?

When the טור brings this הלכה, there seems to be a סתירה in his words:

The (יורה דעה רמח:א) **טור** rules: every person, even an עני, is חייב to give צדקה. He should give to other people from the money which is given to him.

Yet the **טור** in רנא:ג quotes רב סעדיה גאון who teaches that a person must worry about his own פרנסה first. It is אסור for him to give צדקה until he has addressed his own needs. Only once he is assured that he has sufficient פרנסה for his basic needs can he give צדקה to others.

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The (יו"ד הלכות צדקה רמח:א) **שלחן ערוך** rules: the עני being discussed here has sufficient פרנסה to survive. If not, he would be פטור from giving. He references the טור (רנא:ג) who says that if a person does not have פרנסה, he would not be חייב to give.

QUESTION: How can the טור learn that an עני is required to give צדקה to others, but subsequently say that an עני is exempt until he is assured that his own needs are met?

Two resolutions for the seeming-contradiction in the words of the טור:

The (רמח:א) **ש"ך** suggests that the טור refers to two types of עניים (both who have less than 200 זוז. While both are technically עניים, their situations are different):

1. An עני whose (פרנסה) needs are met must give צדקה, even though he is an עני.

2. An עני whose (פרנסה) needs are not met does not give צדקה.

The (רמח:א-ד) **ערוך השלחן** disagrees with the ש"ך. He says that if a person has פרנסה, he is not called an עני and cannot accept צדקה.

He answers the apparent contradiction in the טור in a different fashion. He cites the גמרא (מס' בבא בתרא דף ט.) which mentions that every person is חייב to give צדקה. However, there are two distinct obligations of צדקה:

1. Giving צדקה once per year (even a minimal amount, like the גמרא in בבא בתרא teaches), and
2. A constant giving of מעשר (10-20% of one's income).

The ערוך השלחן learns that the minimal obligation of צדקה applies to an עני as well. However, the obligation of מעשר does not.