



Beit Din for Chalitzah

During the beginning of the week learnt about *chalitzah*. The first detail mentioned (12:6) is that the *yabam* and *yavama* come to *Beit Din*. The earlier *Mishnah* (12:1) taught that a formal *Beit Din* is not required and the three "*dayanim*" can even be regular people. The *Bartenura* explains that the *Mishnah* referred to them as such since they must at least know how to direct the reading of the *pesukim* as part of the process. He adds that even though the *Mishnah* mentions only three, one should include an addition two to publicise the event. These additional people can even be *amei ha'aretz*. Note that in our *Mishnah* the group of three people is referred to as *Beit Din* where as in the earlier *Mishnah* it is simple three (or five) individuals. How do we understand its status?

The *Tosfot* (101a) agrees with the *Bartenura* that they must at least know how to read Hebrew. With respect to any other detail, they need not be versed. This is because if there are questions regarding what was performed, they would be able to verify every detail with an expert. If, however they cannot read, that detail would not be able to be verified.

The *Ritva* however explains that the term "*hedyotot*" – regular people – used in the *Mishnah* already implies that they know how to read (otherwise they would be termed *yoshvei kranot*). When the *Mishnah* also terms them as *dayanim* it teaches that we do not require *dayanim smuchim* – ordained judges - and individuals that do not sit on the city's *Beit Din* can be used. Nevertheless, they must be well versed in the laws of *chalitzah*. Consequently, we find that the *Ritva* requires a much higher standard.

We find the question of the status of this *Beit Din* in another area. The *Shulchan Aruch* (C.M. 79:9) rules that one adopts the status of a *kafran* (one who falsely denies owing money to another) only if he denied in front of *Beit Din*. The *Ketzot HaChoshen* comments that one would assume that this would be in front of a *Beit Din* of three judges, with at least one of them being an expert. However, the *Ketzot* cites the *Moharit* who maintains that this would be the law if one denied in front of a *Beit Din* of three *hedyotot*. Since the matter does not require deliberation, they would have the status of a *Beit Din*. Expert judges are only required when there is a need to deliberate. He cites our case of *chalitzah*, where the only requirement is that they can read, and undoing *nedarim*, as cases where a lower standard of "judge" is required, yet the matter can be resolved. In the case of

chalitzah, since there is no deliberation necessary and it must simply be performed in front of *Beit Din*, this standard of "*dayan*" is sufficient.

The *Ketzot* however argues that for a *Beit Din* to have that status, the *dayanim* must be well versed in the matter they are addressing. Consequently, for one to adopt the status of a *kafran*, he would have need to falsely deny in front a *Beit Din* with at least one expert judge. He explains that in the case of *Nedarim*, where according to the *Shach* no expert judge is required, this is because the absolver of vows is not even considered a *din* – judgement. Similarly, in our case he cites the *Ritva's* position in support because the requirement of proficient judges is required even for *Chalitzah*. (He suggests that event according to the *Tosfot* that maintains an even lower standard, their position is an exception based on *pesukim*, that for *chalitzah* that standard is acceptable.)

Based on the above debate, we find that the *Ketzot* understands that the performance of *chalitzah* in front of *Beit Din* is indeed a *Din* and requires proficient judges. According to the *Mahorit*, it appears that he understands that since no deliberation is required, no execution of *Din*, even *hedyotot* can be used.

We find this question in another law as well. We learnt (12:2) about the debate regarding the validity of a *chalitzah* that is performed at night. The *Gemara* explains that a *din* that is started during the day and completed during the night is valid. The debate is simply whether we define *chalitzah* as the beginning or end of *din*. The *Chatam Sofer* (*Even HaEzer* 54) cites *Rashi* who explains that *Chalitzah* is considered *din* since the *yevama* can then collect her *ketubah*. The *Chatam Sofer* explains that, on its own, *chalitzah* is not considered *din*. Consequently, *Rashi* stressed its monetary consequence to explain why *chalitzah* is treated as *din* when considering whether it can be performed at night.

The *Radbaz* (4 A155) however explains that *chalitzah* is referred to as *din* because of all the processes that must be performed in front of *Beit Din* – *chalitzah*, *rekika*, etc. The *Nodeh BeYehuda* (II *Even Hezer* 114) explains that when *Rashi* references the collection of the *ketubah*, it is to explain why *chalitzah* is categorised as monetary and not of capital consequence (whose judgement cannot even be completed at night) but not to justify why it is considered *din*.

Revision Questions

במות י"ב:ד' – י"ג:י"א

- Can a *cheresh* perform *chalitzah*? (י"ב:ד')
- What is the law regarding *chalitzah* that is performed before a *beit din* of two people? (י"ב:ה')
- Describe the process of *chalitzah*. (י"ב:ו')
- What is *mi'un*? (י"ג:א')
- What are the five points of debate between *Beit Shammai* and *Beit Hillel* regarding when *mi'un* can be performed? (י"ג:א')
- Who qualifies for *mi'un*? (י"ג:ב')
- According to *R' Eliezer ben Ya'akov* when is the *ketanah* considered "ishto"? (י"ג:ג')
- If a girl underwent *mi'un* can she still marry a *Kohen*? (י"ג:ד')
- Complete the follow rule and explain: (י"ג:ד')
"זה הכלל: _____ אחר _____, אסורה לחזור לו. _____ מותרת לחזור לו"
- If the *ketanah* left a number of husbands, some of which through *mi'un* and the others through a *get*, which can she remarry? (י"ג:ה')
- Explain the debate regarding *yibum* for a woman that had previously divorced and then remarried her husband? (י"ג:ו')
- If two brothers marry two sisters, one of which a *ketanah* (*yetomah*), and the brother married to the *gedolah* dies (without children), what is the law regarding *yibum*? (Include the three opinions.) (י"ג:ז')
- If a person married to a *pikachat* and a *chereshet*, dies without any children, to whom should *yibum* be perform? (י"ג:ח')
- If a person married to two *ketanot* (*yetamot*) dies, and one brother performs *yibum* to one and then another brother tries to perform *yibum* to the other, can the first brother stay with the *ketanah*? (י"ג:ט')
- What is the law if a man married to a *pikachat* and a *chereshet* dies (without any children) and one brother first performs *yibum* to the *chereshet* and then another brother performs *yibum* to the *chereshet*? (י"ג:י')
- What is the law if a man marries a *gedolah* and a *ketanah* (arranged by her brother) and dies (without any children) and one brother first performs *yibum* to the *ketanah* and then another brother performs *yibum* to the *gedolah*? (י"ג:יא')

Melbourne, Australia

Sunday -Thursday
10 minutes before *Mincha*
Mizrachi Shul
Melbourne, Australia

Friday & Shabbat
10 minutes before *Mincha*
Mizrachi Shul
Melbourne, Australia

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Shiur in English

Sunday -Thursday
Rabbi Mordechai Scharf
9:00am
Kollel Magen Avraham
Reemon Neighbourhood

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Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
18 March ב' ניסן	19 March ג' ניסן	20 March ד' ניסן	21 March ה' ניסן	22 March ו' ניסן	23 March ז' ניסן	24 March ח' ניסן
Yevamot 13:12-13	Yevamot 14:1-2	Yevamot 14:3-4	Yevamot 14:5-6	Yevamot 14:7-8	Yevamot 14:9-15:1	Yevamot 15:2-3

