

לפי שאין בקיאים לשמה –

Since they are not well versed in the requirement of לשמה

OVERVIEW

רבה states that the reason the חכמים require a שליח ממדה"י to say בפ"נ is because the people of מדה"י are not בקי in the requirement of לשמה. There are many requirements in הלכות גיטין, and תוספות wonders why is it that they are not בקי (only) in לשמה, but are בקי in all other גיטין. It is also necessary to understand how saying בפ"נ assures us that it was written לשמה.

asks: תוספות

ואם תאמר מאי שנה לשמה דאין בקיאים משאר הלכות גיטין -

And if you will say; why is the requirement of לשמה different (from all other requirements of writing a גט) that the people are not well versed in this requirement more than the other laws of גיטין, that people are aware of -

כגון מחובר ושינה שמו ושמה ונכתב ביום ונחתם בלילה -

for instance; the הלכות that these following גיטין are פסול: if the גט was written while it was attached to the ground¹; i.e. it was written on a leaf of a tree, or if he changed the husband's name or the wife's name² in the גט and did not write the correct names, or if the גט was written in the daytime, and the witnesses signed it the following night³. In all these cases the גט is פסול. However we do not mention that the reason the שליח says בפ"נ is to assure us that none of the above happened. Seemingly because we assume that whoever is involved in the writing of the גט is aware of all these פסולים. Why would they not be aware of the פסול of לשמה as well⁴?

תוספות will now present a possible resolution to this question and refute it:

ואין לומר דנקט לשמה דשכיח טפי -

And one cannot say that the reason רבה mentions that we are concerned that it was not written לשמה is because it is more common than the other

¹ See משנה דף כא,ב.

² See משנה דף פא,א. See there also שינה וכו' תוס' ד"ה שינה, who interprets שינה to mean that s/he was called with different names in different places, and only one name was written עיי"ש.

³ See משנה יז,א.

⁴ In fact, since the requirement of לשמה is an active and positive requirement in every גט, it would seem that everyone would be aware of it, much more than the other פסולים mentioned in תוספות, where no active requirement exists (i.e. no one usually writes a גט במחובר, that people should be aware that there even is an issue).

mentioned above, for it may be likely -

דמשכח גט ששמו כשמו ושמה כשמה ומשדר לה –

that a husband who wishes to divorce his wife **may find** a written גט **that** a stranger wrote to divorce his wife **whose name** of the husband in the גט **is the same as his name**, and the woman's **name is the same as his wife's name and he will send** this גט **to** his wife, without even going to a scribe, who would be aware that this גט is פסול -

וגם הסופר שרגיל לכתוב טופסי גיטין⁵ אגב שיטפיה מישתלי וכתב שמו ושמה -

And in addition even if the husband will go to a scribe⁶ for the גט, it is possible that the **סופר who is accustomed to write the blank forms of גיטין**; **On account of his routine he may inadvertently forget and he will write** this particulars husband's and wife's **names** filling in their names in the form (for practice).⁷ When the husband will come to this סופר to write a גט for him, the סופר may give him this finished גט, not realizing that he wrote it לשמה. Therefore this problem of שלא לשמה is more likely than those that תוספות mentioned previously, and therefore that is why רבה mentioned just this problem. However in truth -

והוא הדין שאר הלכות גיטין –

The same holds true for all the rest of the laws of גיטין, that the people of חו"ל are not בקי in them as well. Therefore, when the שליה states נחתם ובפני נכתב, he is testifying that the גט is כשר in all respects, not only was it written לשמה, but also all the הלכות of גיטין, including those mentioned by תוספות previously, were strictly adhered to.⁸ This would seem to answer תוספות question; that there is no difference in the knowledge of the laws between לשמה and the other הלכות גיטין, it is just that it is more likely that a גט may written לשמה, than other violations; therefore רבה mentioned לשמה. שאין בקיאות לשמה.

refutes this answer:

זה אינו דהא אמר לקמן (דף ט,ב) בג' דרכים שוו גיטי נשים לשחרורי עבדים⁹ -

This is not so, we cannot say that רבה was concerned about all הלכות גיטין and the testimony of בפ"נ ובפ"נ validates that all הלכות were adhered to, **because later** the גמרא **quotes** a ברייתא which **says: that גיטי נשים are similar to the שטרות** that are used to **set free כנענים**, **in three ways -**

⁵ See משנה דף כו,א, that a סופר may prepare in advance the forms of גיטין provided that he leaves out the pertinent לשמה information which is filled in at the time of the הגט.

⁶ We may assume that the scribe will be בקי in the requirement of לשמה, as opposed to the populace at large.

⁷ Perhaps he heard that there is strife in their marriage.

⁸ See 'Thinking it over' # 4.

⁹ The (ט,א) enumerates the three similarities: a) שוו למוליך ולמביא, that there is a requirement to say כשר, b) an עדי is כשר only by שחרורי עבדים, and c) that ערכאות are פסול.

ופריך והא איכא לשמה –

And the גמרא asks on the ברייתא: but there is the requirement that both these שטרות have to be written לשמה. There is a fourth similarity between גיטי נשים and גמרא continues: why does the ברייתא state only three?!

בשלמא לרבה היינו מוליך ומביא –

It is understood, according to רבה, why the ברייתא did not mention לשמה, **because לשמה is the same as מוליך ומביא** which the ברייתא did mention. מוליך ומביא is the requirement to say בפ"נ ובפ"נ both by גיטי נשים ושחרורי עבדים, when they are sent from either חו"ל לא"י or from א"י לחו"ל. Therefore according to רבה the ברייתא could not have said both לשמה and מוליך ומביא, since the whole חיוב to say בפ"נ by מוליך ומביא is on account of לשמה, therefore לשמה and מוליך ומביא are identical.

אלא לרבא קשיא –

However according to רבא it is not understood why the ברייתא did not mention לשמה, since, according to רבא the saying of בפ"נ by מוליך ומביא is on account of קיום, and has no connection to לשמה. The גמרא continues with another question on the ברייתא:

ותו בין לרבה ובין לרבא הא איכא מחובר –

And furthermore according to both רבה and רבא there is the פסול of writing the שטר while it is attached to the ground, which applies both to גיטי נשים, so why does not the ברייתא mention it. This concludes the quote from the גמרא. From this dialogue we see that the previous contention that saying בפ"נ validates all הלכות including לשמה and מחובר etc. is incorrect, as תוספות continues –

אלמא לרבה דוקא נקט לשמה בכלל מוליך ומביא ולא נקט מחובר –

It is evident that according to רבה, only the requirement of לשמה is mentioned in the גמרא as being included in מוליך ומביא, and therefore the ברייתא could not mention לשמה as an additional similarity because the requirement of לשמה and the saying of בפ"נ by מוליך ומביא are identical, **however מחובר is not mentioned** to be included in מוליך ומביא as לשמה is, as is evidenced by the fact that according to רבה there is no question why the ברייתא does not mention לשמה (because it is included in מוליך ומביא) but there is a question why the ברייתא does not mention מחובר, so obviously it is not included in מוליך ומביא. This proves conclusively that the בפ"נ only comes to validate that the גט was written לשמה and not the other הלכות גיטין. Therefore תוספות original question remains; why is it that they are בקי in all other דינים, but they are not בקי in the דין of לשמה.¹⁰

answers: תוספות

ומפרש רבינו תם דבכל הלכות גיטין בקיין –

¹⁰ See 'Thinking it over' # 5.

The ר"ת explains that the people of חוץ לארץ are בקי in all of הלכות גיטין, including the הלכות of לשמה -

אלא דהך דרשא דוכתב לה לשמה אינה נראית להם עיקר דרשה¹¹ -
וכתב לה however **this דרשא** that the חכמים derive from **what** the תורה writes **לה**
‘He should write for her’ which the חכמים interpret the word **‘לה’** to mean
‘for her sake’ that the גט must be written – specifically for her sake;
this דרשא **does not appear to** the people of חו"ל as being **the substantive**
דרשה of the word **‘לה’**.¹²

This interpretation that the people of חו"ל know the דין of לשמה, it is just that they somehow feel that it is not a correct דרשה, seems to contradict that which the גמרא says, namely; that the people of חו"ל are בקיאים לשמה, they are not aware of the דין of לשמה. לשמה therefore continues:

ואין בקיאים פירוש אין חוששין לדרשה דלשמה –
And the phrase ‘אין בקיאים’ – ‘they are not ‘well versed’, is to be
understood to mean that ‘they dismiss the דרשה of לשמה’.¹³

אין חוששין אין בקיאים anticipates another question on this interpretation that means אין חוששין –
ולאחר שלמדו דלקמן¹⁴ –

And concerning that which the גמרא says later, that we are discussing¹⁵ a time period **after** the people of חו"ל **learnt** the דין of לשמה; this would seemingly indicate that prior to this time of 'לאחר שלמדו'; the people did not yet learn or know the דין of לשמה. This is in contradiction to the פירוש ר"ת. תוספות answers:

פירוש לאחר שקיבלוה -
The meaning of לאחר שלמדו is not to be understood in its literal sense, but
rather after they accepted the דרשה of 'לה לשמה'.

¹¹ תוספות does not explain why it was only this דרשה that the people of חו"ל did not accept as opposed to other דרשות (for instance). תוספות was bothered why they were ignorant of לשמה, however תוספות accepts the fact that they rejected only the דרשה of לשמה. A possible explanation: ignorance is by definition not a conscious decision, therefore תוספות wonders how is it that all other laws they know and not this law of לשמה (see footnote # 5). However we can accept the fact that they made a conscious (but wrongful) decision as to the status of the דרשה of לשמה.

¹² They may feel that this word is coming to teach us something else.

¹³ Once they did not take this דרשה seriously, after a while they may have become less aware of its הלכות, therefore in reality they may have been actually לשמה בקיאים.

¹⁴ דף ה,א.

¹⁵ The גמרא there is discussing the case of a שליח who was a פקח שנתחרש; that קיום is sufficient, without saying בפ"נ. This presents a problem according to רבה. The גמרא answers that this case occurred לאחר שלמדו, so there is no more concern for לשמה.

Now that we know what the meaning of לשמה is, אין בקי אין is, תוספות will now discuss how the statement of בפ"נ ובפ"נ resolves this concern, for seemingly the שליה makes no mention of לשמה in his statement.

והא דפירש הקונטרס דממילא שיילינן ליה אי הוי לשמה ואמר אין -

And that which רש"י explains concerning this question; how do we know that it was written לשמה; **that inevitably we ask** the שליה, once he says בפ"נ that he was present at the writing of the גט, **whether it was** written לשמה **and** the שליה says 'yes', that it was written לשמה.

תוספות argues that this interpretation is -

אין נראה דלא משתמיט בשום דוכתא שיהא צריך לישאל -

not plausible¹⁶ for we do not find it mentioned anywhere that ב"ד is required to ask the שליה if it was written לשמה –

פירש"י asks an additional question on תוספות:

ועוד דאם כן לימא איכא בינייהו אם צריך לישאל -

And furthermore, that if this is so as רש"י claims that we ask the שליה if it was written לשמה, **let** the גמרא say **'that there is another difference between רבא and רבה'**, namely **if it is required to ask** anything additional of the שליה, after he testifies that בפ"נ ובפ"נ. According to רבא this is sufficient to be מקיים the גט; according to רבה however, we are required to ask the שליה if it was written לשמה. Since the גמרא does not mention this difference, that proves that there is no difference, and even according to רבה, saying בפ"נ is sufficient. The question remains how through his testimony of בפ"נ do we know that it was written לשמה?

תוספות answers:

ואומר רבינו יצחק דסתמא לשמה קא מסהיד¹⁷ -

¹⁶ Were we to say that the people of חו"ל (including the שליה) are not בקי in the הלכות גיטין in general, then we may be forced to accept רש"י's explanation that we ask the שליה if it was written לשמה (and any other concerns we may have), for we cannot say that the שליה is testifying that all is well, since they do not know the הלכות גיטין. It is not logical to assume that בפ"נ ובפ"נ means בסתם that all the דינים were adhered to. Once we accept תוספות's interpretation that they are בקי in all הלכות גיטין (including לשמה), they are just not חושש on this one דין of לשמה, then the שליה understands that the purpose of having him say בפ"נ is to assure us that it was written לשמה, and as תוספות concludes קא מסהיד. See מהרש"א הארוך.

¹⁷ The שליה who delivers the גט and has to testify בפ"נ is presumably called to the סופר where the גט is being written and is told to observe all that transpires so that he will be able to testify that he himself saw that it was written and signed properly. This alerts the שליה that he is required to make sure that it is being written לשמה, a requirement they knew about, but were not scrupulously following. His subsequent testimony of בפ"נ assures us that he is testifying that it was certainly written לשמה (that the husband did not find a גט טופסי גיטין etc.). nor did the סופר write their names while he was writing גיטין.

The ר"י says that it is assumable that his testimony of בפ"נ is regarding that it was written לשמה.

כדפירש בקונטרס נמי בסמוך¹⁸ (דף ג,א ד"ה לא גיזי) -

as רש"י also explains it in this manner further in the גמרא.

continues to ask:

והא דאמר לקמן מי קתני בפני נכתב ובפני נחתם לשמה -

And concerning that which the גמרא says later on¹⁹ why רבא does not agree with רבה that the reason for saying בפ"נ is on account of לשמה, for that cannot be the reason, for does the משנה teach us that the שליה is required to say: בפני נכתב ובפני נחתם לשמה, and since there is no requirement to add the word לשמה that proves that לשמה is not the reason for saying בפ"נ. This is רבא's refutation of רבה. If however we understand that רבא's refutation is just told us, how are we to understand רבא's refutation. There seemingly is no need to add the word לשמה since רבא's refutation is just told us.

replies, that the refutation of רבא should be understood as follows:

נהי דסתמא לשמה משמע -

Granted that it is assumable that he is testifying that the גט was done לשמה

מכל מקום כיון דעיקר תקנה משום לשמה הוא הוה ליה למימר בהדיא -

Nevertheless it is not sufficient to assume that לשמה קא מסהיד, because since (according to רבה) the main תקנה for saying בפ"נ is on account of לשמה, the שליה should be required to say it outright, so everyone will know without a doubt that it was done לשמה, and not to merely assume that it was done לשמה.

SUMMARY

The meaning of לשמה אין בקיאי is that the בני חו"ל in spite of knowing that there is a requirement that גט be written לשמה, as derived from the פסוק וכתב לשמה, nevertheless they did not take it seriously. The חכמים were therefore מתקן that one who brings a גט ממדה"י must testify בפ"נ ובפ"נ, which is assumed to mean that it was לשמה.

THINKING IT OVER

1. According to the מסקנא of פסול של לשמה is more apt to happen than

¹⁸ This is according to the second interpretation there in רש"י [which states: קא מסהיד (לשמה)].

¹⁹ לקמן ג,א.

the other גיטין?

2. Are all the סופרים in חו"ל בקי in לשמה?

3. How are לשמה and מוליד ומביא 'identical' according to רבה, and how are they 'different'?

4. תוספות initially proposed to answer that the בני חו"ל are not בקי in all the דינים, and the reason he mentions לשמה is because לשמה is more שכיח than the others, but בפ"נ really is removing all the concerns.²⁰ Why does not תוספות merely say that the פסול of לשמה is more שכיח, therefore the רבנן were concerned to prevent it, however the other פסולים happen so infrequently, that the רבנן saw no need to address them?! This would also resolve the difficulty from the ברייתא of מוליד ומביא which תוספות cites.²¹

5. תוספות proves that the חשש is only on account of לשמה from the גמרא later (on ט,ב);²² indicating that we are assuming that which the גמרא concludes (here) that סתם ספרי דדייני מיגמר גמירי.²³ If we assume that ספרי דדייני are גמירי, then what is תוספות question that why are we not concerned about מחובר, etc., since the ספרי are גמירי, the only concern is for לשמה that perhaps he found a גט which was שמו כשמו וכו' but there can be no concern of מחובר, etc.!²⁴

²⁰ See footnote # 9.

²¹ See כוכבא דשביט.

²² See footnote # 11.

²³ Otherwise what is תוספות proof, for perhaps (certainly) that גמרא is only according to the מסקנא.

²⁴ See בל"י אות כ and פנ"י.