

# Toldot Shimshon

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## Chapter I – Mishnah 16

רבן גמליאל אומר, עשה לה רב והסתלק מן הספק, ואל תרבה לעשר אומדות.

**Rabban Gamliel says: Appoint for yourself a teacher and avoid doubt, and do not make a habit of tithing by guesswork.**

**דעת** קדושים נמצא, שנה רבן גמליאל הוא בן בנו של הלל, כמו שכתבו רש"י ותוספות יום טוב. והוא רבן גמליאל הנקון, כמו שכתב הרמב"ם בהקדמת חיבורו הגדול, וענין שם.

**Knowledge of the Holy One is found,<sup>1</sup> this is Rabban Gamliel, who was the grandson of Hillel, as Rashi and Tosafot Yom Tov wrote. This was Rabban Gamliel the Elder, as the Rambam wrote in the introduction to his great composition, the Mishneh Torah, and see there.**

וגש כן מקום עיון, מה בא זה התנא לסדש לנו במוסר זה של "עשה לה רב", אם כבר שמענוהו מיהושע בן פרחיה לעיל בפרקיו, שקדם לו כמה דורות. וצריך לומר דלאו לגופיה איצטרך, אלא הוא מקושר עם "והסתלק מן הספק" דסמיה ליה.

**There's a point to study here: What novelty is this Tanna bringing to us with this teaching of "Appoint for yourself a teacher," if we already heard this from Yehoshua ben Perachiah above in our chapter, in Mishnah 6, as Yehoshua ben Perachiah preceded him a number of generations. It must be said that this teaching is not necessary on its own, rather it is connected with Rabban Gamliel's teaching "avoid doubt," which is adjacent to it.<sup>2</sup>**

וזהו מופת חומה, שכל התנאים הללו היתה פוננתם לקשר דבריהם זה עם זה בקשר חזק, קשר של קיימא, וכוננתם היתה להעלות קטרת ולבונה זכה דקה מן הדקה. ולא הוציאו מפיהם אלו המוסרים באקראי בעלמא, ו"כל אשר יעלה המזלג", בלא דעת ובלא תבונה בסדר המוקדם והמאוחר. אלא תוכם רצויה אהבה, וכל פנים קדש הלולים לה! זאת קומתם דמתה לתמר, ושדים לאשכולות, שיש להם פתח ונטף מושפכים ומורכבים זה על זה. ולכן בחיבורנו זה אמרנו לעלות בתמר ולאחוז בסנסיניו, לפרש קצת קצת מהם, דבוקים ומיוחדים יחד, ביחוד ברכה וקדושה, כפי אשר יורונו מן השמים, ונפתולי אלהים נפתלנו.

**This is a striking example, that all these Tannaim had the intention of linking their words with each other in a strong bond, a bond that would last, and their intention was to**

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<sup>1</sup> Cf. Prov. 9:10: "The beginning of wisdom is fear of the L-rd, and knowledge of the Holy One is understanding," and Prov. 2:5: "Then you will understand the fear of the L-rd, and attain knowledge of G-d."

<sup>2</sup> While many modern editions insert a comma after "appoint for yourself a teacher," the original text came to us before the introduction of modern punctuation, and is open to interpretation.

kindle incense and extremely fine pure frankincense. Their mouths did not spout these teachings by chance, and “whatever the fork brought up,”<sup>3</sup> “without knowledge and without thinking”<sup>4</sup> of the order of earlier or later [sequence].<sup>5</sup> Rather, within they are paved with love,<sup>6</sup> all their fruit shall be holy, for giving praise unto G-d.<sup>7</sup> This is their stature, which is like a date palm,<sup>8</sup> and their breasts [likened] to clusters [of grapes],<sup>9</sup> for they have sprigs over one another and they hang and descend,<sup>10</sup> lying and riding on each other.<sup>11</sup> Therefore, in our composition we said [we should] climb the palm tree and grasp its branches,<sup>12</sup> to explain a small bit of them, stuck together and unified, in the unification of blessing and holiness, as they will be illuminated from Heaven, and with wrestlings of G-d we have wrestled.<sup>13</sup>

וְהָיָה כִּי כֹן, כְּנוֹנֵת הַתְּנָא הִנֵּה לְהַדְרִיכְנוּ בְּנִתְיָבוֹת הַקְּמָה וּמוֹסָר לְפִי שְׁטָתוֹ, דְּבָרֵי שְׁפָרְק ד' דְּגִיטִין תְּנוּ, בְּרֵאשׁוֹנָה, הִנֵּה עוֹשֶׂה בֵּית דִּין בְּמָקוֹם אַחֵר וּמִבְּטָלוֹ. הַתְּקִין רַבָּן גַּמְלִיאֵל הַזֶּקֶן שְׁלֵא יִהְיוּ עוֹשִׂים כֵּן, מִפְּנֵי תַקּוּן הָעוֹלָם. וּמִפְּרֵשׁ רַש"י בְּגִמְרָא, מִפְּנֵי תַקְנֵת מַמְזָרִים, שְׁלֵא יִהְיוּ מַמְזָרִים בְּיִשְׂרָאֵל.

**Here it is thus: the intention of this Tanna is to guide us in the path of wisdom and morality according to his opinion, according to the beginning of chapter 4 of tractate Gittin:**

**Initially, [one who wanted to cancel a bill of divorce that he had already sent to his wife] would convene a court elsewhere and render [the bill of divorce] void [in the presence of the court before it reached his wife]. Rabban Gamliel the Elder instituted [a rabbinic ordinance] that one must not do this, for the betterment of the world [out of concern that his wife would receive the bill of divorce, not realizing it had been voided, and would marry another man].**

- Mishnah Gittin 4:2; Gittin 32a

**Rashi explained in his commentary on the Gemara, because of the rabbinic ordinance to prevent *mamzerim*,<sup>14</sup> that there shouldn't be *mamzerim* in Israel.**

<sup>3</sup> I Sam. 2:14.

<sup>4</sup> Menachem ben Binyamin Recanati, *Commentary on the Torah*, Judges 6 (composed Venice c.1250–c.1290); Shimon ben Tzemach Duran, *Sefer haTashbetz* II:72:2 (composed Algiers c.1384–c.1444); Joseph Albo, *Sefer halkarim*, Ma'amar 1, Chapter 2 (composed Castille 1425); Rabbi Isaiah HaLevi Horovitz, *Shnei Luchot haBrit*, Judges, Torah Ohr (composed Israel c.1611–c.1631).

<sup>5</sup> Rashi on Gen. 1:1.

<sup>6</sup> Cf. Song of Songs 3:10.

<sup>7</sup> Cf. Lev. 19:24.

<sup>8</sup> Cf. Song of Songs 7:8.

<sup>9</sup> Cf. Song of Songs 7:9.

<sup>10</sup> Mishnah Peah 7:4.

<sup>11</sup> Rambam, *Mishneh Torah*, Those Who Defile Bed or Seat 3:1.

<sup>12</sup> Cf. Song of Songs 7:9.

<sup>13</sup> Gen. 30:8.

<sup>14</sup> A *mamzer* is sometimes mistranslated as “bastard.” However, it is not related to a child born out of wedlock, but rather to a child born out of adultery or incest.

ועוד איתא שם בסמוך, תגו רבנן, בטלו מבוטל, דברי רבי. רבן שמעון בן גמליאל אומר, אינו מבוטל, דאם כן, מה כח בית דין יפה. ופרש רש"י, בטלו לפני בית דין, לאחר תקנת רבן גמליאל וכו', מה כח בית דין של תקנת רבן גמליאל יפה, אם דבריהם בטלים על ידי זה, עכ"ל.

**Also, it is brought there in the adjacent text,**

**The Sages taught:** [Even after Rabban Gamliel the Elder instituted that a husband cannot use a court to render void a bill of divorce when not in the presence of the wife or the agent], if **he** [nevertheless] **rendered it void** [through a court, the bill of divorce] **is rendered void;** [this is] **the statement of Rabbi** [Yehuda HaNasi].

**Rabban Shimon ben Gamliel says: He is unable to render it void, . . . as if so, how is the power of the court greater** [than an individual's power]?

- Gittin 33a

**Rashi explained: If he rendered it void before a court, after the rabbinic ordinance of Rabban Gamliel, what power is there to a court observing the ordinance of Rabban Gamliel, if their words are invalidated by this husband's actions.** [I.e., the court must follow the ordinance established by Rabban Gamliel, and cannot accept the husband's statement that he is voiding the bill of divorce.]

ולרמוז על זה, פתח פיו בהקמה ובמוסר, "עשה לה רב והסתלק מן הספק", ועיקר המוסר ש'לו הוא "והסתלק מן הספק", שיש לאדם לעשות כל מאמצי כחו, שלא ליפנס בספק איסור בכל מעשה שיבוא לידו. ומחמת זה התקין רבן גמליאל, שלא יהיו עושים כן לבטל הגט בפני בית דין של מקום אחר, כדי להסתלק מספק ממזרים, שלא יהיו בישראל. ואף אם יבוא ויבטלנו לאחר תקנתו זו, יש לנו לדון שלא יהיה מבוטל, דאם כן, מה כח בית דין יפה.

**To hint at this, he opened his mouth with wisdom and morality, saying, "Appoint for yourself a teacher and avoid doubt," and the main point of his teaching is to avoid doubt, that a man has to make every effort in his power, that he should not enter into a possible prohibition in any incident that comes to him. Because of this, Rabban Gamliel decreed that there should be no such thing as annulling the divorce before a court in a different place, in order to distance from the possibility of mamzerim, that there should not be such a thing in Israel. Even if he comes before a court and voids the bill of divorce after this ordinance of Rabban Gamliel, we should rule that there will be no voiding of the bill of divorce, for if so, how is the power of the court greater** [than an individual's power]?

ונהו "עשה לה רב", שהרב שלה והבית דין שלה, יהיה לו כח יפה, ובזה בודאי תסתלק מן הספק של איסור. אבל אם לא מעשה לה רב, שלא תאמר הסברא של מה כח בית דין יפה, וכסברת רבי דאמר, אם בטלו מבוטל, אז אי אפשר להסתלק מן הספק, שהרי לפעמים האשה אינה יודעת מהביטול שעשה בעלה, והולכת ונשאת, ובניה ממזרים בישראל.

**This is the meaning of "Appoint for yourself a teacher," that your teacher and your court should have a greater power, and in this way certainly you will distance yourself from**

**a possible prohibition. But if you will not appoint for yourself a teacher, that you don't say to yourself the opinion that a court should have a greater power, and like the opinion of Rabbi [Yehuda HaNasi] who said, "if he rendered it void, [the bill of divorce] is rendered void," then it's impossible to distance oneself from doubt. For in such a case, sometimes the woman would not know of the nullification of the bill of divorce by her husband, and she will go and marry another, and her children will be *mamzerim* in Israel.**

ואחר כך הוסיף לומר, "ואל תרבה לעשר אמדות", והקושיא מבוארת, שקהיה לו לומר "ואל תעשר אמדות", ומאי "ואל תרבה". ונראה לומר, דאפילו למאן דאמר דמוותר לעשר מאומד, דהיינו לפירוש התוספות היכא דלא נתפנו להרבבות, וכן לאבא אלעזר בן גימל, וכמו שהאריך בנה התוספות יום טוב, ונעין שם. עם כל זה, עצה טובה קא משמע לן רבן גמליאל הזקן, שלא ירבה לעשות כן, פן יבוא לידי חשד, שיחשדוהו שלא נתן כל הראוי ליתן, ומיעט במעשרותיו.

**Afterward, [Rabban Gamliel] added, saying, "and do not make a habit of tithing by guesswork." The question that leads to an explanation is that he should have said, "and do not tithe by guesswork," and why did he say, "and do not make a habit"? This seems to say, that even in the Gemara where it is said that it is permissible to tithe by guesswork,<sup>15</sup> which according to the explanation of the Tosafot is that he only intended to estimate generously to ensure that he was giving the right amount, but he **did not intend to add a lot** of the amount he was tithing.<sup>16</sup> The rabbis held that it was improper to designate too much *ma'aser*, as giving more than one fifth was likely to cause one to become impoverished, and then he would become a burden upon others. [That one can tithe by estimate] is like the opinion of Abba Elazar ben Gimel,<sup>17</sup> and as the Tosfot Yom Tov discussed at length, and see there.**

**Despite all this, Rabban Gamliel the Elder comes to teach us, not to make a habit of doing this, lest one come under suspicion, that people will suspect him of not giving all that he should give, and that he does not give enough tithes.**

ואזיל רבן גמליאל הזקן לשיטתיה, דתנון בפרק ד' דגיטין, בראשונה הנה משנה שמו ושמה, שם עירו ושם עירה. התקין רבן גמליאל הזקן, שיהא כותב איש פלוני וכל שם שיש לו, אשה פלונית וכל שם שיש לה, מפני תיקון העולם. ופרש רש"י, שלא יוציאו לעז על בניה מן השני, לאמר, לא גרשה בעלה, שאין זה שמו, עכ"ל. דשמע מינה, דסבכתו היא לחוש ללעז ולחשד. והכא נמי, "אל תרבה לעשר אמדות", פן יוציאו לעז עליו שלא נתן כראוי.

**Rabbi Gamaliel the Elder came to his opinion, as it is taught in the 4<sup>th</sup> chapter of tractate Gitten:**

**Initially, [the husband] would change his name and her name, [from the names by which they were known where they formerly lived to the names by which they were known where the bill of divorce was written, and write] the name of his city and the name of her city. Rabban Gamliel the Elder instituted that [the**

<sup>15</sup> Menachot 54b–55a; Gittin 30b–31a.

<sup>16</sup> Tosafot for Gittin 31a.

<sup>17</sup> Menachot 54b–55a.

scribe] **should write** [in the bill of divorce]: [The] **man so-and-so, and any** [other] **name that he has,** [and: The] **woman so-and-so, and any** [other] **name that she has, for the betterment of the world.** [Perhaps the people of a different city would not recognize the name written in the bill of divorce, and would claim that this bill of divorce does not belong to her.]

- Mishnah Gittin 4:2; Gittin 34b

**Rashi explained: “So that people would not cast aspersion on [the legitimacy of] her children from the second [name of her] husband, to say, that her husband didn’t divorce her for that is not his name.”**

**We hear from this, that [Rabban Gamliel’s] opinion is to worry about people casting aspersion and having suspicion. Here too, by saying, “do not make a habit of tithing by guesswork,” he means lest people cast aspersion on a person that he is not giving as much as he should.**

ואתי שפיר סדר המשנה, שמתחלה הנהיר שלא יבא לידי ספק איסור, "עשה לה רב והסתלק מן הספק". ואחר כך, שלא יבוא לידי ספק חשד. אמנם לפי פירוש התוספות יום טוב, ש"אל ירבה", פן יבוא לטעות, לא הנה צריכא למימר קלל "אל תרבה", שהרי כבר אמר "והסתלק מן הספק". ומזה נשמע שלא ירבה לעשר אומדות, כי יש ספק שמה יבא לטעות.

**The order of the Mishnah is fine, that initially, he is warning that in order that one shouldn’t come to a possible prohibition, “appoint for yourself a teacher and avoid doubt.” Afterward, that he shouldn’t come to be viewed with possible suspicion.**

**Actually, according to the explanation of Tosafot Yom Tov of “do not make a habit,” lest one come to err, it was not at all necessary to say “do not make a habit,” for he already said, “and avoid doubt.” From this, we hear that one shouldn’t make a habit of tithing by guesswork, because there is a doubt lest one come to err.**

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