**תליוהו וזבין (בבא קמא סב.) Forced Transactions in Jewish Law –**

1. **בבא קמא סב.**

אֲמַר לֵיהּ רַב אַדָּא בְּרֵיהּ דְּרַב אַוְיָא לְרַב אָשֵׁי: מָה בֵּין גַּזְלָן לְחַמְסָן? אֲמַר לֵיהּ: חַמְסָן – יָהֵיב דְּמֵי, גַּזְלָן – לָא יָהֵיב דְּמֵי.

Rav Adda, son of Rav Avya, said to Rav Ashi: Concerning two terms used to describe those who take another’s property against his will, a *gazlan* and a *ḥamsan*, what is the difference between them? Rav Ashi said to him: A *ḥamsan* gives money for what they take from its owner, albeit against the owner’s will, whereas a *gazlan* does not give money.

אֲמַר לֵיהּ: אִי יָהֵיב דְּמֵי – חַמְסָן קָרֵית לֵיהּ?! וְהָאָמַר רַב הוּנָא: תְּלוּהּ וְזַבֵּין – זְבִינֵיהּ זְבִינֵי! לָא קַשְׁיָא, הָא דְּאָמַר ״רוֹצֶה אֲנִי״, הָא דְּלָא אָמַר ״רוֹצֶה אֲנִי״.

Rav Adda said to him: If one gives money, do you still call them a *ḥamsan*? Doesn’t Rav Huna say: If one was strung up so that another could coerce them to sell a certain item, the sale is valid? Rav Ashi answered: This is not difficult: where the seller says, “I want to,” the buyer is not a *ḥamsan*, but where the seller does not say this, the buyer is still a *ḥamsan* despite having given money.

1. **ויקרא א:ג**

אִם־עֹלָ֤ה קׇרְבָּנוֹ֙ מִן־הַבָּקָ֔ר זָכָ֥ר תָּמִ֖ים יַקְרִיבֶ֑נּוּ אֶל־פֶּ֜תַח אֹ֤הֶל מוֹעֵד֙ יַקְרִ֣יב אֹת֔וֹ לִרְצֹנ֖וֹ לִפְנֵ֥י ה'׃

If one’s offering is a burnt offering from the herd, one shall make their offering a male without blemish. One shall bring it to the entrance of the Tent of Meeting, for their acceptance before God.

1. **ספרא, ויקרא דבורא דנדבה, פרשה ג ט״ו**

..."יקריב אותו" – מלמד שכופין אותו; יכול על כרחו? תלמוד לומר "לרצונו". כיצד? כופין אותו עד שיאמר "רוצה אני!"

“One shall bring it” – teaches that we can coerce the person; possibly against their will? Therefore, the verse follows with “for their acceptance” (meaning here, “by their own will”). How so? We force the person until the person says, “I want to (offer this sacrifice).”

1. **בבא בתרא מז:-מח.**

אָמַר רַב הוּנָא: תַּלְיוּהוּ וְזַבֵּין – זְבִינֵיהּ זְבִינֵי. מַאי טַעְמָא? כֹּל דִּמְזַבֵּין אִינִישׁ, אִי לָאו דַּאֲנִיס – לָא הֲוָה מְזַבֵּין, וַאֲפִילּוּ הָכִי זְבִינֵיהּ זְבִינֵי. וְדִילְמָא שָׁאנֵי אוּנְסָא דְנַפְשֵׁיהּ מֵאוּנְסָא דְאַחֲרִינֵי!

Rav Huna says: If one was suspended, e.g., from a tree, and thereby coerced to sell a certain item, and sold it, their sale is valid. Why? Because one would never sell anything if not for the need for money, and yet the sale is valid. But perhaps duress that results from one’s own needs is different from duress brought about by another person?!

אֶלָּא כִּדְתַנְיָא: ״יַקְרִיב אֹתוֹ״ – מְלַמֵּד שֶׁכּוֹפִין אוֹתוֹ. יָכוֹל בְּעַל כׇּרְחוֹ? תַּלְמוּד לוֹמַר: ״לִרְצוֹנוֹ״. הָא כֵּיצַד? כּוֹפִין אוֹתוֹ עַד שֶׁיֹּאמַר: ״רוֹצֶה אֲנִי״.

Rather, the basis for Rav Huna’s ruling is as it is taught in a *baraita*: “one shall bring it” (Vayikra/Leviticus 1:3). “One shall bring it” – teaches that we can coerce the person; possibly against their will? Therefore, the verse follows with “for their acceptance” (meaning here, “by their own will”). How so? We force the person until the person says, “I want to (offer this sacrifice).”

וְדִלְמָא שָׁאנֵי הָתָם, דְּנִיחָא לֵיהּ דְּתִיהְוֵי לֵיהּ כַּפָּרָה! וְאֶלָּא מִסֵּיפָא: וְכֵן אַתָּה אוֹמֵר בְּגִיטֵּי נָשִׁים – כּוֹפִין אוֹתוֹ עַד שֶׁיֹּאמַר: ״רוֹצֶה אֲנִי״.

But perhaps there it is different, since one is amenable to achieving atonement. Rather, prove Rav Huna’s ruling from the latter clause of a mishnah (*Arakhin* 21a): And similarly you find this law with bills of divorce, that when the court rules that a man must divorce his wife, they coerce him until he says: I want to divorce my wife.

וְדִלְמָא שָׁאנֵי הָתָם, דְּמִצְוָה לִשְׁמוֹעַ דִּבְרֵי חֲכָמִים! אֶלָּא סְבָרָא הוּא – אַגַּב אוּנְסֵיהּ גָּמַר וּמַקְנֵה

But perhaps there it is different, because it is a mitzvah to listen to the statement of the Sages. Rather, (Rav Huna’s ruling) is based on logical reasoning: By means of being coerced, the seller willingly decides to sell the field and transfers it.

1. **רשב"ם בבא בתרא מח.**

אלא - רב הונא מסברא דידיה קאמר דמתוך יסורים גמר בלבו ומקני הואיל ואיכא תרתי יסורים ומתן מעות דלא מפסיד מידי:

Rather – Rav Huna said this of his own logic: that because of the pain, he had conviction in his heart and transferred the item. Because there are two factors – pain and the giving of money, so that the seller does not lose anything.

1. **רמב"ם משנה תורה הלכות גירושין ב:כ**

מִי שֶׁהַדִּין נוֹתֵן שֶׁכּוֹפִין אוֹתוֹ לְגָרֵשׁ אֶת אִשְׁתּוֹ וְלֹא רָצָה לְגָרֵשׁ. בֵּית דִּין שֶׁל יִשְׂרָאֵל בְּכָל מָקוֹם וּבְכָל זְמַן מַכִּין אוֹתוֹ עַד שֶׁיֹּאמַר רוֹצֶה אֲנִי וְיִכְתֹּב הַגֵּט וְהוּא גֵּט כָּשֵׁר. וְכֵן אִם הִכּוּהוּ עַכּוּ"ם וְאָמְרוּ לוֹ עֲשֵׂה מַה שֶּׁיִּשְׂרָאֵל אוֹמְרִין לְךָ וְלָחֲצוּ אוֹתוֹ יִשְׂרָאֵל בְּיַד הָעַכּוּ"ם עַד שֶׁיְּגָרֵשׁ הֲרֵי זֶה כָּשֵׁר. וְאִם הָעַכּוּ"ם מֵעַצְמָן אֲנָסוּהוּ עַד שֶׁכָּתַב הוֹאִיל וְהַדִּין נוֹתֵן שֶׁיִּכְתֹּב הֲרֵי זֶה גֵּט פָּסוּל.

When a man whom the law requires to be compelled to divorce his wife does not desire to divorce her, the court should have him beaten until he consents, at which time they should have a *get* written. The *get* is acceptable. This applies at all times and in all places.
Similarly, if gentiles beat him while telling him: "Do what the Jews are telling you to do," and the Jews have the gentiles apply pressure on him until [he consents] to divorce his wife, the divorce is acceptable. If, however, the gentiles compel him to write [a *get*] on their own initiative, the *get* is [merely] unacceptable. The rationale is that the law requires him to give a divorce.

וְלָמָּה לֹא בִּטֵּל גֵּט זֶה שֶׁהֲרֵי הוּא אָנוּס בֵּין בְּיַד עַכּוּ"ם בֵּין בְּיַד יִשְׂרָאֵל. שֶׁאֵין אוֹמְרִין אָנוּס אֶלָּא לְמִי שֶׁנִּלְחַץ וְנִדְחַק לַעֲשׂוֹת דָּבָר שֶׁאֵינוֹ מְחֻיָּב בּוֹ מִן הַתּוֹרָה לַעֲשׂוֹתוֹ כְּגוֹן מִי שֶׁהֻכָּה עַד שֶׁמָּכַר אוֹ עַד שֶׁנָּתַן. אֲבָל מִי שֶׁתְּקָפוֹ יִצְרוֹ הָרַע לְבַטֵּל מִצְוָה אוֹ לַעֲשׂוֹת עֲבֵרָה וְהֻכָּה עַד שֶׁעָשָׂה דָּבָר שֶׁחַיָּב לַעֲשׂוֹתוֹ אוֹ עַד שֶׁנִּתְרַחֵק מִדָּבָר הָאָסוּר לַעֲשׂוֹתוֹ אֵין זֶה אָנוּס מִמֶּנּוּ אֶלָּא הוּא אָנַס עַצְמוֹ בְּדַעְתּוֹ הָרָעָה. לְפִיכָךְ זֶה שֶׁאֵינוֹ רוֹצֶה לְגָרֵשׁ מֵאַחַר שֶׁהוּא רוֹצֶה לִהְיוֹת מִיִּשְׂרָאֵל וְרוֹצֶה הוּא לַעֲשׂוֹת כָּל הַמִּצְוֹת וּלְהִתְרַחֵק מִן הָעֲבֵרוֹת וְיִצְרוֹ הוּא שֶׁתְּקָפוֹ וְכֵיוָן שֶׁהֻכָּה עַד שֶׁתָּשַׁשׁ יִצְרוֹ וְאָמַר רוֹצֶה אֲנִי כְּבָר גֵּרֵשׁ לִרְצוֹנוֹ.

Why is this *get* not void? For he is being compelled - either by Jews or by gentiles - [to divorce] against his will [and a *get* must be given voluntarily]. Because the concept of being compelled against one's will applies only when speaking about a person who is being compelled and forced to do something that the Torah does not obligate him to do - e.g., a person who was beaten until he consented to a sale, or to give a present. If, however, a person's evil inclination presses him to negate [the observance of] a mitzvah or to commit a transgression, and he was beaten until he performed the action he was obligated to perform, or he dissociated himself from the forbidden action, he is not considered to have been forced against his will. On the contrary, it is he himself who is forcing [his own conduct to become debased].
With regard to this person who [outwardly] refuses to divorce [his wife] - he wants to be part of the Jewish people, and he wants to perform all the mitzvot and eschew all the transgressions; it is only his evil inclination that presses him. Therefore, when he is beaten until his [evil] inclination has been weakened, and he consents [to the divorce], he is considered to have performed the divorce willfully.

לֹא הָיָה הַדִּין נוֹתֵן שֶׁכּוֹפִין אוֹתוֹ לְגָרֵשׁ וְטָעוּ בֵּית דִּין שֶׁל יִשְׂרָאֵל אוֹ שֶׁהָיוּ הֶדְיוֹטוֹת וַאֲנָסוּהוּ עַד שֶׁגֵּרֵשׁ הֲרֵי זֶה גֵּט פָּסוּל הוֹאִיל וְיִשְׂרָאֵל אֲנָסוּהוּ יִגְמֹר וִיגָרֵשׁ. וְאִם הָעַכּוּ"ם, אֲנָסוּהוּ לְגָרֵשׁ שֶׁלֹּא כַּדִּין אֵינוֹ גֵּט. אַף עַל פִּי שֶׁאָמַר בְּעַכּוּ"ם רוֹצֶה אֲנִי וְאָמַר לְיִשְׂרָאֵל כִּתְבוּ וְחִתְמוּ הוֹאִיל וְאֵין הַדִּין מְחַיְּבוֹ לְהוֹצִיא וְהָעַכּוּ"ם אֲנָסוּהוּ אֵינוֹ גֵּט:

[Different laws apply when] the law does not require him to divorce his wife, and a Jewish court or simple people compel him to divorce her. This *get* is deemed unacceptable. Since, however, it was Jews who compelled him, he [is advised] to complete the divorce [in a proper manner]. If, by contrast, gentiles compel him to divorce when it was not required, the divorce is void. Even though he tells the gentiles that he consented and tells the Jews to write and sign [a *get*], since the law does not require him to divorce, and he was compelled to do so by gentiles, the *get* is void.