

## OVERVIEW of the Daf

### 1) A nullified גט (cont.)

R' Nachman finishes citing the source for his position that a גט must be nullified in the presence of two people.

R' Sheishes refutes this source as proof to R' Nachman's position.

R' Nachman suggests another source that R' Sheishes also refutes.

The refutation of R' Sheishes is unsuccessfully challenged.

### 2) "The benefit of society"

R' Yochanan and Reish Lakish disagree about the meaning of the Mishnah's phrase "מפני תיקון עולם".

Each Amora elaborates on the rationale of his position.

### 3) Nullifying a גט

A Baraisa presents a dispute whether a husband can nullify a גט in violation of R' Gamliel's enactment.

The Gemara challenges the position of R' Shimon ben Gamliel who maintains Biblically the גט was nullified and out of concern for the reputation of Beis Din the גט is considered valid.

The mechanism that allows Chazal to make this woman divorced is explained.

Ravina challenges this explanation.

R' Ashi answers the challenge.

A Baraisa presents a dispute between Rabbi and R' Shimon ben Gamliel whether a husband who appointed ten people to write a גט can revoke the authority of some of those people when not in the presence of others.

The point of dispute is identified.

An alternative explanation of the dispute is presented.

A question is asked that highlights the difference between the two different explanations of the dispute.

An answer to the Gemara's inquiry from a Baraisa is suggested.

R' Ashi rejects this suggested resolution and proof to R' Ashi's interpretation of the Baraisa is cited.

The proof to R' Ashi's interpretation of the Baraisa is rejected.

R' Shmuel bar Yehudah reports that R' Abba issued rulings concerning the two disputes between Rabbi and R' Shimon ben Gamliel, and in one case he ruled like Rabbi and in the other like R' Shimon ben Gamliel but he does not recall which one was which.

R' Yosef suggests a method of determining in which case we rule like Rabbi and in which case we rule like R' Shimon ben Gamliel.

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## Distinctive INSIGHT

*Instructing a group to write and deliver a גט*

אמר לעשרה כתבו גט לאשתי

In the Mishnah at the beginning of the perek (32a) Rabban Gamliel issued a decree that a man who had appointed an agent to deliver a גט to his wife may only cancel this agency in the presence of the agent. The halacha in our Baraisa is that if a husband instructs ten people to write a גט for his wife, there is a dispute whether the husband may negate the שליחות of two of them while not in the presence of the other eight messengers. Rebbe says that he may do so, while Rabban Shimon ben Gamliel holds that the ruling of Rabban Gamliel in the Mishnah is applied also in this case, and the husband may not nullify the agency of any of the ten without all of them present.

Rambam writes (Hilchos Geirushin 6:18) that when the husband directs a group of ten people to write a גט for his wife, the case is where he told them, "כתבו ותנו גט לאשתי"—write and give a divorce to my wife." Apparently, Rambam holds that only when the husband tells the messengers to give the גט do we know that he wants them not only to write the document, but to also take it and bring it to the woman.

גרש ירחים explains that the case of appointing messengers to write and deliver the גט could be where the husband simply said "כתבו," if it is evident that the husband's intent is for the messengers to complete the process. For example, the case could be where the husband is about to set out to sea or with a caravan. Here, he definitely intends for the גט to be completed. The חידוש in this case would be that although the husband is clearly distracted and hurried, Rebbe is of the opinion that the husband only intends to cancel the two messengers with whom he is speaking. We do not say that his actual intentions are to cancel all of them and due to his haste he only managed to address the two of them. Rather, only these two agencies are cancelled, but the others remain effective. ■

## REVIEW and Remember

1. What is the meaning of the phrase מפני תיקון עולם?  
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2. Explain שבטלה מקצתה בטלה כולה.  
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3. How does the Gemara prove that the Baraisa addresses a case of witnesses for the delivery of a גט (עדי הולכה)?  
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4. How did R' Yoshiya assure that a husband would not retract his agreement to write a גט for his wife?  
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# HALACHAH Highlight

## Reversing kiddushin

The rabbis reversed his kiddushin

**T**here was once an incident of a woman who was told by two witnesses that her husband died and she married and had a child with her second husband. It later became known that her first husband was alive and according to the letter of the law she must receive a גט from both husbands and her child is a mamzer. Due to various exceptional circumstances there was additional interest in this case to find a leniency that the child from the second marriage should not be classified as a mamzer. Maharsham<sup>1</sup> wrote a responsum that he characterizes as להלכה ולא למעשה—non-practical halacha—based on Tosafos in our Gemara. Tosafos<sup>2</sup> writes that one could retroactively erase someone's mamzer status by instructing the husband to send a גט to his wife with an agent and then nullify the agent's authority in the presence of a single witness. Once this is done the rabbis reverse the original kiddushin, as mentioned in our Gemara and it emerges that she was never married to the first husband and the child loses his mamzer status.

Rav Shlomo Zalman Auerbach<sup>3</sup> wrote that he heard of many instances of rabbis who entertained the possibility of implementing the ruling of Maharsham on a practical level so he took it upon himself to analyze the relevant issues to see why Maharsham, himself, wrote that his responsa was not to be applied as practical halacha. After a lengthy analysis of the different issues he summarized the different weaknesses in Ma-

# STORIES Off the Daf

## Finding a Halachic way

"ואפקינהו רבנן לקידושין מיניה..."

**S**ometimes tragedies cause the gedolei hador to try and find a halachic way around serious prohibitions. Although sometimes they find a halachic way, other times there is no halachic way.

On one occasion, a certain kohen's wife was anusah by a Jewish man. As everyone knows, the wife of a kohen who has relations with another under any circumstances may no longer live with her husband. Understandably, the husband was beside himself with grief and searched high and low for some kind of

way around this problem. One talmid chacham suggested that he send a messenger with a גט to his wife and nullify it on the way. Since on today's daf we see that the chachamim nullified the marriage retroactively, this would mean that he was never married to her. It would be as if she was abused as a single girl. Since that particular perpetrator did not make her halachically prohibited to a kohen, she could remarry and live happily ever after.

But this is a huge responsibility which this talmid chacham could not bear. Only one of the greatest rabbanim in the generation could permit such a case and avoid the censure of people who disagree, since only such a person has broad enough halachic "shoulders" to

bear such a responsibility. They consulted with the Oneg Yom Tov, ז"ל, if this calculation could truly salvage their broken marriage.

"Unfortunately, this calculation is very flawed and will not permit the woman to her husband. Although you are correct that giving the גט will retroactively nullify their marriage halachically, the Ramban writes that the sages only nullified the marriage min haTorah. But midirabanan they are married. Sadly, even after the annulment of their marriage in this manner, this woman would still require a גט since she was married midirabanan to a kohen when the tragedy occurred."<sup>1</sup> ■

<sup>1</sup> שו"ת עונג יוי"ט סוף סי' קמ"ט

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The Gemara demonstrates that R' Yoshiyah of Usha also ruled in one case like Rabbi and in the other case like R' Shimon ben Gamliel.

Rava in the name of R' Nachman rules in accordance with the position of Rabbi in both cases.

The Gemara challenges the implication of R' Nachman's position that by ruling like Rabbi he rejects the concern for the reputation of Beis Din. ■

harsham's approach, some of which are presented here. Many authorities maintain that even after the rabbis reverse the original kiddushin the child still remains a mamzer on a Rabbinic level, thus the goal of saving the child from mamzer status will not be fully realized. Additionally, this approach only works according to Tosafos but there is a long list of authorities who maintain that the rabbis did not reverse the kiddushin and according to all those opinions the child remains a mamzer even on a Biblical level. Lastly, we only know that when the husband behaves improperly by revoking the agency of the messenger can we say that the rabbis reversed the kiddushin. But in our case the husband is following the instructions of Beis Din when he revokes the agency of the messenger and there is no precedent that under such conditions the rabbis would reverse the kiddushin. For these and additional reasons he rejects the notion that the approach of Maharsham could be implemented on a practical level. ■

1. שו"ת מהרש"ם ח"א סי' ט'

2. תוס' ד"ה ואפקינהו

3. שו"ת מנחת שלמה ח"א סי' ע"ו. ■

