

OVERVIEW of the Daf

1) The reputation of Beis Din (cont.)

The Gemara concludes its challenge to the implication of R' Nachman's position that by ruling like Rebbi he rejects the concern for the reputation of Beis Din.

The Gemara answers this challenge.

2) Nullifying a גט

Abaye and Rava dispute the implication of a husband's declaration in a particular incident.

The point of dispute is explained.

Rava identifies the source of his ruling and Abaye's response is recorded.

Abaye identifies the source of his ruling and Rava's response is recorded.

Abaye suggests an alternative source for his ruling and Rava responds to this source as well.

A related incident is presented.

A second incident is recorded.

The Gemara issues rulings related to three cases.

3) **MISHNAH:** The Mishnah presents another enactment of R' Gamliel related to the way names are written in gittin.

4) R' Gamliel's enactment

R' Yehudah in the name of Shmuel presents the incident that inspired R' Gamliel to make his enactment.

R' Ashi asserts that R' Gamliel's enactment applies only when a person has more than one name.

R' Abba notes that other Amoraim agree with this qualification to R' Gamliel's ruling.

A Baraisa is cited that supports R' Ashi's qualification to R' Gamliel's ruling.

An inference is drawn from the last ruling of the Baraisa.

A ruling related to names is recorded.

5) **MISHNAH:** The Mishnah presents three more Rabbinic enactments, one from R' Gamliel, that were established for the benefit of society.

6) The widow's vow to collect her kesubah

The Gemara questions why the Mishnah taught that a widow must take a vow when anyone who wishes to collect from orphans must first take an oath.

The Gemara begins to explain the necessity for the Mishnah to address specifically the widow. ■

Distinctive INSIGHT

The power of the court to divide an estate for minors

בית דין מעמידין להן אפוטרופוס ובוררין להן חלק יפה

In the Mishnah (32a), Rabban Gamliel ruled that a husband should not nullify the agents he sent to deliver a גט unless he does so in their presence. If a husband acts in defiance of this decree, Rebbe ruled that the husband's retraction is nevertheless valid, and the גט is not valid. Rabban Shimon ben Gamliel argues and says that the authority of the court must be honored, and we therefore enforce Rabban Gamliel's ruling. The husband's nullifying the agents is disregarded, and the גט remains valid.

Rav Nachman issued two rulings which are seemingly inconsistent. On the one hand, he ruled according to Rebbe, that the husband's nullifying of the agents power is effective, although this undermines the decree of Rabban Gamliel. This indicates that we do not say "אם כן מה כח בית דין יפה", and we do not force the authority of the court. On the other hand, on our daf, in the name of Shmuel, Rav Nachman rules that a court appoints a supervisor who assesses the value of an estate and divides it among the heirs who are minors. The decision made is final and the orphans cannot appeal it when they reach majority. Here, we use and enforce the rule of "אם כן מה כח בית דין יפה".

The Gemara resolves this problem by noting that the authority of the court will not supersede the actions of the husband in a case of marriage and the canceling of a גט. This is a case of איסור. However, in a monetary case such as where the orphans are given a portion of their father's estate, the court authority is enforced.

Rashi explains that the case where the court intervenes and appoints a supervisor to help divide the estate is only where all the heirs are minors. Many of the Rishonim, however, explain that the case is where some of the surviving children are minors and some are adults. It is the adults who approach the court and demand to divide the estate, as, for obvious reasons, they do not wish to continue joint ownership with their underage brothers. Accordingly, the court appoints a supervisor to represent the underage children, and "a nice portion—יפה חלק" is chosen for them. Rambam seems to hold that we actually give them a more choice selection of the assets, while ר"ן explains that this just means that we give them a decent portion.

According to the Rishonim who say that we only intervene when invited to do so by the older brothers, there are varying approaches how to deal with the situation if all the children are minors. ■

HALACHAH Highlight

Calling a person to the Torah by name

התקין ר' גמליאל הזקן שיהא כותב איש פלוני וכל שום שיש לו
 R' Gamliel enacted that they would write So-and-so and all the names that he has

The origin to call a person for an aliyah is mentioned in Beis Yosef¹ in the name of Rosh. He writes that it is presumptuous for a person to go up to read the Torah without a formal request to do so. Teshuvos Avnei Nezer² observed that there were some synagogues that changed the custom of calling people to the Torah by name and instead they called the "kohen" or "levi" etc. to rise to the Torah. He condemned the practice in the strongest of terms and attributed the practice to those who ultimately wished to uproot the observance of halacha. Additionally, he emphasized that Jewish customs were not formed out of thin air (על תהו נתיסדו) and contain great depth and wisdom. Ironically, it is these people who need to follow the practice of calling people to the Torah by name more than those who remain committed to the customs and traditions of the Jewish People. The reason is that these types of people generally do not use their Hebrew name in the course of their daily lives and if they are not even called to the Torah by their Hebrew name all sorts of questions arise in the event that they divorce since the name on a גט must be accurate and in use.

Teshuvos Beis Yitzchok³ also addressed the issue of places which abandoned the custom of calling people to the Torah by name and instead handed out cards informing them of the ali-

REVIEW and Remember

1. What is the ramification of showing intent (גילוי דעתא) regarding gittin?
2. Why was Abaye called נחמני?
3. What incident inspired R' Gamliel to make an enactment to include all of a person's names in a גט?
4. If a person has multiple names, how do we determine which name is primary?

yah they were to receive. He cites earlier authorities who spoke strongly against changing this custom and cited numerous sources in Chazal that indicate that it is an ancient custom to call a person to the Torah by using his name. Interestingly, however, there are Sefardic communities that do not have the custom of calling people to the Torah by name and merely gesture to the person who is honored with the next aliyah. Despite this fact, Poskim write that those from Ashkenazi backgrounds may not change their custom of calling people to the Torah by their name. ■

1. בית יוסף או"ח סי' קל"ט.
2. שו"ת אבני נזר חו"מ סי' ק"ג.
3. שו"ת בית יצחק (דאנציג) ק"ו תורת המנהגים סי' כ"כ"א.
4. ע"י שו"ת תשובות והנהגות ח"ב סי' צ"ח. ■

STORIES Off the Daf

Interrupting the Messenger

"גילוי דעתא בגיטא לא הוה ביטול..."

A certain man was having so much trouble at home that he packed up and left. He decided to divorce his wife, and he appointed a messenger to deliver the גט. As a protection against his wife's inadvertent re-marriage, he accepted upon himself a חרם if he would nullify the divorce.

While the messenger was on his way, the husband met another man traveling to his wife's town. He asked this man to do a shocking thing. "Listen, I changed my mind but I can't annul the divorce because of the חרם. So do me a favor: ask the messenger I sent with the גט to put off getting there and giving it until Shavuos.

That way I will have time to seclude myself with my wife. Since one who is together with his wife after the divorce was written invalidates it, I can get around the חרם..."

When the messenger was approached with the husband's request by this third party, he was inclined to disregard it since he felt that this man was not able to form a good relationship with his wife and both would be better off after the divorce. He did wonder, however, if the husband's request in and of itself constituted an unknowing annulment in any case. After all, the husband had expressed his regret at having given the גט; perhaps that was enough to invalidate it? On the other hand, he had merely sent the other man to ask him to hold off delivery without actually ordering him to withhold the document. Maybe a request alone is not a validation.

When the Alshich, zt"l, was asked this question he ruled that the messenger can give the גט. "The husband's requesting instead of ordering is clearly irrelevant. As the Terumas Hadeshen writes in another context, '...Hashem Himself said to Avraham, "קח נא" in a language that implies a request but is actually an order. We see that requesting is like an order...'

"But in this case you may give the גט. One reason we may be lenient is that the husband did not speak with you, the messenger, at all, only to another party. Although he clearly requested that you put off giving the גט, in Gittin 34 we find that גילוי דעת, showing a mere desire to cancel a גט, does not actually cancel it. His requesting by proxy that you wait until Shavuos is not more than גילוי דעת" ■

¹ שו"ת אלשיך, סי' ל"ו

