

OVERVIEW of the Daf

1) Throwing a **ט** onto a bed in the husband's house

Rava asserts that if the bed is hers the **ט** is effective even though it is in his house.

A Baraisa is cited that supports this qualification.

It is suggested that this halacha proves that a buyer acquires property that is placed in his utensil even if the utensil is on the property of the seller.

This deduction is rejected.

Another unsuccessful attempt is made to deduce the principle that the buyer's utensil can acquire property even when it is on the property of the seller.

Additional explanations of the Mishnah are suggested which also do not allow for the inference regarding the capacity of the buyer's utensil to acquire property when on the property of the seller.

A Baraisa is cited that supports R' Yochanan's explanation of the Mishnah.

2) MISHNAH:

 The Mishnah teaches the necessity for the husband to inform his wife that he is divorcing her with the **ט**.

3) Taking the **ט** from the ground

The Gemara explains how the case in the Mishnah of the woman finding the **ט** behind her husband is effective when it is required that the husband give the **ט** to his wife.

A Baraisa is cited that supports this explanation.

The necessity for the Baraisa to present the dispute between Rabbi and R' Shimon ben Elazar in two contexts is explained.

Rava issues two rulings related to giving the **ט** to the slave of the woman.

This ruling is challenged and subsequently clarified.

4) MISHNAH:

 The Mishnah presents the parameters of the validity of a **ט** that was thrown to a woman standing in a public domain. The same principles apply for giving kiddushin and repaying loans.

5) Defining closer

The Gemara inquires how to define what is closer to her and what is closer to him.

Rav suggests that it refers to where the object is within someone's four amos.

It is noted that the case of where the **ט** is found "half and half" is difficult to explain.

R' Kahana offers an explanation for the case of "half and half."

This explanation is challenged and Rabbah and R' Yosef offer another explanation for the case of "half and half."

R' Yochanan suggests another interpretation of the case of

(Overview...Continued on page 2)

Distinctive INSIGHT

*Tossing the **ט** closer to her or closer to him*

אמר רב ארבע אמות שלה זהו קרוב לה, ארבע אמות שלו זהו קרוב לו

The Mishnah taught that if the husband successfully tosses the **ט** to where it is "closer to her", the woman is divorced. When Rav defines this term, he not only describes that this means that the **ט** fell within her four-amos domain, but Rav also defines a different term as well, the area of "closer to him", where the **ט** is within the four amos radius around the man. The Rishonim ask why Rav needed to define this second area at all. Once we know that the **ט** must be closer to her in order to be valid, we automatically know that beyond this area it is not valid.

Rashba and Ritva explain that if the man tosses the **ט** to an area not near either of them, and the man then approaches the **ט** to where it is now within his four amos, even if the woman later comes to within the four amos of the **ט**, she cannot acquire it. Once the husband arrives within the immediate range of the **ט** before her, she can no longer establish control over it.

ר"ן points out that with Rav's definition of not only the area defined as being closer to the wife, but also that which is defined as being closer to the husband, we can now appreciate the case of a **ט** lying directly between both the husband and wife (מחצה על מחצה). If the **ט** is within the four amos radius of both the husband and wife, where their domains intersect, we have a doubtful situation.

The commentators also deal with the general concept of how the four-amos range around the wife can be used to acquire her **ט**. The Gemara (Bava Metzia 10b) states that the power of this domain to acquire is only rabbinic. How, then, can a woman be considered divorced and therefore permitted to marry someone else, when her acquiring the **ט** is not recognized by Torah law? Two approaches are given to resolve this issue.

ר"א and ר"ב explain that once the rabbis deem this area to function as an extension of the woman, these four amos become her חצר / yard, using the concept of הפקר בית דין הפקר.

Ramban explains that every man marries by stating כדת משה וישראל, and the guidelines of the rabbis determine the rules of the marriage. When a man tosses a **ט** to his wife using the four amos rule, the rabbis invoke their power and nullify the marriage from its very inception. ■

REVIEW and Remember

1. Explain כליו של לוקח ברשות מוכר קנה לוקח.
2. What is the point of dispute between Rebbe and R' Shimon ben Elazar?
3. What important ruling did Shmuel share with R' Yehudah?
4. Why does a **ט** on a string invalidate the divorce?

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In memory of their grandfather
Dr. Peter Harry Okner
ר' פנחס הערש בן ר' שמואל, ע"ה

HALACHAH Highlight

Is it necessary for a resurrected husband to perform a new kiddushin?

נתן בידה והיא ישנה

If he put the גט in her hand while she was sleeping

Poskim¹ debate whether a man who dies and is resurrected is obligated to perform kiddushin with his wife in order for them to resume their marriage. Rav Chaim Yosef Dovid Azulai², the Gaon Chida, writes that the issue revolves around whether the husband was buried. If the husband was buried he is considered dead for all matters and thus if he is subsequently resurrected it is necessary to perform a new kiddushin. On the other hand, if the husband was not buried and is resurrected it emerges that for matters of kiddushin he was not dead and it is unnecessary to perform a new kiddushin.

Teshuvos Degel Machaneh Efraim³ cites the Mishnah in Kiddushin (2a) that states that a woman acquires herself upon the death of her husband. Since the death of the husband is seen as a legal acquisition (קנין) it is logical to assume that it will follow the same guidelines as other acquisitions. Therefore, one can assert that in order for the acquisition to be effective it is necessary for the woman to abandon hope (אוש) that her husband will return. If the wife maintains hope that her husband will return the acquisition does not take effect and if he is resurrected there is no need for an additional kiddushin. Thus, for example, if the wife was unaware of the fact that her husband died and did not find out about his death until after he was resurrected a new kiddushin would be unnecessary. Proof to the principle that the wife's intent is necessary for her husband's death to make her a

(Continued from page 1)

where the גט is closer to him and closer to her.

The case of "half and half" is explained according to this explanation.

A Baraisa is cited that concurs with R' Yochanan's position.

Shmuel ruled that a woman should not be considered divorced unless the גט reaches her hand.

An incident is recorded that supports Shmuel's ruling.

6) Throwing kiddushin or a debt

R' Assi in the name of R' Yochanan teaches that the ruling that if it lands closer to her the גט is valid is limited to the case of a גט.

R' Abba presents two unsuccessful challenges to this assertion.

7) Delivering the גט

R' Chisda rules that if the husband has the ability to pull the גט back with a string the couple is not divorced.

R' Yehudah teaches that if the woman's hand is sloped the divorce is not valid even if it reaches her hand.

Two unsuccessful challenges to this ruling are presented. ■

widow is found in our Gemara. The Gemara relates that if a husband gives his wife a גט while she is sleeping the גט is not valid. The reason, explains Rosh, is that a woman who is sleeping is lacking mental competence. This demonstrates that for a divorce to be valid the knowledge (דעת) of the wife is necessary, so too regarding the acquisition that occurs upon the death of the husband the wife's knowledge is necessary and without that knowledge she does not become a widow. ■

1. עי' שו"ת עטרת פז ח"א כרך גי' אה"ע סי' טו.

2. ברכי יוסף אה"ע סי' י"ז סק"א.

3. שו"ת דגל מחנה אפרים אה"ע סי' א'. ■

STORIES Off the Daf

A Question of Proximity

"ארבע אמות שלה זהו קרוב לה..."

In Medieval times, danger was rampant—especially for Jews. Most large cities were walled, for good reason. The Jewish quarter was often located on the outskirts of the city; in addition, the Jewish ghetto was often walled off from the rest of the town. It was very important for the security of the Jewish quarter that the wall be very difficult to breach or climb.

In a certain town where the community leaders were familiar with how bandits would enter the Jewish quarter to wreak havoc, they decreed that no person should

make an outhouse or outbuilding close to the city wall. Otherwise, it would be all too easy for intruders to hoist themselves over the wall using the existing structure as either a launching or landing platform. This rule was followed carefully for many decades until there was an altercation between the community leaders and a certain citizen. The citizen wished to make an outhouse outside the city walls since the main dangers of being outside the wall was either at night or during times of unrest. He felt that it would be worth his while to have the space available during the daytime or when things were calm and he was working outside the Jewish quarter. The community leaders, however, prohibited this because of the decree.

"But what does 'close to the city walls'

really mean?" he asked in frustration.

The Roshei Kahal admitted that they had no idea, but they suspected that it meant within sight of the wall. The Rav of the city was naturally asked, but he too was unsure. So he referred this question to the Rashbah, zt"l.

The Rashbah replied, "The answer is in Gittin 78. There we find in the Mishnah that when a husband throws a גט to his wife in the public domain she is divorced if it is 'close to her'... The Gemara explains that close to her means within the limits of her surrounding four amos... That, then, is your answer. Any agreement which states 'close to' means within four amos."¹ ■

1. שו"ת הרשב"א, חלק ד', רס"ח

