

OVERVIEW of the Daf

1) Defining "immediately" and "after a time" (cont.)

The Gemara resolves the challenge to Shmuel's explanation of the terms "immediately" and "after a time."

2) **MISHNAH:** Beis Shammai and Beis Hillel disagree whether gittin not delivered or delivered with an unfulfilled condition prohibit a woman from marrying a kohen.

3) If a rumor says that a kohen divorced his wife

Shmuel ruled that if a rumor says that a kohen divorced his wife they must separate and the matter requires further research.

The exact point that requires further research is explained.

4) Differences between earlier and later generations

R' Yehudah bar Ilai is cited as noting the contrast between the ruling of Beis Shammai in the Mishnah and R' Dosa's ruling in the Baraisa and how this illustrates how the stature of later generations has declined.

Another observation cited in the name of R' Yehudah bar Ilai about the descent of generations is presented.

5) **MISHNAH:** The Mishnah presents a dispute between Beis Shammai and Beis Hillel whether a divorced couple that stayed together in a hotel require a new גט.

6) Clarifying the dispute

Rabbah bar Chanah in the name of R' Yochanan identifies the parameters of the dispute between Beis Shammai and Beis Hillel.

This explanation is successfully challenged and it is suggested that R' Yochanan's statement was made in reference to a different source.

The Gemara explains the point of the dispute according to its present understanding of the Mishnah.

A contradiction is noted and confirmed regarding R' Yochanan's position on these matters.

7) **MISHNAH:** The Mishnah presents the halachos related to a bald גט - גט קרח, and then defines a גט קרח.

8) A bald גט

The reason a bald גט is invalid is explained.

9) Clarifying the dispute between Ben Nanas and R' Akiva

The Gemara after a number of attempts explains why, according to R' Akiva, a slave cannot sign on the גט קרח.

R' Ada bar Ahavah qualifies the dispute between Ben Nanas and R' Akiva.

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Distinctive INSIGHT

Bringing fruit into the house through the roof

דורות האחרונים וכו' לפוטרו מן המעשר

Rabbi Yanai teaches the halacha that the produce of one's farm is subject to the laws of tithes only once it is brought into the house through the front gate. He derives this law from the verse in Devarim (26:13) when a farmer declares that he has removed all his ma'aser "from the house". This leads Rabbah bar Channa to observe, in the name of Rabbi Yehuda bar Ilai, that earlier generations used to bring their fruits into the house through the front gate to proudly obligate them in this mitzvah. Later generations, however, sought to avoid this obligation. They took advantage of the loophole which was available, and they brought the fruit from the field and brought it into the house through the roof and through the back yard, all of this in order to avoid having the fruit become obligated to have tithes taken from them.

The poskim deal with the question whether this behavior of seeking to avoid an obligation to separate tithes is prohibited, or is it a legitimate move, correctly using a loophole for those who choose to do so. The Yerushalmi (Ma'asros 3:1) cites a list of Amoraim who used to bring their fruit from the field into their houses through the roofs of their houses. When Rabbi Yehuda bar Ilai saw this, he made his aforementioned statement comparing earlier generations to later ones. The question is what was meant by this comment? Should we conclude that since several Amoraim did this, it is obviously allowed, or should we say that Rabbi Yehuda bar Ilai criticized them, this means that it is not permitted.

Meiri in Berachos (35b) writes that it is prohibited for a person to avoid tithing by bringing his produce into the house in a manner where he will be exempt from doing so. This is also seems to be the opinion of Ramban. Others suggest that even according to those who prohibit avoiding tithing, this is not a formal sin, but they mean that such conduct is inadvisable in times when we are in such dire need of the merit of such mitzvos.

REVIEW and Remember

1. What is the point of dispute between Beis Shammai and Beis Hillel?

2. Cite two ways that later generations are different than earlier generations?

3. What is a גט קרח?

4. Explain the dispute between Ben Nanas and R' Akiva?

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מרת פייגע בת ר' דוד ע"ה
Mrs. Florence Bodanis o.b.m

HALACHAH Highlight

Performing kiddushin at night

המגרש את אשתו ולנה אמו בפונדקי

One who divorces his wife and lodged with her in an inn.

Beis Yosef¹ cites authorities who maintain that one should not divorce at night. Teshuvos Re'em² explains that divorcing is considered the beginning of judgment (תחילת דין) and judgments may not be conducted at night. Precedent for this is R' Eliezer's ruling that chalitzah may not be performed at night since it is considered the beginning of judgment. Teshuvos Re'em then writes that it is possible that one should not perform kiddushin at night since the juxtaposition of the words "ויצאה והיתה" equate the halachos of kiddushin and divorce.

Rav Akiva Eiger³ disagrees with this assertion for a number of reasons. Firstly, the Mishnah discusses a case of a divorced couple who slept in an inn and the possibility that kiddushin was performed. The language of the Mishnah "ולנה" implies that they slept in the inn at night. Secondly, one could contend that the juxtaposition that equates marriage and divorce does not apply in this case. Had the Torah stated explicitly that one may not divorce at night one could accept that the halacha of kiddushin and the halacha of divorce are the same. However, since the halacha of divorce is derived only from logic (סברא), i.e. the divorce begins the kesubah proceedings, one could argue that since this logic does not apply to kiddushin there is no reason to assume

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R' Zeira challenges this explanation.

Rabbah bar Sheilta answers this challenge.

A Baraisa is cited that supports this explanation of R' Ada bar Ahavah.

An alternative version of R' Ada bar Ahavah's qualification is cited.

10) A bald גט

R' Yochanan asserts that only one relative can sign on a גט קרר but no more.

R' Ashi cites a Baraisa that supports this assertion. ■

that there should be a restriction against performing kiddushin at night.

Sefer Get Pashut⁴ also disagrees with Teshuvos Re'em regarding this stringency and cites the Gemara in Kiddushin that makes explicit reference to the performance of kiddushin at night (דקידשה בליליא). Rav Akiva Eiger⁵, despite his opposition to Teshuvos Re'em's ruling, defends the objection put forward by Sefer Get Pashut. Since the stringency is based on the ruling of R' Eliezer which is disputed by Rabanan one could assert that the Gemara in kiddushin follows Rabanan and thus since halacha follows R' Eliezer it could still be maintained that kiddushin may not be performed at night. ■

¹ בית יוסף אה"ע סי' קנ"ו.
² שו"ת הרא"ם המכונה מים עמוקים סי' ל"ה.
³ שו"ת רעק"א ח"ב סי' ע"א.
⁴ ספר גט פשוט סי' קכ"ג ס"ק כ"א.
⁵ שו"ת רעק"א שם. ■

STORIES Off the Daf

Living under Duress

"ובה"א צריכה הימנו גט שני..."

After the expulsion from Spain, the only Jews to remain had to pose as non-Jews. Any evidence of observance was kept extremely private since fulfillment of the Torah's commands would render a person subject to the horrors of the Inquisition. All rituals were only observed with immediate family present, since it presented such a risk. Any mitzvah that required witnesses who were not close relatives was not fulfilled, since this was a danger to life and limb. The Church was always trying to catch hidden Jews "backsliding" into Jewish practice. Most of the weddings of anusim ("coerced ones") were performed in a church with no corresponding halachically valid ceremony. Since virtually

no one could be trusted, who would risk torture or death for a halachic ceremony?

One young crypto-Jewish couple married in the usual fashion. A few months after the wedding they managed to get out of Spain. Sadly, when the two finally arrived at a free port, the husband decided to abscond. He left his pregnant bride suddenly and was never heard from again.

After waiting a time she realized that he would likely never return, but what could she do? Without a גט or proof of demise a married woman may not remarry. As is well known, there is no halachic way to circumvent this.

But then someone suggested that since she never halachically married, perhaps she didn't need a גט.

They decided to consult with the Rivash, ז"ל, on this sensitive matter. "On the surface, it appears as though this should be just like the Mishnah in Gittin 81: 'If a man spent the night with his wife after

giving her a divorce... Beis Hillel says that he must give her a second writ.' It would appear as though our case is the same, since everyone knew that they were living as man and wife. This is at least as effective in establishing a relationship as mere witnesses. This is incorrect, however. In the case mentioned earlier, we are relying on the established precedent that a man will not do that which is against halachah. It follows that if a man is intimate with his ex-wife (or perhaps any other woman), he intends the intimacy be for the sake of kiddushin.

The Rivash concluded, "In our case, there wasn't even a mikveh in the town where the couple lived! Clearly, if the laws of taharas hamishpachah are not essential to this couple, there is no chazakah that he meant to marry her to avoid a prohibition. It follows that this woman needs no גט at all."¹ ■

1. שו"ת הריב"ש, סימן ו'

