

OVERVIEW of the Daf

1) Severing the relationship entirely (cont.)

Rava answers his own inquiry by asserting that once a relationship was severed it is severed forever.

2) A condition that she should marry a particular man

A Baraisa discusses the halacha of one who divorces his wife on condition that she marry a particular man.

R' Nachman explains the rationale behind this ruling.

This explanation is successfully challenged and R' Nachman offers an alternative explanation.

Rava challenges this explanation and offers his own alternative explanation.

A Baraisa is cited that supports this explanation.

3) Impossible conditions

A Baraisa discusses cases where the husband makes impossible conditions for the divorce.

R' Nachman in the name of Rav rules in accordance with the general rule of R' Yehudah ben Teima.

Abaye and Rava debate the validity of a condition that the **טג** is valid if she eats pig meat.

Rava's position is unsuccessfully challenged.

Abaye's position is unsuccessfully challenged.

The Gemara questions why a stipulation to transgress a prohibition isn't void since it violates what is written in the Torah.

R' Ada the son of R' Ika suggests one explanation.

Ravina rejects this explanation and offers an alternative explanation.

4) Regiving the **טג**

Chizkiyah asserts that the Mishnah that requires the husband to regive the **טג** follows the opinion of R' Shimon ben Elazar who expresses this opinion in a Baraisa.

R' Yochanan explains how the Mishnah could also follow Rabbi who disagrees with R' Shimon ben Elazar.

5) Erasing an invalid condition from the **טג**

R' Safra asserts that the **טג** is invalidated only when the invalid condition was written into the **טג**.

The Gemara explains the necessity of R' Safra's teaching.

Rava asserts that even if the invalid condition was stated orally the **טג** is invalidated.

A Baraisa is cited that presents a dispute regarding the status of gittin that contain invalid conditions.

R' Zeira suggests an explanation for the dispute. ■

Distinctive INSIGHT

Setting forth a condition that cannot possibly be fulfilled
 אמר רבי יהודה בן תימא כל תנאי שאי אפשר לו לקיימו בסופו והתנה עליה מתחילתו אינו אלא כמפליגה בדברים וכשר

Rabbi Yehuda ben Taima taught a general rule that if a husband sets a condition for the **טג** which cannot possibly be fulfilled, his intent is not that the condition be met, and his condition is void. We understand that the husband is using words to irritate and torment the wife, but there is no legal meaning to the impossible condition he set.

Chazon Yechezkel writes that the words of the Gemara suggest that the reason a condition which cannot possibly be fulfilled is dismissed is not due to any objective reason that a condition need to be viable, as we see regarding the conditions set forth by Moshe Rabeinu with the tribes of Reuven and Gad. Rather, the reason we dismiss such a condition is based upon the logical argument that the husband certainly did not mean for it to be binding, and that he only meant to verbally torment his wife. Therefore, if the husband is unaware that the condition is impossible to be fulfilled, the condition is legally binding, and if it is not fulfilled, the **טג** is void. In this case we assume that the husband meant what he said, and we cannot say that the intent of the husband was merely to torment his wife.

Or Sameach (to Rambam, Hilchos Ishus 6:11) cites the Yerushalmi (Kiddushin 3:3) which discusses the case of a husband who gave a **טג** on the condition that it would rain that day or the next. Here, it is impossible for the woman to fulfill the condition, which is a condition which our Gemara deems to be baseless, yet the Yerushalmi rules that the condition is binding. Why is this?

Or Sameach explains that our Gemara is dealing with a situation where the condition is contingent upon the woman to fulfill. Here, if it is totally impractical to fulfill, we say that the husband never really meant for it to be a valid condition. In the case of the Yerushalmi, the husband did not intend that the woman herself bring the rain. Because the condition may be fulfilled when it rains, the husband certainly might have intended for his words to be heeded. Therefore, if the husband said that the **טג** would be valid if the sun stood still as it did for Yehoshua, we would dismiss the words of the husband, even though he did not make it dependent upon the woman, because it is not within the realm of nature for the sun to stand still, and the husband obviously meant just to torment the woman with his words. ■

HALACHAH Highlight

Is falling asleep an unforeseeable accident?

קונם עיני בשינה היום אם אישן למחר

"My eyes are קונם for sleeping today if I sleep tomorrow."

The Gemara presents a halachic dispute amongst Amoraim concerning a person who declares, "My eyes are קונם for sleeping today if I sleep tomorrow." According to R' Yehudah the one who made this declaration should not sleep today because of the possibility that he will sleep tomorrow and retroactively today's sleep was prohibited. R' Nachman disagrees and permits sleeping today without concern that he may sleep tomorrow. The reason is that it is within the person's ability to refrain from sleeping tomorrow to avoid retroactively violating a prohibition.

Tosafos writes that there are certain circumstances that when a completely unforeseeable accident (אונס גמור) occurs one is exempt from any responsibility. One example is inflicting damage to another person's property. Although the general rule is that a person is responsible no matter what happens (אדם מועד לעולם) nevertheless, Tosafos¹ writes that if the accident was unforeseeable he is exempt. Similarly, although a paid watchman is responsible for the object in his care Tosafos² writes that if an unforeseeable accident occurs he is exempt from responsibility. Beis Yosef³ cites a dispute whether becoming overcome by exhaustion and falling asleep is an unforeseeable accident or not.

Rav Shmuel Halevi Vosner⁴, the Shevet Halevi, was asked about the responsibility of a driver who, while driving a long distance, fell asleep and caused damage to another person's property. Is the incident categorized as an accident for which the driver is

REVIEW and Remember

1. Is a גט valid if it was given on condition that the woman ascend to heaven?

2. What is the point disputed by Abaye and Rava?

3. What happens when a person makes a stipulation that is contrary to what is written in the Torah?

4. What is the dispute between Rebbi and Chachamim?

only responsible to pay for the damage he caused to the property of the victim or perhaps the accident is an accident that borders on negligence and the driver must also pay the medical costs of the victim? Shevet Halevi answered that if the driver fell asleep at the beginning of the trip it is a clear indication that he did not get sufficient sleep and the driver was negligent regarding his own safety as well as the safety of others. If, on the other hand, the accident occurred towards the end of the trip there is no evidence the driver was negligent since even a well-rested person gets tired over the course of a long trip, especially at night, and consequently it is difficult to say definitively that the accident was borderline negligent. ■

1. תוס' ב"ק ד"ה ושמואל.
2. תוס' ב"ק נ"ז. ד"ה כגון.
3. בית יוסף חו"מ סי' ש"ג.
4. שו"ת שבט הלוי ח"ח סי' ש"א. ■

STORIES Off the Daf

Provisional Divorce

"שתקו שתוקי לבעל עד דכתביתו ליה לתורף דגיטא..."

A certain man was presented with a wonderful opportunity to make money abroad. But since sea travel was very dangerous in his time, a relative requested that he divorce his wife just in case. Sadly, there had been many cases of people who didn't consider their wives before going to sea and were never heard from again. Why risk chaining the woman he loved for her entire life? The husband agreed and ordered that the scribe write it, the witnesses witness it, and that they give it to her.

The husband added, "But I only want a provisional גט to protect her. So write in

that it is a divorce from the date of writing if I don't return within a year. That way, when I G-d willing return, it will be as if nothing happened."

The relative was afraid, though. "I don't know. As you're aware, the halachos of גיטין are very complex. I would prefer if you wait here until we ask the Rav if this works."

Although the husband was in a rush, he agreed to wait to ensure his wife's protection.

The relative ran to the Mahari ben Lev, zt"l, to ask if such a divorce is valid. He answered, "It is a big problem. In Gitin 84 we find that Rava would silence the husband until the essential parts of the גט were written. Rashi and the Rambam learn this to mean that if the husband makes any condition before the essential parts of the document have been commit-

ted to writing, it is invalid even if the condition was only spoken and need not be written in. However, there is a way around this," he added. "This limitation is a decree to prevent the husband from setting a condition in the essentials that prohibits the divorce."

The Mahari ben Lev concluded, "In light of this, the husband who is in a rush to leave should appoint a sofer and witnesses and tell them to give the גט to a designated messenger. He may then tell his messenger to give the divorce with the stipulation he has indicated, provided that he does not do so before the scribe and witnesses. As long as he is not presenting his stipulation during the writing, there is no decree to limit his adding a provision to be conveyed by the messenger." ■

1. שו"ת מהר"י בן לב, חלק ב', סימן י'

