

OVERVIEW of the Daf

1) Perforated pots (cont.)

Abaye and Rava explain their position regarding a גט written on a leaf growing in a perforated pot.

The halachos of acquisitions as they relate to perforated pots are presented.

A dispute between Abaye and Rava related to tithing produce grown in a perforated pot is recorded.

The Gemara explains that the dispute applies specifically to where the roots have not extended out of the holes at the bottom of the pot.

This interpretation is unsuccessfully challenged.

Another challenge to this interpretation is recorded.

After reinterpreting the Baraisa the Gemara explains the point that is disputed in that Baraisa.

2) Parchment

R' Chiya bar Assi in the name of Ulla identifies three varieties of parchment that are not fully processed and presents a halacha for each variety.

3) Clarifying the opinion of Chachamim

R' Elazar asserts that the position of Chachamim in the Mishnah that allows a גט to be written on previously-erased paper or diftara reflects the position of R' Elazar that the delivery witnesses are the ones who sever the marriage.

R' Elazar and R' Yochanan dispute whether Chachamim permit this גט only when delivered immediately or even after a period of time.

R' Elazar and R' Yochanan disagree whether Chachamim permit this leniency even for other documents.

R' Yochanan's position is unsuccessfully challenged.

4) **MISHNAH:** The Mishnah discusses who is authorized to write a גט as well as some other legal documents.

5) Clarifying the Mishnah

The Gemara challenges the Mishnah's ruling that permits a deaf-mute, insane person or minor to write a גט.

Distinctive INSIGHT

A kosher גט written by a minor

הכל כשרים לכתוב את הגט אפילו חרש שוטה וקטן

Pnei Yehoshua inquires how a גט written by a minor can be used. The rule is that the גט must be owned by the husband at the moment it is given to the woman to divorce her. We must assume that when an underage scribe writes a גט, he will generally do so using his own piece of parchment. We also know that a minor is not legally capable of transferring ownership of anything he owns. Therefore, this child-scribe will not be capable of giving this גט to the husband, so how can this גט be kosher? Even if we were to assume that the husband furnished his own piece of parchment to the child-scribe to write, the halacha is that the husband must also own "the writing," meaning the ink itself.

Pnei Yehoshua notes that according to one of the approaches of Rav Nachman to explain the Mishnah, the author is Rav Meir, who holds that the witnesses who sign on the גט are the ones who are critical (עידי מסירה כרתני). This means that Rav Meir understands that the Torah's instruction of "וכתב לה" does not refer directly to the writing of the document, but rather that the witnesses who sign on the document effect the divorce. This also means that the fact that the גט must belong to the husband, which is also learned from the word "וכתב" places the focus on the signatories, and we cannot disqualify the גט due to a technical defect with the parchment or writing of the גט when owned by a minor.

Chasam Sofer explains that the inquiry of the Pnei Yehoshua is where the parchment is owned by the husband, who hands it to the child-scribe to write. The rule is that a craftsman who works on a project can become the owner of the materials with the improvements he makes (אומן קונה בשבח כלי). Apparently, the child should acquire the parchment with the improvement realized with his writing, and the question of the Pnei Yehoshua is that the husband should not be able to acquire the גט back from the child. The answer the Pnei Yehoshua gives is that the parchment remains the property of the husband, as we assume that the child has no interest in acquiring the גט, and it does not become his automatically. Chasam Sofer explains that because this is a divorce document, the child has no interest in owning it. The writing done by the child in this case does not contribute to "improve the document," only to ruin its value as paper. ■

REVIEW and Remember

1. How does one acquire the seeds in a perforated pot.

2. What are the three types of parchment?

3. Which R' Elazar is a Tanna and which is an Amora?

4. Why is a woman allowed to write here own גט?

HALACHAH Highlight

Defining one who is insane שוטה

אפילו חרש שוטה וקטן

Even a deaf-mute, an insane person and a minor

There was once a man who became depressed due to his many worries and financial losses. As a result of his depression he did not begin conversations with others but if someone else started a conversation he responded appropriately and had the capacity to daven and receive an aliyah like anyone else. The depression also brought out his anger thus causing his wife to leave him since she could no longer tolerate his erratic behavior. After some negotiating the husband finally agreed to give a גט to his wife and at the time of the divorce he responded to all the questions appropriately and followed through on the agreement. After the divorce proceedings were completed one of the people involved wondered whether this fellow should be categorized as a person who is sometimes sane and sometimes insane who is incapable of divorcing his wife. He turned to Chasam Sofer for guidance about this issue.

Chasam Sofer¹ responded that it is not possible to give a practical response about an individual and whether he is insane since that is a matter that is up to the judges who are presiding over the case to decide. Nonetheless, he offers some parameters to help the judges involved reach their deci-

sion. The Gemara Chagigah² cites a Baraisa that describes the characteristics of one who is insane, i.e. one who walks around alone at night, someone who sleeps in the cemetery and one who rends his garment. Chasam Sofer then wonders why Chazal gave specific definitions to one who is insane when a deaf-mute is also exempt from mitzvos and is considered lacking knowledge (דעת) even though he does not display any of the abovementioned characteristics. Furthermore, Tosafos³ indicates that one who is insane has less mental capacity than a deaf-mute so why do Chazal always list the exemption of the deaf-mute and then one who is insane, the logical progression should be the opposite.

Chasam Sofer answers that when Chazal refer to the deaf-mute they include anyone who is lacking knowledge and it is evident to anyone who speaks to such a person that he is lacking knowledge. The insane person that Chazal discuss is one whose behavior points to the fact that he is insane. Regarding this type of person it doesn't matter if he has the intellectual capacity to respond and ask questions appropriately because it is his insane behavior that puts him in this category. For this reason the greater novelty is that the insane person is disqualified from making transactions and the like since he displays intelligence rather than the deaf-mute who does not.

¹ שו"ת חת"ס אה"ע ח"ב סי' ב'.

² גמ' חגיגה ג'.

³ תוס' גיטין כ"ב: ד"ה והא לאו בני דעה.

STORIES Off the Daf

The Paper Divorce

"וחכמים מכשירין..."

The horrifying period of "Tach v'Tat" (1648-1649) brought untold suffering upon the Jewish people. Chmelnitzky's maddened Cossack bands swept unbridled through the Ukraine and Volhynia. Terrifying stories are documented; it is no surprise that a קינה was composed commemorating the brave martyrs of this horrific period. This chaotic time was especially difficult for the women who could be made agunos for the remainder of their lives with one strike of a Cossack's sword. Many men gave their wives some kind of גט to protect them from this terrible fate.

Since there were very more people who wished to give a divorce than there was parchment, a problem arose. It was solved by certain sofrim who wrote גיטין on the paper that was more readily available.

After the Cossack uprising ended, these "paper gittin" caused a big halachic problem. The Gemara in Gittin 22 permits one to write a divorce even on a material that can be forged since we hold like Rabbi Elazar that the witness who were present at the issuing of the גט are the ones who enable the document to take effect. Even though the halacha is that although we generally do not demand that the woman produce these witnesses, since we can rely on the witnesses who sign the גט, if the document was written on material that could be

erased, we cannot rely on it without producing the witnesses who saw the woman receive her divorce writ. Clearly, this was a feat that was often impossible to accomplish. Did these women who had received a divorce contract written on paper require these witnesses? This not only affected the women who had lost husbands during Tach v'Tat, but others as well since the practice had spread to other regions even where the need was not as acute.

When this question came to the Taz, ז"ל, he ruled leniently. "A גט written on paper is superior to that written on our parchment which is thick and from which the ink can be scraped. The ink cannot be scraped off our paper without leaving a very noticeable mark. These gittin are therefore acceptable." ■