

OVERVIEW of the Daf

1) A bald גט (cont.)

Abaye infers further details about a גט קרח.
 A related incident is recorded.

הדרן עלך הזורק

2) **MISHNAH:** The Mishnah presents a discussion of a husband who wishes to divorce his wife but restrict her from marrying a particular person.

3) Clarifying the Mishnah

The Gemara seeks clarification of the word אלא. Did the husband intend to make this stipulation a condition to the validity of the גט?

Ravina demonstrates that the word אלא means "but" and if the husband made a condition that she should not marry a particular person the גט is valid.

A Baraisa is cited that presents an alternative explanation of the dispute between R' Eliezer and Chachamim.

The Gemara explains the point of dispute according to the Baraisa's version as well as the Mishnah's version.

R' Yochanan suggests a different explanation of the dispute in the Mishnah.

4) A limited kiddushin

R' Abba inquires about the validity of a kiddushin that does not prohibit the woman to every man.

R' Abba explains how this inquiry could be posed according to R' Eliezer and according to Rabanan.

After he finishes explaining the question R' Abba answers that according to R' Eliezer the kiddushin is valid whereas according to Rabanan it would be invalid.

Abaye applies R' Abba's ruling to a new case that relates to yibum.

In light of this explanation it is necessary for Abaye to explain the case of a woman widowed from two men.

5) A limited divorce

Abaye presents an inquiry about a man who told his wife, as he was divorcing her, that she would not be permitted to Reuven and Shimon and then said that she is permitted to Reuven and Shimon. Did he intend to merely permit her to Reuven and Shimon or did he also intend to prohibit his wife to all men except for Reuven and Shimon? ■

Distinctive INSIGHT

You may marry anyone except "So-and-So"

אפילו לא נתגרשה אלא מאישה נפסלה מן הכהונה

In the Mishnah, we find a גט written by a man for his wife, but he stipulates that she be permitted to now marry any man she wishes except for "So-and-So." How does this exclusion affect the validity of the גט? Rabbi Eliezer rules that the גט is valid, and the stipulation is binding. Rabbanan rule that the גט is void.

In the Gemara, Rabbi Yochanan explains the reasons for Rabbi Eliezer and Rabbanan. The verse in Vayikra (21:7) states that a kohen may not marry a woman who was "divorced from her husband." Obviously, a divorced woman is precisely that—divorced from her husband. The lesson of the verse, according to Rabbi Eliezer, is that even if she is not permitted to everyone, but she is divorced from her husband with restrictions (such as here, where she may not marry So-and-So), she is still considered divorced and thereby prohibited from marrying a kohen. Rabbanan hold that this is a unique law in the realm of the kohanim, and it does not indicate the universal law of restricted divorce. Rashba writes (84b, ד"ה כיצד) that the law of a woman being prohibited to a kohen once she is divorced with restrictions seems to be a Torah-level law. Even according to Rabbanan, who say that this divorce is not valid, yet they agree that she is prohibited to a kohen as a divorcée (if her husband later dies). This is called ריח הגט—there is "an aroma of a divorce," and this is enough to disqualify this woman from marrying a kohen ever again.

Rambam writes (Hilchos Geirushin 10:1) that this law is rabbinic. He rules according to the Rabbanan of the Mishnah, that this גט with limitations is not valid, and he concludes that, nevertheless, the rabbis disqualify her from marrying a kohen. The verse cited is merely a reference (אסמכתא), and not an authentic source from the Torah. Meiri concurs with the opinion of Rambam.

According to Rambam, we would have expected Rabbanan to respond to Rabbi Eliezer and tell him directly that the lesson of the verse is only an אסמכתא, and it cannot be used to teach that a limited גט is valid. Maggid Mishnah explains that Rabbanan could have indeed argued in this manner, but they responded to Rabbi Eliezer's view, that even if he learns this law on a Torah level, it can be learned as a unique law applying to a kohen only. ■

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In memory of
 ר' בערל בן ר' יחיאל

HALACHAH Highlight

The husband's declaration when he divorces his wife

המגרש את אשתו ואמר לה הרי את מותרת לכל אדם אלא לפלוני
 One who divorces his wife and declares, "You are permitted to any man but Ploni."

Poskim disagree what must be included in the husband's statement when he hands his wife a גט. Rambam¹ writes that when a man divorces his wife he must tell her that he is giving her a גט - ("הוא גיטך") או ("הרי זה גיטך"). Rambam does not mention, however, that the husband must declare, "הרי את מותרת לכל אדם" – Behold you are permitted to any man." Tosafos² disagrees and writes that in addition to relating that he is handing her a גט he must also declare that she is permitted to marry any man. Shulchan Aruch³ follows the ruling of Rambam and only mentions the necessity to declare that the document is a גט and Rema⁴ cites the more stringent position of Tosafos and requires the husband to declare that she is permitted to marry any man.

Our Gemara discusses the case of a man who declared when he was divorcing his wife that she is permitted to any man except Ploni. The Gemara's conclusion is that the גט is not valid. Accordingly, Shulchan Aruch⁵ writes that the way to remedy the situation is for the husband to take back the גט, give it to her a second time and make a new declaration that she is permitted to any man. Beis Shmuel⁶ explains that the

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

reason, in this case Shulchan Aruch requires the husband to make the declaration that his wife is permitted to marry any man even though under normal conditions it is unnecessary, is that he must make an unambiguous statement that he is nullifying the original invalid condition. If he were to merely state that this is her גט - (הרי זה גיטך) - it is possible that he is giving her the גט with the original invalid condition, therefore, he must make it clear that he is retracting that condition by stating explicitly that she is permitted to any man. ■

1. רמב"ם פ"א מהל' גירושין ה"א.
2. תוס' ע"ח. ד"ה אינו.
3. שו"ע אה"ע סי' קל"ז סעי' א'.
4. רמ"א שם.
5. שו"ע שם סי' קל"ז סעי' ז'.
6. ב"ש שם סק"ב. ■

STORIES Off the Daf

Circumventing the Law

"נפסלה מן הכהונה..."

There was a certain very wealthy woman who was married to a man who was considered in the category of a person whom the sages can force to divorce. This woman demanded a גט, and her husband gave her one.

She was not especially committed to Torah observance, so when she found a kohen who seemed suitable and willing to marry her she was very glad. She figured that the prohibition for a divorcée to marry a kohen could somehow be circumvented for a woman as wealthy as herself.

To her shock, it turned out that she was wrong. No rabbi would marry the couple. She didn't give up, however. Since

money was no object, she managed to have her case reviewed in one government office after another. Always her claim was that it was unfair and that the sages were stringent for their own reasons.

Finally, her case was brought to the attention of the highest officials in the land. The Kaiser and his ministers listened carefully to the kohen eloquently present his case. "It is true that the verse says that a kohen may not take a divorcée but we must consider why this is so. Clearly it is an embarrassment to a priest of G-d to take a woman who has been cast away from another man. In our case, my bride-to-be cast off her ex-husband, so this reasoning does not apply. The fact that the Talmud in Gittin 82 and the halachic authorities disagree is a stringency the rabbis dreamed up. Your royal highness and members of this tribunal, I beg you to

force the rabbis to marry us."

The Kaiser decided to consult with an irreligious Jewish scholar about the matter. There was just such a philosopher in his court. After being consulted, the Jewish "academic" replied, "I don't think this couple can have it both ways. The verse states that a man has the right to divorce his wife when he doesn't desire her. According to this, a woman can never be divorced unless her husband is no longer interested in her. This woman succeeded in demanding a divorce only because of the rabbi's novel understanding of the verse. It seems to me that if they wish to disagree with the rabbis in this case, they must also accept the simple meaning of the verse regarding divorce. Which would mean that this woman is still married to her first husband!"¹ ■

1. שו"ת חתם סופר, אבן העזר, חלק ב', סימן קע"ד