

OVERVIEW of the Daf

1) A limited divorce (cont.)

Abaye presents further inquiries related to a limited divorce.

R' Ashi takes this series of inquiries one step further and the Gemara concludes the discussion by declaring that the matter remains unresolved.

2) R' Eliezer's lenient ruling in the Mishnah

A Baraisa relates how four Tannaim gathered together to formally reject R' Eliezer's ruling following his death. R' Yehoshua, however, asserted that they could not refute R' Eliezer after his death.

Rava asserted that the objections of the different Tannaim could be refuted except for R' Eliezer ben Azaryah's.

A Baraisa also relates that R' Yosi gave greater credibility to R' Eliezer ben Azaryah's objection.

The Gemara analyzes R' Tarfon's rejection of R' Eliezer's position and reaches an understanding why Rava rejected his objection.

The Gemara further clarifies, according to R' Tarfon, under what circumstances R' Eliezer allowed a limited divorce.

The Gemara analyzes R' Yosi HaGalili's rejection of R' Eliezer's position and reaches an understanding why Rava rejected his objection.

The Gemara further clarifies, according to R' Yosi HaGalili, under what circumstances R' Eliezer allowed a limited divorce.

The Gemara analyzes R' Akiva's rejection of R' Eliezer's position and reaches an understanding why Rava rejected his objection.

The Gemara further clarifies, according to R' Akiva, under what circumstances R' Eliezer allowed a limited divorce.

The second reason R' Akiva rejected R' Eliezer's position is cited and the Gemara explains according to this explanation when R' Eliezer allowed a limited divorce.

It is noted that there is an inconsistency in R' Akiva's approach.

The Gemara resolves the inconsistency.

The Gemara explains that although R' Yehoshua had a reason to reject R' Eliezer's position, nonetheless, he was opposed to challenging him after he died.

A Baraisa is cited that presents R' Yehoshua's rejection of R' Eliezer's position.

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Today's Daf Digest is dedicated
By Mr. and Mrs. David Segall
In honor of their 12th anniversary and
for the yahrzeit of his father
ר' ישראל בן ר' שמואל הלוי ע"ה

Distinctive INSIGHT

Rabbi Eliezer "admits" that she is permitted to So-and-So

מודה רבי אליעזר במגרש את אשתו ואמר לה הרי את מותרת לכל אדם
חוך מפלוני

The Gemara cited a Baraisa which discusses the case of a woman who received a גט from her husband on the condition that she can marry anyone she wishes except for So-and-So. The Mishnah recorded a dispute between Rabbi Eliezer who rules that this גט is valid, and Rabbanan rule that it is void. In the Baraisa, Rabbi Eliezer "admits" (מודה רבי אליעזר) that if this woman went and married a second husband, and this second husband died or divorced her, the woman may now proceed and marry So-and-So, whom the first husband had excluded.

Tosafos and Rashba wonder to whom Rabbi Eliezer is "admitting". The Rabbanan of the Mishnah are of the opposite opinion, that the גט has no validity whatsoever, and the woman may not marry anyone. To whom, then, are the comments of Rabbi Eliezer aimed? Rashba explains that when the Baraisa says "Rabbi Eliezer admits," it simply means that this case is unlike the previous situation where the woman must abide by the limitation set by the first husband, and she may now go and marry So-and-So. Rashba continues and brings several examples throughout Shas where the expression "ומודה" is used in this context.

ר"ן and ריטב"א explain that Rabbi Eliezer is "admitting" to himself. In other words, Rabbi Eliezer is coming to respond to the criticism of the Rabbanan who asked "Where do we find that a woman is permitted to one and prohibited to another?" Although the argument was that the woman should be prohibited to everyone and that the גט should not be valid, Rabbi Eliezer responds and says that, in fact, this woman can become permitted even to the one who was excluded by her husband. ■

REVIEW and Remember

1. Why did R' Yehoshua oppose the other Tannaim refuting R' Eliezer's position?

2. Why did the Gemara reject R' Akiva's refutation of R' Eliezer's position?

3. What is an example where we find that one person prohibits and another permits?

4. What is the status of the גט that was given on condition that the husband will not drink wine the remainder of his life?

HALACHAH Highlight

Challenging authorities after their death

אמר להן ר' יהושע אין משיבין את הארי לאחר מיתה

R' Yehoshua told them that they cannot refute the lion after his death

R' Yehoshua told the other Tannaim that they cannot refute R' Eliezer after his death. Shayarai Korban¹ expresses astonishment towards this approach because if we were to follow this perspective all the questions that later authorities bring against earlier authorities should be automatically dismissed since one is not permitted to refute earlier authorities after their death. He suggests that R' Yehoshua's intent was since the halacha is not going to follow the position of R' Eliezer anyway, since he was a student of Beis Shammai, there is nothing to be gained by challenging his position. Teshuvot Tashbatz² wrote that one should not find his disagreement with authorities of earlier generations to be a display of insolence since each judge must rule the way halacha appears to him – אין לדין אלא מה שענינו רואות – and we do not show favoritism when it comes to matters of Torah.

Rav Moshe Feinstein³ wrote that one can deduce from our Gemara that although one cannot refute earlier authorities after their death and their words express דברי אלוקים חיים – the words of the living God – nevertheless, their words do not become binding halacha as we see in our Gemara. Although R' Yehoshua told the other Tannaim that they cannot refute R' Eliezer after his death, nonetheless, halacha does not follow his opinion. Further proof to this can be found in the Gemara in Bava Basra (130a) in which Rava tells R' Pappa and R' Huna the son of R' Yehoshua that when a written ruling of his comes before them with which they disagree they should not destroy the

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R' Eliezer ruled that if a woman's husband divorced her but stipulated that she could not marry a particular fellow and she became widowed from a second husband she is then permitted to marry the man excluded by her first husband.

R' Shimon ben Elazar rejects this ruling.

The Gemara challenges the rationale behind R' Shimon ben Elazar's rejection of R' Eliezer's ruling.

The exchange between R' Eliezer ben Azaryah and the other Tannaim regarding the verse cited by R' Eliezer ben Azaryah is recorded.

3) Severing the relationship entirely

Rava issues two rulings related to a divorce that is made with a condition that will last a person's lifetime.

The Gemara wonders why in one case Rava ruled the divorce is valid whereas in another case the divorce was invalid.

Rava's ruling is revised which resolves the inconsistency.

Rava asks whether a man can divorce his wife for the day but resume the marriage the next day.

It is explained how this question could be asked according to both R' Eliezer and Rabanan. ■

document that contains the ruling since it is possible that if he was there he would be able to successfully defend his ruling. Although they will not destroy the document they are not obligated to follow the ruling with which they disagree since each judge must rule in accordance with the way he sees the halacha. ■

1. שירי קרבן ירושלמי גיטין פ"ט ה"א ד"ה אין.
2. שו"ת התשב"ץ ח"ב סי' י"ט ד"ה ואל.
3. שו"ת אג"מ אר"ח ח"ד סי' ט'. ■

STORIES Off the Daf

The doubtful divorce

"דבר הכורת בינו לבניה..."

Things were not going well for a certain couple. The husband, a very simple man, had heard that they needed a ritual ceremony to permit his wife, and himself, to remarry. He went with her to the beis din, but it was clear to the rabbi arranging and issuing the גט that this ignorant man didn't begin to understand the first thing about what the document was.

Today it is hard to imagine the level of ignorance of amei ha'aretz during earlier times, since today people are educated and often understand nuances the ignorant

could often not grasp. After much patient explaining, this man finally understood that giving his wife the divorce would permit her to marry another. The document was not just a halachic technicality. It severed the marriage and freed her from him.

As the man gave his wife the גט, he said, "With this document, you can marry."

After the couple left, the Rav began to have second thoughts. After all, the husband had only permitted her to marry another. Quite possibly this implied that she was still forbidden as a married woman to any relationship outside of marriage. If that was the implication, it means that the גט does not completely sever their relationship. On Gittin 83 we find that a writ of divorce is called a ספר כריתות

because it completely severs the couple. Perhaps just as we find in Even Ha'ezer that if one writes "הרי את מותרת להינשא" "לכל אדם" there is a dispute if this completely severs the relationship, the husband's words also rendered his divorce questionable.

He asked the Shem Aryeh, זת"ל, this question. "We see from the Ran that the main question is regarding the wording of the document itself. However, because of the seriousness of this question, they should arrange another גט in which the husband says, "הרי את מותרת לכל אדם". But if this is not possible, the גט is kosher."¹ ■

1. שו"ת שם אריה, סימן י"ח

