

OVERVIEW of the Daf

1) Clarifying the Mishnah (cont.)

The Gemara continues to try and explain why a גט written in two columns is valid.

R' Ashi offers an alternative explanation why a גט written in two columns is valid.

2) Signatures on the side of the גט

The ruling of the Mishnah that a גט with signatures to the side of the text is invalid is unsuccessfully challenged from what was thought to be Rav's practice of signing a גט next to the text.

3) Clarifying the Mishnah

R' Yirmiyah asserts that the Mishnah should state that a גט that contains the signature of the scribe together with another witness is valid and R' Chisda adds that the Mishnah would thus follow R' Yosi that an agent cannot give his instructions to another person.

A related incident is recorded.

4) Surnames

A Beraisa discusses the use of surnames in a גט.

A ruling of R' Chanina is cited that follows R' Shimon ben Elazar who maintains that a surname is valid until three generations.

R' Huna cites a verse that serves as the source for this ruling.

5) The destruction of Eretz Yisroel

Tangentially, the Gemara relates that Eretz Yisroel was not destroyed until seven Batei Din worshipped idols.

The Gemara explains why Eretz Yisroel was destroyed during the time of Hoshea ben Eilah.

Another teaching is presented that relates to the rationale why the Jewish People went into exile in stages.

The reason the Torah scholars of the time of the destruction are called craftsmen and gatekeepers is explained.

Ulla gives a reason why it was beneficial for the Jews to be exiled "quickly". R' Acha bar Yaakov infers that from Hashem's perspective "quickly" is 852 years.

6) MISHNAH: The Mishnah discusses the validity of a גט that was coerced.

7) A coerced גט

R' Nachman in the name of Shmuel presents guidelines regarding the validity of a coerced גט.

The ruling that relates to a גט that was coerced by non-Jews is unsuccessfully challenged.

Abaye and R' Yosef discuss whether judges in Bavel are authorized to coerce a man to give his wife a גט.

R' Yosef's position that judges in Bavel are authorized to coerce a גט is unsuccessfully challenged.

Distinctive INSIGHT

Forcing the husband to issue a divorce—this is willful

גט מעושה בישראל כשר

A גט can only be issued by a husband if he does so willingly (לרצונו). This is based upon the verse in Devarim (24:1) which says that when a man wishes to divorce his wife, he shall do so by placing the document in the woman's hand (ונתן בידה). The Gemara in Yevamos (112a) derives from here that this be done with the man's consent. Rambam rules accordingly (Hilchos Geirushin 1:2). How, then, can our Gemara rule that we can sometimes exert pressure and coerce a husband to divorce his wife? Several approaches are mentioned among the Rishonim.

The Gemara in Bava Basra (48a) teaches that if a person is forced to sell something, the sale is valid. Even though he was coerced to do so, we recognize the element of force simply as an incentive which was used to convince the person to agree to sell. If, however, a person is forced to give a gift, the gift is not valid. Tosafos (ibid., ד"ה איילמלא) explains that any time a person acts in accordance with the rules of bais din, we apply the law of one who sells under duress, where his forced consent is adequate. However, if a man issues a divorce when forced to do so by a gentile, this is analogous to the case of giving a gift against one's will, which is not valid.

Rashbam explains that when a man is obligated to divorce his wife, and we force him to write a גט for her, usually the case is where there is some hatred or animosity between the couple. The man gains nothing by remaining married to a wife who will be intransigent (as is he), and we assume that he ultimately is in agreement that this is the best solution to the situation.

ר"ן writes that if a man has a mitzvah to divorce his wife, the reward of the mitzvah is considered payment, and it is similar to the case of being forced to sell something, which is valid.

Rambam writes (ibid., 2:20) that coercion is only when a person is forced to do something he is not otherwise obligated to do. However, a man who stubbornly refuses to issue a גט to his wife is temporarily gripped by the yetzer hara, and our forceful influence upon him merely restores his true self as one who wishes to act in accordance with halacha, and to be free from his yetzer hara. When he finally says, "I agree," we accept it as truly genuine. ■

HALACHAH Highlight

A גט coerced by non-ordained judges

א"ל והא אגן הדיוטות אגן וכו'

He [Abaye] said to him [R' Yosef], "But we are not ordained..."

Sefar Cheishek Shlomo¹ questions the Gemara's assertion that a גט that was coerced from non-ordained judges should be invalid. The procedure for coercing a husband to give his wife a גט involves applying pressure to the husband until he declares that he wants to give the גט (עד שאומר רוצה אני). Since that statement is taken to be a true expression of his desire to give his wife a גט why does it matter that he was pressured by non-ordained judges? Furthermore, since people are generally not well versed in these halachos to know that there is a difference between a גט that was coerced by ordained judges and a גט that was coerced by non-ordained judges, it can be assumed that the husband's consent was not at all effected by this halachic difference, why then do we distinguish between the two cases?

Cheishek Shlomo suggested that a גט coerced by non-ordained judges is, in fact, valid and Abaye was not suggesting to R' Yosef that the גט should be invalid; rather he was wondering why it was permitted to apply the necessary pressure to obtain the husband's consent since non-ordained judges are not invested with the authority to apply physical pressure to obtain a man's consent to give his wife a גט. Another approach he suggests is that a גט that was coerced by non-ordained judges is invalid even though the husband stated that he wants to give the גט. The reason is that it is assumed that he would not have agreed to give

REVIEW and Remember

1. For how many generations can one use a surname?

2. Why were Torah scholars referred to as craftsmen and gatekeepers?

3. Is a גט coerced by non-Jews valid?

4. What allows a Beis Din in Bavel to coerce a גט even though they do not have semichah?

his wife a גט had he been aware of the fact that the non-ordained judges were not authorized to apply pressure to him to give a גט.

He notes that according to his first explanation he can resolve a difficult question. There are Poskim² who maintain that the authority of non-ordained judges to act as agents for ordained judges is a Rabbinic enactment. The difficulty with this approach is how a Rabbinic enactment can generate a גט that is Biblically valid and allows a married woman to find a new husband. Cheishek Shlomo explains that the גט is Biblically valid even if it was coerced by non-ordained judges and the reason it should not be done is that they are not authorized to apply physical pressure but that restriction does not affect the efficacy of the גט. ■

1. חשק שלמה ד"ה א"ל.
2. ע"י באר היטב חו"מ סי' א'.

STORIES Off the Daf

The Rule of Law

"לפניהם ולא לפני עובדי כוכבים..."

Acertain Rav claimed that although the Gemara prohibits going to non-Jewish courts, one could go to a Jewish judge even if he ruled based on non-Jewish law. "After all, the prohibition is against going to non-Jewish judges."

Very many great authorities, based on numerous sources, ruled against him.

When someone asked the Chazon Ish, ז"ל, about going to a court before a secular Jewish judge, he replied, "In a way, a secular Jewish judge is worse than a non-Jewish one. A non-Jew is merely following his way, as well he should. Although the halachah is that a Jew must go

to beis din, the non-Jewish judge is not doing anything wrong.

"In the case of a Jewish judge, however, the judge is rejecting Hashem's law and is doing something wrong. Although sometimes the judge himself is not responsible for this because of his secular upbringing and training, nevertheless, it looks much worse for a Jew to go to him than to a non-Jew."

The Chazon Ish concluded, "Even if the entire city is in favor of the judge's decision, it holds hold no weight at all in cases where two Jews should have gone to beis din."¹

Rav Moshe Feinstein, ז"ל, pointed out that there are exceptions even regarding the serious prohibition of going to non-Jewish courts. "We find that beis din may even resort to extreme measures to

carry out their psak. One of these measures is giving permission to go to secular courts."²

However, in all cases, one must obtain permission from a bais din before going to a secular court. ■

1. ידוע ומובא בשו"ת אז נדברו, חלק ג', עמוד ק"ס
2. אג"מ, חו"מ חלק ב', סימן ט"ו

(Overview...Continued from page 1)

8) MISHNAH: The Mishnah discusses the halachic ramification of rumors that a woman was betrothed or divorced.

9) Clarifying the Mishnah

The ruling is challenged that a rumor that the wife of a kohen was divorced prohibits her to her husband the kohen.

The Gemara suggests an alternative explanation for the Mishnah. ■