

OVERVIEW of the Daf

1) Unstated stipulations (cont.)

Rava continues to search for the source that indicates that unstated stipulations are not recognized.

Rava's suggestions are rejected and R' Yosef suggests a source.

Abaye rejects this source and offers an alternative source for this ruling.

This suggestion is also rejected and R' Chiya bar Avin suggests another source.

R' Chiya bar Avin's suggestion is unsuccessfully challenged.

Two related incidents are presented, in the first incident two versions of Rava's ruling are presented and in the second incident two versions of R' Ashi's ruling are presented.

The difference between the two versions of R' Ashi's ruling is explained

2) **MISHNAH:** The Mishnah discusses the consequence of an agent performing kiddushin in a place different than what the man instructed.

3) The parallel to the Mishnah in Gittin

It is noted that there is a parallel Mishnah in Gittin.

The Gemara explains the necessity for the two Mishnayos.

4) **MISHNAH:** The Mishnah discusses a betrothal done on condition that the woman does not have vows or physical blemishes.

5) Repetition of the Mishnah from Kesubos

The Gemara explains why this Mishnah appears both here and in Kesubos.

6) **MISHNAH:** The Mishnah discusses two cases of betrothal with less than a perutah and kiddushin done by a child.

7) Clarifying the Mishnah

The Gemara explains why all three cases of the Mishnah are necessary.

8) Bridal gifts

R' Huna and Rabbah express concern that bridal gifts may effect kiddushin.

Rabbah challenges this ruling.

Abaye resolves this challenge.

A second version of the conversation between Rabbah and Abaye is presented.

R' Pappa rules that the halacha will depend on whether it is a place where they first do kiddushin and then send bridal gifts or whether it is a place where they send bridal gifts and then do kiddushin.

This ruling is unsuccessfully challenged.

9) Does a kesubah create a presumption that a woman is be-

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Distinctive INSIGHT

A גט issued due to the husband's being coerced

ודלמא שאני התם דמצוה לשמוע דברי חכמים

Rambam writes (Geirushin 2:20) that when someone is legally obligated to give his wife a גט, Beis din may coerce him to do so. Even if the husband only writes the גט due to being coerced to do so, we consider his writing of the גט to be willful, because anyone who must legally write a גט really wants to do the mitzvah incumbent upon him and to divorce his wife. If he then resists and refuses to give the גט, it is his yetzer hara which is interfering, and if we strike him and weaken him until he agrees to give the גט, we have subdued his yetzer hara, and his true nature to give it willingly can emerge, and the גט is seen as being given with the husband's cooperation.

According to this interpretation of Rambam, the mitzvah to listen to the sages refers to one's obligation to divorce one's wife when it is legally appropriate. Therefore, even if a husband is forced to write and give a גט after being subject to physical torment by gentiles, he is still doing the mitzvah of "listening to the sages." This is the case even if the thugs do not specifically say, "Do what the rabbinical court told you to do!" If he is compelled by gentiles, Rambam rules that the גט is kosher (from the Torah's perspective). Nevertheless, the rabbis invalidated it in this case. Kesef Mishnah and Lechem Mishnah explain, based upon the words of Rav Mesharshia (later 68b) that the rabbis were concerned that many women would hire gentile thugs to beat-up their husbands until they agree to divorce them. Therefore, the rabbis voided a divorce written due to coercion by gentiles. ■

REVIEW and Remember

1. Why aren't we concerned that a man who is forced to give a גט to his wife had thoughts to invalidate the גט?
2. Why does Shas repeat a Mishnah here that was already taught in Gittin?
3. When are we concerned that bridal gifts may constitute kiddushin?
4. What is the source that a man cannot betroth two women who are related to one another?

Today's Daf Digest is dedicated

By Rabbi and Mrs. Sam Biber

In memory of their mother

מרת רבקה זלדה בת ר' חיים יחזקאל הכהן, ע"ה

HALACHAH Highlight

Are all blemishes grounds to nullify kiddushin?

שכל המומין הפוסלין בכהנים פוסלין בנשים

For all blemishes that disqualify kohanim will disqualify women

Reuven sent Shimon to find a bride for him. Shimon found what he thought was a beautiful woman and a date for the wedding was set. When Reuven arrived he immediately noticed that there was something wrong with the bride's eyes. The blemish did not in any way effect her vision; the condition merely caused her eye lids to appear as if they are not aligned with one another. Reuven sought to annul the kiddushin claiming that she is blemished and therefore the kiddushin that Shimon performed on his behalf is null and void.

The question was sent to Rav Yosef Chaim of Baghdad¹, the Ben Ish Chai, and he pointed to an earlier source that addressed a similar type of question. That sefer cited the Mishnah in Kesubos (72b) that teaches that the blemishes that disqualify kohanim from serving in the Beis Hamikdash are the types of blemishes that can nullify a marriage. Since the blemish in this inquiry is not similar to the blemishes that disqualify a kohen it would seem that the husband cannot nullify the kiddushin that was already performed. Ben Ish Chai rejects this position and asserts that there are blemishes that, although they would not disqualify a kohen from serving in the Beis Hamikdash, they would certainly be considered blemishes to nullify a kiddushin. He cites as precedent to his position a teshuva of Chavos Yair² who writes that any deformity that people commonly considered a blemish will nullify a kiddushin even though it is not one of the blemishes that disqualify a kohen. Therefore, since the blemish in this case is always apparent and there is a strong likelihood that the children will inherit this blemish it should certainly be

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trothed?

R' Acha bar R' Huna asks whether a kesubah that surfaces forces us to address the possibility that the woman named in the kesubah is betrothed to that man.

Rava said it does not create such a presumption.

R' Ashi asserts that it depends on whether it is a place where they do kiddushin and then write a kesubah or whether it is a place where they write a kesubah and then do kiddushin.

This explanation is unsuccessfully challenged.

10) **MISHNAH:** The Mishnah discusses the consequence of marrying two women related to one another. A related incident is presented.

11) Clarifying the Mishnah's first ruling

Rami bar Chama suggests a source for the Mishnah's ruling that a man may not betroth two women related to one another.

Rava challenges this source and offers an alternative source for this halacha.

12) Whatever cannot happen consecutively cannot happen even simultaneously

Rabbah states that whatever cannot happen consecutively cannot happen even simultaneously. ■

considered a blemish that will nullify the kiddushin. Interestingly, one of the reasons he articulates is that if their daughters will be born with this blemish it will require the father to increase the amount he pays for a dowry. In conclusion he writes that Reuven's claim is certainly valid and we will not force him to go forward with the marriage, however, to be cautious regarding matters related to marriage he writes that Reuven should give her a גט. ■

1. שו"ת רב פעלים ח"א אה"ע סי' ז'.

2. שו"ת חות יאיר סי' ר"כ. ■

STORIES Off the Daf

"They force him until he says, 'I want'"
"כופין אותו עד שיאמר..."

A certain woman once married a very wicked man. Not only did he refuse to provide for his bride, he was also completely neglectful in all aspects of Torah. He was a drunkard and visited brothels. He ate food prepared by non-Jews and drank non-Jewish wine as well. When this poor woman heard that her husband had eaten chometz on the eighth day of Pesach, this completed her disillusionment and she wanted a divorce more than any-

thing.

She ran away to her father's house and wept piteously that she could no longer stand living with such a vulgar and evil man. He was completely disgusting in her eyes and he professed to have no emunah. Although he made a decent living, he squandered it all on his expensive habits and was therefore unable to provide for a wife—how much less so would he be able to provide for a family.

Understandably, this woman went with her father to their local Rav to ask if they could force this crazy man to give her a divorce through the non-Jewish authorities. The Rav was uncertain if they could actually rely on the half a dozen or so

sources that permit us to put into practice the Gemara in Kiddushin 50, which states that at times we force a non-consenting husband until he declares his willingness to divorce his wife.

The Rav decided to consult with Rav Chaim Palagi, zt"l, in this matter. "Although the Rambam holds that we cannot literally force him to consent to give a divorce, the Beis Yosef and the Rema both disagree."

He concluded, "Even more importantly, in a case such as this, it is exceedingly obvious that we must rely on the lenient authorities and free the unfortunate, mistreated woman!"¹ ■

1. עיני כל חי (על עין יעקב), גיטין נ'

