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Kesuvos Daf 3

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Daf Notes is currently being dedicated to the neshamah of
Tzvi Gershon Ben Yoel (Harvey Felsen) o”h

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Rava’s Reasoning

The *Gemora* concludes that Rava used his own logic for his ruling. Biblically, if the husband does not return due to an accident, the *get* is not valid; however, the Rabbis, because of their concern for the modest and the brazen woman, declared that the *get* is indeed valid.

The *Gemora* explains the concern for the modest woman: If you will say that it should not be a divorce, there might be times where the husband was not held back by an accident, but she would think that he was held back by an accident and she will remain unmarried as an *agunah*.

The *Gemora* explains the concern for the brazen woman: If you will say that it should not be a divorce, there might be times where the husband was held back due to an accident, but she will say that he willingly did not return, and she will go and get married to another man, and later, when the husband returns (*and we will realize that he was held back due to an accident*), the *get* will be invalid and the children will be *mamzeirim*. (2b3 – 3a1)

Kiddushin is Based on the Rabbanan

The *Gemora* asks: Is there any kind of *get* (*halachic divorce document*) that the Torah says is invalid, and due to the concern regarding modest or brazen women, we will permit the men in the world to marry what is essentially a married woman?!

The *Gemora* answers that yes, it is possible, as there is a principle that whoever effects *kiddushin* does so based on the standards of the Rabbis. The Rabbis took away the

kiddushin from this man (*and therefore the woman is not married, although she never received a get*).

Ravina asked Rav Ashi: This makes sense regarding a *kiddushin* effected with money. [*This is because the Rabbis can assume the power of Beis Din to render the original money of kiddushin “hefker” – “ownerless.” Therefore, it is as if the original kiddushin was invalid, as it was not done with his money.*] However, how can they negate a *kiddushin* effected through cohabitation?

Rav Ashi answered that the Rabbis essentially say that his cohabitation is considered (akin to) promiscuity (not relations that acquire a woman for *kiddushin*). (3a1 – 3a2)

Another Version of Rava

There are those who say that Rava said: And so too regarding *gittin*. This indicates that Rava understands that there is a claim that one was delayed by circumstances beyond his control (*and therefore did not fulfill his condition regarding the giving of his get*).

The *Gemora* asks: The Mishnah states that if someone says, “This is your *get* if I do not come back within twelve months,” and he died within twelve months, the *get* is invalid. This implies that only if he died is the *get* invalid, but if he fell sick (*and could not come back*) it is valid.

The *Gemora* answers: Really we can say that if someone fell sick it is not a *get*. The Mishnah is telling us the sole teaching that there is no concept of *get* after someone dies.



The Gemora asks: The concept that there is no *get* after someone dies was already taught in the first part of this Mishnah!

The Gemora answers: Perhaps this was to exclude the opinion of our Rabbis (see 2b).

The Gemora further tries to prove this point (*from the end of the aforementioned Mishnah*): If the person says, "(This is your *get*) from now, if I do not come back within twelve months," and he dies within twelve months, the *get* is valid. It must be that the same law applies if he got sick (*and could not return, which is unlike the opinion of Rava*).

The Gemora answers that no, this specifically applies to a case where he died, as he does not want her to have to fall to *yibum* (*if he dies*).

The Gemora asks from a case where a person said that if he does not return within thirty days the *get* should be valid. He arrived at the end of the thirty days, but the river prevented him from arriving back (*on time, as the ferry was not present at the time*). He was saying, "You see that I am coming! You see that I am coming!" Shmuel said that this is not called that he reached the city (*and therefore the get takes effect*).

The Gemora answers that a forced circumstance that is common is different, as he should have made a condition beforehand (*that if he comes back but cannot cross the river in time it is not included*). The fact that he did not is his own loss. (3a2 – 3a3)

Getting Married on Other Days

Rav Shmuel bar Yitzchak says that our Mishnah is only discussing a case in the time of the decree of Ezra and on, that since then, Beis Din was not permanently in session on days other than Monday and Thursday. However, before the decree of Ezra - that Beis Din was in session every day, a woman could get married on any day.

The Gemora asks: Why is Rav Shmuel discussing the days before the decree of Ezra? Whatever happened, happened then (*and is irrelevant now*)!

The Gemora answers that this is what he is saying: If there is a situation where Beis Din is in session every day of the week nowadays - as they were before the decree of Ezra, a woman can get married any day. (3a3)

Shakdu

The Gemora asks: Do we not need to fulfill the decree of "Shakdu" (*that a husband should prepare for the wedding meal for the first three days of the week*)?

The Gemora answers that it is referring to a case where he bothered himself (and prepared for three days before Shabbos).

The Gemora asks: What is the source of "Shakdu"?

The Gemora answers that the Baraisa states: Why did they institute that a virgin should get married on Wednesday? It was in order that if he had a claim that he did not find her to be a virgin, he would wake up early and go to Beis Din (see 2a). The Gemora asks: Let her get married on Sunday, and if he has a claim that he did not find her to be a virgin, he could similarly wake up early and go to Beis Din Monday morning? The Gemora answers that the sages insisted for the good of Jewish girls that a person should be involved in preparing a wedding meal for three days: Sunday, Monday, and Tuesday. He would then marry her on Wednesday. From the period of danger and on, the people had the custom to marry her off on Tuesday, and the sages did not protest against them. On Monday one should not marry, and if he did so due to the forced circumstances, it is permitted. We separate the groom from the bride on Shabbos night from having their first act of cohabitation, because this causes a wound. (3a3 – 3b1)

The Definition of Danger

The Gemora asks: What is the danger (*referred to in the Baraisa above*)? If you will say that it was declared by a government that if a virgin marries on Wednesday she will be killed, why does the Baraisa merely state that “they started a custom (*to get married on Tuesday*)?” We should totally uproot getting married on Wednesday!?

Rabbah says that it is because the government said that a virgin who gets married on Wednesday must first cohabit with the *hegmon* (*governmental officer*).

The Gemora asks: Is this considered a danger? It is called a forced circumstance (i.e., a rape)!

The Gemora answers that there were some modest girls who would insist that they would rather be killed, and this led to a life-threatening situation.

The Gemora asks: Let it be told to them that under forced circumstances this is permitted?

The Gemora answers that there are also some immodest women (*and if we tell them this is permitted, they will cooperate willingly, and this will mean that they are forbidden to their husbands*). Additionally, the Gemora explains, some of these women are wives of Kohanim (*who become forbidden to their husbands even through rape, see Rashi*).

The Gemora asks: So let us uproot getting married on Wednesdays?

The Gemora answers that the decree will eventually be cancelled, and we do not uproot the decree of the Rabbis before such a decree.

The Gemora asks: If so (*they will switch to Tuesdays*), on Tuesdays also the Hegmon will come to cohabit with them!?

The Gemora answers that (*being that the Hegmon is unsure if there will be a wedding on Tuesday*) he will not travel to town in such a doubtful circumstance. (3b1 – 3b2)

The Baraisa had stated: On Monday one should not marry, and if he did so - due to the forced circumstances, it is permitted.

The Gemora asks: What is the forced circumstance? If it is the circumstance we have just discussed, there it is called a danger and here it is called a forced circumstance?! Additionally, there it says that they switched the custom to Tuesday, and here it says that it is permitted!

Rava says that the forced circumstance here is that officers of the army come to town (*to steal the wedding food*).

What is the case? If they come (on Wednesday) and leave (that Wednesday), let the wedding be delayed (*and held on the next Wednesday*)!?

The Gemora answers that the case is where they come to settle in town on a Wednesday.

The Gemora asks: So let the marriage be held on Tuesday?

The Gemora answers that the officer’s servants arrive ahead on Tuesday (*to gather provisions for the officer and his troops*). (3b2 – 3b3)

INSIGHTS TO THE DAF

Revoking a Kiddushin

The Gemora asks: Is there any kind of *get* that the Torah says is invalid, and due to the concern regarding modest or brazen women, we will permit the men in the world to marry what is essentially a married woman?! The Gemora answers that yes, it is possible, as there is a principle that whoever effects *kiddushin* does so based on the standards of the Rabbis. The Rabbis took away the *kiddushin* from this man



(and therefore the woman is not married, although she never received a *get*).

The Rashba asks: Why is this case different than the case in *Yevamos* where a man fell into water that has no end? There, we rule that the wife will remain an *agunah* because the husband might have exited the water from a place that was not visible to us. Why don't we say that the Rabbis took away the *kiddushin* from them, and she may remarry another man?

He answers: The two cases are very different. Here, there was a *get*, except that it was written with a condition, and an uncertainty arose regarding the condition. Another example where the Rabbis would revoke the *kiddushin* is where one witness is testifying on the woman's behalf (*that her husband died*). However, when there is no *get* and no witness, the Rabbis did not go ahead and remove a *kiddushin*.

The *Gemora* in *Yevamos* (110a) records an incident in Narsh where a girl was married off when she was a minor. When she became an adult, they sat her by a Chupah (wedding canopy, in order to validate the first marriage), and someone else snatched her away before the "wedding" (and made her his wife)! Rav Bruna and Rav Chananel, students of Rav, were present when this happened, and they did not even require her to have a *get* from the second "husband" (as his *kiddushin* is invalid).

Rav Ashi explains that being that the wife snatcher acted improperly, the Rabbis therefore acted improperly with him and removed the validity of his *kiddushin*. (*This is following the opinion of Rav, who maintains that for the marriage of a minor to become valid, she must have marital relations with her husband when she becomes an adult, and if not the marriage is invalid.*)

The Rabbis were empowered to remove the *kiddushin* in this case because he acted improperly in the beginning of the *kiddushin*.

Reb Yosef Engel in *Gilyonei Hashas* cites a *Teshuvos haRashba* who writes that we do not apply the principle of, "Since he acted improperly, the Rabbis acted improperly with him" only in places that are specifically mentioned in Chazal. The Sages did not annul the marriage in every case where one acts with trickery. This can be proven from a *Gemora* in *Kiddushin* (58b). The *Gemora* states: One who tells his friend to marry a woman for him (as an agent), and he goes ahead and marries her for himself, she is married to the second one. We do not say that since he acted improperly, the Chachamim invalidated his marriage.

This can be proven from the fact that even if one betroths a woman who is subject to a negative prohibition, *kiddushin*, nevertheless takes effect. This is also true if someone marries a woman who is a secondary *ervah* to him. Obviously, sometimes this principle is applied, and sometimes, it isn't.

DAILY MASHAL

Path to Sanctity

The *Gemora* states: Whoever betroths a woman in Jewish marriage, betroths her subject to the will of the Rabbis.

The baalei mussar say: One who wants to sanctify and purify himself in his service to his Creator, should do so subject to the will of the Rabbis. He should go to the Rabbis and the righteous people of his generation, and they shall guide him in his quest. One who tries to forge a path himself is apt to stumble and make mistakes; nothing substantive will result from it.