

OVERVIEW of the Daf

1) Clarifying the Mishnah (cont.)

The Gemara continues to challenge Abaye's explanation until it finally decides that the first explanation is more reasonable.

R' Ashi defends Abaye's explanation and a Baraisa is cited that supports this explanation.

The Gemara explains the Baraisa's choice of words.

2) **MISHNAH:** The Mishnah discusses some of the parameters related to the principle that a גט cannot become effective after a man died.

3) Clarifying the phrase **אם מתי**

It is noted that there is contradiction in the Mishnah regarding the meaning of the phrase **אם מתי**.

Abaye resolves the contradiction.

4) Clarifying the Mishnah's first ruling

R' Huna asserts that when a man gives a גט that is effective when he dies the wife would still require chalitzah.

This qualification is challenged and the Gemara is forced to conclude that according to R' Huna the Mishnah follows the opinion of R' Yosi.

The assertion that the Mishnah follows R' Yosi is challenged.

After a number of unsuccessful explanations it is suggested that R' Huna was uncertain whether halacha follows R' Yosi's position regarding an oral stipulation that was made at the time of the delivery of the גט.

An alternative explanation of Rava's earlier-cited statement is recorded.

An alternative explanation of R' Huna's ruling is cited.

It is asserted that this comment is unnecessary since we could have figured it out on our own.

The reason R' Huna's comment was necessary is explained.

Tangentially, the Gemara cites a dispute between Rebbi and R' Yosi and why they disagree with one another's position.

5) The גט and gift of one who is deathly-ill

R' Huna asserts that the parameters for a גט and a gift of a deathly-ill person are the same.

The Gemara begins its unsuccessful challenge to R' Huna's comment. ■

Distinctive INSIGHT

"From today" - and the husband dies that very day

מהיום אם מתי, מעכשיו אם מתי, הרי זה גט

A גט cannot become valid once a man has died. At the moment of death his wife becomes a widow, and a widow cannot receive a divorce from her deceased husband. If a man is ill, and he gives a גט to his wife on the condition that it take effect upon his death, the גט is not valid. However, if the husband writes a clause to have the גט effective "from today once I die," upon the man's death the גט becomes effective back to the day it was written, and at that time the husband was still alive.

Tosafos, in the name of Rabeinu Tam, probes a case where the husband wrote a retroactive phrase that the גט be active back to the day it was written, but the man died on that very day. On the one hand, we might say that the man intended that the divorce be effective at the end of that day, and by that time the man had already died. If this was the case, the גט would not be valid. On the other hand, he might have meant that the גט be valid immediately upon its being written, even in the middle of that day. If this was the case, the גט would be valid, because at the moment it was written the husband was still alive.

Tosafos cites Rabeinu Elchanan, however, who says clearly that in this case the גט is valid. The intent of the husband by writing the term "from today" is that he is concerned that he might die, and he wants the גט to be effective and that his wife not be a widow (and perhaps need to deal with the brother-in-law for yibum). If this was his intent, we must say that the husband wants the גט to be valid even if he was to die that very day.

Chasam Sofer explains the opinion of Rabeinu Elchanan based upon the comments of ר"ן in Shavuot. He writes that when a person sets a condition using the word "אם—if," it could either mean that once the event occurs he wishes it to be effective from now, or it could mean as of when the event transpires. When giving a divorce, we interpret it to be the later meaning, as we understand that the husband wants to delay the divorce as long as possible. However, when he uses the term "מהיום—from today," it clearly indicates that the husband does not wish to delay the גט too much and for it to be effective after his death. Therefore, even if he were to die that very day, we would consider the גט valid. ■

HALACHAH Highlight

Exempting a child from Bris Milah

אמר מר בריה דרב יוסף משמיה דרבא שניתק מחולי לחולי

Mar the son of R' Yosef in the name of Rava explained that the Mishnah refers to where he went from one illness to another

There was once a man who had a healthy baby boy. The day after the baby had his bris the baby became ill with a disease and died within a few hours. The man's second child became ill three days after his bris from another disease and also died within the day. The father had a third boy and inquired whether he is obligated to give a bris since one can suggest that the rule could be applied that a child whose brothers died from having a bris is not given a bris. On the other hand since the previous two children died from diseases that are not directly linked to having a bris perhaps the principle cannot be properly applied.

Teshuvav Avnei Nezer¹ began his analysis of this question with the dispute between Rashi and Rashba regarding our Gemara. The Gemara discusses a case of a man who gives his wife a גט if he dies from his present illness. While he is still ill he contracts another illness and dies from the second illness. Rashi holds that the גט is valid because the condition is understood to mean that the גט should be effective as long as he still suffers from his illness, even if he dies from an unrelated condition like a house collapsing upon him. Rashba disagrees and understands the condition to mean that the גט will

REVIEW and Remember

1. What is the meaning of the phrase **אם מתי**?
2. Explain **זמנו של שטר מוכיח עליו**.
3. What is the dispute between Rebbi and R' Yosi?
4. In what ways are a גט of someone deathly ill similar to a gift of someone who is deathly ill?

be valid if he dies from that illness. Therefore, if he contracts another illness we must determine whether it was caused by the first illness. If it is determined that he contracted the second illness from the first illness the condition of the גט is met but if the second illness is unrelated to the first illness the condition of the גט was not fulfilled and the גט is not valid.

Therefore, since research indicates that the illness that killed the second child is not caused by a bris and the illness that killed the first child could be caused by a bris, it cannot be said that the first two children died as a result of their bris. Accordingly, it is not only permitted to give this third child a bris but it is obligatory as well. He concluded that there is no reason for concern and the parents can feel confident that as people who are doing a mitzvah they will not suffer harm. ■

1. שו"ת אבני נזר יו"ד סי' שכ"ז (וע"ש ריש אות א' דאיתא שם "תשובה גיטין (כ"ב):" וט"ס הוא דצ"ל "ע"ב):" .

STORIES Off the Daf

A Hasty Commitment

"גיטו כמתנתו..."

A certain childless man was once very ill. Although he was not deathly ill, he nevertheless feared the worst and summoned a close friend who was a sofer and another two to be witnesses. When they arrived, he ordered that a divorce be written, signed, and given to his beloved wife, along with a sizable addition to her kesuvah. He even called over his wife and made a קנין so that she acquired the extra money for her kesuvah. Before they had a chance to carry out either order, the man started to feel better. After a short time, he was com-

pletely well and he naturally did not intend to go through with the divorce.

When everything was back to normal, his wife asked her husband that a new kesuvah be drawn up since he had added significantly to the original sum when he had been sick. The husband insisted that they go to a Rav. "If I really owe it, I will add it. It is already a fortune, though, and I only added to it because I thought I was at the end of my life. Now that I am better, thank G-d, I doubt I am obligated to add to your kesuvah."

They consulted with the Shvus Ya'akov, ז"ל, regarding this matter. He answered, "In Gittin 72 we find that Rav Huna says that the same law applies to one's writ of divorce as one's bequest. A gift is retroactively cancelled if the bene-

factor recovers from his sickness, as is a writ of divorce. The Rosh explains that the Gemara discusses a **שכיב מרע** that ordered to give either a gift or a divorce because he thought he was dying. In our case, since the authorities wrote that when it appears that his gift was only due to a fear of imminent death it is canceled when he feels better, the husband need not increase her kesuvah. He clearly only ordered the divorce because of fear of dying, since they had not fought. On the contrary, the husband added to his wife's kesuvah as a sign of his esteem and care for her. Clearly both were done as a result of fear of death only. I am sure he only ordered a divorce to enable her to escape yibum since they have no children." ¹ ■

1. שו"ת שבות יעקב, חלק ב', סימן קכ"ו