

Tractate
19 -Gittin

2a - 48b1

19 - Gittin

The mesechta of Gittin deals with the laws of divorce.

The term ‘get’ (singular) or ‘gittin’ (plural) refers, not to the divorce itself, but to the document that effects the divorce. It is written in 12 lines. The numerical value of the word “get” is $3 + 9$ which equals the number 12.

Marriage can be accomplished through a variety of methods (money, document or cohabitation), however, divorce is only accomplished via a get.

Marriage has two stages: Erusin (also called Kiddushin) and Nisuin. Even Erusin confers the legal status of man and wife on the couple and cannot be undone, unless the husband gives the woman a get.

Volition - He must divorce her of his own free will (unless on the rare occasion when he is coerced by Bais Din to divorce) (The scriptural source is Deut 24:1-4).

But Rabbeinu Gershom (Meor HaGolah b.960- d.1040) declared a ‘cherem’, ‘a religious ban’ on any husband who divorces his wife against her will.

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No grounds for divorce are needed.

The document must indicate that the wife is being sent away.

The following are examples of phrases that are effective: 1. You are hereby sent away. 2. You are hereby in your own domain. 3. You are permitted to any man. 4. I send you from my house. However, the phrase 'I am no longer your husband' is not effective. It severs the relationship, but does not send the wife away. It removes the husband from the wife, rather than the wife from the husband.

A get is divided into two sections:

The toref – which gives the particulars, i.e., date, names, address and where the get was drawn up.

The tofes – the substance. The standard text is stated in any language, but usually Aramaic lettering is used, as in a Torah scroll.

Any substance can be written on.

Any substance can be used to form the letters, but they must leave a visible imprint and not be erasable without leaving a trace. This is to prevent forgeries.

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Intent

The get must be written “for her”. A get cannot be written for one wife and used for another. A get cannot be blank to be filled in at a later time.

The delivery

Divorce occurs when the husband gives the get to his wife for the purpose of divorce., in her hand, or in her domain, or by an agent, (his agent to her or her agent receiving the get from the husband, or each have an agent).

Witnesses

Today, the get is signed by two witnesses. The essential need for witnesses is to the delivery of the get (R Elazar). Since, if the witnesses to the delivery do not sign anything they might die or be unavailable to serve as witnesses later. We have the same witnesses to the get having been written (for that particular woman), actually sign the get.

Conditions

Conditions can be attached to a get. The conditions need not be written into it. Conditions stated verbally is permissible. However, a condition that obligates the wife for her entire lifetime is not permitted, because that creates an ongoing connection to the husband and absolute and complete severance is needed. An example of a condition: ‘If you go to such and such a place in the next 30 days’, this is still a valid divorce . However, if you say ,“in your lifetime”. The divorce is not valid.

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Other means of severance:

The only other means of severance is the death of the husband.

A divorcee cannot marry a Kohen.

A widow may marry a Kohen, but not a Kohen Gadol.

A widow, whose husband died without children, is bound to his brother. Whereas, a divorcee is free to marry anyone.

View of Divorce

Since the Torah sanctions divorce, that indicates there are times when divorce is appropriate and necessary. Yet, the Gemara points out the tragedy of divorce., “Even the Altar sheds tears”.

הַמְבִּיא גֵט

One who brings a get.

If a get is written and one letter of the husband's or the wife's name is incorrect, is the get still kosher? No, it must be re-written.

Is a get, which is not written in the 12 line format, still kosher? Yes.

A get may be written, even on a large olive leaf, which does not have space for 12 lines. Therefore, we see a get, not written in the 12 line format, is valid.

What do we mean 'kosher' – 'valid'? The ex-wife can use the get to justify her marrying another man and prove that she is not an agunah.

וַאֲשָׁקֶלֶן כְּדָרוֹם

And Ashkelon is like the south.

[and not considered part of Eretz Yisrael]

‘Honor your mother and father’ -means your days will be lengthened , but only in Israel!

The Netziv says- No, our days will be lengthened, even in the Diaspora.

The Mitzvah of honoring one’s parent has nothing to do with the location, whether the Diaspora or Israel.

The ‘length of days’ really means, ‘In the world to come’, not here on earth.

לְפִי שְׂאִין בְּקִיֵּאִין לְשִׁמָּה

Because they may not be familiar with the concept of ‘lishmah’.

The messenger, who brings a get from outside Israel, must declare it was written (and/or signed) in his presence. The court will then ask him if it was written, specifically, for the woman involved. This is done because we are not sure that the people outside of Eretz Yisrael, are familiar with the concept of lishmah.

Why are we not concerned that they don't understand other concepts as well?

For example:

- Writing on a surface detached from the earth.
- Making sure the names of husband and wife are correct.
- To avoid writing the get during the day and having it signed at night.

When the agent testifies that it was written in his presence, he attests not only to lishmah, but that the get was written properly.

לְפִי שְׂאִין בְּקִיּוֹת לְשִׁמָּה

Because people outside of Eretz Yisrael are not familiar with the concept of ‘lishmah’ (“for it’s own sake”, ‘for no other reason’).

See commentary #1 (Daf 2b1)

When a man brings a get from outside Eretz Yisrael, he need not declare that it was written and signed in front of him.

We assume that even courts outside Israel are familiar with divorce law and are competent in ascertaining that the document was written ‘for her.’ Since the husband, himself, is bringing the get, we do not suspect that he will later question its validity.

However, if an agent brings a get, we do require him to state that it was written and was signed before him. This is to clarify that he (the agent) in fact, does know that this document was written appropriately. Because whether it was done appropriately, could otherwise be in question.

עדים החתומים על השטר שנחקרה עדותן בבית דין

Witnesses, who signed on a document, are treated as if their testimony was examined in court (and accepted).

One of the purposes of the messenger is to tell us that the signatures on the get, written in his presence, are authentic. Shouldn't we require two witnesses to verify the signatures? How can one witness suffice?

- A document, with two signatures, stands on its own as being valid.
- People do not affix their signatures, unless they are sincere and honest.

Rambam- We only accept testimony from personal eye witnesses, from their mouths (not written testimony) and we need two witnesses.

The Rabbis permit written testimony, and in the case of a get, one witness and the document would be sufficient.

חָרָא מִתְּלַת גְּאִיז

One word, out of a three word declaration, may be cut out.

Can the declaration of the agent be stated in languages other than Hebrew?

Rav Moshe Isserles, the Rava, is not certain.

Shulchan Aruch says- No.

Vilna Gaon - Of course. The get can be in other languages, so certainly the agent's attestations can be in other languages, also.

Chasam Sofer explains that the Hebrew declaration is very short and could be expected to be remembered by the agent. Other languages are not so concise, i.e., 'in front of me it was written and in front of me it was signed' (In English this statement requires 15 words. In Hebrew, this same sentence requires only 4 words, "b'fonai nichtav u'v'fonai nichtam"). Therefore, when possible, say it in Hebrew, and make the get acceptable to all.

וּרְבֵּנָן בִּתְרַאי סְבָרֵי גְזָרֵינָן מוֹלִיךְ אָטוּ מֵבִיא

The Rabbis later decreed that an agent taking (a get abroad, should declare it to have been written lishmah) because of (our concern about an agent) bringing (a get into Eretz Yisrael).

Two reasons to verify:

1. It written lishmah.
2. Witnesses are hard to find later, especially when the distances are far.

A get, which was brought from a distant land, to Israel, must be declared that it was written lishmah.

The Rabbis also say that if a get was brought from Israel, to a distant land, the witness must declare that it was written lishmah. Why, don't the courts in Israel know that the get must be lishmah, or it will not be valid?

Answer:

Witnesses are hard to find over long distances, and so, we verify their signatures while it is still fresh in everyone's mind. Also by doing it in both situations, there is less confusion, i.e., saying that verification is needed from here to there, but not from there to here.

Verification is needed at all places and at all times.

וְכָתַב לִיָּה בְּלֹא שִׁירְטוּט

And he wrote it without scoring the paper.

- Tefillin can be written on non-scored paper.
- Ritva and Shulchan Aruch- There is no obligation to check one's Tefillin, to assure they are valid, unless they are only worn occasionally.
- Rav Shlomo Zalman Auerbach – Agrees. Nowadays, no inspection of Tefillin is needed.

Mezuzahs must be read and checked every 7 years. The parchment must be scored.
(Opening Mezuzahs or Tefillin can cause great problems in and of themselves.)

Pious people open both, each year in Elul, to check.

וּבְיָדֵי לְמַסְרָם לְמַלְכוֹת

And it is in my power to turn them over to the King.

Shulchan Aruch rules: It is prohibited to inform, or turn over another Jew, to an idolater. This relates to fellow Jews.

Whether the Jew is wicked or sinful, or even if he was causing you personal or monetary distress, to turn him over, causes you to lose your share in the world to come. However, if the person was causing distress to the community, it is permitted to hand him over to idolaters.

Mar Ukva – (was Reish Galusa) Felt that distress caused to him, was distress to the entire community. However, the distress was on a personal matter and therefore, he is not permitted to inform on the Jew to the authorities.

What is the ruling regarding a neighbor who drives over the limits or under the influence alcohol? He is considered a pursuer and may be called to the attention of the authorities. However, he should be warned first.

זְמִירָה מִנֵּא לֵן דְּאָסִיר

How do we know that music is prohibited?

Singing is prohibited while one is drinking wine alone, with a group, or with musical accompaniment.

1. Rashi and Rambam- This is due to our being in a state of mourning for the loss of the Bais Hamikdash.
2. Rav Chisde (TY Sotah 9:12)- This is due to respect for the Sanhedrin, in that era people conducted themselves with a high standard of decency.

Rashi relates only to singing in a tavern, with or without accompaniment while drinking.

Tosophos relates to singing while drinking wine, anywhere.

Rambam restricts singing with musical accompaniment, at anytime.

Tur and Shulchan Aruch decreed that singing in a tavern, even solo, is prohibited at anytime..

זְמִירָה מִנֵּא לֵן דְּאָסִיר

Singing is prohibited.

All song was included in Chazal's prohibition.

May it be listened to nowadays?

Now it is on a radio or disc or ipod. The singers are not visible and the music is far away. It may have the Halacha of a 'panim chadasha', a "new condition", not anticipated by the Chazal.

- We should refrain from listening during the 'three weeks'.
- The sick may listen during the 'three weeks'.
- If depressed, one may listen to taped music in private.
- If weak and fearful, one may listen on a phonograph.

Even on Shabbos, you may arrange for someone to wind up your machine.

A very sick person may tell a non-Jew to do a Rabbinic Melachah for him, on Shabbos.

אִם רֹאֵה אָדָם שְׂמוֹנוֹתָיו מִצּוֹמְצָמִין יַעֲשֶׂה מֵהֵן צְדָקָה וְכֹל שֶׁבֶן בְּשֶׁהֶן מְרוֹבִין

If a man sees that his livelihood is barely sufficient for him, he should give charity from it (and God will increase it for him) and certainly, if he has plenty.

- He will be attached to God, who will provide for him.
 - He becomes the recipient of Divine Bounty.
 - He manifests his faith in God.
- “Give Tithes, so that you may become wealthy” (BT Shabbos 119a).

קָטָבֵר בִּיבוּשׁ יַחִיד שְׁמִיָּה בִּיבוּשׁ

The Tanna maintains that conquest, by an individual, is considered a conquest.

If Israel conquers other lands, do these lands have the full status and laws of Eretz Yisrael?

Syria was annexed to Israel by King David, was it still considered ‘chutz la’eretz?

To be incorporated into Eretz Yisrael, the land must be conquered by the entire Jewish nation.

David only took a part of Syria for the use of the entire people. The rest of David’s conquest was land for royal, rather than national, utilization.

After most of Israel was conquered, the Jebusites still lived around Jerusalem.

After all Israel is conquered and if done according to the above principles (see Devorim 11:24), “wherever you tread, shall be yours”, i.e., ‘your annexations will then have the status of Eretz Yisrael’.

עֵדִים שֶׁאֵינָן יוֹדְעִים לְחַתּוֹם מִקְרָעִין לָהֶם נִייר חֲלָק

Witnesses, who do not know how to write, we should etch for them on blank paper.

Rashi explains that we should scrape and make an indentation on paper to create an outline. The witnesses then come and fill in the outline that we made for them. Is making an indentation on the paper considered as actually writing the names of the witnesses for them and not them doing the writing.? Is this valid?

Writing, upon that which is already written, is not valid (Gittin 19a).

However, light scratching is not actual writing; it is just an outline, a tracing with thick ink over thin, or black over red. A quantitative improvement in the script is legally valid. The light scratch can be incomplete; just a part of each letter, or we can make a stencil and the witness do the actual writing.

מַצֵּת כּוּתֵי מוֹתֶרֶת

Matzo baked by a Cuthean may be eaten on Pesach.

Can a Cuthean sign a get as a witness? Yes.

Can a Cuthean sign any other document as a witness? No.

Why? This is due to the fact that only under the circumstances regarding a get, must the two witnesses sign in each others' presence. Therefore, we can assume that one witness would not sign, if the other witness was also, not reliable.

A Cuthean interprets the statement, “don't place a stumbling block”, literally. We expand on it to teach, “don't cause another to sin”. He, therefore, could bake matzo, which is chometz, and sell it to you as kosher and he would not worry. Why then, can we eat his matzo?

Because, he would not take the chance that you might offer to share your meal with him and he would be found out.

אָמַר שְׁמוּאֵל דִּינָא דְּמַלְכוּתָא דִּינָא

Shmuel said, “The law of the land is the law”.

Therefore, it is not proper for a Jewish person to run a red light, to speed, or to not pay taxes. In addition to breaking the law of the land, he/she also violates a Jewish principle.

People should be encouraged to follow the laws of the land.

אָמַר שְׁמוּאֵל דִּינָא דְּמַלְכוּתָא דִּינָא

Shmuel said, “The law of the land is the law”.

This is based on the idea that a non-Jewish government must adopt laws that preserve political and social stability and which are binding on all citizens.

This right to make laws, that we Jews are bound to follow, with the authority of the monarch and the “Kings justice”, permits the King to act upon circumstantial evidence and even without witnesses or warnings. It is different. The King’s justice does not adhere to normative Jewish law, yet Jews must follow it. Kings justice is used by

- Jewish Kings (Solomon) p362-7.
- Non-Jewish Kings.
- Non-Jewish societies (Noachide law).

The only acceptance required (also see Rambam Guide Book III Chap 40) is the acceptance of the sovereign to act as sovereign. A citizen has no right to insist on additional authority, i.e., I did not agree to that tax!!

עֲדִים הַחֲתוּמִין עַל הַגֵּט וְשִׁמוֹתָן בְּשִׁמוֹת עוֹבְדֵי כּוֹכָבִים

Non-Jewish people signed the get.

R Eliezar says, “No signatures on the get, itself, are necessary. Divorce occurs when the husband gives the get to his wife and witnesses to that occurrence are necessary.

However, if names of witnesses are on the get, they must be valid witnesses.

מפני שרוב ישראל שבחוץ לארץ שמותיהן בשמות עובדי כוכבים

Most of the Jews outside of Israel, have non-Jewish names.

Therefore, a get written with names that don't sound Jewish, could actually be Jewish, if the get came from outside Israel.

הָאוֹמֵר תֵּן - וְשֵׁטֶר שְׁחָרֹר זֶה לְעַבְדִּי

One who says this emancipation document is for my slave.

If one sends an agent to transgress a prohibition, the agency is null and void.

For example: If a Kohen sends an agent to betroth a divorcee, the agency is cancelled and the Kiddushin is not valid.

Shmuel teaches that it is a violation of a positive commandment to free a non-Jewish slave.
However:

- It would be permitted for the sake of a Mitzvah (Gittin 38b).
- The agent is really not the slave owner's agent, he is the slave's agent, since the slave is receiving the benefit!!
- The owner owes a debt to the slave and is freeing him because of a sense of obligation to him. The owner is not freeing the slave for nothing.
- Even if the agency is nullified once the document is signed, the slave is free. He is ownerless and can't be taken back as a slave.

אָבֵל אִשָּׁה שֶׁגָּלְתָּה לְעָרֵי מִקְלָט בְּעֵלָה חַיִּיב בְּמִזְוֹנוֹתֶיהָ

If a wife is exiled to a city of refuge, the husband must still support her.

The law of accidental murder and cities of refuge are discussed BT Sanhedrin Makkos and Bava Kamma. However, this small point is mentioned only in our Gemara (Gittin 12).

Rambam tells us, in his Yad Hachazakah: A wealthy man was examining a reputedly brilliant, youthful, student, as a potential husband for his daughter and asked him a question regarding a husband's obligation to a wife who was exiled to a city of refuge. The wealthy man had already looked for an answer to this question in Gemaras that speak about accidental murders. The young student mentioned that the answer is found only in our Gemara 12.

רְפוּאָתוֹ דִּידֵיהּ הִיא דְּבָעֵי אִתְּסוּיֵי בֵּיהּ

Payments for medical treatment.

Compensation for his medical expenses is certainly his. He needs it to pay for his treatment.

If someone injures a slave, the payment for his medical care and lost income, goes to his master. However, under certain circumstances, the Gemara says medical payments go to the slave.

Example: Standard treatment usually takes 5 days. The slave agrees to a more painful treatment, that cures him in 2 days. The three days saved are by the slave's extraordinary effort. Therefore, the benefit goes to the slave for his accelerated treatment.

The same is true regarding reparations to a wife for an injury. The payments usually go to the husband, since everything the wife earns goes to him. But, if by her extra effort, she gains something, that is hers. If she accepted an accelerated therapy, which caused more pain, she gets those funds.

עבדא בהפקיורא ניתא ליה זילא ליה שכיחא ליה פריצה ליה

A slave prefers a loose lifestyle, that is cheap, available and promiscuous for him.

Can we sue for breach of promise to marry?

Example: A woman was seduced into having relations on promise that he would marry her.

Can he be forced to marry her? No.

Can he be fined? Yes. An amount decided by community standards of the local Beth Din.

-If she is promiscuous, she may get nothing.

-How clear was the implied marriage promise?

-How much damage occurred? Time she expended on him, lost opportunities, her reputation, etc.

A slave prefers a licentious living, loose lifestyle, etc. Such a person, who has such preferences, is indeed a slave to his passions.

הָאוֹמֵר תָּנוּ גֵט (זֶה) לְאִשְׁתִּי

Give this divorce document to my wife.

Can a get be delivered, and is it effective, if, the husband dies before his agent is able to bring it to the wife? No.

There is no language which permits a posthumous divorce.

Case: A woman did not have children with her husband. After he died, she was slated to go to Yibum, to her deceased husband's brother, who was an apostate. The rabbi decided to grant her a posthumous divorce. This is not permitted.

However, recall the story of the husband of Bathsheba, and in fact of other soldiers, who before going to war, wrote a get to be instituted if they were to die in battle (so as to spare their wives the Yibum-Chalitzah) ordeal. How is this different?

אִמְרֵינָן מִצְוָה לְקַיֵּם דְּבַרֵי הַמֵּת

It is a Mitzvah to adhere to the words of a person who passed away.

A girl's father was against her marrying a certain boy. The father died.
Are the mother of the girl and the girl obligated to continue to be restricted by his wishes?

The mother continues to have a spiritual connection with her dead husband until she remarries, so she should listen to his wishes.

The daughter has no such obligation. In fact, in regards to Shiduchim, a child need not listen to their parents' requests. Therefore, she is free to marry whom she wishes, without concern for her father's request.

וְאֵלָא דְקָא מְשִׁי חֶדָּא חֶדָּא יְדִיָּהּ

But where a person washes each hand separately.

This refers to a circumstance where a person washed ½ of his hand and then washed the other ½ . This is not an effective washing method unless the hands remain wet.

On an airplane or train the only place to wash hands is the bathroom and being in the bathroom makes the hands tamei unless:

R Chaim Soloveichik suggests -The hands are still wet, indicating that you are still washing.
If you don't dry them fully, until you step out of the bathroom, that would solve this problem.

בַּיּוֹם וְנִחַתְתֶּם בְּלַיְלָה

A get was written by day and signed on the following night.

A woman learned that her get had a wrong date. She had already remarried when this was discovered. Therefore, she is still married to her first husband and must divorce the second. Now, since she is a man's wife, who committed adultery, she is forbidden to both!

No, the husband never divorced her. Her activities with the second man were no betrayal of her husband. They all thought she was divorced. She may return to the first man and live with him, or obtain a correct divorce and later, re-marry the second man.

מאימתו מונין לגט

At what point to we begin to ‘count’ for a woman who received a bill of divorce.

A woman may not marry until three months have passed after she received her get, or perhaps three months after the get is written.

Case: A couple married in a civil ceremony, had two children and divorced. The wife moved to Israel and wanted to marry a man she met there. In those days, it would take a document from Los Angeles (where her first husband lived) 1-2 months to be delivered to Israel. How long must she wait before marrying?

Immediately. - The first marriage had no Jewish validity.

דִּיּוֹ עַל גַּבֵּי דִּיּוֹ סִיקְרָא עַל גַּבֵּי סִיקְרָא פְּטוּר

One who traces black ink on top of black ink, is exempt.

A right-handed person, who writes with his left hand on Shabbos. This act does not constitute writing and is, therefore, biblically exempt from liability.

Therefore, can a person write the parchments for Tefillin on Shabbos with his left hand and would the Tefillin be kosher?

No! Because what he did, did not constitute writing!

If a right-handed person wrote Tefillin with his left hand during the week, he would create kosher Tefillin. If he had the ability to write with his left hand, then writing with his left hand on Shabbos would be considered writing, and he would have violated a Biblical commandment. Would the Tefillin be kosher? No. Whenever the Torah prohibits an activity, if a person performs that activity, the action is ineffective.

שֵׂאִין יוֹדְעִין לְקָרוֹת קוֹרִין לְפָנֵיהֶם

Illiterate witnesses. We read for them.

Can people, who do not know how to read, be legitimate witnesses regarding the content of that document?

What is the rule if two other people read the document before them?

A witness must testify about what they know or have seen. Being read to, is like an eye witness telling our witness. Is that not hearsay and is not admissible?

Tosophos - The readers are not testifying, only informing the listeners about that which is written before them.

Rambam - Reading the document is only permitted if the witnesses understand the language even though they can't read it. If they don't understand the language the document is written in, they can't sign it even if it is translated for them. Reading and translating is too much input and then we interpret them as being witnesses themselves.

We are lenient regarding a get, only because we want to avoid a case of the agunah.

וְתִפּוּק לִיָּה דְּסֵפֶר אֶחָד אָמַר רַחֲמָנָא וְלֹא שְׁנַיִם וְשִׁלְשָׁה סְפָרִים

We derive through law, because HaShem said one document and not 2 or 3.

A man says to his wife, “Here is your get, but the paper belongs to me”. The get is not valid. The Torah stipulates that the get must be given to the wife and if the husband keeps the paper, the letters are merely floating in the air?

This is not permitted.

If the husband says, “Here is your get, but I keep the paper that is not written on, i.e., between the lines and between the words”. This is not a valid get because it is shredded. A get needs to be one document, not several. Although the get is currently intact, the stipulation results ultimately in a shredded document.

However, a sefer torah is not considered torn or in pieces if it is owned by several people. Why, not here also?

We must understand - The writing is valid, the document is a valid document. However, the document failed the Biblically mandated stipulation. It must be given to the wife. Without that act, without full relinquishment by the husband, the divorce is not effectuated.

בְּכֵתוּבַת קַעֲקַע

This refers to where the get was written on the slave's skin, as a tattoo.

The halachic definition of 'tattoo' is scratching the skin and filling in the scratch with permanent ink.

- R Auerbach, R Chaim Kanievsky, R Shlomo Zalman- It is permissible to write on the skin with ink that is not permanent.
- It is not permitted to scratch the skin and **not filling the scratch with ink.**
- It may be permitted to write with permanent ink, but without scratching the skin.
- It is not permitted to fill in a previous scratch or scar with permanent ink.

עֶרֶב הַיּוֹצֵא לְאַחַר חֵיתוּם שְׁפָרוֹת

A guarantor, who appears on a document, after the signature of the witnesses

This guarantor must sign his name. He can't simply write, "I guarantee this loan", and consider this a valid obligation, and depend on the witnesses to verify. To be truly obligated, he must sign his name.

Can a document be signed with only a first name or do we need the last name also?

The name must be adequate to definitively identify a particular person and no other. So that if needed, he could be found based on the name used. If the first name accomplishes that, it is permitted. **[How about a nickname? LK**

דלמא גברא שאני דידע לאקנויי

Perhaps the case of a man is different.

A man said to a woman, and other people saw this exchange, “I give you these six kopeks, that I owe your sister”. She opens her hand, he places the coins there and says “**Hareh at ete bematanah zu**”. She promptly threw the money away.

Did she do so in time, “toch kdai dibur”?

Is she married?

Does she need a get?

- A person who does not know the law, cannot be obligated by it (Kiddushin 13, Gittin 21).
- Even if she did not throw the money away, she is not married. She took the money for her sister.
- She is not married, needs no get and did not have to throw the money away.

שְׂמַחוּסֵר בְּתִיבָה קְצִיצָה וְנִתְיָנָה

Which lacks writing, severing and giving.

A get written on the horns of an animal. Later, the horn is detached and now cannot be used for a get.

Why? The get must be written and given. **No interposed cutting off is permitted.**

What is the rule if a get is written on a large parchment? Can we cut a piece of the parchment off of the larger sheet, that includes the writing of the get? Yes.

The only limitation on cutting or detaching, is from the source from which it originated. **ile., a leaf from a tree or skin from an animal.**

So could he give her the animal whose horn has the writing? Could he give her the entire plant, in its pot, if the get is written on a leaf? Yes.

If he wrote the get on the hand of **her** slave, he may not cut off the hand of **his** slave, but must give the entire slave to his wife for the divorce to be effectuated by that writing.

הכל בשרין לכתוב את הגט אפילו חרש שוטה וקטן

All are qualified to write a get: a deaf mute, an insane person and a minor.

How can a get be written by a minor? The husband must own the get at the time it is given to the wife. We can assume that a minor who writes a get, will either own the parchment or have an ownership in the workmanship he performed. A minor is not capable of transferring anything he owns to another. So the child scribe will not be able to give the get to the husband. How can this get be Kosher?

It is the witnesses who sign, who are critical to the validity of the get, not the person who wrote the get. A craftsman can own the increased value of the work he expended on a project, but here, the get has no intrinsic value. It can only be used by one person in the world and is worth nothing to anyone else, not even to the person who wrote it. He does not increase the value of the document.

הַבַּל כְּשֶׁרִיז לְהַבִּיא אֶת הַגֵּט חוּץ מֵחֵרֶשׁ שׁוֹטֵה וְקָטָן

All are qualified to bring the get to the wife **other than**....

A get is disqualified if it is delivered by an agent who is sinful or dishonest. Why is this so, if the validity of the get rests on its having the signatures of valid witnesses? Because the agent must at least be able to say, “The husband appointed me to deliver the get”, and that the document was written and signed for this woman. An agent must be qualified to testify, in order to bring a get.

Others say that the fact that he has the get, tells us he has been appointed and we should be lenient to avoid agunot.

A man sent a get to his friend in another town, via a non-Jewish courier. The friend was going to act as an agent, to give the divorce to **his** wife. Is this kosher or is the get invalid? The non-Jew was not acting as an agent, only as a conveyor from the husband to the agent. Therefore, it is permissible.

Daf Digest

אִשָּׁה עוֹשָׂה שְׁלִיחַ לְקַבֵּל גִּיטָה מִיַּד שְׁלִיחַ בַּעֲלָהּ

A woman sends a messenger to receive the get from her husband's messenger.

Is this permitted?

A messenger was appointed by the husband, but it proved to be too arduous a trip. Therefore, he notified the wife, and she sent her agent to receive the get from her husband's messenger.

Is this permitted?

R Chanina and Rivach say: This is preferable.

Would it be better to send it via the non-Jewish postal service?

Rabbeinu Tam and Rosh -Permit this, but say that it is best for the husband to specify to his messenger, "Give this divorce to my wife, or her messenger". That solves the problem.

יֵתֵר מֵיֵכֶן כָּתַב לְגֵרֶשׁ אֶת אִשְׁתּוֹ וְנִמְלַךְ מִצָּאוֹ בֶּן עִירוֹ וְאָמַר לוֹ

Moreover, if a man wrote a get to divorce his wife and changed his mind, and an acquaintance wished to use the get for his own divorce

since he and his wife had the same names.

Examples:

A scribe wrote a get as a practice exercise, without any intent that it be used for a divorce document? Therefore, it was not written for a particular woman.

What is the rule if the names he used for practice, by coincidence, are those of the couple who want to use it?

What is the rule if it was written for one couple and another couple wishes to use it?

What is the rule if a man has two wives with the same name and he changes his mind regarding the one he wishes to divorce? Therefore, it was written for Sarah #,1 but not for Sarah #2.

All fo these examples were written for a divorce, written with the correct names, was signed by valid witnesses.

In all cases the get would NOT be valid, since it was not written with intent for ‘her’ – a specific woman.

הָיוּ לוֹ שְׁתֵּי נָשִׁים וְשִׁמוֹתֵיהֶן שְׁווֹת

He had two wives with the same name.

Rabbeinu Yehudah Hachasid, in his spiritual will, wrote that if a man's wife dies, he should not marry another with the same name. Why? When the man is with his second wife, he may think of the first.

Yet, our Mishnah explicitly gives an example where this was done, and no restriction is suggested.

-This restriction is limited to where the first wife died, but not if the first marriage ended in divorce.

-The restriction applies if the two wives have exactly the same name, but if one has a middle name or initial, or is usually called by a nickname or title, the restriction is not in force.

Lastly, there is no actual restriction, merely a suggestion to avoid the practice, if possible.

אֵיתוּבִיָּה הָאוֹמֵר לְבְנֵי הָרִינִי שׁוֹחֵט אֶת הַפֶּסַח
עַל מִי שֶׁיַּעֲלֶה מִכֶּם רִאשׁוֹן לִירוּשָׁלַיִם

I am sacrificing this lamb for Pesach, with the child in mind, who comes first to Jerusalem.

Yes or No

Retroactive

Clarification

I am writing this get for whichever wife of mine, comes through that door first.

I am yotzeh with the Kiddush of my host, unless there is wine available for me to make my own Kiddush.

Debate: If fulfilling the condition is tied to one's own choice, it is permitted. However, if the fulfillment of the condition is dependent on someone else's action, it may not be valid. The conclusion seems to be either, as long as the condition is fulfilled. For example, if the condition is fulfilled, it is retroactively a valid arrangement (except in the case of get, which must be specifically for her) (see note 23).

הָרִינִי בּוֹעֲלֶיךָ עַל מְנַת שִׁירְצָה אָבָא

I will marry and have Kiddushin, on the condition that my father approves.

A child need not follow his parents demand regarding the choice of a mate.

Unless the choice will disgrace or distress the parent.

Concern for the honor of the family, even though, technically, the child has the right to marry the person of their choice.

הַכּוֹתֵב טוֹפְסֵי גִיטִין צָרִיךְ שְׂיִנִּיחַ מְקוֹם הָאִישׁ וּמְקוֹם הָאִשָּׁה

One who writes a get, must leave a space for the name of the man, the woman and the date.

On the get, must the names of the city, of the husband and the wife, all be written?

No

Tosphos Yom Tov

Mardechai

Not listed in our Mishnah.

Bais Shmuel - If the get is written
in the city where the two live,
it is sufficient.

Rabbi Elazar

Yes

Rasba – It is critical.

Ramban, Nimukei Yosef

Raaved, Rabbeinu Tam-

Without name of the city, the get is not valid.

Or Zarnua – Required

Ran – Essential

Ritva

Rabbi Meir

הכותב טופסי גיטין צריך שיניח מקום האיש ומקום האשה!

One who writes the Tefes.

1. When you write a get, must you leave blanks for names, dates, city and witnesses?
2. Can you write any contract in advance, with blanks for the particular details?
3. Can you write a Ketubah, ahead of time?
4. Can you use a printed Ketubah?
 1. No. Due to fear, that a ready made get, available easily, would allow rash decisions regarding divorce. We wish to prevent divorce.
 2. Yes
 3. Yes
 4. Yes - It is a 'hidur', a 'beautification' of a Mitzvah, to handwrite it completely. However, mistakes may be made during the copying. Therefore, R Moshe Feinstein says that it is entirely permissible to use a pre-printed Ketubah.

וְכָתַב לָהּ לְשִׁמָּה

It is to be written “for her”.

The term agunah – A woman restrained from re-marriage, because her husband disappeared, his whereabouts are unknown, and witness to his death are not known.

This can also occur in our times, when a husband refuses to give a get, to his divorced wife.

Our Gemara permits a scribe, to prepare pre-written divorce forms, but without any names, dates or name of city, and **to include** the phrase, “You are permitted to any man”. This is to alleviate one form of agunah. A couple decided to divorce, but he must leave town promptly. If he had to search for a scribe, and wait until the get is written, he would run out of time and leave her without a get. She would be an agunah. The prepared form, the takanah of the Rabbis, to prepare a standard text, prevents this form of agunah.

Also, the nullification of a get, dispatched via an agent, cannot be annulled unless it is done in front of the wife or her agent, because without a get, the wife is left without the ability to gain her freedom.

דָּאָמַר עֵיִדֵי מְסִיכָה בְּרֵיתִי

The witnesses to the delivery

are the ones who invest it with the power to sever the marital bond.

(Deut 24:1)-Tells the husband to write the get specifically for her, and to deliver it to her. A literalist would say.

1. That makes it improper to merely fill in the blanks in a pre-prepared form.
2. The husband must write the entire document.

However, the Torah does not tell us anything about the materials, writing, witnesses or delivery.

Solomon Kluger of Brody Galicia permitted use of the postal service to deliver the document, using the receipt as proof of delivery. The receipt is as though he delivered it by hand.

The postal service is not a Shaliach. It merely conveys. The agents of the government are neither Jewish or non-Jewish. The entire middle person, the Shaliach, is removed from the process. Since marriage is according to the laws of Moses and Israel, the Rabbis could make these laws and the couple would have to follow them.

תנא

Returning a lost get.

Here we refer to a get, found in a place where caravans are common.

If a messenger loses a get, even if it was found, he may not use it:

- Because we fear there might be two couples with the same name.
- Unless the husband demands that it be given to him and admits that he lost it.

However:

- It may not be returned if the area is frequently by caravans, because someone else may have dropped it. However, if the area is not frequented by caravans, the get can be returned to the husband.
- The get is only restricted from being returned to him, if it is shown that there actually are two men with the same name. Otherwise, there is no reason to suspect that the get which was found, is not the one that was lost.

Summary:

- | | | |
|-------------------------|------------------|----------------|
| - No men with same name | but no caravans | - return it |
| - No men with same name | and yes caravans | - return it |
| - Men with same name | and yes caravans | - don't return |
| | but no caravans | - return it |

אִי מִשּׁוֹם טְבִיעוֹת עֵינָא וְדוֹקָא צוֹרְבָא מְדַרְבְּנָן

Or it was returned because of my visual recognition and it was only because I am a Rabbinic Scholar.

The trustworthiness of a Rabbinic scholar is limited to identifying his own lost object.

Regarding another person's lost object, he is only a witness and one witness is not enough to return a lost object. Others say that one is enough, if the witness does not stand to gain anything through his testimony, and there is no suspicion that he might lie.

However, we learn that a lost get could be returned on the testimony of one witness, even though it impacts on her marital status and two witnesses are required for that! No. The lost get is merely a document and its effect on her marital status is only indirectly related to who owns the get. Therefore, who owns a piece of paper, does not require two witnesses.

הַמְּבִיא גֵט וְהִנִּיחוּ זָקֵן אִם חוֹלָה נוֹתֵן לָהּ בְּחֻזְקָתָא שֶׁהוּא קַיָּים

May a messenger sent with a get, by a husband who is old or sick, complete his mission under the assumption that the husband remains alive?

- Our Mishnah says -Yes

What if he is old and sick? Chasam Sofer says - No.
R Akiva Eiger - Is not sure.

What is the definition of “Old”, in years of age? - 60 years (Moed Katan 28a,Tosofos)

What is the definition of “Illness” - Something natural, i.e., a cold or a virus. We assume he will survive.

However, if it is not natural, i.e., a wound by another man, an assumption that he died, has to be considered.

Daf Digest

שָׂרׁוּב חוֹלִים לְחַיִּים אֲבָל זָקֵן שֶׁהִגִּיעַ לְגִבּוֹרוֹת וְגוֹסֵס שָׂרׁוּב גּוֹסֵסִין לְמִיתָה

The majority of patients live.

The majority of “goses” patients do not live.

Goses is a person in the throes of death.

It is not appropriate to pray for that which has already been ordained. For example, to pray that the mother delivers a boy, after we learn she is pregnant. Is it appropriate to pray for the health of a person who is far away, who may be in one of the above categories and we don't know their current status. If they recovered already, we should not pray for their health. If they died, we certainly should not pray for their health. Should we assume they will follow the majority and treat them as such, or assume they will continue with the presumption of their present condition? The principle of majority is stronger than that of ‘presumption’.

Answer: It is always appropriate to pray for someone's health until we know their current status.

וְגוֹסִים שָׂרוּב גּוֹסְסִין לְמִיתָה

The majority of gosesim die (See also 38a3 line 33 A14).

The Rabbi of Prague was on his death bed. Distinguished members of the community asked him who is worthy to be appointed the next Rav of the city? He answered in a weak voice, “Perhaps it is Rav Meir”. He never spoke again and soon passed away.

No one in the community understood what he meant. So they decided on a very clever idea in their search for a successor. One of their questions would be, “What did our Rav mean, when he gave us his answer?”

They came to the town of Yompol and interviewed a very clever candidate. He referred them to our Daf 28, where it says, “most gosesim die”. “However”, the candidate stated, “R Meir does not agree and your Rav was telling you, that perhaps in this case, it will be like R Meir, and even though I seem to be a goses, I will be the exception and you won’t have to look for a new Rabbi, because I will survive.”

רבי יוחנן פוסל בו

Rabbi Yochanan considers the get invalid.

If a husband stipulates that his messenger:

- Retrieve something from the wife before he gives her the get, and he retrieves it after he gives her the get. The get is not valid and she is not divorced.
- If there is a stipulation to be fulfilled, the agent cannot entrust the agency to any other agent. If he does, the get is invalid.
- Tell his wife that the get is to take effect, unless he survives until Rosh Hashanah. The agent gave her the get and then told the wife. The get is invalid. The man died. She, instead of being free to marry whomever she wishes, is now an agunah, waiting for her husband's brother to give her chalitzah.

וְלִיזִיל וְלִיתַבִּיּה נִיהָלָה

The fetus is like the thigh of its mother.

This is used in the discussion regarding abortion.

Ex. 21:22-25- “If men strive and hurt a woman with child”. If the woman is hurt he pays a life for a life, an eye for an eye, etc. But if no harm to her occurs, but a miscarriage occurs, he shall be fined and pay to the husband. The injury to the fetus is not co-equal with the mother.

“The fetus is a limb of the mother. Her life takes precedence over a limb”.- Rashi.

Rambam- The embryo is like a pursuer seeking to kill the mother.

Abortion is only permitted if the mother’s life is in danger.

Others permit it if: The pregnancy affects the feeding of an existing child.

It is permitted for even a thin reason, i.e., avoiding pain to the mother, a defective child, disgrace, threat of suicide, and in cases of rape.

The Halacha is lenient since an embryo is not an independent living being.

הַמְלִיחָה מְעוֹת אֶת הַכֹּהֵן וְאֶת הַלֵּוִי וְאֶת הָעֲנִי לְהִיּוֹת מִפְּרִישׁ עֲלֵיהֶן מִחֻלְקָן

A person may lend money to a Kohen, Levi, or poor person. Later, when his obligatory tithes (Teruma to the Kohen and Maaser Rishon to the Levi and Maaser Sheni to the poor person) are separated for them, as required,

the person who made the loan may keep the tithes, sell the grain and retain the income, as partial or full payment of the loan.

This permits the Kohen, Levi and the poor, to receive loans to borrow money and to have such debts paid off easily.

How can we do this? The produce has not yet been grown, and no transactions can take place on items that do not yet exist?

Answer: This is not such a case.

At first the transaction is a loan. The Kohen, Levi, or poor person must pay it back with money, if necessary, and when the produce is grown, it can be substituted for the money, that would, otherwise, need to be paid back.

מתו צריך ליטול רשות מן היורשים

If they died, his heirs pay back the loan.

What if the loan was given to a Kohen, who then dies? He is no longer going to be a recipient of the Terumah, which had been the mechanism expected to pay back the loan.

- His heirs pay back the loan in cash.
- His heirs (also Kohanim) are chosen by the lender to receive the Terumah and the loan is paid down.
- The loan is forgiven.
- Another agreed upon process is pursued.

נִיְקוּם מִקְמִיָּה דְּבַר אֲוֵרֵיִן הוּא

Let us rise before him, for he is a scholar.

Should a Torah Scholar stand for one of his peers?

Ramban (B Metzia 33a) says-Yes.

Ritva (Kiddushin 33a)-No need.

Ran (Kiddushin 14a)-No need.

Here, they considered standing, therefore:

-R Geniva was a greater scholar than they.

-They considered some greeting to honor him.

Shulchan Aruch - They don't have to stand, but should show some sign of respect, or they could have left the vicinity before R Geniva came.

אם אבדו

A person entrusted an object to a messenger, to take an item worth \$1 here, to a place where it's value was much higher. The messenger lost it.

The ruling: If he lost it here, he pays it's value here.
If he lost it there, he pays it's value there.

The owner must prove where it was lost, or accept the lower value.

לשותפין

For partners.

If one partner sells their mutually owned asset, and later it increases in value, he owes the other partner $\frac{1}{2}$ of the difference.

Why?

If he had damaged the asset, he would only have been obligated to pay his partner $\frac{1}{2}$ of the value that it was on that day. Why, here, does he have to pay the higher price? And, in addition, there is a general principle that one is not responsible for indirect damage to another's property, so why is he responsible here?

A partnership is different. It assumes agreement to pay for indirect damages, and agreement to be responsible for lost income, that could have been earned.

גֵּט שְׁנֵיתַי לְךָ בָּטֵל הוּא הֲרִי זֶה בָּטֵל

A man says, “The get that I gave you, is nullified”. It is nullified.

Rambam - He may never use that document again. Even if he gave it to his wife, she would not be divorced.

Magid Mishneh - He may use it in the future.

Shulchan Aruch - He should not use that get, ever.

But if he did, she may be divorced. The Shulchan Aruch is not certain.

בְּפָנֵי כַּמָּה הוּא מְבַטֵּלוֹ

In front of how many persons, is it necessary to nullify a get?

A man wrote a get for his wife, and sent it to her parents' home, which was a journey of two days.

The next day, he had regrets, went to his local Rabbi and had him write a document nullifying the get, before it was actually delivered to the wife.

She received the get, is she divorced or not?

Nullification could have been done, if it had occurred before two witnesses.
One witness (the Rabbi) does not suffice and she is divorced.

בֵּית דִּין מְעִמֵּידִין לָהֶן אֶפְסֵרוּפוֹס וּבּוֹרְרִים לָהֶן חֶלֶק יָפָה

These orphans cannot later question the division of the estate.

Rabbi Gamliel rules that a husband should not nullify the agents he sent to deliver a get, unless done in their presence.

If a husband does nullify the get, not in the presence of the agents he authorized to deliver it, in defiance of the Bais Din, the get is none-the-less nullified, and there is no divorce.

Rabbi Shimon ben Gamliel says- No. The husband's activity, in defiance of the Bais Din is not permitted. The court's ruling must be respected. His nullification, not in presence of witnesses, is not allowed. The get is valid and can effect a divorce.

However, Rabbi Gamliel is the court and he said:

1. He shouldn't do it, but if he did, it is a valid nullification.
2. A ruling of the court should be respected.

הַתְּקִין רַבֵּן גַּמְלִיאֵל הַזֶּקֶן שֶׁיְהֵא כּוֹתֵב אִישׁ פְּלוֹנִי וְכָל שׁוֹם שֶׁיֵּשׁ לוֹ

R Gamliel enacted that they would write, ‘so and so’ and all the names that he has.

Calling people to the Torah by their names, rather than Kohen, Levi, Aliyah #3, etc., is a long standing tradition. It is not good that this is changed because people in the diaspora do not use their Hebrew names in their daily lives, and if they are called to the Torah by their Hebrew name, they may not even recall them.

The Hebrew name on a get must be accurate.

מִה מִי שֶׁנִּשְׁבַּע בְּאֵמֶת כִּי הִנֵּשְׁבַע עַל שֶׁקֶר עַל אַחַת כְּמָה וְכְמָה

There is a punishment for one who made a truthful oath. How much more so for an oath that is false.

“Yet”, Rambam says, “one who makes an oath, shows great honor to HaShem, and fulfills a positive Mitzvah.”

What is the reason for this dichotomy?

It is because Rambam is speaking about a necessary oath. For example, one that is imposed by the Beit Din . In our Gemara, the oath was not necessary.

פְּרוֹסְבוּל אֵינוֹ מְשַׁמֵּט זֶה אֶחָד מִן הַדְּבָרִים שֶׁהַתְּקִין הֵלֵל הַזֶּה

When a person writes a Prosbul, he does not need to cancel his loans, but may collect them after Shemitah. This was instituted by Hillel, the elder.

On the Shemitah year, loans are cancelled.

Does the lender have the obligation from the Torah, to release the borrower from paying back the loan?

Or is the loan nullified by the Torah, at Shemitah. If it is up to the borrower to release and he does not the loan is still in effect. If the Torah nullifies the loan the borrower cannot collect and if he does it could be viewed as stealing!! Therefore, when it came close to Shemitah one would not lend any money to anyone.

Therefore, Hillel instituted the device of the Prosbul in order to prevent people from the sin of not lending also to protect the rich who are kind enough to lend and to protect the poor who if unable to borrow would be in even worse circumstances.

פְּרוֹסְבוּל אֵלָא עַל הַקְּרָקַע

A Prosbul is not needed if the debt is, “as if collected”, i.e., land is the security.

Shemittah discharges uncollected debts, but debts that are, “as if collected”, are not discharged.

If you loaned money, but kept an item for security, like in a pawn shop. If Shemittah comes the debt is discharged, you “may not exact from your friend” (Deut 15:2). However, if you don’t need to ‘exact’ from him, you already have it, you keep the chattel security.

Judgement of a court is considered, “as if collected”, and is not discharged at Shemittah.

What is the rule regarding cashing a check? The debtor has paid and the person who holds the post dated check is not demanding payment from the debtor, but from the bank. This should be permissible. However, since it could still be voided by a stop payment order, it is not considered, “as if collected”, and that debt might be discharged at Shemittah.

דְּתַנִּיא רַבִּי נֶתָן אוֹמֵר

We learn in our Gemara that Rabbi Nassan rules

that if A owes money to B and B owes money to C, C can collect from A.

But in Gemara (Kiddushin 15a), the Rabbanim decided that we can only take money from a person to pay the person from whom we borrowed and not from a third person.

The debts due to a person are part of his assets and a lender can rely on those assets when he decides to make a loan. However, the Torah does not give the lender control over monies that the borrower has not yet collected, although it is owed to him.

Therefore, R Nassan needed a special verse to teach that Levi may collect from Reuven, who owes Shimon, who borrowed from Levi!

משום מילתא דאיסורא

(It is permitted to release a Canaanite woman from slavery), when there is concern that prohibited acts may be performed.

A woman, who has had two marriages end with the death of each of her husbands, is not permitted to marry a third time.

What is the rule if one of the husbands was old?

By the letter of the law, a woman has to be widowed three times to fall into this category, but since it is a matter of danger, we adopt a more strict approach.

However, we can be lenient if one husband was old, only two husbands died, and she is young, because; The alternative to allowing her to remarry, might be a life of promiscuity, since she will never be permitted to remarry.

We learn we can be lenient, in such a case, from our Gemara. We see that we can violate a positive commandment, ‘not to release non-Jewish slaves’, when we fear her retention might lead her and others to commit transgressions of promiscuity.

וְשִׁחַרְר עֶבְדוֹ וְהַשְׁלִימוּ לַעֲשֵׂרָה

And he freed his slave and completed the 10.

There were only 9 Jews in the synagogue. A 10th Jew is an necessary for communal prayers. Rabbi Eliezar deemed the situation an emergency and liberated his Canaanite slave to complete the Minyan. A Canaanite person can be counted in a Minyan?

The Gemara asks, “How could he do so? It is forbidden to liberate a Canaanite slave, “You shall enslave them forever” (Vayikra 25:46). Our Gemara answers that it is permitted, if it is for a Mitzvah.

However (in BT Berachos 47b), we learn it is not permitted to fulfill a Mitzvah by committing a sin.

In addition, we are permitted to free a Canaanite slave, but it must be for a reason, i.e., to repay a favor, etc, but not as a gesture of kindness.

בְּהֵנִי תֵּלֶת מֵיָלִי נֶחְתִּי בְּעָלֵי בְּתוּמִים

As a result of three prohibitions, people lose their possessions.

- Release their slaves - so as not to have to support them.
- Inspect their property on Sabbath - gains time by taking inventory of his possessions, even before the work week starts.
- Schedules his Sabbath meal when he should be attending Torah class - Thus, avoids feeding the poor, since he knows they will be at the Rabbi's class.

You can attain wealth (BT Shabbos 119a) by:

- honoring Torah Scholars.
- honoring the Shabbos.

וְאַחַת קִבְּעָה סְעוּדָתָא בְּעֶרְבַּי שַׁבָּת

And one at his big meal on Friday evening.

It is halachically not permissible to eat a big lunch late on a Friday. It interferes with the good appetite we should have for the Friday night dinner. It is not proper to say, “True, I ate a big lunch, but I will eat again with good appetite for the Friday night meal.”

It is also not permissible to eat your largest Shabbos meal Friday night. The proper time is during the daytime Sabbath meal. (See Pesachim 105a)

אָמַר נְתִיאֲשֶׁתִי מִפְּלוֹנִי עַבְדִּי מֵהוּ

I despair of recovering so and so, my slave!

Abandoning - Removes one's control over an object, after the owner realizes he is helpless to retrieve it. The owner believes he will never find his lost object, and does not mind if someone else finds it and benefits from it. However, if it is found before he totally gives up on it, he would be happy to have it returned to him, since he still owns it.

Ownerless - He gives up ownership, and even if it is found promptly, it is not returned to him, since he no longer owns it. Is tantamount to declaring the slave free.

(Despair = Ownerless)

בּוֹפִין אֶת הַיּוֹרְשִׁין וְעוֹשִׂין לָהּ קוֹרַת רוּחַ מֵאֵי טַעְמָא מִצְוָה לְקַיֵּים דְּבִרְי הַמַּת

We force the heirs... Why? There is a Mitzvah to comply with the wishes of the deceased.

1. If you are a child of the deceased
2. If you are not a child of the deceased.

Told to give some money to a third party:

1. Must do so: Kibud av va'aim requires it.
 2. Must do so: Only if the money was put into a segregated account. The Mitzvah of complying with the wishes of the deceased, only pertains if the money is in a segregated account.
-
1. Applies only to his child- Kibud av'va aim
 2. Complying with the wishes of the deceased applies to others, who are not children of the deceased.
-
1. Cannot be forced. Can not be forced to give Kibud.
 2. Can be forced to comply with wishes of the deceased.
- Learned from our Gemara. An heir was forced to free maid servant, on the instructions of the deceased.

הַעוֹשֶׂה שְׂדֵהוֹ אֶפֹתֵיקִי לְבַעַל חוֹב וְלִכְתוּבַת אִשָּׁה גּוֹבִין מִשְׂאָר נְכָסִים

If one designated a field as a guarantee, he may sell the field. The creditor may collect from other property.

A man invested in the company owned by his friend, at his friend's suggestion. The stock price fell to zero and he came to his friend saying, "You convinced me to invest in your company and I believe you are responsible to return to me that which I invested". "Excuse me," said his friend, "this is a corporation and the law of the land is the law and the officers have no personal liability". They went to a Bais Din. The Bais Din ruled that the friend had no liability.

A person borrowed money and made a certain field an 'apostoki', "a designated surety" to repay the loan. No other field could be substituted. The designated field was flooded and became valueless. The borrower need not repay the loan from his other assets (Gittin 41).

In this instance, a corporation is set up the same way. Only the corporate assets are attachable and the CEO is not otherwise liable to pay from his other assets.

„לא-תהו בְּרֵאָה לְשֶׁבֶת יִצְרָה״

He did not create the world to be desolate. He formed it to be populated.

Women are exempt from the Mitzvah of ‘be fruitful and multiply’. Are they obligated for the Mitzvah of ‘populating the world’?

Tosophos – Yes.

Rambam- No. She may remain single. She may marry a sterile man. You may sell a Sefer Torah to raise money for a Mitzvah, i.e., to marry off an orphan. You may do this only to marry off a boy orphan., who is obligated in ‘peru urevu’.

Bais Shmuel and Magen Avraham - You may also sell a Sefer Torah to enable the marriage of a girl orphan, who, while not obligated in ‘peru urevu’, is obligated in the mitzvah of populating the world (See BT Megillah 27a).

„לא-תהו בְּרֵאָה לְשֶׁבֶת יִצְרָה׃׃

He did not create for emptiness. He fashioned it to be inhabited.

The Gemara notes that it is important, in fact an essential aspect of a person's task in this world, to procreate and cites a verse from Yeshayahu 45:18, as the source for this directive.

Tosophos wonders why the Gemara did not cite the verse in Ber 1:28, 'Be fruitful and multiply'? This verse from the Torah would be stronger than from a verse the Prophets.

The verse from Bereshis does not reveal why the Mitzvah is so important. The verse from Yeshayahu tells us that the entire world was created in order that the world be populated.

Furthermore, a slave is not obligated to perform Mitzvahs (other than a few) and is not obligated in the Mitzvahs. So the master need not force him to do so. But he must have the opportunity to procreate, to fulfill 'populating the world'.

אינו נותן לו אלא שבתו שבכל יום ויום

Collection for lost income is limited to damages, to a person.

A person rented a horse. The animal was injured while rented and while the wound healed, the owner could not work with the horse, had to pay the veterinarian, feed the horse, etc. Is an animal entitled to payment for pain, doctors fees, humiliation, or lost income?

No, only humans are compensated for those items. However, the owner of the animal loses the productivity of the animal and that is termed a ‘damage’. The person responsible for the food (the owner) must provide for the animal, even though he derives no benefit from the animal’s work. This, too, is a damage and he should be paid for the damage done to his animal.

הַמוֹכֵר בֵּיתוֹ לְעוֹבֵד כּוֹכָבִים דְּמִיּוֹ אֶסוּרִין

In Eretz Yisrael, if one sells his house to an idolater, the money may not be used. It is prohibited.

Property was confiscated during WWII from the Jewish owners. Even synagogues were taken. When the remnants of the community returned, instead of vacating the confiscated property, they were offered money. This Gemara prohibited sales, even of your house, to a non-Jew. How much more are you not permitted to sell a synagogue to them?

This question came to Rav Betzalel Stern:

1. You are not in Eretz Yisrael. However, even if you are in Israel and you are forced, you may accept money.
2. You are not selling the house or synagogue. You are merely accepting money unwillingly, for the forced usurpation.
3. If you are permitted, even in Israel, to accept money for a forced sale, certainly you may do so in post-war Europe.

אין פודין את השבוין יתר על כדי דמיהן

May a prisoner avoid forced labor, or escape from captivity and save himself, even though he knows another Jew will be required to take his place?

This question came up during the Holocaust.

Rav Yechezkel Abramsky and Rav Chaim Soloveichik of Minsk, learned from our Gemara:

-One may not enable captives to escape, since security will be tightened and/or other Jews will be captured. A community may not redeem a captive for more than his value.

Tosophos - Others may not do so, but the captive himself, may escape and he may pay any ransom he wishes, to save himself. So, here too, a concentration camp inmate may lie to avoid labor, or torture, even though he knows another will be picked to take his place.

אֵין פּוֹדִין אֶת הַשְּׁבוּיִין יָתֵר עַל כְּדֵי דְמִיָּהוֹן

One may not ransom captives for more than their value.

Captives, held for ransom, should not be redeemed for more than their value.

But, captives held with the threat of death, must be ransomed, even if their release cost more than their value.

Payment of a larger sum, places an undue burden on a community.

Payment of excessive ransom, encourages future kidnapping.

However, to ransom a scholar, exorbitant rates may be paid (Gittin 28a). Persons of such stature, are few and rare, and it is unlikely that an increase in the kidnapping of scholars would occur.

Also, rescuing a person should not be done, if it will result in the loss of a greater number of lives in the future.

Doctor used to argue against telling a spouse that their partner has AIDs, because fewer people will seek testing and treatment if they know their partner will be informed. Therefore, more people may ultimately die!!!

כִּי־נִשְׁבְּעוּ לָהֶם נְשֵׂאֵי הָעֵדָה״

Because the leaders of the congregation had sworn to them.

A vow pronounced in public:

In the Mishnah (45b), Reb Yehuda teaches that if a woman makes a vow in public, her husband may divorce her. Because, “Any vow made in public cannot be annulled.”

An example, (46a2) in the time of Joshua, the people of Gibeon misrepresented themselves as travelers from a foreign land, and extracted a public promise of protection from the princes of the Jewish nation. Why should an oath be considered valid, if made under false pretenses? Because, it was made in public.

Public oaths are considered reckless, and the one who makes it, is punished for recklessness, by having it be impossible to be annulled.

וְהוּא שְׂמֵכֵר וְשָׁנָה וְשׁוֹלֵשׁ

Ransom money. This is applicable only if he sold himself and his children, once, twice and a third time.

A woman paid a ransom to be allowed to leave a country, Majorca, where she would be required to convert or die. Later, when she joined her husband in safety, he refused to pay the ransom and preferred a divorce.

This came to Bais Din who ruled:

- The husband is obligated to pay his wife's debts (Kesubos 46b and 51a)
- The husband is obligated to rescue any Jew and this is your wife! (Gittin 46)
- Even if he needs to ransom his children three times, he must do so. Even if they voluntarily sold themselves, he is obligated to ransom them and secure their freedom.

הַנְּהוּ בְּנֵי בֵּי מִיכְסֵי דִּיזְפֵי זִוְזֵי מְעוּבְדֵי כּוֹכְבִים

The residents of Bei Michsei, who borrowed money from idolaters.

Rambam states that a person who could not pay back a loan from non-Jews and was put into prison for his debt, or taken into captivity, should be ransomed the first and second time and even a third time, if his life is threatened.

What is the rule regarding theft of money from non-Jews?

Should he also be redeemed? Answer: Yes

- He is not stealing to anger HaShem, but because he is desperate.
- He may be mistaken in thinking that ‘one should not steal’, means only from Jews.
- He may be relying on Bava Kamma 38a , that states “If non-Jews reject the Noachide laws, their possessions are declared ownerless.”
- Since non-Jews may execute thieves, it is certainly a Mitzvah to redeem him, since stealing, according to Halacha, does not warrant capital punishment.

וְשָׁבִיב הֵיטִירָא וְאָכִיל אִיסוּרָא

He bypasses that which is permitted and eats what is prohibited.

The only Kohen in town, was one who ate non-kosher food and did business on Sabbath. Can he be used for a Pidyon Haben? No, he might use the money for prohibited activities, i.e., the purchase of and eating of non-kosher food.

A person who has the option, and chooses the ‘not permitted way’, angers HaShem and is categorized as one who violates prohibition out of defiance. He is not to be redeemed from captivity by the community.

בִּיבוּשׁ יָחִיד לֹא שְׂמִיָּהּ כִּיבוּשׁ

The conquest by an individual, is not legally counted as a conquest.

The annexation of Syria by King David (for his own benefit), is not considered a national annexation (as are the conquests in the time of Joshua) and has no halachic validity.

It would not be called part of Eretz Yisrael and it would not have all the Mitzvahs applicable, even if it was part of the land given to Abraham. To be considered part of Eretz Yisrael, it has to be occupied by a King, prophet or leader, with the consent of the majority of Israel (Mishneh Torah Hil Terumah 1:2).

Homiletically, a person who only thinks of perfecting himself, even spiritually, no Kedushah is attained. He must elevate the group toward good and positive accomplishments.