

Gittin

48b3 - 90b

וְהַמוֹצֵא מִצִּיטָּה לֹא יִשָּׁבַע מִפְּנֵי תִיקוּן הָעוֹלָם

A person who finds a lost object (and returns it to its owner), does not have to take an oath for the benefit of society.

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An owner may claim that the object being returned is not complete, or in the same condition as it was when it was lost, i.e., the finder returns a wallet with \$100 in it and the owner claims he had \$200. The finder might be asked to swear that he did not keep the other \$100. The Rabbis exempt the finder from such an oath. Why?

If a man returns what he found, it is a sign that he is honest. If he is subjected to the indignity of an oath, to swear that he did not steal, people may simply forgo the effort to return lost objects. Therefore, no oath is required.

If the man who lost his wallet finds \$100 in his wallet and claims he lost \$200, it must not be his wallet. He should give the \$100 to the finder.

וְהַמוֹצֵא מִצִּיָּאָה לֹא יִשָּׁבַע מִפְּנֵי תִיקוּן הָעוֹלָם

A person who finds a lost object (and returns it to its owner), does not have to take an oath for the benefit of society

Certain debt repayments are due to the demands of “Tikkun Ha’olam”, ‘the duty to do right in the world; to repair the world’.

A Case: A man became ill, lapsed into a state where he did not make sense and his close relatives summoned a doctor, who diagnosed him and treated him. Nonetheless, the patient died. The executor of the estate refused to repay the relative for the money he paid to the doctor, saying, “The patient did not call the doctor, you did and you paid him. That is very nice of you but, the orphans have no obligation to reimburse you for your initiative”.

The Rosh said, “It is expected that relatives will call a doctor to help a sick person and it is expected that the doctors fees will be paid from the estate of the patient. Would you rather that relatives sat around and did nothing to try to help?”

רַבִּי מֵאִיר אֹמֵר בְּבִינוּנִית

Rabbi Meir says, “From average land”.

A woman’s kesubah (dower) must be paid if she is divorced by her husband or if he dies. However, if she is not paid in money, but is paid in the equivalent in land, in what quality of land, should she be reimbursed? If payment of the Kesubah is required, according to Biblical Law, she would be able to collect her dower from his superior land. However, the Rabbis were concerned that a scheming woman might marry a man and provoke him, so as to have him divorce her, in order to collect her dower from her husband’s best fields. Therefore, they restricted her right of collections to his inferior fields.

R. Meir was concerned that even though a woman is eager to marry, concern for her future financial protection, might outweigh her desire to marry. Therefore, he permits her to recover her dower from her husband’s average land.

שְׂכִיב מֵרַע שָׁאֵמַר תָּנוּ מֵאֲתֵימ זֶזוּ לְפָלוֹנִי וְגו' מֵאוֹת לְפָלוֹנִי וְד'

A seriously ill man ordered to be written, “When I die, give person A: 400 zuz, B: 300 zuz, C: 200 zuz and D: 100 zuz.”

His estate contains only 500 zuz. He has bequeathed 1000 zuz. How do we best comply with his wishes?

מָנָה לְאָבִיךָ בְּיָדִי

**TRANSLATION**

A Maneh (100 silver dinars) belonging to your father, is in my hands.

A man says to an orphan: “I borrowed from your father and paid him back most of what I borrowed, but I still owe him 1 Maneh more.” Does he have to take an oath that he paid most of it back?

A person says, “I found this wallet and wish to return it to you.” Does he have to swear that he took nothing from it?”

On the other hand:

The orphan says to the man, “I know you borrowed from my father”. The man says, “I paid back all but 1 Maneh. Does he have to take an oath?”

If a person steps forward and admits something that would otherwise not be known, he does not need to take an oath. For the good of the world we want to encourage such activities. But, if he had to be confronted with his debt, i.e., “You owe” or “I know you found”, he does have to swear that more was never owed.

Bleich

אָפּוֹטֶרופּוֹס שְׁמִינָהּוּ אָבִי יְתוּמִים יִשָּׁבַע

An administrator appointed by the orphan's father must swear...

Guardians are to be appointed for persons unable to care for their own needs, i.e., minors or mentally incompetent. The appointment must be in the best interest of the minor.

'Best interest' depends on circumstances, i.e., if the minor wishes to donate a kidney

- to a stranger. He has no interest in the stranger and it may cause harm to the minor.
- to a sibling. The minor gets psychological and developmental benefit from restoring a sibling to good health.
- to a person the minor is dependent upon. Certainly it is in the minor's best interest to do so.

Therefore, the guardian may do so and donate the minor's kidney to another person for the minor's best interest. Therapeutic wounding is sanctioned by the Talmud.

הַכֹּהֲנִים שֶׁפָּגְלוּ בַּמִּקְדָּשׁ מְזִידִים חַיִּבִּין

Kohanim that disqualify a sacrifice, are obligated to pay the cost of the replacement.

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How do we assess damages?

A new garment, used once, loses a major part of its value, since it is now a used garment.

If someone damages it, does he pay the value of the used garment or does he pay the amount necessary to replace the item. Which value do we use to calculate the damages?

Replacement value or market value?

From the above, we learn that we must pay, even for items that have no market value. A Kohen who damages a korban, has to pay the replacement value. The korban has no market value. It can only be used for a korban but it is damaged and can't be used for that.

Therefore, we learn that if we damage something, we pay not the market value, but the replacement value.



גִּזְלֵי מִטְבַּע וְנִפְסָל תְּרוּמָה וְנִטְמָאֵת - חֲמִץ וְעֵבֶר עָלָיו הִפְסֵחַ אֹמֵר לוֹ הֲרִי שְׁלָךְ לְפָנַיִךְ

A thief stole a coin and it became worthless... and he says “Here is the coin of yours that I took, placed before you.”

If a thief stole a coin which later became worthless, if he returns the coin, the actual stolen object, he is not obligated to pay for the monetary loss which the owner suffered. Since the loss of value of the coin was not his doing.

On the other hand, if a fence falls and mixed seeds develop, i.e., grapes ruin the wheat. The owner of the fence cannot simply say, “Here is your produce.” He must pay for the lost value due to kilayim. Why the difference? Here, he has control. He could have prevented the loss. Inaction is negligence.

גִּזְלֵי מִטְבַּע וְנִפְסָל תְּרוּמָה וְנִטְמְאָתָּה - חֶמֶץ וְעֵבֶר עָלָיו הִפְסֵחַ אֹמֵר לוֹ הֲרִי שְׁלָךְ לְפָנַיִךְ

A thief stole a coin and it became worthless... and he says “Here is the coin of yours that I took, placed before you.”

And he said here is your item before you.

A man took an esrog to show to his Rebbi, ostensibly to ask if it was fully kosher for Succos. After Succos he returned it to the seller, saying, that he learned it was not to his liking. He offered to pay the esrog’s value after the holiday, but was not willing to pay its original price. He said to the seller, “Here, I return your very object to you. What more could you want?!!

The Rav of the town said, “The man should pay... what price?

1. Nothing, he returned it.
2. Its preholiday price.
3. Its post holiday value.

ר' יהודה אומר בשוגג ואכל למוצאי שבת

If a person cooked inadvertently on Shabbos.

- He is prohibited from eating the food until after Shabbos.
- Others may eat the food on Shabbos.

However, if he cooked the food deliberately, he may never eat it.

May we eat bakery goods baked on Shabbos by a kosher baker, whom we know does not personally keep kosher?

- The baked goods are permitted to eat after Shabbos.
- However, a Jew should not profit from his sins.

We should not encourage violation of Shabbos.

אָמַר לִיָּהּ סֵפֶר תּוֹרָה בְּיַד מִי

He asked him, “The Sefer Torah, who has possession of it.”

A worker was hired to make kosher wine, but it became contaminated. The worker told his boss and offered to forgo the salary due him for his work. Is he to be believed that the wine is not kosher?

If the worker is the only one who will lose financially, he is believed. But, if the owner already sold it and if he recalls the wine, will lose financially, then we do not believe the worker. “A single witness is not believed when it will cause another to lose money.”

So in our Gemara, if a Sofer admits that he made an error while writing, i.e., a lapse in concentration when writing HaShem’s name. If the Sefer Torah has already been sold and the employer would need to recall it and lose money, we do not believe him as a single witness. “Who has possession of the Sefer Torah” dictates whether or not we believe him.

אוקמוה רבנן ברשותיה

The Sages placed the stolen animal in the thief's possession.

The Sages penalized the thief by considering the animal to be consecrated and therefore, his slaughter of it outside the Temple, would be a greater sin.

A stolen animal was brought to the Bais Hamikdash and offered as a Chatas.

If the current owner of the offering does not know it is a stolen animal, i.e., he bought the animal, unknowingly, from a thief, the offering is valid.

Is it still deemed a stolen animal, however, if the true original owner gave up hope of it ever being returned (yeush), “he relinquishes it”. He abandoned the animal and thereby, he makes it ‘ownerless’. If so, even if we later learn that it was stolen, it now belongs to the new owner, who owns it because it was ‘ownerless’.

Another opinion: No, we do not allow yeush to make a stolen item acceptable as a Korban, lest the Bais Hamikdash gain a reputation of accepting tainted goods.

אֶקְמָצָא וְבַר קְמָצָא חָרוּב יְרוּשָׁלַיִם

The story of Kamtza and Bar Kamtza caused the destruction of Jerusalem.

The Bais Hamikdash was destroyed because of causeless hatred.

A person made a feast and invited his friend Kamtza. However, by accident his enemy Bar Kamtza, for whom he had much hatred, arrived instead. The host ejected Bar Kamtza forcefully, from the party.

Bar Kamtza had so much hatred for the Rabbis. who sat by and did not intervene on his behalf, but permitted the terrible embarrassment to occur, that he informed the Romans about the gathering which resulted in the killing of the people and destruction of Jerusalem.

Why is Kamtza mentioned in this story? Did he do anything wrong? He was not even there!!!

Perhaps, if he had seen his good friend Kamtza, the host would not have acted so badly. He was upset that his enemy was present and had received the invitation meant for Kamtza and Kamtza did not give his friend, the host, the benefit of the doubt that his invitation might have gone astray and notify the host or come anyway. Kamtza bears some of the guilt also.

אֶקְמָצָא וּבַר קָמָצָא חָרַב יְרוּשָׁלַיִם

The story of Kamtza and Bar Kamtza caused the destruction of Jerusalem.

- The events of the destruction of the Bais Hamikdash.
- Discussion between R Yochanan ben Zakkai and Vespasian, Emperor, of Rome, regarding Titus, when he destroyed the Bais Hamikdash and how Titus challenged HaShem and lost.

סָבוּר רַבָּנָן לְקִרְוֵיָהּ מִשּׁוּם שְׁלוֹם מַלְכוּת

The Rabbis thought to offer the offering, for the peace with the government.

Caesar sent a Korban, even though there was a blemish on it (either in it's lip or eye).

Although there is a prohibition against offering a blemished Korban, in order to keep peace with the government and to save the lives of the Jewish people, it is permitted. Any act is permitted except 'the big three' to save lives ( idolatry, murder, immoral acts).



רַבִּי זְכַרְיָהּ יֹאמְרוּ מִטּוֹל מוֹם בְּקִדְשִׁים יִהְרַג

Rabbi Zachariah said to them, “People will say that a person who blemishes a consecrated animal, is put to death’.

The power of embarrassment.

Bar Kamtza was so embarrassed, that he betrayed his fellow Jews to the Romans. HaShem aided him in this plot, because of the embarrassment that he felt.

Embarrassing another person is a very powerful crime.

The Rabbis considered putting Bar Kamtza to death, but did not.

The Rabbis would have done so, because he incited the government against the Jewish people. But they feared that people might think that Bar Kamtza was put to death, because he purposefully caused a blemish on a consecrated animal. That sin only warrants lashes. HaShem put this reasoning in their minds and Bar Kamtza was not punished at all.

כָּל הַמְיָצֵר לְיִשְׂרָאֵל נַעֲשֶׂה רֹאשׁ

Whoever harasses Israel, attains leadership.

To conquer Israel, you must be very great and the greater you are, the greater will be your fall from pride.

אֲשַׁכְּחֶיהָ לְדַמְיָהּ דְּזִבְרֵיהּ דְּהֵוָה קָא מְרַתַּח וְסָלִיק

When (Nevuzraden) found Zechariah's blood boiling and bubbling

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on the temple floor.

Nevuzraden, a Roman General, found a pool of boiling blood. He compared this blood to the blood of goats, sheep, bulls and humans and could determine that it was human blood.

(Bereshis 37:31) Joseph's brothers presented the blood-stained coat of Joseph, dipped in the blood of a goat, to their father Jacob. Why couldn't Jacob recognize that the blood stains were not human, as Nevuzraden had done?

Nevuzraden had a sample of blood, not simply a blood stained shirt. Therefore, he could compare it to other samples from other animals. Yaakov could not do similarly.

מַעֲשֵׂה בְּדֵי מְאוֹת יְלָדִים וְיְלָדוֹת שֶׁנִּשְׁבּוּ לְקַלּוֹן

400 boys and girls were captured by Rome for shameful activities.

Suicide, recorded in the Talmud, without objection or disapproval under these circumstances, undoubtedly serve to justify martyrdom. Suicide in defense of Jewish principles.

In Jewish law suicide is a criminal act, except in exceptional circumstances. For example, to avoid the three major acts, idol worship, murder of another and illicit sexual activities.

Rabbi Oshrey permitted a man to commit suicide, who was to be tortured by the Nazis to identify the whereabouts of other Jews.

Suicide to avoid forced conversion or to endanger the community is martyrdom.

Suicide to avoid the pain of illness is a violation. Others may not aid a person to do a thing that is prohibited, i.e., assist in a suicide. We don't believe in any redemptive value in pain. Pain is not salvation in Judaism, such as the crucifixion of Jesus.

זו אשה ושבעה בניה

Unwilling to bow to the emperor's pagan idol, a mother lost 7 sons during the time of Roman persecution.

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As the 7<sup>th</sup> was going to execution, she whispered in his ear, “Go my son and tell your forefather Abraham, in my name, “You built one altar for yours and I built seven.”

It sounds like a boast that she surpassed Abraham in devotion to God, but this is very unlikely.

Abraham's tests were designed by HaShem to serve as examples, as templates for what future generations would be forced to face. Abraham's trail blazing 10 trials and his responses, set the pattern and gave the strength for later generations to follow.

The mother's words to her condemned sons, was to tell Abraham that he had succeeded in creating an example that gave strength to later generations.

אלו דְּבָרִים אָמְרוּ מִפְּנֵי דְרַבֵּי שְׁלוֹם

What is the basis for the Kohen getting the first Aliyah?

(Deut 31:9)- “And give it to the Kohanim, the sons of Levi.”

(Deut 25:5)- “The descendants of Levi shall come forward.”

(1st Chronicle 23:13)- “Set apart for holiness in the Holy of Holies.”

(Lev 21:8)- And you shall sanctify him.”

What do we do with a priest who has an injury? The actual case was a Kohen who was castrated by the Nazis. He may not sacrifice in the Temple, but he may bless the people and get the last Aliyah. However, if there is a Kohen in the synagogue who is not injured, that Kohen should get the honor. He is more ‘Kodesh’, ‘holy’ than the injured Kohen, who is more ‘sanctified’ than an ordinary person.

## אלו דברים אמרו מפני דרכי שלום

These things were declared by the Sages, as ways to foster harmony.

May we call an Israelite up for the first Aliyah in the presence of a Kohen?

- If the Kohen leaves. This can be done occasionally, but not frequently.
- If the Kohen waives his honor. May he do so? This is controversial.
- One may ask a Kohen to leave on weekdays and Sabbath Mincha, because with only 3 Aliyahs, those who are obligated may not have the opportunity to have an Aliyah. However, one may not ask a Kohen to leave the synagogue on Shabbos or Yom Tov, when we are able to add Aliyahs.

Case: The Kohen was the only Kohen in the community and he was also the Bal Koreh. Therefore, he can't leave. Does he get 2 Aliyahs for Kohen and Levi every time the Torah is read? Is his second Aliyah a bracha in vain?

- He could say, "With the permission of the Kohanim" or he could be 'moichel', and say, "let it pass".

-The Kohen can also yield to a great Torah Scholar or to a person who has an 'obligation'.

-Is the Mitzvah based on Lev 21:8, 'V'Kidashto' 'You must honor Him' or from 'Kodosh y'heyah l'cho', 'He shall be holy to you'. The requirement is less stringent if the latter and the Kohen can waive his honor.

ואחריהן תלמידי חכמים הראויין למנותם פרנסים על הציבור

After them, you are required to call on Torah Scholars who have been appointed leaders of the community.

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Which is the most prestigious Aliyah?

Kohen? Levi? Or the first one available to the entire community, **i.e., #3?**

Some authorities draw a parallel between the 7 Aliyahs and Abraham, Yitzchak, Yaakov, Moshe, Aharon, Joseph and David.

Remember every Aliyah is an honor. Only the Yetzer Hara would make you compare your honor with someone else's honor. Resist such temptation. The Torah teaches the trait of humility.

Remember we all stood as equals before Mt. Sinai.



“עַתָּה לַעֲשׂוֹת לַיהוָה הִפְרוּ תוֹרַתְךָ”

When it is a time to act for HaShem, nullify your Torah.

The oral law was to have been transmitted orally, but because the sages noted a weakening of memory in later generations. They found it necessary to write down the oral law.

It is permissible for the Rabbis to authorize a nullification of Torah law, to ensure the carrying out of God's will (Berachos 63a). So many calamities befell the Jews, that it was feared that the oral law, if only studied by heart, would not be passed on (Rashi, Rambam).

דְּבָרִים שֶׁבִּכְתָּב אֵי אַתָּה רִשְׁאֵי לְאוּמָּרָן עַל פֶּה

The written law is not permitted to be spoken orally.

The written verses contain many allusions and hints, indicated by extra letters, absent letters, words that are written one way and yet are pronounced another way. When these words are read orally, these significant nuances are not able to be detected.

- Studying orally is more susceptible to error.
- If oral study was permitted, texts would not be written and without them to refer to, we would be unsure what the true text should be.
- This rule applies to all texts that contain prophesy in all of Tanach.  
They all contain hints and unique lesions which cannot be conveyed orally.

דְּבָרִים שֶׁבְּכֹתֵב אֵי אֲתָה רִשְׁאֵי לְאוֹמְרָן עַל פֶּה

Not even a single word of the written law may be read publically or studied by memory;  
only from a written text.

This rule is relaxed for a blind person, who would other wise be prevented from studying Torah. He may study from memory or from a braille text.

A blind man may be called to the Torah and make the blessings. Since it is our custom that someone else will read for him.

A blind Bar Mitzvah boy may make the brachas. Someone else should read the Maftir, Torah portion.

If the Haftorah is read from a parchment, a blind person may not read from it, or recite it, or use a braille copy.

However, if it is not written on parchment, but on paper, a blind child may recite his Haftorah from memory, or from a Braille text, “At a time when it is necessary to do the work of the Lord, make void the law” (Psalms 119:126).

דְּבָרִים שֶׁבְּעַל פֶּה אֵי אַתָּה רִשְׁאֵי לְאוֹמְרָן בְּכַתָּב

It is not permitted to write down the oral law, (i.e., Agaddah, Mishnah, Gemara).

Why?

If God had chosen to commit the oral law to writing, we would not be able to say any more than what was written down. Just as we may not add or subtract the written word (the Torah).

This would be very detrimental since we learn best by speaking, reviewing and debating the oral Torah in an individualized manner.

דְּבָרִים שֶׁבְּעַל פֶּה אֵי אַתָּה רִשְׁאֵי לְאוּמָרְן בְּכֶתָב

Things intended to be oral should not be written down (60b).

Yet Rabbi Yochanon and Reish Lakish put the Aggadah in writing to prevent it being forgotten (60a). On what authority could they go against an explicit ruling of the Torah??

Similar examples:

- A Kohen Gadol may only wear his priestly garb while serving in the Temple.  
“He did put them on to meet Alexander the Great”. – (Yoma 69a).
- Rabbi’s authorized the use of Tzitzis without blue dye, which the Romans had forbidden or made prohibitively expensive. Romans had forbidden and counterfeit dyes had developed.
- No longer breaking the neck of the heifer (D21:1-9).-Murderers too prevalent.
- No longer using the ‘Sotah water test’ (Num 5:11-31)-Adultery too prevalent.
- On the authority given to Rabbis (Deut 17:11-. “You shall act in accordance with the verdict that they announce to you and deviate not to the right or left.  
This is the source of Rabbinic authority!!

לא כרת הקדוש ברוך הוא ברית עם ישראל אלא בשביל הדברים שבעל פה

G-d made a covenant with Israel, only for the sake of that which was transmitted orally.  
(Ex 34:27).

(For the mouth of these words), “Ke al pe hadevarim ha’elah”, ‘For according to the live content of these words’.

The full meaning and spirit of the words, not their mere fixed translations. The full comprehensive understanding of the meaning and spirit of the Torah is what the covenant was built on (R S R Hirsch).

מִפְּרֻנְסִים עֲנִיִּי נִכְרִים

### Assisting poor non-Jews

(Devarim 7:2) “You shall not consider them favorably” is understood to mean, ‘don’t do any favors to idolaters’, i.e., non-Jews, such as granting them gifts, free services, etc.

Yet it is permissible to give charity, bury their dead and visit them when they are sick, if we have a reason. The reason can be:

- It is a Mitzvah
- To avoid animosity between our communities and prevent our gentile host nations from withholding services to their Jewish population.

If it is good for the Jews, it is permitted, even if only indirectly beneficial.

וְקוֹבְרִין מֵתֵי נְכָרִים עִם מֵתֵי יִשְׂרָאֵל

### Burial of a non-Jew in a Jewish Cemetery.

We bury the dead of the non-Jews, with the dead Jews, because that is the way to promote peace.

Russians came to Israel and some are not Jewish. Yet, they may have died in the military or in terrorist acts and need to be buried. We are enjoined to support the gentile poor, bury their dead and assist the gentile sick for the sake of peace and amiability. But it does not require us to bury them in a Jewish cemetery. Even Ruth 1:17 understood only Jews are buried in Jewish cemeteries. A Jewish Cemetery is consecrated ground, like a synagogue. We are not permitted to bury a wicked person near a righteous person, or even a merely righteous person, near a person of extraordinary piety.

We must put up a fence 10 cubits high and 8 ells (cubits) from a Jewish grave.

However, if at the time a cemetery is established, we set aside a place for non-Jews and put a fence around it, that land was never consecrated and the problem is less. Even people who have a non-orthodox conversion could be buried there.



**מִפְּנֵי דְרָכֵי שְׁלוֹם**

And all of these leniencies were said in an effort to promote peace.

For example, being a Shadchan for a non-religious couple, or officiating at a wedding of a non-religious couple., only if you don't assist in the actual transgression.

On the other hand, if you don't assist, they will be assisted by someone who has no concern about halachah. Perhaps, it is better that you do it.

However, if the woman is promiscuous and you suspect she will have relations outside of marriage and have children who will be mamzerim, it is better for the marriage to be non-halachic. Thereby, she is not officially married to A and her children with B will not be mamzerim.

(R Moshe Feinstein)

## Daf Digest

רַב חֲסֵדָא מְקַדִּים וְיִהְיֶה לְהוּ שְׁלָמָא

Whenever someone gives you a warm greeting, you should do likewise and in fact, add to it.

A man met a great Rabbi on the street and wished him, a “gut voch”, ‘a good week’. The Rabbi added to that blessing by wishing the man, “a gut yor”, ‘a good year’.

However, that year Rosh Hashanah came out in the middle of the week So when the Rabbi wished the man ‘a good year’, there was only 3 days left in the year! Whereas, the man wished the Rabbi ‘a good week’, 7 days. The Rabbi realized this and called the man back and added extra brachas, so as to add to the blessing and give the man back a greater bracha.

אָסוּר לוֹ לְאָדָם שִׁיטְעוּם בְּלוּם עַד שִׁיתֵן מֵאֶכֶל לְבְהֵמָתוֹ

(Devarim 11:15) It is forbidden for a man to eat anything, before he gives food to his animals.

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- |                                 |   |
|---------------------------------|---|
| Is it an act of piety to do so? | - No, it is mandated from the Torah (Devarim 11:15) |
| Is it a Rabbinic guideline?     | - No, the Torah prohibited us to eat first.         |
| Is a taste of food permitted?   | - Yes, although our Gemara says, 'No'.              |
| Is a snack permitted?           | - Yes and the Rif and Rosh agree.                   |

Only a full meal is prohibited, says the Taz, Oreh Chaim.

First feed the animals and then eat and "be satisfied". "Be satisfied" means, a full meal.

אָסוּר לוֹ לְאָדָם שְׂיִטְעוּם בְּלוּם עַד שִׂיתֵן מֵאֲכָל לְבֵהֶמְתּוֹ

Devarim 11:15) It is forbidden for a man to eat anything, before he gives food to his animals

Why? To generate the good trait of compassion.

Which animals does this apply to?

Large animals: They have no way to get food and they rely on their owner for sustenance.  
They are in distress unless the owner feeds them.

A dog and cat: They are not included. They usually can always get food. Unless they are in a cage. Then you must feed them before you eat.

Fish: (In a fish tank) They rely on the owner. Therefore, you must feed them before you eat.  
However, if there are plants in the fish tank, it is considered as if the fish have the capacity to obtain their own food and you are not obligated to feed them before you eat.

הָהִיא בְּהוּוּ קָרוּ לָהּ נִפְאָתָה אָזוּל סְהַדֵּי פְתוּב תִּפְאָתָה

There was a woman Nifatah and the witnesses wrote her name as Tifatah.

They wrote a get with the city name Buenas, instead of Buenos Aires.

Is either get valid? No.

What if there is no other person or city the mistake could be confused with? The get is still not valid.

A man's name was Benzion and the get had his name written as Ben, is the get valid? No, it is not valid. A new get must be written.

If the woman remarried not being aware of the mistakes, she does not have to divorce the second husband. But if she is aware, she should not remarry with this invalid get. She should have a new get written, if possible, Otherwise, she is in an Agunah.

כֹּתְבִין וְנוֹתְנִין אֶפְיָלוּ מֵאָה פְּעָמִים

They may write it and give it to him, even a hundred times

Two witnesses signed a loan document which they soon realized had an error in it. Instead of a promise to pay back \$1000, it read to payback \$100. “What to do?”, they wondered. Can we throw away this first duly ratified, legally signed document?

Since the paper is valid at least for \$100, have we already exhausted our authorization to witness a loan agreement and now need new authorization?

Do we, as witnesses, bear responsibility to pay the difference? The above statement from the Gemara, tells us we may redo the document even 100 times, until it is correct. The witnesses are still agents of the borrower until they get it right.

The custom is to write a get with 12 lines. The Gematria of the word 'get', gimmel =3 and tet = 9 = 12.

Another explanation: Between each of the 5 books of the Torah (except for between Bamidbar and Devarim), there is a space to separate one book from the next that is 4 lines wide.

Bereishes- Shemos – Vayikra – Bamidbar. There is no space between Bamidbar and Devarim, since Devarim is considered a review of the previous books. We see that we have 12 lines separating them. The lines of a 'get' that separate a married couple, is the same number of lines that separate the books of the Torah.

בַּעַל אוֹמֵר לְפַקְדוֹן וְשְׁלוֹשׁ אוֹמֵר לְגִירוּשֵׁינִי

The husband says, “I gave the get to a third person as a deposit.” But the third person says, ‘He gave it to me for the purpose of divorce.’”

A man and wife wished to divorce, but had a problem.

She now lived far away. It was too expensive for her to travel to him or for him to travel to her or for either to hire a messenger.

Therefore, a solution could be:

She hires a local agent to receive her get and at her convenience picks it up or has it brought to her.

If the agent is hers, is she divorced once he takes possession of it?



וְשִׂיאִינָהּ יוֹדֵעַת לְשִׁמּוֹר אֶת גִּיטָהּ

And if she does not know how to take care of her get.

If she is not mentally competent or too sick, the Bais Din can appoint a guardian for her and/or an agent to receive and protect the get.

If she is a minor, the get can be given to her father, as her agent.

However, we have a rule that an agent can only perform that which the person themselves could perform and here the wife can't perform because she is a minor. How can we have an agent for her?

A Pidyon Haben is the responsibility of the person himself. If his father did not do it, once the man is an adult, he must do it himself. The father is authorized only as his son's agent. Therefore, we see from these two examples, it is possible to appoint an agent to do something that the principal cannot do themselves!!

וְשִׂיאֵינָהּ יוֹדְעֵת לְשִׁמּוֹר אֶת גִּיטָהּ

And if she does not know how to take care of her get.

On the other hand, we have an argument to the contrary.

Kohanim serving in the Bais Hamikdash:

-Are they agents of HaShem or are they agents of the people?

The Kohanim offer korbonos which we, the people, could not do. Therefore, they cannot be our agents and must be agents of HaShem.

This example supports principle of agency. Namely, “one is unable to appoint an agent to perform a task that he, himself, is not authorized to perform”.

## הפעוטות מקחן וממכרן ממכר במטלטלין

Young children (between ages 6-8) may buy and sell moveable objects.

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May you give an esrog to a child?

Young children purchases and sales are valid when it comes to objects.

When you make a bracha on an esrog and lulav, you must own the esrog and lulav, either as a purchase, loan or gift. You may then convey it to another person, i.e., the person who lent it or gifted it to you. A child may understand to receive a gift, but is a child permitted to transfer ownership to another person?

When an adult transfers to a child, the child owns the object on a Biblical level. However, when a child transfers to an adult, it is only on a Rabbinic level. Therefore, most say don't do it.

Some say if the child has reached the age of understanding, you may do so. Most say don't.

וְאָמַר כָּל הַשּׁוֹמֵעַ אֶת קוֹלוֹ יִכְתּוּב גֵּט לְאִשְׁתּוֹ

Anyone who hears his voice, can write a get (at his request) for his wife, i.e., be his agent based on voice recognition only.

- Is voice recognition enough?
- Precedents:
  - A messenger may deliver a get to a woman he identified by her voice alone. (Gittin 23a)
  - A blind man may recognize his wife by her voice.
  - A couple may identify each other at night. (Chullin 96a)

One should not use voice recognition, unless both parties are located where the voice will not be distorted. A man blows a shofar in a pit. Those who hear are not yotzei, because the sound reverberates and echoes and is changed.

So a voice from a pit, or a voice that is in anyway changed, cannot be relied upon for voice recognitions, i.e., to appoint an agent. But, if he identifies himself, i.e., his name, wife's name and city, we can accept that he is who he says he is. We are not relying on our recognition of his voice.

וְאָמַר כָּל הַשּׁוֹמֵעַ אֶת קוֹלוֹ יִכְתּוֹב גֵּט לְאִשְׁתּוֹ

Anyone who hears his voice, can write a get (at his request) for his wife, i.e., be his agent based on voice recognition only.

Can you accept an appointment of an agent via telephone?

Case: Soldiers who cannot return to personally instruct agents to write, witness, or deliver a get, may do so over the phone, even though the voice is changed. The recognition is not by the voice, but by the description the man gives. “I, Ploni the son of Ploni, wish for a get to be written for my wife.”

Proof from our Gemara: Where instructions are given from a man in a pit, he may identify himself and appoint an agent, even if his voice is distorted by the reverberations.

רַבִּי מֵאִיר חָכֵם וְסוֹפֵר

Rabbi Meir is described as a wise man and a scribe.

Rabbi Yehudah is described as being “a wise man, when he wishes to be” is this a compliment?

Rashi - He was capable of being wise when he was patient and carefully considered the subject at hand.

Tosophos - It is meant to imply that although R Yehudah’s knowledge was not as encyclopedic, it was used in an incisive and analytical fashion, that required not just memory, but time to think and innovate.

Rabbi Tzvi Hirsh Chayos – Rabbi Yehudah could, by his concentration, overcome all distractions and obstructions and be wise whenever he wished.  
He delved into the depths of the Torah.

The age old debate: Which is better, encyclopedic command of the facts, or the ability to analyze and innovate. Who is better to serve as leader of the Academy?

זֵיל גָנוֹב אֵייתִי לִי חֲדָא פִרְעָא מַחִינְתָא

Go steal and bring me one leg from the animal.

Is it ever permissible to steal?

-If you intend to pay back immediately.

-If done for the sake of a Mitzvah.

-If done with the intent to pay back double.

-To prevent someone from transgressing an even greater sin than stealing.

Can you take your friends negel vasser ( morning hand washing)?

If you intend to pay it back promptly.

Stealing seems to be permissible if done for a Mitzvah, and also to prevent a bigger sin, i.e., to prove to a householder that his servants were not trustworthy.

לְדַמָּא דְרִישָׁא

For blood of the head (headache due to high blood pressure),

A variety of remedies for physical and psychological ailments is offered in the first part of the 7<sup>th</sup> Perek.

King Chizkiyahu was praised by the sages for hiding the “Book of Remedies”, (See BT Berachos 10b). Rashi explains the king’s motivation was to encourage people not to look to remedies, but to look to HaShem for recovery.

Why then, do we see a list of remedies in our Gemara?

God gave man the right (Shemos 21:19) to have remedies for illnesses. So it is proper to make them known. Just as the oral law had to be written in order that people do not forget, so too, the list of remedies was written in our Gemara, so as not to be forgotten.



שָׁחַט בּוֹ שְׁנַיִם אִו רֹב שְׁנַיִם

A person who has severed two passages, or the majority of two passages.

A person whose esophagus and trachea have been severed, still has legal capacity to execute a bill of divorce. He is alive, but faces imminent death.

Cessation of respiration is not, in and of itself, equal to death. There must also be no muscle movement, either of the limbs or of the muscle of the heart.

R Moshe Feinstein does not accept brain death criteria, as death and says “If you remove a heart on those criteria, it is murder”. He does not rely on neurological criteria or blood flow studies, in order to establish that death has occurred.

Establishing criteria of death in Halachah: See Vol. I p372 – 393 and Vol. III- heart transplant.

דַּאֲמַרִּינָן לִיהַ חַד לְאוּ וּתְרִין הֵן וּתְרִין לְאוּ וְחַד הֵן

We ask him one ‘no’ and two ‘yes’ questions and then two ‘no’ and one ‘yes’ questions.

The Gemara has a test by which it determines if a person, who cannot speak, is mentally competent. We ask him a series of questions, mixing up ‘yes’ and ‘no’ and determining if his answers were appropriate. Based on this test, the Rabbis decide if he is competent to buy and sell land, divorce his wife, etc.

Can we also do a neurological test in our day and age? Yes, but, if the person passes the Rabbi’s test, but fails the neurological one or vice versa, we could have a problem. No, the Rabbi’s test is to determine competency, based on halachic criteria for matters of Jewish law. The Gemara criteria are sufficient.

Neurologic criteria, if they agree with the Rabbi’s criteria, are good and if not, they are not used to supersede halachic criteria.

אם-לוא יגיד

If he does not tell.

This excludes a deaf mute, who cannot relate his testimony.

Status of deaf mutes in Jewish Law.

In 1977, an Iranian woman, who was a deaf mute, was denied conversion to Judaism by an Israeli Bais Din. She was proficient in sign language and could speak some Farsi, but was barely comprehensible.

- The restrictions on deaf mutes must be understood in the context in which they apply.
- Deaf mutes are considered not mentally competent, not responsible for their actions and lacking the requisite intelligence for the performance of various ritual and civil acts. They cannot be counted in a minyan, serve as a shoichet, or as a witness and they cannot enter into contracts. They are viewed in a similar legal context as a minor.
- It is believed that speech and reason go hand in hand. However, if it can be shown that the person has mental competency, he has no restrictions.
- Minimal hearing, even without speech: The person is fully responsible.
- A deaf person, who is able to speak: The person is fully responsible.
- Even if he uses amplified sounds, synthetic speech, special training, or speech therapy. If he can hear a little and speak a little, his is considered intelligent.
- However, even if clearly intelligent, i.e., he can communicate by reading and writing (or lost his hearing and speech later in life), he is considered a deaf mute. The Rabbis consider the ability to speak more indicative of intelligence, than the ability to write.

(Jewish law needs to further analyze it's position in light of the remarkable strides made in educating the deaf.)

מְהַיּוֹם אִם מָתִי מֵעַכְשָׁיו אִם מָתִי הַרְיָ זֶה גֵּט

This is your get from today, if I die. This is your get from now, if I die.

A get, given on condition that it take effect place upon my death. Is not valid. A get cannot become valid once a person has died . However, if he says that the get should become valid retroactively, i.e., ‘not today, but once I die.’ That is a good get.

A person wrote a get and said that this get should become valid as of today and he dies that day. Do we assume that he meant the get becomes valid as of “now, today”, or “later, today”? Regarding a divorce, we expect him to want to delay it as much as possible. However, we understand that he gave his wife a divorce, to spare her being required to deal with his brother in a Yibum-Chalitzah problem. Therefore, we interpret his words, so as to achieve his ends and grant the divorce retroactive to the moment it was made and it is valid.

אָמַר מַר בְּרִיָּה דְרַב יוֹסֵף מִשְׁמִיָּה דְרַבָּא שְׁנִיתָק מִחוּלֵי לְחוּלֵי

Mar, the son of R Yosef said, in the name of Rava, “The Mishnah refers to a case where the husband went from sickness to sickness.”

A man said, “If I die from this illness, I give my wife a get from today.” Before he got well from his current illness, he died from a second condition, i.e., another illness, or an unrelated event, such as a house falling on him. Rashi, considers the get valid, since he still has the original illness. Rashba says, “The get is only valid, if he actually dies of the first disease”.

One baby dies two days after a bris. A second baby dies three days after his bris, of a different disease. In both cases, the deaths are unrelated to the bris. Is the third child of that family exempt from having a bris? No. There is no justification for not having a bris for their third son.

כָּל הַמְקַדֵּשׁ אֶדְעָתָא דְרַבָּנָן מְקַדֵּשׁ לְקְדוּשֵׁין מֵיְנִיחָה

Whoever betroths, betroths subject to the will of the Rabbis.

Here, the Rabbis abrogated his original betrothal.

If a seriously ill person wrote a get and then recovered, is the divorce valid?

Rav Hana - No. We can presume his intention was that it only be valid if he actually dies to spare his wife the Yibum obligation.

Rabbah and Rava disagree and ruled that even if he survives, the divorce is valid and the marriage is terminated. People will think that the get is only valid after a person dies and this is not correct (even though it would be valid retroactively).

So they do not agree to cancel his get, if he survives.

(Continued)

Daf Digest

כָּל הַמְקַדֵּשׁ אֶדְעָתָא דְרַבָּנָן מְקַדֵּשׁ לְקְדוּשֵׁין מִיָּוֵה

Whoever betroths, betroths subject to the will of the Rabbis.

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But how can Rabbis decide that a marriage, that the Torah recognizes is valid, be terminated based on a Rabbinic enactment?

When a man betroths a woman, he states that he does so “according to the law of Moses and Israel”. If this is the law of Moses and Israel, the Rabbis can state so.

Why, upon marriage, do we state, “according to Moses and Israel” and not for other activities, i.e., divorce, ‘according to Moshe and Israel’?

This might make sense if he married her through money or contract, but, if through cohabitation?! Even through cohabitation, the Rabbis have the authority to state it was only a cohabitation and not a cohabitation that created marriage.

The laws of Moses and Israel give the Rabbis this authority.

אֲוֹנָסָא דְּלֵא שְׂכִיחַ הוּא

It was an unusual accident.

If a person give a guarantee. it is enforced, unless that which occurs is very unusual and not foreseen.

For example:

- A property is sold- The government diverts a river and inundates the property. This was unforeseen and the guarantee need not be paid.
- A father pay's for his daughter's fiancé's Yeshiva schooling and the wedding is called off. The former fiancé does not need to pay it back. This is a rare occurrence.
- An agreement to marry is made. The bride's sister converts to another religion and the groom's parents call off wedding. This a rare and unexpected occurrence. Therefore, he does not have to pay guarantees,



וְחֹזֵר וְאָמַר לָהּ מְחוּלִים לָךְ

And later he said, “The (monies) are forgiven to you.”

If a man gives his wife a get, on the condition that she give him a specific sum of money, the get is valid only if she fulfills the condition.

What if the husband later waives the condition? Is this considered fulfillment of the condition?

If you send gifts on Purim and the recipient refuses, he waives the right to accept them, saying that he considers the gesture of giving, as though he had actually accepted the gift. Have you fulfilled the Mitzvah? Yes, in Megillas Esther (9:22), it is the sending of gifts, not giving or receiving, that is required.

When a divorce is given with a condition, the condition must be fulfilled for the get to be valid. (R Yochanan)

## Daf Digest

אַתָּה דְּלִי אַרְבָּעָה וְאֶכּוֹל תִּילְתָּא

Water the field four times and you will take one third of the produce.

What does the renter owe if it rains and the field does not need watering?

Such an arrangement creates a partnership and the person is entitled to the 1/3 share, even if his work is not required.

Another case:

I hire you to recover my stolen objects and offer you 1/3 of anything recovered.

However, the thief is caught by others and all my items are returned. You did nothing!!

-Most say you are a partner and should get your 1/3.

-Others say you should receive wages appropriate for the actual work you did.

## Daf Digest

הַתְּקִין הַלֵּל הַזֶּקֶן שֶׁיְהֵא חוֹלֵשׁ אֶת מְעוֹתָיו לְלִשְׁבָּה

Hillel, the Elder, enacted that the seller should deposit his money in a designated chamber.

The Torah gives a person, who sold a house in a walled city, the right to redeem it for one year. On the last day of the year, the purchaser would sometimes hide, in order to prevent the seller from finding him and buying back the house. Hillel enacted a rule whereby the seller could go to Bais Din, place his money down and get his house back. Why did Hillel enact a rule where a person who was negligent and inactive and who had all year to redeem his house, is now, at the last minute, saved from the consequences of his procrastination?

A person promised to do a Mitzvah during a certain amount of time and at the last few minutes, some emergency prevents him from doing the Mitzvah. If it is really an emergency, does that absolves him? No.

In the case of Hillel, his rule does not reward procrastination. It allows fulfilment of a Torah given right, to buy back what was sold.

מִתְנַאי בְּנֵי גָד וּבְנֵי רְאוּבֵן

The condition between the tribes of Gad and Reuven (and the Israelites),

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Conditions: Do they need to be restated as positive and negative? As was done regarding Gad, Reuven and ½ of Menashe?

The Torah prohibits a Kohen from entering the Bais Hamikdash if he has excessively long hair or is intoxicated. The penalty for this violation is heavenly death. Yet this punishment is not written, but it is inferred from the verse, “If Kohanim enter and they do not have long hair or are not intoxicated, they will not die.”

The restatement of conditions needs to be made only regarding:

1. Money matters.
2. A case similar to the case of the tribes.

מִתְנַאי בְּנֵי גָד וּבְנֵי רְאוּבֵן

The condition between the tribes of Gad and Reuven (and the Israelites),  
This dictates the method of creating conditions in transactions between Jews.

They are stated in the affirmative, i.e., "If you fulfill the condition, then it is yours".  
and in the negative, i.e., "But if you don't fulfill the condition, it is not yours".

This is called a tenai kefel- A double condition.

The lesson is that it is not sufficient for a condition to be stated affirmatively and the negative side to be left to be understood!!

- Tosophos says, "Only regarding money matters is a tenai kefel necessary."

לֹא מְקַדִּים אִינִישׁ פּוֹרְעָנוּתָא לְנַפְשִׁיהּ

A person will not bring tragedy early upon himself (if he can delay it).

We are taught that when we convey information to another person, we should begin and end with some good. And if we have something negative to report, plan to sandwich it in between. Too messages that are positive and don't be concerned that you might repeat the positive twice and thereby use more words than .

But if you can't prolong your message. Give the good side first. And prolong the tragedy for as long as possible. It is important not to end with something bad but it is even more important not to start with something bad.

כִּי הוּוּ מִיִּפְטְרֵי רַבָּנָן מִהֲדָדִי בְּעֵכוּ הוּוּ מִפְטְרֵי מְשׁוּם דְּאָסוּר לְצֵאת מֵאֶרֶץ לְחוּצָה לְאֶרֶץ

When the Sages from Eretz Yisroel would accompany the Sages who were returning to Babylon, they would only do so until Acco, because of the prohibition regarding leaving the land of Israel.

---

Rambam gives permission to leave only:

- To find a Shidduch
- To learn Torah
- For business
- On the condition that the person returns.

Those who live in Israel can only leave for these reasons.

Visitors, who live elsewhere, can return home.

וְאִם אֵין יָדוּעַ זֶה הֵיא שְׂאֵמְרוּ מִגּוֹרְשָׁת וְאִינָה מִגּוֹרְשָׁת

A man left and said, “If I don’t return in 12 months, write a get and give it to my wife”. He did not return and a get was given to his wife. Is it a valid get?

If he is alive, yes. If he died, no.

If she receives the get when he is still alive and then he dies, it is a good divorce. But if she receives the get after he died, it is not a valid divorce document.

We later learn that he died 6 months earlier. So the divorce is not good and she is subject to the Yibum laws.

But, since we don’t know that he died, he should be treated as though his status was not changed, i.e., he is alive and the get should be good when it is delivered. Why do we not rule this way? Because we would be trying to change her status. We assume she is still a man’s wife. Now with a divorce, we can’t change her presumed status with his presumed status. Therefore, the Chazakah cannot be used here.



תָּנוּ רַבָּנָן לְאַחַר שָׁבוּעַ

The Rabbis decide ambiguous time periods.

A man divorces his wife with the condition that the get will take effect if he is not back after “\_\_?\_\_”. How long must she wait after ‘that time’, for it to be considered “after”?

- |                      |                       |
|----------------------|-----------------------|
| -A seven year period | - 7 years plus 1 year |
| -In 1 year           | - 1 year and 1 month  |
| -After a month       | - 1 month and 1 week  |
| -After Shabbos       | - Shabbos plus 3 days |

Havdalah - If you forgot, you may say Havdalah until 3 days into the week.

Therefore, Shabbos is not the weekend. It is the center of the week, with 3 days following it, and the three days preceding.

אַרְבַּעַה וְחֲמִשָּׁא וּמַעֲלֵי שַׁבָּתָא

The 4<sup>th</sup>, 5<sup>th</sup> ( and 6<sup>th</sup>) day is called “before Shabbos”

A person plans to take a trip, by caravan or by ship, that will last through Shabbos, is this permissible?

Yes, if he starts the trip after the ‘prior to Shabbos’, i.e., the first three days of the week.

However, travel is not permissible during the three days before the next Shabbos, since they relate to the next Shabbos.

-Unless it is urgent.

-Unless the travel is for a Mitzvah. Then he can embark even on Friday, erev Shabbos.

נָתַן בְּיָדָהּ וְהִיא יְשְׁנָה

He put it in her hand, while she was sleeping.

It is not valid, until later, when he says the words, “Here is your get”. Some say he must then take it from her and give it to her, when she is aware of what it is.

A woman who is sleeping, is lacking mental competence. For a divorce to be valid, the awareness of the wife is necessary. Asleep, she is not a woman who is capable of being divorced.

What if the wife is in a coma that the doctors predict will not end?

What mechanism does Judaism have to free him/or her to divorce and marry another person?

נָתַן בְּיָדָהּ וְהִיא יְשָׁנָה

He put it in her hand and she was asleep.

If a man (or a woman) is pronounced dead, the marriage is over. If the patient is resuscitated, do they have to undergo a new marriage ceremony?

We learn that a woman ‘acquires’ herself upon the death of her husband (from the husband’s possessions) (Kiddushin 2a). If she has abandoned hope that her husband will return alive, she has complete possession of herself and a new marriage is needed. If she has not abandoned hope, they are still married and no new ceremony is needed.

But usual ‘acquisition’ is if there is abandonment by the owner, which permits acquisition by the new finder. Here we ask for the finder to abandon hope! Not comparable. LK

אַרְבַּע אַמּוֹת שְׁלָה זֶהוּ קְרוֹב לָהּ אַרְבַּע אַמּוֹת שְׁלוֹ זֶהוּ קְרוֹב לוֹ

4 amos from her, is closer to her, 4 amos from him, is closer to him.

1. What happens if he throws it (the get) closer to her, but not within her 4 amos?
2. Then he walks over to it, so that it is in his 4 amos.
3. Then she walks over so it, is it in her 4 amos also? Can she acquire it? i.e., a situation of  $\frac{1}{2}$  in her 4 amos and  $\frac{1}{2}$  in his 4 amos.
4. He then, walks away.

Answer:

1. It is not considered close enough
2. It is his.
3. It is still in his domain, even though she is also close. In a public place, each person's 4 amos belongs to the person who entered the public place first. The get does not change ownership and we have a doubtful situation.
4. It is now in her sole domain. If uncertain, she may need Chalitzah.

פִּיּוֹן שֶׁהֵגִיעַ לְאֹוִיר הַגָּג הֵרִי זֹו מְגוֹרְשֶׁת

Once it reaches the airspace above, she is divorced.

An object that will eventually come to rest is considered as though it is already at rest. Therefore, a get traveling through the air and destined to land on the ground, or on her property, is considered to have landed. As soon as the get enters her airspace, she is divorced.

A man entered into a conversation as he was holding his tefillin shel rosh over his head, ready to put it in place. Since it would eventually come to rest on his head, can we consider it to be on his head? The Mitzvah fulfilled and the conversation is not an ‘hafsaka’, an ‘interruption’? No. This principle applies only to items that will come to rest by themselves, not items that need a person to put them down to rest in their place.

לֹא שָׁנוּ אֶלָּא שְׁקָדָם גֵּט לְדַלְיוּקָה

A get, floating in the airspace of a yard, headed for a fire.

Does the airspace of a yard acquire the get?

+ 1. Yes-If headed for the ground.

-2. No-If headed for a fire. In the air space of the fire, unless the fire started after get entered the airspace.

± 3. No-If headed across the airspace, to outside the air space.

There is no other airspace, just the ground, but it won't land there.

-4. No-If headed for a box, owned by another person, resting on the ground of the yard. No, if it is in the airspace of the box resting on the ground.

The halachah is that a yard can serve to acquire an object for the owner of the yard, even if the object is still in the air, before it hits the ground. (Bava Metzia 12a)

In regards to a get, where the Torah specifies it must come “into her hand”, it is not sufficient for the get to come into the airspace where it will not land and be legible, i.e., into water, or into a fire, or into a wind that might blow it out of the airspace.

אם נתגרשה תינשא לכתחלה

### How does retroactivity work?

If she received an “old get” she may remarry.

A man gave his wife a get that would take place retroactive to the time he gave it to her on the condition that if he dies of his current illness. He did die but:

1. She was alone with him during that time interval.
  2. She had a child with him.
  3. She had a child with another man.
- 
1. The divorce is still valid retroactively.
  2. Conceived while they were married. But then divorced to a retroactive date??
  3. Conceived while she was married. Therefore, a marriage, but after he died. she was retroactively divorced and therefore, was not an Eishes Eish.  
Retroactive to the time before her affair!?!? Lk



שִׁינָה שְׁמוֹ וְשֵׁמָּה שֵׁם עִירוֹ וְשֵׁם עִירָהּ

If the scribe changed his or her name, or the name of his city, or her city.

Is the get valid if the scribe made a mistake in

- his name? \_\_\_\_\_ No
- her name? \_\_\_\_\_ No
- The name of his or her father? \_\_\_\_\_ No
- The name of his or her city? \_\_\_\_\_ No
- If the names of their fathers were entirely omitted. Ok
- If the names of their cities were entirely omitted. Ok

The names of fathers or cities are not required, but if included, they must be accurate.  
No mistake, or inaccuracy is permitted.

וּמוֹדִים חֲכָמִים לְרַבִּי מֵאִיר שֶׁם עִירוֹ וְשֵׁם עִירָהּ

The Sages, however, agree with R Meir, that he changed the name of his city or her city.

A man moved to a different city, changed his name and now wants to divorce his wife.  
Which name must be on the divorce document?

One opinion:

If the get contains only the name used in the distant city, it is not valid. If she remarries based on the get, her new children will be mamzerim. She is still married to the first husband.

2<sup>nd</sup> opinion

In Bava Basra, we learn that you can call 10 people together and that serves to publicize a situation. Today, will call 109 people together to formulate a divorce. This serves to publicize the change in his name, from the local prior name to the new name he has in his hometown. Thus, the divorce is Kosher and valid.

וְבֵית הַלֵּל אוֹמְרִים צְרִיכָה הַיָּמֵנוּ גֵּט שֵׁנִי

Bais Hillel says, “She needs a second get from him.

A couple in Spain, had to pose as non-Jews and were married in a church. Later, the man absconded and left his pregnant wife. Without either a get, or evidence that he died, she can never remarry.

The Rivash ruled: Since her marriage was not halachic, she does not have to be considered married, and therefore, she does not need a get to remarry.

הָרִי אֶת מוֹתֶרֶת לְכָל אָדָם אֶלָּא לְפָלוּנִי

You are permitted to any man, but not to so and so.

When a man divorces his wife, it must be unconditional in regard to her life after the separation. What is the proper words to use?

Rambam - He only has to say, “Here is your divorce.”

Tosofos - He must also say, “Behold, you are permitted to any man.”

Shulchan Aruch follows the ruling of Rambam.

However, if the husband did attach a condition, as above, then he must make it clear that he withdraws that condition, by expressing, clearly, the second phrase , “ Behold, you are permitted to any man.”

## Daf Digest

בְּשֵׁינָה הַיּוֹם אִם אֵינֶן לְמָחָר

I promise not to sleep today, if I sleep tomorrow.

If he sleeps tomorrow, he has retroactively broken his promise. So to be certain that he does not fail to keep his promise, he should not sleep today.

R Nachman says, “He may sleep today and not worry that he might fall asleep tomorrow.” Why? Because a person has it in his power not to sleep if he does not wish to. If he should do so anyway, it is considered an unforeseeable circumstance.

If falling asleep is unforeseeable, how do we judge a watchman, who fell asleep on the job, or a trucker who fell asleep and had an accident? If it is not ‘foreseeable’, the person has very limited liability.

Answer: If he fell asleep early in the watch period, or early in the trucker’s trip, he was not prepared properly and he is at fault. If late in the process, i.e., near the end of the trip, it is an unforeseeable accident and therefore, he is not negligent.

כָּל תְּנַאי שְׂאֵי אֶפְשָׁר לוֹ לְקַיְימוֹ בְּסוּפוֹ

If a husband sets a condition for the get, which cannot possibly be fulfilled, his intent is that the condition not be met and the condition is void and the get is good.

He is using his words to merely torment his wife.

The condition is void and the get is valid.

- If the husband is, however, not aware that it is impossible to be fulfilled, he might have been sincere and the get is void, since the condition was not fulfilled.

- |   |        |
|---|--------|
| 1. Condition given by Moshe Rabbeinu to Reuven and Gad.   | Ok     |
| 2. On condition that it rains today or tomorrow.          | Ok     |
| 3. On condition that the sun stands still in the heavens. | Not Ok |
| 4. Condition that she eats pig meat.                      | Not Ok |

Answers:

1. Can be fulfilled, as we see.
2. Is not under her control, but could be fulfilled.
3. Not a natural phenomenon and therefore, impossible and void.
4. Impossible and void.

הָתָם תִּינָשָׂא לְכַתְּחִילָהּ

She may proceed to marry.

A sofer wrote Tefillin and other documents, i.e., mezuzahs. Someone eventually opened his Tefillin and to his horror, found no parchment inside. Others who had purchased Tefillin now suspected and indeed found that there was no parchment in some of the compartments. The sofer was a fraud and he ran from the town never to be heard from again.

A person who sins, if he is a sofer, the divorce documents he writes are invalid. This means that any woman who had her get written by this sofer, who had remarried and had children, the marriage and the children are illegitimate.

The Marhasham ruled that this man sinned for his own pleasure, to make money and not the more serious sinner, who does so to anger God. Therefore, the divorces he wrote are valid. His level of sin does not disqualify them.

זָרַק לָהּ קִידוּשִׁין

If he threw her the Kiddushin.

Is it questionable?

What is the purpose of the groom giving the ‘kesubah’, ‘the contract’, to the bride? They are already married when he gives her ‘kesef’, the ring and the contract. The contract is superfluous. Further, no witnesses are needed to actually see the giving of the contract. Their signatures on the instrument is sufficient.

Rabbi Sternbuch says, “If the giving of the ring was defective and there were errors in the Kesubah, then the value of the paper the Kesubah is written on might effect the marriage, by being of sufficient value.



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כָּתַב חֲנִיכָתוֹ וְחֲנִיכָתָהּ כְּשֵׁר

Using nicknames on a get, it is still Kosher?

A Jewish man converted to Islam and changed his name to an Arabic name. Years later, he finally agrees to divorce his wife and is willing to give her a get. Which name do we write on the get, the original Hebrew name, of the Arabic one he has used for years?

Rabbeinu Tam- Never write a non-Jewish name on a get.

We learn (Gittin 87) that even a nickname is Kosher. Certainly, using his original Jewish name is no worse than a nickname. What name should a convert to Judaism use, his old name which he used for 25 years or his new Jewish name, used for 1 or 2 years? He should use his new Jewish name.

גֵּט מְעוּשָׂה בְּיִשְׂרָאֵל כָּשֵׁר

A get given by force (by a Jewish court) is Kosher.

A get is only Kosher, if it is given freely and willingly (Devarim 24:1).

When a man wishes to divorce his wife, he does so by placing the document in her hand.

BT Yevamos 112a – Derives that this means it is done with the man's consent.

Rambam- (Hil Gerusin 1:2) agrees.

How then, can the Gemara teach us that, sometimes, we can pressure and coerce the giving of a get?

- Force is viewed as an incentive which convinces a person.
- If to sell something, the sale is valid. (Bava Basra 48a)
- To give a gift.- Not valid
- To follow Bais Din's order. For example, to do the right thing. Valid.

Concept: All Jews wish to do the right thing, but the Yetzer Hara grips him and he refuses.

Force and coercion is only imposed to overcome the Yetzer Hara and restore the person to his true, halachically, observant self.

גֵּט מְעוּשָׂה בְּיִשְׂרָאֵל כָּשֵׁר

A get given by force (by a Jewish court) is Kosher.

Coercion, relating to the execution of a get, renders a get invalid unless, it is a matter to which he voluntarily agreed. For example, if he says, “If I don’t divorce my wife, I will donate 100 pieces of gold.” This obligation came of his own accord.

He may feel pressure to honor his oath to divorce, because of the huge financial burden, but he has the choice to pay or to divorce. The execution of a get, in these circumstances, is considered to be of the husband’s free will. Some say if the penalty is imposed, because of the failure to divorce, that is coercion. But if it is not related, it is not coercion. For example, a man is in jail for failure to pay a debt. His wife’s relatives offer to pay his debt and get him out of jail, if he will divorce her. There is no objection to this plan. This is considered free will for him to choose.

The wife of a man, who is in prison, wants a divorce, but he refuses. Bais Din says, “We are authorized to reduce your sentence for good behavior and we consider it good behavior for you to divorce your wife”. This is also the man’s choice. Is it not considered coercion, even though he stays in prison longer, if he does not agree.

גֵּט מְעוּשָׂה בְּיִשְׂרָאֵל כָּשֵׁר

A get given by force (by a Jewish court) is Kosher.

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An idolater's court can procure a divorce.

It is valid if it was first mandated by a Jewish court, which serves as the agent of the Jewish court, in forcing the husband to give a divorce. Even then, the husband must say, "I desire to divorce her."

וְאֵלֶּה הַמִּשְׁפָּטִים אֲשֶׁר תָּשִׂים לְפָנֵיהֶם׃

These are the statutes (lawsuits) that you shall place before them. (Ex 21:1 Parshas Mishpatim)

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“Before them”- Jewish judges or the Jewish people. Look at the section before, where it talks about judges and uses the word, “Lefaneichem”, “before them”, which means before the judges. Not before gentile courts and not before laymen, who lack ordination as judges.

The word ‘mishpatim’ is a multivalent term and depending on the context can connote ordinances or lawsuits ( 88b assigns the second meaning to this term).

Why are we commanded to bring lawsuits to Jewish courts?

Rashi- “Whoever comes before gentile courts for judgment is a wicked person, who profanes God’s name and ascribes honor to idols.” Recourse to such a forum is prohibited, even if the matter is purely secular and the secular law is identical to Jewish law in every respect. The essence of the law is the rejection of the law of Moses, in favor of some other legal system. To supersede the law of the Torah = ignominious conduct.

„לפניהם“ ולא לפני עובדי כוכבים

Before them (Jewish judges) and not before non-Jewish judges.

We are required to go for adjudication to Jewish courts and before ordained Jewish judges (and be ruled by Jewish law).

Question: May we go to a Jewish judge who will apply secular law?

Answer: A non-Jewish judge who applies secular law, is doing as he should. A Jewish judge who follows secular law, is rejecting HaShem's law. So that is even worse.

Question: Can we ever go to non-Jewish courts?

Answer: First, we must go to a Bais Din..They may resort to extreme measures to enforce their decisions, even to referring the parties to secular courts.  
R Moshe Feinstein.

„לפניהם“ ולא לפני עובדי כוכבים

Before them (Jewish judges) and not before non-Jewish judges.

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Women are excluded from serving on a Bais Din.

So how did Deborah gain a role as a judge?

If a woman is “accepted”, she may serve as a judge. In other words, if the two parties agree to be judged and to adhere to her decision, a woman can serve as a judge. Otherwise, she may not!!

Sources:

(Deut 1:12) Get yourselves men wise, understanding and known to your tribes.

(Chronicles 11 13:5) The Lord gave to the House of David, to him and to his sons.



אֲכָלָה בַּשּׁוּק גִּירָה בַּשּׁוּק

If a married woman ate in the street or she walked with her head held high in the street, i.e., was immodest.

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A woman, who does not comply with the standards of Tznius, is divorced without a Kesubah. (BT Kesubos 72a)

A couple married and the husband increased his religious observance level and insisted that his wife, now increase her observance of modesty. Whereas, before marriage he had been attracted by her style. She did not want to change. If it was acceptable before, it should be acceptable now. “He knew when he married me, that I was not careful about Tznius”.

- Nowadays, it is common not to adhere to standards of Tznius. Therefore, he should not insist and we do not condemn her for how she dresses.
- R Obadiah Yosef - No, it was clear then and it is clear now- not complying with Tznius, is a violation that everybody violates, but that does not make it acceptable. It is a Mitzvah, if not an obligation, to divorce her and he has a right to not pay her the Kesubah money. However, we must make sure that he is sincere in his religious reasons and not using halachah as a weapon.

לא ששמעו קול הַבְּרָה

Not when they heard the sound of an echo, i.e., pure gossip.

If a rumor circulates that a certain woman is:

- Betrothed - We believe and she may not marry anyone else without a get.
- Divorced - We believe.

What is meant by “rumor”.

- Her house lit up by candles, tablecloths on tables, people going in and out saying the girl is engaged = Reliable Rumor (RR)
- Information is traceable to a reliable person = RR
- Two people, each say it is correct = RR
- Rambam - Says even one person, whose statement is traceable back to a reliable person, which requires two people, is more like testimony of witnesses rather than rumor.
- Two persons, even if from different, original, sources = RR

## הַקְדִּיחָהּ תְּבַשִּׁילוּ

She burned his food.

Divorce is to be avoided. Even the Altar cries. However, the Talmud permits divorce, even if the wife inadvertently, burns his food. How can such a trivial thing trigger such major consequences?

The Rabbi's explain:

- If he is so prone to severe anger, that he would consider divorce over such a minor matter, she is better off getting out of such a marriage, as soon as possible. This rule is really for her benefit. It is impossible to live with an angry person.
- The example given is not to be taken literally. It means if their temperament is not suited to one another, they can't work together and are constantly in conflict, even if each of them, individually, might be wonderful people. They are not required to continually clash due to incompatible temperaments. She 'burns his food' or another brings up aggravating conversation at dinner.

כָּל הַמְגֵרֵשׁ אִשְׁתּוֹ רֵאשׁוֹנָה אֶפִּילוֹ מִזְבֵּחַ מוֹרִיד עָלָיו דְּמָעוֹת

If a man divorces his first wife, even the Altar sheds tears.

God was witness to your wedding.  
You have broken your promise.  
Divorce is frowned upon.

This is suggested by the opening words of Mesechta Gittin, ‘The bearer of a divorce from a foreign country’. Divorce has its origins in a foreign part of the spirit. The unnaturalness of divorce is hinted at with this opening sentence,

R Menachem M Schneerson  
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כָּל הַמְגֵרֵשׁ אֶשְׁתּוֹ רֵאשׁוֹנָה אֶפִּילוֹ מְזַבֵּחַ מוֹרִיד עָלָיו דְּמָעוֹת

Even the Altar sheds tears, when one divorces his first wife.

How do we know the Altar itself does not wish people to exchange a get.

In Bamidbar 28 1-8, discussing the twice daily Tamid offering, every letter of the aleph-bais is represented, with the exception of which two letters? gimmel and tet. The Tamid offering is the mainstay of the Alter. The absence of letters gimmel and tet (which spell the word 'get'), tells us it despises divorce.

Man was created with a dual face, consisting of the features of man and woman and then were separated. When people marry, they rewrite God's original creation. Destroying that bond by divorce, disassembles that creation.