



Exclusions in Gittin

The ninth *perek* opens as follows:

Regarding one who divorce his wife and says to her, “you are permitted to all men except for so-and-so”, *R' Eliezer* says she is permitted [to marry] and the *Chachamim* forbid her [to remarry].

We shall attempt to understand this debate.

The *Gemara* tries to clarify the case that is debated in the *Mishnah*. Is the debate where the husband said “except for (*chutz*) from so-and-so” or is it where he said “on the condition (*al manat*) that you do not marry so-and-so”? They may be arguing about “*chutz*” with the *Chachamim* maintaining that it is invalid since the *get* itself is not complete; because of the exclusion the *get* does not complete sever their relationship. If *al manat* was used however, the *get* is a complete *get* with no inherent exclusions. “*Al manat*” is type of condition (*tenai*) that does not invalidate the *get* therefore everyone agrees that the *get* is valid. Alternatively everyone could agree that the case of *chutz* is invalid as a *get* with exclusions is problematic. Instead they may be arguing about the case of *al manat*. The *Chachamim* would maintain that this case of *al manat* is different to other conditions since the consequence of this *tenai* is that it restricts whom she can marry.

The *Gemara* concludes that the debate in our *Mishnah* is focused on the case of *chutz*. The *Gemara* however adds that our *Mishnah* argues with a *Beraita* that maintains that the debate is specifically about the case of *al manat*.

According to a straightforward reading of our *Gemara* the debate in our *Mishnah* is only in the case of *chutz*, whereas everyone would agree that in the case of *al manat* the *get* is valid. Indeed this is how the *Bartenura* explains our *Mishnah*.

The *Tosfot R' Akiva Eiger* raises an interesting question regarding the case of *al manat* regarding which we have said that everyone agrees that it is a valid *get*. Consider the situation where the woman then marries the brother of the person she was forbidden to marry. Her (second) husband then passes away without having any children. Ordinarily the brother (*yabam*), who she cannot marry, would be obligated to perform *yibum* or *chalitzah*. If she was forbidden to the *yabam* by an *issur arayot* (family-related forbidden relationship) then not only would she be exempt, but the co-wife (*tzarah*) would be exempt as well. The *Tosfot R' Akiva Eiger* explains that in this case, the *tzarah* would not be exempt. The reason is because if she indeed violated the original *tenai* and performed *yibum*, then the original *get* would be annulled, she would not have been considered married to the second husband that passed away and the *tzara* would be the one that required *yibum*. With respect to this woman however, if there was no *tzara*, he notes that the *Rashba* is not sure whether she would require *chalitz* or not.

Returning to our *Mishnah*, the *Ramban* however maintains that *R' Eliezer* and the *Chachamim* really argue about both cases – both *al manat* and *chutz*. The reason that the *Mishnah* focuses on the case of *chutz* is to highlight that even in that case, where the husband excludes people, *R' Eliezer* still rules that the divorce is valid.

The *Rambam* (*Gerushin* 8:12) rules that with respect to *al manat* it depends on what the husband says. If the husband placed a time limit on the *tenai* then the divorce is valid. If however the *tenai* was forever, it is not a complete severance, and the divorce is not valid. He explains that this is the same for all other conditions. If, for example, the husband said the divorce was on the condition that she could not drink wine again, then it is not a valid *get* as she is still bound to her husband.

Yisrael Yitzchak Bankier

Revision Questions

גיטין ח' ב' ט' ה'

- Is a *get* valid if it was handed it to the wife on the presumption that it was a financial document? (ח' ב')
- Can a woman be handed a *get* while she is sleeping? (ח' ב')
- Is a *get* valid if it was cast at the wife's feet while she was standing in the public domain? (ח' ב')
- For which two other areas does the law dealt with in the previous question apply? (ח' ג')
- If a *get* was thrown to a woman while she was standing on a roof and was destroyed prior to landing, when do we say that the *get* is valid? (ח' ג')
- What is a *get yashan* and can it be used? (ח' ד')
- What is the law regarding a case where the husband wrote his wife a *get* dated from the time of the destruction of the *Beit Ha'Mikdash* and she then remarried? (ח' ה')
- What two other cases (not related to *gittin*) share the same law raised in the previous question? (ח' ו' ז')
- What is the law regarding a case where the *sofer* mistakenly gave the *get* to the wife and the *shovar* to the husband, and the husband gave the wife the *shovar* thinking it was the *get* and the wife gave the husband the *get* thinking it was the *shovar*? (ח' ח')
- What is *R' Eliezer's* opinion regarding the previous question? (ח' ט')
- Can a woman marry a *Kohen* if she was handed a *get* on a condition and the condition was not fulfilled (and then the husband subsequently died)? (ח' י')
- In which case do *Beit Shammai* and *Beit Hillel* argue about, where a husband that divorced his wife is required to give her another *get*? (ח' י"א)
- What is a *get kereach*? (ח' ט"ז)
- Explain the debate regarding how a *get kereach* can be fixed. (ח' י"ח)
- According to who is a *get* invalid if it was given on the condition that the wife would not marry a particular person? (ח' ט"א)
- How and when can this be fixed? (ח' ט"א)
- When do we say that such a condition is not problematic? (ח' ט"ב)
- What is the essential wording of a *get*? (ח' ט"ג)
- Which three *gittin* are invalid, yet if the woman remarries and has children using this *get*, the children are not *mamzerim*? (ח' ד')
- What can be done if two *gittin* (with the same names from different people) were mixed up on the way to the wives? (ח' ה')

Local Shiurim

Melbourne, Australia

Sunday -Thursday
10 minutes before *Mincha*
Mizrachi Shul
Melbourne, Australia

Friday & Shabbat
10 minutes before *Mincha*
Beit Ha'Roeh
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Efrat, Israel
Shiur in English

Sunday -Thursday
Rabbi Mordechai Scharf
9:00am
Kollel Magen Avraham
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ONLINE SHIURIM

Rabbi Chaim Brown
www.shemayisrael.com/mishna/

Rav Meir Pogrow
613.org/mishnah.html

Rabbi E. Kornfeld
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<http://www.dafyomi.co.il/calendars/myomi/myomi-thisweek.htm>

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Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
20 th January ט' שבט	21 th December י' שבט	22 nd January י"א שבט	23 rd January י"ב שבט	24 th January י"ג שבט	25 th January י"ד שבט	26 th January ט"ו שבט
Gittin 9:6-7	Gittin 9:8-9	Gittin 9:10 – Kiddushin 1:1	Kiddushin 1:2-3	Kiddushin 1:4-5	Kiddushin 1:6-7	Kiddushin 1:8-9

