

**Shayla:** Why does the Old Covenant forbid someone from remarrying their ex after marrying and divorcing someone else?

**Midrash:**

- **Deuteronomy 24:1-4 HCSB** (1) "If a man marries a woman, but she becomes displeasing to him because he finds something improper about her, he may write her a divorce certificate, hand it to her, and send her away from his house. (2) If after leaving his house she goes and becomes another man's wife, (3) and the second man hates her, writes her a divorce certificate, hands it to her, and sends her away from his house or if he dies, (4) the first husband who sent her away may not marry her again after she has been defiled, because that would be detestable to the LORD. You must not bring guilt on the land the LORD your God is giving you as an inheritance.

This is actually one of the most complex pieces of case law that I know of in the Old Covenant. To restate the case, a woman is divorced "because of something improper in her", remarries, but then is divorced again, either because her second husband "hates" her or he dies. Both divorces are formalized by a "divorce certificate" (which we call a "gett"). If this situation occurs the Scriptures mandate that she may not remarry her first husband because "that would be detestable." Apparently there is nothing wrong with her marrying someone else!

This has caused no end of headaches. Why would the woman be more defiled by remarrying the man she had already married and had sex with than by having sex with a third man?

An important point is that the first marriage was ended when the man cited what was deemed to be a valid ground for divorce. The second apparently ended (in the first case, i.e. he "hates" her) without the same level of validity. But regardless of how WE view the grounds, the elders of the time, after carefully regarding the conditions and with the capability of consulting the urim and thumim (which are unfortunately unavailable for us) they regarded the second gett as legal and valid.

Another important point that must be kept in mind is that Halakah does not necessarily present a systematic system but instead presents the rulings on exceptional cases based on implicit rules that apparently everyone at that time knew.

Perhaps it reflects the approach in:

- **Exodus 18:25-26 HCSB** So Moses chose able men from all Israel and made them leaders over the people as officials of thousands, hundreds, fifties, and tens. (26) They judged the people at all times; the hard cases they would bring to Moses, but every minor case they would judge themselves.

And...

- **Deuteronomy 17:8-10 HCSB** (8) "If a case is too difficult for you--concerning bloodshed, lawsuits, or assaults--cases disputed at your gates, you must go up to the place the LORD your God chooses. (9) You are to go to the Levitical priests and to the judge who presides at that time. Ask, and they will give you a verdict in the case. (10) You must abide by the verdict they give you at the place the LORD chooses. Be careful to do exactly as they instruct you.

A second point that must be considered is that a marriage that ends in a bill of divorcement granted by the zaquenim is just as legal as a marriage ending in death.

However, in the case of Deuteronomy 24:1-4, there is a difference between the two divorces; the first one is 'because of something improper in her', the second 'because he hates her'. The term 'dislike' or 'hate' (Hebrew sana) in ancient Near Eastern law denoted a subjective ground for divorce that would oblige the husband to pay the woman a sum equaling at least the dowry (cf the ketubah).

This seems to be tacitly supposed in the second divorce in Deuteronomy 24. The first divorce, however, was occasioned by 'something improper' committed by the wife, in other words by objective grounds, which by Halakhic law justifies divorce without financial re-compensation. Again, in Deuteronomy 24 the first husband has divorced her 'because of something improper'— apparently without paying the established sum - and if he would remarry her now, he would profit from the money the termination of her second marriage entitled her to!

Thus the prohibition was summarized in the phrase “ach’ar hutama’a” which literally means “after she was declared unclean” i.e. by her first husband. In other words “he can’t have his cake and eat it too.” He can’t declare her unclean, let her marry some rich man, and when she is once again available (now as a rich widow or divorcee) remarry her.

So – how would this apply today and in our culture?

Marriage is not to be viewed as an occasion to profit.

One cannot go back on one’s word regarding a judgment on one’s spouse.