

B”H

What Are the Grounds For Divorce?

The Talmudic Version of Romance

By Rabbi Y.Y. Jacobson

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Dedicated by **David** and **Eda** Schottenstein
in the loving memory of
Rabbi **Gavriel Noach** and **Rivki Holtzberg**
and all of the **Mumbai Kedoshim**

And in the loving memory of a young soul
Alta Shula Swerdlov
Daughter of Rabbi **Yossi** and **Hindel Swerdlov**

~*~

Dedicated by **Roberta Schorr**
in honor of her **children** and **grandchildren**

Dedicated by **Ahron Fishbein** and family
in honor of **Faiga** bas **Ahron** for her 4th birthday
And in honor **Moshe** and **Rachely Rosenfeld**

Dedicated by **Robert Dick**
in honor of **Shnuer Zalman Dick**
on the occasion of his Bar Mitzvah on the 4th of Elul 5770

Dedicated by **Alex J. Fettman**

Dedicated by **Yanina Weiser Shenkman**
in the merit of **Zacharia** Ben **Zelda Rivka** for a complete recovery

Dedicated by Rabbi **Zalman Gutnick**
Melbourne, Australia

Dedicated by **Elki Rosenfeld**
in honor of the birth of a baby boy **Yisroel** to **Chani** and **Shmuly Rosenfeld**
And the birth of a baby girl **Chana** to **Rachely** and **Moshe Rosenfeld**

Dedicated by **Sofya Smolyar**
in honor of **Yosef** ben **Miriam**

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in honor of **Levana** bat **Hana**

Parshas Ki Seitzei

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in memory of **Talia Geula** bat **Shalom Moshe** and **Dina Miriam**

Dedicated by **Howard Messing**
in memory of **Shana Riva** bas **Zev**

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in memory of our parents

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in memory of **Nosson** ben **Zalman Yuda Deitsch**

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in memory of her mother, **Betty Kaplan**, **Rivka** bas **Avraham Yitzchok**

Dedicated by **Mikhail Dubov**
in memory of **Velvl** ben **Yosef**

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in memory of **Daniel Avraham** ben **Mendel Wolf**

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in honor of the Shabbat

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1. Class Summary

Divorce is a fact of life, especially in today's culture. But what are the grounds for divorce? When do you know it's time to throw in the towel and just give up?

"It will be if she does not find favor in his eyes, for he found in her an unseemly [moral] matter, an 'ervas davar,' then he may write a divorce." (Deuteronomy 24:1.) But what does this mean practically? The Mishnah at the conclusion of Tractate Gittin quotes a three-way dispute between the school of Shammai, the school of Hillel, and Rabbi Akiva. Bais Shammai—known for their strict opinion in most matters of Jewish law—say that divorce should only occur over a matter of immorality; only if the marriage has been betrayed by infidelity are there grounds for divorce. (Even then, the rabbis say, one must investigate the matter very carefully and not act impulsively.)

Bais Hillel—usually known for their leniency—say that divorce is permitted “even if she burns his dish.” You come home and the soup is burnt, the rice is sticky, the steak is black—that is already grounds for divorce.

Comes Rabbi Akiva—whose devotion and gratitude to his wife Rachel was legendary—and says that even if a man just finds a more beautiful woman, he may divorce his wife.

We can understand the first opinion. But the other two opinions seem incomprehensible. Your wife burns the meatballs, and you divorce her? This might work for the Hollywood Code of Ethics, but not for the Sages of the school of Hillel!?

The commentators explain that they were referring to a woman who intentionally burns her husband's food just to torture him. Ok, granted. But how can we justify Rabbi Akiva's opinion? You are walking down the street and you see a better-looking woman, now you may go home and get divorced? And this opinion is coming from one of the greatest sages of all times, Rabbi Akiva! Rabbi Akiva, a man who once pointed to his wife in front of 24,000 students and announced, “Whatever I have and whatever you have, it is all to her credit.” How could he say that one can get divorced if he finds a more beautiful woman?

In truth, we are given a glimpse here of the Talmudic version of relationships and romance, and it is far beyond our own paradigms. For this we must understand that divorce occurs on two levels, the inner and the outer, and the Sages are addressing primarily the inner mechanisms of divorce.

2. Sources:

<p>1. Ki Seitzei</p> <p>24:1-2</p> <p>1. When a man takes a wife and is intimate with her, and it happens that she does not find favor in his eyes because he discovers in her an unseemly [moral] matter, and he writes for her a bill of divorce and places it into her hand, and sends her away from his house.</p> <p>2. And she leaves his house and goes and marries another man.</p>	<p>1. כי תצא</p> <p>כז, א-ב</p> <p>א. כי-יקח איש אשה, ובעלה; והיה אם-לא תמצא-חן בעיניו, כי-מצא בה ערות דבר-- וכתב לה ספר כריתת ונתן בידה, ושלחה מביתו.</p> <p>ב. ויצאה, מביתו; והלכה, והיתה לאיש-אחר.</p>
<p>2. Mishna Gittin</p> <p>90a</p> <p>The House of Shamai say: A man should not divorce his wife unless he finds her to be sexually promiscuous, as it says, "he discovers in her an unseemly [moral] matter."</p> <p>The House of Hillel say, even if she burns his food, as it says, "he discovers in her an unseemly [moral] matter."</p> <p>R. Akiva says, even if he found a more beautiful wife, as it says, "if it happens that she does not find favor in his eyes."</p>	<p>2. משנה גיטין</p> <p>ז, א</p> <p>בית שמאי אומרים, לא יגרש אדם את אשתו אלא אם כן מצא בה דבר ערוה, שנאמר כי מצא בה ערות דבר.</p> <p>ובית הלל אומרים, אפלו הקדיחה תבשילו, שנאמר כי מצא בה ערות דבר.</p> <p>רבי עקיבא אומר, אפלו מצא אחרת נאה הימנה, שנאמר והיה אם לא תמצא חן בעיניו.</p>
<p>3. Talmud Gittin</p> <p>90b</p> <p>R. Elazar says: Whoever divorces his first wife, even the Altar cries and sheds tears over him. As it is written, "And this second thing you do, to cover the altar of the Lord with tears, weeping, and sighing-such that He will no longer turn to the offering, nor will He take anything willingly from your hand. And you will say, "Why?"- Because the Lord testified between you and the wife of your youth, that you dealt treacherously with her, and she is your companion and the wife of your covenant!" (Malachi 2:13-14)</p>	<p>3. גיטין</p> <p>ז, ב</p> <p>אמר ר' אלעזר כל המגרש אשתו ראשונה אפילו מזבח מוריד עליו דמעות. שנאמר (מלאכי ב, יג-יד) 'וזאת שנית תעשו פסות דמעה את מזבח ה' בכי ואנקה מאין עוד פנות אל המנחה ולקחת רצון מינדכם. ואמרתם על מה? על פי ה' העיד בינד ובין אשת נעוריד אשר אתה בגדתה בה והיא חברתך ואשת ברידתך.'</p>
<p>4. Talmud Shabbos</p> <p>25b</p> <p>Our Rabbis taught: Who is rich?</p> <p>He who finds peace in is wealth. These are the words of R. Meir.</p> <p>R. Tarfon said: He who has one hundred vineyards, one</p>	<p>4. שבת</p> <p>כה, ב</p> <p>ת"ר, איזה עשיר?</p> <p>כל שיש לו נחת רוח בעשרו דברי רבי מאיר.</p> <p>רבי טרפון אומר כל שיש לו ק' כרמים ומאה</p>

<p>hundred fields, and one hundred servants working in them.</p> <p>R. Akiva says: He who has a wife who is beautiful in her deeds.</p> <p>R. Yossi says: He who has a bathroom near his table.</p>	<p>שדות וק' עבדים שעובדין בהן. רבי עקיבא אומר כל שיש לו אשה נאה במעשים. רבי יוסי אומר כל שיש לו בית הכסא סמוך לשולחנו.</p>
<p><u>5. Talmud Sotah</u></p> <p>17a</p> <p>R. Akiva expounded: A man and a woman. If they merit, the Divine Presence rests among them. If they do not merit, a fire consumes them.</p>	<p><u>5. סוטה</u></p> <p>יז, א</p> <p>דריש ר"ע: איש ואשה זכו שכינה ביניהן לא זכו אש אוכלתן.</p>
<p><u>6. Tractate Yodayim</u></p> <p>3:6</p> <p>R. Akiva said: The entire world is not as worthy as the day that the Song of Songs was given to Israel. For, all of the Writings are holy, but the Song of Songs is the holy of holies.</p>	<p><u>6. ידים</u></p> <p>ג, ו</p> <p>אמר רבי עקיבה ... אין כל העולם כולו כדאי כיום שניתן בו שיר השירים לישראל, שכל הכתובים קודש ושיר השירים קודש קודשים.</p>

3. מקורות:

ספר אדם וביתו להגאון ר' יוסף דוב הלוי סלובייצ'ק

4. Questions and Exercises

1. What do you think should be the grounds for divorce?
2. What reason should justify a man divorcing a woman? What reason should justify a woman divorcing a man?
3. Do you ever feel you want to get divorced (Heaven forbid)? Why? When?
4. What do you think of your wife's food?
5. What is the deeper explanation of the argument between Bais Shamai, Bais Hillel, and Rabbi Akiva?
6. Why did Rabbi Akiva believe that the Song of Songs is holier than all other biblical books?
7. In your own marriage, what would constitute an "internal divorce?" What would at last demonstrate that your marriage is on the rocks?
8. What are the three things about your relationship that stress you most? How can you repair them?

Prepared and edited by Rabbi Avi Shlomo