



INTERNATIONAL
BEIT DIN
בית דין בינלאומי לעניני אישות

File no. 113

Bracha (Plaintiff) vs. Amir (Defendant)

Names and dates have been changed to preserve anonymity of parties

Bracha vs. Amir (Decision no. 1)

This case deals with a mentally dysfunctional husband and whether his dysfunctionality constitutes grounds for voiding his marriage.

On December 17, 2014 and December 18, 2014 Bracha (Claimant) appeared before our International Beit Din (IBD) and issued a plea that we release her from the plight of Iggun.

The Facts:

Bracha married Amir (Respondent) in January 1998. They had three children who were born in 2000, 2006 and 2008.

From May 2009 until November 2009, the Parties received psychological counseling. The counseling ended in November 2009 without any positive results and in that month Bracha and Amir separated. Until this day Amir refuses to give a Get to Bracha.

The narrative that follows is a summary of what Bracha presented to this panel. All factual data has been verified by testimony of friends, family, court records, e-mail communications between Amir and friends and family members, official documents submitted from expert witnesses, i.e., psychologists in the mental health field, and the family psychologist. See Appendix A.

The very first night of the wedding, Bracha was shocked by Amir's verbal abuse and behavior. Bracha had been a Niddah. When Amir found out, he reacted violently. He blamed Bracha, shouted uncontrollably and then entered the clothing closet and did not exit for hours.

Shortly after the wedding, Bracha had noticed what she thought was "very strange" behavior.

She asserted that Amir had lied, but without being aware of having done so. (Indeed, Amir, at times, even admitted to having acted “strangely” that way and he excused himself for having done so. He also expressed remorse for not discussing his predilection for this kind of behavior when they were still engaged but belittled it by saying “It’s nothing. I have medicine that takes care of it.”)

Whenever Bracha made even a mistake of relatively minor consequences, Amir lost his temper. He reacted with disproportionate anger and exaggerated rage.

Then, as Bracha contends, there was Amir’s drinking and drug problems as well as issues of sexual perversion. Amir was a frequent visitor to sex clubs. He overdosed on drugs and alcohol to such extent that he drove under the influence and caused an accident. He was convicted and his license was revoked (The IBD has evidence in its files to substantiate this fact).

When we asked Bracha whether the health professionals that they visited diagnosed Amir’s problems, she responded that they identified it as Borderline Personality Disorder (BPD). Indeed, as the psychologist of the couple told us, this syndrome has very dire consequences. There is no medication for BPD and therapy for Amir was extremely difficult in light of other psychological problems he exhibited.

His diagnosis of BPD explains Amir’s lying without his ever being aware of such behavior. Amir had very few friends. One friend of his, however, was a very close one. He even lent Amir money to establish a partnership. However, instead of taking care of his business, Amir squandered the money. When his friend confronted Amir as to how could so much money be squandered so quickly, Amir constructed a plethora of false plans and how they went wrong. Amir said he wasn’t even aware that he was inventing stories.

We asked Bracha why she waited ten years to request a Get. She answered as follows:

“You must remember my age and background. I was very young when I met Amir. I went to Seminary and there they taught us not to go out for a long time. Also, with this background, I didn’t really know about men. I was taught that it is important to get married, have children, and ‘build a house.’ Furthermore, the ‘building of the house’ is the woman’s responsibility. The crisis, if there is one, ought to be repaired by the woman. It is the woman who has to ‘put the house in order’ and to heal the breaks. But, when I saw and experienced this kind of unnecessary aberrant and abnormal behavior, I awakened. I realized then that it is impossible to live normally with this type of husband and Amir shockingly surprised and deceived me. His depression, the fear he instilled in me, the sicknesses and ailments that he hid from me, the medicines he consumed and never spoke of them to me - you must remember that the many prescriptions and treatments for mental health issues began way before we met. In a court deposition Amir admitted taking a daily regimen of a few medications in order to address his psychological disorders. Some of this began when he was still a teenager. It took a period of awakening to realize the catastrophe that had befallen me.”

Our listening to Bracha’s story and its corroboration by others convinced us of the veracity of her

sad experience and we therefore concluded that Amir is obligated to give Bracha a Get. Psychological and verbal abuse was a factor in our arriving at our decision.

Bracha discovered much later, to her great consternation, that Amir was not the same person to whom she was introduced by the matchmakers. It wasn't that Amir was merely impolite. Rather, he behaved abnormally. His extremely violent temper, his narcissism - that everything revolves only around him, and his ability to destroy everything around him when his "orders are not obeyed" are illustrations that attest to his abnormal behavior. His psychological abuse of others as attested to by the appendix, written by the health professional consulted by the IBD, as well as the documentation provided to the IBD, substantiate the kind of person Nitva really was.

We are obligating Amir to give a Get for two reasons.

First, as Rav Kapach notes (in Eduth B'yehosef, #37):

"One must understand the woman and the truth of what she says....As the Ba'alei Musar say that non-physical aggression expressed in embarrassment and violent words hurts much more than physical aggression because physical pain can be healed and forgotten but verbal abuse is not forgotten."

In fact, Rav Shlomo Amar, Rav Yisrael Lau and Rav Daichovsky, speaking for the Beit Din HaGadol, state (File #016788168212):

"We understand and recognize the genuine pain of the woman. Mental abuse, the pain of the soul, is much worse than physical abuse. The stepping on a person's self worth, the destruction of the persona, making a rag out of human dignity, is something intolerable.... an end must be put to it."

Following in the footsteps of numerous battei din (e.g., File no. 4569-64-2, Beit Din HaGadol, December 1, 1998; File no. 3426-21-3, Tel Aviv Regional Beit Din, January 28, 2008; File no. 284462/9, Netanya Regional Beit Din, April 9, 2014), we are obligating the delivery of the Get because of the emotional and verbal abuse inflicted by Amir upon Bracha.

Actually, Teshuvot Rashba (attributed to Ramban #102) openly states that a Beit Din can force a person to give a Get for mental abuse. Likewise, see Biur HaGra Even HaEzer #154:11, who also holds that position.

The second reason is explained as follows:

On the one hand, there is a mesorah, tradition, from Rabbeinu Yerucham (Sefer Meisharim, Netiv 26) that if a couple is separated for more than a year, a husband should be obligated by the Beit Din to divorce his wife. On the other hand, Rav Hayim Palagi (Teshuvot Hayim VeShalom 2:112) and Rav Moses Feinstein (Iggerot Moshe, Yoreh Deah 4:15) argue that the separation has to have been at least 18 months before the Beit Din will obligate the husband to deliver a Get. In our issue at bar, the separation has been more than three years; Bracha requested a Get more than

two years ago, and as of today she has never received one. Therefore we are obligating Amir to give her a Get now.

Therefore, we, the members of the International Beit Din, obligate Amir to give a Get to Bracha, his wife, within two (2) weeks of the receipt of this letter.

Rabbi Simcha Krauss
Av Beit Din

Rabbi Yosef Blau
Dayan

Rabbi A. Yehuda Warburg
Dayan

Bracha vs. Amir (Decision no. 2) - Case no. 113/2015

This case deals with a husband who is mentally dysfunctional and whether that constitutes grounds for voiding his marriage.

The narrative and Bracha's presentation are found in P'sak Din no. 1 where we obligated Amir to give Bracha a Get. Given that to this date, Amir has not complied with the beit din's directive, we now address whether there are grounds for voiding their marriage.

In considering the case before us we must discuss the following two fundamental issues:

First, is it possible to invalidate the marriage because of ta'ut, a "mistake" (defect)? Also, if the marriage can be invalidated because of a defect, can it still be invalidated in a situation in which the defect existed and predated the marriage, but was discovered only during the marriage? Second, even if we prove that ta'ut can be halakhic grounds to invalidate a marriage, we must investigate why the plaintiff continued living together with her husband for a long time (ten years) before she separated and filed for divorce.

Let us begin with the first issue: invalidating a marriage when the woman complains that the husband had a pre-existing defect of which she was unaware at the time of the marriage.

The relevant Mishnayot in Ketubot (7th chapter) reveal that all cases discussed in the Mishna that begins "One who betroths a woman and found (hidden) defects" relate to the husband who discovers that his wife has defects. The Mishnayot do not discuss the converse, i.e., a woman who discovers defects in her husband.

This omission is used by the Beit Meir (Even HaEzer, 154) to conclude that indeed a woman cannot raise the issue of ta'ut to invalidate a marriage. He argues this omission is a well-founded one based upon the principle טב למיחב טן דו, מלמיחב ארמלתא. A woman is satisfied with any kind of husband, even if he has defects. Therefore, only a husband can raise this issue concerning the wife.

Indeed, Tashbatz (1:1) rules in the case when a woman discovers that her husband suffers from impotence, the marriage is not invalidated. He gives two reasons: 1. Perhaps the defect was not pre-existing and 2. Perhaps he may be cured. The justification is that a woman has a constant interest in being married to a man, regardless of any defects or negative traits in his personality. מלמיתב טן דו, מלמיתב ארמלתא. Indeed, one of the Torah giants in America, Rav Eliyahu Henkin, in his Lev Ivra (pp. 43-36) ruled thus and even expanded the rule.

“We have no way of invalidating a marriage, for whatever defect, and in all generations before us we have not ruled thus.”

Notwithstanding such statement, many Poskim believe that Halakha allows for the possibility of bitul kiddushin, voiding marriages, and have so ruled throughout the generations.

In fact, we will begin with a Gemara that supports the position that voiding marriages exists in Halakha.

The locus classicus for this discussion is the Gemara in Masechet Bava Kamma (110B) (translation taken from The Schottenstein Edition, Talmud Bavli, vol. III, Mesorah Publications, Brooklyn, NY, 2001),

“The Mishnah stated: [וכו'] - IF HE GAVE THE MONEY TO THE MEN OF THE MISHMAR etc. [and then died without offering his (sacrifice of) asham, his heirs cannot extract the money from their possession.]

An inference is drawn from this ruling: אבאי - Abaye said: שמע מינה כסף מחפר מחצה - Learn from this that the return of the robbed money provides half the atonement for the robber's sin. הוה אמינא מהדר ליורשין, דאי לא מכפר - then I would say that since the robber did not ultimately offer his asham [the money] returns to his heirs. מאי טעמא - What is the reason? אדעתא דהבי לא יהב ליה - He did not give it to [the Kohanim] with this in mind.....

The Gemara asks further. אלא מעתה אשם שמתו בעליו ליפוק לחולין - But if Abaye's argument is correct, the an asham whose owner died should revert to its original unconsecrated state, דאדעתא דאדעתא - for he did not designate [the animal] as an asham offering with this in mind.

The Gemara answers: אשם נמי הלכתא גמירי לה - Concerning an asham whose owner has died, too, there is a halachah learned as part of the Oral Tradition taught to Moses at Sinai: כל שבחטאת מתה - Any animal which is the case of a chatas must die, in the case of an asham must graze until it develops a blemish and can be redeemed.

The Gemara persists: אלא מעתה יבמה שנפלה לפני מוכה שחין תיפוק בלא חליצה - But if Abaye's argument is correct, then a yevamah who falls for yibum consideration before her brother-in-law who is afflicted with boils and as a result is physically repulsive to her, should go without halitza. דאדעתא דהכי לא קדשה עצמה - for she did not give herself in marriage to his brother with this in mind.

The Gemara answers: התם - There, אנן סהדי - we ourselves can bear witness דהו בכל לה - that she is content with marrying her husband in any event even though she might ultimately become bound to his repulsive brother. כריש לקיש - in accordance with a teaching of Reish Lakish. דאמר ריש לקיש - For Reish Lakish said: טב למיתב טן דו מלמיתב ארמלו - There is a popular

maxim among women: ‘It is better to live a two together than to live alone.’”

According to Rashi, the Gemara means to say that the woman, upon finding out that the yavam is a person possessing many defects, still undergoes halitza. Why? The answer is that the woman would still have married her husband even though his brother, the yavam, has faults and vices. Being married to the husband who is not “defective” is important to her. After all, the yavam may predecease her as she may predecease the yavam. But, had her husband been found to have these physical defects, she would not have preferred this kind of marriage. In other words, we apply the technique of ta’ut even if the wife wants to invalidate the marriage.¹ This, of course, is contra Beit Meir and Tashbatz, in our humble opinion.

We can, with some depth, expand the scope of this Gemara by creating a dichotomy between two concepts, ta’ut and umdana, an assessed expectation.²

Ta’ut means there was a mistake. As we mentioned, the wife, after her marriage, realized that the husband was defective (defective = מוכה שחין). She also has proof that this “mum gadol,” major flaw, did not begin after the marriage, but was rather a pre-existing condition. There is unassailable proof that this “defect” existed before the marriage. Given that she never was aware of the husband’s major flaw prior to the marriage and only became aware of it after the onset of the marriage, she entered into the marriage assuming everything was normal. Hence, based upon “kiddushei ta’ut,” a marriage based upon error may be invalid. The analogue is found in the context of Hoshen Mishpat which deals with a situation of selling an article. Just as in a sales transaction, the buyer or seller may rescind the sale based upon mekach ta’ut, an error in the sale; similarly, a beit din can void a marriage based upon a major flaw in the husband’s personality which the wife discovered only after the marriage.

On the other hand, whereas ta’ut relates to the past, namely a defect pre-existing the marriage, umdana focuses upon conduct occurring during the marriage. There is a hazaka, a presumption, that a rational person acts in a certain manner. For example, a rational person, with advanced knowledge, will not marry a person who has a major defect. Hence, if a woman discovers a major flaw in her husband even many years after she married him, we can safely assume that she would have never consented to the marriage to begin with had she been aware of the flaw(s). Hence, under such circumstances, the marriage may be invalidated retroactively. This is the meaning of אדעתה דהכי לא קדשה.

A simple example of this would be the classical case of mumar (an apostate in the period of the Middle Ages). For example, Maharam of Rutenberg (Teshuvot Helek 4, Prague Ed. 1022 and

¹ The critical import of this text should be noted. Basically, this text makes two important points. A) When the right condition exists, a marriage can be dissolved without a *Get*. B) A woman can initiate the dissolution of the marriage when, for any reason, we do not apply טב למיטב טן דו, “A woman would rather be married.”

² The distinction between *ta’ut* and *umdana* is mentioned in Teshuvot Sheilat Moshe by Rav Moshe Rozin, Brooklyn, New York, Even HaEzer, 2.

Mordekhai Yevamot 29) was asked whether a yevama whose lot it was to marry a mumar is duty-bound to marry him or can halitza be performed? Since the umdana is that no Jew can expect to live with a mumar, Maharam replied that “lehalakha velo le’ma’aseh,” in theory but not in practice, halitza ought to be performed. The mumar would obviously obligate his partner to share in his anti-halakhic life style. We can safely assume that in such a case she never would want to be married to him. And, he continues, what about the recognized principle found in the Gemara טב למיתב טן דו?

Despite the fact that, in practice, Maharam ruled stringently, nonetheless one of his students who dealt with the same situation ruled that halitza ought to be performed rather than requiring her to live with a mumar. (Teshuvot Maharam of Rutenberg, vol. 4, Prague ed., No. 1022).

Similarly, another Rishon, Or Zarua (I:76) was asked about a woman who was married to a blind person the fact of which she discovered only after the kiddushin and he said “that if she did not know of this fact before the kiddushin, she does not need a Get even though she did not stipulate it as a condition for the marriage.” Indeed, Rav Shalom Schwadron (Teshuvot Maharsham 6:160) applies Or Zarua’s ruling in the situation of a mentally dysfunctional husband. And recently Rav Nahari applies his psak to a situation of a schizophrenic husband (File no. 870175/4, Haifa Regional Beit Din, December 29, 2014, page 46).

Indeed, Rav Tzvi Pesach Frank, former Chief Rabbi of Jerusalem, (Teshuvot Even HaEzer, 2:133) writes as follows,

“I saw in Hessed L’Avraham that about a husband who apostatized we can definitely say that in this case she didn’t marry him. And so it seems in our case where he became insane (meshuga) and a person ‘cannot live with a snake in the same cage,’ which is even worse than a person full of physical defects, and we can say that in this case (where the husband became insane) definitely in such a case she was not married to him and one can rule the marriage is retroactively voided.”

This opens “a big door” to invalidate marriages that occurred because of ta’ut, ruled Rav Tzvi Pesach Frank. Obviously, Rabbi Frank concludes, in such cases we do not apply the principle of טב למיתב טן דו.

Or as eloquently expressed by Rabbi Feinstein (Iggerot Moshe EH 1:80),

“Surely a shoteh is a major flaw that in effect precludes ishut (sexuality)...one cannot live with a snake ...one cannot live with him.”

To state it differently, engaging in conjugal relations is not only contingent upon the physical ability of a couple to “go through the motions.” A couple may physically and medically be capable “to perform.” But at the end of the day, there may exist psychological conditions which preclude either spouse to engage in onah, conjugal relations.

Amir admitted in writing at the time of their separation that he was taking a daily regimen of Prozac for depression most of his life. During his courting of Bracha, he neither disclosed this

fact to her nor did he disclose any of his other psychological disorders. Moreover, prior to the marriage he never communicated to her that he was abused during his childhood by his father, a fact he later stated to her and in various e-mail communications to family members. Furthermore, before their marriage, he told her that his father would financially support them in the early years of their marriage. Soon after, Amir told Bracha that this was a lie. As such, we are not only dealing with a case of kiddushei ta'ut that is marked by the failure to disclose a mum gadol, but by misrepresentation which may serve as grounds to void a marriage (See Teshuvot Noda BeYehuda Even HaEzer 80; Teshuvot Beit Av 7:28; Teshuvot Mahari ha-Kohen, Even HaEzer 13).

In this context of our reasoning, we want to quote the words of Helkat Yoav (Even HaEzer #24) who ruled the following:

“However, in my.....opinion I found MAHARIK that even if she is not a shoteh just she is inept in taking care of the affairs of the house because of her ineptitude, it is considered a major defect...for a woman has to be a helpmate to the husband as is written “I will make him a helpmate” and if she cannot do it, that is included among the major defects and that is open in MAHARIK #101. For in that instance, [she] lost her mind and could not help in the building of the home....That is why MAHARIK voided the marriage though the defect came after the marriage..... And [in the instance] she was not really a halakhic shoteh. For if so, he [MAHARIK] need not have had so many justifications for voiding the marriage. For a shoteh is not marriageable. But if the B”D sees that no one can live with her and the house cannot function by her authority....that is a major defect....”

Hence Helkat Yoav also defines “shoteh” not in the strict Halakhic sense (such as sleeping in a cemetery, or losing what is entrusted to them). Rather, shoteh means that a person - man or woman - who cannot function in the normal way as head of a household, as we explained the words of HaRav Tzvi Pesach Frank (SK translation. The original quote is in the Hebrew version of the p’sak.)

In fact, in our case, the husband has been diagnosed with Borderline Personality Disorder (BPD). As the professional literature informs us, BPD is characterized by a pattern of instability in impulse control, interpersonal relationships and self-image. Clinical signs which were corroborated by Bracha and her witnesses which included two health care professionals, include emotional dysregulation, impulsive aggression, self-injury and suicidal tendencies. (See Lieb, et al., “BPD,” *The Lancet*; July 31-August 6, 2004 and the appended studies). Moreover, the couple’s psychologist testified that most individuals who have been diagnosed with BPD have been victims of abuse during their childhood. Amir informed us that during his childhood he was physically abused by his father and in various e-mail communications to members of his family, Amir stated that he was a victim of abuse and in fact, on a few occasions, physically abused his own children. Moreover, professional literature has shown that the onset of BPD occurs either in childhood or by no later than adolescence or early adulthood,³ which in Amir’s case would be

³ Zelkowitz P, Paris J, Guzder J, Feldman R. Diatheses and stressors in borderline pathology of childhood: the role of neuropsychological risk and trauma. *J Am Acad Child Adolescent Psychiatry*. 2001 Jan;

before his marriage.

His narcissism colored many of his actions. The psychologist informed us that a person diagnosed with BPD loses all sense of reality. When his will is not done he becomes angry, loses his temper and even becomes violent. It is impossible to live a normal life with him. As attested to in our hearings, Amir had no friends. Once he befriended someone and eventually that friend invested with him. Amir stole the friend's money and he wasn't even aware of what he had done. Being unable to live in reality was his way of life. And we can say in full seriousness and in truth that אדעתה דהכי לא קדשה נפשה (in such a case she did not contemplate to marry such an individual). Within a few months after Bracha discovered that Amir was diagnosed with BPD, she separated from him and requested her Get.

Actually, one of the contemporary poskim and dayanim of Yerushalayim, HaRav Asher Weiss (Minhat Asher, 1:85), was asked about invalidating a marriage of a couple where the husband was diagnosed with BPD. After quoting opinions, pro and con, he ruled that in his case he would not be lenient. The reasoning he cited is that in his particular case the diagnosis of BPD was made by the psychiatrist who did not interview the husband. He was therefore hesitant to employ this method of invalidating the marriage.

He cites the following reasons for not invalidating the kiddushin in his case:

The husband's diagnosis of BPD was made by a psychiatrist who did not interview the husband. HaRav Weiss was also worried that invalidation of a marriage because of a psychological sickness, such as BPD, may lead to a "slippery slope" where other Battei Din may invalidate a marriage for less compelling reasons. He asks, rhetorically, may we invalidate every marriage where the husband has some depression or is in a bad mood? Hence he decided against invalidating a marriage, even in his case, where the sickness was diagnosed as BPD.

Our case differs because the family psychologist diagnosed the BPD. He met and interviewed the husband. In a phone (Skype) testimony to our Beit Din, the psychologist spoke, in no uncertain terms, and said that in his best professional evaluation the husband indeed suffered from BPD.

As for the second issue raised by HaRav Weiss, that of a slippery slope leading to the invalidation of all marriages where the pathology is much less compelling than BPD, we have a relatively simple response: the discipline of psychology has advanced since the time of HaRav Weiss's Teshuva. There is more precision, more rigor, and more exactness in the diagnosis of BPD. A healthcare professional will not, with current information and new tools at hand, mistake a mood disorder or depression for BPD.

Hence, we believe that in the case before our Beit Din, our invalidation of the Bracha's marriage to Amir, in no way contradicts HaRav Weiss's ruling. Our finding that BPD is indeed a Mum

40(1):100–5; Zanarini MC, Frankenburg FR, Khera GS, Bleichmar J. Treatment histories of borderline inpatients. *Compr Psychiatry*. 2001 Mar–Apr; 42(2):144–50.

Gadol (a major defect) and sufficient grounds for voiding a marriage therefore stands.

To reiterate, in our case, the psychologist who made the diagnosis was the family health care professional. Hence, given the existence of the psychiatrist's diagnosis, we believe that even HaRav Asher Weiss would agree to our p'sak.

If in fact as we have demonstrated that a latent defect in the husband's personality existed before the marriage and that Bracha subsequently discovered it after the marriage, why did Bracha wait ten years before requesting her Get? After all, according to her own words, this "strange behavior" began to appear in part at the beginning of the marriage and other telltale signs appeared in the early years of their marriage.

We need to understand the unique circumstances of this case. Bracha was nineteen years old at the time of her marriage. She had just finished Seminary schooling. The matchmakers who proposed that she date Amir had introduced him as a normal yeshiva student. He hailed from England and while the family did make inquiries, all information, including that derived from yeshiva personnel where he studied here, were positive.

Bracha was also given a "traditional" upbringing for a girl - that she must get married and raise a family. And if there are difficulties in the marriage it is the duty of the 'wife' to ascertain, establish and ensure the integrity of the home.

Hence when Bracha initially confronted Amir's strange behavior, she thought his conduct was "the way of the world." Initially, she did not even think that there were psychological issues with Amir. Given his failure to disclose his past, for many years she was "totally in the dark." After "an episode," Amir became contrite and said that such behavior would not repeat itself. Loving her husband, she accepted his words of apology while hoping that things would improve for her and her children. She didn't yet realize that the daily regimen of medications of Prozac for depression and Clonazepam for anxiety, the lack of friends, panic and anxiety attacks etc. would trump her ability to "stay with the marriage" for her children's sake as well as for her own sake.

Bracha's being a single mother with three children could compromise her family's good name and status in the Orthodox Jewish community and could affect the possibility of finding "a shidduch," a suitable marital match for her children. Bracha wanted the abuse to end. She desired to preserve the family. Ultimately, when it was made crystal clear to her by the psychologist who interviewed the husband and diagnosed him with BPD (a disorder which cannot be treated by medication and for which therapy is difficult to bring to bear because of Amir's other psychological disorders), that her life would not improve, for the first time she grasped the long-standing implications of her husband's disorders and a few months later she separated from him.

In short, despite the length of time before Bracha decided to separate from Amir - not from the time the couple married but from the time the psychologist informed her of the implications of her husband's disorders - we are following in the footsteps of other poskim who determined that

there exist grounds to void marriages. Our position is best expressed in the words of HaRav BenTzion Boaron, a dayan on the Beit Din ha-Gadol who, when addressing the case of a mother of two children who during the span of seven years was living with a psychologically dysfunctional husband before separating from him, astutely observes:

And one cannot say that since she lived with him seven years and had two children and observed the defect she forgave him. That is not the case since in these matters one cannot comprehend the disease in clear terms for an extended period of time because sometimes because of her love she explains his anger and anxiety... as a temporary psychological state and she craves and hopes that his situation will improve. In particular, when a person regularly takes medicine, there are periods that he is relaxed and pleads for forgiveness....Minimally this 'lowers' the kiddushin to the level of a doubtful marriage...In the case of a doubtful marriage one may be lenient...and she has the Chazakah (status) of being single...⁴

As HaRav Boaron notes, his observations of human nature and their significance in terms of providing the grounds for voiding a marriage have been mentioned by earlier poskim.⁵

With maturity, hindsight and personal growth, Bracha finally realized the terrible deception of Amir. Amir never mentioned to her that he was diagnosed with BPD as well as other psychological disorders which resulted in the "strange behavior" that she observed. We are convinced that had Bracha known these facts before, she never would have consented to marry Amir. אדעתה דהכי לא קדשה.

Hence, we invalidate the kiddushin of Bracha to Amir and under these conditions, we understand that it took Bracha longer time to recognize the situation in which she found herself. That is sufficient to be an amatla, a reasonable explanation that Rav Moshe Feinstein (Iggerot Moshe EH 3:45) requires to invalidate her marriage to Amir.

We therefore rule that Bracha's marriage to Amir is void and she is free to marry any person, even a Kohen.

Rabbi Simcha Krauss
Av Beit Din

Rabbi Yosef Blau
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⁴ Teshuvot Sha'arei Tzion, 3; Even Ha-Ezer, 4.

⁵ Teshuvot Maharsham 3:16,77; Teshuvot Ohr Gadol 5(12); Teshuvot Avnei Ephod Even Ha-Ezer 1:117(15).

Appendix A
(Gail Bendheim, Psy.D. NYS license: 011357)

On December 18, 2014, I witnessed a meeting between the Bet Din and Ms. XXX, in which Ms. XXX testified about her husband. Several witnesses, including a psychiatrist, a lawyer, and a former business partner, also testified over the phone.

I was struck by several moments of the testimony that seem worthy of note:

In discussing her husband's profound anxieties and compulsive behaviors. Ms. XXX described that, in order to have a bowel movement, he might need to undress totally, sit on the floor of the bathroom, defecate on the floor, and then deposit the feces into the toilet. This was in some ways the most alarming of many instances of difficult or abusive behaviors she referred to, as it describes an extremely primitive and severe level of disturbance and a severely impaired mode of functioning that I feel would stand in the way of a marriage if it were known before the fact.

In addition, the testimony of his former partner was such that the witness could barely put into words how baffling and bizarre he found the husband's behavior. In pointing out the extreme of “loving” and “hating” that characterized their interactions, the witness said over and over again that he had never had an experience with anyone like this man, whose unpredictability, rage, and dishonesty undermined and cut short their partnership. In my experience, this behavior is completely consistent with a diagnosis of Borderline Personality Disorder, which according to the diagnostic criteria of the DSM-5, can include, among other elements, “... a pattern of unstable and intense interpersonal relationships characterized by alternating between extremes of idealization and devaluation.”

The lawyer's testimony made clear that the husband's behavior in court—where he was his own legal representative—was at times completely out of control. Ms. XXX noted that he stuck out his tongue at the judge, another primitive instance of infantile functioning. In addition, it was sobering to hear that the lawyer's firm had to hire a personal security detail for the lawyer because of the threats directed at the lawyer by the husband.