



## Written and Signed before Me

On a basic level, a divorce is performed when a husband writes a *get* (divorce document) and hands it to his wife. In the first *Mishnah* of *Gittin* (1:1) we learn that the husband can nominate a *shaliach* (agent) to deliver the *get* – a *shaliach holacha*. If however the *shaliach* is being sent from outside Israel to his wife in Israel, then the *shaliach* must say that the *get* was both written and signed before him – *befanai nichtav u'befanai nechtam*.

The *Gemara* records a debate regarding this requirement. For a *get* to be valid it must be written *lishmah*; it must be written for the husband and wife that will be using it for the divorce. *Raba* explains that the *Chachamim* were concerned that outside Israel, people were not versed in the laws of *gittin* and may not have written the *get lishmah*. Consequently, the *shaliach* must confirm that the *get* was written as required.

*Rava* however explains the basis differently. Ordinarily, if the husband would later protest the validity of a *get*, *Beit Din* would only need to substantiate the signatures on the *get* to dismiss the husband claims. If the *get* was written and signed overseas, doing so would be more complicated. Consequently, the *Chachamim* instituted that if the *shaliach* asserts that the *get* was both written and signed before him, then it is considered as if the signatures have been substantiated and the *get* would be valid despite future protests.

*Rashi* stress that the *shaliach* discussed in our *Mishnah*, as we have explained, is a *shaliach holacha*. The *Ran* (2a Rif, s.v. *ve'katav*) notes that there is however another type of *shaliach* in world of *gittin*, the *shaliach* that can be nominated by the wife to receive her *get* – the *shaliach kabala*. The *Ran* explains that *Rashi* implies that a *shaliach kabala* who brings the *get* would not be required to say *befanai nichtav u'befanai nechtam*. Based on our understanding of the requirement of *befanai nichtav u'befanai nechtam* there should no difference between whether the person bringing the *get* is a *shaliach halacha* or a *shaliach kabala*. What is the basis for the distinction.

The *Ran* notes that the basis of the *gezeira* is out of concern that the husband will protest the validity of the *get* after she received it. He explains that in the case where the *shaliach* is a *shaliach kabala* sent by the wife, she is divorced as soon as the *get* reaches the *shaliach's* hands, prior to making the return journey. Where the *shaliach* is a *shaliach holacha* sent by the husband, the wife is not divorced until the *shaliach* reaches Israel and gives the *get* to the wife. Since in the latter case the divorce is not effective as soon as it leaves the husband's hands, it is specifically in that case that we are concerned he will regret his decision, change his mind and then protest the validity of the *get*.

The *Ran's* explanation only appears to work according to *Rava*, where the concern is that the husband will later contest the validity of the *get*. The explanation does not however work according to *Raba*, who explains that the concern is the *get* was not written *lishma*. According to *Raba* there should be no difference between a *shaliach holacha* and *kabala*.

The *Pnei Yehoshua* (s.v. *Rashi*) explains that according to the *Tosfot* the explanation still works even according to *Raba*. They explain that *Raba's* concern is only that the husband will protest using the claim that the *get* was not written *lishmah*, e.g. the *sofer* was only practicing writing *gittin* using their names. If however there is no concern that the husband will raise the objection, then we are not concerned that the *get* was not written *lishmah*. According to *Rashi* however we still have a question, since *Rashi* explains that the concern that the *get* was not written *lishmah* is a real one, irrespective of whether the husband might raise it. Once again, according to *Rashi's* understanding of *Raba*, there should be no difference between a *shaliach holacha* and *kabala*.

The *Pnei Yehoshua* answers that once the *shaliach kabala* receives the *get* from the husband overseas, the divorce is complete. From that point it is treated like any other divorce performed overseas and we no longer question whether the *get* was written *lishmah*. This then explains why, even according to *Raba*, the *shaliach kabala* is not required to say *befanai nichtav u'befanai nechtam* when delivering the *get*.

**Revision Questions**

סוטה ט: י' – ט"ו

- From what point did they cease performing *eglah arufah*? (ט: ט')
- What other process stopped as a result of societal changes? (ט: ט')
- What ended with the deaths of *Yosi ben Yo'ezer* and *Yosi ben Yochanan*? (ט: ט')
- What three things did *Yochanan kohen gadol* put an end to and what two things were different in his time? (י: ט')
- What stopped with the end of the *Sanhedrin*? (ט: י"א)
- What stopped with the end of the *Nevi'im Rishonim*? (ט: י"ב)
- What three things ended with the *Churban Ha'Bait*? (ט: י"ב)
- What does *R' Shimon ben Elazar* say was lost along with *taharah* and *ma'asrot*? (ט: י"ג)
- What decrees were made as a result of the following events:
  - The war of *Aspasyanus*?
  - The war of *Titus*?
  - The war that resulted in the *churban*? (ט: י"ד)
  - The death of *R' Meir*? *Ben Azai*? *R' Yehoshua*? *R' Elazar ben Azarya*? *R' Akiva*? *Rabban Gamliel HaZaken*? *Rebbi*? (ט: ט"ו)
- What are the signs of the end of *galut*? (ט: ט"ו)

גיטין א' א' – ב' ב'

- If someone brings a *get* from overseas, what must he say? (א' א')
- What if he is unable to say it? (א' ג')
- According to *R' Yehuda* what are the “borders” of Israel for the laws of *gittin*? (א' ב')
- Why is the previous question important? (א' ג')
- What other legal area shares the same law as discussed in the previous questions? (א' ד')
- Are *kuti'im* allowed to be witnesses on a *get*? (א' ה')
- If a person sends someone as a *shaliach* to give his wife a *get*: (א' ו')
  - Can he cancel the *shlichut* before the *shaliach* arrives?
  - Can the *shaliach* still give the *get* if the person passes away?
- What is the law if the *shaliach* can only say “*befanai nechataf*”? (א' ב')
- What if one person can only say “*befanai nechataf*” and another can only say “*befanai nechtam*”? (א' ב')
- What special case does *R' Yehuda* permit similar to the previous question? (א' ב')
- Which of the following invalidates a *get*: it was written at night or it was signed at night? (ב' ב')
- Who argues on the rule discussed in the previous question and why? (ב' ב')

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**Next Week's Mishnayot...**

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
16 September ז' תשרי	17 September ח' תשרי	18 September ט' תשרי	19 September י' תשרי	20 September יא תשרי	21 September י"ב תשרי	22 September י"ג תשרי
Gittin 2:3-4	Gittin 2:5-6	Gittin 2:7-3:1	Gittin 3:2-3	Gittin 3:4-5	Gittin 3:6-7	Gittin 3:8-4:1

