



Annuling a Get

The *Mishnayot* this week list various laws introduced by the *Chachamim* which were motivated by *tikkun olam* – to avoid a negative consequence. The discussion is relevant to this *masechet* because the first of these *takanot* relates to the laws of *gittin*. Recall that a man can nominate a *shaliach* to deliver the *get* to his wife. The *Mishnah* (4:2) explains that initially, after the *shaliach* was sent but prior to the *get* reaching the wife, the husband was able to form a "*Beit Din*" and annul the *shlichut*. This would then prevent the divorce even if the *get* reached the wife. *Rabban Gamliel* however ended the practice. The *Bartenura* explains that this was because it would be possible that neither the wife or *shaliach* would be aware that the *shlichut* was annulled, and then wife would then remarry. Since however she would still be married to her first husband, the children from the second relationship would be *mamzerim*.

The *Gemara* (32b) records a debate regarding the initial practice. According to *Rav Nachman* the husband would only be required to annul the *get* in front of two people while *Rav Sheshet* explains that three people would be required. The *Gemara* (33a) connects this debate with the one regarding the *Rabban Gamliel's* motivation. *R' Yochanan* provides the explanation cited by the *Bartenura* above. The *Gemara* explains that this reason only makes sense according to *Rav Nachman*. According to *Rav Sheshet* who requires the dissolution to be before three people, the more public setting would mean that word would reach the wife and there would be no concern for *mamzerut*.¹ Instead the *Gemara* explains that *Rav Sheshet* would align with *Reish Lakish* who explains that *Rabban Gamliel* was trying to prevent *agunot*. He was concerned that the practice would lead to women be stuck in wedlock. Consequently, to prevent that, if the husband wanted to annul the *get*, he would

need to chase after the *shaliach* to do so, making annulling the *get* far more difficult.²

Prior to *Rabban Gamliel's* decree why could the husband not annul the *shlichut* on his own? The *Tosfot* (32b, s.v. *VeRav Nachman*) explains that the two or three individuals are not acting in the capacity of a *Beit Din* and a *Beit Din* is not required. Nevertheless, out of concern for *mamzerut* the two or three witnesses were required. We find that according to the *Tosfot*, the requirement for two or three individuals, even from the outset, was rabbinic with *Rabban Gamliel* restricting it further based on heightened or additional concerns.

The *Ramban* however explains that *dibur* (speech) alone away from the *shaliach* is weaker than *dibbur* in front of the *shaliach* and there is unable to annul the *shlichut*. Consequently the annulment must be before in front of two or three people in order to have sufficient strength to be effective.

The *Ramban* also suggest that the requirement is based on the principle that with respect to matter relating to forbidden relationships we always require at least two witnesses. The *Tosfot Yom Tov* explains that *Rav Nachman* understands that when the *Mishnah* refers to these two people as a *Beit Din* and not simply witnesses, it is because they do not function like normal witnesses in order to clarify the matter if it is later contested. Instead for matters like this, they affect a change in status, like a *Beit Din*. The position of *Rav Nachman* that requires two, is therefore understood to be essential, similar to the other processes that effect marriage and divorce. The *Ramban* adds that *Sheshet's* requirement of an additional witness is due to the additional concern of *mamzerut*.

Yisrael Bankier

¹ The *Tosfot Yom Tov* raises this as a difficulty on the *Bartenura* who also explains that initially the husband would annul the *shlichut* in front of three people.

² The *Tosfot* explain that *R' Yochanan* agrees with *R' Lakish* that *R' Gamliel* was (also) concerned for *Agunut* otherwise it would have been sufficient to decree that in order to annul a *get*, three people would be required instead of two.

Revision Questions

גיטין ד' בי – ה' ג'

- Regarding the previous question, in the past how was a *get* cancelled and why was it changed? (ד' בי)
- What else changed in the laws of *gittin* for this reason and who instituted the change? (ד' בי)
- How does an *almanah* collect her *ketubah* from *yetomim*? (ד' ג')
- Who instituted the *pruzbel*? (ד' ג')
- Explain the debate regarding a servant who was captured and redeemed, whether he is automatically no longer a servant? (ד' ד')
- How do we deal with a person who is a “half-servant, half-free”? (ד' ה')
- What is the law regarding one who sells his servant to a *goi*? To which other purchaser does this law apply? (ד' ו')
- Which two things are one not allowed to overpay for, *mipnei tikkun olam*? (ד' ו')
- List three of the opinions regarding whether one can remarry his ex-wife, if she was divorced because of a *neder*. (ד' ו')
- For what other reason for divorce is there a debate whether the couple can remarry? (ד' ח')
- In what case do when not redeem a Jewish servant of a *goi*? (ד' ט')
- What legal payments are collected from the best quality land? Medium quality? Lowest quality? (ה' א')
- What are *nechasim meshubadim*? Is there any restriction as to when debts can be collected from them? (ה' ב')
- From who are debts always collected from the lowest quality property? (ה' ב')
- What is never collected from *nechasim meshubadim*? (ה' ג')
- If someone returned a lost wallet, does he need to swear that he found it empty of the money it contained? (ה' ג')
- When is an *apotropus* obligated to swear that he never took from the property of *yetomim*? (ה' ד')
- When is one exempt from compensation if he caused another's food to be *tameh*? (ה' ד')
- Can a *chareshet* be divorced through a *get*? (ה' ה')
- What was instituted as *takanat shavim*? (ה' ה')
- Explain the law of *sikrikun* and when did it apply? (ה' ו')
- What other law that applies to acquisitions is similar to that of *sikrikun*? (ה' ו')
- How did the law of *sikrikun* change and what was the final amendment to that change? (ה' ו')

Melbourne, Australia

Sunday -Thursday

10 minutes before *Mincha*
Mizrachi Shul
Melbourne, Australia

Friday & Shabbat

10 minutes before *Mincha*
Mizrachi Shul
Melbourne, Australia

Efrat, Israel

Shiur in English

Sunday -Thursday

Rabbi Mordechai Scharf
9:00am
Kollel Magen Avraham
Reemon Neighbourhood

ONLINE SHIURIM

Yisrael Bankier
mishnahyomit.com/shiurim

Rabbi Chaim Brown
www.shemayisrael.com/mishna/

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

SHIUR ON KOL HALOSHON

Rabbi Moshe Meir Weiss
In US dial: 718 906 6400
Then select: 1 – 2 – 4

Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
30 September כ"א תשרי	1 October כ"ב תשרי	2 October כ"ג תשרי	3 October כ"ד תשרי	4 October כ"ה תשרי	5 October כ"ו תשרי	6 October כ"ז תשרי
Gittin 5:7-8	Gittin 5:9-6:1	Gittin 6:2-3	Gittin 6:4-5	Gittin 6:6-7	Gittin 7:1-2	Gittin 7:3-4

