



Volume 3. Issue 33.

## Gittin before Kiddushin

The last *masechtot* left for us to learn in this *seder* are *Gittin* and *Kiddushin*. *Gittin* relates to divorce, while *Kiddushin* discusses *halachic* engagement and ultimately marriage. The order of the last two *masechtot* at first may be somewhat surprising. One would expect that *Kiddushin* would precede *Gittin* as it would match the chronological ordering of the events discussed in these *masechtot*. The reverse however is true.

The *Rambam* (Introduction to *Mishnayot*) explains that the order chosen matches the order in which the *pasuk* discusses both topics and from which one of the methods of *kiddushin* is derived:

...and he wrote for her a bill of divorce and presented it into her hand, and sent her from his house. And she left his house and went and married another man (*Devarim* 24:1-2)

Consequently, the compiler of the *Mishnayot* simply adopted the order that was set out in the *Torah*.

One may still however feel unsatisfied. Why was this order chosen irrespective of where it was derived from?

Many have understood that this ordering is based on the concept that *Hashem* "creates the remedy prior to the blow". While this concept has generally been understood on a national-historic level, i.e., that the seeds of salvation are planted prior to a national tragedy, it can be adapted to this context. In other words, the means of breaking out of a failed marriage is studied prior to committing to one.

Another approach may be gleaned from the following *Gemara* (*Kiddushin* 13a):

*R' Yehuda* said in the name of *Shmuel*:  
Anyone that does not know the nature [i.e.

the laws] of *gittin* and *kiddushin* – should not be dealt with [as a judge]. *R' Asi* said in the name of *R' Yochanan* that such judges are more destructive to the world than the generation of the flood.

The *Gemara* describes the vital importance that judges should be expertly knowledgeable in *gittin* and *kiddushin*. Interestingly, *Shmuel* orders the two topics in the same manner as their *masechtot*. The *Maharsha*, notices this and questions the order in a similar vein as presented above. He answers that there are two important differences that made *gittin* a priority for the judges over *kiddushin*. Firstly, the laws of *gittin* are more complicated than those of *kiddushin*. More importantly, there are more dire consequences if a judge errs in cases of *gittin* as a married woman may be ruled as being divorced and as a result may unknowingly commit *halachic* adultery. Perhaps this logic then can also be applied to explain why the *masechet Gittin* precedes *Kiddushin*.

The *Galanter Rebbe* offers a different understanding that touches on our attitude to divorce. He explains that divorce is not and should not always be considered a viable option. Had *Kiddushin* preceded *Gittin* then one may assume that marriage leads to divorce; it is a very valid possible direction. The reverse however is true. Great effort should be exerted in trying to preserve a marriage rather than hastily opting for a divorce. The *Chachamim* do not want *Kiddushin* to lead to *Gittin*. That said, in certain circumstances when all options have been exhausted, tragically divorce may be the only option. In such a case, *Gittin* should be followed by *Kiddushin*; the parties should be able to move from their unfortunate situation to the sanctity of another marriage once again.

*David Bankier*

**Revision Questions**

סוטה ט: ח'-ט"ו

- If one person said they saw the murder and another dismissed his claim, would they still carry out the *eglah arufah*? (ט: ט'ח)
- From what point did they cease performing *eglah arufah*? (ט: ט"ו)
- What other process stopped as a result of societal changes? (ט: ט"ו)
- What ended with the deaths of *Yosi ben Yoezer* and *Yosi ben Yochanan*? (ט: ט"ו)
- What three things did *Yochanan kohen gadol* put an end to and what two things were different in his time? (ט: י')
- 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 results 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'-ג'

- 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?

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

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
25 <sup>th</sup> March ו' ניסן	26 <sup>th</sup> March ז' ניסן	27 <sup>th</sup> March ח' ניסן	28 <sup>th</sup> March ט' ניסן	29 <sup>th</sup> March י' ניסן	30 <sup>th</sup> March י"א ניסן	31 <sup>st</sup> March י"ב ניסן
Gittin 2:1-2	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

