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Gittin before Kiddushin

The last *masechtot* left for us to learn in this *sefer* 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.

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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' ט')
- What other process stopped as a result of societal changes? (ט: ט' ט')
- What ended with the deaths of *Yosi ben Yoezer* and *Yosi ben Yochanan*? (ט: ט' ט')
- What three things did *Yochanan kohen gadol* put an end to and what two things were different in his time? (ט: 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'-ו'

- If someone brings a *get* from overseas, what must he say? (א: א')
- What if he is unable to say it? (א: א')
- 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 th March ו' ניסן	26 th March ז' ניסן	27 th March ח' ניסן	28 th March ט' ניסן	29 th March י' ניסן	30 th March י"א ניסן	31 st 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

