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Tikun Olam in Gittin

The third *perak* teaches that originally, if a husband elected a *shaliach* to send a *get* to his wife, he would be able to come before a “*bet din*” and cancel the *shlichut* thereby effectively putting a stop to the *get* and the divorce. *Rabban Gamliel* however, realised the danger in such practices and “*mipnei tikkun olam*” banded this procedure.

Exactly what motivated *Rabban Gamliel* to institute this ban is debated in the *Gemara* (*Gittin* 32a) and hinges on the different understandings of the original practice. *R' Nachman* understood that the husband originally was able to annul the *shlichut* in front of two witnesses; the term “*beit din*” consequently not having its usual meaning. In such cases, it was very possible that the *shaliach* would still hand the wife her *get* and she would be under the impression that she was indeed divorced. *R' Yochanan* therefore understood that *Rabban Gamliel* felt that the danger would then be that she would remarry, and because she was really not yet divorced, the children from this second relationship would be *mamzerim*.

Rav Sheshet however felt that originally, if the husband wished, he would be required to annul the *shlichut* in front of three people – a *beit din*. The *Gemara* explains that once an event occurs in front of three people “*it lehu kala*” (it has a voice) and it become widely known. Consequently, the wife would also know that the *shlichut* was cancelled. Therefore *Reish Lakish* explains that *Rabban Gamliel's* concern was not because of *mamzeirut* but rather because of *agunot*. In other words, if a husband was able to retract from a *get*, it could lead to women being trapped in wedlock.

The *Gemara* however asks, if the original actions of the husband took affect (with a biblical weighting), how can *Rabban Gamliel's* decree, no matter how noble, have any affect. If the husband cancelled the *shlichut* the wife should not be divorced! The *Gemara* explains that *Chachamim* have the ability to uproot the original marriage – “*afkinhu Rabbanan le'kidushei minei*”. This hinges on the fact that all marriages are affected “*k'dat moshe ve'yisrael*” – according to the belief of *Moshe* and *Yisrael*.

The *Tosfot* (*Ketubot* 33a) asks if the *Chachamim* have such an ability, then it could conceivably be employed in other areas as well. For example, if a woman had an affair, she could be saved from a capital punishment. The husband could quickly send her a *get* and then cancel the *shlichut*. Once *takanat Rabban Gamliel* comes into effect the marriage is retroactively uprooted thereby making her a single woman at the time of the incident. The *Tosfot* answers in such a case, where the husband sent and cancelled the *get* for this purpose, the *afkinu* would not be applied.

One may be thinking, if the *Chachamim* have this tremendous power, then why is it not employed in all cases of *agunot*? The *Ramban* and *Rashba* explain that they were limited when they could exercise this power. It was only in cases like this one, were a *get* (whether or not it was valid) was indeed produced and handed over by the husband. In other cases however, they can not.

Therefore we are introduced to a novel power of the *Chachamim* while at the same time discover its limits both in terms of when they can and are able to apply it.

David Bankier

Revision Questions

גיטין ג' ח' ה' ד'

- If someone set aside fruit in case later he wished to use them as *trumah* for other produce, then later discover that were lost, for what period of time prior to discovering this must he assume they were lost? (ג' ח')
- According to *R' Yehuda* if someone tries a similar scheme with wine, how often and when must he check the quality of the wine? (ג' ח')
- If a husband sent a *get* via a *shaliach*, until when can he cancel the *get* and what is required to cancel it? (ד' א')
- Regarding the previous question, in the past how was a *get* cancelled and why was it changed? (ד' ב')
- What else changed in the laws of *gittin* for this reason and who instituted the change? (ד' ב')
- How does an *almanah* collect her *ketubah* from *yetomim*? (ד' ג')
- Who instituted the *pruzbel*? (ד' ג')
- Explain the debate regarding when a servant who is captured, if once redeemed 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, if the wife was divorced because of a *neder*. (ד' ז')
- 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? (ד' א')
- What are *nechasim meshubadim*? Is there any restriction as to when debts can be collected from them? (ד' ב')
- From who are debts always collected from lowest quality property? (ד' ב')
- What is never collected from *nechasim meshubadim*? (ד' ג')
- If someone returned a lost wallet, does he need to swear that he found it empty of the money it contained? (ד' ג')
- When is an *apotropus* obligated to swear that he never took from the property of *yetomim*? (ד' ה')
- When is one exempt from compensation if he caused another's food to be *tameh*? (ד' ה')

Local Shiurim

Sunday -Thursday

Between mincha & ma'ariv
Mizrachi Shul

Friday & Shabbat

10 minutes before mincha
Mizrachi Shul

Audio Shiurim on-line!

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Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
8 th April כ' ניסן פסח Gittin 5:5-6	9 th April כ"א ניסן פסח Gittin 5:7-8	10 th April כ"ב ניסן פסח Gittin 5:9-6:1	11 th April כ"ג ניסן פסח Gittin 6:2-3	12 th April כ"ד ניסן פסח Gittin 6:4-5	13 th April כ"ה ניסן פסח Gittin 6:6-7	14 th April כ"ו ניסן פסח Gittin 7:1-2

