



A Shaliach to Bring a Get

In last week's issue we looked at the *shaliach* that can take the *get* to the wife for the husband (*shaliach holacha*). In the beginning of the sixth *perek* the *Mishnah* contrasts that *shaliach* with a *shaliach* who the wife can elect to receive the *get* on her behalf (*shaliach kabala*). With respect to the *shaliach* that takes the *get* to the wife, as we learnt, the divorce is not yet effective while he carries the *get* and the husband can change his mind. With respect to the *shaliach* that is nominated by the wife to receive *get*, once it reaches his hands she is divorced.

The *Gemara* (62b) raises the following case. The wife elected a *shaliach* to bring her the *get*. However when he met the husband, the *shaliach* said that he was instructed to receive the *get* for her, a *shaliach kabala*. The husband then responded that the *shaliach* should do as he was instructed. The *Gemara* is unsure of the husband's intent. If the husband is relying on what the *shaliach* told him, then she would not be divorced, because when the husband handed over the *get* he thought the *shaliach* was accepting the *get* (which has not been authorized to do). If however the husband intends to rely on what his wife wished, then since the *shaliach* was tasked with bringing the *get*, she is divorced when it reaches her. Ultimately the *Gemara* rejects this distinction, as the *shaliach*'s deviation from his instruction is equivalent to his uprooting the *shlichut*.

What appears to arise from this *Gemara* is that we have a third type of *shlichut*. The wife is able to nominate a *shliach* to bring her *get* – a *shaliach hava'ah* – and she is not divorced until it reaches her. The *Rambam* (*Geirushin* 6:4) rules explicitly that the wife has the ability to nominate such a *shaliach*.

Indeed the *Rashba* (65b) understands that the wife is able to nominate a *shaliach hava'ah* based on a later *Mishnah* as explained by the *Gemara* (65b). If the wife says to the *shaliach* that you may take the *get* from my husband wherever you meet him, but it is not a *get* till you reach

such-and-such place, then she can assume she is married until the *shaliach* reaches that place.¹ The *Rashba* asks that if it is not a *get* till the *shaliach* reaches that nominated place, then the issue is that the husband or his nominated *shaliach* never handed over the *get*. He answers that the wife effectively elected this person as a *shliach hava'ah* until he reaches that place, at which point he becomes a *shaliach kabala*.

The *Rashba* offers another answer that does not rely on the concept of a *shaliach hava'ah*. He explains that from the time the *shaliach* receives the *get* until he reaches the destination, it is considered one long receipt (*kabala*). This is much like a case where the husband hands his wife a *get* but stipulates that it only comes into effect after thirty days.

Rashi (*Bava Metzia* 76a) however explains our case differently. The wife is not nominating the *shaliach* directly as a *shaliach hava'ah*. The only person that can elect a *shaliach* to take the *get* to the wife is the husband. Instead she is directing the *shaliach* to instruct the husband to nominate him as a *shaliach holacha*. Put simply, *Rashi* maintains that there is no concept of a *shaliach hava'ah*.

R' Kreskas strengthens this position. He argues that for *gittin* we need the *get* to be transferred directly from the hand of the person affecting the divorce (the husband or his *shaliach*) to the hand of the person getting divorced (either the wife or her *shaliach* to accept it). A *shaliach hava'ah* would be an interruption in this process and equivalent to the wife picking the *get* up from the floor.

The *Ran* however defends the position of a *shaliach hava'ah* and explains since we have the principle that "one's *shaliach* is like him" when the *shaliach hava'ah* receives the *get* it is as if she has received it, except on the condition that she does not wish to be divorced until the *get* reaches her hand.²

Yisrael Yitzchak Bankier

¹ The implication is, for example, if she is a *bat yisrael* married to a *kohen*, then she can continue to eat *terumah* till she reaches that place.

² The *Achronim* deal with the question on the *Ran* of how the wife can make such a stipulation given that *isha mitgareshet ba'al korcha*.

Revision Questions

גיטין ד' ח' ו' ג'

- For what other reason for divorce is there a debate whether the couple can remarry? (ד' ח') (ה')
- In what case do when not redeem a Jewish servant of a *goi*? (ד' ט') (ה')
- 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')
- How does a *cheresh* engage in a transaction? What does *R' Yehuda* add as another acceptable means of communication? (ה' ז')
- What are *pa'utot*? (ה' ז')
- Which three cases are debated as to whether they are forbidden due to *darkei shalom* or because it is *gezel gamur*? (ה' ח')
- Can one lend cooking implements during the *shmittah* year to one that is suspect of transgressing the prohibitions of *shmittah*? (ה' ט')
- Until which point can an *eshet chaver* assist an *eshet am ha'aretz* in making bread? (ה' ט')
- Describe the case in which once the husband hands the *get* to the *shaliach* he cannot cancel the *get*. (ה' י')
- If a woman elected a *shaliach* to accept her *get* and he did so, but then disposed of the *get*, how many witnesses would she require to confirm the divorce? (ה' ב')
- Explain the debate regarding one who accepts the *get* of a *na'arah me'orasah*. (ה' ב')
- Can a *ketanah* elect a *shaliach kabalah*? (ה' ג')
- Is a *get* valid if the husband's *shaliach* gave the *get* to the wife in a different location to the one he was told? (ה' ג')
- Is a *get* valid if the wife's *shaliach* received the *get* in a different location to the one he was told? (ה' ג')

Local Shiurim

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Sunday -Thursday

10 minutes before *Mincha*
Mizrachi Shul
Melbourne, Australia

Friday & Shabbat

10 minutes before *Mincha*
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Shiur in English

Sunday -Thursday

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

ONLINE SHIURIM

Rabbi Chaim Brown
www.shemayisrael.com/mishna/

Rav Meir Pogrow
613.org/mishnah.html

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

SHIUR ON KOL HALOSHON

Rabbi Moshe Meir Weiss
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Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
6 th January כ"ד טבת	7 th December כ"ה טבת	8 th January כ"ו טבת	9 th January כ"ז טבת	10 th January כ"ח טבת	11 th January כ"ט טבת	12 th January א' שבט
Gittin 6:4-5	Gittin 6:6-7	Gittin 7:1-2	Gittin 7:3-4	Gittin 7:5-6	Gittin 7:7-8	Gittin 7:9-8:1

