

פרקים ד' וה' – השולח והנידקין – Introduction

One of the mandates of the **בית דין הגדול** is to ensure that the law remains flexible such that when a social fissure appears, ordinances are passed in order to close them up. For instance, when the practice of **השמטת כספים** leads to a reticence to lend money – a violation of several Toraic norms – the **ב"ד הגדול** must legislate to promote the social welfare. In this case, the particular legislation is known as **פרוהובול**. This consideration is called **תיקון העולם**. A series of ordinances passed during the 1st century is recorded in these 2 chapters; since the first one is a **תקנה** relating to **שליח הגט**, it is included here in **גיטין**. In the thematic/associative style common to the **משנה**, the rest of the ordinances are presented here.

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32a (משנה א') → 33a (ולא שנה כתוב בלשון עדים וחתמי דיינים)

- I If a man sends a **גט** to his wife and wants to cancel (the **גט** or the dispatch)
- a If he encountered the **שליח**
 - b or sent another **שליח** after him to cancel – it is null
 - c If he caught up with his wife
 - d or sent another **שליח** to his wife to cancel – it is cancelled
 - i *Providing*: he (or his agent) got to the wife before the **גט** did
 - 1 *Challenge*: this is obvious
 - 2 *Answer*: if he had tried to cancel it before, this should act retrospectively – **קמ"ל**
 - ii *Originally*: the husband would set up a **ב"ד** where he was and formally cancel the **גט**
 - iii *To promote* **תיקון העולם** – **ר"ג הזקן** ordained that they not do this – **מפני תיקון העולם**
- II *Justification*:
- a **קמ"ל** – (and not **הגיע**) – **הגיע** – he's just harassing her – **סד"א**
 - b sent a **שליח** – **סד"א** the 2nd agent is no stronger than the 1st – **קמ"ל**
 - c Got to his wife first – **סד"א** he's certainly trying to harass her – **קמ"ל**
 - d If he sent a **שליח** to her first – **סד"א** that's certainly just harassment – **קמ"ל**
- III Formulae:
- a If he says **בטל** or "I no longer want it" – this is valid
 - i *Implication*: "**בטל**" means "it should be cancelled", not "it was never valid"
 - ii *Challenge*: if a recipient of a gift states **בטל** – that is a valid cancellation of the gift (retroactively)
 - iii *Answer* (**אבני**): **בטל** is an equivocal; in each case, the effective interpretation is accorded
 - b *If*: he says "it is invalid" or "it is no **גט**" – this is ineffective (since it's not true)
- IV *Tangential Ruling* (**אבני**): **שליח מתנה** is like **שליח הגט**
- a *Practical application*: **הולך לאו כזכי**
 - i *Meaning*: the dispatcher may cancel the **גט** as long as it hasn't reached the wife's domain
- V **ר'ב נחמן בר יצחק**'s dilemma:
- a If someone declares that a particular **גט** "should be as a shard of pottery" (**יהא כחרס**) etc. – valid (declaration of intent)
 - b If someone declares that a particular **גט** "is as a shard of pottery" – (**חרס הוא**) invalid (not true)
 - c *Dilemma*: what if he says "behold, it is a shard of pottery" (**הרי הוא חרס**) – is this valid (intent) or invalid (description)?
 - i *Answer*: this certainly declaration of intent (valid) – as in **הרי הוא הקדש**
- VI Status of **גט** where the agency has been cancelled
- a **הלכה** – the **גט** may be reused – **ר' נחמן**
 - i *even though*: we accept **ר' יוחנן**'s ruling that a woman who accepted delayed **קידושין** may retract her agreement before the time comes due; since that is speech canceling speech; here, the **גט** hasn't been cancelled, only the dispatch
 - b **ר' ששת** – the **גט** may no longer be used
- VII Analysis of penultimate clause – the original practice that necessitated **ר"ג הזקן**
- a **ר' נחמן**: He would cancel in front of 2 –
 - b **ר' ששת** – he would cancel in front of 3 – since the **משנה** says he would make a "**בית דין**" and cancel
 - i *response* (**ר"ג**): 2 are also called a **ב"ד**, as per the wording of **י:ד** – **שביעית** (2) – "**פלוני ופלוני**" are called **דיינים** (**פלוני**)
 - 1 *deflection* (**ר"ש**): the **תנא** isn't going to go on unnecessarily (understood that there is a third **פלוני**)
 - ii *2nd proof* (**ר"ג**): in same **משנה**, it states that the **דיינים** or **עדים** sign below; **דיינים::עדים** → 2
 - 1 *deflection*: each as per his number (**עדים** – 2; **דיינים** – 3)
 - (a) reason for stating **עדים** and **דיינים**:
 - (i) it's valid even if it's written from the perspective of **דיינים** and signed by **עדים** or vice-versa