YESHIVAT HAR ETZION

ISRAEL KOSCHITZKY VIRTUAL BEIT MIDRASH (VBM)

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**TALMUDIC METHODOLOGY**

**By Rav Moshe Taragin**

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Dedicated in memory of Rabbi Jack Sable z”l and

Ambassador Yehuda Avner z”l

By Debbi and David Sable

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**Shiur #02: Drafting a *Get* in *Keritut* Syntax**

The Torah describes the process of divorcing a woman with a very dramatic qualifier – “*keritut*.” Broadly, this word can be understood as demanding finality. The *get* process cannot be temporary or inconclusive.

The most obvious (and unanimously accepted) definition of *keritut* surrounds the anatomy of the *ma’aseh geirushin*, the delivery of the *get*. The primary application of the principle appears in the *gemara* in *Gittin* (78b) surrounding an inconclusive delivery of the *get*. For example, a husband cannot deliver *get* that is still tethered to a string that he clutches. Since he can always retrieve the *get* by drawing the string, this delivery is never final, whereas the act of giving the *get* must be characterized by *keritut*.

A second possible application surrounds the halakhic process itself, known as the “*challos*.” The effect of the get or halakhic transformation process must be definitive and independent of external factors. For example, a husband cannot predicate a *get* upon a woman never visiting her father or never drinking wine. If there are post-*get* lingering limitations upon the woman (which if not adhered to will subvert the validity of the *get*), the *get* is not considered a conclusive and final *get* since it fails to meet the criteria of *keritut*.

In addition, a person cannot deliver a *get* and condition it upon the wife never marrying a specific person. R. Eliezer (cited in the mishna in Gittin 82b) famously argued that this *get* would be valid, but most opinions rejected his minority position. Since her future options remained limited by the delivery of the *get*, this *get* also fails to be complete and unconditional.

To summarize: The requirement of *keritut* for a *get* typically applies to the type of delivery or the finality of the *get* itself.

Several *gemarot*, however, imply that *keritut* ALSO qualifies the type of language used to draft the *get.*

Perhaps the clearest and most well-known expression can be detected in a *gemara* in *Nedarim* (5b) that suggests that abbreviated language – known as *yadayim* – would be unacceptable for a *get*. For example, a person must deliver a *get* whose text makes it clear that “this document” is effecting the *get –* he must employ the term *“v’dein*.” Even if it is clear that he intends to use the document, without direct attribution, the *get* is not considered *keritut* and is therefore invalid. This requirement of *keritut* does not relate to the act of delivery or to the process of the *get*, but rather to the actual syntax of the bill of divorce. Of course, this is only one opinion recorded in the *gemara* in *Nedarim*, but it certainly constitutes a dramatic expansion of the *keritut* requirement.

A second application of *keritut* to the syntax of a *get* can be found in an interesting Ritva in *Kiddushin*. The simple reading of the *gemara* in *Gittin* (21) implies that the actual names of the husband and wife are not Biblically required in a *get*. After all, the man deposits the bill of divorce to his wife, so names should not be necessary. However, the Ritva (Kiddushin 9) claims that without names, the language of the *get* is not inherently clear and cannot be considered *keritut*. Even though the context can help identify the participants, the language itself does not broadcast this information, and it therefore suffers a deficiency of *keritut*.

Perhaps the most obvious indicator that *keritut* shapes the language of the *get* itself is the inability to qualify a *get*. The *gemara* in *Gittin* (82a) disqualifies a *get* that was written with the caveat that the woman is still forbidden to marry a particular person. Just as the *get* cannot be delivered with that intent, the *get* may also not be written with that clause.

Many *Rishonim* assume that writing this exclusionary caveat in the *get* invalidates the *get* because the husband may not cancel this condition and may actually issue the *get* to his wife and limit her ability to marry other people. By writing the term “*chutz*” (“except for”) in the *get*, there is high likelihood that the *get* will indeed be delivered with this condition, and this type of *get* is invalid (at least according to the *Chakhamim*, who disagreed with R. Eliezer). As such, writing the term “*chutz*” in a *get* would be invalid *mi-derabbanan*, but certainly not fundamentally.

Tosafot(84b) s.v. “*im*,” however, disagree, claiming that if the term “*chutz*” is included in the syntax of the *get*, the *get* is fundamentally flawed since it was not drafted in a manner of *keritut*, as at least one person is omitted from the release of the *get.* Even if the word “*chutz*” were erased, the *get* would still be invalid, since the “writing process” was not defined as *keritut*! Tosafot claim that the syntax of the *get* must be defined by *keritut*. Even if the husband reverses his original plan and delivers the *get* intending a comprehensive release, the *get* is still invalid.

The ensuing *gemara* records a *machloket* between Rebbi and the *Chakhamim* about including conditions in the syntax of the *get*. The *gemara* debates the terms of the disagreement, but Rava claims that if the condition is included in the primary part of the *get* (the *toref*), all opinions would disqualify the *get*. Even if the husband MAY deliver the *get* contingent upon a certain condition, he cannot include it within the primary text of the *get*. The Tosafot Rid explains this very unusual limitation based on the principle of *keritut*. Since the text must be conclusive and final, it cannot include any contingencies – even those that can be verbally articulated at the point of issuing the *get.* Evidently the Tosafot Rid agreed with Tosafot that *keritut* governs the syntax of the ‘get.’ The text must be written in an absolute and unconditional manner!