

# The Jewish Laws of Divorce – Get

According to the Old Testament, a Jewish marriage is ended when the husband gives his wife a document, a 'get'. This get is written by a scribe and presented in the presence of a rabbinic court and qualified witnesses. This tradition is based on the biblical verse "A man takes a wife and possesses her. If she fails to please him because he finds something obnoxious about her, he writes her a bill of divorcement, hands it to her, and sends her away from his house... (Deuteronomy 24:1).

## English Translation of the GET Document

*"On the \_\_\_\_\_ day of the week, the \_\_\_\_\_ day of the month of \_\_\_\_\_ in the year \_\_\_\_\_ from the creation of the world according to the calendar reckoning we are accustomed to count here, in the city \_\_\_\_\_, which is located on the river \_\_\_\_\_, and situated near wells of water, I, \_\_\_\_\_, the son of \_\_\_\_\_, who today am present in the city \_\_\_\_\_, which is located on the river \_\_\_\_\_, and situated near wells of water, do willingly consent, being under no restraint, to release, to set free and put aside thee, my wife \_\_\_\_\_, daughter of \_\_\_\_\_, who art today in the city of \_\_\_\_\_, which is located on the river \_\_\_\_\_, and situated near wells of water, who has been my wife from before. Thus do I set free, release thee, and put thee aside, in order that thou may have permission and the authority over thy self to go and marry any man thou may desire. No person may hinder thee from this day onward, and thou are permitted to every man. This shall be for thee from me a bill of dismissal, a letter of release, and a document of freedom, in accordance with the law of Moses and the Sages Israel."*

## **Judaism and Divorce**

Judaism looks with disfavor upon divorce; however, it is not prohibited and even encouraged in certain cases. The rabbis of the Talmud considered marriage a holy contract, and the dissolution of marriage an unholy act. They quote the prophet Malachi, "...the Lord has been witness between you and your wife of your youth against whom you have dealt treacherously, though she is your companion, the wife of your covenant" (2:14). They add in Sanhedrin (22a), "Even God shares tears when anyone divorces his wife."

In biblical law a husband has the right to divorce his wife, but a wife cannot initiate a divorce. About 1,000 years ago, Rebbeinu Gershom ben Yehuda (965-1028) decreed that a husband could no longer divorce his wife without her consent. This decision was accepted as binding by European Jewry.

### **Why Is A 'Get' Needed?**

According to Jewish law, neither person can remarry until the wife accepts a 'get' from her husband. Without the 'Get', any children borne by the woman would be considered illegitimate and do not get the status of children born to a Jewish mother. This stigma would mean that the child, often called mamzerim, could not marry another Jew unless that Jew is also in the same situation, i.e. a mamzer.

Traditional Jewish law (Halacha) and traditional Judaism i.e. Orthodox and Conservative rabbis may require a 'Get' for the dissolution of a marriage before either couple can remarry. The government of the State of Israel also requires a 'get' as formal dissolution of a marriage between two Jewish people.

When a Jewish couple marries in a Jewish wedding ceremony, two distinct legal systems recognize the marriage: (1) American civil law; and (2) Jewish law. If a marital relationship dissolves and one or both parties want a divorce, American civil law requires that the moving party bring an action into an American court of law. Assuming proper grounds exist for a divorce, the court will order a divorce and American civil law will consider the marriage terminated. Case closed, right? Wrong. A secular, or civil, divorce has no religious validity in dissolving the marital ties of the Jewish couple. In other words, a civilly divorced couple is still married according to Jewish law until a Jewish divorce has been granted; that is, Jewish law will consider the parties still married until such time as distinct Jewish religious legal proceedings are performed. In order for a divorce to be complete, thus severing all marital ties of a couple, a Jewish husband must issue his wife a *GET*.

### **What is a GET**

*GET* is the Hebrew word for divorce document. Since a Jewish marriage is entered into by the issuance of a legal contract between husband and wife, it can

be terminated only by the issuance of a legal writ nullifying the original contract. According to Jewish law, a marriage is not dissolved until a bill of divorce, *GET*, is exchanged between husband and wife. A competent Rabbi will not officiate at a wedding if either party has been divorced without a *GET*.

A Jewish Divorce is similar to many present day legal transactions. A divorce contract is drawn up under rabbinical supervision and signed by witnesses. The husband and wife are NOT subject to personal questions. If they choose to, they need not be present together. A Jewish divorce usually takes an hour or two, during which time the *GET* is prepared and executed. The parties are expected to provide proof of identification, and will be asked some formal questions to make it clear that the *GET* is being executed on their behalf without coercion.

Since the writing of a *GET* is a complex and delicate matter, a Jewish divorce must be conducted by experts. "Those [rabbis] who are not well-versed in the intricacies of marriage and divorce may not participate in divorce proceedings" (*Kiddushin* 6a).

Based upon the statement in Deuteronomy (24:1), which states that when a man wants to divorce his wife, "then let him write her a bill of divorcement," the Rabbis conclude that a *GET* must be handwritten by a scribe for the occasion. The document is written in aramaic as this was the vernacular during the mishnaic and talmudic periods. Proper witnesses must be present at the time of the writing of the document and at its delivery.

### **The GET Process**

No religious rituals are involved in the 'Get' process. Jewish divorce proceedings have not changed much over the last several thousand years and it is similar to most present-day legal transactions. Under the direction of a Rabbi, the husband authorizes the scribe to draw up the divorce document ('Get') in front of two witnesses who then signs it and the husband presents it to the wife at which point the divorce takes effect.

A 'Get' makes no reference to responsibility or fault. It has no bearing or effect on any aspect of the civil settlement and does not subject either party to personal questions. As long as there is mutual consent, there is no need to state the grounds for divorce. Although religious in nature, the process involves no ceremonies, prayers, blessings, or professions of faith at all. It is a no-fault document that certifies the fact that a couple is now free to remarry according to Jewish law.

The *GET* proceedings may roughly be broken down into the following nine steps:

- (1) The parties appear before a rabbi learned in the laws of divorce, a scribe, and two witnesses;
- (2) The husband requests that the scribe write the *GET* for his wife, which the scribe then proceeds to do using a special quill pen;
- (3) The husband declares that he is giving the *GET* of his own free will, and a similar declaration is made by the wife concerning its receipt;
- (4) At this point, the *GET* is then signed by the two witnesses;
- (5) The parties are again questioned as to whether they are giving and accepting the *GET* voluntarily.
- (6) the husband takes the *GET* and drops it directly into his wife's cupped hands, stating: "This is your *GET* and accept this as your *GET*, you shall therewith be divorced from me, you are untied free and permitted to any man";
- (7) She then places the *GET* under her arm and symbolically leaves by turning and moving several steps away;
- (8) the divorcée then returns and the *GET* is taken from her by the officiating rabbi who tears the *GET* crosswise; and
- (9) finally, the divorced woman is given a Divorce Certificate to prove her divorced status, and the process is over.

From the Jewish religious standpoint, once a husband issues his wife a *GET*, it completely severs his marital relationship, even if they are not civilly divorced. This is a rather simple process.

Regardless of one's personal convictions or practices, or one's affiliation, if you are Jewish, obtaining a *GET* is important. This simple procedure does more than just assure the couple that they will be free to remarry should they so desire. It also prevents a tragic problem; a child born to a Jewish woman whose previous marriage did not terminate with a *GET* may be considered illegitimate. Any Jew, whether observant or nonobservant, needs to share in the concern for Jewish unity and in providing their children with a clean slate for the future.

## **New Testament**

By the time of Christ, there was a split in the Jewish community over the issue of divorce. One view held that a Jew could divorce his wife at any time and for any reason what so ever. This led to the practice of people divorcing their wife for an evening so that they could have relations with another woman and not have it be considered adultery. The second view was that divorce could only be for good

cause, and a temporary divorce for the purpose of a new sexual relationship, was still adultery.

The Pharisees used this argument to try and trap Jesus. Whichever side of this Jewish argument Jesus would take, he would upset and alienate the other side. Jesus did not fall for it. Rather, he responded by pointing out that God does not want us to divorce at all. Moses allowed it due to the hardness of man's heart. God was not condoning divorce, but rather Moses was establishing Jewish law structured to protect us from the results of our own sinful actions by regulating a process of divorce, as wrong as the divorce itself was.

3 Some Pharisees came to him to test him. They asked, "Is it lawful for a man to divorce his wife for any and every reason?"

4 "Haven't you read," he replied, "that at the beginning the Creator 'made them male and female, 5 and said, 'For this reason a man will leave his father and mother and be united to his wife, and the two will become one flesh'? 6 So they are no longer two, but one. Therefore what God has joined together, let man not separate."

7 "Why then," they asked, "did Moses command that a man give his wife a certificate of divorce and send her away?"

8 Jesus replied, "Moses permitted you to divorce your wives because your hearts were hard. But it was not this way from the beginning. 9 I tell you that anyone who divorces his wife, except for marital unfaithfulness, and marries another woman commits adultery."