

Dear Shearith Israel family,

We interrupt this broadcast to bring you this important message: As you can't help but know, we in NYC and much of the rest of the country are experiencing negative outdoor air quality caused by wildfires in Canada. The authorities have issued an air quality health advisory for our region. This hazard should be taken seriously; poor air quality can have negative health impacts on everyone but especially people with existing health problems such as asthma, heart disease, and other chronic conditions. Our elders as well as our children are especially vulnerable. Please follow the public recommendations for your own safety, and over the next few days, consider checking in on family, friends, and neighbors who may be at higher risk.

**Covid-19 Update.** Wastewater analysis in NYC shows an uptick in Covid-19 infections. Reported transmission levels, however, continue to be low. Here at Shearith Israel, we remain vigilant, business as usual:



We have returned to our small synagogue for weekday as well as for Friday night and Shabbat afternoon services. Yes, with strong attendance on Friday night, that space felt a bit cramped (and a couple of individuals chose to don masks without complaint). But frankly it's a wonderful feeling to be back in our small, familiar space – basically after three years. You should come and enjoy a service with us there. It is intimate, and the bonds of fellowship that are formed from helping to make minyan creates well-being that lasts.

**Gittin Harder to Justify.** I received a few supportive responses to my hypothesis that:

*The Jewish approach to divorce is about as enlightened and fair-minded a system as any operating within the constraints of dealing with fallible human beings could be.*

Last week, I tried to show that the Talmudic pages of Tractate Gittin that we were then studying as part of the worldwide Daf Yomi learning cycle were replete with laws and explanations that were definitely consistent with my hypothesis. I think the same holds true for this week's pages (19-26). Indeed, as we finish the Second Chapter of the Tractate (~pages 23-24), we read two authoritative Mishnaot that clearly reflect efforts by our Sages to make it relatively easier for Wives to receive effective *gets*.

Yet on the whole the commentary has not supported my hypothesis. Claude Nadaf takes issue with the whole enterprise of trying to show the Rabbi's making proactive efforts to make Jewish divorce effective and available. He corrects my assertion that the Rabbi's did anything very much by reminding us that divorce is sanctioned by the Torah itself (Devarim 24:1, et seq). I'm not sure that's a complete counter-argument. After all, the Rabbis legislated in this area in highly detailed and significant ways. And wasn't it Claude himself who suggested that the only thing we could do is wait for another Sanhedrin to change the apparently lopsided rules, conceding that Rabbinic authority had a lot to say on this matter?

Speaking to that issue of waiting, David Sable is less than his usual charitable self. Is he right when he decries:

*The absurdity of having to wait for a process [a new Sanhedrin, which was one of last week's suggestions] that will never happen again goes against everything Judaism was back then. The very point is "live by them". The current adherence to the Talmudic divorce code is wrong...in my opinion.*

The reason I can't subscribe to David's position is that it overlooks just how much our Sages did to level a playing field that a social structure of a less-than-level playing field imposed on the whole society.

Judge Alvin Hellerstein, who commented so, uhm, judiciously on the predicament presented by Tractate Sotah ([email of April 20, 2023](#)), is also not a fan of waiting for a new Sanhedrin. The Judge says:

*Waiting for the Sanhedrin brings to mind Waiting for Godot — an endless wait.*

The Judge does, however, offer an alternative:

*But there is a remedy inherent in equity jurisdiction and, I believe, in Halacha. A court, faced with an intransigent defendant who refuses to do what in equity he should do, will do the act for him, and it will have the same force and effect as if the defendant did it himself. . . .*

*Why rabbis, and why a bet din, don't do this may be the result of political, rather than legal, constraints, as if to reserve intelligent legal flexibility to Conservative Judaism and to take (false) pride in the integrity [of](never-changing) Halacha.*

I feel like I'm swimming upstream on this. But I want to try one more time. We all acknowledge that we need to address the issue of the recalcitrant husband, who out of spite refuses to give his wife a *get*. It may be that those cases have to be taken up as somewhat rare and in any case singular or particularized challenges, each to be dealt with based on unique circumstances that do or may exist there. We can all applaud Judge Hellerstein's suggestion that Jewish law find a way further to level the playing field. As he says, to support his idea of using equity:

*I hope that one of your enterprising (young) members will come up with a case and a Talmudic reference.*

My question is, haven't our Sages and Rabbis been doing that for centuries now? And haven't they been doing that with at least some effectiveness? For example, the Jewish prenuptial agreement, introduced 25 years ago, in which by Rabbi Mordechai Willig of Yeshiva University had a guiding hand in consultation with halachic and legal experts, tries to ensure that neither side can use the *get* as a bargaining chip. According to [this 2019 JTA article](#), around 84 percent of Modern Orthodox rabbis in the United States require couples they marry to sign the prenu. Let's not forget that a lot rides on getting it right. Missteps lead to bastards.

So what are we disagreeing about? It can't be about whether the law of Jewish divorce tries to make accommodations to help Wives. That we see, over and over again in the Talmud. Is it that the playing field is not absolutely level? That can't really be expected, can it? The playing field is not level going into the marriage either.

I think that what is troubling to most of us is that the system of Jewish divorce works well when Husband and Wife are acting in good faith and rationally. It's one thing to be wrong, and the laws are there as a corrective. At the same time, it is quite another to be motivated by bad faith or to act irrationally. The system breaks down when one of the parties is willing to act in bad faith or irrationally. Ok, so is that the nub of the problem?

If it is, I have an unfortunate secret. In my day job of litigation, as Judge Hellerstein and everyone else in my business knows, it is very hard for courts to right wrongs by a party willing to act in bad faith or irrationally. I have, oh, a zillion examples from a career of practice. Examples abound in both commercial and personal cases.

It may be that the personalized approach to doing justice that characterizes equity jurisdiction, as Judge Hellerstein proposes, is the best we will be able to do in the hopefully rare case of irrational or spiteful behavior. It may be that other solutions are available. In the meantime, we don't have to wait for a new Sanhedrin, or the Messiah, or Godot. Our religious leaders and Halachic decisors have ample ammunition to figure out how to dispense justice.

***Built Back Better.***

**Spring Song Book.** As of last week, the more than two dozen great tunes on our collective list weighted heavily toward tunes from movies and shows ([see email of June 1, 2023](#)). Given my prod -- wondering if anyone listened to Rock N' Roll any more -- the sleeping (David) Sable sprang from his Springtime soporific. He crushed the list with eleventeen Spring or Spring-like mostly R&R songs. (BTW, David has what to me appears to be an *unparalleled* Spotify list of over 35 hours of hand-picked and outstanding rock songs. Beg him to share it with you.) Among David's best Spring or Spring-like choices are:

- [Waiting For The Sun](#) by The Doors
- [It's a Beautiful Morning](#) The Rascals
- [Here Comes The Sun](#) by The Beatles
- [Mr. Blue Sky](#) by ELO
- [Take Me Out to the Ball Game](#)
- [Spring Vacation](#) by The Beach Boys
- [The Rain Song](#) by Led Zeppelin
- [I Can See Clearly Now](#) by Jimmy Cliff
- [Daydream](#) by The Lovin' Spoonful

Lynette Gruenhut also adds a great one, which is actually a Spring song:

- [The Lullaby of Spring](#), by Donovan, which to be honest sounds like all the other Donovan songs, but is neat.

And, if we are going to permit ELO's *Mr. Blue Sky*, then surely

- [Blue Skies](#), written by Irving Berlin, which is among the super-great melodies of all time (major/minor/syncopation) merits inclusion, here by the incomparable Ella Fitzgerald

How about 1-2 more weeks (as summer is nearly upon us), and then we will give this a wrap. If you've got great Spring songs, or Spring-like songs, send them in.

**One for the Books.** I hope we have one more minute for a truly good read. Debby Sondheim, book reader extraordinaire, told me that *A Gentleman in Moscow*, by Amor Towles, was "one of the best books I have ever read. Amazing. The writing, the ideas, the characters, all of it - just breathtaking."

With Debby's recommendation, I too just read it. It is a great book for all the reasons Debby said. I have to say that the book was on track for being "among the very best" until, about three-quarters of the way in, it got kitschy. This was unnecessary; the author has such extraordinary control over language, plot, and perceptivity that he didn't need the gimmicks (no I won't tell you what they were until you read it!). It is an exceptional novel. Read it, and send in your thoughts.

Thank you all. Bless us all. Shabbat shalom. Here! *Kaminando kon Buenos*.

Louis Solomon, Parnas