



Volume 3. Issue 38

Kidushin

A woman is “acquired” in three ways in three ways... with money, a contract or marital relations.

Kidushin (1:1)

The above *Mishnah*, the first of the new masechet, discusses the various means of performing *kidushin* – halachic engagement. Traditionally *kidushin* and *nisuin* (marriage) were distinct ceremonies with a significant break in time between them. Nowadays however, both *kidushin* and *nisuin* are performed together.

The first *Mishnah* however leaves us with a number of questions. What exactly is being achieved by *kidushin*? Why is it performed in such a mundane manner? Why does the *Mishnah* use the language of “acquisition”? Is marriage really equivalent to purchasing a property?!

Indeed when finding a source for the use of money for *kidushin*, the *Gemara* draws a linguistic parallel between the *pasuk* describing a man “taking” a wife (*yi'kach*) and the *pasuk* that describes the transaction between *Avraham* and *Efron* when he purchased *ma'arat ha'machpela* (“*kach*”). This may lead some to believe that the *Gemara* is equating one's wife with property.

The *Avnei Miluim* flatly rejects any such notion bring multiple proofs that an *arusa* (a woman having undergone *kidushin*) is not anyone's “property”. The reference to acquisition (*kinyan* and in other contexts *kinyan kaspo*) is not monetary, but rather termed “*kinyan issurim*”. In other words, through *kidushin* the husband acquires a *kinyan issur* in that the wife is prohibited to all other men by virtue of being an *eshet ish*.¹

Other *Rishonim* elaborate further explaining that the parallel drawn to *Sde Efron* is for the purpose of teaching that the language of *kicha* implies a transaction or acquisition using money, and certainly not to equate a wife with property.

At first then this appears strange – why going through such mundane motions to bring about something so sacred. The

Maharshal points out the *kinyanim* do indeed exist in the world of *kedusha* (which is also referred to as *kidushin*). For example the concept of a *kinyan* is found with respect to *ma'aser sheni*. Consequently a *kinyan* in *kidushin* is not necessarily novel. Nonetheless, why is it employed?

The *Rambam*, when beginning the laws of marriage (*Ishut*) writes as follows:

Prior to the giving of the *Torah*, a man would meet a woman in the marketplace. If he wanted her and she wanted him, he would bring her home, have marital relations privately and she would be his wife. Once the *Torah* was given, *Yisrael* was commanded that if a man wanted to marry a woman he would first “acquire” here in front of witnesses. After that she could be his wife...

Matan Torah brought with it the innovation of this intermediate stage prior to marriage – *kidushin*. It also brought the novelty that *kinyan* can affect the world of *issurim*. Why? Rav Michael Rosensweig explains that these structured and monetary motion functions as a solid choosing of one's spouse in contrast to the whimsical means of partnering that preceded it.

Rav Rosensweig continues to explain that this is the reason for the strange text of the *bracha* recited on *eirusin*:

Blessed are you *Hashem*... Who has sanctified us with His commandments, and has commanded us regarding forbidden unions; who forbade betrothed woman to us, and permitted women who are married to us through canopy and consecration. Blessed are You *Hashem*, Who sanctifies His people Israel through canopy and consecration.

The reference to *issurim* and *mutarim* is now completely relevant. The extended text tells the story of the inherent difference between *ishut* (Jewish marriage) and *znut* (promiscuity); it is this fixed middle stage. *Kidushin* itself represents the very sanctity of *Am Yisrael*. That is why it ends with *mekadesh yisrael*.²

David Bankier

¹ See perhaps a similar understanding in the *Ran Kidushin* 2a s.v. *Ha'Isha*

² Rav Rosensweig uses this to explain the *Rambam's* opinion that there is *mitzvah* of *kidushin* (see *ketoret Hilchot Ishut*). This would appear strange.

Why should there be a *mitzvah* on a *kinyan* that is *oser*? If the *kinyan* is understood as a solid choosing of such importance, the *mitzvah* is well understood.

Revision Questions

גיטין ח' ח' – ט' י'

- What is the law regarding a case where the *sofer* mistakenly gave the *get* to the wife and the *shovar* to the husband, and the husband gave the wife the *shovar* thinking it was the *get* and the wife gave the husband the *get* thinking it was the *shovar*? (ח' ח')
- What is *R' Eliezer's* opinion regarding the previous question? (ח' ח')
- Can a woman marry a *kohen* if she was handed a *get* on a condition and the condition was not fulfilled (and then the husband subsequently died)? (ח' ח')
- In which case do *Beit Shammai* and *Beit Hillel* argue about, where a husband that divorced his wife is required to give her another *get*? (ח' ט')
- What is a *get kereach*? (ח' ט-י')
- Explain the debate regarding how a *get kereach* can be fixed? (י' ח')
- According to who is a *get* invalid if it was given on the condition that the wife would not marry a particular person? (א' ט')
- How and when can this be fixed? (א' ט')
- When do we say that such a condition is not problematic? (ט' ב')
- What is the essential wording of a *get*? (ט' ג')
- Which three *gittin* are invalid, yet if the woman remarries and has children using this *get*, the children are not *mamzerim*? (ט' ד')
- What can be done if two *gittin* (with the same names from different people) were mixed up on the way to the wives? (ט' ה')
- Can a single *get* be used for multiple divorces? (ט' ה')
- In what case can having Greek signatures on a *get* be problematic and why? (ט' ו')
- Can a *get* be written on two sides of a page? (ט' ז')
- Where are the valid locations on a *get* for the signatures of the witnesses? (ט' ז')
- Can a *get* be written in Hebrew and the signatures be in Greek? (ח' ט')
- Is a signature valid if it is just the person's name without the father's name (i.e. missing "*ben Ploni*")? (ח' ט')
- What is a *get me'useh* and is it valid? (ח' ט')
- What is an *amatlah* and how is important in the law of *gittin*? (ט' ט')
- List the three opinions regarding what is considered adequate grounds for divorce. (ט' י')

קידושין א' א'

- What are the three means of *kiddushin*? (א' א')
- What are the two ways a woman leaves a marriage? (א' א')

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Between mincha & ma'ariv
Mizrachi Shul

Friday & Shabbat
10 minutes before mincha
Mizrachi Shul

Audio Shiurim on-line!

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Next Week's Mishnayot...

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	שבת קודש
29 th April י"א אייר	30 th April י"ב אייר	1 st April י"ג אייר	2 nd April י"ד אייר	3 rd April ט"ו אייר	4 th April ט"ז אייר	5 th April י"ז אייר
Kidushin 1:2-3	Kidushin 1:4-5	Kidushin 1:6-7	Kidushin 1:8-9	Kidushin 1:10-2:1	Kidushin 2:2-3	Kidushin 2:4-5

