



Volume 3. Issue 40

## Pre-Marital Gifts

This week we revisited the law that *kidushin* performed with money or an object of monetary value, must be worth at least a half a *prutah*. If a man attempts to perform *kidushin* with less than a *prutah*, *kidushin* has not been performed. The *Mishnah* (2:6) taught that this is still the case even if the gentlemen subsequently sent her gifts of a far greater value than this minimum requirement. The *Mishnah* explains that the reason why these gifts do not help is because they were presumably sent to her under the assumption that the original transaction affected the *kidushin*. Consequently these gifts were sent simply as gifts and not for the purpose of *kidushin*.

A discussion in the *Gemara* ensues regarding the significance of gifts given prior to married. The *Gemara* concludes that in a place where in general gifts are given prior to *kidushin*, we are not concerned. However, in a place where gifts are given only after *kidushin* we are concerned.

The *Rishonim* debate the exact point of concern. *Rashi* explains that the *Gemara* is discussing a case where the couple have undergone *shiduchin*. *Shiduchin* refers to where the couple have agreed to marry but as yet have not even undergone *kidushin*. Today, we would commonly refer to it as engagement. During this period the man sent the woman these gifts<sup>1</sup>. *Rashi* explains that we are concerned having sent the gifts with two witnesses, he intended that the gifts would be for the purpose of *kidushin*. Consequently if someone else consequently performs *kidushin*, we are concerned that *kidushin* might have been already performed by the original man by virtue of the gifts and thus we require a *get* from both men.

The *Tosfot* points out a difficulty in *Rashi*'s understanding, explaining that if a man gives a

woman of a gift for the purpose of *kidushin*, they have to be engaged in discussion about getting married otherwise it is meaningless. The *Ritva* answers this difficulty, explaining that since they have already undergone *shiduchin*, part of the concern is that perhaps they agreed that he would send her a gift later for the purpose of *kidushin*.

Nonetheless the *Tosfot* provide a different explanation. They understand that since the prevalent custom in the area is that gifts are only sent after *kidushin*, the concern is that *kidushin* has already been performed at an earlier date. Furthermore, the *Ritva* explains that the lack of witnesses does not abate our concern, as the witnesses may have since travelled overseas. The *Rambam* who understands similarly explains that in such a case, despite the fact that the prevalent custom is to send gifts after marriage, the requirement for a *get* is still only on the level of a doubt. The *Haghot Maymoniyot* explains that this is because we are also still concerned for the minority of that place who send gifts prior to marriage. The *Ritva* points out that according to this understanding, the concern is still present even if the gifts were not sent with witnesses.<sup>2</sup>

One may ask, according to the *Tosfot*, why not simply ask him or her if they had already performed *kidushin*? To this the *Mordechai* explains that in this case the husband is arguing that *kidushin* was performed while the wife denies it.

In summary we have two understanding of the concern regarding gifts sent in a place where gift are not normally sent prior to *kidushin*. The first, *Rashi*'s, is that the gift itself may be an act of *kidushin*. The second, *Tosfot*'s, is that the gifts may be indicative that *kidushin* might have already been performed.

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<sup>1</sup> The *Ritva* explains that the case must refer to *shiduchin*, otherwise we would never be concerned that a man sending a single woman a gift would be for the purpose of *kidushin*.

<sup>2</sup> See the *Ritva* for further differences.

### Revision Questions

קידושין ב' - ג' ט'

- Can a man perform *kidushin* with an item of value less than a *prutah*? (ב' ר')
- Does it help if he sends her gifts later of a much higher value? (ר' ר')
- Can a man perform *kidushin* to two women with one *prutah*? (ב' ר')
- What is the law regarding a case where a man attempts to *mekadesh* a mother and daughter at the same time? (ז' ר')
- What is the law regarding a case where a man attempts to *mekadesh* a group of women, two of which are sisters? (ז' ב')
- Can a person perform *kiddushin* with:
  - *Matanot kehunah*?
  - *Ma'aser sheni*?
  - *Hekdesh*? (ח' ר')
  - *Orlah*?
  - *Basar be'chalav*?
  - The money made from selling *kilei kerem*? (ב' ט')
  - *Trumah*?
  - *Mei Chatat*? (י' ב')
- What is the law regarding the case where a person sends a *shaliach* to perform *kiddushin*, and the *shaliach* marries the woman himself? (א' ג')
- What is the law regarding the case where a person is *mekadesh* a woman on the condition that it takes effect in thirty days, and in that time another person performs *kiddushin*? (א' ג')
- Can *kiddushin* be performed on the condition that he will give her a sum of money? (ג' ב')
- What is the difference if he stipulated as a condition in *kiddushin* the he "has 200 *zuz*" and he "will show her 200 *zuz*"? (ג' ב')
- What case is brought that is similar to the previous question? (ג' ג')
- According to *R' Meir* what qualifies as a satisfactory condition? (ד' ג')
- What is the law regarding a case where a man says "when I married you I thought you were *bat Kohen*" and she is really a *bat Levi*? (ה' ג')
- Can a person *mekadeh* a married woman now, in case her husband dies? (ה' ג')
- What is the law regarding the case where a person performs *kiddushin* on the condition her father consents? (ו' ר')
- Regarding the previous case what if her father subsequently dies? Or what if instead the husband dies? (ו' ג')
- What is the law regarding the case where a man says that he marries off his daughter but he does not know to who, and then someone says it was him? (ז' ג')
- Regarding the previous case what if two people say it was them? (ז' ז')
- Is a person believed if he said regarding his daughter that he married her off and subsequently accepted her *get* when she was a *katan*? (ח' ר')
- Is a man on his death bed believed if he says he has children? Or if he says he has brothers? (Why is this important?) (ח' ג')
- What is the law regarding the case where a person who has two wives and two daughters for each of the wives says that he married off his "big" daughter? (ט' ט')

### Local Shiurim

**Sunday -Thursday**  
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
13 <sup>th</sup> May כ"ה אייר	14 <sup>th</sup> May כ"ו אייר	15 <sup>th</sup> May כ"ז אייר	16 <sup>th</sup> May כ"ח אייר	17 <sup>th</sup> May כ"ט אייר	18 <sup>th</sup> May א' סיון	19 <sup>th</sup> May ב' סיון
Kidushin 3:10-11	Kidushin 3:12-13	Kidushin 4:1-2	Kidushin 4:3-4	Kidushin 4:5-6	Kidushin 4:7-8	Kidushin 4:9-10

