

TIME 4 MISHNA



Summaries

קידושין

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summaries קידושיין

time4mishna@gmail.com

א - 1 • How people and things can be acquired:

- 1) A **woman**: Receiving **money** or a **document** or having **relations**.
 - **דינר**: 'Money' includes anything worth at least a **דינר**.
 - **בית הלל**: At least a **פרוטה**.
 - She can reacquire herself to be free to marry another man by receiving a **גט** or her **husband dying**.
- 2) A **יבמה** – one whose husband has died without children: Having relations for **יבום**.
 - She can acquire herself by performing **חליצה** or the **יבום dying**.
- 3) A **Jewish servant**: Receiving **money** if he sells himself, or the person from whom he stole receiving it if he is sold by **בית דין**, or the seller writing a **document**.
 - He can reacquire himself by serving for the amount of **years** for which he was sold, if a **יובל** year occurs or by **paying** his master the amount he paid for the remaining years of his service.
 - A **girl** can also reacquire herself by developing **signs of maturity**.
 - If he wants to **remain a slave**, he is acquired by his **ear being pierced**, and reacquires himself when a **יובל** year occurs or his **master dies**.
- 4) A **non-Jewish servant**: Receiving **money** or a **document** or being **used as a servant**.
 - **ר' מאיר**: He can reacquire himself by others **paying his master** since '**מה** – **שקנה עבד קנה רבו**' – whatever he owns is owned by his master, or by **receiving a document** from his master personally, since '**אין חבין לאדם שלא**' – one can only do something disadvantageous for somebody in his presence.
 - חכמים**: He can even pay the master himself, since if somebody specifically gives him something then he can own it, and somebody else can receive the document for him, since being freed is a '**זכות**' – advantage.
- 5) A **large animal**: '**מסירה**' – the seller **giving** it to the buyer.
- 6) A **small animal**: '**ר' מאיר + ר' אלעזר**' – **הגבהה** – **lifting** it, since it's commonly done.
 - חכמים**: Even '**משיכה**' – **pulling** or making the animal walk.
- 7) **קרקע** – land: The buyer paying **money**, receiving a **document** or '**חזקה**' – showing that it's his by **using it**, e.g. setting up a fence.
- 8) **מיטלטלין** – movable things: **מסירה**, **הגבהה**, **משיכה** and **קרקע**.
 - No '**קנין**' – acquisition – is required for מיטלטלין if they are **bought with קרקע**.
 - If someone is **forced to swear** that he doesn't have someone's מיטלטלין, he can be forced about land too via '**גלגול שבועה**' – extending an oath.
 - If one uses '**חליפין**' – **exchanging objects** – to buy something, then as soon as one person has made an acquisition, the other object is also acquired for the other one.
 - Something is acquired by **הקדש** as soon as it's paid for, and the donator can't go back on his pledge to **הקדש**, unlike a normal sale.

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- ז - י • **Who and what is obligated in which מצוות:**
 - 1) Obligations of a **parent**, e.g. to give one's son a בְּרִית מִילָה, only apply to **fathers**.
 - Obligations of a **child**, e.g. to honour one's parents, apply to **men and women**.
 - 2) 'מצוות עשה שהזמן גרמא' - **Positive time-bound** מצוות - only apply to **men**.
 - All other positive מצוות and all **negative מצוות** apply to **men and women**, except for the prohibitions of cutting the corners of one's hair (**פְּאוֹת**), destroying one's **beard** and a **טמא כהן** becoming **טהור**.
 - 3) Processes when bringing a קרבן which only apply to **men**:
 - סְמִיכָה, תְּנוּפָה, הַגָּשָׁה, קְמִיצָה, הַקְטָרָה, מְלִיקָה, הַזָּאָה, קִבְלָה** - leaning on the animal; waving parts of a קרבן; bringing a קרבן מנחה to the corner of the מזבח; taking a three-finger handful of flour from a קרבן מנחה; burning on the מזבח; cutting a bird's neck; sprinkling and receiving the blood.
 - 4) 'חובות קרקע' - obligations **regarding land**, e.g. separating the gifts from one's produce - only apply **in ישראל**, except for **ערלה** - the prohibition to benefit from a fruit tree in its first 3 years - and **כלאי הכרם** - 2 different species of seeds planted together in a vineyard.
 - קרבן העומר: Even **חדש** - the prohibition to eat the new produce before the קרבן העומר is offered up on פסח.
 - One who has performed **more מצוות than עבירות** merits **הבא עולם**.
 - One who involves himself in the **written and oral Torah** and **behaves properly** will not be quick to sin, and someone who isn't involved in any of these is bound to sin a lot and is therefore an **invalid witness**.

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- One may send a **messenger** to be מקדש – get engaged to – a woman on his behalf, and a woman or her father before she's fully matured may also send a messenger to receive her קידושין.
 - If one gives items to a woman as קידושין one at a time and doesn't mention קידושין each time, the **items combine** to make up the minimum value for קידושין to be valid.
 - If she eats each one before he gives her the next one, then it's only valid if the **last one** which he gives her is the minimum value, since the קידושין only takes place when she receives the last one.
- ב - ז • **קידושין which is conditional or dependent on something:**
- If he tells the woman to be engaged to him through this thing and it turns out that it was **something different**, it's 'קידושי טעות' – based on misinformation so **invalid**, even if it was worth more than she'd thought.

ר' שמעון: If she tells a messenger to accept קידושין from the husband and she specifies an item, and it turns out to be something **worth more** than that, it is **valid** since she meant that he should *even* – not *only* – accept that.

 - If he is מקדש her on condition that she **isn't bound by any vows** or that she has **no blemishes** on her body and it turns out that she does, it's קידושי טעות.
 - If he marries her without mentioning the condition, he must give her a גט since we assume he forgoes his condition so that his relations weren't with an unmarried woman and therefore illegal, however **she loses the right to her כתובה** since it's not definite that he forwent his condition and 'המוציא מחברו עליו הראיה' – one who tries to take money from someone must prove their right to it.
 - The blemish has to be significant enough that it would invalidate a בית המקדש כהן.
 - If he is מקדש her with a **condition which doesn't get fulfilled**, the קידושין is **invalid** even if she'd wanted to accept it unconditionally, since she didn't say so at the time.
 - If he tells a messenger to be מקדש her in a **certain location** and he does so elsewhere, it's **invalid** unless he only told him that she's there as a guidance.
 - If he's מקדש a woman with **less than the minimum** value, or he was a child when he was מקדש her so it was only valid מדרבנן, and he sends her more valuable gifts after that, they don't count as קידושין since that's not his intention.
 - If he is מקדש **2 sisters** at once, **neither קידושין is valid**.

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• What can be used for קידושיין: ה - י

- 1) **קרבנות** used by a כהן who receives them: **Invalid**, since they're 'ממון גבוה' - Hashem/המקדש's property.
- 2) **מעשר שני**: **Invalid**.
ר' מאיר: **Valid**, since it's 'ממון הדיוט' - his own property. But if she didn't know it was מעשר שני which she must eat in ירושלים, it's a **קידושי טעות**.
- 3) **הקדש** - something designated for the המקדש: **Valid** if done intentionally, since he intended to make it 'חולין' - non-הקדש - so it was his.
ר' מאיר: **Valid** if done by mistake, since it becomes חולין only in that case.
- 4) The **money exchanged for something whose benefit is forbidden**: **Valid**, since the prohibition isn't carried onto it.
- 5) **Things which go to a לוי/כהן**: **Valid** even for a ישראל who inherited it from his mother's father, since it's part of the inheritance and therefore he may charge a כהן for it.
- 6) The wages from dealing with the **פרה אדומה**: **Valid**, since wages from part of the מותר פרה אדומה service are מותר.

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- If a **messenger is מקדש** a woman for himself, it is **valid** even though had she known he was a messenger of someone else she might not have accepted his קידושיין.
- If one is מקדש a woman for it only to be **valid in 30 days' time**, then someone else's קידושיין to her within 30 days is valid.
 - If he says "from now and from 30 days' time", it's a **doubt** as to when he wants it to become valid so another person's קידושיין would be a doubtful קידושיין.

א - 1 • 'על תנאי' קידושיין - which is conditional on something:

- If he says "על מנת", then if the condition is fulfilled the קידושיין is **valid retroactively** from when it took place.
 - **ר' מאיר**: A condition is only valid if it's a 'תנאי כפול' – one which states what happens if the condition is not fulfilled too – just like מש' condition with the tribes of גד and ראובן.
ר' חנניא בן גמליאל: It's not necessary, and מש' only said that to show that if the condition isn't fulfilled then they would receive land in ישראל.
 - 'דברים שבלב' – unexpressed thoughts & intentions – don't make one's קידושיין a קידושי טעות, since she didn't mislead him.
 - If the act of קידושיין is done at a time **when it can't take place**, it's **invalid** even if he says it should only become valid from when it can, e.g. after she converts.
 - One can be מקדש a **foetus** if it is recognisable in its mother.
- 1) If the condition is to **show her** money or a field, it's only fulfilled if he owns it.
 - 2) Although **doing something for her** or saving her money isn't a valid קידושיין since you don't give it to her in one go, it is a **valid condition**.
 - 3) If the condition is that **his father doesn't object** within 30 days and he dies, the father should object so that she doesn't require **יבום**.

א - 2 • Doubtful קידושיין:

A father receiving קידושיין on behalf of his daughter:

- If he's **unsure from whom** he received it, then someone who claims it was him is believed since he'd be afraid to lie in case the father contradicts him.
 - If 2 people claim so, she can marry 1 of them after the other gives her a **גט**, or marry another man after both of them give her a **גט**.
- He's **believed** to say he received it and even a **גט** too for his daughter if she is still below the age of **12½ years old**, while she is still in his authority.
 - He isn't believed to say she was **captured** which would forbid her to marry a **כהן**, since the תורה only says we believe him with regards to קידושיין.
- If he **doesn't specify which one**, all his daughters who are in his authority are engaged out of doubt and require a **גט**.

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- ר' מאיר: If he receives it for “**the older one**” and is unsure which daughter from which wife he referred to, they all require a גט except for the youngest one since ‘מחית אינש נפשיה לספיקא’ – one who says something which could be interpreted in different ways could mean any of those.
ר' יוסי: None of them require a גט except for the oldest one, since ‘לא מחית אינש’ – one only intends the most certain interpretation.
→ The opposite applies if he receives it for “**the younger one**”.
- One who **has no children nor brothers** is believed to say he has **children**, since it doesn't change his wife's ‘חזקה’ – status presumed to remain the same – of not requiring ביום after he dies, but not that he has **brothers**, since that does change it.
- If either a man or woman **claims he got engaged** to her or her daughter and that the witnesses died or went abroad, they are believed to forbid him/her from marrying the other one's relatives, since they are testifying against him/herself, but since there are no witnesses the other one is permitted to marry the other's relatives.

• יב - יג • Status of different Jews:

Children from different marriages:

- 1) If the ‘קידושין תופסים’ – the קידושין is valid - and **permitted**: Same as the **father**
- 2) If the **קידושין תופסים** but is **אסור**: Same as the parent with the **inferior** status
 - E.g. a marriage of a **כהן** and a divorcee, or involving a **ממזר** or **נתין**
- 3) If the **קידושין isn't תופסים for him** because she's his **relative**: A **ממזר**
- 4) If the **קידושין isn't תופסים for anyone**: Same as the **mother**
 - E.g. marriage with a **non-Jewish** woman/maidservant
 - ר' טרפון: Even the child of a **ממזר** and **maidservant** will be a servant like her and if freed will be a normal Jew.
 - ר' אליעזר: He will still be a **ממזר**.

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א - יא

Classes of people and who they may marry:

1) כהן: A כהן, לוי, and ישראל:

→ He must check the validity of all her female ancestors for the past 4 generations if she's a כהן and otherwise 5, since the invalidity of a woman doesn't become publicised like it does with a man.

→ If one of her ancestors served in the בית המקדש, was part of the סנהדרין or any בית דין in ירושלים, or was a town's צדקה collector, he doesn't need to check his ancestors since it's already been done.

ר' יוסי: Even if he was a witness in a court where they check one's ancestry. ר' חנינא בן אנטיגנוס: Even if he was part of the המלך's army.

→ One who returns from a long stay abroad must prove his wife's validity only if he married her there, and his children's validity only if they aren't clinging to their mother.

2) חלל, convert and freed non-Jewish slave who converted.

• A חלל's sons and their sons etc. are חללים, but his daughter's sons aren't.

→ ר' יהודה: The same applies to a convert.

ר' אליעזר בן יעקב: A woman with 1 converted parent may marry a כהן.

ר' יוסי: Even a woman whose parents are both converts may do so.

3) Convert; freed slave; ממזר – one born from relations punishable by כרת; נתין; גבועונים who may not marry a Jew: Even each other.

• ר' יהודה: Only converts from the nations of עמון or מואב are in this category.

• חכמים: A שתוקי – one whose father is unknown – and an אסופי – one whose neither parents are known – are part of the category of ממזרים out of doubt.

אבא שאול: If the mother of a שתוקי claims the father is valid, she's believed since she isn't suspected of having illegal relations.

ר' אליעזר: They and פותים – a group who converted but whose Jewish status is debated – may never marry, since their category is unknown.

• חכמים: One isn't believed to say that his son is a ממזר, since one can't testify for a case involving his relative, and 'אין אדם משים עצמו רשע' – confession is invalid testimony with regards to marriage matters, and saying one's son is a ממזר is confessing that he had illegal relations.

ר' יהודה: He is believed, just like one is believed to say who his firstborn is.

• If one appoints a messenger to give/receive קידושין and then gives/receives קידושין to/from a different man, whichever took place first is valid.

→ If it's unknown, she can marry 1 of them after the other gives her a גט, or marry another man after both of them give her a גט.

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- **Laws of ייחוד – being alone with a woman who isn't one's wife:**
 - It's **אָסור מְדַאָרְיִיתָא** to have ייחוד with a relative with whom having relations would make him חַיִּיב כָּרַת, except for his **mother, sister and daughter** who he may even touch while sleeping when he or she is under מְצוּה בַר/בֵּית מְצוּה since he won't be tempted to have relations with them.
 - It's **אָסור מְדַרְבְּנָן** to have ייחוד with **less than 3 women** unless another man is present. ר' שמעון: If his **wife is there**, then ייחוד doesn't apply since she'll be watching him.
 - **אָסור** for one who has never been married before or a woman to **teach young children**, since it may lead to them having ייחוד and interacting with the children's mothers/fathers.
 - **אָסור** even for someone who is married but not living with his wife. ר' אליעזר
 - **אָסור** for one who has never been married to be a **shepherd** or to sleep with the **same garment** as another person who hasn't been married, in case it leads to having relations with an animal or another man. חכמים: It's **מוֹתֵר**, since no one is suspected of even being tempted to do so.
 - **אָסור** even if it will reduce his income, and one shouldn't teach his son a trade which will cause him to interact with women a lot.
- **Outlooks on having a trade:**
 - ר' שמעון בן אלעזר: Even though animals were only created for Man's sake and they are sustained without difficulty, we need to work hard to sustain ourselves **because of our sins**, specifically הָרָאשׁוֹן's sin.
 - 1) ר' מאיר: One should teach his son an **easy job** which won't involve dishonesty, and one should daven for success, since wealth is only due to one's merit.
 - 2) **אבא גרין איש צידן משום אבא גריא**: One shouldn't teach his son to be a **donkey/camel/wagon-driver, sailor, shepherd** or **shopkeeper**, since they often involve stealing.
 - ר' יהודה in his name:
 - Most **donkey-drivers** are **wicked** since they steal from other fields
 - Most **camel-drivers** and sailors are **righteous** since they travel far and cry out to Hashem to save them from danger
 - The best **doctors** go to **גֵיהֶנֶם** since they don't believe that Hashem can make them ill
 - The most **righteous animal slaughterer** is a '**partner of עַמְלֵק**' since it makes him cruel, and he sometimes validates animals to gain money.
 - 3) ר' נהוראי (another name for מאיר): If one's son is able then his father should **only teach him תורה** and he doesn't need to have a trade, since if one learns תורה whilst he's young, he'll receive blessing and sustenance in his old age, just like אַבְרָהָם did.

