

הָאִישׁ מְקַדֵּשׁ בּוֹ וּבְשָׁלוּחוֹ

Use of an agent.

A man may betroth a woman personally, or via an agent.

A woman may accept betrothal personally, or via an agent.

A man may give his daughter in betrothal, if she is a Naarah, either personally, or via an agent.

Question: If a person can't betroth a woman through an agent, of course, he could do so in person. It is not necessary for the Mishnah to say he may betroth a woman personally, or through an agent.

Answer: The Mishnah states 'personally', before 'agent', to indicate that it is preferable to do so personally.

In keeping with the posuk (Lev 19:18), "You must love your fellow man as yourself."  
You must see your intended, so that if you don't find her pleasing, you can stop right there and not inconvenience or embarrass her.

מִצְוָה בּוֹ יוֹתֵר מִבְּשְׁלוּחוֹ

The Mitzvah in it is greater, than had he sent a messenger.

A Mitzvah is greater if you perform it yourself, rather than send an agent.

However, since studying Torah is greater than all the Mitzvahs, if you can send an agent to free yourself to study, that reward would be greater than doing the Mitzvah yourself.

Exceptions:

- You can't delegate that which your body must be involved in, i.e., tefillin. Kiddushin is considered as a prelude to 'be fruitful and multiply'; the mitzvah of procreation, which you should not delegate.
- You should not delegate all aspects of Sabbath preparation because being involved in Sabbath preparation, honors the Sabbath and everyone should do that himself.

Learn from Avraham Avieniu – He could have delegated the binding of Yitzchak, but the Mitzvah is more meritorious if you do it yourself.

מִיֵּין שְׁשֻׁלוֹחוֹ שֶׁל אָדָם בְּמוֹתוֹ

Where do we learn that a person's agent is as himself?

The law of agency can be learned from the posuk, “One prince per tribe will divide the land” (Num 34:18).

A minor cannot appoint an agent since the posuk (in Deuteronomy 24:1) mentions the word ‘eish’, ‘man’, implying that only an adult can be an agent to effect a divorce.

דַּאִין שְׁלִיחַ לְדַבֵּר עֲבִירָה

There can be no agent appointed to perform a sin,

because the student cannot override the words of the master.

HaShem ordered certain behavior, a person cannot tell you to do otherwise.

One scriptural passage that teaches a principal can be extended to apply that principle throughout the Torah. Also, if that principle is learned from two sites, I might think it is even more important. – Not so. Two scriptural passages that teach the same principle cannot be extended. It is assumed that since it was specified twice, it pertains only to those specific instances. This is called ‘gezeirah shovah’. The two passages are linked and the rules of one passage are also applied to the other passage.

דַּאִין שְׁלִיחַ לְדַבֵּר עֲבִירָה

There can be no agent appointed to perform a sin.

There is no agency to commit a sin.

Words of the Rav verses words of the student. Whose words do we listen to?

Reuven asked Shimon to do a sin on his behalf. Reuven's appointment of Shimon to represent him in this wrongful act, is not valid.

What happens if Shimon precedes to do the wrongful act anyway? Since his appointment as an agent was not valid, he is considered as though he is acting on his own behalf. He did a sin and he can expect no payment from Reuven, the person who sent him. Shimon cannot say that Reuven told him to do it.

To whom do you listen? The one who told you it is a sin or Reuven? Furthermore, since it is a sin, Reuven did not expect Simon to actually do it.

What if Shimon does not know that he has been asked to do a sin? Then the sender does expect him to fulfill his request and the sender is liable.

-What if the sender is a known dishonest person, then the agent is liable.

-What if the agent is a known dishonest person? Then the sender knows he will perform the dishonest act. Are they both liable? Yes

No – The agency was not valid and therefore, only the agent acting on his own, is liable.

דאין שליח לדבר עבירה

There can be no agent appointed to perform a sin.

If the words of the teacher conflict with the words of the student, whose words should be followed?

Are we permitted to ask a non-Jew to do prohibited tasks on Sabbath? He is our agent in whatever he does. It is as though we did it and therefore, we are prohibited from engaging even a non-Jew, even before Sabbath, to do prohibited tasks for us on Shabbos.!

A non-Jew should not be hired as an agent except in a stringent situation, normally speaking.

But if we hire an agent do a sin, the agency is not valid. So, even if the agent does the act responsibility for it, should not revert back to the sender!

Not so, the agent should not accept a task which is a sin, because he should choose between the words of the Rav (HaShem) vs. the words of the student. A non-Jew is not bound by HaShem's words. Therefore, the agency is valid and the sender is responsible. Also, the agent may not know that his act is a sin for us, and do it.

Again, the responsibility reverts back to the sender.

וְטָבָחוּ אוֹ מְכָרוּ

“If he slaughters or sells it.”

No agent for a sin.

If a man steals an ox, or sheep, or any object, he must pay double.

If he then slaughters the ox, or sheep, in order to sell it, he pays x 5 or x 4.

If he slaughters it on Shabbos, he pays nothing!!

Because he simultaneously committed a sin which carries the death penalty and we only apply the more severe penalty.

What if an agent slaughters it for him on Shabbos?

In that case, the thief did not slaughter on Shabbos, since he "could not make an agent for sin". So he is held responsible for the stealing and slaughtering and pays 4 or 5 times. If he commissioned the agent, specifically, to slaughter and to do it on Shabbos, he is also not responsible for the act of slaughtering. Therefore, he only pays for stealing x 2.

„אתו הִרְגֵת בְּחֶרֶב בְּנֵי עַמּוֹן”

You killed him with the sword of the Ammonites.

We have learned that you cannot have an agency for a transgression.

Yet, when King David sent Bathsheba's husband, Uriah the Hittite, into battle at the front-line, Nathan, the prophet. rebuked David for his actions and told him, “You, David, have killed Uriah with the sword of the Ammonites.”

Suggesting that even though Uriah was physically slain by the Ammonites, the responsibility for his death lies with King David.

Shammai the Elder, takes this to indicate that agency does apply to acts of transgression.

Then he gives two other ways in which this could be interpreted:

1. Liable by the laws of heaven.
2. Just as you, David, are not guilty of the death of others at the hands of the Ammonites in war, so you are not guilty of Uriah's death, either.

,,אתו הִרְגֶה בְּחֶרֶב בְּנֵי עַמּוֹן"

You killed him with the sword of the Ammonites.

This does not seem to be good proof, because the Ammonites were not made David's agents by any agreement. Therefore, they are not his agents and this is not a case of Agency.

The reason for this is that the agent should listen to the master's orders and not the student's. However, concerning the Ammonites, we don't have the expectation that they will listen to the master's voice. Therefore, HaShem is not their master. Therefore, the onus of the action remains with he who put Uriah in danger.

It is as if we sent a person into a field of wild animals or a path with a deep pit. They are not agents., and the onus remains with the person who sent the others into danger.

,,אתו הִרְגֵת בְּחֶרֶב בְּנֵי עַמּוֹן",

You killed him with the sword of the Ammonites.

All commandments, except the big three: homicide, idolatry and certain sexual offenses are suspended for the purpose of saving a life. How then, can the Torah mandate us to wage war? War poses a threat to life and our Mitzvahs are given to us, to ‘live by them’, ‘v’chai ba’hem’.

The Commandments regarding war are unique. Warfare, by its nature, demands that a participant’s life be placed in danger. This is the very essence of the obligation.

The Mitzvah cannot be accomplished without that danger to life.

However, there are acceptable and unacceptable risks. Every precaution against being harmed, must be taken by you, and by your commanders.

שלא מצינו בכל התורה כוּלָּה זֶה נִהְנֶה וְזֶה מִתְחַיֵּיב

We do not find, in the entire Torah, that one person benefits from a sin and another is liable for it.

An author borrowed money to publish his book and wondered, “Was it permissible to thank the lender at the beginning of the book?”

BT Bava Metzia 75b – It is prohibited for a borrower to even wish ‘Shalom’ to his lender if it was not his custom to do so previously, before the loan. Even verbal interest is prohibited.

But is verbal interest the same as written interest? Many authorities maintain that writing is the same as speaking. Consequently, it would be a violation, if the gratitude was expressed in writing.

Is it permissible if the publisher expresses his gratitude? No, the publisher is an agent of the author and the publisher can't be an agent for a sin. Therefore, the publisher cannot say ‘thanks’ to a lender. However, you could say ‘thanks’ to a donor. You are not giving him interest of any kind.

נְעֵרָה הַמְּאוֹרָסָה הִיא וְאָבִיהָ מְקַבְּלִין אֶת גִּיטָּהּ

A betrothed woman either she or her father can receive her bill of divorce.

A married woman is emancipated!

Not exactly:

If she is older than 12 ½- Yes – only she can accept her get.

If she is a Naarah - either she or her father can accept her get.

If she is a Ketanah - the father can accept her get and can arrange her next marriage.

The rules of a father's control over his daughter is learned from his right to annul her vows. This privilege ends with her marriage. So a father can annul the vows of his grown daughter and those of his Naarah daughter. But the vows of his Ketanah daughter have no effect and need no annulment. Therefore, we only have a source that marriage terminates the father's role regarding Besulah and Naarah. So he continues in his role regarding the Ketanah. .

כָּלֵל אֵינוֹ חַיִּיב אֶלָּא אַחַת

If he includes all his denials with one statement. He is obligated to bring only one guilt offering.

This discusses an interesting question.

A person who falsely refutes a claim with an ‘oath’, is punished in three ways.

1. He brings a guilt offering.
2. He pays the money back.
3. He also pays a fine.

A defendant that makes a denial to five claimants, has he committed one violation or five violations?

R Meir – ‘I swear I owe nothing to any of you’= 1 violation. ‘I swear I owe nothing to you, to you, to you, to you, or to you’=1 violation.

R Eliezer – ‘I owe nothing to you, or to you, or to you, or to you, or to you and to this I swear’ = five violations.

R Shimon – says no. The defendant must use the words, ‘I swear’ after each and every phrase, to be in violation multiple times.

רבי אבין הוא אָמַר לִיה אֵין כּמִין ימָא לְטִיגְנִי הוּא

Is R Avin reliable? Yes, he is like a fish directly from the sea into the frying pan.

Because there is no time to spoil.

Rav Avin just came from the Bais Midrash, there was no time for him to forget.

Another interpretation:

Yamma and Tignei were two towns very close to each other. A person could not report that something happened in one town, if it was not so. Because the towns were so close, his report could easily be verified and it would be known if he was not accurately reporting what had occurred at the Bais Midrash. The students were readily available to correct any misrepresentation. So of course, he is reporting correctly.

רבי אבין הוא אִמֵר לִיה אֵין כַּמִּין וְמָא לְטִיגְנִי הוּא

Is Avin a reliable person? Is his report reliable? Yes, he is like a fish directly from the sea into the frying pan.

A reliable witness:

A girl was engaged to marry a Kohen. Three days before the wedding, the girl's father who had divorced her mother 14 years earlier, came to the office that oversees marriages in Israel and told the following story:

Thirteen years ago, in Yemen, he had accepted Kiddushin for his minor daughter and a short time later, accepted a Get on her behalf. This disqualifies her from marrying a Kohen.

Rav Ovadiah Yosef ruled that the marriage could go forward. The father had not provided the name of any witnesses to the (wedding), or the original Kiddushin. Therefore, it is just a rumor. When the father did not even give the name of the witnesses, there is no reason to give credibility to his claim and the wedding to a Kohen could go forward as planned.

אִיתָמַר וְנִפְלָה לִפְנֵי אָחִיו לְיִבּוּם

It was stated that if her husband died, she must go to his brothers for Yibum.

If a minor girl accepts Kiddushin without her father's knowledge and her husband dies, she requires a get and 'Miun', to be free of the marriage to a brother..

A Get releases a biblical marriage obligation.

Chalitzah releases “a biblical Yibamah obligation”.

Miun releases “a Rabbinical marriage obligation” to a Yibum.

Maamar – Acceptance by the brother of the Yibum marriage. However, if she is still a minor, this act might have no legal standing!?

לֹא חֲצִיף אִינִישׁ לְשׁוּי לְאָבוֹהַּ שְׁלִיחַ

A man would not act with such chutzpa, as to make his father his messenger.

It is prohibited for a child to act as though he is his parents' equal. This is the basis for the prohibition against sitting in his parents place, etc.

A case: An adult son had property in another city. He wanted to sell it and donate the proceeds to charity. He wondered if he asked his father to represent him and serve as his agent, would that be acceptable halachically, since he was treating his father as an equal and perhaps, even as a sub-ordinate? Perhaps, it might be more acceptable, since he was doing a Mitzvah with the money? We learn from our Gemara, that a son would never have the 'chutzpa', 'brazenness', to ask his father to be his messenger to propose marriage for him. So we see that even for a Mitzvah, it is considered a chutzpa to appoint one's parents as his messenger.

„מָהָר יִמְהַרְנָה לוֹ לְאִשָּׁה“

The seducer shall stipulate a dowry for her to become his wife.

If a man seduces a minor girl, her father can force him to marry his daughter  
(learned from Ex 22:15).

הָאוֹמֵר לְאִשָּׁה הִתְקַדְּשִׁי לִי בְתִמְרָה זֶה

If a man says to a woman, “Become betrothed to me with this date”,

and he incrementally adds to the value, the marriage is not valid.

A person promises to give a charity a certain amount and then proceeds to give it in installments. Is that halachically permissible? According to our Gemara it is not. Adding to the number of dates sequentially, is not adequate to produce Kiddushin.

This is not ideal, his promise was to give a certain amount and he did not.

Assume he eventually gave it, perhaps some of the first installment was used up. It is less valuable in small amounts. So he did not give the full value according to his promise.

We can assume that he eventually did give all that he promised and to the same person. He has fulfilled his vow.

Ben Ish Chai of Baghdad-We do not want to make it difficult to give Tzedakah, but we advise caution. Don't promise what you can't deliver.

אם יש באחת מהן שוה פרוטה מקודשת ואם לאו אינה מקודשת

If one of them (dates) has the value of a perutah, they are married and if not, they are not married.

Did we not learn that if what is offered for Kiddushin may not have a value of the perutah here, but might have that value elsewhere, the Kiddushin is valid (p12 a)?.

Yes, but, it had to be an item which could, in fact, be taken and transported to that place and perhaps, be sold for a higher price. Here we are dealing with a date, which is perishable and could not be taken elsewhere to be sold for a higher price. So the marriage is not valid.

If you gave her several dates sequentially, even if the cumulative value is more than a perutah, but individually they are not more valuable than a perutah, the marriage is not valid. If he gave all of the dates to her at once, the marriage is valid.

Options:

This date – not okay

This date and this date and this date - not okay.

These dates – okay.

הַמִּפְרִישׁ חֲלָתוֹ קֶמַח אֵינוֹ חֲלָה וְגֹזֶל בְּיַד כֹּהֵן

One who separates challah from flour: That flour is not challah. It is considered as stolen, while it remains in the hands of the Kohen.

That which is given, is not considered given, until it reaches its intended destination. In this case, it is not to be merely raw ingredients, but should be the finished dough and in proper volume. Then, it is considered actually challah, and is consecrated to the Kohen.

If you pledged to give Tzedakah and you write a check, but the fundraiser arrogates a percentage of what he collects as his salary, you have not fulfilled your pledge. It is not Tzedakah until it reaches the charity that you promised to give to. Thus, we have a question. How is the fundraiser to be paid, by percent, by salary, does he take it, or is he paid by the charity?

## המקדש במלוה

If one betroths a woman with a loan.

The Gemara discusses the question:

Since, when you make a loan, you expect the money to be used. i.e., it was already spent. It may no longer be in the possession of the borrower. Also, the borrower has full discretion regarding how to use the money. It, therefore, is as though he is the actual owner of the money he borrows.

Can't a betrothal take place by means of a loan?

One case – A man lends a woman money and later says, “Consider that money yours and now we are betrothed.” What if she still has it? What if she spent it?

Second case – A man and woman agreed to betroth with a certain amount, but he gives her only part of the betrothal money and asks permission to owe her the rest.

Third case – A man says, “Become betrothed to me with the deposit I previously entrusted into your hands.” When she went to look, it had been stolen. There was no prutah left, or there was only one prutah left.

Answer: Kiddushin is valid through a loan, but only a forgiven loan. She gets the value by not having to return the money, whether she still has some of it, or not.

הָאוֹמֵר לְאִשָּׁה הִתְקַדְּשִׁי לִי בַּפְקָדוֹן שֵׁשׁ לִי בִידָךְ

He said to her, “Be engaged to me with the material I entrusted to your care.”

She agreed, but when she looks for the material, she sees that it had been stolen from her.

If even a perutah of value remains, in whatever remnant is present, she is married and if no value remains, the Kiddushin is not valid. He is given the opportunity to make up the difference. Why is this so? We learn (in 8a) that if a man says, “I give you 100 coins for you to be mikudeshet to me and if even one coin is missing, the Kiddushin is not valid.” We do not say the Kiddushin is valid and he has to make up the difference. Why do we say so in this case?

There, he tried to trick her by giving fewer coins than he promised. He misled her.

Here, he gave her the full amount, so he was very honest. But, something happened to it.

We can expect that he will be willing to make up the difference.

מָה שְׂאֵלָה דְּהִדְרָה בְּעֵינָא חַיִּיב בְּאוֹנָסִים

When one borrows an item, he is responsible for it. He must return it intact. He is liable, even if there is a mishap.

A man borrowed a valuable book and gave an expensive candelabra to the owner, as collateral for the right to borrow the book. Unfortunately, both homes were destroyed in a natural disaster, i.e., California fire or hurricane. Remarkably, the candelabra was recovered and returned to the owner of the book. The person, who had borrowed the book came and said, “The book which you lent to me, was destroyed through no fault of my own. Please give me back any collateral, as I can't give you back your book.”

The owner of the book did not want to give up the collateral, since he had no book and no collateral to replace the value of the book.

No, he must give back the collateral. As the borrower is not liable for any unforeseen and unavoidable mishaps.

שְׁמִין אֶת הַנָּיִיר

We evaluate the value of the paper.

If we find that the marriage contract is not valid, the paper, on which the contract is written, may have enough value to effect the marriage. Giving the paper to the bride conveys the faulty contract, but also the paper to her. In case the contract and the ring are defective, the value of paper, in the presence of witnesses, can effect a valid marriage and the contract serves as the chattel. Is this analysis correct?

Every Kinyon (act of acquiring) requires the intent to acquire with the conveyance, which must be simultaneous. In this case, a defect in the Shtar (contract) and in the ring, is not known to the bride or groom, who assume they are correctly married. At the subsequent use of the paper of the Shtar as chattel, there is no intent to have a new Kinyon. Therefore, there is no intent for Kinyon simultaneously with delivery and with the paper. Without Kinyon, it fails as Kesef Kiddushin.

Therefore, at the time of acceptance (Kinyon) of the Shtar (contract), and the ring (valued object), the couple could also have in mind, that if there is a defect in either, they are also creating Kinyon via the value of the paper that the Shtar is written upon.

הַתְּקַדְּשִׁי לִי בְּכוֹס זֶה שֶׁל יַיִן וְנִמְצָא שֶׁל דְּבַשׁ

Become betrothed to me with this cup of wine but it was found to contain honey instead.

Can betrothal take place by means of a false premise?

1. Example: ‘Become betrothed to me with this cup of wine’ and it has honey.
1. Example- ‘Become betrothed to me with this honey’ and instead it is wine.
2. Example- ‘Become betrothed to me with this dinar of silver’ and instead it is gold.
2. Example- ‘Become betrothed to me with this cup of gold’ and instead it is silver.
3. Example- ‘Become betrothed to me on the basis that I am rich’ and instead he is poor.
3. Example- ‘Become betrothed to me with this cup on the basis that I am poor’ and instead he is rich.

If she was misled to her advantage, she is betrothed.

בְּדִינָר זֶה שֶׁל כֶּסֶף וְנִמְצָא שֶׁל זָהָב

He presented her with the coin, telling her it was silver, and instead it was gold.

1. Is the Kiddushin valid?
2. He promised her a ring and gave her a cup or garment.
3. If a man promises a woman a jar of wine and it turns out to be a jar of honey.

1. She did not get that which she agreed to. Therefore, No  
She got more than she agreed to. Therefore, Yes
2. If she was unaware of what she was getting. No.  
For example, he gave it to her at night, in the dark, or her face was covered.  
If she was unaware of what she was getting, we assume she agreed to it. Therefore,  
Kiddushin is valid. Yes
3. If the jar is closed and she can't know what is in it. No.  
If she does know what is in it, the Kiddushin is valid.

Best advice regarding Kiddushin: Give what you promise to give and then, the  
Kiddushin is never in doubt.

עַל מְנַת שְׂאֵנִי עֲשִׂיר וְנִמְצָא עֲנִי עֲנִי

If a man claimed he was rich, but is actually poor.

The Kiddushin is not valid. She did not get what she bargained for.

If a man claimed that he was poor, but was actually rich, the Kiddushin is also not valid.

But why, she got more than she agreed to??

Not so – A man who claims to be poor, but is actually rich is likely a miser, who wants others to think him poor, so they won't ask him for money. He lives like a pauper, hordes his money and did not tell his intended the truth. The Kiddushin is not valid. Even a woman who was willing to live the life of a pauper, is not willing to live with a man like this.

מְקוֹשֵׁר עֲדָיו מֵאַחוֹרָיו

A bound document is signed on the outside.

A Get for Kohen.

Bound document – It contains “broken text” and every other line is blank. It must be folded and sewn and each section separately signed.

Since a Kohen cannot marry the divorced woman, even his own wife, we makes it hard for Kohen to divorce his wife in a fit of short tempered anger.

This Get must be sewn and folded and signed by witnesses, multiple times. Thus, giving the Kohen time to reconsider.

מִסְאָנָא דְרַב מִפְרָעֵאִי לֹא בְעִינָא

“A shoe too large for my foot, I do not want.”

A man deceived a woman, to her advantage, in regards to his lineage.

For example, he claimed that he was a Levi, but was, in fact, a Kohen.

Ulla states that in the case of deception regarding lineage, she is not betrothed.

-She may not want that particular station in life, with its obligations.

-It may produce certain psychological problems for her.

-Perhaps his higher pedigree will make him consider himself superior and he may act haughtily towards her.



Perhaps he has thoughts of repentance in his mind.

We give him the benefit of the doubt.

A man betroths a woman on the condition that he is righteous and actually, he is wicked.

Even so, we rule the betrothal might be valid; Perhaps he has thoughts of Teshuva in his heart.

Can Teshuva be successful without verbally confessing one's sins?

Usually Teshuva requires four components.

- 1) Acknowledge the sin by confession
- 2) Voice regret.
- 3) resolution to never do this again.
- 4) Be in the same situation and not succumb to that sin.

But our Gemara teaches that you can effect Teshuva without these components.

How is that possible?

In our Gemara, a person betrothed a woman on condition that he is righteous, even though he was wicked. The rabbis give him the benefit of the doubt and say perhaps he resolved to do Teshuva.

Since HaShem forgives three categories of people and one is the Chasan, on the day he marries, such a person, even if he was wicked before, if he has thoughts of repentance and his offer of Kiddushin was accepted by his intended wife, his atonement occurs immediately.

No other components of Teshuva are needed.

זו חנוּפָה וְגִסּוֹת הָרוּחַ שֶׁיָּרְדוּ לְבָבָל

This is the trait of haughtiness and flattery that came down to the world and were received by Babylon...

We learn this from the quote, “Wind was in their wings. The wings of a stork” (Zechariah 5:9-11).

“Wind in their wings” means haughtiness. Ruach means wind and spirit.

The high spirits of haughtiness and flattery comes to us from the word ‘stork’, ‘chasidah’ in Hebrew, is similar to the word ‘chesed’, ‘kindness’. The stork shows kindness to its friends, by sharing its food with them. It is a non-kosher bird.

Rambam says the Torah prohibited the consumption of birds that have a cruel nature.

How does this apply to the stork, who actually acts kindly towards its friends?

Kindness cannot be restricted to friends, but should be shared with all who are needy.

If only kind to friends, it suggests you expect reciprocity. You are self-serving rather than altruistic and it is insensitive to only serve your friends. It is flattery, not kindness.

על מנת שאני כהן ונמצא לוי

Mishnah - Be married to me on the stipulation that I am a Kohen and he is a Levi.

Levi

Townsmen

City dweller

Father of a daughter

Has no daughter

Kohen

City dweller

Townsmen

He has none

Has one

In all cases, if the stipulation is not met, she is not betrothed. Even if she says she would have become betrothed even without that stipulation.

This is due to the fact that the stipulation was not met and she did not express that she would marry him, regardless. That was nothing more than an unexpressed intention and unexpressed intentions are not recognized in Jewish law.

הָהוּא גִבְרָא דְּזָבִין לְנַכְסֵיהּ אֲדַעְתָּא לְמִיּוֹסַף לְאֶרֶץ יִשְׂרָאֵל

A man sold his possessions in preparation to move to Israel.

His plans did not materialize and he wanted to cancel the sale. Can he do so?

The buyer knew why he was selling, i.e., to move to Israel.

All the neighbors knew why he was selling.

But, the seller never made it a condition of the sale. He merely thought to himself that his reason to sell was to go to Israel. And now that the reason is gone, he has no reason to sell and no longer wishes to do so.

-“A condition in one's heart is not legally binding”.

-“A silent condition is non-binding”.

-Words that are in the heart, are not words.

R J B Soloveitchik - A person may intend to repent. He may think, “I plan to do good deeds, give charity and study Torah, etc. But, it is not considered the beginning of the process of repentance, until he confesses by means of speech. At least that endows the thoughts with some reality”.

וְדַלְמָא שְׂאֵי הֵתָם מְשׁוּם דְּמִצְוָה לְשִׁמוּעַ דְּבֵרֵי חֲכָמִים

The Mitzvah of complying with the words of the sages.

A person who is legally obligated to give his wife a Get, may be coerced to do so.

We assume that a person wants to do what is proper.

If he refuses, we interpret that as the evil influence of the ‘Yetzer Hara’, ‘the bad inclination’. Our forcing him, even by physical means, to subdue him, is to subdue not him, but his Yetzer Hara. Therefore, his true nature can emerge and he will do the proper action.

Even if he is subject to physical abuse by a Gentile and gives a Get on that basis, he is still doing a Mitzvah and listening to the words of the sages. According to Rambam the Get is kosher.

However, the rabbis invalidated any Get coerced by Gentiles. They were concerned that an irate wife might hire hooligans to force her husband to divorce her. So such a divorce is voided by the rabbis.

דְּבָרִים שֶׁבֶּלֶב אֵינָן דְּבָרִים

Unexpressed intentions are not recognized.

She did not express that, “Even if that condition was not present, I would still be willing to marry you”. She must annul his condition by speaking up.

Another example: A man sells his property planning to go live in Israel. But, afterwards he cannot go. The sale is valid. He did not expressly state that the sale of his property is conditional upon his fulfilling his intentions. His intentions were not expressed and unexpressed intentions are not recognized.

כָּל שֶׁאֵינוֹ בָּזָה אַחֵר זֶה אֶפִּילוֹ בְּבֵת אַחַת אֵינוֹ

Anything that cannot happen consecutively, cannot happen even simultaneously.

For example, one cannot marry two sisters ( See Lev 18:18).

Rava - A betrothal, that cannot have a legal cohabitation, is invalid.

Later proven to be not true.

Two men become betrothed to two sisters, but later no one recalls which sister was to go to which man. They are forbidden to either of the two, because she might be his wife's sister. And therefore, each man must give a Get to each one. Therefore, the betrothal was, indeed, valid.

דְּלֹא שְׂבִיב אִינִישׁ מִיָּדֵי דְּאִית לֵיהּ הִנָּאָה מִיָּנִיָּה

A person does not choose to do an act, from which he gets no benefit, versus an act from which he does get benefit.

A man was given money by his neighbor, to purchase an expensive item since he was going to buy one for himself, as well. He learned, however, that if he wanted to buy two, the second would cost them an additional 100% tax. So he only bought one. On the way home, it was destroyed in an accident. He told his neighbor, “I only bought one and it was for you. It is destroyed, sorry.”

The neighbor said, “If you could only buy one, clearly you would buy it for yourself and yours is the one that was destroyed, not mine!”

Rav Yitzchak Silberstein quoted our Gemara and said, “Give him back his money”.

וְהִלְכְתָּא כְּנוֹתִיָּה דְאַבִּי

The Halacha is according to Abaye.

Rava and Abaye have many disputes in shas.

The Halacha is always according to Rava, except in six circumstances fitting the mnemonic, “yaal kegam”, where it follows Abaye.

1. Yud- Abandonment without owner’s awareness:

Abaye - It is not abandonment.

Rava - It is abandonment.

2. Ayin- When their disqualification takes place. (Sanhedrin 27a) before or after their testimony.

3. Lamid- A post that stands by itself. ( Eruvin 15a)

4. Kaf- Kiddushin that does not give to cohabitation.

5. Gimmel-Clarification of statements regarding a Get (Gittin 34a).

6. Mem- Can a person, who defies the Torah, serve as the witness? (Sanhendrin 27a)

## הַמְקֻדָּשׁ בְּחֵלְקוֹ

If one betroths a woman with his portion (of a sacrificial offering).

Which sanctified objects can be used to betroth a woman by virtue of their monetary value.?

Kodshe Kedoshim? - Most holy - No, they belong to the Kohen.

Kodshe Kalim? - No, less holy, but while shared with the donor, they remain divine property.

Maaser Sheni - The second tithe separated from the crops of the first, second, fourth, and fifth years of the Shemittah cycle, can be eaten only in Jerusalem.

Hekdesh or redeemed with money, that is taken to Jerusalem to buy food which is eaten there.

R Mair says-This property belongs to the Temple treasury and it is divine property.

If he used it for Kiddushin, they are not betrothed.

R Yehudah says-Maaser Sheni is not divine property and can be used to betroth a woman. However, if the parties were not aware that the property was Maaser Sheni, the Kiddushin is not valid. Why?

A woman might not wish to be given Maaser Sheni as her betrothal money because she would have to travel to Jerusalem to use it. The man may be concerned that it will be lost or stolen on the way to Jerusalem. Only if they know of the fact that they are using Maaser Sheni or accept the inconvenience, is the betrothal valid.

וְהַתְנִיחַ הַצְנוּעִים מוֹשְׁכִין אֶת יְדֵיהֶם

The modest Kohanim would withhold their hands.

Discusses the Lechem Hapanim – 12 loaves on the altar, each week.

During the reign of Shimon, the Lechem Hapanim were distributed to every Kohen, but no one was satiated. The size was only that of a bean, not enough for a kezayis or to satiate. The custom was that those who wished to do so, could pay other Kohanim to sell their small portion of Lechem Hapanim, so the buyer could have enough to satiate himself or to make up a kezayis. Therefore, those holy items could be transferred into a monetary value. This coincides with Rabbi Yehudah's contention that the Kohanim did have a monetary interest in their portions of the holy items.

וְהִתְנָיָה הַצְנוּעִים מוֹשְׁכִין אֶת יָדֵיהֶם

And the modest Kohanim withheld their hands.

During the time of the Bais Hamikdash, the Lechem Hapanim, the showbreads, were portioned out to the Kohanim each Shabbos afternoon. It was their property and they could do with it as they wished. Even according to one opinion, they could use it to offer Kiddushin to a woman. There were Kohanim who were gluttonous and would take a lot and those who were conscientious and modest and ‘withheld their hands’.

This is used as an example: Many Rabbis would give out ‘Shirayim’, ‘small portions’, at their ‘Tish’, ‘table’. Some Chassidim snatched these in an inappropriate manner and others were more modest and held back their hands. The rabbi usually noticed those who were modest and found ways to provide for them.

The Rabbis thought that the most important focus of Divine Service, should be your relationship with your fellow man. Don't push past others to strive for spiritual improvement. It is a sin and you actually go backwards spiritually.

לֹא נִיחָא לָהּ דְּנִתְחִיל הֶקְדֵּשׁ עַל יָדָהּ

She is not comfortable that Hekdesh be consecrated through her.

If a man gave a woman stolen property for Kiddushin and she was unaware that it was stolen, the Kiddushin is not valid. It is assumed that she is not interested in becoming betrothed with a stolen object, even though once it comes into her possession, it becomes her property, since we say that the owner has given up hope of recovering it and there is a change in possession. The thief never achieves possession by 'yeush' (The owner gives up hope of ever recovering the object), but subsequent, unsuspecting persons do. This is different than other systems of law, where stolen property has no provenance and can never be transferred.

We derive our rule that she would not accept Kiddushin with stolen property, from our Gemara, where a woman would not accept Hekdesh property for Kiddushin, even though it would become deconsecrated, once she accepted it.

לֹא נִיחָא לָהּ דְּנִתְחִיל הֶקְדֵּשׁ עַל יָדָהּ

She is not comfortable that Hekdesh be consecrated through her.

Furthermore, accepting stolen property causes her to participate in the theft! Until she accepts the property, it must be returned. No change in possession has occurred, so her accepting it, completes the act of theft. A woman would refuse to accept such an object, by which she would assist in the completion of this transgression.

The proof that she would not accept stolen property derived from her reaction towards Hekdesh, may not be so strong. She may reject Hekdesh, since deconsecrating Hekdesh, might lead to a death penalty. Whereas, concerning stolen property, the sin is not as great as using Hekdesh property for personal benefit.

דְּכוּלֵי עֲלָמָא אִם הוּצִיא מֵעַל

All agree that he has committed an act of Me'ilah

If a person shall misappropriate, unintentionally, funds of the holies of HaShem (Hekdesh).

He must bring an 'ashem' offering.

The sin is known as Me'ilah += faithlessness or transfer.

Discusses the concept of Me'ilah = faithlessness  
= transfer

The property transfers out of Hekdesh, becomes deconsecrated (profane) and is the person's private property.

Rav Yehudah- Therefore, the betrothal takes effect.

Rabbi Meir- Even if a person used Hekdesh intentionally. The property transfers and is hers. Therefore, the betrothal is valid.

Yet, if the woman knew the item was Holy, she would not be inclined to accept it.

Therefore, there can no betrothal through a misunderstanding.

כְּתָנוֹת כְּהוֹנָה שְׁבִלָּו

But not Kohanic tunics.

R Meir says that if a Kohen used Hekdesh for betrothal unknowingly, it is not valid but only in a case where the Hekdesh used is a Kohen's tunic which is not worn out, i.e., used up.

This, if used unwittingly, does not become deconsecrated and therefore, is still Hekdesh and not hers. Therefore, it cannot be used for a betrothal.

Why? Because if it is not worn out, it is still fit for Temple service and we expect the Kohen to wear it on his way to and from his duties. Thereby, he derives some personal benefit from it. Because the Torah was not given to ministering angels.

i.e., means that it is understood that people will take some liberties.

A human cannot remove their priestly garments without, at least, a moments delay.

כְּתָנוֹת כְּהוֹנָה שֶׁבָּלוּ

But not Kohanic tunics.

The Torah was not given to angels.

It is very important not to embarrass any fellow human being.

One Rabbi had the habit, when asked by a parent how their child was doing in school, to tell each parent that their child knows the material. He would then add, that some of the children know more, some less, but they all know the material.

Another Rabbi would tell some parents that their child is an angel. And by learning our Gemara, we realize that he was quoting the phrase, “The Torah was not given to angels”.





כּוּס שֶׁל זָהָב

A cup of gold.

This is a discussion regarding the sin of ‘Me'ilah’, ‘using something that belongs to Hekdesh’, if the same object is used multiple times, how is that considered?

An object that was holy, i.e., was stolen and kept, is deconsecrated. An object that was holy and was used ( i.e., a gold cup ) for drinking. The only violation against them, is the use.

The person appropriated the use of drinking from them. Therefore, the next person who uses it for drinking, also violates it to the same extent, and is guilty of Me'ilah, also.

For some objects, only one person is guilty of Me'ilah. For the second person who comes, the object is already deconsecrated. But for some objects, each person may be guilty, for each has appropriated, not the object, but the use of the object and the use can't be violated serially.

וְכִי אוֹמְרִים לוֹ לְאָדָם עֲמוּד וַחֲטָא בְּשִׁבִּיל שְׂתוּזָה

Do we say to him, “Stand up and sin in order to merit a good deed”?

We do not tell a person to sin in order that your friend may profit.

May we use a bakery where the owner is not a Sabbath observer?

May we utilize a bakery that is open on Sabbath?

Rambam-A person who violates Sabbath is not trustworthy, especially if he does so for personal gain.

Even if the store is closed on Sabbath. Since, the owner does not observe, it is likely only a business tactic to impress other observant Jews to buy from him.

It is forbidden to aid a person (i.e., lend him a work implement), if we suspect it will be used for impermissible work on the Sabbath.

A sinner should not profit from his sins (Gittin 55b).

אָבֿל בְּמַתְבֿוּיִן לְהוֹצִיא מַעֲשֵׂר שְׁנִי לְחֻלִּין

But if he meant to deconsecrate the Maaser Sheni funds.

May the owner of a kosher meat restaurant serve his customers meat during the nine days?

It may violate the prohibition against ‘placing a stumbling block before the blind’.

On the other hand, he may lose his customers who may not return after the nine days.

The prohibition against ‘placing a stumbling block’ is limited. For example, you create the means by which the person sins. But, if he will sin anyway, your act is not considered as assisting him.

Rambam and Tosofos and Rav Ovadiah Yosef all agree.

Since there are other restaurants which will be open, and selling meat on the nine days, this owner may do so also.

However, his adherence to a higher level of attentiveness to Halacha, might make his restaurant even more popular for the rest of the year and an alternative menu for the nine days could also attract patrons.

בְּאִשָּׁה חֲבִירָה עֶסְקִינָן

We are dealing with a learned woman.

R Yehudah-If one betroths a woman with Maaser Sheni knowingly, he has betrothed her.

R Yehudah -He has not betrothed her, for example, if funds are misappropriated. Then the transaction is void.

R Eleazar- However, here regarding Kiddushin, the woman knows that the misappropriated funds are not deconsecrated. Therefore, she will go up to Jerusalem, consume food that she purchased with the funds, in accordance with the law, and use the funds properly.

How can we presume that she will do this? Because we are speaking about a learned woman.

The law can be different for persons of different characteristics.

אם לקח ואכל כנגדו

The buyer.

If he did purchase with a Maaser Sheni funds, he must consume added food, as Maaser Sheni equal to the funds he used improperly.

A valuable item was stolen from a Jerusalem household. The owner placed an announcement in the paper that he “hereby donates that item to charity”. The item was promptly returned to him.

- A person who steals is required to return the object and pay a fine of 1/5 more.
- A person who gains benefit from Hekdesh, can face capital punishment. The crook does not wish to face such serious consequences.

Once the item was returned, the owner asked his Rav if he was really obligated to give the item to charity. Tzedakah is different from a defiled animal, a slave or land, which is purchased with Maaser Sheni money; they could be exchanged for Chulin money even if the owner is not present. (BT Kiddushin).

BT Bava Kamma -You cannot sanctify something that is not in your possession. Therefore, your declaration that this is charity, is not valid you need not give it to charity.



הַמְקֻדָּשׁ בְּעֹרְלָה

If one betroths a woman with Orlah.

Can Kiddushin occur using items, from which it is forbidden to benefit?

For example, using Orlah –the fruit of a tree's first three years.

- Kilayim - Forbidden mixtures
- A condemned ox - To be stoned for killing a man.
- Eglah Aruphah - A decapitated calf, broken neck, because of a murder outside a city.
- Metzarah bird- used to purify a person with Metzarah (leprosy).
- A Nazir's hair
- The firstborn of a donkey – May be redeemed or we must decapitate it.
- An unconsecrated animal which is slaughtered in the courtyard of the Temple.

Using any of these, results in a non-valid betrothal.

(The reasons are discussed on 56b, 57a – b and 58a).

## המקדש בתרומות

If one betroths a woman with Terumah.

Betrothal with novel items.

Terumah - The Israelite only retains the right to decide which Kohen is to receive this. This is sufficient value to make Kiddushin valid. Terumah, inherited by a non-kosher grandson, from his Kohen grandfather, can be sold to a Kohen.

- Maaser
- Gifts
- Chatas water
- Chatas ashes

Concerning all of these items, the owner still has some equity and therefore, he can use them for Kiddushin.

## כאן בשכר הנזקה וקידוש

Here, we are discussing payment for transporting ashes and draining the water.

May a person take payment for performing a Mitzvah?

Do those activities have monetary value, such that a person could use it to betroth a woman?

- For preparatory activities - Yes
- For exertion - Yes
- For the Mitzvah itself - No

May a witness take money for testifying? No

For the hours utilized - Yes

For the exertion of preparation, travel, etc. - Yes

He may accept payment for drawing the water, carrying it or transporting the ashes, but not for actually mixing the chatas water or sprinkling it.

הָאוֹמֵר לְחֵבִירוֹ צֵא וְקַדֵּשׁ לִי אִשָּׁה פְּלוֹנִית

Two men: One says to the other, “Go and betroth that woman to me.”

So, the agent goes and betroths that woman to himself. She is betrothed to the second person (the agent)..

The agent acted deceitfully, yet we permit the betrothal. The woman accepted the proposal of the agent and the agent used his own money. His conduct is to be condemned.

רַבִּין חֲסִידָא אָזִיל לְקַדּוּשִׁי לִיה אִיתָתָא לְבָרִיה קוּדְשָׁה לְנַפְשִׁיהּ

Rav Chisda went to betroth a woman for his son and betrothed her to himself. She had refused to marry the son. Rav Chisda feared another man would come and betroth her, so he quickly took her for himself.

Discusses a series of other misrepresentations.

Rabbah bar bar Chanah gave coins to Rav to buy a piece of land for him. Rav bought it for himself. (The neighbors did not respect Rabbah bar bar Chanah, but did respect Rav and would accept him. He did not take time to tell Rabbah, for fear that another would come and take the land).

Rav Gidal was negotiating for land and R Abba bought it first so it would be the land for the Rabbinical students.

A person who despises gifts shall live (Proverbs 15:27).

עָנִי מֵהַפֶּךְ בַּחֲרָרָה וּבָא אַחֵר וְנִטְלָה הַיָּמִינוּ מֵאִי אָמַר לִיה נִקְרָא רָשָׁע

If a poor man is searching for cake and another snatches it from him, we call him wicked.

We learn from this, not to pursue an object that is being sought by another person, especially if he is a poor man. Can we present a bid, participate in auctions, compete on Simchas Torah for aliyahs?

Yes – If we are bidding sincerely and will pay full price if we win.

If the other party will not be left without a required item. However, if he will be lacking without it (for example, he needs to buy his foreclosed home). Let him have it.

No – If we are bidding as a tactic to raise the price and force the other person to pay more, but we really do not wish to purchase the item.

מַעֲשֵׂה מוֹצִיא מִיד מַעֲשֵׂה וּמִיד מַחֲשָׁבָה

Action overrides a previous action or a previous thought.

A famous Rabbi, known for his humility, always sat in a regular seat rather than upfront, at the eastern wall. One of his students asked him, “Rabbi, you were known for your humility, but why do you not sit up front? Certainly a person could have thoughts of humility, there as here, or thoughts of arrogance, here or there?”

The Rabbi explained, “In our Gemara, we learn that actions are more powerful than thoughts. Actions override thoughts. So, I could perform an act of arrogance and sit up front and try to overcome this with thoughts of humility. Action trumps. Here, I can sit as an act of humility and even if I should have thoughts of arrogance, my actions of humility wins.”

הָרִי אֶת מְקוּדָּשְׁתִּי לִי מֵעַכְשָׁיו וְלֵאחֶר לִי יוֹם

“Behold you are married to me from now and after 30 days”.

-“Behold you are married to me from now and after 20 days”.

-“Behold you are married to me from now and after 10 days”.

- The words, “and after”, could be viewed a stipulation or a retraction, leaving only a partial Kiddushin. This is a possible interpretation of these words. It could also be viewed as an evolving contract over 30 days.

-This is a discussion regarding a very desirable woman. Three men offered to marry her. There could even have been a 100 men.

When does a contract made on ‘a stipulation’ take affect?

-At the time the contract and was made?

or

-At the time the condition was fulfilled?

For example: “You are married to me now, unless I retract within 30 days.”

מַעֲשֵׂה מוֹצִיא מִיֵּד מַעֲשֵׂה וּמִיֵּד מַחֲשָׁבָה

Action overrides a previous action or a previous thought.

A deed can erase a thought.

Rabbi Yisroel Salanter was once instructed by a young Torah scholar, who later apologized. Rabbi Salanter forgave him and not only that, but he helped the young scholar find a good job. The young man asked, “Rabbi, why did you go out of your way to help me?.”

He was told, “When you apologized, I completely forgave you. But, a person cannot totally control his emotions and I was concerned that, perhaps, I did have a trace of bad feelings in me. Deeds can erase thoughts, so I performed a deed of friendship, in order to truly be your friend.”

הָאוֹמֵר לְאִשָּׁה · הֵרִי אֶת מְקוּדָּשָׁתָּ לִי עַל מְנָת שְׂאֵתָן לָךְ מֵאֲתִים זָוִז

A man pledges Kiddushin on the condition that he gives her 200 zuz.

She is betrothed and “he shall give to her”.

When is she betrothed?

Rav Yehudah – At the moment he fulfills the condition and gives her the money.

Rav Huna – Whenever he gives her the money, the betrothal is retroactive to the moment of his original proposal.

What if he backs out and states he will never pay? He changed his mind.

What if he changes his mind again and wishes to pay the 200 zuz?

The Tur says if he backs out, the offer of Kiddushin is canceled and the woman is free.

Because of the uncertainty, Bais Yosef, suggests that she obtain a Get from this man now.

בֵּית כּוּר

What is a Bais kur?

Measuring the area of a field: Not to count in any ditch deeper than 10 Tefachim or any pile of rocks taller than 10 Tefachim.

כָּל תְּנָאִי שְׁאִינוּ כְּתְנָאִי בְּנֵי גָד וּבְנֵי רְאוּבֵן אֵינוּ תְּנָאִי

Any stipulation that is not like that of Gad and Reuven, is not a legally binding stipulation.

Numbers 32:29 – 30. The stipulation of the children of Gad and the children of Reuven.

This is used as a source from which to derive the rules governing the validity of all stipulations in Torah law.

Requires a double stipulation:

- If this occurs, then that occurs and if that does not occur, then that does not occur.

The stipulation must state:

1. What happens if the condition is met?
2. What happens if the condition is not met must also be expressly stated.  
(We should not have to infer the negative ½ of the statement).
3. The fulfilment of the stipulation must precede the act mentioned.
4. The positive must precede the negative.

כָּל תְּנָאִי שְׁאִינוּ כְּתְנָאִי בְּנֵי גָד וּבְנֵי רְאוּבֵן אֵינוּ תְּנָאִי

Any stipulation that is not like that of the children of Gad and of Reuven, is not a legally binding stipulation.

When a condition is not doubled:

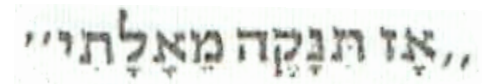
A condition is only a factor if it fits within specific guidelines which are set by the Torah. In discussing the episode of the tribes of Reuven and Gad in Bamidbar 32.

They are conditions that must be stated-

1. In a positive and negative manner (if/then, if not/then).
2. The condition must be dated before the action.
3. The positive fulfillment and its consequences must be mentioned before the lack of fulfillment.

If a person sets a condition that does not fit the above, we revert back to where no condition was even stated.

Also, we say that since he did it, yet not in the proper manner, we never intended that the condition take effect and we expected the arrangement to be valid, without the fulfillment of the condition.



“Then you will be free of my oaths.”

This is a detailed discussion regarding Torah texts that specifies stipulations and are used as proof that double stipulations are necessary for a stipulation to be valid (Numbers 32:29 – 30).

“If the children of Gad and Reuven cross the Jordan to help the other tribes conquer the land, they will receive land in Gilead. But, if they don't cross, they will inherit in Canaan.”  
 “Go to my father's house and don't take a wife from the Canaanites, if the woman won't follow you. You are free of my oath” (Genesis 24:41 61b3 line 25 A21).

“If you follow my statutes you will be blessed and if you despise my statutes, you will be cursed” (Leviticus 26:3 61b4 line 33 A11).

“If you are willing and you harken, you shall eat the good of the land. But if you refuse and rebel, you will be devoured by the sword” (Isaiah 1:19 – 61b4 line 38 B8).

**OUT OF ORDER!!**

אם-לא שכב איש אתך

If no man has lain with you.

A stipulation in the Torah seems to show an exception. (Numbers 5:19) “If you have not lain with the man, or strayed to defilement, while married to your husband, be exonerated”.

R Meir – A stipulation, in conditional agreements, must be doubled. **R Meir** also reads “hinchi” as “chinki”, meaning ‘must be choked’. To articulate the alternative, two more proofs follow.

Mishnah 62a3 discusses- A thing that has not yet come into the world.

A man tries to marry a woman not yet eligible to him. For example, “Become betrothed to me after I convert to Judaism”, or i.e., “become betrothed to me after your husband dies”. This is not considered a betrothal.

גַּר נִמְי לֹא בִּידוֹ

Becoming a convert is not in his power.

Who says he will find three people to preside over his conversion?

Can a non-Jew, who converts, testify on matters that he witnessed before his conversion?

Shulchan Aruch – No, he was not qualified before he converted. We require a witness to be a qualified witness. Both at the time he witnessed the event and at the time of his testimony.

Shach says - Yes, because it was his choice to convert. Even though it is a matter that had not yet come to the world. It was in his power to convert and so it is considered as though his conversion actually existed. No, it is not in his power to convert. He may wish to do so, but who can say that he will find three people to form a Bais Din for him. It is not in his power and he may not testify about what he saw prior to his conversion.

מִקְנָה דְּבָר שֶׁלֹּא בָּא לְעוֹלָם

All maintain that one may convey something that has not yet come into the world.

This discusses which items are considered to be things that are not under his control.

For example, the death of a person, or his freedom from slavery

What about being converted? – It is not under his control. He needs three other people as a Bais Din.

What about this statement, “If your wife gives birth to a girl, she is betrothed to me”? If she is pregnant, it ‘has come in this world’. If she is not pregnant, it ‘is not of this world’. Why? Because if she is pregnant, the item is at least somewhat in the world and especially if the pregnancy is already discernable.

All Amara'im (Rabbah and Rav Yosef) would agree that a situation like a discernible pregnancy and stalks of grain in the fodder stage, that exist in rainwater and require no further human intervention to reach maturity, are items ‘in this world’ and not items that are ‘not yet in this world’.

מִקְנָה דְּבָר שְׁלֹא בָּא לְעוֹלָם

An entity that does not yet exist in this world.

In general, it is not legally possible to deal with an entity that does not yet exist.

Unless, it could come into effect by our action right now.

Example: The grain from their stalks shall become Terumah, when they are cut.

Since, the person has the power to cut them now, it is not considered an entity that does not yet exist. It exists.

But, if it is not under his control, it does not exist.

Example: I plan to divorce you and this gift will be yours after I remarry you. It is in his power to remarry her, so why is it a matter of “not in existence”? Because he has no power to control whether she will agree to remarry him.

Therefore, it is a matter that has not come into existence and is not a legally binding statement.

לְאַחַר שְׂיָמוּת בַּעֲלֶיהָ

After your husband dies.

What is the reason that an item ‘not yet in the world’ cannot be contracted for?

Because, if you don't have complete control, you can't make an offer with complete confidence. And since the other party knows that the deal is contingent, he too, may not enter with full confidence.

However, Reb Yehudah HaNasi and R Meir do permit contracts regarding: ‘Items that have not yet come to the world’, except for two cases:

- After your husband dies. }
- After your sister dies. }

“I will marry you after your husband dies”. If the husband learns that his wife's is waiting impatiently for him to die so she can marry another man, there will be hatred.

Therefore, this type of case is not permitted as an exception.

הָרִי אֶת מְקוּדָּשְׁתִּי לִי עַל מִנַּת שְׂאֵדְבָר עֲלֶיךָ לְשִׁלְטוֹן

You are betrothed to me on condition that I speak to the authorities on your behalf.

A man offers to speak to authorities on behalf of a woman and use the value of that effort, as the value (at least worth a perutah) to effect Kiddushin.

If he does speak in the manner of an interceder to the authorities, he has fulfilled his condition and the Kiddushin is valid.

Whether he:

- Achieves her entire expectation.
- Only achieves part of her expectation.
- Achieves nothing of her expectations.

The condition was met and the contract is valid.

קִדְּשָׁתִי אֶת בְּתִי וְאֵינִי יוֹדֵעַ לְמִי

I married off my daughter, but I do not know to whom.

A father may marry off his underage daughter, even though, usually, we need two witnesses for Kiddushin to occur. We don't in this case.

In this case, the father says, “I married off my daughter, but I don't know to which man”. If a man comes forward and claims to be that betrothed, he is believed, only in order to give her a get, but not in order not to marry her.

A person is believed in a manner that is to his detriment, i.e., he can't marry her. But he is not believed when he might benefit or where he might harm others.

נֶאֱמָר לִיתֵן גֵּט

We believe him (in order ) to give her a get.

Soon after marriage, a very young woman was separated from her husband. Ten years later, a man came who claimed to be her husband, but she did not recognize him. May they assume they have the correct partners and live together? Only if he has proof that he is her husband. Otherwise, we believe him, only to the extent that we allow him to give her a divorce. They can, then, from that baseline, pursue any option they like.

מִיָּן לֹאב שְׁנֵאֲמָן לְאַסּוּר אֶת בִּתּוֹ מִן הַתִּירָה

Where do we learn that a father may restrict his daughter?

A mouth that limits, may be the mouth that permits.

A father says, “I gave my daughter” to a man.

If he stopped here, the daughter is forbidden to marry anyone.

So a father has the power to restrict his minor daughter.

If he adds, “Hazeh”, ‘this man’, he removed the restriction and permits her to marry ‘this man’.

מִי שֶׁאָמַר בְּשַׁעַת מֵיתָתוֹ

Someone who declares at the time of his death bed,

“I have brothers”, is not believed.

The above occurred and the wife was told, ‘I have a brother and you are subject to Yibum’. She spent time looking for the brother and finally found him, whose existence had not previously been known. The brother insisted he would not give her Chalitzah to free her, unless she gave him a large amount of money. He would not accept a lesser amount.

The rabbis ruled – A death bed declaration, that obligates the wife to Yibum, is not granted credence. Her husband, therefore, has no brother. No Chalitzah is needed and no money need change hands. Her husband has no brother, even though he has been found and confirmed!!

Unless it was known, or presumed, that in fact, he did exist.

הַמְקַדֵּשׁ אֶת בִּתּוֹ סֵתֶם

A man give his daughter in marriage, but does not specify which daughter.

Discuss what is meant by, “I gave my older daughter for marriage”?

In a case where a man had three daughters, from each of two wives,

- He could mean the oldest of all six daughters.
- He could mean the oldest of each group of daughters.
- He could mean the second daughter of each group, who is older than the youngest of each group.
- He could mean any of the five daughters, that are older than the absolute youngest.

קִדְּשֵׁתִי אֶת בְּתִי הַקְטָנָה

I give my younger daughter in marriage.

Is it required that the older daughter or the elder of sons marry in order of their birth in the family? No such requirement – see our Gemara.

Here, did he mean the younger daughter, after the eldest?

Perhaps, he has many daughters.

Or the youngest of his first, second or third wife?

We do not know.

הָאוֹמֵר לְאִשָּׁה קִדְּשָׁתִיךְ וְהִיא אוֹמֶרֶת לֹא קִדְּשָׁתָנִי

If a man says to a woman, “I betroth you” and she says, “You did not.”

He is forbidden to marry her relatives, but she is permitted to marry his relatives.

Obviously, this means we do not consider them betrothed.

Why should the man have any restrictions at all?

Why, even though it can't be proven (no witnesses), may a person may make something forbidden to himself, but not make something forbidden to others?

הָאוֹמֵר לְאִשָּׁה קִדְּשָׁתִּיךְ וְהִיא אוֹמֶרֶת לֹא קִדְּשָׁתָנִי

If a man says to a woman, “I betroth you” and she says, “You did not.”

If a man says to a woman, you are married to me and she says, no, I am not. They are not married. He is prohibited from marrying her relatives, but she is permitted to his.

Why? Because by his statement, her relatives are prohibited to him and he must live with the reality he insists is correct. If later, he learns he was mistaken and really was not married to her, and has a credible reason to justify his prior words, we allow him to retract and adjust his status.

If a person made an admission against interest in monetary items, the other party has already relied on that admission and retraction is not accepted?

הָאוֹמֵר לְאִשָּׁה קִדְּשָׁתִּיךְ וְהִיא אוֹמֶרֶת לֹא קִדְּשָׁתָנִי

If a man says to a woman, “I betroth you” and she says, “You did not.”

A woman became engaged to man # 1.

Man #2 came forward and said, “She is already engaged to me, but my witnesses are out of the country.”

If the woman disputes the claim of Kiddushin, no Get is needed. Yet, to be certain, the rabbis advised that man #2 should give her a Get.

However, later, one of the witnesses returned and denied that man #2 had actually effected Kiddushin. So the Get she received was not necessary; it is null and void. She does not have to wait three months to marry man #1. She is free to marry a Kohen and she may even marry the relative of man #2, who gave her the Get.

In the opposite circumstances, where a woman claimed a man had betrothed her and she denies it, we cannot force him to give her a Get, since that would prohibit him to her relatives. Why in our first case, can she receive a Get and still not be prohibited from his relative?

Because in case #2, we have no definite evidence that Kiddushin did not take place. Perhaps it did and he is, therefore, prohibited from her relatives. In case #1, Bais Din investigated. No Kiddushin occurred. Therefore, she is not prohibited from his relatives.

אִי מֵה לְהֵלֵן הוֹדָאָת בַּעַל דִּין בְּמֵאָה עֵדִים דְּמִי

The admission of the litigant is like the testimony of 100 witnesses.

If every marriage needs witnesses, where were the witnesses to Adam and Eve's marriage?

In Kiddushin 65, we learn from the word “davar”, mentioned in regard to money transactions (Deut 19:15) and marital transactions (Deut 24:1), that we need 2 witnesses at every marriage.

Therefore, perhaps if both parties to a money transaction agree, i.e., I owe you and you owe me, no witnesses are needed. Regarding marriage also, if each agrees they are married to the other, no witnesses are needed.

No, in regards to money, no one else cares if the two individuals have a money relationship. However, concerning marriage, you exclude your wife from marrying anyone else, so witnesses are needed. However, in the case of Adam and Eve, they're being married did not exclude Eve from marrying anyone else. There was no one else. Therefore, witnesses were not needed

אִי מָה לְהֵלֵן הוֹדָאָת בַּעַל דִּין כְּמֵאָה עֵדִים דְּמִי

Just as in monetary matters, an admission of the litigant is like the testimony of 100 witnesses.

Is there any benefit to 100 witnesses? No, two witnesses are just as good. It is just an expression of how absolutely we accept the person's own admission, i.e., that he owes money.

That admission only involves the two parties.

We don't allow a party to give testimony against his interest when it comes to matrimony, since that involves many other people, not just the two principles. All the people who would be forbidden to them, if they were married, are impacted by their testimony.

Self-incrimination is like 100 witnesses in civil matters, but not accepted in criminal matters or in matters of Kiddushin.

## אִי מֵה לְהֵלֵךְ הוֹדָאָת בַּעַל דִּין בְּמִאָּה עֵדִים דְּמִי

Just as in monetary matters, an admission is like the testimony of 100 witnesses.

Discussion: Can Kiddushin be established by one witness, even if the couple were each to agree, they are married?

Ex 22:8 – A person responds to a financial claim against him by one witness, by admitting he owes up to a certain amount. He takes an oath that he owes no more. This indicates that one witness and an admission is taken seriously. That is acceptable for financial claims, because it only inconveniences the person who made the admission. In other matters, such Kiddushin, that is not the case.

The admission here, disadvantages all other relatives, who would be forever forbidden to marry either of the parties. Also, any man who would cohabit with the woman, may be guilty of adultery and subject to the death penalty. Therefore, one witness and admissions by the parties, is not enough.

However, their admission would obligate them to honor the Kiddushin.

A single witness is believed to regarding prohibitions in what way?

The principle gives a single witness credibility if his testimony would render something permissible.

But if it makes something forbidden, the credibility is limited and depends on a set of factors (See 65b4 A+ B- in comments).

What kind of a case would we be talking about here? A man cohabitates with her, can he get the death penalty? The “husband” dies, is his brother obligated regarding Chalitzah? If they separate, does she need a get? Is she forbidden to a Kohen?

וְאֵין דְּבַר שְׁבַעְרֹה פְּחוּת מִשְׁנֵי

We cannot convict someone of illicit behavior without two witnesses.

Rambam says one is good enough.

A Kohen marrying a divorcee is a prohibited relationship. There was a case where a non-religious Kohen married a divorcee. The couple later became baale' Teshuva. We are told that a Kohen may not remain married to a divorcee. He must divorce her or he receives lashes!

The man stated that his mother lived with a non-Jew before she married his father and was therefore a “zonah”, whom his father, a Kohen, could not legally marry. If so, this man was a disenfranchised Kohen, who would be permitted to marry a divorcee. But, they could not find two witnesses to testify that the mother had lived with a non-Jew, before marrying his father. Rav Ovadiah Yosef ruled (according to Rambam) that one witness is enough, and on that basis ruled that the man was a disenfranchised Kohen and could stay married to his ba'alas Teshuva wife.

אִשְׁתּוֹ זִינְתָה בְּעַד אֶחָד

A single witness states that his wife committed adultery.

In other cases where there is one only witness and the party involved remains silent the single witness is accepted.

- One witness is believed in matters of forbidden items.
- One witness is believed for prohibition.

וַיַּהַרְגוּ כָּל חֲכָמֵי יִשְׂרָאֵל

And he killed all the sages of Israel

Story of King Yannai and the killing of all the sages of Israel,  
except for Shimon ben Shetach (Yannai's brother-in-law, whom Yannai's wife protected)  
came and returned Torah learning to its former standing.

The King also wanted to be Kohen Hagodal, but there was a rumor that his mother had been  
kidnapped by idolators in the town of Modiin and Yannai was not fit to be a Kohen.  
He, therefore, punished all the sages

אָף אָנוּ נֹאכַל מְלוּחִים זָכָר לְאַבוֹתֵינוּ

Let us eat meluchim in remembrance of our forefathers.

Every time Rav Menashe Klein spoke, even at a wedding or bar mitzvah, he would mention the horrors he suffered at the hands of the Nazis. Is this proper, to bring to a simcha such sad and cruel memories??

In our Gemara – When King Yannai returned from conquering 66 cities, he made a banquet, mostly of pickled bitter vegetables. One is obligated to mention hard times, especially at times of joy.

We eat marror on Pesach; We break the glass at a chasunah; This is done, in order to recall the bad times, and thereby, to praise God that this time, now, is different.

וְכָל מָקוֹם שֶׁיֵּשׁ קִידּוּשִׁין וְיֵשׁ עֲבִירָה

In every case where there is a betrothal, and there is a transgression.

This is a discussion regarding the status of the children, born of marriages between two people who are forbidden to each other.

If forbidden, such that punishment is by kares, the marriage is void and the children are Mamzerim.

If forbidden such that punishment is by lashes, the marriage takes effect and the offspring, while blemished, are not Mamzerim.

## גְּרוּשָׁה וְחִלּוּצָה לְכַהֵן הַדִּיּוּט

A divorcee or a Chalutzah married to a 'regular' Kohen.

If the Kohen marries a divorcee

- Prohibited biblically (Leviticus 21:7).
- The children are “chalam” and disqualified from priestly functions but if they should do them, it is a valid performance of that function, i.e., prohibited but accepted.

However:

1. Divorce and divorcees are not looked at askance today.
2. The role of the Kohen is diminished in our times.
3. If a certain person really is a Kohen is not determinable today.
4. Not accepting such liaisons, may drive such a couple from Judaism altogether.

In times of natural emergency, a Bais Din can uproot a Torah law (demands of the moment) (BT Yvamot 89a – 90b) and our current rate of intermarriage permits us to consider leniency here, so as not to lose more Jews.

וְכָל מִי שֶׁאֵין לָהּ לֹא עָלֶיו וְלֹא עַל אֲחֵרִים קִידּוּשִׁין

A woman who may not marry a particular man and for that matter can't marry any other man.

If she does, the off spring are like her.

There is a loophole for a Mamzer, not to have the title Mamzer continue in his family for 10 generations (which means forever).

A Mamzer can marry a non-Jewish woman. Their child is not Jewish. The child can convert and then marry a Jewish person.

This only purifies an offspring of a Mamzer (male) and not a Mamzeres (woman). It encourages a man to marry a non-Jewess and we will not encourage intermarriage, for this or any other objective.

בְּאוֹמוֹת הָעוֹלָם אַחֲרֵי הַזָּכָר

Among the nations, we calculate one's genealogy through his father's status. (*The male line*)

This is only done if the father descends from one of the seven nations indigenous to Canaan. In such a case, we are not permitted to let them live.

Doeg was not qualified to serve as King, since Ruth, his mother, was a Moabitess and people from Moab (indigenous to Israel, are not permitted to join Klal Yisroel) (BT)

Sanhedrin 60a teaches that Ruth was the daughter of Eglan, who was the grandson of Balak, the King of Moab. However, he originally descended from Midian. So Ruth is not a Moabitess at all, but is descended from Midian. Therefore, she may convert and join Klal Yisroel.

BT Gittin 57b teaches that the grandchildren of Haman studied Torah and converted. Haman was an Amalekite and they all must killed. How could this happen? They were Haman's grandchildren, through his daughter and her husband, who was not an Amalekite.

דָּאָמַר אֵין קִידוּשִׁין תּוֹפְסִין בְּחֵיבֵי לֹאִין

He said that Kiddushin does not take place between those subject to ordinary prohibitions.

This is a major discussion regarding R Akiva's opinion that any prohibited marriage is void and the children are Mamzerin.

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The Gemara finds proof that no Israelite can ever marry a Canaanite's slave woman from the sentence where Abraham says to the two servants who accompany him to Mount Moriah, "Stay here with the 'chamor'." It was unnecessary for Abraham to mention the donkey, he could just have said, "stay here". The Mishnah says read "stay here with the people who are like donkeys", and since marriage cannot take place with a person whose legal status is that of a donkey, Kiddushin cannot take place with a Canaanite slave woman.

בֶּן הָאִשָּׁה מִיִּשְׂרָאֵל קָרוּי „בֶּן”

From here, we derive that your son, who comes from a Jewess is called “your son”.

Patrilineal Jewishness is a modern myth.

Devarim 7:34

You shall not intermarry with non-Jews. Don't give your daughter to his son in marriage and don't take their daughter as a wife for your son.

Because the non-Jewish father may turn your grandchild away from God, to serve other gods.

Note: Only the non-Jewish father may turn your grandchild away from God. Meaning that the child of a Jewish mother is considered Jewish and it is possible to turn that child away. The other scenario, of a non-Jewish mother, is not even mentioned. Since that child is not considered Jewish. The absence of that scenario is the proof used to decide that the child of a non-Jewish mother and a Jewish father, is not Jewish.

הָבָא מִן הָעוֹבְדֵת בּוֹכָבִים קָרוֹי „בֶּנֶךְ” אֶלָּא בֶּנֶה

A child born of the Gentile mother is not called “your son”, but her son.

There has been a discussion initiated by the Reform movement to accept patrilineal identity for Jews. Matrimonial identity is established in the Gemara above. In Kiddushin Palestinian Talmud, a sage Jacob of Naburaya came to Tyre and was asked is it permissible to circumcise a son of a gentile woman on Sabbath and he said ‘yes’, (based on Numbers 1:18).

“They declared their pedigrees after their families by their father's houses”.

R Haggai responded, “Wrong,” (see Deuteronomy 7:3-4). “You should not make marriage with them, their daughter you shall not take onto your son, for he (her father) will turn your son from me to follow other gods”.

בֶּן בִּתְּךָ הַבָּא מִן הָעוֹבֵד כּוֹכָבִים

Your daughter's son, who comes from a heathen father.

We learned that a child born of your daughter and her non-Jewish husband is called “your child”, i.e., the child is still Jewish and through another posuk, “Yoldu lo”, ‘are born for him’.

69a1 line 5 a 12 – How a Mamzer arranges to have his children not be a Mamzer, also.

הָהוּא בְּשִׁבְעָה גוֹיִם כְּתִיב שְׂאֵר אוֹמוֹת מְנַלָּן

This verse refers to the seven nations. What is the source regarding the other nations?

Rambam – It is prohibited to marry a gentile who has not converted.

Tur – Can't marry, even if they have converted and belong to the seven nations indigenous to Eretz Yisroel and certainly if they did not convert.

They may not even have relations, outside the context of marriage, with those from the seven nations!

Rambam and Ritva – Can't marry gentiles, even if they convert.

הָרִי אֶת בֵּת חוֹרִין וְיֻלְדָּה עֶבֶד

Behold you are a free woman, but if you give birth to a child, his/her status is that of a slave.

A master may free a female slave who is pregnant, without simultaneously emancipating the fetus. The fetus may be reserved as a slave for the master, after it is born. It does not matter whether the pregnancy is less or more than 40 days. Therefore, even though a fetus, before 40 days gestation, is considered mere water, we see it possesses independent status and identity.

הָרִי אֶת בֵּת חוֹרִין וְיֻלְּדָה עֶבֶד

Behold you are a free woman, but if you give birth to a child, his/her status is that of a slave.

R Aaron Soloveichik, as quoted by his son R Moshe Soloveitchik, apparently has ruled that a fetus of a pregnant woman who converts to Judaism, has the same status as when born of a convert, unless the mother's conversion took place before the gestational age of 40 days. If the conversion took place before 40 days, the fetus is considered to be “mere water”. Some hold that feticide, during this period, is not prohibited, because it is mere water (others do prohibit feticide in this period). According to this reasoning, at the time the “mere water” attains the status of ‘fetus’ at 40 days, its mother is Jewish and it is born, then, as a child of a Jewish mother, i.e., the child is Jewish.

יְכוּלִין מִמְּזֻרִין לִישָׁהּ

A Mamzer can be purified.

He said to his friend, “Go and marry for me.”

A Mamzer can be purified (regarding his offspring) if he marries a Canaanite slave woman.

Because the fetus in a Canaanite slave woman, is like a fetus in the belly of an animal. Therefore, it has no genealogical relationship to its father. Therefore, logic dictates since he/she is not connected to the father, the child can't be tainted by his blemish and the child, thus born, is not a Mamzer.

עשרה יוחסים עלו מבבל

Ten genealogical classes went up from Babylonia.

Does not deal with Kiddushin, but with personal status, i.e., which members of the Jewish community are forbidden to marry ordinary Jews or Kohanim?

Prohibition against marrying:

Mamzayrim - Product of illicit marriages (punishable by Kares) for 10 generations.

Ammonites and Moabites - Marriages with the male only, are forbidden for 10 generations.

Edomites and Egyptians – Forbidden for two generations.

Canaanite slave – Kadusha not allowed (Lev 18)

Prohibitions for Kohanim:

Ordinary Kohen- A “zoneh”, a ‘harlot’.

Chalalah– A child born of a Kohen and a forbidden woman.

Divorcee –

Kohen Gadol – A widow or a non-virgin –( Lev 18:14).

Mishnah– 10 genealogical groups went up from Babylon.

עֲשָׂרָה יוֹחָסִים עָלוּ מִבָּבֶל

Ten genealogical groups who went up from Babylon.

1. Kohanim
2. Leviim
3. Yisraelim
4. Chalalim – disqualified Kohanim
5. Converts
6. Freed Canaanite slaves – If he belonged to a Jew, he has a quasi-Jewish status. He must be immersed in a Mikvah and circumcised. If freed, he is a full pledged convert.
7. Mamzerim – Prohibited conjugal relations punished by Kares.
8. Nesinim – Canaanite group converted to Judaism out of fear of Joshua. They were designated to be wood cutters and water carriers. There is a **Rabbinic prohibition** to marry them (Joshua)
9. Shetukim– Quieted ones – A child whose father is not known. His mother will silence him if he asks about his father.
10. Asufini – One who can recognize his mother, but not his father.  
-One who is “gathered in”. An orphan whose parents are not known. Perhaps they abandoned him and he was ‘gathered in’ from the street.

ר' יוסי אומר גדולה חזקה

R Yosi said, – “Presumptions are powerful and (may be relied upon).”

Today, we are not certain that a person who calls himself Kohen is genealogically accurate. That is why some rabbis suggest that we no longer

- give Challah

- give a foreleg, jaw and other parts of a sacrifice to a Kohen.

And that when we do a pidyon haben, we should do so with many Kohanim present, hopefully, at least one will be genealogically correct. If a Kohen takes money for the pidyon haben, he should return it, since, perhaps, he is not really a Kohen.

Chazon Ish relies on the sentence above and says there is no reason not to accept that a person is a Kohen. He has a chazakah on being an actual Kohen. He may make a bracha at Berkas Kohanim, take first Aliyah and accept money for a pidyon haben, etc.

ר' יוסי אומר גדולה חזקה

R Yosi said, – “Presumptions are powerful and (may be relied upon).”

Problems of today.

He has a Chazakah in his name, but has no Chazakah in his Kahuna.

A young man named Cohen became a Baal Teshuva and assumed he was a Kohen.

However, he knew that his mother was not Jewish when he was born (and never converted).

His father was Jewish and was a Kohen. What is the status of the son?

Now, he is not even Jewish, let alone a Kohen. After he converts, he is Jewish but never a Kohen.

A Cohen who is not a Kohen.

Presumptions are powerful and can be relied upon (usually).

Another case:

That young man's paternal grandfather married a non-Jewish woman.

Their son is this boy's father. The father married a Jewish woman.

What is this boy status regarding:

- Jewish – yes
- Kahuna – no

מַנְזֵרִים

How do we know....?

Discusses how we know that converts and freed slaves went up (Ezra 6:21).  
Mamzerim went up out of Babylonia (Nechemia 2:10).

## אֵלֶּא לְמֵאן דְּאָמַר הַנֶּלֶד בְּשֶׁר

According to the one who says that the child of a slave and a Jewess is a legitimate Jew,

How is a person who was conceived from an egg donation, considered regarding his/her religion?

Jewish law defines a child's native religion, according to the religion of the birth mother, at the time of birth.

If a woman converts to Judaism during her pregnancy, the child is born a Jew.

Moreover, If the first child of a convert is a male, he is considered a firstborn “Peter rechem” and needs redemption from the Kohen!! The law concentrates not on conception, or gestation, but on the birth.

However, the sperm donor is the father, not the social father, or the man the mother is married to. A Jewish woman donated her ovum, had it fertilized and implanted into a non-Jewish woman surrogate for gestation and birth. That child is not Jewish and would need to undergo conversion.

How many ova are Jewish people permitted to try to implant? No more than three.

Three children may be carried safely to delivery. More, endangers the mother's health and may require selective abortion. Abortion to protect the mother's life is permitted, but we should not set up such a problem by implanting more than three. Because if more than three, and if all successfully implant, they pose a threat and we must selectively abort.

בְּמוֹמוֹ פּוֹסֵל וְאָמַר שְׁמוּאֵל

And Schmuel says, “That he declares them unfit with his own blemish.”

“The stove calling the kettle black”.

The comment above relates to a person accusing others of being genealogically unfit, i.e., in their family such and such occurred, etc. Or a person who is highly critical of others.

The Baal Shem Tov taught, “When we are able to detect a bad quality in another person, it is because we possess that same bad quality. Therefore, we are able to recognize it”.

Our becoming aware of it in the other person, permits us to correct that same blemish in ourselves.

אֵין שׁוֹאֲלִין בְּשָׁלוֹם אִשָּׁה

We may not exchange greetings with a married woman.

- Even through an agent? Rav Nachman says it is permitted, if husband is the agent.
- Even through her husband? Shmuel Rav Yehudah says it is not permitted even via her husband as an agent.
- How then could the visitors in Abraham's tent inquire about the welfare of his wife? (Parshah Vayera)

That is different, asking someone about her welfare, is not the same as sending greetings to her.

May we greet a woman with ‘Good morning’?

- Yes, today it does not convey any degree of fondness, i.e., it is considered standard etiquette.

The same applies to wishing her ‘Mazal tov’. This is a blessing and a prayer, rather than a personal greeting. To one's relative and to one's regular hostess, it is proper to express appreciation.



כֶּסֶף מְטַהֵר מַמְזָרִים

Money purifies Mamzarim.

Rashi – Because if they have wealth, they marry into Israel. Having mingled, they will not be separated, since they have attached themselves to many families.

This maxim is cited as an illustration of the abuse of the power of wealth. It can purify even the most illegitimate person or situation. Watch out!

צְדָקָה עֹשֶׂה הַקָּדוֹשׁ בְּרוּךְ הוּא עִם יִשְׂרָאֵל שֶׁמִּשְׁפָּחָה שְׁנֵטְמָעָה נִטְמָעָה

God does charity with the people Israel. When a family is mixed, it is mixed.

Rabbi Yitzchak says-A family in which a Mamzer has married, is not disqualified and shunned. Even though the family is genealogically tainted. God grants that family charity and accepts them.

In our day, if a Rabbi hears a rumor that a certain person's conversion or their mother's conversion was not halachically ideal (but there are no legitimate grounds for suspicion concerning the validity of the conversion), the Rabbi may ignore the rumor and remember the dictum of Rabbi Yitzchak.

משפחת בית הצריפה היתה בעבר הירדן

There once was a family name Bais Tzerifah on the East side of the Jordan.

Discussion regarding:

A family, whose generations earlier, had a Mamzer marry one of their woman. Today, we do not know which woman it was. Each member of the extended family is possibly a Mamzer and others are not. All have a presumption of legitimacy. When the Messiah Elijah comes, all will be deemed pure anyway.

And a discussion of the four letter name of God and the 12 letter name of God is held.

עוד אַחֶרֶת הָיְתָה

There was yet another tainted family.

A family that has assimilated into the community, may remain assimilated.

Moshe Isserles - It is forbidden to reveal the blemish of a family that is not public knowledge. The family should be left with its presumption of validity, because all families will be valid in the Messianic age

וְהִצְנוּעִים שֶׁבְּהוֹנָה מִבְּלִיעִים אוֹתוֹ בְּנִעִימַת אֲחֵיהֶם הַכֹּהֲנִים

The modest Kohanim would mumble God's name during the melody of other Kohanim.

Kohanim should sing a niggun (melody), when they recite the Birkas Kohanim for each word that is a separate Bracha.

-Singing brings one to a higher level of inspiration.

-Singing causes the spirit of HaShem to rest on a person.

These melodies can be traced back to Har Sinai.

Moshe Rabbeinu brought many tunes with him, from Mount Sinai.

אם ראיית שני בני אדם שמתגרים זה בזה

If you see two people in conflict with each other.

If we see two honorable gentlemen arguing or feuding, and they can't make amends, we can ascribe that to some serious underlying problems.

A genealogical flaw is one of them, such as a different background. one of them is genealogically impure and he is subject to jealousy or hatred.

עד היכן היא בבל

How far does Babylonia extend?

This is a discussion regarding how far Babylonia extends east of the Tigris- until the River Yoani -extends up the Tigris River until Mushkanei downstream west.

חֵבִיל יָמָא תְּכִילְתָּא דְּבָבְל

Chaveil Yama is the glory of Babylonia.

This discusses sites in Babylonia and analogies between their name and the type of people who live there.

Chaveil Yama is a region of the Euphrates near Bursif.

מאי טעמא דרבי יוסי

What is R Yose's reason

for permitting the marriage of a convert and a mamzeress?

This discusses whether a convert could marry a mamzeress.

A Kohaness may marry a –convert.

-freed slave.

-Chalal.

שֶׁאִין צַדִּיק נִפְטָר מִן הָעוֹלָם

A great scholar does not die until another Tzaddik, like him, is created.

The sun rises and the sun sets.

The light of one scholar is not extinguished, until the light of another scholar begins to rise.

The same concept is in place regarding the demolition of a Shul. It is prohibited to demolish one Shul before the replacement is built.

This principle also gives hope to those who await the building of the 3<sup>rd</sup> Bais Hamikdash. God would not permit the destruction of the second Bais Hamikdash, if plans for the 3<sup>rd</sup> had not already been prepared.

וְשִׁמְתִּינָהוּ ר' אַחִי בֶרֶבִי יֹאשִׁיָּה וְאִישְׁתָּמוֹד

And R Achi, the son of Yoshiyah, excommunicated them and they became apostates.

Setting conditions:

A Jewish owned sports center opened in Mexico City. It had no provisions for kosher food. The rabbi approached the owner and investors and they agreed to have kosher food. But, they would not agree to avoid serving meat and milk together. The owner said, “I agreed to kosher products, to a mashgiach and to no cooking on Shabbos. But if a customer chooses to buy a kosher hot dog or hamburger and an ice cream for dessert, I don't agree to prevent that”. Rav Moshe Feinstein was asked if the Rav of Mexico City could agree to that arrangement? Can we give them our Hechsher?

Rav Feinstein – Yes, the products are kosher. People will at least have that. If they mix them improperly, that is their choice. We can teach, but not police their behavior.

מאי טעמא דרבי יוסי

What is R Yose's reason for permitting a convert and a mamzer to marry?

The word congregation is mentioned five times in the section Deuteronomy 23:3 where it discusses that a mamzer shall not enter the congregation of HaShem.

Deuteronomy 2b:3 - Mamzerim are forbidden to marry a Kohen.

Deuteronomy 23:3 - Mamzerim are forbidden to marry a Levi

Deuteronomy 23:4 - Mamzerim are forbidden to marry a Israeli.

Deuteronomy 23:5 - To permit a mamzer to marry a Shtuki.

Deuteronomy 23:9 - To permit a Shtuki to marry an Israeli.

There is no prohibition for a mamzer to marry a convert, since converts are not considered a congregation.

R Yehudah says – No, combine 1 and 2. They are from the same tribe and you have an extra “congregation” to teach that “A mamzer may not enter the congregation of converts”.

And we learn (from Number 15:15) that congregation laws should be for you and the convert. Therefore, a convert is a congregation.

אֵלָא מַעֲלָה עָשׂוּ בַּיּוֹחָסִים

They set high standards in genealogical matters.

Adoption or patrilineal child. Conversion of a child of a Jewish father and a non-Jewish mother.

A child may be brought to court by his father for conversion. But Jewish law does not recognize paternity in intermarriage. The child is considered to have a natural non-Jewish mother and no father. If the father brings the child for conversion, he must get the authority to do so from his non-Jewish wife. And it is questionable whether a meaningful conversion can occur where there is an unconverted mother, who is an active participant in another faith. It is best to wait until the child reaches majority and can convert of his/her own choice.

Intermarriage is so impossible in Judaism, that a child born of intermarriage has only one parent, the mother, even if the father is known.

נֶאֱמַן אָדָם לֵאמֹר זֶה בְּנִי בְכוֹר

A man is believed to say, “This is my first born son

(Deut 21:17) for the firstborn, the son of the despised (women), he shall recognize”.

“He shall recognize” – ‘yakir’ means he will identify him to others...a father is believed to declare “This is my bechor”.

Under what circumstances? The word ‘yakir’ invests the father with the right to identify his son.

- Even if there was no presumption that he was the man’s child previously.
- So that he will collect a double portion of the estate, because it is the father’s estate and he can identify an heir, if he wishes to do so.
- A man on his death bed may state that he has a son and we believe him to exempt his wife from Chalitzah, rather than to divorce her.
- Even to the point of feeding the child Terumah, if the father is a Kohen, because a father has the right to feed his son.
- So what do we need the word ‘yakir’ for? We have an alternate reason for his having a right to all three actions from other sources

כָּל הָאֲסוּרִין לָבֹא בִּקְהָל

All who are forbidden to enter the congregation.

Further discussion regarding who may marry whom in the group of people forbidden to enter the congregation.

וְדָאן בְּסִפְיָא וְסִפְיָא בְּדָאן וְסִפְיָא בְּסִפְיָא אָסוּר

**Those whose prohibition is certain or with one whose prohibition is uncertain. or uncertain with certain or uncertain with uncertain one for hidden**

A situation of doubt.

A woman told her husband that the child she was pregnant with was not his. He chose not to pay any attention to her statement, but years later he wondered if it was true. If it was true his child is a mamzer, born to a married woman via illicit sex, and would not be able to marry into the Jewish community. He could not let this secret contamination of the community happen on his responsibility. The man asked Rav Shraga Feivel Cohen, who asked Rav Eliashiv, Shlita. The question was, today we could know for certain if this man is the father by doing a DNA test, may we do so?

First – A mother is not believed to declare her child is illegitimate by admitting that she had illicit sex and the father is only believed if he is certain of the illegitimacy. If he is unsure, we presume the child is kosher. Since years have gone by, the child has a Chezkas Kashrus and we have no right to cast doubt on this, by even testing his DNA.

הַנוֹשֵׂא אִשָּׁה כֹהֵנִת צָרִיךְ לִבְדּוֹק אַחֲרֶיהָ אַרְבַּע

If a man wishes to marry a daughter of a Kohen, he must investigate her four mothers.

He must conduct an investigation into the genealogical status of his prospective wife, her mother, her father's mother, and their mothers; a total of eight mothers

To marry a Levi or Yisroel, he should go back an additional generation. Leviim and Yisroelim are not as careful as Kohanim.

List of mothers to check:

- Her mother
- The mother of her mother's father and her mother
- The mother of her father and her mother
- The mother of her father's mother and her mother

## הַנוֹשֵׂא אִשָּׁה בְּהֶנֶת צָרִיךְ לִבְדּוֹק אַחֲרֶיהָ אַרְבַּע

If a man wishes to marry a daughter if a Kohen, he must investigate her four mothers.

Why?

-Laws of Mamzerut

-Deterrence against illicit sex.

-Need to maintain the purity of Israel.

Adultery is the seventh of the 10 Commandments.

Penalty for violation of this commandment is death.

Rambam 1135 – 1204 - Why is a child punished because of the immoral behavior of his parents? As a deterrent. If a man and a woman realize their immorality will cause their children to be penalized by society and be limited in their choice of a mate (Sefer Hamitzvot Lo Taaseh 354).

The Rabbis amount of sympathy for the victim, however, almost eliminated its application. A father absent during his wife pregnancy, away on travel, could be considered the lawful father for up to a 12 month period supported also by Rambam's Mishnah Torah (Issurei Biah 15:19).

Sotah 27a (explained that the husband could have turned swiftly and secretly in a mystical manner by using the "Divine Name").

Mamzerut required two witnesses. The wife could not admit adultery and be a witness against her own interest. Her admission is not admissible in court, unless accused by her husband and it is the rare husband who wishes the world to know that his wife's children are not his own.

הַנוֹשֵׂא אִשָּׁה בְּהֶנֶת צָרִיךְ לְבַדּוֹק אַחֲרֶיהָ אַרְבַּע

Continued-

In our day Mamzerim are created as a result of Jewish ignorance, not promiscuity, as a byproduct of second marriages where no Get was obtained from the first husband. People may marry by a justice of the peace or non-halachic rabbis. Rather than flaunting immortality, such couples are making a commitment to monogamy. If the rationale of Mamzerim was to prevent promiscuity, it no longer does so by merely punishing the children. We are a people, now mixed with mamzerim.

Therefore, (Kiddushin 71 a-b) – A family that has assimilated into the community, may remain assimilated and it is forbidden to reveal the blemish of the family, that is not public knowledge.

הַנוֹשֵׂא אִשָּׁה בִּהְנֵת צָרִיךְ לִבְדּוֹק אַחֲרֶיהָ אַרְבַּע

If one wishes to marry the daughter of a Kohen, he must examine four generations.

This Mishnah seems to be especially for Kohanim.

The requirement for a Kohen to check into the ancestry of the woman he wishes to marry, is suspended if there were charity wardens in her family. Such people are chosen because they are good and reliable (Pesachim 59b) and because even if they are cursed and yelled obscenities at by those whose property they confiscate, they remain pleasant. They are not vulnerable to any exposure of family impurities. They are tested in this manner frequently.

So what is most important in a Kohen's marriage partner?

- Good and reliable
- Halachically not vulnerable to accusation.

הכל פְּשָׁרִים לְדוֹן דִּינֵי מְמוֹנוֹת

Everyone is fit to serve as a judge in monetary cases.

Exceptions:

- Blind in one eye- okay,
- Blind in both eyes, may not serve as the judge, even in monetary cases.
- Poor eyesight? – May serve as the judge, as long as he can see.

If a blind man does judge, his ruling is binding.

Why should he not be permitted?

- Being blind is like it is night for him and Bais Din does not convene at night.
- Being blind, he cannot examine spots of leprosy, to see if the person is Tahor or Tamei.

כִּי־נֶאֱמַר בְּהִדְרֵי אִינְשֵׁי

Because charity collectors must argue with people.

A great Rabbi was traveling to meet a wealthy businessman, who he hoped would give a large donation. His entourage urged him to hire a coach, but he responded, “It is a shame to waste the Yeshiva’s money.”

The businessman was cordial and asked Rabbi many questions about the yeshiva; it's debt, it's budget, it's faculty, it's curriculum, it's teaching method, etc. The Rabbi said, “When it comes to questioning, the pedagogical philosophy of our institution, you have gone too far.” Finances, Yes. Educational methods, No. And the Rabbi walked out, hired a coach and driver and returned to the yeshiva. His talmidim asked, “Why now would he hire a coach?” The Rabbi answered, “Before, when I had to depend on human hands to support us, that is limited, I had to conserve expenditures. Now that I rely on God to provide, He has no limit and I do not need to be so concerned.”

בֵּת חָלָל זָכָר פְּסוּלָה מִן הַכֹּהֲנָה לְעוֹלָם

The daughter of male Chalal is unfit for the Kahuna forever.

A Chalal is a woman who is forbidden to a Kohen, yet has relations with him.

The son of Chalalah is a Chalal from generation to generation through the male line. And although his father is a Kohen, that Chalal is not inbred with a Kohen's sanctity.

A daughter of a Chalalah, who marries an Yisroel, their child is no longer a Chalalah. They, then, discuss converts. A convert is also forbidden to a Kohen.

תָּנוּ רַבָּנָן „לֹא יִחַלֵּל זֶרְעוֹ” אֵין לוֹ אֶלָּא זֶרְעוֹ הִיא עֲצָמָה מִנֵּין

The rabbis taught, “He should not defile his children”. How do we know that she became defiled as well?

If a Kohen marries a woman who is not permitted to marry a Kohen she is called a Chalalah.

But if he is only engaged (Erusin) and has not yet had Nisuin, she is not yet a Chalalah. .

So that if he dies or divorces her, before Nisuin, she is not a Chalalah. .

We assume that at the stage of Nisuin, they had relations. But if there are witnesses that she did not have relations, the children she had with her second husband (who is a Kohen) are doubtful. She can be treated in one of three ways:.

1. As a Chalalah-she had Nisuin.
2. Doubtful –treat her children with both stringencies. No first aliyah or Birkas Kohanim and can't go to the cemetery or become Tamei.
3. If witnesses affirm that she had no relations- she is not a Chalalah at all.

חַיִּיב עַל כָּל אַחַת וְאַחַת

He is liable for (a separate set of lashes for) each and every (cup he drinks).

It is a mitzvah to eat three meals on Shabbos. Once the guest asked the rabbi, “Rabbi, I am enjoying shalosh seudos with you very much. Do I merit a mitzvah for eating the meal or do I get a mitzvah for each type of food I eat, or do I get a mitzvah for every bite or drink I take?”

The rabbi answered, “We see from Kiddushin 77, that a Nazir earns lashes for each and every cup of wine he drinks. So we also learn from this, that every cup we drink, every bowl or plate we finish, we earn another mitzvah.”

לוקה שתיים

Two set of lashes.

This discusses how many sets of lashes to give a Kohen, who betroths and then cohabitates with a forbidden female. Or a Kohen Gadol who cohabitates with a widow, who is also a divorcee.

תלמוד לומר,, ואשה

The Torah states, “and a woman”.

A woman is divorced from her husband.

This statement is redundant. Of course she is a *woman*, who is divorced from her husband.

One could say, “and one divorced from her husband.” From the extra word, ‘eisha’, ‘woman’, we learn that even a Chalitzah is forbidden to a Kohen and thus, this is biblically derived.

However, the Gemara answers, “No, it is a rule that is purely Rabbinic in origin. But as an Asmachta, it is a verse hinted at in the Bible, giving a basis for Rabbinic, not biblical law.

דְּכוּלֵי עֲלָמָא בְּחֻזְקַת בְּרִיאִים קִיִּימִי

Everyone is assumed to be healthy unless....

A person went to his doctor and said, “I know I will be very sick unless I eat on Yom Kippur”.

The doctor found nothing wrong, but could not reassure the patient or convince the patient that he was not in any actual danger.

The doctor told the Rav, “I see no evidence of illness. Yet it is my recommendation that that this person be permitted to violate Yom Kippur and eat.”

We assume everyone is healthy unless evidence proves otherwise. Yet we say, “The heart knows the bitterness of the soul.”. And while we don't believe the person who says, he is sick with no evidence to prove it, nonetheless, if he feels he is in danger and it may save his life if, in his perception, he needs to violate Shabbos or Yom Kippur, so a person can decide for himself.

מֵאֵן דְּקָא מִפִּיק נִפְשִׁיהּ מִחֻזְקָה הוּי עָלֶיהָ לְאִיתוּי רְאִיָּה

One who wishes to take himself out of his chazakah ( of wellness) must prove that the chazakah does not apply.

Do we conclude that the last information we have is correct? Yes, until we actually have new information. Then, we revert back to the prior, known statement.

A person is searching for missing bodies in a pile of rubble. He is considered Tahor and others can slaughter a Korban Pesach for him until a dead body is found. Then, with this new information, we consider it accurate, retroactively, to the time we had the knowledge of his prior state. Therefore, once the body is found, we decide he was not take Tahor and he must bring a Korban Pesach Sheni.

- We could decide that he is Tahor until we know he is not, i.e., the body is found.
- We could decide to split the time difference.
- We could decide he is a Tahor, until he is not and then revert back.

אֵין צָרִיךְ לְהָבִיא רְאִיָּה לֹא עַל הָאִשָּׁה וְלֹא עַל הַבָּנִים

A person who says, This is the wife I went overseas with and these are her children.”  
He does not have to bring any proof.

A person must inquire about the genealogical purity of the woman or man they wish to marry. This can be done in Israel, but not as reliably elsewhere.

She was inspected before they left Israel and when they were married. The children, we can see, are attached to her. They tagalong. If the wife died, we must inspect the children, i.e., witnesses must attest to her having been their mother, since we can't see the children being attached to her.

If you married overseas, we must inspect the wife's genealogy.

If he married overseas and she died, we must inspect her and the small children, because we can't see them tagalong after her.

Discussion: How far do we trust the presumption of maternity, merely by seeing the children tagalong? Very far – even to impose the death penalty.

לֹא יִתְיַחֵד אָדָם עִם שְׁתֵּי נָשִׁים

A man may not be secluded with two women,

unless his wife is with him. But one woman may be secluded with two men.

A man may not be secluded with one other woman, even if his wife is present.

Where in the Torah do we learn that a man may not be alone with a woman?  
(Deuteronomy 13:7) If your brother (obviously stepbrother), the son of your mother,  
instigates you to serve another deity.

This tells us that a person may have close family relationships, with his mother's house,  
even after she remarries. Telling us that a man may be with his mother alone, even though  
she is an ervah to him and this excludes all other ervahs. Therefore, this teaches us that a  
man may not be alone with a woman who is forbidden to him. ( 80 b2)

לֹא יִתְיַחֵד אָדָם עִם שְׁתֵּי נָשִׁים

A man may not be secluded with two women.

‘Converts are as difficult for Israel as leprosy’. This a negative statement regarding the converts by R Nalbo. Yet, R Berakhiya teaches that the descendants of proselytes will be Kohanim in the Holy Temple and R Elazar (Pesachim 80b) says, “God brought exile upon Israel, only in order for them to gain converts from the nation, in whom they were dispersed.”

Ruth became the grandmother of King David and Megillahs Ruth is read on the holiday of Shavuot. This fact should decide our positive attitude towards converts. Rambam includes in his book of Commandments (+) #3, the obligation to seek and summon all people to the service of and belief in the Lord of the Universe. Just as Avraham did. Hillel (Avot 1:12) taught us to love all creatures and bring them close to Torah. So they would, at least, keep the 7 Noachide laws. (Riskin)

אֵבֶל בְּדֶרֶךְ

But on the road.....

to be accompanied by three men.

This is a discussion as to why, on the road, a woman would have to be accompanied, not only by two men, but by three. This is so that if one man needs to go apart to relieve himself, she still is not alone with only one man.

**The origin of the sandwich!?**

**“After he wrapped bread (around food).” (81 a2 line 25 B7)**

**May a woman be alone with a man?**

**If her husband is in town?-Yes.**

**If the door to the room is unlocked or open?-Yes.**

**Abaya - If there is a mechitzah of a row of jugs was made.- Yes.**

**Rava - If a row of reeds was made.-Yes.**

סְקָבָא דְּשָׁתָא רִיגְלָא

The sore spot of the year is the festival.

The greatest damage to chastity is Yom Tov. People have time, they are dressed well, indulge in eating and drinking, interact socially, attend lectures and mingle.

Rambam -The court authorities are obligated to add additional officers to patrol parks, orchards, riverbanks, etc. (Mishnah Torah - Hil Yom Tov 6:21)

רַבִּי עֲקִיבָא בִּי הָוָה מָטִי לְהָאִי פְּסוּקָא הָוָה בְּכִי

When R Akiva reached the sentence, he cried.

A person who steals and is caught, may beg and cry for forgiveness, swearing never to do it again and explaining the circumstances that compelled him to steal. And if he is let off without punishment, he will gloat how lucky and clever he was to avoid the consequences. He does not steal because it is wrong to steal, but because of the consequences. Therefore, if he avoids the consequences or believes he can avoid them, he may steal again.

A religious person who does something wrong will remember all his life and be embarrassed before HaShem that he did such a thing.

A person, who had in mind to do something wrong, did the act. Later, it was revealed that the act was not improper, i.e., he did not eat Treif. If that person needs atonement, how much more the person who actually did a sinful act? Realizing this, R Akiva cried.

וְיָמָּה מִי שֶׁנִּתְכַּוֵּן לֵאכּוֹל בֶּשָׂר חֲזִיר וְעָלָה בְּיָדוֹ בֶּשָׂר טָלָה

A person plans to eat not kosher food (pig meat) and eats the food, but later learns that it was actually kosher after all.

He needs forgiveness.

A woman utters a vow and her husband nullifies her vow. She violates her vow, not knowing that she no longer has a vow. She acted sinfully, not knowing it was no longer a sin.

She needs to seek forgiveness.

But we learned (in Kiddushin 39b), if a person has evil intentions, these thoughts are not considered a sinful act. Why then, are these people guilty enough to need to seek forgiveness? Because in these cases, the person did not merely have sinful thoughts, they did what they thought were sinful acts. Acts can be punished, not thoughts. Even though the acts were not sinful technically, they acted intentionally, believing they were going to commit a sin.

לֹא יִלְמַד אָדָם רְיוּק סוּפְרִים

A bachelor should not be a teacher of small children.

A bachelor, because of the close contact with the child's mother.

A person should not be alone in business with married women.

A person should not teach his son a trade that involves women.

A person should teach his son a clean and easy trade.

‘Clean’ from theft, or temptation, and ‘easy’ means it does not involve:

- loss of money.
- avoids risky investments.
- does not take up all his time, so he may study.

Discussion then ensues in the Talmud regarding the concept of predetermination regarding: success, business, wealth, free will, Mazel, merit, etc.

לְעוֹלָם יִלְמַד אָדָם אֶת בְּנוֹ אוֹמְנוֹת נְקִיָּה וְקִלָּה

A man should teach his son a clean and simple trade,

that will avoid poverty methods suggested.

1. Learn a proper trade.
2. Pray that it be a source of wealth, not poverty, for any trade could lead to either.
3. 'Mazel', 'luck' – “Jews are not subject to Mazel” (Shabbos 56a) Yet, in Moed Katan 28a, it says, “Children, life and livelihood are determined not by merit, but by Mazel”.
4. Merit - Alone may not be sufficient to overcome predetermined Mazel. But it may, we never know.

טוב שְׂכָרוֹפָאִים לַגִּיהֶנָּם

The best of physicians are doomed to purgatory.

Rashi - Being unafraid of sickness, they are haughty.

Being praised by their patients, they become arrogant and fail to constantly recall that “doctors treat – God heals”.

Some may refuse to give treatment to the poor.

R Nachman of Breslov- It was difficult for the angel of death to kill people by himself.  
He therefore, appointed haughty physicians to assist him.

- Aboth D- Rabbi Natan - Doctors, judges, and schoolmasters share the same fate.
- Shemoth- Rabbah 21:7 - Honor your physician even before you have need of him.
- Sefer Chassidim 592 - Who is a wise doctor? He, who knows to forewarn his patients,
- not to become sick.

טוב שְׂכָרוֹפָאִים לְגֵיהֶנָּם

The best doctors go to Gehinom.

The doctors are be exhorted to realize that the life of the sick person is a living hell.  
It is into that purgatory, that the doctors must be willing to go, to treat the severely ill.

טוב שְׂבָרוּפָאִים לְגֵיהֶנָּם

The best doctors go to Gehinom.

The Gematria of ‘tov’, ‘good’ is 17.

This phrase is directed to those doctors who believe that the Shemona Esrai prayer, the 18 prayers of the Amidah (actually 19), really has only 17. They believe that they provide healing and the Bracha that praises God for healing is not accurate. Those self-centered, arrogant doctors, are consigned to Gehinom. Not those physicians who are sincere and realize that the Shemona Esrei has a full 18 Brachos, including the prayer that states that God is the healer of all.

טוב שְׂכָרוֹפָאִים לְגֵיהֶנָם

The best doctors go to Gehinom.

A doctor who believes he is, “The best of physicians” and does not consult with others, can bring tragic results. Therefore, he does not behave with humility and deserves to go to Gehinom.

They believe that because of their knowledge, they can avoid illness. Therefore, they are not humble before God.

-At times, even the best of doctors cause death.

They may refuse to heal the poor, who can't pay them.

Therefore, they should be punished in Gehinom. .

The best doctors go to Gehinom, because that is where they are needed. The sick are there. All the soul, in the other place, are healthy.

אֵלֹא מְשַׁמְרֵתוֹ מִכָּל רָע בְּנַעֲרוּתוֹ

The Torah guards him from evil in his youth.

This stresses the value of Torah learning.

No animal works a trade, yet all animals are able to sustain themselves without hard work.

Every trade stands by a person only in his youth and only while they bring in an income, but in his old age, he is exposed to hunger.

On the other hand, the Torah stands by a man's youth and also provides him with a future and hope in his old age.

מצינו אברהם אבינו את כל התורה כולה עד שלא ניתנה

Abraham, our Patriarch, observed the whole Torah, even before it was given.

Maharal of Prague – Issac and Jacob observed only the positive commandments.

However, Abraham was always conscious of God and avoided or was attracted to actions which would distance him or bring him closer to God. He, therefore, observed all the positive and also, all of the negative commandments.

Note: Genesis 26: – “Because Abraham obeyed my voice and fulfilled my ordinances, commandments, decrees and teachings....”

וְהֵם לֹא נִבְרְאוּ אֶלָּא לְשִׁמְשׁוֹנִי

And they were created only to serve me.

Re: Use of animal's organs for transplants in humans.

Baby Faye- (case 1984) –A baboon's heart was put her into her body and she lived for 20 days.

The Torah places human life above animal life.

Genesis 1:28 -gives humans dominion over animals.

Genesis 9:2 -gives humans the right to use animals for their needs.

This is also implied by the quote at the end of 82b Kiddushin.

But it must be done for a purpose, and with regards for avoiding pain to a living thing. .

What would be the opinion if an artificial organ was equally effective as one from an animal?

Then, we could prevent use of animal organs.

Halachically, there is no restriction on implanting animal organs, i.e., pig, baboon, etc., into humans.

20 Kiddushin 82b line 30 B39  
Responsa 1991-2000

„עוד ינובון בשיבה דשנים ורעננים יהיו“

They will be fruitful in old age and vigorous and fresh they will be (Psalms 92:15)

Refers to those who study Torah.