1. The Questions.
2. Eating a meal at somebody’s house and notice that וקנינא is written as "ורנינא".
3. Two emails responding to our shiur on wedding issues:
4. “I hope it is okay for me to be emailing you out of the blue. I live in Western Canada and I listen to many of your shiurim on YUTorah. I was just listening to "From the Rabbi's Desk - Wedding Questions" and the issue of having a cousin by marriage as an eid brought up a question on my own wedding which is making me very nervous. When I got married, I was told that blood cousins could not be eidim but their husbands can. I asked a Rav about this before choosing my first cousin's husband as an eid for my ketuba and kiddusin. my wedding was several years ago and I have children. I'm not even sure the right questions to ask at this point. Is there a time that I can call you to discuss?”
5. “Rabbi Lebowitz - Score #2 for your internet effecting a marriage. My wife and I got married in 1993 with a Conservative rabbi. Our witnesses were both male and Jewish, but not shomer Shabbat. There were not 2 shomer Shabbat attendees at the wedding (including ourselves). We became bal tushav & have lived Pico Robertson area of Los Angles as Orthodox Jews since 2002. Based on your original shiur about non-kosher avium I did some research. Best summary in English that I could was in Tradition 21 (3) Fall 1984 which deals with Reform marriages. We seemed to fall between the position of Rav Moshe Feinstein and Rabbi Joseph Henkin as to the validity of our marriage in the circumstance of non-kosher witnesses. We went to our LOR who said we were married but le’humra we should redo the ketubah and keduishin which we did. One never knows the power of words. My wife was a bit upset over the issue after 21 years of “marriage” but did get a new ring out of the deal as consolation. I continue to enjoy your YU shiurim on regular basis and am one of your many fans.”
6. Mesader Kidushin didn’t show up on time (after being flown in from Israel). I filled in the כתובה with Rabbi Schwalb. We decided to fill in וקנינא because that is our training, even though we knew that the מסדר קידושין wasn’t comfortable with it and wanted to fill in וקנינא under the חופה. The מסדר קידושין showed up just before the חופה and quickly wrote a new כתובה. They did a קנין and had חתימת עדים under the חופה. As Rabbi Pruzansky was reading it he noticed the date was חמשת אלפים שבע מאות ארבעים וארבע – off by 30 years. The מסדר still didn’t use my כתובה, and instead wrote another one and did new קבלת קנין and new חתימת העדים. At this point Rabbi Sobolofsky (the other עד) was about to lose it – just use the כתובה that you have! When Rabbi Pruzansky was reading it he pointed out that וקנינא wasn’t filled in. Now they just went ahead with the חופה and we took care of it before יחוד in the יחוד room.
7. The issues.
8. Staying without a כתובה. How big of a problem is it? How do we solve the problem?
9. Who is פסול לעדות?
10. Why wait on וקנינא?
11. Why wait for קבלת קנין under the חופה?
12. Good or bad idea to keep on wall?
13. Is Kesubah D’oraysa and Must you have it?
14. Chumash says that a מאנס או מפתה pays חמשים שקל כסף כמוהר הבתולות, since the girl will no longer be able to get a כתובת בתולה. The assumption that there is a "מוהר הבתולות" seems to indicate כתובת בתולה דאורייתא (but כתובת אלמנה is definitely דרבנן). This is מחלוקת תנאים whether it is דאורייתא.
15. רוב ראשונים assume it is דרבנן, but ר"ת says we say דחזי ליכי מדאורייתא because כתובה דאורייתא.
16. The רא"ש explains that even if we say דחזי ליכי מדאורייתא it just means to use כסף צורי as if it were דאורייתא (all דינים דאורייתא are with כסף צורי, according to גמרא פ"ד דב"ק, which is worth 8 times the amount of כסף מדינה).
17. 50 שקלים (equivalent of 200 זוז) is ten times פדיון הבן (we assume 96 grams of pure silver), which turns out to 960 grams of silver for the עיקר כתובה.
18. The כתובת אלמנה is 100 זוז but of כסף מדינה so only 1/16 of כתובת בתולה.
19. תוספת כתובה is מאה זקוקים כסף צרוף – these were old German coins that the גר"א writes that each זקוק is three times the value of פדיון הבן, so this is a lot of money.
20. We then estimate נכסי צאן ברזל as עוד מאה זקוקים כסף צרוף כנגדם. This should have been evaluated based on each case, but that is not our practice.
21. Sefardim omit the word "מדאורייתא" since they hold כתובה דרבנן.
22. איסור לשהות עם אשתו בלי כתובה. גמרא כתובות records this איסור דרבנן, even though תנאי בית דין הוא and husband would have to pay even without an actual כתובה. (Told Jeff Luria he had most important job of guarding the כתובה.)
23. The משנה בבא בתרא says that we write a new שטר if an old one is lost or faded and עדים testify what it says in the שטר. The נחלת שבעה quotes that כתובה דאירכסא seems to be a מעשה בית דין so it should be done ביום and with three people. We should try to be מחמיר this way.
24. Perhaps כתובה דאשתכח בה טעותא would be different because first one was never כשר so we are just writing a new כתובה.
25. Once you find the old כתובה it should be torn up or discarded, because you can’t have two שטרות on the same חוב. We fold it in four parts and cut on the corner to make a קרע בית דין, which is an “X” in the middle of the document.
26. רמ"א סימן סו holds that nowadays this איסור doesn’t apply since חרם דרבנו גרשם anyway won’t allow us to divorce her בעל כרחה, just like the גמרא says it doesn’t apply to a guy who married a girl that he was מאנס. The logic is that since the entire purpose of כתובה is שלא תהא קלה בעיניו להוציאה it is unnecessary when he can’t divorce her anyway. Most poskim reject this comparison because there is a big difference between an איסור דאורייתא שלא יוכל לשלחה כל ימיו and a חרם דרבינו גרשם, but we can tell the couple who unwittingly were without the כתובה that it is okay because they were “relying” on the Rama.
27. Hanging Kesubah on the wall.
28. Only requirement is that the wife knows where it is. Minhag Yerushalayim is to have the parents of the כלה keep the כתובה in their home. If kesubah is given to frame that is okay too.
29. Many more problems with fancy כתובות, even if you talk to the calligrapher. It is unfortunate when it must be torn up or not used
30. Many find it distasteful – same as a deed to a burial plot. One can understand that since a כתובה is filled out at a wedding it has sentimental value.
31. I was only able to locate the פסול of lack of וקנינא because it was on the wall.
32. Practical Issues.
33. Filling in וקנינא. גמרא גיטין כו: discusses whether we are concerned for מחזי כשיקרא, meaning using a גט written for another couple (assuming like ר"מ that you don’t need כתיבה לשמה, just חתימת העדים לשמה).
34. The גמרא says that by a שטר הלואה that is false the הלכה is מדרבנן בעי קיום השטר. What if while they are waiting for the עדים to be מקים the בית דין writes the קיום with the plan of giving it to the מלוה only after it is מקוים. רב פפי holds that it is not okay because מחזי כשיקרא. The gemara asks why ר"מ is not worried about מחזי כשיקרא by the גט, but we are worried by שטר קיום? Tosafos has a גירסא that we don’t reject רב פפי. Rather, Tosafos writes that a שטר מעשה בית דין we have to be concerned for מחזי כשיקרא, but a גט isn’t a שטר מעשה בית דין.
35. The נחלת שבעה says we have the date on the beginning of the כתובה because it is like a שטר מעשה בית דין since there is a תקנה that מי שאינו יודע בטיב גיטין וקידושין לא יהא עסק עמהם, which means that it should be treated like a מעשה בית דין to be done by either a בית דין or a דיין הממונה לכך.
36. Putting it all together, if we treat a כתובה like a שטר מעשה בית דין, to put in וקנינא before it happens seems like a מיחזי כשיקרא.
37. ש"ך בחושן משפט says that they were never מחמיר for שיטת התוס' and they would always do the קיום השטר before the עדים testified.
38. It seems that if you are מחמיר by a כתובה and then the עדים accidentally sign before you fill in וקנינא it would make the entire thing פסול (can’t fill in document after the signatures are there – story with Rav Sacks). If ש"ך wasn’t worried about this for real מעשה בית דין we certainly don’t have to be מחמיר for כתובה.
39. נתיבות has a קולא that if it hasn’t been given to the כלה yet, you can still change the text so can add וקנינא. This is a major חידוש and shouldn’t be relied upon unless you don’t have another כתובה.
40. Does the כלה need to be there? Normally both parties in a שטר need to be there, but the כלה is the one benefitting so when you make a קנין סודר the rabbi can represent the כלה as a זכין לאדם שלא בפניו. The משנה בבא בתרא דף קסז: says כותבין שטר ללוה אף על פי שאין מלוה עמו.
41. Making קבלת קנין ביום even though wedding will be at night. Rav Moshe was מחמיר in דברות משה פ"ק דב"מ that even with a קבלת קנין the שעבוד נכסים can’t be חל because they can’t collect until they are married and they aren’t getting married that day so they have to write the night’s date, but later changed his mind in אגרות משה that it is okay and שעבוד נכסים is חל ביום and we don’t have to worry about מחזי כשיקרא that the next day’s date is written since the כלה won’t be given the כתובה until night. Rule is that מאוחר is better than a מוקדם.
42. Some are concerned with getting married בין השמשות since מחזי כשיקרא because it has the later date on it, but this is not a necessary חומרא since by the time they get to the יחוד room it will be night anyway.
43. מנהג ירושלים is to sign the כתובה after it is read under the חופה after אירוסין (perhaps because עדים can’t sign unless they either read it or have had it read to them).
44. עדי כתובה have to be כשר. Applying בעל כאשתו once is דאורייתא, but twice is only מדרבנן. First cousins are a שני בשני and are פסול מדאורייתא. A שני בשני would be פסול with a single בעל כאשתו, but a double בעל כאשתו is no problem. When it comes to ראשון בשני we are מחמיר לכתחילה not to have even two בעל כאשתו. This is all for a כתובה, but for עדי קידושין we are even מחמיר לכתחילה for a רביעי ברביעי (third cousins) with two בעל כאשתו.
45. עצה טובה to avoid most problems:
46. Be Normal – don’t treat a כתובה like a גט, with a million different names etc.
47. כתובה is בלשון העדים ("אנן סהדי איך"), but a גט is בלשון הבעל (shouldn’t say "איך"). That’s why the כתובה doesn’t need the word "עד" after names of the witnesses since the entire thing is בלשון עדים.
48. Fill EVERYTHING out in advance. Just get the עדים to sign at the chosson’s tisch. Also bring TWO extra כתובות, one filled in and one empty.
49. If you aren’t experienced, have somebody who is experienced look over your shoulder.