

A Compilation and Summary of Possible *Kiddushin* Variations¹

Note: The following variations try to deal – each in their own way – with all or some of the following issues:

1. The impossibility of obtaining a *get* in cases of *aginut* (when the husband is missing or mentally unsound and therefore cannot give a *get*) and the difficulty of obtaining a *get* (or convincing the woman to accept the *get*) in cases of *seruv get* when the marriage is otherwise clearly over.
2. The power imbalance that exists when it comes to traditional Jewish divorce. According to Torah Law, a man can have more than one wife but a woman can have only one husband; it is only according to Rabbinic Law that a man can have only one wife. Therefore, even if the woman refuses to accept a *get*, one-hundred rabbis can waive this rabbinic requirement and permit the man to remarry. However, if the man refuses to give the *get*, the rabbis can enact sanctions upon him, but they cannot force him to give the *get*. Therefore, the woman cannot remarry, and if she bears any children with another man, those children are considered *mamzeirim*.
3. The power struggles and blackmail that occur in cases of *seruv get* (especially with the current Israeli *Rabbanut* policies and the overwhelming majority ultra-Orthodox makeup of the *batei din*).
4. In creating the *Kiddushin* ceremony, the Rabbis used the language of *kinyan* (=acquiring) of the *kallah*. Interpretations of the nature of this *kinyan* vary significantly. Some say there is an actual acquisition taking place under the *chuppah* according to traditional Jewish Law, while some say that while the halakhic transaction is based on *kinyan*, there is no actual acquisition taking place. Still others say that while historically *kinyan* did take place under the *chuppah* because women's status was somewhere between that of a slave and that of a free person, today this is no longer the case, since couples marrying today do not perceive their marriage in this way. However one interprets *Kiddushin* and its relationship to *kinyan*, some of the variations listed below seek to create a ceremony that avoids the language of *kinyan* altogether.
5. The classical *Kiddushin* act is unbalanced, with an active *chattan* and a passively accepting *kallah*. Some regard this imbalance as having significant and sometimes even tragic ramifications, because it represents a unilateral nature of Jewish marriage that can play itself out if the couple divorces. Others regard this imbalance as simply not representative of modern marriage. Therefore, some of these variations seek a more active role for the *kallah* in the *Kiddushin*.

Each variation is described briefly, with a short summary of possible advantages or disadvantages regarding the issues raised above. We are aware that what may be advantages to some people may be disadvantages to others.

¹ Based in part on the "Kiddushin Variations" Blog by [Danya Ruttenberg](http://alternativestokiddushin.wordpress.com/), <http://alternativestokiddushin.wordpress.com/>

1. *Kinyan* with Reciprocal Declarations

This is traditional *kinyan* with one ring, but the *kallah's* voice is heard and the ceremony has a more mutual, bi-lateral feel. Below is one choice of phrasing for what the couple says. There are other options for what to say. For instance, you may choose to use the traditional language of *harei at mikudeshet li* and *harei atah mekudash li*. Or you can use language like *harei at miyuchedet li/harei atah miyuchad li*. Or you can choose to not use parallel language at all, which some couples prefer, as if to say that male *kiddushin* and female *kiddushin* are different. The phrasing used below is a Hebraized version of the Aramaic phrase found in the Gemara (*Kiddushin* 5b). Beverly Gribetz and Ed Greenstein used this language in their wedding and wrote an article about why (see *Kiddushin Variations* website). They wanted parallel language, and they did not want to use the traditional language because they were following the opinion that if a woman says *harei atah mikudash li* under the *chuppah* it makes the *kiddushin* invalid, which they did not want to happen. (See Variation #4 for an approach that wants the *kiddushin* to be invalidated).

Chattan: “*Harei At Li Leisha Kidat Moshe ViYisrael, V’ani Ishekh*”

Kallah: “*Ani Ishtichah Kidat Moshe ViYisrael, V’atah li L’ish.*”

The order matters in this case, because the idea is that the *kallah* is simply validating the *chattan's* statement.

ADVANTAGES: Creates a more equal-feeling ritual; gives the woman more of a voice under the *chuppah*; allows the couple to make similar reciprocal statements (if you choose that option); is a fully halakhically-binding marriage (if that is your intention). Not impossible to find a rabbi who is recognized by the *Rabbanut* to do this, although not easy either.

DISADVANTAGES: Still classic *Kiddushin*; the woman’s declaration has little, if any, halakhic significance. *Get* problem is not solved. (But this can be done with pre-nuptial agreement to ameliorate that problem somewhat.)

2. The Linzer Model

Rabbi Dov Linzer, *Rosh Yeshiva* at the left-leaning Orthodox *Chovevei Torah*, wrote [an](#) article on increasing women’s roles under the *chuppah*, in which he suggests the following option:

The practice in Sephardic communities and in Jerusalem is for the groom to assume his *ketubah* obligations under the *chuppah*, immediately following the *kiddushin*. This obligation is assumed through an act of *kinyan*, classically performed by the *chattan* taking an object (often a handkerchief or a pen) from the officiating rabbi in the presence of witnesses. However, since the *chattan* is obligating himself to the *kallah*, it is actually more appropriate that she, and not the rabbi, give him the object. This object can be a

ring, giving the impression of a double-ring ceremony, although the *kinyan* that the woman is initiating is not of the *chattan*, but rather of the *ketubah*. Therefore, her action does have halakhic significance, but not the same as the *chattan*'s action.

ADVANTAGES: This *kiddushin* is halakhically sound; the woman has more agency under the *chuppah*; the woman gives the man a ring that is halakhically significant.

DISADVANTAGES: It's not completely equal; the groom's ring does the *kiddushin*, while the bride's ring "only" validates the *ktuba*. The basic one-way *Kiddushin* act is unchanged, and a *get* is needed.

3. *T'nai b'Kiddushin* (Conditional Marriage)

Traditional *kiddushin* but with conditions relating to the *kiddushin* itself (based on *Kiddushin* 3:2 and 3:3). Often the couple will sign a document (separate from the *ketubah*) before the ceremony stating something like, "I, (name of groom), intend to betroth (name of bride) on (date), and this betrothal is dependent upon the following conditions:" and then all and any possible terms of the *kiddushin* can be laid out. Possible terms could be: that I do not refuse your request for a *get*, or this *kiddushin* is rendered null and void; that if I do not grant you a *get* within three months of a civil marriage, this *kiddushin* is rendered null and void.... and other ideas in that vein. With this sort of condition built in, a marriage could be retroactively nullified in the event that *get* issues come up. (This idea is similar to the conditions offered by the French and Turkish rabbinate in the 19th century.)

Under the *chuppah*, either the traditional *kiddushin* formula could be recited with no reference to the conditions signed earlier, or they might be referenced—"Harei at mikudeshet li b'tabat zo ba-tnaiim sh'hiskamnu, k'dat Moshe v'Yisrael," eg. ("Behold, you are betrothed to me with this ring on the conditions to which we agreed, according to the religion of Moshe and Israel.") Or, the bride could accept the ring with a statement noting the existence of the conditions, if that's preferred, to give her more of a voice in the transaction.

ADVANTAGES: Traditional-looking ceremony; addresses the *get* issue in a clean and easy way; makes clear that the marriage takes the woman's rights into account to some degree; conditions can be personalized to the couple's needs.

DISADVANTAGES: It's still classical *Kiddushin*; declarations by the woman under the *chuppah* have no halakhic significance. Was rejected by the Orthodox establishment; may be difficult to find a *misader kiddushin* recognized by the *Rabbanut* who will agree to do this.

4. *Derekh Kiddushin* (See Rosh on *Kiddushin* 2:8 and *Shulchan Aruch Even Ha'ezer* 37:14)

R. Meir Simcha Feldblum in his article, “*Ba’ayot Agunot uMamzerim*” in *Dinei Yisra’el*, XIX (5757-5758), suggests that any relationship that’s in “the manner of marriage,” even if it’s not actually 100% fully kosher *kiddushin*, is sanctified yet does not require a *get*. The parties involved seek to establish a matrimonial relationship but fail to realize their intention because of a technicality in the form of a lack of halakhic capacity to contract a valid marriage. Since the parties genuinely desire to effect a marital relationship, a woman entering into such a relationship suffers no social stigma.

R. Feldblum argues that this applies to all couples, today—that is, that there’s a technicality preventing that *kiddushin* from being kosher. He argues that since no woman today would truly consent to *kiddushin* if she really understood what it meant (i.e. her husband acquiring her and thus binding her to him in an unequal relationship that only he can dissolve), no woman is truly able to give consent—therefore all *kiddushin* is, in a way, *derech kiddushin*. (The adult woman’s [consent](#) is crucial—without it, the halakha suggests with very little controversy, the *kiddushin* does not take effect.)

The way to enact this today is to issue a formula similar to (in the manner of) traditional *kiddushin*, however, in a form that would not be construed as traditional *kiddushin*, such as:

Kallah: “Harei ani miyuchadet lecha bitaba’at zu” (order does not matter)

Chattan: “Harei ani miyuchad lach bitaba’at zu”

ADVANTAGES: Creates a bond that fits within the halakhic framework, does not require a *get*, is same-sex friendly, nobody gets bought, is arguably the closest thing to *kiddushin* available today without being *kiddushin*.

DISADVANTAGES: Is not kosher *kiddushin*, is possibly non-applicable to situations in which traditional *kiddushin* is possible, has a “lower” status than traditional *kiddushin*.

5. Obviation (Meant to be done along with the [ketubah](#) authored by Dr. Aryeh Cohen)

Kallah: “*Harei atah mikudesh li...*” with ring.

Chattan: “*Harei at mikudeshet li...*” with ring.

Order matters here, because the desired result is that the *kallah*’s declaration will invalidate the *chattan*’s declaration (strange as it may sound).

Dr. Aryeh Cohen follows the opinion of many *poskim* that such a direct parallel between male and female actions – particularly when the bride makes the declaration first—effectively obviates the *kiddushin*, and the *kinyan* is not maintained.

The ring exchange obviates the possibility that there is *kinyan* in the *kiddushin* formula and then all that is left in the formula is the statement of dedication to each other. This

semantic option is already present in the *Gemara* (*de-asar a-kulei alma kehekdes*) (and implicitly in the *Mishnah* beginning of the second *perek*). The *kiddushin* are valid though but not a *kinyan*.

This act of deliberate subversion enables the bride and groom both to exchange rings with the traditional language in an egalitarian manner and to avoid the ethical problem of the male "acquiring" the female altogether. In this formulation, there is no kosher *kinyan*, and yet the presence of seven blessings and, just as importantly, the specification in the *ketubah* that the dissolution of the marriage requires a *get* mitigates accusations that the marriage, being *safek kinyan*, is not kosher and/or does not require a *get* in the event of its dissolution.

Safek kiddushin—a marriage about which there is some question as to whether or not kosher *kiddushin* has occurred—is understood to require a *get l'hatchila* (at the outset) but not *b'deiavad* (after the fact; if, say, the marriage breaks up and the bride marries someone else, her second marriage holds even if there's been no *get*).

ADVANTAGES: The traditional form of *kiddushin* is maintained, while undermining the language of *kinyan*. The couple is sufficiently married to require a *get* while avoiding the classical issues of *get* requirements.

DISADVANTAGES: There's some *safek* about *safek kiddushin*. Does not avoid *get* altogether. Contains an aspect of *ha'arama* (fraud), which while prevalent in *halakha* (e.g. *selling chametz* and *heiter mechira*), can also be seen as problematic.

6. *Brit Ahuvim* (Based Rachel Adler's model in [Engendering Judaism](#))

This is a "lover's contract," based on the laws of *shutafut*, a traditional model for partnership (usually business partnerships) rather than the traditional model of marriage.

The couple draws up a legal document instead of a traditional *ketubah*, in which they can write up any agreement they come to as per their relationship, property, etc, and stipulate how the relationship would be dissolved should it come to that. In this document, they can also write a kind of marriage agreement and/or vision. This can be done in conjunction with *Derech Kiddushin* to solve the problem of how such a marriage would be dissolved in that case (since it would be stipulated in the legal document) and also to give the ceremony a more traditional feel with rings exchanged under the *chuppah*, *sheva brachot*, etc.

ADVANTAGES: Does not require a *get* but does stipulate conditions for how the marriage would be dissolved; is fully egalitarian; is same-sex marriage friendly; is based on Jewish law and tradition but taken from an egalitarian partnership model instead of a unilateral acquisition model and therefore reflects more our idea of what marriage is today instead of how it was viewed in the time of the Talmud; is binding legally (if done with a lawyer) and halakhically.

DISADVANTAGES: It's not *kiddushin*, so halakhically one is not fully "married" (regarding the *get* issue, this is a plus for some people); it doesn't "feel" like the traditional ceremony, unless one does it in conjunction with *Derech Kiddushin*.

Note: All of these options only "work" (meaning, release you from the need to go through the *Rabbanut* for marriage and/or divorce) if you don't register as married and don't go to the *Rabbanut* in the case of divorce.