Laws of Marriage Chapter 14 (Auto Translated)

English

Auto Translated

Shiur Overview

Laws of Marriage – Chapter 14

In this chapter, the Rambam discusses the third Torah-level obligation of a husband to his wife (after she'arah and kesusah in the previous chapters) – the mitzvah of onah, together with all its details (measurements, vows, mored and moredes). Afterwards, the chapter addresses three of the seven rabbinic obligations (which together with the Torah obligations make ten obligations of the husband to the wife): leraposah (to heal her), lifdosah (to redeem her from captivity), and kevurah (to bury her).

Halachah 1

1. The Rambam's Words

The onah mentioned in the Torah for each man is according to his strength and according to his occupation. How so? Healthy people who are delicate and pampered, who have no work that weakens their strength, but rather eat and drink and sit in their homes – their onah is every night. Workers such as tailors, weavers, and builders and the like: if their work is in the city – their onah is twice every week, and if their work is in another city – their onah is once every week. Donkey-drivers – once a week, camel-drivers – once every thirty days, sailors – once every six months. Torah scholars – their onah is once a week because Torah study weakens their strength, and the way of Torah scholars is to be intimate from Friday night to Friday night.

2. Plain Explanation

The mitzvah of onah that is stated in the Torah is divided for each person according to his strength and according to his occupation (work).

* People who are healthy, delicate and pampered ("rachim ve'anugim"), who don't have hard work that weakens their strength, but rather they eat, drink and sit at home – their obligation of onah is every night.

* Workers ("po'alim") like tailors, weavers and builders: if they work in the same city where they live, their onah is twice a week ("shabbos" here means a week). If they work in another city, it's once a week.

* Donkey-drivers (chamarim / ba'alei agalah) – once a week; camel-drivers (gemalim, who travel far in the desert because camels can go long without water) – once every thirty days; sailors (malachim) who travel on the sea – once every six months.

* Torah scholars – their onah is once a week, because Torah learning weakens their strength, and their practice is to be intimate from Friday night to Friday night.

3. Insights and Explanations

* **The language "onah ha'amurah baTorah":**

* **R' Yoel Asher** learns that the Rambam is introducing here an idea that onah is different from she'ar and kesus; it's not as dependent on the agreement of the two people and it's not like a monetary matter where mechilah helps, rather one is more obligated because this is what the Torah demanded as the foundation between a husband and wife. (If both agree not to do it, one is perhaps obligated from the side of peru u'revu, but from the side of the law of onah the principle is that if one wants, the other must comply).

* **R' Yitzchak** explains why the Rambam begins with "onah ha'amurah baTorah" differently than by she'arah and kesusah. He brings that this is language from a Baraisa (and **Rashi** in Parshas Vayishlach also uses this language: "mikan

le'onah ha'amurah baTorah"). The simple meaning is because the word "onah" relates to time – a fixed time for intimacy. In the Torah it says "ve'onasah", but it doesn't say how much and when the time is, thus the actual meaning is missing from the verse (just as if it said an obligation to recite Shema at its time, one would ask "and what is the time?"). Therefore the Sages come to explain what the time measurement is of the "onah ha'amurah baTorah".

* **The distinction in standards between she'ar and kesus versus onah ("according to his strength and according to his occupation"):**

* **R' Yoel Asher** notes that by she'ar and kesus there is also a distinction between a poor person and a wealthy person, but there there is a minimum that even the poorest person must give so one doesn't die of hunger. Onah is more of a luxury item (one can live without it, as when they were single, and for certain occupations the obligation is only once every six months), whereas she'ar and kesus is much more practical.

* **R' Yitzchak** presents the analytical distinction: by she'ar and kesus everything goes according to a "standard" – there is a minimum standard and a householder's standard (according to the city or family), and when one gets married one commits to that standard. By onah there is no concept of a standard (and proof of this is that one can change it in the middle), rather the measurements of onah are primarily a matter of **ability** – the husband must give as much as he can, and how much he can depends on what kind of person he is.

* **R' Yoel Asher** adds that by onah there is thus no concept of a "standard" because it is a private matter, and a standard is only relevant for things that are before people's eyes.

* **[Digression: Survey among young men about a standard and fear of Heaven]:** They discuss whether one could make a survey among young men about a standard. **R' Yitzchak** says that an honest young man is careful about all mitzvos (like eating liver on Friday night because of a custom in Galicia). **R' Yoel Asher** formulates it better: a servant of Hashem and one who fears Heaven does onah according to what the halachah obligates him and is careful about onas Shabbos, whereas a simple person will sometimes do a lot because desire drives him and sometimes completely ignore his wife because he only considers his own feelings and not the Torah or his wife.

* **The distinction between she'ar and kesus versus onah regarding the definition of marriage and mechilah:**

* **R' Yoel Asher** wants to make a distinction that onah is the very definition of being married ("adam pogesh ishah"). Thus he asks: by she'ar and kesus we say that if the husband is poor and has nothing to give, they may continue living together if the wife is mochel – will we say the same by onah, or if there is no onah at all do we view it as a false marriage where they weren't really married at all?

* **R' Yitzchak** answers: First of all, she'ar is also part of the definition of being married (if he can't give the minimum to eat, we force him to give a get). Second, regarding onah, if one of them doesn't want it is "making a condition contrary to what is written in the Torah", but if both agree and want to be "separated", it doesn't bother anyone and mechilah does help. **R' Yoel Asher** remains with his reasoning that by she'ar only a portion that is due to her is missing, whereas by onah if nothing happens, they only act as if they are married.

* **What "according to his strength and according to his occupation" means (ability, age, and worries on one's mind):**

* **R' Yitzchak** considers whether the measurements that go according to occupation (po'alim, chamarim, gemalim) are a presumption and general rule that whoever has that work usually has that much strength and that much time.

* **R' Yoel Asher** wants to distinguish that "according to his strength" is an external factor that depends on the person's age or his physical exhaustion, and "according to his occupation" has two parts: (a) work that exhausts greatly, (b)

practical reasons because he's simply not home (like gemalim and malachim who travel away). He shows that in **Shulchan Aruch** and **Rama** it is divided between "kocho" (whether he is healthy or sick) and "melachto", and in the Rambam's words both appear: "habri'im harachim veha'anugim" refers to his physical strength, and "she'ein lahem melachah" refers to the work.

* **R' Yitzchak** holds that there is no law stated in halachah about age. He points to talmidei chachamim where the Gemara says the reason is because "Torah weakens their strength", and by po'alim whose work is in the city it's also not a lack of time but of strength. He explains that the word **"kocho"** doesn't necessarily mean physical strength, but in a general way **"ability"** (including that he's not in the city). If an elderly Jew has no strength he is perhaps exempt, but that's a side detail and not the essence of the measurement of "onah ha'amurah baTorah".

* **R' Yitzchak** adds a strong understanding of this: when we speak of work that weakens the person ("machsheles kochan"), it doesn't mean only physical tiredness (exhausted muscles). Even one who works hard on a truck all day is not physically too weak at night to be unable. The main meaning is that a person who works has **"worries on his mind"** – he is occupied in mind, he's not in the mood, he wants to be left alone and go to sleep. A "rach ve'anug" is one who has no worries of livelihood on his mind.

* **The structure of the mitzvah of onah – the husband as giver, the wife as receiver, and the principle of servitude:**

* **R' Yoel Asher** brings out a point: we don't say that both have a mitzvah of onah, rather the halachah speaks in a manner where the wife is always ready to receive, and the question is only how much the husband is obligated to provide her.

* **R' Yitzchak** explains the fundamental structure of the law: the mitzvah of onah has exactly the same structure as she'arah and kesusah – it is an obligation **from him to her** (he gives and she is the receiver and claimant). In the sense of the mitzvah of onah it is a **"need of the woman"** that the husband must provide (just like sustenance), and not a "need of the man" (as much as she requests and needs, he is obligated to provide according to the measurements).

* From this emerges a great distinction in measurements between husband and wife: the husband has specific measurements of how much he is obligated to give. The wife however has no "measurements" at all from her side – she can't claim that her nature only demands twice a year; if she doesn't comply with the husband, she receives a status of a "moredes".

* **The essence of the servitude (kinyan ishus versus lo yigra): R' Yitzchak** and **R' Yoel Asher** clarify that fundamentally (before the cherem of Rabbeinu Gershom) the husband was not enslaved only to her, because he could take another wife. She however is enslaved to him. **R' Yoel Asher** notes that when she says "no" she doesn't transgress a prohibition of "onaso lo yigra" (because there is no such prohibition on her), rather it's against the very principle of **kinyan ishus** – the Torah concept that the husband acquires the wife to be his wife.

* **Two completely different principles in "be'al karchah": R' Yoel Asher** asks on this foundation: later in the Rambam it says that a man may never be bo'el against her will (keneged retzonah), so we see that it also depends on her will and strength? **R' Yitzchak** answers that the prohibition of "be'al karchah" divides into two separate concepts that don't contradict the foundation:

1. *In a normal union (from the side of derech eretz):* When he comes with his onah he may not act like an animal, rather he must appease her at the beginning. If she says "I don't want tonight, let's leave it for tomorrow", this is a matter of derech eretz, shalom bayis and humanity; as the Rambam writes in Hilchos De'os/Derech Eretz that it must be "with the will of both and their joy".

2. *From the side of the claim of "ma'us alai":* When a woman says "I don't want to live with

this person at all", it's a dispute among Rishonim. According to the Rambam (which we will learn in Halachah 8) this is not just a moredes, rather she receives a get without a kesubah, because "she is not captive to be forced to one hateful to her" – we can't force her to live with a person who is repulsive to her.

* **The law of "habri'im harachim veha'anugim – their onah is every night":**

* **The meaning of "rachim ve'anugim": R' Yoel Asher** initially translates it as pampered children (in the language of the verse "harach becha veha'anugah", or like a young man in his first year who doesn't work and doesn't learn). **R' Yitzchak** explains that it means a "pampered one" – one who only steps on carpets, like Marsa bas Beisus in the Gemara. He brings the Gemara (**Kesubos 62a**) which gives a concrete example of this: Rav Shmuel bar Shilas, about whom the Gemara says "he ate from his own, drank from his own, and slept in the shade of his palace" (achal mididеih veshasa mididеih vegani betula de'apadna), and no one chased him for taxes or military service, and also the "mefunkei dema'arava".

* **"Every night" as part of the order of life: R' Yoel Asher** connects the law of "every night" with a foundation learned earlier: something that is a good thing (like Torah, tefillin, building the world), becomes part of the daily order of life. Thus, when the wife has this right and the husband has no excuse of tiredness, the obligation is every day, and there is no upper limit (more than once a day is not relevant, but it is daily).

* **Does one transgress a prohibition every night? R' Yoel Asher** wonders about the stringency of the law: later the Rambam says that whoever diminishes onah transgresses a negative commandment ("onasah lo yigra"). It emerges that such a "rach ve'anug" who doesn't fulfill onah one night is nullifying a mitzvah and transgressing a prohibition! **R' Yitzchak** confirms that fundamentally this is indeed so, but practically speaking, for one who is obligated every night it's likely that the wife will forgive much more often than for one whose onah is only once a week.

* **A new reasoning in the obligation of the "idle" (idleness leads to promiscuity): R' Yitzchak** and **R' Yoel Asher** add another reasoning (although the Rambam doesn't bring it here, because here he speaks from the side of the woman's right of "lo yigra", not from the side of "saving him from sin"): a person who is occupied and works hard in the field has no mind to think of foolishness. But one who goes around idle ("teilim"), if he won't have the obligation of onah every night, it will bring him to sins with other women, according to the statement of Chazal (**Kesubos 59b**) "idleness leads to promiscuity", because when one has nothing to do one thinks of luxuries and extras.

* **The law of po'alim ("if their work was in another city"):**

* **R' Yitzchak** struggles with what "their work in another city" means exactly – whether it means he stays there the whole week and comes home only for Shabbos, or that he does come home every day but must travel a long way there and back.

* **R' Yoel Asher** says a novelty that even if he comes home every day, it could be that the traveling itself (for example three-four hours a day on the road after ten hours of work) makes the work much harder and puts him in a higher level of exhaustion, and therefore his obligation drops to once a week.

* **The law of chamarim, gemalim and malachim:**

* **Fixed standard versus changes in work: R' Yoel Asher** asks: why does the law give a fixed measurement for a chamar, and we don't say that in a slow week when there's no business and he sits at home he should become obligated every day like a "rach ve'anug"? He answers that the mitzvah of onah requires a fixed time and a clear system. Since the essence of onah is to satisfy his wife's desire, when the wife married him or when he takes the job, she makes peace with the situation that this is their standard, and thus it becomes his fixed measurement. (**R'**

Yitzchak notes that it's not only a mechilah from her side, rather Chazal established a general rule and order and didn't enter into every individual detail).

* **The obligation to limit work for the sake of onah: R' Yitzchak** brings out the other side of the coin: the measurements are an obligation on the husband that he **must** come home at the time. A chamar may not accept work that will keep him away from home more than a week, and a gamal must arrange his schedule so that once a month he is back home.

* **[Digression: The measurement of six months by malachim and the word "melach"]: R' Yitzchak** explains that ancient ships were built to travel according to the seasons (summer or winter), and a normal journey lasted six months (three months there and three back). **R' Yoel Asher** wants to connect this to other measurements of six months in Hilchos Ishus (by she'ar and kesus), but **R' Yitzchak** shows that it's the opposite: those later laws are built on the fact that the longest onah in the Torah (the order of malachim) is six months. Later **R' Yitzchak** throws in a thought about the word "melach" – whether it comes from the language of "salt" (because he travels on a salty sea) or perhaps from the language of "mixing" (because he mixes on the water with the oars).

* **The law of talmidei chachamim ("because Torah study weakens their strength... from Friday night to Friday night"):**

* **Intellectual exertion as "weakening strength" and other mental workers: R' Yoel Asher** and **R' Yitzchak** note the novelty: one might have thought that a Torah scholar who sits in kollel and doesn't work physically has a status of "the idle" (every day). The Rambam comes and says that "Torah study weakens their strength" – the mental and intellectual exertion of the mind exhausts the person just like hard physical work. Based on this **R' Yoel Asher** proposes a novelty, that according to the Rambam the same will apply to a great lawyer or teacher who must exert himself very hard mentally – they also won't be called "idle", because "his strength and his work" doesn't only refer to physical work. (In contrast, one who has easy work where one sits calmly all day without mental exertion, like a receptionist, has more strength than a tailor or weaver who work hard with their hands).

* **Second explanation in "weakens their strength" and the novelty of the Ran: R' Yitzchak** adds another explanation: it's not only about physical exhaustion, but about the fact that his entire interest and passion is invested in learning. He brings the **Ran** (which is brought in the Acharonim on Shulchan Aruch) who asks: why isn't the measurement of talmidei chachamim calculated in the Mishnah together with all other workers, but only in the Gemara? The Ran answers, because a worker has a clear job that ends, so his measurement is fixed. A Torah scholar however, although generally his onah is once a week, it's not so limited; if he falls into a difficult sugya and is completely absorbed and entangled in it, he can't leave the learning and he is exempt even on leil Shabbos.

* **Halachah lemaaseh – the Me'il Tzedakah: R' Yoel Asher** brings from the sefer **Me'il Tzedakah** (Rabbi Yonah Landsofer, brought in **Be'ur Halachah**), which establishes that the principle of a Torah scholar for this purpose is only one who truly exhausts himself in learning until it weakens his strength. Therefore, the Me'il Tzedakah said to those around him that because of "the breach of the generation" and the temptations of looking at strange women, even Torah scholars should conduct themselves like "po'alim" whose onah is twice a week.

* **[Digression: Not learning in depth around Shabbos]: R' Yoel Asher** makes a tremendous connection: in Shulchan Aruch (in the name of Acharonim and the **Shelah HaKadosh**) there is a law that on Shabbos one should not learn difficult sugyos in depth. According to the Rambam's words here we understand the reason very well: all week the Torah scholar learns in depth, which "weakens his strength" and exempts him from onah; but

Shabbos is the time of "to be intimate from Friday night to Friday night", therefore he may not learn difficult depth around Shabbos so it won't weaken his strength for the mitzvah of onah! **R' Yitzchak** throws in two comments on this: First, that on leil Shabbos the onah comes *before* the learning of Shabbos day. Second, he brings that **Rabbi Yaakov Emden** strongly disagrees with the law of not learning in depth around Shabbos, and holds that for a Torah scholar the greatest pleasure of Shabbos is specifically to learn deeply in depth. **R' Yoel Asher** answers that even according to this, on Shabbos one learns fewer hours because of the long meals and zemiros (an aspect of "half for you").

* **The reason why specifically leil Shabbos (rest time versus oneg Shabbos): R' Yoel Asher** proposes that perhaps it relates to the fact that on Shabbos one learns less ("half for you and half for Hashem", although this actually only appears by Yom Tov); during the week a Torah scholar has no right to indulge in a long meal, but on Shabbos one can sit calmly and sing zemiros. **R' Yitzchak** rejects this as an excuse of a false Torah scholar who seeks excuses to waste time; in truth at the meal of a true Torah scholar one continues learning on Shabbos just like the whole week. Both however come to the conclusion that the "way of Torah scholars" to be intimate on leil Shabbos is a matter of **oneg Shabbos**.

* **Comparison to "and I ate with her from Friday night to Friday night": R' Yoel Asher** connects this to what was learned earlier (in Chapter 12) that a husband must eat with his wife on leil Shabbos. That law the Rambam included in the laws of "she'ar" (sustenance). Although "she'ar" essentially means only giving her to eat and not necessarily eating together with her, the Rambam added there that because of oneg Shabbos he must eat with her once a week on leil Shabbos (giving her to eat "up close", as **R' Yitzchak** expresses it, as a mitzvah of oneg Shabbos). Just so here by onah: the essential obligation is once a week, and because of oneg Shabbos the way is to do it on leil Shabbos.

Halachah 2

1. The Rambam's Words

A woman has the right to prevent her husband from going out for business except to a nearby place so he won't withhold her onah, and he may not go out except with her permission. Similarly, she has the right to prevent him from leaving from a profession whose onah is close to a profession whose onah is distant, such as a chamar who becomes a gamal. Torah scholars may go out to study Torah without their wives' permission for two or three years. Similarly, one who was idle and became a Torah scholar, his wife cannot prevent him.

2. Plain Explanation

A wife has the right to prevent her husband from traveling for business to a distant place so he won't miss her onah, and he may not travel except with her permission. Similarly, she can prevent him from changing his profession from work with a close onah to work with a distant onah – for example, a donkey-driver (chamar, once a week) who wants to become a camel-driver (gamal, once every thirty days).

Torah scholars are an exception: they may travel away from home to learn Torah for two or three years even without permission from their wives (but sustenance and clothing he must continue to send, otherwise beis din goes down to his property). Similarly, one who was "idle" (batel – his onah was every day) and became a Torah scholar (whose onah is only once a week), his wife cannot prevent him.

3. Insights and Explanations

* **The contradiction between Halachah 1 and Halachah 2 (livelihood versus onah):**

* **R' Yoel Asher** asks a strong question: in Halachah 1 it appeared that a person may be a chamar, gamal or melach, and the law of onah adapts to his livelihood (that livelihood comes before onah, and the wife can't demand more). Here in Halachah 2 however it appears that she can indeed prevent him!

* **Answer 1 (R' Yitzchak's distinction between the two cases in Halachah 2):** The first case ("that he not go out for business") speaks of a normal worker who wants to make a one-time business trip three cities away; there he must ask permission for that week. The second case ("to leave from a profession...") speaks of one who wants to completely change his profession (from chamar to gamal); here she can completely prevent him.

* **Answer 2 (sevara vekiblah): R' Yoel Asher** and **R' Yitzchak** explain that Halachah 1 speaks when he already had the distant work before the marriage – then she knew about it and "sevara vekiblah", she married on that condition. But in Halachah 2 he wants to change his work *after* the marriage to a more distant onah; this she can prevent, because she married on the understanding of having a close onah.

* **Answer 3 (negotiation): R' Yoel Asher** also proposes that "the woman has the right" can mean that she has a right to claim and negotiate with him that he should take work that pays less in order to be more at home.

* **Onah is more important to her than more money (kav vetaflos):**

* **R' Yitzchak** brings the Gemara (**Kesubos 62b**) "a woman prefers a kav with intimacy over ten kav with separation". Even if the husband claims that as a gamal he will earn much more money than as a chamar, she has the right to say: "I don't want money, I want you to be here with me".

* **The principle of "the woman has the right to prevent" – right versus the prohibition of "lo yigra":**

* **R' Yoel Asher** wants to clarify whether the fact that he travels without her permission means he transgresses the prohibition of "lo yigra", or not. He shows that later in the Rambam it appears that the prohibition of "lo yigra" is only transgressed when one does it with intent to pain her (with a bit of wickedness). Here however, when he travels for livelihood, it's not the prohibition, but a matter of **right** ("she has the right to prevent him").

* **R' Yitzchak** agrees that here we're not yet speaking of the prohibition, but of her rights in the measurements of the obligation of onah (and if he doesn't comply, she has the right to demand a get). If she doesn't demand it, she is thus mochel.

* **The exception of Torah scholars ("they go out to study Torah without permission"):**

* **[Digression: Historical context]: R' Yoel Asher** notes that in the past people used to marry very young, and the bachelor years of going to learn in yeshiva were done after the marriage.

* **The source in Mishnah/Gemara and the reason for the law (Chasam Sofer versus Talmud Torah keneged kulam): R' Yitzchak** brings that in the Mishnah (**Kesubos 61b**) it says that students may go without permission only for thirty days. In the Gemara Rav says that this is only the opinion of Rabbi Eliezer, but the Sages hold that one may go for two-three years (and even if the wife explicitly objects, as **R' Yoel Asher** notes, she cannot prevent him according to the law).

What is the reason? **R' Yitzchak** brings in the name of the **Chasam Sofer** that the reason is because in truth, in the depths of her heart, every Jewish woman wants her husband to be a Torah scholar. **R' Yoel Asher** contrasts this with another interpretation: perhaps it's not because she wants it (like the Rambam says by "we force him until he says I want" by a korban and a get, that every Jew truly wants to do the right thing), but because "Talmud Torah keneged kulam" – for the benefit of Torah and Klal Yisrael the Sages ("they said and they said") ignored her will and gave every Jew the right to take the "crown of Torah" which is available to all! **R' Yitzchak** answers that both reasons amount to the same thing: onah is very important, but Talmud Torah is even more important. On the second case (a batel who becomes a Torah scholar) **R' Yoel Asher** says that here the foundation is that the "crown of Torah" lies before every Jew; just as she has a right to onah, he has a right to become

a Torah scholar, and she cannot prevent him from this.

* **Halachah lemaaseh and the danger thereof (Rav Ada bar Ahavah and Kotzk): R' Yitzchak** and **R' Yoel Asher** bring the Gemara (**Kesubos 62b**) that although the Rambam rules like Rav Ada bar Ahavah (and the Gemara says we rely on him), it nevertheless says in the Gemara that one can die from this (when Rav Rechumi missed his time and his wife cried, he died). Therefore it is halachah lemaaseh very not simple to do. **[Digression: Chassidic story]:** They note that this law was the source for the Kotzker chassidim and the "yoshvim" by Chassidic rebbes who used to travel away from home for long periods.

* **Proof from Rabbi Akiva that more than three years requires permission: R' Yitzchak** shows that the permission is only for "two or three years", not for ten years. Therefore, when Rabbi Akiva traveled away for twelve years (and another twelve years), this was more than the law's measurement, and he had to have Rachel's agreement. **R' Yoel Asher** brings a beautiful proof to this from the statement of Chazal where Rabbi Akiva said to his students: "mine and yours is hers". If he could have traveled according to the law without her permission, she wouldn't have received all the credit! Rather because for twelve years he had no right without her agreement, and without her permission he couldn't have learned, therefore all his Torah belongs to her.

Halachah 3

1. The Rambam's Words

A man may marry several wives, even a hundred, whether at once or one after another, and his wife cannot prevent him, provided he is able to give she'ar, kesus and onah appropriately to each and every one. And he cannot force them to dwell in one courtyard, but each one separately.

2. Plain Explanation

A husband may marry many wives, even a hundred, either at one time (at once, like "all of you are betrothed to me") or one after another (one after another). His wife cannot prevent him, on condition that he has the ability to give she'ar, kesus and onah as appropriate for each one separately. But he cannot force them to live in one courtyard, rather each one gets her own place.

3. Insights and Explanations

* **The assumption of "at once" versus

Continuation of Translation

* **The assumption of "at once" versus "one after another":**

* **R' Yitzchak** asks what the difference is between taking many wives at once or one after another. He explains that one might have thought that only "at once" can none have any complaints, because they all married at the same time and knew about it. But by "one after another", the first wife can claim that she thought she was the only one, and suddenly in the morning she wakes up to find he has betrothed another. Therefore the Rambam must innovate that even in such a case he may, and "his wife cannot prevent". (**R' Yoel Asher** mentions in passing that the concept of marrying "at once" already came up regarding sheva berachos, whether one must make separate sheva berachos for each one).

* **The meaning of "to dwell in one courtyard" and how this limits the husband:**

* **R' Yoel Asher** shows that the law that he cannot force them to live in one courtyard comes from the previous halachah that a wife can say she doesn't want strangers in her dwelling. Particularly by "one after another", the first wife can say that although she cannot prevent him from taking another wife, he already gave her the dwelling and she doesn't want to live with other women.

* **R' Yoel Asher** notes that practically this law itself will already weaken the husband's right to take many wives, because "one courtyard" means

it's not enough to have one large house where each has a separate room, rather he must maintain completely separate courtyards (households). **R' Yitzchak** adds that he must indeed be a great wealthy person for this, and if he cannot provide this, he actually may not marry another wife from the law of she'ar kesus ve'onah (lo yigra).

* **A novelty regarding heter meah rabbanim in modern times:**

* **R' Yitzchak** brings out a great novelty: the law that "a man may marry several wives and his wife cannot prevent" was only in ancient times when the custom was to take multiple wives, thus when a woman married, she understood that the husband could take another. But in modern times when the custom is not so, when a person marries it's as if he promises his wife that she will be his only one. According to this it emerges that even if a husband receives a "heter meah rabbanim", this only helps regarding the cherem of Rabbeinu Gershom, but he would still need mechilah from the first wife from the law of "lo yigra" (she'ar kesus ve'onah), and without this he transgresses she'ar kesus ve'onah!

* **R' Yoel Asher** and **R' Yitzchak** explain however that practically, when one uses a heter meah rabbanim nowadays, we usually speak when the wife is a moredes and the like and we cannot force her to accept a get, thus the problem of she'ar kesus ve'onah is in any case not relevant (or it's already included in the heter).

Halachah 4

1. The Rambam's Words

And how much is their onah? According to their number. How so? A worker who had two wives, one has onah once a week and the second has onah once a week, thus the onah of each of them is once every two weeks. If he had four wives, the onah of each of them is once every four weeks. Similarly if he was a sailor and had four wives, the onah of each of them will be once every two years. Therefore the Sages commanded that a man should not marry more than four wives even though he has much money, so that their onah should reach them once a month.

2. Plain Explanation

How much is their onah when he has multiple wives? According to their number. One divides the husband's existing onah among the wives. For example, a worker (or one whose onah is once a week / twice a week according to the calculation) who has two wives, each one receives once every two weeks; with four wives, each receives once every four weeks. A sailor (whose onah is once every six months) who has four wives, each one receives onah once every two years. Therefore the Sages advised that a man should not take more than four wives, even if he has much money, so that each wife should receive onah at least once a month.

3. Insights and Explanations

* **The difficulty and contradiction in the law of dividing the onah:**

* **R' Yitzchak** and **R' Yoel Asher** wonder greatly at this law: why does the onah of the first wife become less each time he marries? She married a worker on the understanding of receiving his full onah, why does she lose half her onah? Moreover, they show a contradiction in the Rambam's own words: in Halachah 3 the Rambam writes that he may take more wives only "provided he is able to give... appropriately to each and every one" (where **R' Yoel Asher** already asked at the beginning of Halachah 3 how he can physically give onah to a hundred wives!), and immediately in Halachah 4 he says that the onah is divided and diminished (so that with a hundred wives it would come out once every four years)! **R' Yitzchak** says that with difficulty one must interpret that "appropriately to each" in Halachah 3 already means according to the new calculation after it becomes less.

* **Reasonings to understand why the onah may be diminished:**

1. **R' Yoel Asher** proposes a reasoning: since the Torah and Sages give the husband a right to take another wife, it's already inherent in this

that "a person is only a person" and one cannot demand from him more strength than his natural measurement of onah.

2. **R' Yoel Asher** says a deeper psychological reason: the main pain of a wife by withholding onah is not only the physical lack, but that she feels the husband is ignoring her or hates her. Thus, when the husband takes another wife (which he has a right to do) and he continues to give her her portion of onah in an orderly way according to the situation, she understands that he doesn't hate her more than before and he thinks of her, only the practical reality has changed. (**R' Yitzchak** however holds that this still doesn't fully answer the contradiction in the Rambam's language).

* **The calculation of "once a month with four wives":**

* They discuss on whom the Rambam builds the calculation that with four wives it comes out onah once a month (which means his base onah is once a week). **R' Yoel Asher** says this refers to a Torah scholar (whose onah is from Shabbos to Shabbos), or po'alim who do work in another city (once a week), because po'alim in the city are twice a week. **R' Yitzchak** wants to say this is a general minimum measurement for most people.

* **"The Sages commanded" versus "good advice" in the Gemara:**

* **R' Yitzchak** notes an interesting thing: in the Gemara it says that not taking more than four wives is only "good advice we learn from it", but the Rambam changes the language and writes "therefore the Sages **commanded**"!

* **R' Yoel Asher** builds on this a tremendous distinction: if it's only "good advice", a husband could say he will take more than four wives and he will simply exert himself more and do onah more times in the week than his usual practice. But when the Rambam rules "the Sages commanded", it's a firm enactment and he cannot do more.

* **R' Yitzchak** explains the reason: the entire mitzvah of onah is built on the reality that a man is troubled and has no strength, and one must obligate him to go to his wife. If he will have many wives who will chase him for onah, he won't be able to physically withstand it. Therefore the Sages made a normal order that is bearable for an average person (once a week), and didn't allow taking more than four wives.

* **[Digression: Statistics and the average measurement of onah]:**

* A conversation develops about what a "normal person" means regarding onah. **R' Yoel Asher** claims that according to Chazal twice a week (po'alim in the city) is the normal standard, and once a week is already lowered. **R' Yitzchak** brings from general secular statistics that the average of people is once a week. **R' Yoel Asher** questions the statistics, because an average includes all age groups together – and a person goes through periods in life where at home by the wedding he is like a "rach ve'anug", and later he becomes like a "po'el", and in old age he becomes like a "melach" – but the Gemara gives a minimum obligation according to the person's current state. **R' Yitzchak** answers that the Gemara's measurements are also built on a general average.

Halachah 5

1. The Rambam's Words

One who makes a vow on his wife that she should tell others what he said to her or what she said to him from words of joking and frivolity that a person speaks with his wife regarding matters of intimacy, behold this one must divorce and give the kesubah, for she cannot be brazen-faced and tell others shameful things. Similarly if he made a vow that she should turn over during intimacy so she won't become pregnant, or that he made a vow that she should do foolish acts, behold this one must divorce and give the kesubah.

2. Plain Explanation

Just as by she'arah and kesusah there is a topic of "one who makes a vow on his wife", so too there is such a law by onah: if a husband makes a vow on his wife that she must tell other people the

private conversations of "joking and frivolity" (affection) that they speak between themselves before intimacy, we force him to give a get with a kesubah, because a woman cannot have such brazenness to tell others such shameful things ("shameful words"). Similarly if he makes a vow that she must turn over during intimacy so as not to become pregnant, or he makes a vow that she should do foolish things ("foolish acts"), he must give a get and pay the kesubah.

3. Insights and Explanations

* **What "joking and frivolity" means and a kal vachomer from lending utensils:**

* **R' Yitzchak** and **R' Yoel Asher** explain that this refers to the affectionate talk that a husband speaks with his wife to appease her before intimacy (and even a bit more than just appeasement). The husband cannot demand from her to publicize the intimate secrets in the street.

* They compare this law to what was learned earlier (in Chapter 13), that a husband cannot make a vow that his wife should not lend utensils to the neighbors, because she doesn't want to get a bad name. All the more so here, that he cannot force her to tell intimate things, which will make people look at her as a low and immodest woman.

* **The true meaning of "brazen-faced" and "shame":**

* **R' Yitzchak** focuses on the Rambam's language "to be brazen-faced... shameful words". He brings out a deep meaning in the concepts: in our common language "brazen-faced" means a chutzpahnik, and "shame" means an embarrassed person. But here we see that the true meaning of "one who has shame" is one who has **modesty and refinement** – he has a sense to understand what is appropriate to say in which place, and what should remain private. Thus, "brazen-faced" doesn't mean a chutzpahnik, but the opposite of refinement ("has no shame") – a person who has no modesty and is not embarrassed to speak in public about things that belong in the bedroom. "Shameful words" means things that it is a disgrace and a lack of refinement to tell another.

* **[Digression: The verse "telling man what is his conversation"]: R' Yoel Asher** brings up the Gemara on the verse "telling man what is his conversation", that even a light conversation between a husband and wife is told to the person at judgment. He wonders in a humorous way: if this is "shameful words", how does the Almighty Himself do such a thing of repeating the conversations? **R' Yitzchak** answers that the intent of the Sages' statement is only to bring out that even in the most intimate matters a person must still conduct himself refined and Jewishly.

* **The explanation of "turning over during intimacy" and the wife's right to children as part of onah:**

* **R' Yoel Asher** asks what "turning over" means – whether it means not in the normal way, or an act that women do after intimacy not to become pregnant (destruction of seed). **R' Yitzchak** explains that in the Gemara (**Kesubos 72a**) there is language "filling and pouring to the garbage" (she fills a vessel with water and pours it out in waste), and it's a question in the Gemara what this means. The Rambam divides it into two separate laws: (1) "turning over... so she won't become pregnant" – the husband forces her to do an action that prevents pregnancy; (2) "that she should do foolish acts" – he forces her to do actual foolishness.

* **R' Yitzchak** brings up the Gemara's question: a woman is not commanded on peru u'revu, so what does it matter to her if he forces her not to become pregnant? The Gemara answers that a woman also wants to have children so they will help her in old age ("black bile" / a staff in hand). **R' Yoel Asher** and **R' Yitzchak** discuss that it emerges a novelty: although she has no mitzvah of peru u'revu, having children is her natural desire and need, and thus her right to have a child enters into the obligation of "she'arah kesusah ve'onasah" – she can demand that the onah be in a manner that can bring children.

* **Interpretations of "foolish acts":**

* **R' Yitzchak's side:** It means simple foolishness (as the Gemara says: filling water and pouring in waste), and the husband has no right to embarrass her and make her foolish.

* **R' Yoel Asher's side:** Since this appears in the laws of onah (and not as a general rule in Hilchos Kiddushin on all areas of life), it shows that "foolish acts" refers to crazy and disgusting fantasies in matters of intimacy itself. Since onah is a private matter and there are no clear standards, it happens that a husband has crazy demands.

* **The distinction between asking and making a vow (forcing through vows):**

* **R' Yoel Asher** notes an important point: if a husband simply asks his wife to do a foolishness, this is not a reason for "he must divorce and give the kesubah". Only when he makes a **vow** ("made a vow on her") – whereby he forces her and places a prohibition on her – then it is "he must divorce and give the kesubah".

* They discuss the historical context: in the times of Chazal, when people were very afraid of vows, a vow was the way how a husband (especially among Torah scholars who didn't use physical violence) could force and oppress his wife. **R' Yoel Asher** adds another reasoning why specifically by a vow it is "he must divorce and give the kesubah": a simple request is a one-time thing (one can tell him to go rest a week to calm down), but a vow creates a fixed, long-term coercion and prohibition on her.

Halachah 6 (with the continuation about the manner of the vow)

1. The Rambam's Words

One who makes a vow on his wife from intimacy for one week, we wait for him, more than this he must divorce and give the kesubah or annul his vow. And even if he was a sailor whose onah is for six months, for once he vowed he has pained her and she has despaired. And how does he make a vow on her? If he swore – it's a vain oath because he is enslaved to her. If he said to her "the pleasure of your intimacy is forbidden to me" – this is a vow and it is forbidden to be intimate...

2. Plain Explanation

If a husband makes a vow forbidding marital intimacy on his wife, we wait for him one week ("one week"). If the vow is for longer than a week, he must either give a get with a kesubah, or annul his vow. This law applies even if the husband is a sailor ("melach") whose regular onah is only once every six months – because once he made a vow, he has caused her pain and she has despaired.

And how can he make such a vow? If he swears not to be intimate, it's a vain oath because he is enslaved to her. Only when he says to her "the pleasure of your intimacy is forbidden to me" (the pleasure from your intimacy is forbidden to me), this is a vow that takes effect and he may not be intimate.

3. Insights and Explanations

* **Why we wait exactly "one week":**

* *Anger and calming down:* Compared to vows in she'arah and kesusah where we wait a month, by onah we wait only one week. **R' Yoel Asher** and **R' Yitzchak** explain that we give the person one week of time to calm down and emerge from his anger or craziness before beis din interferes to force a get.

* *Skipping one onah:* **R' Yoel Asher** says a beautiful explanation of the measurement of one week: since the average obligation of onah is once a week, "one week" means we let him skip **one time** his obligation of onah, but not more.

* **The Rambam's language "or annul his vow":**

* **R' Yitzchak** focuses on a linguistic difficulty: "annulment" is only relevant when a husband annuls his wife's vow; but here the husband himself made the vow (as will soon be clarified that he says "the pleasure of your intimacy is forbidden to me"), and a person cannot himself annul his own vow, he must go to a sage who will "release" him! Apparently the Rambam should have written "or release his vow".

* **The distinction between unavoidable circumstances and wickedness (the law of the melach and the wife's pain):**

* The melach can seemingly claim: why do we force him to give a get after one week, he doesn't come home for six months anyway? **R' Yoel Asher** and **R' Yitzchak** explain the Rambam's foundation ("for once he vowed he has pained her and she has despaired"): when a husband is away at sea for livelihood, the wife understands this is unavoidable and it doesn't pain her in the same way. But when he makes a vow before he travels, he shows that he is holding back from her out of wickedness, and she loses hope ("has despaired") that even when he returns he will be with her. The very knowledge that he is distancing her with a vow brings her immediate inner pain. We see from this that the entire prohibition of nullifying onah is directly connected to **the wife's pain**.

* **The halachic mechanism of "and how does he make a vow on her" (oath versus vow on pleasure):**

* **Vain oath due to servitude: R' Yitzchak** explains the reasoning why an oath doesn't take effect: a person cannot forbid someone else's property. The husband's intimacy belongs to the wife (it lies in her domain; as **R' Yoel Asher** says: he has a mortgage-debt, and each time he does it he is paying his debt), thus it's not his to be able to forbid.

* **The distinction between an oath and a vow ("the pleasure of your intimacy is forbidden to me"):** Why does a vow take effect? A vow always takes effect on the object. If he said "my intimacy is forbidden to you", it wouldn't help because his intimacy belongs to her. But here he says "the pleasure of your intimacy is forbidden to me" – he forbids on himself the *pleasure* that he receives from her. His own pleasure belongs to him, and on this he can indeed make a vow.

* **Why the obligation of onah doesn't nullify the vow: R' Yitzchak** brings out that by vows there is no principle of "sworn and standing from Mount Sinai", and a vow takes effect even on a mitzvah (as the Rambam writes in Hilchos Nedarim regarding one who vows pleasure from matzah, that the vow takes effect and he may not eat). Thus, although he has an obligation of onah to his wife, we cannot force him to be intimate because "we don't feed a person something forbidden to him". **R' Yoel Asher** compares it to the law learned earlier (by conditions in kiddushin) that if she makes a condition "on condition that you come to your father" we cannot force the father to do a prohibition. **R' Yitzchak** notes that through this it emerges that a person can as it were circumvent the system – where an oath doesn't work, he can make a vow on his pleasure and it will take effect (and if he doesn't release it, it remains stuck and he must give a get).

* **The meaning of "pleasure" by intimacy: R' Yitzchak** notes in passing that we see from here that he cannot say "I will be intimate without pleasure". The word "pleasure" here doesn't mean only the enjoyment (physical pleasure), but it means the very act of use.

Halachah 7

1. The Rambam's Words

It is forbidden for a person to withhold his wife's onah. And if he withheld in order to pain her he has transgressed a negative commandment as it says "her she'ar, her kesus and her onah he shall not diminish". And if he became ill or his strength weakened and he cannot be intimate, he waits six months perhaps he will recover, for you have no onah greater than this. And afterwards either he takes permission from her or he divorces and gives the kesubah.

2. Plain Explanation

It is forbidden for a person to withhold his wife from her onah. If he withheld it in order to pain her, he has transgressed a negative commandment of "her she'ar, her kesus and her onah he shall not diminish". But if he became sick or his strength weakened and he cannot be

intimate, we wait six months perhaps he will become healthy, because there is no greater (more distant) onah than this (of a melach). After six months he must either take permission (mechilah) from her, or give a get and pay the kesubah.

3. Insights and Explanations

* **Why is the prohibition mentioned only by onah?**

* **R' Yitzchak** asks why the Rambam brings the prohibition of "lo yigra" only here by onah, and didn't mention it earlier by she'arah and kesusah, which appear in the same verse. He mentions that in **Sefer HaMitzvos** it indeed says that the prohibition applies to all three, and perhaps the Rambam writes it here only because by onah it's more common.

* **R' Yoel Asher** and **R' Yitzchak** add another reasoning: she'arah and kesusah are more of a "monetary matter" that depends on people, so the prohibition is weaker, whereas onah (although mechilah and conditions also help there) has a stronger prohibition that always remains.

* **The condition of "in order to pain her":**

* The Rambam adds a critical word: he only transgresses the prohibition if he withholds **"in order to pain her"**. **R' Yitzchak** and **R' Yoel Asher** explain that "to pain her" doesn't mean simply taking away her right (because he works far or he has no strength), and not even when he does something he has no right to do (where he transgresses monetary laws, for example he becomes a melach without her permission). "To pain her" means specifically when he does have strength and desire, but he is angry and fighting with her and wants to spite her.

* **A sick person or one whose strength weakened – onah as a condition in the marriage:**

* If he cannot be intimate due to unavoidable circumstances (sick or weakened), he doesn't transgress the prohibition because it's not "to pain her". Then we wait six months "perhaps he will recover" – we see here again that six months is the absolute minimum that a wife can expect in a marriage.

* If he doesn't become healthy after six months, he must either take permission from her (and if she is mochel, they can remain together and there is no prohibition at all), or "he divorces and gives the kesubah". **R' Yitzchak** shows that here we see how onah functions as a condition in the marriage: even if he did nothing wrong and he is completely unavoidably prevented, if he cannot fulfill the obligation of onah after six months and she is not mochel, he must give her a get with the kesubah.

Halachah 8

1. The Rambam's Words

A woman who withholds her husband from marital intimacy is called a moredes. And we ask her why she rebelled. If she said "I find him repulsive and I cannot be intimate with him willingly", we force him to divorce immediately, for she is not captive to be intimate with one hateful to her, and she goes out without any kesubah at all. And she takes her worn items that remain whether from property she brought to her husband and he accepted responsibility for, or from property he didn't accept responsibility for, and she doesn't take anything of her husband's, even the shoe on her foot or the kerchief on her head that he bought for her she removes and gives back, and similarly any gift he gave her she returns, for he didn't give it to her on condition that she take it and leave.

2. Plain Explanation

A woman who withholds her husband from marital intimacy is called a "moredes". We ask her why she rebelled. If she says "I find him repulsive and I cannot be intimate with him willingly" (ma'astiv ve'eini yecholah lehiba'el lo mida'ati), beis din forces the husband to give her a get immediately ("at once"), because she is not a captive to be forced to be with one who is

hateful to her. But she goes out completely without a kesubah.

What does she take? She takes with her the remaining worn items ("bela'osehah hakayamin") from her own dowry that she brought to the husband – both from "nichsei tzon barzel" (where the husband accepted responsibility for their value) and from "nichsei melog" (where the husband only eats the fruits but has no responsibility for the principal). But from the husband's property she takes nothing; even the shoes on her feet and the kerchief on her head that he bought for her, she must remove and return. Also every gift he gave her she must return, because he didn't give it to her on condition that she should take it and leave.

3. Insights and Explanations

* **The essence of a wife's obligation and the Rambam's definition of "moredes":**

* When the wife doesn't want to be intimate, she has no prohibition of "lo yigra", but her flaw is that she is a "moredes". **R' Yoel Asher** focuses on this language: by the husband it's called that he doesn't pay his debt, but by her it's called a "rebellion" – like a rebel against the kingdom, a defiance against an authority, because the husband acquired her. Her obligation to be ready for the husband is so simple in the very essence of kinyan ishus that it doesn't even need a verse.

* **R' Yitzchak** notes that the Rambam establishes here a foundation (against other opinions in the Gemara that hold that moredes can also mean rebellious from work): when we speak of a "moredes", it means specifically a wife who withholds her husband from marital intimacy.

* **The reasoning of "for she is not captive" and the exact principle of "I find him repulsive and I cannot":**

* In the case of "I find him repulsive" we force the husband to give a get immediately ("at once"), without giving any waiting period to reconsider (unlike a regular moredes in Halachah 9).

* An important discussion develops between **R' Yoel Asher** and **R' Yitzchak** about the principle of "I find him repulsive": **R' Yoel Asher** initially wants to say that she is like forced ("compelled"), she cannot psychologically bring herself to it, and he notes that the word **"and I cannot"** that the Rambam included is a more important word than "I find him repulsive".

* **R' Yitzchak** makes clear: "I find him repulsive" in the Rambam doesn't mean she has an objective excuse or that she is unavoidably prevented. The husband can be a good husband, but she simply doesn't love him and doesn't want to remain with him at all; the point of "and I cannot" is a reality that "she doesn't hold by it" and there's no one to talk to, thus one must be realistic and end the match. But since it's her decision and her fault that she doesn't want, she goes out "without any kesubah at all" – the husband doesn't have to pay anything.

* **The unique kinyan of ishus and the reasoning for losing the kesubah: R' Yoel Asher** connects this to the foundation that the kinyan of a wife is different from all other kinyanim (like vessels), because here the wife herself is the one who acquires herself to the husband, and she herself is the kinyan, and a person cannot be held captive against her will. This is the first time we see a way how a wife can herself demand and force a get from the husband (through beis din, as **R' Yitzchak** emphasizes). **R' Yoel Asher** explains why she loses the kesubah: the entire enactment of kesubah was made by the Sages "so it won't be easy in his eyes to divorce her" (so it won't be easy in the husband's eyes to throw her out). Here however, when she is the one who wants to leave, she has no kesubah.

* **Interpretation of "her worn items that remain" and why she must return shoes and gifts after ten years:**

* Initially **R' Yoel Asher** wants to interpret that "her worn items" means the used clothing that the husband bought her in the yearly obligation, that the old remains hers. **R' Yitzchak** corrects him that "her worn items" means her own worn

items that she brought from home as a dowry (both nichsei tzon barzel and nichsei melog), as the Rambam explains immediately afterwards. With her own things she can go home, but from the husband's clothing she takes nothing.

* **R' Yoel Asher** asks: if a wife was a good wife for ten years, how can the husband now take her shoes that he bought her? **R' Yitzchak** answers immediately: she indeed had the right to use them until now (as long as she is his wife), but he never gave them to her as a gift that she should keep them as a divorcee who leaves on her own demand ("for he didn't give it to her on condition that she take it and leave").

* **[Digression: The confusion in modern times by "ma'us alai", kesubah and child support]:**

* **R' Yitzchak** notes that the law of forcing him to divorce by a claim of "ma'us alai" is a well-known dispute among poskim (this is the opinion of the Rambam and the Geonim, but many Rishonim disagree).

* He points to a great injustice in modern times: according to the Rambam's opinion the entire balance is that although she can force a get, she loses everything – the entire kesubah (which was her financial security) and even the kerchief from her head. Today however, when the kesubah amounts to nothing anyway, people come and use the Rambam to force the husband to give a get, and together with this she also takes his property and he must also pay her! (**R' Yitzchak** says that according to this, today – when the kesubah is no punishment – one would have to say that she cannot receive the children if she leaves without a reason, because the Sages enacted that she must lose something and it cannot be that she should claim a get because of her own problem and the husband should still have to pay).

* **R' Yitzchak** adds a sharp comment about "child support" in modern times: he says that what is called "child support" is not true , because in fact one gives the money directly into the wife's bank account and she doesn't have to buy food for the children with it (a husband cannot call his ex-wife to beis din claiming she doesn't buy enough for the children). Originally in halachah, child support means the father himself goes shopping for them (or pays for their expenses), not that he pays her a fixed sum.

Continuation of Translation

Halachah 9 – Halachah 10

1. The Rambam's Words

And if she rebelled against her husband in order to pain him and said "I am paining him in this because he did such and such to me" or "because he cursed me" or "because he made a quarrel with me" and similar things, they send to her from beis din and say to her "know that if you persist in your rebellion even if your kesubah is a hundred maneh you have forfeited it". And afterwards they announce about her in the synagogues and study halls every day for four weeks consecutively and say "so-and-so has rebelled against her husband". And after the announcement they send to her from beis din a second time and say to her "if you persist in your rebellion you have forfeited your kesubah". If she persisted in her rebellion and didn't return, we consult with her and she loses her kesubah and she will have no kesubah at all. And we don't give her a get until twelve months, and she has no sustenance all twelve months, and if she dies before the get her husband inherits her. In this order we do to her if she rebelled in order to pain him even if she was a niddah or sick and not fit for intimacy, and even if her husband was a sailor whose onah is for six months, and even if he has another wife. And similarly an arusah whose time has come to be married and she rebelled in order to pain him and didn't marry, behold this is a moredes from intimacy. And similarly a yevamah who didn't want

to do yibum in order to pain him, in this order we do to them.

2. Plain Explanation

If the wife is a moredes against her husband not because he is repulsive to her, but in order to pain him – because he did such and such to her, cursed her or fought with her – they send to her from beis din a first warning that if she remains in her rebellion she loses her kesubah even if it's a hundred maneh. Afterwards they announce about her in the synagogues and study halls every day for four weeks consecutively: "so-and-so has rebelled against her husband". After the announcement they send to her a second time from beis din with the same warning. If she remains further entrenched, we "consult" with her (we talk with her to convince her), and if she doesn't go back she loses her entire kesubah. Therefore, we don't give her a get until twelve months (and in the twelve months she has no sustenance). If she dies before the get, her husband inherits her.

This entire order we do even if she is a niddah or sick and is in any case not fit for intimacy, or her husband is a sailor (six months), or he has a second wife. Similarly an arusah whose time to marry has arrived and she doesn't want to marry in order to pain him, and a yevamah who doesn't want to allow herself to be taken in yibum in order to pain him, have a status of a moredes from intimacy and we do to them the same order.

3. Insights and Explanations

* **The psychological distinction between "I find him repulsive" and "in order to pain him":**

* **R' Yoel Asher** explains: by "I find him repulsive" she is completely alienated from him; the rebellion is a way to exit the relationship. Here however, by "in order to pain him", she is not alienated from him, but on the contrary – there is a strong connection, there is love, hatred and drama ("for love is as strong as death, jealousy as harsh as the grave"). She is only insulted and wants to take revenge on him. Her rebelling is itself part of their complicated relationship.

* **Precision in "they send to her from beis din":**

* **R' Yoel Asher** shows an interesting language: earlier it says "and she said I am paining him", which looks like she stands in beis din and says it, and afterwards it says "they send to her from beis din" (they send messengers from beis din to her)! He explains that "and she said" means she said so to her husband at home, and the husband came to beis din to tell what she says, therefore beis din sends messengers to her.

* **The "choshen mishpat" language of beis din versus shalom bayis and "children of strife":**

* **R' Yoel Asher's thought:** He notes that beis din here doesn't play the role of a shalom bayis mediator to sit down the husband and ask him why he cursed her (even if the husband can be the biggest animal who curses terrible curses; beis din has a separate department where the rav takes care of the husband's bones). Here the Rambam speaks purely in the language of "choshen mishpat" – the laws of rights and obligations in the matter of onah and kesubah. He throws in a thought that in truth, if the husband fought with her a whole week, she is seemingly justified in not wanting to have intimacy with him, because in halachah it says one may not have intimacy during a fight because of the prohibition of "children of nine measures" (children of strife)! A rav or mashpia would indeed tell the husband that he may not be with her until he apologizes.

* **R' Yitzchak's rejection: R' Yitzchak** completely disagrees with this defense of the wife. He holds that a wife may never rebel in onah, not even during a quarrel! He explains the distinction: the matter of "children of strife" by children of nine measures speaks of a much smaller level – when they are both together but the completeness of love in the heart is missing (and if a husband forces his wife with violence when she doesn't want, he is simply a wicked animal, we don't speak of such a reality at all). "Moredes" means the husband is a normal person who doesn't force her with violence, but

she uses her power and says "I don't want" and goes away in order to pain him.

* **R' Yitzchak** strengthens the foundation: the laws here are like "choshen mishpat". Onah is a complete obligation: just as a husband has an obligation to give sustenance and he cannot close the credit cards with an excuse that he's not in the mood or because of a dispute, so too a wife has no right whatsoever to be a moredes from intimacy and not go to mikveh because the husband cursed her. If she cannot live with him, she can always say "I find him repulsive" and leave without a kesubah (according to the Rambam), but she has no permission to remain and not give onah. (**R' Yoel Asher** however holds that onah is still different and softer than a monetary obligation, and one cannot completely separate it from the situation between them).

* **The essence of the announcement in shul (disgrace, dispute among Rishonim, and the two warnings):**

* **Shame and disgrace: R' Yoel Asher** wonders at the enactment of announcing in shul for four weeks "so-and-so has rebelled against her husband": women didn't usually come to shul every day, and it seems very strange that men should stand in shul and hear announcements about someone's marital intimacy! He and **R' Yitzchak** come to the conclusion that the entire purpose here is "disgrace" and embarrassment – that a rumor should go out in the city what chutzpah the wife has, and through the shame she should desist. (**R' Yoel Asher** mentions that in the past the announcement in shul was an official institution, similar to "delaying the reading", and he notes humorously that this is a source for driving around with signs announcing against someone...).

* **Dispute among Rishonim when we announce: R' Yitzchak** brings out a dispute among Rishonim: the Rambam says "four weeks" but he means four weeks **every day** ("every day"), whereas other Rishonim (like the **Rosh**) hold we only announce on Shabbos, because the public is in shul only on Shabbos. **R' Yoel Asher** wants to add his own reasoning that Shabbos is the time of onah (leil Shabbos), so the wife can immediately run Friday morning to the beis medrash to the rav. **R' Yitzchak** rejects this, because the announcements come for a long time after it was already in beis din and they already judged the matter. (**R' Yoel Asher** also notes that the measurement of four weeks is part of the fixed measurements in halachah for a chazakah, like three months or three festivals).

* **Why do we warn twice about the kesubah (before and after the announcement)?** We see from this order that fundamentally we should have divorced her immediately without a kesubah, but the Sages gave a long procedure of warnings (like by Pharaoh, as **R' Yitzchak** compares it – "perhaps") to give her every opportunity to do teshuvah. **R' Yoel Asher** and **R' Yitzchak** note that losing the kesubah was a much greater threat than the shame of the announcement itself! At the first warning the wife perhaps thought beis din is only threatening but not in truth. Therefore we use the four weeks of announcement as a tool to show her that beis din means it seriously and to prepare the ground for the second, final warning about the kesubah.

* **The meaning of "we consult with her" and for whose benefit the process is:**

* At the third stage it says in the Rambam "we consult with her". **R' Yitzchak** simply interprets that we talk with her and we try to convince her. **R' Yoel Asher** brings out a deeper point: until now we had the "announcer" who threatened (the "bad policeman"), and now comes a second person who "consults" (the "good policeman" / advisor) who tries to understand where she's coming from and give advice (language of "consulting with the ministering angels"). **R' Yitzchak** wonders why we remember to make shalom bayis only after all these severe threats. **R' Yoel Asher** answers a psychological foundation: often it's necessary to push a person to the edge; only now, when she is already broken and sees that the whole world is against her, do her eyes open and she is ready to hear and make peace.

* They clarify that the husband from his side could give her a get at any minute if he is ready to pay the kesubah. Here we speak that the husband wants to throw her out without a kesubah. It emerges that the entire long process of warnings and announcements is actually built **for her benefit**, to protect her so she won't lose her kesubah over a regular quarrel, until we see clearly that it's a true rebellion.

* **What is the principle of "and we don't give her a get until twelve months" (and "her husband inherits her")?**

* *The contradiction in the situation:* After the announcements she has seemingly already forfeited the kesubah ("and she will have no kesubah at all"), but the Rambam says we don't give her a get until 12 months.

* *R' Yitzchak's opinion:* The simple meaning is we wait 12 months perhaps they will reconcile ("appease each other"). But he asks: if she already forfeited the kesubah at the announcements, what will be if they reconcile in the middle of the 12 months? **R' Yoel Asher** answers that then the husband will have to write her a new kesubah from the law "it is forbidden for a man to remain with his wife without a kesubah". It emerges that until the 12 months pass, the forfeiture of the kesubah is not yet final in practice, or that the husband may not yet send her out without a kesubah within the 12 months.

* *R' Yoel Asher's opinion (for her benefit versus for his benefit):* Initially **R' Yoel Asher** says the 12 months are a right for her – that the husband shouldn't be able to immediately throw her out without a kesubah and go marry another, because the Sages don't want people to divorce so easily (the altar sheds tears). Later he proposes a second explanation: "we don't give her a get" means we don't *force him* to give a get for 12 months, because he has a right to wait perhaps she will calm down and forgive.

* *Precision in the commentators:* **R' Yitzchak** wonders at the commentators who mix in here the matter of "we force him to divorce". He holds it doesn't fit here: forcing is only relevant when she says "I find him repulsive" and wants a get without a kesubah. Here however we speak of a wife who *doesn't* want a get; she wants to remain married (and keep the kesubah), only she wants to rebel from intimacy in order to force the husband to change. Therefore the process lasts 12 months to see who will break.

* **And if she dies before the get her husband inherits her:** If she dies in the twelve months before the get, the husband inherits her, because only *she* forfeited her rights through her rebellion, but *he* didn't forfeit his rights as a husband.

* **Rebellion when there is in any case no intimacy (niddah, sick, sailor, another wife, arusah and yevamah):**

* **The principle of rebellion – the shame of being rejected (specifically is worse than the act): R' Yitzchak** and **R' Yoel Asher** focus on the novelty that a niddah, a sick woman, a wife of a sailor who is nine hundred miles away, or one whose husband has another wife (so he doesn't actually lack onah), is still called a moredes from intimacy. They explain that we see here that the essence of rebellion is not the physical lack of the act, but the "specifically" – the principle and the shame of being rejected by the wife who says "I don't want to give onah" in order to hurt him.

* **Marriage means onah (by an arusah):** By an arusah who doesn't want to marry when the time comes (after 12 months, or thirty days by a widow), the Rambam calls her a "moredes from intimacy". **R' Yoel Asher** and **R' Yitzchak** note from this that the fact that she doesn't come to the wedding doesn't mean she's missing from the meal, rather the entire essence of "nisu'in" is onah. Thus, if she doesn't allow nisu'in to be made, she is a moredes from intimacy.

* **Rebellion by a yevamah ("who didn't want to do yibum"): R' Yoel Asher** notes that we see here that the "zikah" and the mitzvah of yibum obligates her to the yavam just like an arusah (and he considers from when she becomes so obligated – whether one needs to have a "ma'amar", or when she is only a shomeres yavam before they decided which of

the brothers will do yibum). He also tries to understand how a yevamah can be called a moredes if the Sages enacted that one can do chalitzah (as **R' Yitzchak** notes that if she simply doesn't want to marry she can request chalitzah). **R' Yoel Asher** considers that here we speak after they already discussed and decided to do yibum (not chalitzah), and the designated time has already arrived (like "her time to marry has arrived" by an arusah), and now she pulls back and doesn't want, "in order to pain him". **R' Yitzchak** adds that perhaps it goes according to the opinion that the mitzvah of yibum takes precedence over chalitzah (one must specifically do yibum).

Halachah 11 – Halachah 14 (The property of a moredes and the customs of the Geonim)

1. The Rambam's Words

When she goes out after twelve months without a kesubah she returns everything that belongs to the husband, but property she brought to him and its worn items remain – if she seized them we don't take them from her, and if the husband seized them we don't take them from him. And similarly all that was lost from her property that the husband accepted responsibility for, he doesn't pay her anything. This is the law of the Talmud regarding rebellious women. And the Geonim said that they have in Babylonia other customs regarding a moredes, and those customs didn't spread among most of Israel, and many great ones disagree with them in most places, and according to the law of the Talmud it is proper to hold and judge.

2. Plain Explanation

When the moredes ("in order to pain him") goes out after twelve months without a kesubah, she must return everything that belongs to the husband. But regarding the property she brought to the husband and their remnants (worn items) are still there: if she seized them, we don't take them from her; and if the husband seized them, we don't take them from him. Also, all her property that was lost, even if the husband accepted responsibility for them (nichsei tzon barzel), he doesn't have to pay her anything.

All this is the law of the Gemara by a moredes. But the Geonim say that in Babylonia they had other customs by a moredes. But those customs didn't spread among most of Klal Yisrael, and many great poskim in most places disagree with them. Therefore it is proper to hold and rule according to the law of the Gemara.

3. Insights and Explanations

* **Distinction between a moredes of "ma'us alai" and a moredes "to pain him" regarding worn items (seizure by doubtful money):**

* **R' Yoel Asher** and **R' Yitzchak** focus on a glaring distinction: earlier by "ma'us alai" (Halachah 8) we learned that she takes back the "worn items" initially. Here however, by a moredes who waits 12 months, it's a **doubtful law** in the Gemara whether it comes to her or not, thus the Rambam rules that it turns on **seizure**.

* They discuss that since in monetary laws the rule is "doubt doesn't remove from certainty", beis din won't take from the one in possession. **R' Yoel Asher** calls it "whoever is stronger prevails", but **R' Yitzchak** corrects that it's not called "whoever is stronger prevails" (because it doesn't depend on strength), but simply whoever is the **one in possession** – and "she seized" can simply mean she wears it on herself or it already lies in her domain. Beis din doesn't interfere for either side.

* **The exemption from responsibility on nichsei tzon barzel:**

* **R' Yitzchak** explains the reasoning why the husband doesn't pay for the lost property that he accepted responsibility for: the entire obligation of responsibility that he undertook is only by a normal get where he sends her away. But here where she is a moredes and leaves on her own responsibility, his commitment falls away and

she receives nothing, even for things that are completely hers.

* **The opinion of the Geonim ("other customs in Babylonia") and the distinction in definitions:**

* **R' Yoel Asher** considers whether "other customs in Babylonia" means that already in the time of the Talmud they conducted themselves differently in Babylonia. **R' Yitzchak** says no, it means the Geonim made **enactments** for various reasons.

* What did the Geonim change? **R' Yitzchak** explains that according to how the Rambam understands, the Geonim didn't wait twelve months but gave a get immediately without a kesubah. He adds a fundamental point: it could be that it's actually a dispute in the plain meaning of the Gemara how to interpret the concepts – what the Rambam calls "moredes" (to pain him), the Geonim called "ma'us alai" (and thus gave a get immediately). The Rambam himself however doesn't spell out what their customs are, because he holds one must completely ignore them.

* **The meaning of "customs" and "disagree with them": R' Yoel Asher** and **R' Yitzchak** make clear that "customs" doesn't mean a custom of simple people, but the practice and enactments of the **batei din**. When the Rambam says "many great ones disagree with them", it doesn't mean only that they don't conduct themselves so, but the Torah scholars hold that the enactment of the Geonim is **not correct and not just** because it goes against the law of the Talmud.

* **Why does the Rambam mention the Geonim at all? R' Yoel Asher** asks why the Rambam brings in the opinion of the Geonim at all if he rejects it. **R' Yitzchak** answers that since the **Rif** brings it and everyone who learns the sugya knows about it, one would immediately ask a question on the Rambam why he writes differently. Therefore the Rambam writes explicitly that he knows about it and he rejects it.

* **Word play in the Rambam ("to seize"): R' Yoel Asher** notes a nice literary point in the Rambam's language: immediately after the Rambam spoke about the law of "if **she seized**" (whoever seizes the worn items), he uses the same word "and according to the law of the Talmud it is proper **to seize**" – the word was on his tongue, as if to say: where is it indeed worthwhile to make a "seizure"? In the law of the Talmud!

Halachah 15

1. The Rambam's Words

One who rebels against his wife and said "I will sustain and support but I will not be intimate with her because I hate her", we add to her kesubah the weight of thirty-six barley grains of silver every week, and he may sit and not be intimate as long as she wants to sit. And even though her kesubah keeps increasing, behold he transgresses a negative commandment as it says "he shall not diminish". For "if he hates let him send away", but to afflict is forbidden. And why doesn't he receive lashes for this prohibition? Because there is no action in it.

2. Plain Explanation

A husband who rebels against his wife and says: "I will continue to feed and support her, but I will not be intimate with her (intimacy) because I hate her" – we add to her kesubah the weight of 36 silver barley grains every week, and he can remain sitting and not be intimate as long as she wants to remain so.

But although her kesubah grows every week, he is still transgressing a negative commandment of "he shall not diminish"; because if he hates her he should send her away with a get ("if he hates let him send away"), but to afflict her ("to afflict") is forbidden. And why doesn't he receive lashes for this prohibition? Because it's a prohibition without an action (sitting and not doing).

3. Insights and Explanations

* **The language "rebels" by a husband (the hierarchy in shalom bayis):**

* **R' Yitzchak** wonders at the language "one who rebels against his wife". By a wife we understand the word "moredes" because the husband "acquires" her and she is rebellious against him; but how does the language "rebels" fit by the husband?

* They come out with a beautiful thought: "rebels" doesn't mean like "rebels against the kingdom" (against a higher ruler), but it means rebelling in his **obligation** and in the agreement (partnership) between them. In certain matters he is the king, and in other matters (like working for her and onah) he is like a servant and she is the king – in short, both are kings, and the language of Chazal is not particular about a one-sided hierarchy.

* **Why by the husband it only says "because I hate her" and not "I find her repulsive":**

* **R' Yoel Asher** and **R' Yitzchak** focus on the fact that by the husband there is only one category ("because I hate her", which corresponds to the wife's "to pain him"), and there is no category of "ma'us alai" by the husband. **R' Yitzchak** explains the reasoning: by the husband a claim of "I find her repulsive" is not relevant – if she is repulsive to him, he has the power in his hands to give her a get immediately (and pay the kesubah)! If he doesn't give her a get and only wants to withhold intimacy, it's proven that he does it specifically to anger and pain her ("because I hate her").

* **The distinction in punishment between a mored and a moredes (psychology of men and women):**

* **R' Yoel Asher** notes how Chazal adapted the means according to the nature of men and women. By a wife we make announcements in shul and embarrass her until she loses the kesubah. By a husband however, we know we must hit him in the pocket – we threaten him with money by adding a fine of 36 barley grains of silver every week to his debt of the kesubah.

* **The purpose of the fine ("as long as she wants to sit") and the distinction between choshen mishpat and prohibition:**

* **R' Yoel Asher** and **R' Yitzchak** explain that since the obligation of onah is her right, she has the choice: if she wants a get, she can already after one week demand a get with her kesubah (as by "one who makes a vow"). But here we speak that she wants to remain and wait hoping he will settle down, and he also doesn't yet want to give a get. Beis din places on him financial pressure (we don't take cash immediately, but his kesubah-debt grows every week for when he will later divorce her) so he should either stop rebelling or give a get.

* But the Rambam comes to exclude an error: a wealthy husband (who has for example several wives) shouldn't think this is a legal option ("I can afford it", I'll pay 36 barley grains a week and be exempt), or that because of the payment she is mochel. Therefore the Rambam says he continues to transgress a prohibition. **R' Yoel Asher** formulates that there are two separate parts: the "choshen mishpat" beis din applies monetary pressure (and doesn't yet force a get because we hope for shalom bayis), but the rav as "mashpia" tells him: you should know that the whole time you are transgressing a harsh prohibition, and the fact that beis din lets it go doesn't mean it's a permitted option (where she is not mochel).

* **Word play between "onah" and "to afflict": R' Yoel Asher** notes an interesting connection in the Rambam's language: the opposite of giving **"onah"** is **"to afflict"** – to afflict her by withholding onah.

* **The source for "if he hates let him send away" (Gemara Gittin 90 and the prophecy of Malachi):**

* **R' Yoel Asher** asks on which Gemara the Rambam builds his language "if he hates let him send away". **R' Yitzchak** brings the Gemara in **Gittin 90** on the verse in **Malachi (2:14-16)**: "and against the wife of your youth you shall not betray, for he hates sending away" (where it says that on one who divorces his first wife "Hashem brings down tears upon him", but by a second marriage or if he hates her the Gemara says "if you hate her, send her away").

* They look into the verse in Malachi ("Judah has profaned the holiness of Hashem which he loved and married the daughter of a foreign god... and against the wife of your youth you shall not betray"). **R' Yoel Asher** begins to consider whether this is a parable between the Almighty and Klal Yisrael, but **R' Yitzchak** considers the simple meaning and background: in the times of Ezra and Malachi, Jews had Jewish wives ("wife of your youth") and took in addition to them gentile wives ("daughter of a foreign god" – literally foreign women). The Jewish wives remained abandoned at home without she'ar kesus ve'onah. The prophet cried out: if you hate her and cannot live with her, send her away with a get ("for he hates sending away")! Why do you keep her bound and pursue her? The Rambam uses this foundation to tell the husband: a get is better ("let her live") than to keep her and transgress "lo yigra" and "to afflict".

* **The practical effect of the prohibition without lashes:**

* **R' Yitzchak** notes that since it's a prohibition without action and we don't give lashes, the prohibition doesn't help practically for beis din to force him; it only helps for an honest Jew who fears transgressing a prohibition more than losing money. **R' Yoel Asher** adds that the Rambam comes to teach a person who wants to be a "good person" that he should know he is doing here a "thing that is not good".

Halachah 16

1. The Rambam's Words

A man and his wife who came to judgment, he says "this one is rebellious from me from intimacy" and she says "not so, but in the way of all the earth I am with him", and similarly if she claims that he is rebellious from intimacy and he says "not so, but in the way of all the earth I am with her" – we first excommunicate whoever is rebellious and doesn't admit in beis din. And afterwards if they didn't admit, we tell them to seclude themselves before witnesses. They secluded themselves and they are still in their claims, we request from the defendant and make a compromise according to the judge's ability. But to be intimate before a person is impossible because it is forbidden to be intimate before any creature.

2. Plain Explanation

When a husband and wife come to beis din and one accuses the other of being a mored/moredes from intimacy, and the other denies and says "in the way of all the earth I am with him/her" (I conduct myself normally as it should be), and beis din doesn't know who is telling the truth (similar to a claim of virginity):

1. First beis din makes a cherem on whoever is truly rebellious and is not admitting in beis din.

2. If they are still not admitting, we tell them to seclude themselves in a closed room before witnesses (who stand outside).

3. If after the seclusion they continue to hold to their mutual claims, we request from the "defendant" (the one on whom there is a claim that he is rebellious) to give up, and the judge makes a compromise according to his ability and understanding.

But one cannot place a person inside a room to see if they are intimate, because it is forbidden to be intimate before any creature ("before any creature").

3. Insights and Explanations

* **What does the claim "in the way of all the earth" mean? (A dispute about the amount of onah):**

* **R' Yoel Asher** and **R' Yitzchak** discuss what the case here is. Simply we speak that one completely denies withholding intimacy, and "in the way of all the earth" is only refined language to say they live normally.

* But they raise a question: what if the dispute between them is not about completely withholding, but about the frequency (the amount of onah)? For example, she claims he is a "rach ve'anug" who must give onah every day, and he conducts himself like a chamar (once a week), and he answers "in the way of all the earth

I am with her" – I give her the normal amount I must give! On this they consider a distinction: whether the prohibition of "lo yigra" and the law of "mored" (which leads to a get and fines) applies to every diminishment of her specific onah (for example from every day to once a week), or perhaps he indeed transgresses the prohibition of "lo yigra", but the process of "mored" (to break the marriage) only begins when he gives less than the minimum of once a week. (They leave it as a question that needs more thought).

* **The nature of the cherem and "seclude themselves before witnesses":**

* **R' Yitzchak** shows that the cherem that beis din makes here ("we first excommunicate whoever is rebellious") is a simple cherem without a name. Thus there is no halachic consequence from the laws of one who is ostracized and excommunicated (like not standing in his four

Continuation of Translation

cubits and the like), because we don't know who is lying! The entire purpose of the cherem is only psychological, to frighten them so the liar will admit.

* Since one may not be intimate before any person, "before witnesses" means they lock themselves in a room and the witnesses stand outside. **R' Yoel Asher** explains that by normal people this already helps to solve the problem, because the situation itself – that they lock them in and witnesses stand outside – brings them to embarrassment and forces them to work it out.

* **"We request from the defendant and make a compromise" – the Raavad and the Rambam's approach when halachah "raises its hands":**

* **R' Yitzchak** and **R' Yoel Asher** bring out that in the end the Rambam doesn't give a clear halachic solution, but leaves it to the judge ("we request from the defendant" – we request from the one being accused to give up his craziness, and we make a compromise).

* **R' Yitzchak** mentions that the **Raavad** immediately focuses on this and doesn't understand what "compromise" means here; in the Mishnah (**Nedarim 90b**) it says in such a case "Heaven is between me and you"! Also the Raavad holds we don't make cherems and seclusion before witnesses because it is a "disgrace to them" (an embarrassment for them).

* They compare the Rambam's "and make a compromise" to what was learned earlier in the Rambam "we consult" – that when the rav's threat doesn't help, one must seek other ways. They also mention a source (Midrash/Gemara) that the judge makes for them a great feast to gladden them and make peace between them (like the famous story with Rabbi Shimon bar Yochai, where he sees they are both hungry and broken poor people and makes them a feast). The Rambam's foundation is that halachah tries all tools (cherems, seclusion before witnesses), but in the end comes a point where formal halachah "raises its hands" and tells the judge: give yourself advice with practical wisdom.

* **"It is forbidden to be intimate before any creature":**

* **R' Yoel Asher** and **R' Yitzchak** note that "any creature" includes even animals (beasts, as it also says in Hilchos De'os). They consider the principle: this is a firm prohibition, and even the matter of shalom bayis doesn't override the law of modesty and derech eretz.

Halachah 17 (To heal her)

1. The Rambam's Words

A woman who became ill, he is obligated to heal her until she recovers. And if he saw that the illness is prolonged and will lose much money for healing and he said to her "behold your kesubah is placed, either heal yourself from your kesubah or I will divorce you and give the kesubah and go" – we listen to him, but it is not proper to do so because of derech eretz.

2. Plain Explanation

The husband is obligated to pay for the wife's doctors and medicines until she becomes healthy. But if he sees it's a prolonged illness ("prolonged illness") that will cost him very much money, he has a right according to the law to make a limit (the amount of the kesubah). He can give her two choices: either they remain married but he gives her the money of the kesubah and she should heal herself with it (and higher than this he doesn't pay), or he gives her a get with the kesubah and goes away. But the Rambam concludes that it's not proper to do so because of derech eretz.

3. Insights and Explanations

* **The meaning of "derech eretz" here and the source from the Sifrei (beautiful captive):**

* **R' Yoel Asher** shows that usually "derech eretz" means the opposite of chutzpah (etiquette). Here however it means the opposite of cruelty – it's a matter of compassion. Although according to the dry laws of choshen mishpat one cannot force him to pay forever, it is however "not a way" to do so.

* **R' Yitzchak** brings a source from the **Sifrei** by "beautiful captive", where it says on the verse "and you shall send her away to herself" that if she is sick one cannot throw her out in the street, but he must first heal her and only then send her away. The Sifrei makes a kal vachomer: if by a captured beautiful captive he may not do this, "all the more so for the daughters of Israel who are pure and holy". (**R' Yoel Asher** notes that by a beautiful captive it's a law in derech eretz, and by a Jewish wife it's even more than that).

Halachah 18 – Halachah 19 (To redeem her and the comparison to healing)

1. The Rambam's Words

If she was captured he is obligated to redeem her. And if he was a kohen for whom she is already forbidden, he redeems her and returns her to her father's house, and even if they were in another city he takes care of her until he returns her to her country and divorces her and gives her all her kesubah. If her husband was a Yisrael for whom a captive is permitted, he returns her to him as a wife as she was, and if he wants afterwards he divorces her. We don't obligate the husband to redeem his wife for more than her value, but for what she is worth like other captives. If her value was more than her kesubah and he said "I will divorce her and this is her kesubah, let her go and redeem herself" – we don't listen to him, but we force him and he redeems her even if her value was up to ten times her kesubah, and even if he only has enough for her redemption. In what case are we speaking? When she was captured the first time, but if he redeemed her and she was captured a second time and he wants to divorce her, the authority is in his hand, behold this one divorces and gives the kesubah and she redeems herself.

2. Plain Explanation

If she is captured he must redeem her. A kohen, for whom a captive is forbidden (because there is a presumption she was violated, and even by force she is forbidden to a kohen), must still redeem her and return her to her father's house – even if this is in another city/country – and afterwards he gives her a get and pays the entire kesubah (because she is forced). If the husband is a Yisrael (for whom a captive by force is permitted), he takes her back home as a wife, and if he wants he can divorce her later.

A husband is not obligated to redeem his wife for more than her market value (like other captives). But if her market value is more expensive than her kesubah (even ten times as much as the kesubah), the husband cannot say "take your get with the kesubah and redeem yourself", but we force him to redeem her, even if this is all he possesses. All this is only the first time she is captured; but if he already redeemed her once and she was captured again, he may give her a get with her kesubah and she will redeem herself.

3. Insights and Explanations

* **The principle of "to redeem her" (a right for her, and the obligation to return her to a safe haven):**

* **R' Yoel Asher** and **R' Yitzchak** learn out a foundation from the law of a kohen: one might have thought that the obligation of redemption is only so the husband should have a wife in the house; thus by a kohen where she becomes forbidden to him anyway the moment she comes out, why should he have to redeem her? We see from here that "to redeem her" is not a selfish obligation for the husband, but it's a right for the wife – to take her out of the difficult situation of captivity.

* **New interpretation in the condition of the kesubah of "to redeem her":** By a Yisrael it says "he returns her to him as a wife... and if he wants afterwards he divorces her". **R' Yitzchak** and **R' Yoel Asher** wonder: what is the novelty that a Yisrael may take her back, it's obvious that a captive is only forbidden to a kohen? They come up with a tremendous novelty in the plain meaning: the Rambam learns that the husband cannot simply send a get to the robbers or redeem her in a distant land and divorce her there. The principle of the obligation **"to redeem her"** doesn't mean only to pay the redemption money, but it means **to return her home to a safe place (to a safe haven)** and restore the normal order! Therefore: by a Yisrael the obligation "to redeem her" only ends when he brings her back home to himself ("he returns her to him as a wife"), and only afterwards can he give her a get ("and if he wants afterwards he divorces her"). And by a kohen (who may not go home with her), the obligation "to redeem her" only ends when he escorts her to her father's house in her city ("he takes care of her until he returns her to her country").

* **Is there a prohibition for the husband to pay "more than her value" or only an exemption?**

* **R' Yoel Asher** and **R' Yitzchak** note in the Rambam's language **"we don't obligate the husband"**. By general redemption of captives (from charity funds) there is an enactment that one *may* not pay more than the value (so the gentiles won't go capture specifically Jews). But a person for himself may pay as much as he wants to redeem himself. Here it says "we don't obligate" – implying that the obligation of the kesubah doesn't force him to pay more than her value, but if the husband *wants* to voluntarily pay more for his wife (like for himself), it could be he may.

* **[Digression: The principle of the husband's obligation versus the charity obligation of the community and of the individual]:**

* **R' Yitzchak** throws in a general question: if a person sees a simple sick Jew in mortal danger who can be saved with a million dollars, is the individual obligated to give his entire fortune?

* **R' Yoel Asher** answers that unlike by a "mes mitzvah" (which falls on the first one who sees him), by healing and redemption of captives the individual is only obligated not to ignore (from the side of "do not hide yourself" and "do not stand by your fellow's blood") and he must run to the rav, but the monetary obligation lies on the public – on the charity fund (as it says in Hilchos Tzedakah that redemption of captives takes precedence over all mitzvos). But when there is a husband, the obligation lies on him from the law of ishus (condition of the kesubah). **R' Yitzchak** and **R' Yoel Asher** make clear that the husband's obligation is a "monetary obligation" – we take all his fortune down to the last penny ("even if he only has enough for her redemption"), but he has no bodily obligation to go beg charity for this; if he has no money, it passes to the charity fund.

* **The great question: Why is redemption harsher than healing? (And the comparison between "prolonged illness" and "captured a second time"):**

* They ask a strong question: Why by healing (Halachah 17) can the husband say "I will divorce you and give the kesubah" (he is limited to the kesubah amount), whereas by redemption of

captives we say "we don't listen to him" and he must pay even ten times her kesubah?

* **Answer 1 (R' Yitzchak – danger and captivity):** In captivity she is in a situation of danger and she is locked up by the gentiles in the mountains of darkness without any recourse. By healing she is at home; if he gives her the kesubah she has a way to seek how to help herself or marry another. **R' Yoel Asher** rejects this distinction, because "healing" can also mean she is mortally ill and will die in a few days!

* **Answer 2 (R' Yoel Asher – precision in "prolonged illness" and historical reality):** **R' Yoel Asher** grounds the distinction through a precise note in the Rambam's words: the Rambam doesn't write "he saw that the illness is *great*" (that she needs one expensive operation to save her life), but **"he saw that the illness is prolonged"**! "Prolonged illness" means a chronic illness that is not a danger, but she will live long years and he will have to pay doctors week in week out forever. He adds a historical novelty: in ancient times (before today's breathing machines and expensive monthly medicines) there was no such concept that a person should be a "mortally ill patient" for a long time (prolonged illness); if someone was in danger, he unfortunately died quickly. Thus "healing without limit" doesn't speak of pikuach nefesh, but of a chronic problem in a hand or foot not to have suffering. (**R' Yitzchak** answers that this is essentially the same interpretation he said that healing doesn't speak of an acute danger situation).

* **Answer 3 – The tremendous comparison to "captured a second time":** When the Rambam brings in Halachah 19 that the husband is only obligated to redeem his wife once and not a second time, **R' Yoel Asher** wonders why this is different from she'ar and kesus which is an obligation every day (and asks whether we suspect a conspiracy). **R' Yitzchak** answers a foundation: redemption is a rabbinic law (against fruits), and in halachah there is no such thing as a monetary obligation without a limit. The limit that the Sages established for redemption of captives is: one time (one crisis, even if it costs all his property).

From this **R' Yoel Asher** and **R' Yitzchak** come out with a tremendous comparison that answers the question about healing: **"Prolonged illness" by healing is exactly the same principle as "captured a second time" by redemption of captives!** A one-time crisis (redeeming once from captivity, or one major operation by an illness that has a limit) the husband must pay. But an ongoing, continuous expense without end (being captured again and again, or a prolonged illness that drags on endlessly) the Sages didn't place on the husband. (**R' Yitzchak** notes that by "captured a second time" it doesn't even say it's not a measure of derech eretz if he divorces her, unlike by prolonged illness).

Halachah 20

1. The Rambam's Words

One whose wife was captured and he is in an overseas country, beis din goes down to his property and sells with an announcement and redeems her in the way that the husband redeems.

2. Plain Explanation

If someone's wife is captured while he is in a distant country, beis din goes into his property, sells it with an "announcement" (public proclamation), and redeems her exactly in the same manner and with the same principles as the husband himself would have redeemed her (for example, only up to his property, and only the first time).

3. Insights and Explanations

* **Why here we need "announcement" unlike by sustenance:**

* **R' Yitzchak** catches a precision: earlier by a husband who traveled to an overseas country and beis din sells his property for sustenance, the Rambam wrote that we sell **"without announcement"**, and here by redemption of captives he writes that we sell **"with announcement"** (which is a benefit for the

husband, to get a higher price for his fields). Why is there a distinction?

* **R' Yoel Asher** and **R' Yitzchak** answer that by sustenance the husband left his wife without food, which is negligence on his part, therefore we fine him (or we are not concerned for his loss) and we sell without announcement. Here however, when the wife was captured, it's a sudden tragedy and a new reality that the husband couldn't foresee, therefore beis din guards his money and sells with an announcement. *(See also further in Halachah 24 for two more answers to this distinction between redemption of captives and burial regarding announcement).*

Halachah 21

1. The Rambam's Words

One who makes a vow on his wife, a vow for which he is obligated to divorce her and give her kesubah, and she was captured after he made the vow on her, he is not obligated to redeem her, for from the time he made the vow on her he became obligated to divorce her and give her kesubah.

2. Plain Explanation

A husband who makes a vow on his wife from those vows for which he is obligated to give her a get and pay her kesubah, and after making the vow she was captured, he is not obligated to redeem her. The reason is because from the minute he made the vow he already became obligated to divorce her.

3. Insights and Explanations

* **The principle of "he became obligated to divorce her":**

* **R' Yoel Asher** focuses on the language "he became obligated to divorce her" – we don't say that the obligation of redemption continues until he actually gives the get (after all, he can still release the vow!), but rather as soon as there is already a ruling from beis din that we force him to give a get, he is already considered separated from her regarding the obligation of redemption.

Halachah 22

1. The Rambam's Words

A woman who was forbidden to her husband from prohibitions of negative commandments and was captured, he is not obligated to redeem her but gives her her kesubah and she redeems herself. But isn't a captive forbidden to a kohen and behold he redeems her? Because she wasn't forbidden beforehand and the prohibition of captivity is what caused it for her.

2. Plain Explanation

A wife who is forbidden to her husband with a prohibition of a negative commandment (for example a widow to a kohen gadol, where kiddushin take effect but it's forbidden) and she is captured, the husband is not obligated to redeem her, but he gives her the kesubah and she redeems herself. The Rambam asks: a captive also becomes forbidden to her husband if he is a kohen, and yet we learned earlier that a kohen must redeem his wife? The Rambam answers: because the kohen's wife wasn't forbidden to him beforehand, but the prohibition of captivity itself caused it.

3. Insights and Explanations

* **The foundation of the obligation of redemption of captives – the time of kiddushin versus the time of captivity (and the pilpul of the Prisha):**

* **R' Yoel Asher** explains the Rambam's answer according to the simple meaning: by prohibitions of negative commandments (widow to kohen gadol) the marriage was not fundamentally a legitimate marriage according to law, and he stands the whole time under an obligation of "he became obligated to divorce her" even before the captivity. But by a proper wife of a kohen who was captured, she married him permissibly, and the captivity is unavoidable. The obligation to redeem her doesn't come because they are *now* a couple who may live together, but the obligation comes from the side of the proper

kiddushin they had, and then the obligation took effect.

* **R' Yitzchak** brings an interpretation in the name of the **Prisha** who says that by a wife of a kohen the obligation to redeem her takes effect the first moment she is captured, and the prohibition of a captive to a kohen takes effect one moment later. **R' Yitzchak** wonders at this: apparently both come together ("come as one")?

* **R' Yoel Asher** defends the Prisha's thought and says it indeed makes sense that they are not "come as one" in reality: the obligation of redemption of captives begins the minute the gentiles capture her (for example when they put her on the wagon). But the prohibition of "captive" for a kohen (which comes from a presumption that the gentiles defiled her) only takes effect later, when it becomes night, or when they enter a closed place (a tent or tunnel) where there is a measurement of seclusion and intimacy. If she was captured only a short time where intimacy wasn't yet relevant, it's possible she doesn't yet have a status of captive at all. (**R' Yitzchak** however holds this is too much analysis, and the simple answer that fundamentally at the kiddushin she was permitted is more sustainable).

Halachah 23 (Burial)

1. The Rambam's Words

If his wife died he is obligated in her burial, and to make for her a eulogy and lamentations according to the custom of the entire country, and even the poorest in Israel should not have less than two flutes and a lamenting woman. And if he was wealthy, everything according to his honor, and if her honor was greater than his honor we bury her according to her honor, for a woman rises with her husband and doesn't descend, even after her death.

2. Plain Explanation

If someone's wife dies, the husband is obligated to pay for her burial, and also to make for her a eulogy and lamentations (dirges) according to the custom of the country. Even the poorest Jew may not give less than two flute players and one lamenting woman (mekonnenes). If the husband is wealthy, he must make the funeral according to his honor. If her family's honor is greater than his honor, we bury her according to her honor, because the rule is that a wife rises with her husband and doesn't descend, even after her death.

3. Insights and Explanations

* **"She rises with him and doesn't descend even after her death" – honor of the living or of the dead:**

* **R' Yoel Asher** notes that here is apparently the first time the Rambam explicitly uses the rule "she rises with her husband and doesn't descend".

* **R' Yitzchak** and **R' Yoel Asher** focus on the novelty of "even after her death": one might have thought that after she is already dead, her standard no longer plays a role (because she is no longer here), and the entire honor of the burial is only for the living who remain – namely the husband – so we should always go only according to his standard! The Rambam comes and says no, even after death she has her own law of honor, and if her honor is higher than his, he must pay according to her standard. They connect this to the well-known Talmudic topic whether eulogy and burial is "honor of the living" (yikra dechayei) or "honor of the dead" (yikra deshichvei).

* **[Digression: A parable from R' Elchanan Hertzman]:**

* In connection with the law of "if he was wealthy everything according to his honor" by burial, **R' Yoel Asher** recalls a drawing that the mussar master R' Elchanan Hertzman (of the Novardok community in Williamsburg) used to publish in his booklets: one sees someone standing before a magnificent, splendid monument of a great wealthy person, and he says: "This is called living!..."

Halachah 24

1. The Rambam's Words

If he didn't want to bury his wife and someone stood up on his own initiative and buried her, we take from her husband against his will and give to this one, so this one won't be cast to the dogs. If he was in another country when his wife died, beis din goes down to his property and sells without announcement and buries her according to the husband's money and according to his honor or according to her honor.

2. Plain Explanation

If the husband didn't want to bury his wife, and a stranger stood up on his own initiative ("on his own initiative") and buried her (laid out the expenses), we take the money from the husband by force ("against his will") and we pay back that person, so the wife won't lie abandoned in disgrace like for the dogs.

If the husband was in another country when his wife died, beis din goes into his possessions and sells them without any public proclamation ("without announcement"). With this money we bury her according to the husband's fortune, and according to his honor or according to her honor.

3. Insights and Explanations

* **The distinction between a stranger who pays for burial versus a stranger who pays for sustenance:**

* **R' Yoel Asher** and **R' Yitzchak** contrast the law here with the law learned earlier (in Chapter 12 Halachah 19) regarding sustenance: there we learned that if a stranger comes "on his own initiative" and feeds a wife when the husband is not there, he has lost his money ("placed his money on the deer's horn" / lost his money), and the husband doesn't have to pay him (unless the wife borrowed). Here however, by burial, if someone stands up "on his own initiative" and buries her, we do take out the money from the husband against his will!

* They work out the depth of this distinction in two ways:

1. *From the side of the Sages' enactment ("so this one won't be cast to the dogs"):* If we won't pay back the stranger, no one will want to lay out money to bury her and she will remain lying in disgrace.

2. *From the side of the assumption in the husband's mind (why it's not called "chasing away a lion" or done without his knowledge):* By sustenance, when it speaks of a living person, the husband can always claim he had a different calculation and a different plan how she will manage without having to spend the money (for example she will work, economize, or find a good "Boaz" who will help her), therefore he can say to the stranger "I didn't need your favor". But by burial, where she lies dead, there is no other recourse, and it's certain without any doubt that in the depths of his heart the husband also wants his deceased wife to be buried and she shouldn't lie in disgrace. Thus it's calculated as if that person did it essentially completely **"with his knowledge"** of the husband.

* **The concept of "announcement" and the question why burial ("without announcement") is different from redemption of captives ("with announcement"):**

* *The definition of the law:* **R' Yitzchak** explains that "announcement" means publicly proclaiming the sale of the field, in order to get the best price for the husband's land (unlike selling "privately" to the first one who comes, where one loses money). He brings out from the source in the Gemara that only by three things do we sell "without announcement": for taxes (karga), for sustenance (mezoni), and for burial (kevurah, but not for the eulogy itself). By all other things – including redemption of captives ("to redeem her", in Halachah 20) – we must indeed make an announcement.

* *The question:* **R' Yoel Asher** and **R' Yitzchak** wonder greatly at this distinction. Apparently the reason we skip announcement is because the matter is an urgent need and we cannot wait. If so, why by burial do we sell without announcement, and by "to redeem her"

(redeeming the wife from captivity) do we require an announcement? Redemption of captives is apparently the greatest emergency situation and pikuach nefesh!

* *Answer 1 (R' Yoel Asher and R' Yitzchak – the manner of captivity in their time versus delaying the dead):* One must say that "her redemption" in those times was not like today's kidnappings which is immediate pikuach nefesh literally on the minute. The way captivity worked then was a process that took time and one minute was not decisive, thus there was time to make an announcement. Whereas burial, where the law requires burying the dead immediately on that day, is an immediate urgency that doesn't leave time for announcement.

* *Answer 2 (R' Yitzchak's own novelty and reasoning – the magnitude of the expense):* **R' Yitzchak** proposes that the distinction has nothing to do with time pressure, but with the **amount of money** needed. Redemption of captives can be tremendously expensive, and there is a concern there won't be enough money in the property. Therefore it's critically important to make an announcement in order to extract the maximum money possible from the sale. Whereas by burial the expense is limited and there is usually enough money in the property for it, thus we don't need to be particular about announcement.

End of Chapter 14

Full Transcript

Rambam Hilchot Ishut – Chapter 14: Laws of Onah and Other Obligations of the Husband

Introduction to Chapter 14

R' Yitzchak: Good.

R' Yoel Asher: We're learning Hilchot Ishut from the Rambam in Sefer Nashim, we're going to learn the fourteenth chapter.

R' Yitzchak: Very good. There are three obligations,

R' Yoel Asher: Let's first begin with a yasher koach to those who support and sponsor our shiur, and of course first and foremost the patron of the shiur, our friend R' Yoel Halevi Wertzberger, yasher koach, may the merit of Torah stand by him.

So, a husband is obligated to his wife in three things min haTorah, the Rambam said: she'er, kesut ve'onah. In the previous chapters we already learned she'arah and kesutah. This chapter we're going to learn about mitzvat onah, and that means he's going to cover onah, and afterwards he's going to enumerate some of the derabanan things, the obligations among the things that are derabanan. There are fourteen things, ten from the husband to the wife, three of them are de'oraita, and from the derabanan he enumerates in this chapter:

* Lerape'otah – the matter of that he must heal her,

* Lifdotah – redeem her,

* And kevurah – bury her.

In this chapter he covers these four, and some details by each one. For example by onah, what happens when he doesn't want to, what happens when she doesn't want to, what happens when each one claims that the other doesn't want to – ma'aseh bechol yom. By refuah there's also similar,

R' Yitzchak: Yes, by one we're healing, not ma'aseh bechol yom,

R' Yoel Asher: Ma'aseh already, no, ma'aseh bechol yom that there's always a "he says, she says," and afterwards what the truth is. Refuah is going to go into detail a bit about how much, and the same thing pidyon and kevurah. So, very important, significant halachot, says the holy Rambam.

Halachah 1: The Definition of Mitzvat Onah and Its Measures

The Language "Onah Ha'amurah BaTorah"

R' Yitzchak: Very good. Says the holy Rambam: **"Onah ha'amurah baTorah"**,

R' Yoel Asher: That which is stated in the Torah the mitzvah of onah, and the Rambam has also explained to us that onah, I mean perhaps he's putting into this a bit politely that onah is different from the other things, that it's not so strongly dependent on the two people's da'at, because it's not like a matter of mamon where mechilah helps, so you're more obligated because that's what the Torah said, that this is the basic between a husband and wife. **"Onah ha'amurah baTorah"**.

R' Yitzchak: But I don't know if this is the **"onah ha'amurah baTorah"** that we spoke about last time when we learned, I remember a lot about this language, because onah... this is a language I mean perhaps from a Baraita, from this comes the Rambam **"onah ha'amurah baTorah"**. That means the Baraita I remember in Parshat Vayishlach Rashi says **"mikan le'onah ha'amurah baTorah"**, some such language it says. Because there he specifies that each one has a different amount of this obligation, according to how much onah. But perhaps he simply means **"onah ha'amurah baTorah"**, that which is stated in the Torah, it says **"she'arah kesutah ve'onatah"**, but it doesn't say how much the onah is, so one must explain how much it is.

R' Yoel Asher: No, but he didn't begin she'arah or kesutah ha'amurah baTorah.

R' Yitzchak: Right, I'll say why, but onah is the meaning, we learned onah is the meaning,

R' Yoel Asher: So he's explaining here, that means onah itself has to do with time.

R' Yitzchak: Onah means a fixed time for tashmish, but in the Torah it doesn't say when, what the time is, what is the... That means, **"ve'onatah"**, what is the onah? To this the Chachamim say that it means what they say. That means, there's literally missing an explanation in this verse. Do you understand?

R' Yoel Asher: It's correct, because when I say that one is obligated to do it because that's what the Torah says and it's different from davar shebemamon, it also doesn't mean that if both of them agree not to do it for let's say however long they want – perhaps one will be obligated as piryah verivyah or as other reasons – but with the law of onah, the law of onah is however that if one of them wants, the other must comply. There's no way, there's also no such eini zan ve'eini... there's no what?

R' Yitzchak: Yes yes, okay, we don't need to get to that, but I mean simply in the Torah it says a time but we don't know how much time. Like it should say in the Torah for example "sheyikra kriat Shema bizmanah" – the Rambam says such a language, not the Torah – you'll ask "ve'eizehu hazman?".

R' Yoel Asher: The same thing,

R' Yitzchak: Here it says you must give an onah. Okay, but what is an onah?

The Difference in Measures Between She'er and Kesut and Onah: Standard Versus Ability

R' Yoel Asher: The answer is so, says the Rambam: **"lechol ish va'ish kefi kocho ukhefi melachto"**. That means, different for example from she'arah and kesutah, you can't say it's also kefi kocho, that means a poor man you give a minimum,

R' Yitzchak: And for a

R' Yoel Asher: wealthy person you give more. But wait, there by she'arah and kesutah there is simply, the poorest person must also give so that one shouldn't die of hunger. Onah is much more a luxury thing, you can give once in six months. She'arah and kesutah is much more practical. Onah is a thing that when they were single they didn't have it, they survived from it.

R' Yitzchak: "Lefi kocho" and **"lefi melachto"** is very different, I mean it's very different from the measures that exist by she'er and kesut. By she'er and kesut everything is according to the standard. The standard has a

minimum standard, afterwards there are people who have a householder's standard. But here there's no issue of standard.

R' Yoel Asher: It's not relevant, it's not relevant standard because it's a private matter. A standard means "in the public eye" there's a standard.

R' Yitzchak: One can argue that there's such a thing as a standard.

R' Yoel Asher: One can make a poll asking a young man.

R' Yitzchak: I didn't want to do more onah. So just make sure he does more, because he's afraid the whole time

R' Yoel Asher: of hirhurim and mitzvat Shabbat. No, also he's careful about onat Shabbat and he's careful,

R' Yitzchak: Yes true, an honest Jew, he's careful about all mitzvot. A fanatical young man eats liver every Friday night, true? Because there was a custom in Galicia to eat liver. Certainly...

R' Yoel Asher: I have a better way to say it. No, you don't understand. I don't want to say the word fanatical young man; an oved Hashem, or one who is a yerei Shamayim, always does onah according to what he feels the halachah obligates him. The simple person will sometimes do very much because then desire drives him, and sometimes he'll completely ignore his wife, because he doesn't reckon with his wife, he doesn't reckon with the Torah, he reckons with his feelings, so you can say it that way.

R' Yitzchak: Yes, in any case I only mean to say that lech'orah it's in measures, come let's do the measures. The measures are different: there it's an issue of a standard, that as if, I mean perhaps the idea is when one gets married one obligates oneself because that's the standard either of the city or of his family, of his person. Onah doesn't go so strongly with that, because see I because one can change it in the middle. The shi'urei onah is lech'orah primarily an issue of ability. One must give as much as one can, but how much one can is dependent on what kind of person he is.

What Does "Kefi Kocho Ukhefi Melachto" Mean

R' Yoel Asher: So **"kefi kocho"** means the strength of the person, and **"melachto"** means literally his occupation, as we'll see later that it has to do with which job, that the wife can't say you may not do this job and so forth.

R' Yitzchak: Later we'll see more about this. Right, lech'orah the meaning is, a second. What I'm thinking is that that means there's lefi kocho, there's afterwards the measures, each one goes according to his occupation, that means according to what job he has. But the question is whether this is the simple meaning that the chazakah is as if it's like a rule: that usually the one who has this job has this much strength and this much time. Strength means time also.

R' Yoel Asher: Yes? Yes, see already. So what's very practical, po'alim, chamarim,

R' Yitzchak: gemalim, how hard the job is.

R' Yoel Asher: "Kocho" is an external thing. Kocho is the age,

R' Yitzchak: Let's say. No, lefi kocho means lefi kocho lefi melachto. No. There's no halachah here about age,

R' Yoel Asher: Never. He hasn't said yet though.

R' Yitzchak: He'll never say.

R' Yoel Asher: But this he doesn't need to go into, because we know ourselves that a person when he finishes his strength it's certainly that... No,

R' Yitzchak: No, no, look for example by talmidei chachamim he says clearly, why? Because **"Torah metatesh kochan"**. That means there are harder jobs where strength, the one who po'alim whose work is in the city, not because he doesn't have time, it's not an issue of physical time, it's a...

R' Yoel Asher: For example gemalim and malachim is simply because he travels away,

R' Yitzchak: He's not there. Yes good, but it's also a kind of strength. Strength means in a

general way ability.

R' Yoel Asher: Strength means... strength is all things. Tired. **"Kefi melachto"** has two things: there are jobs that tire one out very much, about this one doesn't demand more, and there are things simply practical because one isn't there, and a person may travel away.

R' Yitzchak: I don't know if it's... okay, but I mean, I would have thought that this is included in strength. That I'm not there, strength means ability,

R' Yoel Asher: Strength doesn't mean physical power.

R' Yitzchak: Ability, okay. Okay. If so, you're right that there's this from kefi melachto are rules, as usually the one who does a job. But besides this you're right that an old Jew, perhaps he's exempt if he doesn't have strength, but this halachah isn't stated, there's no such, **"onah ha'amurah baTorah"** is the measures. Details, sometimes one doesn't have strength, whatever, isn't in the halachah, it's another thing, so lech'orah.

R' Yoel Asher: Okay. Do you understand what I'm saying? Okay, let's see. And the Rambam is now going to begin saying, is going to go into the details what means **"kefi kocho ukhefi melachto"**, and what is actually each type of category of people obligated.

The Structure of Mitzvat Onah: An Obligation from the Husband to the Wife (Tzorech Ha'ishah)

R' Yoel Asher: But before we go further I want to bring out an interesting thing that it's a bit interesting what we're talking about here, because it's, there's the husband and the wife. We don't say that they both have a mitzvat onah; the wife must be ready when the husband wants, so it looks here, and afterwards, we're talking here in a manner when the wife is always ready. That means, hypothetically. The Rambam is going to say later that one may not be bo'el if it's against her will and so forth, that's not the issue here. She's ready. Now the question is how much must he provide her. She's ready, that means as if she's ready to receive, how much must he provide her.

R' Yitzchak: She's there the claimant.

R' Yoel Asher: Let's not say the word claimant, because it can be claimant... She's ready. She's ready, and the mitzvah of onah from him is to give her what she has, the right that she has to receive onah,

R' Yitzchak: Yes? The structure of mitzvat onah is like the structure of she'arah kesutah ve'onatah.

R' Yoel Asher: She's the recipient, he gives.

R' Yitzchak: She's the claimant.

R' Yoel Asher: She's the claimant. It's an obligation,

R' Yitzchak: Yes, certainly she's the claimant. That means she comes to beit din? She can come to beit din?

R' Yoel Asher: Later we'll see.

R' Yitzchak: But in a fundamental way, the structure is an obligation from him to her. If she doesn't comply,

R' Yoel Asher: For this he doesn't need to have any obligation,

R' Yitzchak: That's moredet. No,

R' Yoel Asher: But she also has a matter of kefi kochah, as she doesn't have strength, but this goes into what the Rambam says later that one must...

R' Yitzchak: Now you're going into details. I'm saying that the structure of mitzvat onah, the structure of mitzvat onah is exactly like the structure, can you also ask if the wife doesn't want so much mezonot? Okay,

R' Yoel Asher: Let her not eat. The surplus goes to the husband.

R' Yitzchak: No, I mean to say, there's no such thing. As if the idea, the way the halachah is structured is, that always she requests, that means she needs, there's an obligation that he should give what she needs. It's a tzorech ha'ishah, it's not a tzorech ha'ish in the sense of mitzvat onah. It can be there's a tzorech hamitzvah and many other things, but here onah

is a tzorech ha'ishah that the husband must provide, so he's only obligated to provide according to the measures. If she doesn't want at all, it's a tzorech

R' Yoel Asher: ha'ishah that the husband must provide like the other things, very well said, and afterwards regarding shalom bayit ishut, as if the Rambam is going to, at the end of Hilchot Ishut he's going to say again, that the husband should do it, the ways how the husband should do it, as if how much to reckon with her.

R' Yitzchak: That's an external issue. Here we're talking about the time how much he must provide her. Within the marriage we'll see that if she doesn't want, she's called moredet. That means she doesn't even have any measures, you must understand, she doesn't even have any measures. She can't even say: "I'm such a wife who only wants, who only needs twice a year", I don't know what.

R' Yoel Asher: There's no such thing. There's no such thing. We're going to see later about moredet, but later it's also going to say that he can't be bo'el against her will. That means there must be a certain...

R' Yitzchak: There are two things, no no, let's not be too lengthy about being bo'el against her will. "Against her will" means two things:

1. First of all, when he comes with his onah, he shouldn't be an animal, he should appease first and so forth. That's one thing, and that's simply a matter of derech eretz, it's not a question of... she says that "I don't want tonight" — okay, let it be tomorrow. I'm not talking about that.

2. Afterwards there's a thing that's called "against her will" regarding the claim of ma'us alai. She says: "I don't want to sleep with this person at all." Then according to the Rambam — there's a dispute among Rishonim — that's not moredet. That's that she can get a get without a ketubah. One can't force. The Rambam says one doesn't force a person, **einah shevuyah shetiba'el be'al korchah**, one can't force her to live with this person, because that's not a particular thing that today I don't want. That she says "I don't want at all", then it's a different conversation. That's the conversation of ma'us alai. It's two different things.

The Nature of the Obligation: Kinyan Ishut Versus Lo Yigra

R' Yoel Asher: What I meant to say here is, she has the right, but we don't look at it like the husband — the husband also has the right. As if the husband isn't just something that she wants. The husband gives her... That which is stated later in the halachah,

R' Yitzchak: So it also says in **onasah lo yigra (he shall not diminish her conjugal rights). The structure of the halacha is as if the man, if he wants a second wife, can go to a second wife. He is not subjugated to her, she is subjugated to him. Right? That's how the halacha is. Today it's a bit different because there's the cherem d'Rabbeinu Gershom (ban of Rabbeinu Gershom), he has to come to her also. But always it was that he, that is, fundamentally the law is certainly that if she says no, she may not say no. It's a...**

R' Yoel Asher: _But her saying no is not a transgression of the prohibition of "onaso lo yigra," rather it's against the idea that the man acquires the wife. The idea of what it means to be married, at least in the Torah's perspective from here,_

R' Yitzchak: Yes. Right. Again, not if she says "I don't want to tonight but tomorrow." Then it's a matter of derech eretz (proper conduct), a matter of humanity.

R' Yoel Asher: Okay, he says **kefi kocho** (according to his strength), it means she is obligated but he must her,

R' Yitzchak: Birtzonam (with their consent). This says, the Rambam in Hilchos Deos says **birtzon shneihem v'simchasam** (with the consent of both and their joy). It means this is a matter of derech eretz, and within this we haven't come to jump.

Discussion: The Difference Between She'er and Kesus (Food and Clothing) and Onah (Conjugal Rights) in the Definition of Marriage

R' Yoel Asher: _But still it's difficult to say that she has a right and now enforcement on that right. Because one can say that this is different than — let's say it like this: onah is different than she'er and kesus (food and clothing), because this is also the definition of being married. Yes? This is the beginning, yes? A man meets a woman, and in a certain sense she'er..._

R' Yitzchak: Also the definition of being married, because one who cannot provide even the minimum, we've learned that he must give a get (divorce). The simple meaning is, part of the man's job is to provide food. So one cannot say: "I don't have anything at all." You don't have anything? Give a get.

R' Yoel Asher: _Right, right, okay. Yes, for example there it says that if the wife wants to live with the man even if he's a poor man, they may live. The question is whether by onah it will also be the same thing, or by onah one will look at it more like it's a fake couple altogether,_

R' Yitzchak: They're not really married? If they both don't want to, they want to be separated, let them be separated, why does it make a difference? Who does it bother? If one of them doesn't want to, then it's making a condition contrary to what's written in the Torah. But if both agree that they want to be married and they want to be separated — let them be, it doesn't bother anyone. That is, we've learned from making a condition contrary to what's written in the Torah that one cannot make any condition to become exempt. But if there's forgiveness, we've seen, forgiveness can help.

R' Yoel Asher: _It's different. I'm saying that she'er is different than onah with this thing, that if nothing goes on in the area of onah, it could be that they make themselves as if they're married. Which is not so with a man who doesn't provide his wife the she'er as it should be,_

R' Yitzchak: He doesn't do a certain part that's due to her. Okay,

R' Yoel Asher: Let's learn further.

R' Yitzchak: These things will come out

R' Yoel Asher: From the later halachos.

The Measure of "Bnei Adam HaBri'im HaRachim VeHa'anugim" (Healthy, Delicate and Pampered People)

Explanation of the Rambam's Words

R' Yitzchak: So it is: **Keitzad?** (How so?) He says like this:

R' Yoel Asher: Bnei adam habri'im — who are healthy, this is the "kefi kocho," yes? **HaRachim veha'anugim** — are such spoiled children. **HaRachah bach veha'anugah** (the delicate and pampered one) as it says in the Torah.

R' Yitzchak: Spoiled children means they're still young and pampered? No, no, "rach ve'anug" means they are, "rach" means like a pampered person, right? He only steps on the carpet so to speak. Yes? Like Marta bas Baitus.

R' Yoel Asher: He doesn't work hard all day, he has no work. **She'ein lahem melacha shemachsheles kochan** — they don't have work that exhausts them and makes them... exhausts them. **Ela** — but what then? They are people who are **ochlim v'shosim v'yoshvim b'vatehem** (eating and drinking and sitting in their homes), as the Rambam said, sheva brachos Jews, they are such sheva brachos Jews who

R' Yitzchak: Eat and drink and enjoy life.

R' Yoel Asher: Such people don't have the excuse that they can't because they're exhausted, so **onasan b'chol laila** (their conjugal obligation is every night) — their mitzvah of onah is every night.

The Definition of "B'chol Laila" (Every Night) as Part of the Order of Life

R' Yoel Asher: _It's interesting, I was thinking about "every night," that it's connected with what we spoke about the previous few times, that from where does it say that one must put on tefillin every day? In the Torah it says one must do it every day, but a thing that is a good thing is part

of the order of life, so the time is every day. So again, yes, she wants it, and she has the right to receive it, and there's no reason why not — so it's every day._

R' Yitzchak: Again, onah is not something that one does once a day, once every night — there is a time for it, there is a time for this.

R' Yoel Asher: But a thing that is a good thing a person does every day. It's a good thing to build the world, to build business,

R' Yitzchak: One does it every day. There is a time for this in the sense of like the order of the day: onah is something that comes at night, it doesn't come in the morning.

R' Yoel Asher: Well, I understand about "laila" (night), but it said "b'chol laila" (every night). "B'chol laila" is the same thing as that a good thing is a thing that becomes part of the daily routine. Just as it was said one puts on tefillin every day, one learns every day — it means the mitzvah of onah has no upper limit, it means more than once a day, just as one doesn't put on tefillin more than... okay, actually in the time of the Gemara one did put on tefillin all day, here it's not relevant all day. But it's something that is daily.

Examples in Chazal (Our Sages) of "Onasan B'chol Laila"

R' Yitzchak: He brings in the Gemara, one must know the halachos, there's a certainty that for example a first-year young man, often in general this, one must tell him there's a law in the Mishnah that **onasan b'chol laila**.

R' Yoel Asher: Yes,

R' Yitzchak: I've already seen this, unless he's a talmid chacham (Torah scholar).

R' Yoel Asher: It's speaking in a manner when she wants it b'chol laila, so automatically as if she has a right. We're speaking the whole time afterwards, not just in this.

R' Yitzchak: I'm saying, the chances of her desire is if one lives a life of rest, he was raised pampered. The Gemara gives a very interesting example, in the Gemara there's an example of this. Who? For example Rav Shmuel bar Shilas. Rav Shmuel bar Shilas was onaso b'chol laila, because **achal mididеih v'shasah mididеih** (he ate from his own and drank from his own), he was a wealthy child, **v'gani b'tulah d'apadna** (and he slept in the virgin palace of Apadna), he sits in his Apadna whatever, and no one chases him, they don't even ask him for taxes.

R' Yoel Asher: He doesn't have to go to the military,

R' Yitzchak: They don't call him to do national service,

R' Yoel Asher: For taxes one had to work. Yes, whatever,

R' Yitzchak: National service. In short, so it was also said **mefunkei d'ma'arava** (the pampered ones of the West), in short there's such a group of people who are — that is, the Gemara can point to that one, he's from the **onasan b'chol laila**. I don't see this here, here I see something is funny.

Discussion: The Prohibition of "Lo Yigra" and the Reasoning of "Idleness Leads to Immorality"

R' Yoel Asher: Okay, **onasan b'chol laila**, and **onasan b'chol laila** is a strong thing, it means the Rambam will hold that when one doesn't do b'chol laila one is nullifying a mitzvah.

R' Yitzchak: He transgresses, it's an obligation,

R' Yoel Asher: Later he's going to say when one transgresses a negative commandment, and he even speaks about lashes.

R' Yitzchak: Yes,

R' Yoel Asher: One transgresses **onasah lo yigra**, but **onasah lo yigra** will in such a case be every day?

R' Yitzchak: Yes certainly. What's the question? Okay, one must think. Yes certainly, he's obligated. Again, if she forgives, it could be very often that she forgives,

R' Yoel Asher: She forgives. But practically in such a case she will more often forgive. What does it mean? One who is once a week she will less often forgive.

R' Yitzchak: One who is b'chol laila it's reasonable that she will forgive more. These are

tricks so one shouldn't transgress **lo yigra**. But the mitzvah is b'chol laila. _There is another reasoning that's not here, but it could also be that one who is from those types,_

R' Yoel Asher: _If he won't do the onasan b'chol yom he will be tempted with the other women there._

R' Yitzchak: _No, it could be a reasoning on this whole sugya (topic) here. One is busy, so he's busy._

R' Yoel Asher: _He does it. This is connected with the statement of Chazal **habitala mevi'ah lidei znus** (idleness leads to immorality), **lidei zimah** (to lewdness) is the language. Because when one has nothing to do, one can think of extras, of luxuries. When one works very hard in the field one can't focus. Yes, and it's actually true, one generally has nothing to do with the time. Yes. Okay, but that's not what the Rambam is speaking about, because that's_

R' Yitzchak: A mitzvah of **lo yigra**.

R' Yoel Asher: That's a different halacha of **matzil oso min hachet** (saving him from sin). Does the Rambam speak about this somewhere?

R' Yitzchak: No, but it could be that this is also another thing that this is the logic. One says, it seems the onasan b'chol yom to be somewhat too much. What should I do, but it says in a Mishnah.

R' Yoel Asher: Yes, yes. No, no, I always used to think about whom it's speaking. When one transgresses the prohibition of **lo yigra**,

R' Yitzchak: One says.

R' Yoel Asher: After one says that the kollel young men are in this category one must know, they should just tremble from prohibitions, okay.

R' Yitzchak: A kollel young man who doesn't learn.

R' Yoel Asher: God forbid, not a kollel young man, a fresh young man who doesn't learn and he doesn't work, whatever he takes it easy the first... he travels around on honeymoon, perhaps then he must on the honeymoon...

R' Yitzchak: Okay, one must know that it changes every week, I don't know exactly. Okay.

Kocho (His Strength) Versus Melachto (His Work): Physical Tiredness or Worries on the Mind

R' Yoel Asher: The Rama says further.

R' Yitzchak: This is... he actually brings what the Shulchan Aruch wrote that this is all who is healthy, who is sick is actually...

R' Yoel Asher: This is **kefi kocho**, all things.

R' Yitzchak: The Shulchan Aruch already explained "kocho" and "melachto," two things. I don't know... it's a simple meaning apparently in the manner... okay, afterwards there is like this:

R' Yoel Asher: Hapo'alim... the **rachim ve'anugim** itself says "kocho," it seems to me like "rachim ve'anugim," or at least the word "rachim," "rachim" means they are young and healthy. The main thing is they have

R' Yitzchak: _No worries on the mind. Worries is something of a matter, one understands, worries is something more than the physical... physically less is too tired, I mean..._

R' Yoel Asher: In the Rambam's times one sees that all these examples are from physical work. In the Rambam's times most people worked physical work.

R' Yitzchak: _Yes, but it doesn't mean that no one is not too physically tired, that it's more a matter of the mood. He's busy._

R' Yoel Asher: He's already worked hard all day.

R' Yitzchak: Yes. Look, learning. Well,

R' Yoel Asher: That today there's almost no such thing a person should work for twelve hours physically in a row.

R' Yitzchak: Perhaps today's people are all rach ve'anugs.

R' Yoel Asher: No. If it happens sometimes, there are people who really all day on such a tinker's truck, work really hard, they come home... it's almost nonexistent.

R' Yitzchak: _Even that one is not too exhausted, not too exhausted. In practice, even

that one is not too exhausted from... yes, it's more that he's not in the mood, he has no strength, "leave off,"_

R' Yoel Asher: He goes to sleep. It could be both.

The Measure of "Po'alim" (Workers)

R' Yitzchak: Okay. **Hapo'alim** — workers,

R' Yoel Asher: Kegon hachayatim (such as tailors) — tailors, **v'ha'orgim** (and weavers) — weavers, **v'habonim** (and builders) — builders,

R' Yitzchak: Hard work,

R' Yoel Asher: V'chayotza bahen (and the like), ah yes, says the Rambam: **Im haysa melachtam ba'ir** (if their work is in the city) — if they work in the city,

R' Yitzchak: It depends. If they work in the city, then...

R' Yoel Asher: Im haysa melachtam ba'ir, they're not so...

Workers in the City and in Another City

R' Yitzchak: Diminish the onah, could be. Yes, it's more that he's not in the mood, he has no strength, "leave off," he goes to sleep.

R' Yoel Asher: It could be both, okay. **"Hapo'alim"**, workers, **"kegon hachayatim"**, tailors, **"v'ha'orgim"**, weavers, **"v'habonaim"**, builders. Hard work, **"v'chayotza bahen"**. Yes, so says the Rambam: **"Im haysa melachtam ba'ir"**, if they work in the city,

R' Yitzchak: It depends. If they don't work here, then...

R' Yoel Asher: "Im haysa melachtam ba'ir", then **"onasan pa'amayim b'chol shabbos"** (their conjugal obligation is twice every week).

R' Yitzchak: He goes in the same city,

R' Yoel Asher: Yes. He works in the same city, so although he works hard, but at least he doesn't travel, he doesn't have to travel away, so **"onasan pa'amayim b'chol shabbos"**, twice a week.

R' Yitzchak: Yes, "shabbos" here means a week, not on Shabbos, right?

R' Yoel Asher: Right, simply so. **"V'im melachtam b'ir acheres"** (and if their work is in another city), if they work in another city. And what,

Discussion: The Meaning of "Melachtam B'ir Acheres"

R' Yitzchak: And they come home for Shabbos? No, perhaps he comes home every day, but he has to travel every day, he commutes, no difference. That is, he comes home only once a week. So... this piece doesn't work, this is the front. In short, one must look at what the, don't know, we have Maggid Mishneh or someone normal. It says like this, it doesn't say, one must look at Rashi on the Gemara whether something like this that it says.

R' Yoel Asher: We're not speaking here the question whether he must come home in the middle of the week. *It could be that the thing itself that he must travel makes it an even harder work, it's a higher level of working hard. Not only does he work ten hours a day, but he must also travel three hours to and from work every day.* Interesting. Further. Later we'll see traveling away is simply that it's a...

R' Yitzchak: Fine, he comes home. What does it mean he comes home? Okay, soon we'll think.

Chamarim, Gamalim and Malachim (Donkey Drivers, Camel Drivers and Sailors)

R' Yoel Asher: Now we're going to see about people, not about they work too hard but simply because they work in another city. Their job is a job, not just they work hard, but they travel far away. **"Hachamarim"** (the donkey drivers), people who travel...

R' Yitzchak: Hard. Oh sorry,

R' Yoel Asher: Next one,

R' Yitzchak: Yes yes, maskil el dal (one who considers the poor).

A Fixed Standard Versus Changes in Work

R' Yoel Asher: "Hachamarim", people who drive a donkey, so they travel, they have a wagon driver, he carries people away, and he comes home once a week. He can't always... could be that he has sometimes... *It's an interesting thing, one doesn't say like that it happens to him. Could be that one also gives him the right,*

R' Yitzchak: Like the wife has the

R' Yoel Asher: Right, I don't know, every thing you can say. No, *it could be like the wife has the right to say that she wants to have a fixed time, this is a mitzvah of onah, not just when the man happens to, but it should be limited in time, that's why one puts in no as a shidduch (match). Let me finish mine, what I want to say.*

When one tells a person that he must be with his wife, one says he must be with his wife on time. It could be that the chamar, how does one say this? Chamar whatever, the person who deals with donkeys, one doesn't say that let's say when business is weak, then it must be b'chol yom, then he becomes a rach ve'anugah, or if he is indeed home in the middle of the week must he grab the opportunity? No, one gave him a measure. Fine one gave him a mitzvah of onah, it should go into his system that since you travel quite often you must be away, so once a week is enough, she forgives anything else.

R' Yitzchak: Not forgives, this is the measure.

R' Yoel Asher: This is the measure, but I'm saying, what happens to a chamar who for a period of time doesn't have hard work? Okay, must he now, does he now become, does he get a law of a rach ve'anugah? No, one sees something like one gives him his standard he receives the mitzvah of onah.

R' Yitzchak: Like every thing there's an order, the principle, you won't go into every detail, one can't say every detail.

R' Yoel Asher: Not in detail, I'm saying there's something good under this, because everything has to do with satisfying or whatever, being mashbia ratzon ishto. So the wife knows, the husband took the job, and she made peace with the situation that she gets once in two weeks. Mimeila, the mitzvah of onah won't be higher than that.

R' Yitzchak: You can understand. Soon we'll see that one can change,

R' Yoel Asher: So it's not exactly halachah like that. Certainly one can change. **"Hagamalim"**, people who travel with camels, one can travel further. Why? Because camels can take very much water. Camels have a special place, okay so one must travel very far, but the camel can take such a long trip without water. So **"achat leshloshim yom"**, he travels longer distances, and he's more rarely at home, so **"achat leshloshim yom"**. But he must,

The Obligation on the Husband to Limit His Work

R' Yitzchak: Meaning that he must.

R' Yoel Asher: Achat leshloshim yom he must, yes.

R' Yitzchak: It means that so you understand, a chamar may not take any jobs that keep him from home more than a whole week. Now you understand the halachah. Yes, yes. Since you can travel, I know, travel from there further. No, once a week you must be at home. The same thing, a gamal can be a gamal, but once a month you must make sure that your schedule brings you back home.

R' Yoel Asher: That's what it means. Okay, so we see that just as one makes an average, that since chamarim generally don't go away, that's their mitzvat onah. If they do want to take such a distant job, they must be like forgiving, as if a standard was given. It's hard to say as if, do we want to force chamarim to minimize their job?

R' Yitzchak: Yes, that's the meaning.

R' Yoel Asher: He must. He has a mitzvat onah once a week, because usually chamarim are home once a week, and usually gemalim are home at least once a month. Mimeila there's a mitzvat onah here.

R' Yitzchak: Make sure if he gets a job to travel further, that's the halachah, he must go home.

Yes, that's the meaning. **"Hamalachim"**,

The Measure of Six Months by Sailors

R' Yoel Asher: People who travel across the sea travel very far, so **"achat leshishah chadashim"**, that they come home once in six months. So. These are the workers. What happens with people who don't work? Talmidei chachamim are exempt from...

R' Yitzchak: I think that shishah chadashim is because usually on the ship one can only travel either in the winter or in the summer, it depends on the season. In the winter there's a lot...

R' Yoel Asher: What does that mean? I mean by ish le'ishto, we already had by she'er and kesut also, six months is a measure that's given many times.

R' Yitzchak: No, no, later one learns... built on this, backward. Seder hamalachim. Yes, I don't know what you remember. The seder hamalachim is that one travels, the normal order of a ship is that one travels, one doesn't travel more than a whole year on a ship. Today perhaps it's different, I don't know. Old ships weren't built to be able to travel so far.

R' Yoel Asher: No, I believe already, one doesn't travel six months in one direction. It means two months, and one stops, and one comes back.

R' Yitzchak: Three and three at least. But he says that the schedule of the

R' Yoel Asher: Malachim is a six-month schedule. No, but I think that in Hilchot Ishut we had a few times measures of up to six months one still gives him,

R' Yitzchak: And he doesn't go... We'll see later, and it will say there that that is built on what the greatest onah is...

R' Yoel Asher: On she'er and on kesut. On she'er was also six months? No,

R' Yitzchak: We didn't have any six months in the Gemara.

R' Yoel Asher: There were indeed measures of six months.

R' Yitzchak: Already found? You remember three months. There was a measure of three months.

R' Yoel Asher: There's sheloshim yom, there's shalosh regalim. Okay, interesting, one must know all these measures. Further.

Talmidei Chachamim

R' Yoel Asher: "Talmidei chachamim". What happens with talmidei chachamim? Very good. So **"onatam pa'am achat bashabbat"**. Why? A person might think that a talmid chacham is like the tayalim who are rachah va'anugah.

R' Yitzchak: That he doesn't work physically. But not so. Very good.

R' Yoel Asher: He doesn't work physically, so he would have been like a... He says, onatam bechol yom. **"Mipnei shetalmud Torah metash kochan"**. The learning of Torah, perhaps the word talmud means, the intellectual exertion,

R' Yitzchak: Weakens the person. One might have thought perhaps that he, no, good, it says very good meaning, you might have thought he doesn't have any work, he sits in kollel? No,

Mental and Intellectual Exertion as "Metash Koach"

R' Yoel Asher: To learn is also something that takes strength. So I think according to this it could be that the Rambam would perhaps say that someone who is a top lawyer or a teacher, meaning someone who intellectually

R' Yitzchak: Must exert himself is in the same category. Perhaps, perhaps it's so,

R' Yoel Asher: Either you're a heavy worker or your head works very hard, as you say that kocho umalachto doesn't necessarily mean physically.

R' Yitzchak: Ah,

R' Yoel Asher: But if someone says neither, he's a typesetter, he doesn't work hard and he doesn't work hard with his head and he's also not a business owner.

R' Yitzchak: Ba'alim shehi'ah melachtam ba'ir, basically al pi rov. No,

R' Yoel Asher: He's much weaker because he doesn't work, he doesn't really need... Someone who has a very calm job. A tailor,

R' Yitzchak: A tailor my things stand in time. Someone who is you,

R' Yoel Asher: He's a receptionist, he sits all day in one place, he's a po'el, someone who is a po'el. A very calm job. A tailor. All these chayatim are people who work hard,

R' Yitzchak: Chayatim also sit at that...

R' Yoel Asher: Bona'im work hard obviously, but orgim also, they work with their hands,

R' Yitzchak: They must... And po'alim is po'alim, it's all po'alim. One must think.

The Chiddush of the Ran: When a Talmid Chacham is Engrossed in a Difficult Sugya

R' Yitzchak: And also talmud Torah metash kochan can be that... it means that... also that how I interpret koach means that he's interested, he's engrossed in learning.

R' Yoel Asher: He's engrossed in learning, he learns many hours a day, until he becomes exhausted.

R' Yitzchak: It's not about the exhaustion, it's more the interest. The holy Ran, it's brought in the Shulchan Aruch, in the Acharonim, the holy Ran says that what it says a talmid chacham needs once a week, that's only when he's learning an easy sugya, but often there's a difficult sugya that he must,

R' Yoel Asher: He can't come home even Shabbat. But because of this there is the halachah that on Shabbat one doesn't

R' Yitzchak: Learn any difficult sugya, it's tremendous. But Friday he's...

R' Yoel Asher: He didn't go home. Not to do mitzvah,

R' Yitzchak: Whatever what... One doesn't go like that, a talmid chacham doesn't go to do mitzvah, that's an am ha'aretz,

R' Yoel Asher: He's now engrossed in something. There are those who want to say that leil Shabbat means mitzvah, it can't be that the Gemara will say not mitzvah, only Magur says that. Again you've found a heichi teimtza that he forgets himself,

R' Yitzchak: Still wants a Ran.

The Halachah of Not Learning Be'iyun on Shabbat

R' Yoel Asher: But I'm saying, I'm saying a very interesting thing. There's a halachah and what the Rambam simply also accepts, that on Shabbat one doesn't learn difficult sugyot. The Rambam also has a... so it says in Shulchan Aruch. It doesn't say in the Rambam.

R' Yitzchak: It says in Shulchan Aruch, one must see if the Rambam learned it, one must look in the Rishonim. It was already learned for children,

R' Yoel Asher: But it says, in Shulchan Aruch it also says for something, why should there be the difference? And here you already have the reason, because the whole week talmud Torah metash kochan, but Shabbat indeed "vederech talmidei chachamim leshamesh mitatam mileilei Shabbat leleilei Shabbat". So it fits very well, the whole week the talmid chacham learns a difficult iyun, and in honor of this he's exempt from being with his wife,

R' Yitzchak: "Vederech talmidei chachamim..."

R' Yoel Asher: The Ran was a talmid chacham,

R' Yitzchak: And he didn't say so, he said that what a talmid chacham, a talmid chacham is such a type of person, that you can't tell him come home every Shabbat. Why does it say by the Rambam a very difficult sugya,

R' Yoel Asher: And he must now stay there in the shiur.

R' Yitzchak: One can't choose in advance whether it will be a difficult sugya. Sometimes he gets entangled in something. Therefore he says in, that in the Mishnah it doesn't say talmid chacham, that only says in the Gemara, because the talmid chacham, actually in a general way, is once a week, but it's less limited than a po'el. A po'el has a job, he finishes. A talmid chacham it

happens that he's engrossed, he doesn't finish his job.

Halachah Lema'aseh: The Me'il Tzedakah in Be'ur Halachah

R' Yoel Asher: Very good. He brings here very nicely from the Me'il Tzedakah, called Rabbi Yonah Landsofer. He asks, what is the measure? What is the definition of talmid chacham le'inyan zeh? He says: **Every person who exerts himself very strongly in osek baTorah metashet kocho**. He says, however, he used to say to those around him, the holy Me'il Tzedakah, that **since pirtzat hador**, there are temptations, one can look at other women, **one should conduct oneself kiminhag po'alim she'onatam pe'amayim bashabbat**, and so indeed many say so,

R' Yitzchak: So brings the Be'ur Halachah.

R' Yoel Asher: The Be'ur Halachah brings to the Shulchan Aruch in, yes.

R' Yitzchak: Okay, one must know what is the halachah lema'aseh. Okay.

Continuation About Learning Be'iyun on Shabbat: The Shelah Hakadosh Against Rabbi Ya'akov Emden

R' Yoel Asher: But I think that it's quite a nice connection what you're saying that it says in Shulchan Aruch beshem from Acharonim. Shelah Hakadosh speaks about that on Shabbat one shouldn't learn iyun. It fits very well with the mitzvah

R' Yitzchak: Of being meshamesh on Shabbat. First of all, **Rabbi Ya'akov Emden argues on that halachah, and he says that it's crazy! The greatest oneg Shabbat is to learn be'iyun**.

R' Yoel Asher: Okay, that's one way. But also hours-wise, it could be that it's not to do

R' Yitzchak: Specifically with the intellectual exertion.

R' Yoel Asher: On Shabbat one learns less. It's like there's a bit of "chetzyo lachem vechetzyo laShem". It only says on Yom Tov, but...

R' Yitzchak: These are the fake talmidei chachamim who seek excuses why to spend the time.

R' Yoel Asher: But sometimes in the middle of the week the talmid chacham doesn't have the right to try a long seudah. On Shabbat one knows that at least one can sit and sing.

R' Yitzchak: Whatever, on Shabbat one takes a chavruta and one learns the whole day.

The Reason Why Specifically Shabbat: Rest Time and Oneg Shabbat

R' Yoel Asher: Okay, that's one halachah. But also hours-wise, it could be that it doesn't have to do specifically with the intellectual exertion. On Shabbat one learns less, it's like there's a bit of "**chetzyo lachem vechetzyo laShem**", it only says on Yom Tov.

R' Yitzchak: But that's the fake talmid chacham who seeks excuses why to spend the time.

R' Yoel Asher: Sometimes in the middle of the week the talmid chacham doesn't have the right to try a long seudah. On Shabbat one knows that at least one can sit and sing zemirot.

R' Yitzchak: At the seudah of a talmid chacham on Shabbat one still learns further just like the whole week, there's basically no great difference. Okay. Anyway, back to the addition. Leil Shabbat, says the Rambam, that's the obligation. Meaning, the obligation a talmid chacham has "**achat bashabbat**", meaning once a week.

"**Vederech talmidei chachamim**", yes, that's another thing that we haven't yet clearly learned, not yet, yes? Besides the fact that there's an obligation which is once a week – he's basically like the "**po'el shemelachto be'ir acheret**", I mean it's the same level – besides this there's a derech:

R' Yoel Asher: Which day of the week it should be. "**Vederech talmidei chachamim leshamesh mitatam mileilei Shabbat leleilei Shabbat**".

R' Yitzchak: That's a matter of oneg Shabbat as you say. Yes.

Chiddush: The Comparison to "Ve'ochal Imah Mileilei Shabbat Leleilei Shabbat" in

Hilchot She'er

R' Yoel Asher: That's the Shabbat factor. It's a matter of oneg Shabbat, and because of this I think that also what we learned earlier "**ve'ochal imah mileilei Shabbat leleilei Shabbat**" is also a matter of oneg Shabbat. Only the Rambam puts it in oneg Shabbat, because lema'aseh one is also speaking about what a Jew must do. So there's the din of onah, and only there's a din that one should do it specifically on Shabbat.

Here he put it in she'er. Meaning, she'er doesn't mean eating with her, but she'er means giving her to eat. Once a week there's the mitzvah of oneg Shabbat of eating with her.

R' Yitzchak: To give her to eat not from afar but from close.

R' Yoel Asher: Right, right, but not just like one should have a date once a week. Could be also, but since there's a mitzvah of oneg Shabbat one should do this on Shabbat. Yes.

Halachah 2: The Right of a Wife to Prevent Her Husband from His Work

The Rambam's Words and Explanation

R' Yitzchak: Okay. Now, until now we've learned what the obligation is. Now we'll see, since if so there are the different levels, one must know whether one can stop, whether a wife can say that a person shouldn't have the job because he won't be at home.

R' Yoel Asher: The answer is so, says the Rambam: "**Yesh le'ishah le'akev al ba'alah**", she has the right to prevent her husband, "**shelo yetzei lisechorah ela lemakom karov**", he shouldn't travel too far. Meaning, he shouldn't become the chamarim, the malachim, and so on. "**Shelo yimna me'onatah**", he shouldn't withhold her onah, "**velo yetzei ela birshutha**", only go out with her permission.

R' Yitzchak: A normal person, he asks permission, he goes on business, does she have to give permission, one needs permission.

R' Yoel Asher: Good, but one must understand, what does this mean? For example, if he says this is my... Earlier we learned, chamarim, that every person may be a chamar. What does it have to do with, as if before the wedding she should have known? Only if she accepted.

R' Yitzchak: But now, "**vechen**", look in the Rambam:

R' Yoel Asher: "**Vechen yesh lah lemano latzet mimelachah she'onatah kerovah limelachah she'onatah rechokah**". She can prevent from taking a job where he's close and he has onah more often, to a job where he'll do onah less. "**Kegon chamar**", someone who drives donkeys has looked at the gamal, and he becomes jealous that he wants to now become a camel-driver – oh, a gamal wants even less income, he's seen that it's an even better segulah for shalom bayit, once in six months – she can prevent.

Discussion: The Contradiction Between Halachah 1 and Halachah 2 (Parnassah Against Onah)

R' Yoel Asher: But I want to understand, prevent means if she had a wedding, she knew that this is it, so al daat ken savrah vekiblah. Yes, al daat ken savrah vekiblah. Or it could be that the melachah speaks when she agrees. It didn't look like that before, it looked like she can't demand more.

R' Yitzchak: I think that it's two different halachot. That means, the first halachah was about a normal person. He has work, meaning he sells, he's yotzei limelachto. Sometimes he goes to a city, it happens that he says: I want to make a deal three cities away. Then he should ask permission, she can say: you shouldn't go today, this week. The next halachah speaks of a person who wants to change his profession, that she can completely prevent, you understand? The previous one is a bit less, she can say: I ask that one shouldn't go, he should ask permission, you understand?

R' Yoel Asher: No, I want to understand. When I learned the previous halachah I understood so: that a person doesn't have to sacrifice his livelihood. As if his livelihood is more important than his mitzvat onah, and the mitzvat onah will be calculated with his livelihood. If your

livelihood is very far, as if your right or your obligation to bring livelihood comes before that. And here it looks a bit different.

Translation

There can be two things:

1. It can be "**yesh l'isha**" meaning, she can demand, she can negotiate with him: Take a job that pays a little less, but you'll be home more often.

2. Or it can be as you're saying, that when sevara v'kiblah – she saw that he travels, she agreed to this – he won't be transgressing "**lo yigra**", because she did it al da'as ken, and this is very standard. But if he wants to change later, she can stop him, because I accepted on the condition that I would have more frequent onah.

R' Yitzchak: The Gemara says about this: "**rotzah ishah b'kav v'taflus me'asarah kabin u'frishus**". So hey, he'll say: I'm making more money than a camel driver? I don't want money,

R' Yoel Asher: I want you to be here. She does have the right to say that being here with me is more important than the money, so she has that right, one must reckon with this.

Discussion: The Definition of "Yesh L'isha Le'akev" – A Right Against the Prohibition of "Lo Yigra"

R' Yoel Asher: Meaning, and he'll be transgressing "**lo yigra**"? We need to know, because later the Rambam will say when one does transgress "**lo yigra**".

R' Yitzchak: One isn't transgressing any prohibition, we're talking about what the obligation is, we're not yet talking about the prohibition. I don't know, the prohibition is whatever it is.

R' Yoel Asher: The obligation, the Rambam already speaks about "**lo yigra**" later.

R' Yitzchak: But now we're talking about what the measure is. The measure is as much as his occupation, but that's only if he had that occupation initially. If he wants to change, he may not change.

R' Yoel Asher: There are two measures. There is, when one says "**yesh l'isha**",

R' Yitzchak: She has the right to demand something.

R' Yoel Asher: If she doesn't demand, here she must clearly be mochel, and if not one will transgress the prohibition, I don't know what. I want to say something, because later the Rambam says, it appears that one mainly transgresses the prohibition when one specifically wants to cause her pain, and not fulfill onah when she wants, because it's a matter of, there's some wickedness to it. Here he says, "**yesh lah limno'o**", meaning as if she has the right.

R' Yitzchak: Okay.

R' Yoel Asher: So that's again what we'll learn later, but he says, when we say here she has the right, we're not saying, again, his mitzvah of onah he may not do less, as if he's now going to transgress his mitzvah of onah. There's another thing here, that she has the right.

R' Yitzchak: There is also a concept of a right. The whole,

R' Yoel Asher: Most of mitzvat onah,

R' Yitzchak: Most things we only speak of rights, it's an obligation such that she can request a get if not. I don't know what options she'll have, she wants to divorce because of this. But that's as if the...

Continuation of Halacha 2: The Exception of Torah Scholars

Going to Learn Torah for Two-Three Years Without Permission

R' Yoel Asher: Now, the Rambam says further however: "**v'talmidei chachamim**", there's an exception. Generally one cannot change,

R' Yitzchak: But there's an exception.

R' Yoel Asher: A Torah scholar may go to learn his Torah, "**shelo birshus neshoseihen**", his measure is more than the measure of onah for a poor person. For him they permit even "**shtayim**

v'shalosh shanim", to go away entirely to learn for two or three years. Yes.

He sees, people used to marry younger, like today's order of bachelor years. The bachelor years were done after one was already married, and went away from the wife to learn. Up to two-three years one may. Meaning, one will presumably need to leave mezonos, yes? Mezonos, kesus, as we learned earlier, that if not "**beis din yordin l'nichsav**". But mitzvat onah the Sages permitted for the Torah scholar. What does this mean?

The Source in the Mishnah and Gemara and the Reason for the Law

R' Yitzchak: What does it mean? It's interesting, because in the Mishnah it says that students can go for "**sheloshim yom**", that's what it says in the Mishnah. And the Gemara, Rav added, he says that this is one opinion of Rabbi Eliezer, but the Sages say even two-three years. And the reason is, I think, I remember the Chasam Sofer says, that the reason is because every wife truly wants her husband to be a Torah scholar.

R' Yoel Asher: So we're saying what the wife truly wants, like you said earlier this is what the wife truly wants. We're not saying perhaps because as if the Sages "**hem amru v'hem amru**", as enactments from the mitzvah of Torah study, "**talmud Torah k'neged kulam**"?

R' Yitzchak: Presumably it goes together both. Yes, it's an interesting law. After the law is brought in the Gemara that one can die if one fulfills it,

R' Yoel Asher: As is known. Ah, that one in the Gemara caused his wife pain and died.

R' Yitzchak: It's not so simple to do in practice, but the law is decided by the Rambam like Rav Ada bar Ahavah. The Gemara says that one conducts oneself this way, and one relies on Rav Ada bar Ahavah. This is also the source for the Kotzker Chassidim who used to run away from home to travel to the Rebbe.

R' Yoel Asher: All Chassidim, the yoshvim who sat by the Rebbe. But it doesn't say here very clearly what happens when she actually protests. It appears that yes, even if she protests, she cannot prevent him.

R' Yitzchak: He has the right, he has the right. Yes, meaning he has the right. Okay. Yes, it's a difficult law to fulfill, one shouldn't do it in practice.

An Idle Person Who Becomes a Torah Scholar

R' Yitzchak: Further, another thing:

R' Yoel Asher: Someone who didn't used to work and also didn't learn, so his onah was every day, and he became a Torah scholar – now he'll only need to do once a week – "**ein ishto yecholah le'akev**". Because to become a Torah scholar

R' Yitzchak: Everyone has that right.

R' Yoel Asher: Yes, it says, "**keser Torah munach**" as if a heritage, every Jew has the right, this privilege. You have a right to have onah, I have the right to become a Torah scholar.

R' Yitzchak: The wife cannot, it's interesting though, she cannot prevent even, it's a bit of a novelty. Okay, another thing that a person may do, yes? That means,

Discussion: The Reason Why Torah Study Overrides the Wife's Right

R' Yoel Asher: We learned how much one is obligated. Meaning, "**lo yigra**", why shouldn't we say that it's like any mitzvah against a prohibition, or what, some such thing?

R' Yitzchak: We haven't yet learned anything here about the mitzvah. You keep talking about things I don't yet know. Soon we'll see the Rambam about a mitzvah,

R' Yoel Asher: We'll see. I don't know, we need to think. No, perhaps it's something like that we know that every woman truly wants the husband to learn.

R' Yitzchak: I keep thinking that there's an additional prohibition,

R' Yoel Asher: If the Rambam says so soon. Like the Rambam says by "**lirtzono**", by a korban,

R' Yitzchak: That truly every wife wants him to be a Torah scholar. It's become according to what you're saying.

R' Yoel Asher: So the question is:

1. Whether the Rabbis say, we don't look at her – for the good of Klal Yisrael, for the good of Torah, everyone may become a Torah scholar. That can be one thing, that we ignore the wife.

2. Or it can be, as the Rambam says regarding "**kofin**", every Jew wants to be a proper Jew, every Jewish woman, a Jewish mother wants the husband to be a Torah scholar.

R' Yitzchak: Actually by the way, both things are the same.

R' Yoel Asher: Not a big difference between the two reasons, they all come out to the same thing.

R' Yitzchak: Whether we include her in the picture or not. We don't include her, to say that she wants isn't included in the picture excuse me. It's the exact same thing, to say that onah is very important, but more important is to learn.

Novelty: A Proof from Rabbi Akiva That for More Than Three Years One Needs Permission

R' Yitzchak: By the way, "**shtayim v'shalosh shanim**" is also a measure, not for ten years. Rabbi Akiva went for twelve years, that's already more than the law. She had to agree to that.

R' Yoel Asher: Does it say somewhere that she had to agree? Yes, he said "**sheli v'shelachem shelah hu**", because she agreed.

R' Yitzchak: It must be that she agreed.

R' Yoel Asher: Certainly. No, I'm saying, when he said "**sheli v'shelachem shelah hu**", it means that she agreed, similarly, because if not for her he wouldn't have been able to do it. From here we actually see that as if when she doesn't allow he wouldn't have been able, so she gets credit. If he can prevent her, she doesn't get so much credit. Okay.

Halacha 3: Marrying Multiple Wives and the Calculation of Onah

R' Yitzchak: "**Nosei adam kamah nashim afilu me'ah**".

R' Yoel Asher: "**Bein b'vas achas bein b'zo achar zo**". Yes, and here a man has the right – a woman is forbidden, there's such a thing as eshes ish – but a man can take multiple wives, "**afilu me'ah**".

R' Yitzchak: Regarding his obligation to his wife, he says here,

R' Yoel Asher: But presumably there's a problem, because if every man is obligated to his wife mitzvat onah, there's a problem: he can indeed take multiple wives, but he must give each one onah! The Rambam says thus: A person may take multiple wives, even a hundred. Either at once, as we learned one says "all of you are betrothed to me", he can take a hundred,

R' Yitzchak: Forty.

The Difference Between "At Once" and "One After Another"

R' Yitzchak: He's talking...

R' Yoel Asher: Regarding his obligation to his wife. He says here, but presumably there's a problem, because if one takes, if one has a... if every man is obligated to his wife mitzvat onah, there's a problem: he can indeed take multiple wives, but he must give each one onah. The Rambam says thus: A person may take multiple wives, "**afilu me'ah**", either "**b'vas achas**", as we learned "**kulchem mekudeshes li**", he can take a hundred, yes.

R' Yitzchak: What's the difference?

R' Yoel Asher: Like instead of doing retail he does wholesale?

R' Yitzchak: No, no, I mean that here he means, yes, but here he presumably means, lest you say that if at once, it's certain that no one can have any complaints, because when she married, at the same time that one married. But one after another, he means: "I thought I'm the only one, tomorrow I discover he betrothed another one."

R' Yoel Asher: So, how can you take another? "**V'ein ishto yecholah le'akev**" he says.

R' Yitzchak: No, that even so he may.

R' Yoel Asher: We already had once this at once regarding sheva brachos, whether one must make sheva brachos for each. True, one must make. Yes, "**bein b'zo achar zo**",

R' Yitzchak: "**V'ein ishto**" in short, there is another law, presumably here it means that.

The Condition of She'er Kesus V'Onah and Living in Separate Courtyards

R' Yoel Asher: Taking another wife, "**v'ein ishto yecholah le'akev**", the wife cannot have any complaints. Good. But "**v'hu she'yihyeh**", but his mitzvah of she'er kesus v'onah is for each one. "**V'hu she'yihyeh yachol lases she'er kesus v'onah k'ra'ui l'chol achas v'achas**", he should give to each one

R' Yitzchak: The measures of she'er kesus v'onah.

R' Yoel Asher: Very good. The Rambam says another law, but see another law, that he can say to the wife: "I want to take another wife." But as we learned earlier, that he cannot force his wife to take in other people into the apartment. A wife can say: "I don't want these and these people

R' Yitzchak: Coming into the apartment."

R' Yoel Asher: So... a second wife at least "**v'eino yachol lichof osan lishkon b'chatzer achas**", we have here even more than an apartment, even in the courtyard he cannot force. Perhaps there too it's... "**ela kol achas v'achas l'atzmah**", meaning, very interesting, here by one after another we're talking, yes? The wife says: "That I'm taking another wife, you don't have the right to prevent me, but you married, you gave me the dwelling, I don't want other wives." She can demand where to live and not together.

R' Yitzchak: She can live somewhere else. Yes.

R' Yoel Asher: Very good. So basically, that itself neutralizes the other right. Yes? And the minute, someone who can buy many courtyards...

R' Yitzchak: He has a lot of money, yes, he must be wealthy. He must anyway, viyehi yado masseges k'maspekam. He must be wealthy, and not that he's at all that eino yachol. Eino yachol he indeed may not, as if he may not from the law of she'er kesus v'onah.

R' Yoel Asher: No, in one courtyard is already more, it's like he must have extra households, not simply that he can have a huge house and each one

R' Yitzchak: Should have a little room. Whatever chatzer achas means.

R' Yoel Asher: Is another

R' Yitzchak: Thing what that exactly means, but the point is that this is from the law of she'er kesus v'onah. A person is obligated to his wife to be able to support her. If taking another one will make it so he cannot give her she'er kesus v'onah, simply she'er kesus v'onah says he cannot take another wife, that's the meaning. Yes.

Novelty: Heter Me'ah Rabbanim in Modern Times Against the Law of She'er Kesus V'Onah

R' Yitzchak: And it can be that today when it's not the custom, it's certain that it's also this as if one will say, even if he has a heter me'ah rabbanim – I want to say a novelty, certainly the heter me'ah rabbanim already includes this too, but it can be that one will say

R' Yoel Asher: That today when it's

R' Yitzchak: Not the custom to take two wives, it's clear that every person who marries is as if he's saying to his wife that she'll be his only one. So he can't say: "I have a permit, it permits this", understand? Usually when it's relevant it's indeed not relevant. I'm just saying that this

R' Yoel Asher: Is only on a matter of onah, a matter of onah no,

R' Yitzchak: She'er kesus v'onah, all three.

R' Yoel Asher: Right, it's all three, but I'm saying again, what are you trying to say?

R' Yitzchak: That I'm saying that the law that says "**nosei adam kamah nashim**", simply means that normally, in earlier times when

people used to take two wives, when he married one wife she had to understand that he may take another one, but now she doesn't understand that, so as if, there is such a thing, a person can say that one doesn't want

R' Yoel Asher: Because it only helps for the cherem of Rabbeinu Gershom, but besides that one needs to have something else, a mechilah from the wife that she

R' Yitzchak: Should agree to another wife.

R' Yoel Asher: So the "**ein ishto yecholah le'akev**" cannot help for that. So the heter me'ah rabbanim can be helps both for Rabbeinu Gershom, and for the problem, but it's difficult,

R' Yitzchak: One must ask when it's relevant

R' Yoel Asher: We're talking when there's already a moredet, but we didn't want to say the moredet and so on, or when we have a problem with forcing to

R' Yitzchak: To

R' Yoel Asher: Divorce.

R' Yitzchak: Even if one will find a permit from Rabbeinu Gershom, he still needs to have for lo yigra.

R' Yoel Asher: Ah.

R' Yitzchak: Very good. If not he's transgressing she'er kesus v'onah, presumably.

Halacha 4: The Measure of Onah with Multiple Wives and the Enactment of Four Wives

Dividing the Onah According to the Number of Wives

R' Yoel Asher: Very good. The Rambam says: "**V'chamah hi onasan?**" Now I said that he can have multiple wives, you'll think that if he's soft and delicate he'll need to, if he takes a hundred wives, even a hundred, will he need to do a hundred times a day? The Rambam says: "**L'fi minyanam. Keitzad?**"

R' Yitzchak: Here it becomes very difficult, because it comes out that every time he marries the onah becomes less. One must understand how this can be.

R' Yoel Asher: Okay, I'll have some approach. "**Keitzad? Po'el she'hayu lo shtei nashim**",

R' Yitzchak: A normal worker is one who has... yes, yes, twice a week.

R' Yoel Asher: Twice a week. So one divides his existing onah that he has, the existing onah that he has is divided between the two wives, meaning each one only received half an onah.

R' Yitzchak: So one received,

R' Yoel Asher: It's a wonder, half an onah,

R' Yitzchak: Once a Shabbos.

R' Yoel Asher: It's a wonder, yes, because they had a marriage with a laborer, and she expected twice a week, but in practice she loses half. And for such cases "if he had four wives, the onah (conjugal rights) of each one is once every two weeks**". And for a hundred it's once every four years.**

R' Yitzchak: Whatever. "**And similarly if he was a sailor**",

R' Yoel Asher: He's a driver of a ship, and he has four wives, and a sailor is only once every six months. "**The onah of each one will be once every two years**", once every two years.

R' Yitzchak: Yes, six months divided by four comes out that way.

The Calculation of Four Wives and Once a Month

R' Yoel Asher: It's a great chiddush (novelty). "**Therefore the Sages commanded that a man should not marry more than four wives**", the Sages said that one should not take more than four wives. "**Even though he has much wealth**", even if he has a lot of money, and everything else - shaar (food), kesus (clothing) - is not a problem, but onah is always a problem, "**so that their onah should come once a month**". A regular person, for example a

talmid chacham (Torah scholar), or the recommendation is once a week.

R' Yitzchak: Yes, also laborers, most people are approximately once a week. Because in practice that's how it looks, Shabbos. The minimum. No, because most people are laborers, right? Most people are not

R' Yoel Asher: Camel drivers outside the city. Laborers outside the city? Because laborers in the city is twice a week.

R' Yitzchak: Most people are laborers in the city, yes.

R' Yoel Asher: Well, twice a week.

R' Yitzchak: Ah, okay, I don't know. Perhaps this is a... I don't know exactly.

R' Yoel Asher: You're asking me not to think.

R' Yitzchak: It's some kind of measure,

R' Yoel Asher: Or it's a normal number.

Discussion: Why Can the Onah Be Reduced and the Contradiction in the Rambam

R' Yoel Asher: The entire halacha needs to be understood, because let's say the wife cannot prevent her husband from taking another wife, but why can't she say: "I got married on the understanding that you're a laborer, and I get my once a week, my twice a week?"

R' Yitzchak: The answer is,

R' Yoel Asher: It could be that in this law that the Sages give the right to take another wife, there's also the fact that a person is only a person. Why shouldn't we say that he must provide more onah?

R' Yitzchak: It's not clear, it requires some examination. With the conceptual analysis one can say, but practically it remains difficult.

R' Yoel Asher: And also even the language is a bit: "**And this is when he is able to give properly to each one**". It said "**properly to each one**".

R' Yitzchak: "**Properly to each one**" means according to what it will become less, that's how one must interpret it.

R' Yoel Asher: So it seems here something like - you won't like it but, you see I'm protecting myself, I can already put on the armor - that the wife is not hurt so much by not being with the husband, but rather that the husband ignores her or the husband doesn't want to be with her. But once she understands it, that in his situation, he does it in an orderly way, he thinks of her often enough according to the circumstances. It doesn't mean only that physically she must receive... she has that right, but rather the matter of the attention, the matter that he doesn't ignore her.

R' Yitzchak: I don't know, it doesn't answer the contradiction between "**able to give**", and then he says a minute later that it becomes less.

R' Yoel Asher: Meaning he doesn't... he doesn't hate her now more than he hated her before taking the new wife, it's just that practically things have changed.

R' Yitzchak: It's lechatchila (ideally) hated her before he took another wife?

R' Yoel Asher: I mean, no, no, he has his right, he has his right.

R' Yitzchak: What, I'm a single man? With only one wife?

R' Yoel Asher: One must have three, four. He has that right. So as long as he doesn't ignore her, but she understands where he's coming from, okay. Yes.

"Commanded the Sages" Versus "Good Advice" in the Gemara

R' Yoel Asher: The Rambam says further: "**Therefore the Sages commanded**".

R' Yitzchak: Okay, this is the matter. Yes. The "**commanded the Sages**" you've already learned, yes? He says "**therefore**", because it becomes less, yes, that means because it becomes less, one should have the minimum, but your question is therefore difficult. The "**commanded the Sages**" is a certain good advice from the Sages, it says in the Gemara that it's good advice, the Rambam calls it "**commanded the Sages**", it's interesting, huh? I see here on the page.

R' Yoel Asher: And in the Gemara it says

R' Yitzchak: It's in the form of good advice? Where am I?

R' Yoel Asher: Master of the Universe. One really needs to understand, because when it's good advice a person can say: "You know what? I'll exert myself a bit more, I won't do onah once a week, I'll do three times a week. What's the problem?" But once it says "**commanded the Sages**",

R' Yitzchak: Do you understand what I'm saying? The Gemara says: "**The Rabbis taught us good advice**". And the Rambam calls this "**commanded the Sages**". But one sees that "**commanded the Sages**"

R' Yoel Asher: Can mean as advice.

R' Yitzchak: No, because the Gemara says advice because if not he'll have to do onah twice a day, twice a week.

R' Yoel Asher: Yes, that's what I'm saying. When the Gemara says advice, a person can say: "Okay, I hear your problem, but I'll do more than once a week onah, there should be another wife here." You won't,

R' Yitzchak: That's the point. You don't have the strength, it's a burden, hello. The entire mitzvah of onah assumes that the man doesn't have strength. We tell him: "You must go to onah", right? That's the reality. It means, when he has many wives, this will certainly become the reality, right? They'll chase him: "Nu, come already", and so much Leah or Leah Tovah. He says: "Okay, you know what? Let's make a normal order, each one comes once a week, that's still bearable, a normal person can endure that. More than that you won't endure." That's the idea.

Discussion: What Is the Average Measure of Onah for a Normal Person?

R' Yoel Asher: I don't know. Well, well.

R' Yitzchak: I'm not talking here about great baalei taavah (people of desire), we're talking about normal people. One is a great baal taavah, granted,

R' Yoel Asher: I'm not talking now. Okay, I only mean that you defined a normal person. If someone wants to be a normal person according to your standard, he becomes one.

R' Yitzchak: Again, four wives normal people had,

R' Yoel Asher: It becomes four? It becomes four?

R' Yitzchak: But it says

R' Yoel Asher: Earlier by normal people. No, it's a wonder. No, but... No, it's not normal to have multiple wives. I mean, at least in the way I was raised, but... But we had twice a week is very normal, he's laborers in the city. It's not exaggerated like every night. Twice a week is very normal. Here one goes away even from twice a week to once a week.

R' Yitzchak: Still a wonder. I mean that a statistic of normal people, I'm not talking about Jews with things, you'll see that the average doing onah once a week is quite good. That's what I read in the statistics, by the way.

R' Yoel Asher: One can't trust that. What is,

R' Yitzchak: Words of leniency to say for other people how much one permits? No, words of leniency in specifics, not any words of leniency. Once a week is approximately a normal order. Look it up, you'll see, most people if they do once a week they're holding well.

R' Yoel Asher: No, say, when you read such a median, one takes all ages and makes a median. It has to do with the according to

R' Yitzchak: The situation after the wedding. And the Gemara is also here a median for all ages. I don't understand what you're saying.

R' Yoel Asher: That's all. No, the Gemara gives a minimum, okay. And again, very many people go, they have a period when they're young enough, then they have a period when they're...

R' Yitzchak: But the Gemara also says an average.

R' Yoel Asher: Then he becomes a sailor.

Introduction to Laws of Vows Regarding Onah

R' Yoel Asher: Again, when you read that a "median" means one takes all ages and makes a median, it has to do with...

R' Yitzchak: According to the situation from the wedding to a median for all ages. I don't understand what you're saying.

R' Yoel Asher: The Gemara gives a minimum. Okay.

R' Yitzchak: And again, again, again.

R' Yoel Asher: A...

R' Yitzchak: Melach with an open ches? "Melach" is about salt, because he goes in a salty sea? I don't know. Ah, perhaps it's from the language of mixing? He mixes the water? I don't know.

Okay, in short, now, very interesting, just as we learned by shaar and kesus there's a matter of making vows - one who makes a vow that she shouldn't eat, one who makes a vow that she shouldn't wear - there's also a matter of making vows that's relevant to the topic of onah, and this we're now going to learn. Yes, right?

Halacha 5: One Who Makes Vows Upon His Wife in Matters of Modesty and Foolish Acts

One Who Makes a Vow Upon His Wife That She Should Tell Others Words of Shame

R' Yoel Asher: I can hardly wait to read in the PDF: the maggid shiur brings up a thought that melach is about salt. Many things he doesn't bring up. **One who makes a vow upon his wife that she should tell others what he said to her,**

R' Yitzchak: If someone makes a vow - now he'll certainly bring it.

R' Yoel Asher: You already said. If someone makes a vow to his wife, yes, he makes a vow upon her, as we learned yesterday, meaning in what manner one can make a vow upon the wife, that what? **That she should tell others,** she must tell other people, **what he said to her,** the secrets that he told her, **or what she said to him from words of joking and lightheadedness that a person speaks with his wife about matters of intimacy.** The conversations about intimacy, she should tell...

R' Yitzchak: She should tell the...

R' Yoel Asher: The manner of conduct of joking and lightheadedness.

R' Yitzchak: The flirting, the flirting. Yes. Then,

R' Yoel Asher: That which the Rambam later says he should appease his wife beforehand.

R' Yitzchak: Mm, a bit more than that.

R' Yoel Asher: Okay, okay. **He must divorce,** if he tells her to say such things, he tells her to share with people things that are usually very private, **he must divorce and give the kesuba,** they will force him to give her a get, and he should give a kesuba. Why? This is not something that can be demanded of the wife. A husband can demand things from the wife, but he cannot demand things that are absurd or that are unbearable.

For she cannot be so brazen, she cannot have such brazenness, such chutzpah, such immodesty, to tell other people **words of shame,** things that are shameful, that are disgraceful to tell other people. Since whatever is between a man and his wife is shameful,

R' Yitzchak: It's shameful to say to another.

R' Yoel Asher: It's disgraceful, shameful. Therefore...

Chiddush: The True Meaning of "Shame" and "Brazenness"

R' Yitzchak: "Words of shame" means, I mean that kalon means shame like that, yes? Shame is a... It means, "brazenness" for example, it's interesting: by us there's the translation "brazenness" means impudent, but here one sees that brazenness doesn't mean impudent, brazenness is the opposite of "one who has shame".

"One who has shame" means what we call modesty, yes? Shame is not so shameful; it's a neighbor of shameful, but it means something like he understands what belongs to be said in

which place and so forth. He has a certain... perhaps the word "refinement", do you understand what I mean? The word shame is not so shameful, it's a different sort of level. And brazenness is also not impudent. Brazenness means like we say "he has no shame", right? He doesn't have... he's not ashamed to speak in public matters that belong in the bedroom.

R' Yoel Asher: I'm thinking now, it's very interesting, it says there: **He tells a person his conversation - even light conversation between a man and his wife they tell the person.** This is the Almighty **who dwells with them in their impurities,** the Almighty does a matter of disgrace?

R' Yitzchak: No, "tells them" means that even this one must still conduct oneself Jewishly, not conduct...

R' Yoel Asher: But I mean that this is...

R' Yitzchak: Like a kal vachomer (a fortiori argument) that we learned yesterday, that we learned that he may not...

R' Yoel Asher: He cannot make her such a wife who doesn't lend utensils, yes?

R' Yitzchak: Because they'll say that she's bad. Here all the more so they'll say that she...

R' Yoel Asher: Is a low woman.

Turning Over During Intimacy and Foolish Acts

R' Yoel Asher: And similarly if he made a vow upon her that she should turn over during intimacy so that she shouldn't conceive, that she should turn over during intimacy. No, "turning over during intimacy" means not in the usual way, or he means that she should do things as it says that women do things so they shouldn't conceive?

R' Yitzchak: There's a question in the Gemara. The Rambam understood it this way. In the Gemara it says two things, that is, it says **fills and pours to the garbage,** some such language, and it's not one hundred percent clear what he means.

R' Yoel Asher: Destruction of seed like that, or is there a matter that she destroys seed.

R' Yitzchak: The Rambam interprets that there are two things. We'll see, I haven't started to say the Rambam. The Rambam interprets there are two things: there's **turning over during intimacy so that she shouldn't conceive,** which it seems she has a right to be able to have babies. If a husband forces a wife to have birth control, some such sort of aspect, that's how I understand. **Or that he made a vow,** yes, the next thing is similar to this, but not so that she shouldn't conceive,

R' Yoel Asher: Rather **that he made a vow that she should do foolish acts,** she should do in the matter of onah foolish acts, she should do disgusting things, she should do onah in a manner of disgusting things. One doesn't need examples.

R' Yitzchak: The Rambam says "foolish".

R' Yoel Asher: Interesting.

R' Yitzchak: Okay, things that are foolishness.

R' Yoel Asher: Words of foolishness, crazy things that he has. **He must divorce and give the kesuba.**

The Wife's Right to Children as Part of Onah

R' Yitzchak: Well, perhaps he means simply that it's truly matters of foolishness. Ah, the Gemara says, yes, on this there's a question: a wife is not commanded on procreation, what does it matter to her that she is "shouldn't conceive"? The Gemara says that she also wants children. A wife, actually, from the law of "shaar, kesus, and onah" one must give the wife children, because she wants that when she's old the children will take care of her. In short, that's what it says in the Gemara. In the Gemara it says...

R' Yoel Asher: She has a right to demand a child.

R' Yitzchak: Yes.

R' Yoel Asher: Interesting. And it goes into the category of "shaar, kesus, and onah",

R' Yitzchak: Because it's part of what a wife wants. A wife wants to have children.

R' Yoel Asher: Right? It's not a mitzvah, she should have a child who will gladden her in old age. Therefore, for this she can demand that...

R' Yitzchak: The onah should be in a manner that she can have children.

Discussion: What Does "Foolish Acts" Mean and the Power of Forcing Through a Vow

R' Yitzchak: I mean that the "foolish acts" can mean literally that she makes herself foolish. The Gemara says: fill with water, pour it in the garbage. The question is, is this a parable about procreation, or is this a parable about matters of onah?

R' Yoel Asher: Here we're talking about onah.

R' Yitzchak: The Rambam doesn't say a rule about kiddushin, that a husband cannot make a vow...

R' Yoel Asher: That you must always do foolish acts. Could be, but here it seems that in onah there's such a thing. It happens in onah, since there isn't, as he says, there aren't any standards, such a matter of "a private matter", there are people who let themselves express their craziness. He can ask her a favor, but if he makes a vow that she must do specifically in a foolish manner and she doesn't want to, it's "he must divorce and give the kesuba" like every time.

Very interesting: when a person asks his wife for foolishness, or he asks her to do things that aren't the standard, it's not "he must divorce and give the kesuba". But when he does it in the form of a vow,

R' Yitzchak: It means he forces things upon her...

R' Yoel Asher: Specifically, because that's the only way to force,

R' Yitzchak: Through a vow, here he compels her.

R' Yoel Asher: But let's say, a husband is physically, he forces his wife, as the Rambam says "one who afflicts his wife". It's a prohibition, but "he must divorce and give the kesuba"? That's a different case.

R' Yitzchak: That's a different thing. We don't make so many vows nowadays. One used to count, and this was...

R' Yoel Asher: This was the violence that people used to use, or at least in the Gemara's.

R' Yitzchak: Because everyone feared vows.

R' Yoel Asher: A neder is... yes, I think it was just like that...

R' Yitzchak: Between the talmidim...

R' Yoel Asher: Chachamim and the nerds.

R' Yitzchak: How do they force someone? By making a strong neder, the bully, not with his hands. It was accepted that one does such things.

R' Yoel Asher: Yes, but nedarim were a part of life. We don't conduct ourselves that way today. Perhaps it's actually a good thing that we stopped doing such foolishness.

R' Yitzchak: But anyway, the Rambam says this, what happens with such a halacha? But it could also be that this continues where she can say: you have no right to do "devarim hamevazim oti," something like that, you understand?

R' Yoel Asher: With a neder. Whatever, in the manner that it goes, yes. Wait, the Rambam says this... okay, afterwards, just like that,

R' Yitzchak: Another thing is, he prohibits her.

R' Yoel Asher: It could also be the simple meaning, it could be that madir is always more of a long-term thing. A person sometimes does something foolish, okay, he's having a hard time, she'll come to the rav and say, let it pass for him, he's going through a hard time, send him on vacation for a week. "Hamadir et ishto" is already... we're going to impose a new obligation here, which apparently also one can say not for thirty days, but madir et ishto long-term. I believe that all these things, if one does it for a short time, perhaps one won't be yotzei v'yitein ketubah.

Halacha 6: Hamadir et Ishto Mitashmish HaMitah

The Measure of "Shabbat Achat"

R' Yitzchak: Okay, so it is. What if he prohibits entirely?

R' Yoel Asher: Hamadir et ishto mitashmish hamitah, he makes a neder that she shouldn't be able to have tashmish hamitah with him, it goes against the mitzvah of onah. So how long do we give him time to sober up from his foolishness? **Shabbat achat mamtinin lo,**

R' Yitzchak: Once a week.

R' Yoel Asher: I saw in Nedarim that we learned, that there are measures, right, how long one gives... Also yesterday we learned how long one gives time for a person to... There they gave more time, a whole month at least. But we see here a very interesting explanation here, that crazy things, for a week's time, a person sometimes has the right once in a while to be crazy for a week.

R' Yitzchak: We give him one week. Not a right, but we can't come and tell him to give a get so quickly. We're talking about... no, why? He needs to calm down.

R' Yoel Asher: Shabbat achat mamtinin lo. It could be that the definition of shabbat achat is because shabbat achat he skips one time. Usually he does it once a week, here he skips that one time. We let him skip one time. **Yeiter al kein,** if he wants more than that, **yotzei v'yitein ketubah,** we'll force him to give a get and give a ketubah, **o yafar nidro,** if he is meifar...

Note on the Rambam's Language "O Yafar Nidro"

R' Yitzchak: Just said casually, just like all things until now. Yes.

R' Yoel Asher: What did we talk about before?

R' Yitzchak: "Yafar" is an interesting language. "Yafar"? It should be "yatir nidro." I mean it means matir. No,

R' Yoel Asher: This is talking about the husband made it.

R' Yitzchak: Oh, to be matir his own neder? The husband made it, he was madir her; he can't annul his own neder, he needs to go to a rav to make a hataras nedarim. A strange language,

R' Yoel Asher: Yafar nidro. Okay, interesting.

R' Yitzchak: Yes, it's not clear here.

The Law of the Sailor: The Distinction Between Ones and Pain from a Neder

R' Yoel Asher: Okay, the Rambam says: **V'afilu hayah malach she'onato l'shishah chadashim,**

R' Yitzchak: Eh, the person says: why are you only waiting for me a week, I only have onah in six months anyway?

R' Yoel Asher: Yes, but what you can't do because you're away doesn't hurt me. But what you don't want to do because you're wicked, that hurts me. This is what the Rambam says: **V'afilu hayah malach she'onato l'shishah chadashim, shekeiván shenader** – since he made a neder, and the reason why he won't be with her is not because he's at sea, but because of the neder, or at least that's how she'll think.

R' Yitzchak: He sends her a message from the sea?

R' Yoel Asher: Before he leaves! He fulfilled onah and he sets out on the journey: I'm not coming home for another six months...

R' Yitzchak: The beis din runs after him on the sea? Strange, go give a get. **Shekeiván shenader harei tzi'erah v'nityaysah,**

R' Yoel Asher: He pained her and she despaired.

R' Yitzchak: "Hana'at tashmishi asur alayich l'olam va'ed." She's despaired, even when he comes back he won't do it.

R' Yoel Asher: The Rambam says, the Rambam puts in.

R' Yitzchak: Now finally the Rambam has discovered how the neder will function.

R' Yoel Asher: But he also said a bit that the prohibition of bitul onah is...

R' Yitzchak: Connected with the tza'ar ha'ishah. Regarding this, soon we'll see later, regarding section 7 we'll arrive...

How Does One Make a Madir (Shevuah and Neder on Tashmish)

R' Yoel Asher: The Rambam says further: **V'cheitzad madirah?** The Rambam says, when we've been talking the whole time about madir, how does one make the neder? It's not so simple, because many statements simply won't work, it won't become a neder.

Shevuat Shav Due to Shibud

R' Yitzchak: The Rambam says:

R' Yoel Asher: "V'im nishba nishba lashav", why? **"Mipnei shehu meshuabad lah"**, he is obligated to her.

R' Yitzchak: That means, a person can't make a neder on someone else's things, that's apparently the reasoning. Someone else's thing one can't prohibit, and the tashmish of the husband belongs to her, he has an obligation.

R' Yoel Asher: It lies in her domain.

R' Yitzchak: So it's not his to prohibit it to her.

R' Yoel Asher: It's interesting. Every time he does it he has as if fulfilled his obligation. He has a mortgage.

R' Yitzchak: It belongs to her. Interesting.

The Distinction Between a Shevuah and a Neder on His Hana'ah

R' Yoel Asher: Yes. Wait a minute, but so how can there be a neder? **"Amar lah hana'at tashmishech asurah alai"**, this is not a shevuah, but this is a neder. **"V'asur l'shamesh"**. Then one may not be meshamesh, why? If he says "tashmishi" –

R' Yitzchak: He says directly on the thing that he...

R' Yoel Asher: He prohibits the tashmish. The tashmish became prohibited, not he became prohibited to do tashmish. A neder is always on the object.

R' Yitzchak: Right. Or a shevuah certainly. But if he makes a neder, he says **"hana'at tashmishech asurah alai"**, conversely, he prohibits himself, right?

R' Yoel Asher: Not he prohibits on her.

R' Yitzchak: The hana'ah that I have from...

R' Yoel Asher: He prohibits on himself the hana'ah from her, the hana'ah from doing tashmish with her, **"harei zeh neder"**, does the neder work, meaning the neder is chal.

R' Yitzchak: Meaning because she belongs... he doesn't have... he makes the prohibition on his hana'ah, not on her hana'ah. Right.

Why the Obligation of Onah Doesn't Nullify the Neder

R' Yoel Asher: And then, **"v'asur l'shamesh"**. Why? Why shouldn't we say that he's obligated? Because in practice the neder was chal.

R' Yitzchak: First of all right, there's a principle that a neder is chal even on a mitzvah, on a neder there isn't the law of **"mushba v'omeid mehar Sinai"**, because as the Rambam explains in Hilchos Nedarim, that a person says "noder hana'at matzah alai", also he may not eat matzah, meaning he needs to be matir his neder, we give him lashes etc., but the neder works. And therefore here should we say have tashmish? No, we can't. **"Ein ma'achilin es ha'adam davar ha'asur lo"**, it's prohibited. Therefore he must give a get or be matir his neder.

R' Yoel Asher: It's very similar to what we had before. If a condition, if she says: "al menas shetavo al avicha", we can't force the father to do a prohibition. Mah she'ein kein if she says with a condition, there the Rambam said...

R' Yitzchak: Okay. And here this works more, I mean this is a law in Hilchos Nedarim more like. That means, there's such a thing –

R' Yoel Asher: A person can outsmart the system.

R' Yitzchak: It can't be **"nishba al mah shekatuv baTorah"**, and I'll go make a neder. A neder one can make, why? Because he doesn't make the neder on the thing. If he makes, here he can't, on the thing that already belongs to her he can't, because it's not his. But this is a hana'ah that is his –

R' Yoel Asher: Even though it's an obligation.

R' Yitzchak: He has an obligation to make the hana'ah as if. By the way, here we see he can't say

I'll do tashmish without hana'ah, right? That's not such a thing. So, hana'ah doesn't mean a pleasure, it means like the use. He can't, what belongs to him he can prohibit, and now as if the obligation is a side thing. And we can't, eh should we force him? We can't, we don't force a person to do a sin. So it remains stuck, therefore he is yotzei.

Halacha 7: The Prohibition of Withholding Onah and the Law of Illness

Why Is the Prohibition Only Mentioned by Onah?

R' Yoel Asher: "Asur l'adam limno'a ishto onatah".

R' Yitzchak: Here comes out an interesting thing.

R' Yoel Asher: Here he's going to discuss the mitzvah.

R' Yitzchak: Yes. Why didn't he say it before? Simply, also **"she'arah lo yigra"**, why is there only a prohibition on onah? What did he mention here?

R' Yoel Asher: Ah, a good question. We could have said on she'arah and kesusah also, that if one simply withholds to pain her.

R' Yitzchak: Perhaps it's not, well, I don't know. Let's see. Ah, he says that in Sefer HaMitzvos it actually says that indeed. Could be. Perhaps this is more common.

R' Yoel Asher: I don't know. It could also be different, because we also learned that on she'arah kesusah mechilah can help, that he's then not transgressing here on **"lo yigra"**.

R' Yitzchak: A condition, that's a condition. Mechilah helps on onah, he can make a condition. Okay.

R' Yoel Asher: So what does it have to do with? Let's not do it. So the language is that it's weaker as if because it's still dependent on people, mah she'ein kein...

R' Yitzchak: Like a type of money, okay.

R' Yoel Asher: But why? No, because of this he says it here, because here is a stronger prohibition more.

R' Yitzchak: Yes. It always remains.

The Condition of "Kedei L'Tza'arah"

R' Yoel Asher: Okay. **"Asur l'adam limno'a ishto onatah"**. A husband may not withhold from the wife the right that she has, according to all these measures of onos that we discussed here. **"V'im mana"**, if he only withheld, **"kedei l'tza'arah"**, here the Rambam adds very important words, meaning, if the withholding is for other reasons, like we learned about he works far away and so on, even if he has no right, or perhaps other reasons, but when the reason is kedei l'tza'arah, to take away from her the right that she has, interesting. No –

R' Yitzchak: Kedei l'tza'arah is more than taking away the right, it's as if he's angry at her, he wants her to have a bad week this week, I know what here... Yes.

R' Yoel Asher: "Avar b'lo ta'aseh", it says in the Rambam when does he...

R' Yitzchak: It's entirely l'tza'arah? But that's certainly concluding l'tza'arah, l'tza'arah means that he's fighting with her, something like that, he wants to spite her. Right.

R' Yoel Asher: Not because he doesn't have strength, but he has strength here and he has desire, but he doesn't want to do it because he has the spite...

R' Yitzchak: And also l'afukei so we can argue about this, even situations where he has no right, yes, he says **"asur la'asos atzmo malach"**, I know what, but if he did do it, did he transgress on the laws of Choshen Mishpat –

R' Yoel Asher: But not on the prohibition. Later we'll also see what, it's very tricky when he says when l'tza'arah and when really he can't, okay.

R' Yitzchak: We'll see later.

An Ill Person or One Whose Strength Has Weakened: Six Months Waiting Time

R' Yoel Asher: "Shene'emar she'arah kesusah v'onatah lo yigra". The Rambam says, but **"v'im chalah o tashash kocho"**, but if the reason why he doesn't do it is because it depends on his strength and health of his work, that we learned before –

R' Yitzchak: "V'eino yachol liv'ol",

R' Yoel Asher: He can't, so **"yamtin shishah chadashim"**, let him wait six months **"shema yavri"**. We see here again that six months is the minimum.

R' Yitzchak: The maximum. That means, the minimum, whatever you call it.

R' Yoel Asher: The greatest onah that can be.

R' Yitzchak: It's at least six months must be.

R' Yoel Asher: Right. **"She'ein lecha onah gedolah mizo"**, this is the... less than this no one can do.

R' Yitzchak: "V'achar kach",

R' Yoel Asher: Afterwards it's like this: he doesn't do it l'tza'arah, he does it because he doesn't have strength, so **"o yitol mimenah reshus"**, or he must take from her permission, and if she is mochel then he can remain with her further, and it seems then that he doesn't transgress then on **"lo yigra"**. She is mochel. Meaning only like an ones, like one who does a sin under duress.

R' Yitzchak: Yes, he has permission.

R' Yoel Asher: I don't understand. Okay, yes, permission means that it's not tza'ar, it's not l'tza'arah. **"O yotzei v'yitein ketubah"**,

R' Yitzchak: It says that she's the best to remain married even so.

R' Yoel Asher: If she doesn't want to give permission he must be **"yotzei v'yitein ketubah"**.

R' Yitzchak: Here we see what was said before, that onah is like a condition, true like by she'arah and kesusah we had a similar thing like we say, but he can't, even if it's not his fault, he didn't do anything bad, but he can't, he can't, but then we give him –

R' Yoel Asher: Six whole months to wait.

R' Yitzchak: Yes, so of course no. It's very good.

Halacha 8: Laws of a Moredet and the Claim of "Ma'astiv"

The Nature of a Wife's Obligation and the Definition of a Moredet

R' Yitzchak: Now we're going to learn, since there's a concept of onah, we're going to learn backwards what if she doesn't want.

R' Yoel Asher: What if she doesn't want?

R' Yitzchak: She doesn't transgress a prohibition.

R' Yoel Asher: But what is her sin?

R' Yitzchak: What is her thing?

R' Yoel Asher: It's worse with this.

R' Yitzchak: Meaning, it's somewhere the same thing.

R' Yoel Asher: His flaw is, he doesn't fulfill his obligation.

R' Yitzchak: Her flaw is that she's rebelling.

R' Yoel Asher: That she's rebelling against, he acquired her, she goes against, whatever, she's a rebel.

R' Yitzchak: She also has an obligation here.

R' Yoel Asher: It's such an obvious obligation, that we don't even need a verse for it, something like that. Yes, but it's also interesting, because moredet is a concept of rebellion like a mored b'malchus, a rebellion against authority. So is there some certain authority, that the husband has a right and she must always be available?

R' Yitzchak: Meaning, it's not the same the obligation of the husband and the obligation of the wife. **"Hi hanikret moredet"**. And what happens when a wife withholds her husband from tashmish hamitah? It's like this: **"Ha'ishah shemana'ah"**, first the Rambam says like a word, you should know, that it says in the Gemara moredet, it means this, because then on this there's a question. There were those who said moredet means moredet from mezonos and so on, from ma'aseh yadayim. The Rambam says,

moredet that I'm talking about, means mona'as ba'alah mitashmish hamitah –

R' Yoel Asher: Yes? **"Hi hanikret moredet"**. That means, she makes a rebellion in this –

R' Yitzchak: Against the husband.

The Claim of "Ma'astiv" and Forcing a Get Immediately

R' Yoel Asher: Yes? And what do we do when a wife does this, when a wife withholds her husband from tashmish hamitah? **"V'sho'alin osah mipnei mah maradah"**. We ask her, why did you do this act of rebellion?

R' Yitzchak: Ahh.

R' Yoel Asher: There's such a big distinction: **"Im amrah"**, if she says that the reason why I'm doing it is because I have no choice, she's as if compelled, **"ma'astiv"**, I was disgusted, **"v'eini yecholah l'hiba'el lo mida'ati"**. Da'ati means from my will, I can't bring myself to do it. Yes? Ahh. Then she becomes, then we don't look at her as a moredet, just like that, no no –

R' Yitzchak: The Rambam says moredet, she is indeed a moredet.

R' Yoel Asher: But then what is? So **"kofin oso l'hotzi l'she'ato"**.

R' Yitzchak: We force him to give her a get. What does l'she'ato mean? L'she'ato means immediately. He doesn't get chances, there are no chances. Chances is when she's fighting with him, we give her chances perhaps to make peace. But she says she doesn't want, no problem, go home.

R' Yoel Asher: L'chaim u'l'shalom, this shidduch isn't relevant as it were.

Discussion: The Definition of "Meastihuu" and "Lifi She'einah Bishviyah"

R' Yitzchak: The Rambam says:

R' Yoel Asher: "Lifi she'einah bishviyah", I already learned this last night too, the husband cannot imprison his wife in a jail, **"shetiv'el lishnui lah"**. The wife is not in captivity, that she should be forced to allow herself to be violated by someone she hates. She doesn't love him, she doesn't have... she would have wanted –

R' Yitzchak: But she feels disgusted. No, I don't agree. I want to say clearly. "Ma'us alai" doesn't mean that she is forced. The difference between mi'us and moredet is certainly not in the Rambam, except that she has an excuse, a good objective excuse. She has nothing objective. She doesn't want to, she doesn't love him.

R' Yoel Asher: No, but she doesn't want to, she doesn't want him as a husband. Different from later –

R' Yitzchak: He's a good husband.

R' Yoel Asher: But she needs him to fix things, there should be drama. Here there's no drama, he says.

R' Yitzchak: Right, I'm saying that people think that "ma'us alai" means unfortunately she's stuck. She's not stuck. She doesn't want to, that's it. We won't force her, we won't give her any ketubah, we won't give her anything, because it's her fault, she said she doesn't want to.

R' Yoel Asher: But you can't force someone to have a marriage.

R' Yitzchak: We're not forcing her to have a marriage, to remain married. But the kinyan of a wife –

R' Yoel Asher: Is different from all other kinyanim, because it's the only one where she is also the makneh, she is makneh herself, and she is the kinyan. Unlike a garbage bag which is never, I mean vessels are never mored, but they belong to him.

R' Yitzchak: I don't even know if it's a wrong. The difference between mi'us, meastihuu and moredet is only that she doesn't want at all, and you don't force a woman to remain when she doesn't want at all. She doesn't want at all, she can go. Not that you can, you force him, because it means you can't, you tell the husband, what do you want to do? She doesn't want –

R' Yoel Asher: He must give her a get.

R' Yitzchak: He must give her a get? But he doesn't have to pay anything for it. **"Kofin oto**

lehotzi", says the Rambam, **"vetatze belo ketubah klal"**.

R' Yoel Asher: So technically here we have for the first time that the wife is the one who can get... there's a way how a wife, a woman can get a get, by saying:

Continuation of Halacha 8: The Law of a Moredet of "Ma'us Alai" – Coercion for a Get and Losing the Ketubah

The Wife's Power to Obtain a Get and the Reasoning for Losing the Ketubah

R' Yitzchak: She doesn't want at all, she can go. Not that you can, you force him. You tell the husband: what should be done? She doesn't want.

R' Yoel Asher: You must give her a get. You must give her a get?

R' Yitzchak: But you don't have to pay anything for it. **Kofin oto lehotzi**, says the Rambam,

R' Yoel Asher: Vetatze belo ketubah klal. So technically, here for a minute this is the first time that the wife is the one who can get... there's a way how a woman can get a get, by saying **measthuu**. Right? We haven't learned get at all yet, okay. But what yes? What does she lose yes? Ketubah. Ketubah is something that the husband writes.

R' Yitzchak: It's something that... means that she only gets through the beit din coercing the husband, right,

R' Yoel Asher: She doesn't get directly? Right, right. She has the right to demand the get, and the beit din will coerce him. But what then? She will lose the ketubah, because the ketubah is something that the husband gives **kedei shelo tehei kalah be'einav lehotzi'ah**, and here she is the one who doesn't care, she goes out **belo ketubah**.

Bela'yoteha Hakayamin and Returning the Husband's Gifts

But what yes? **Vetitol bela'yoteha hakayamin**. He can't take away her clothes, the worn clothes. It means, once a year we learned you buy clothes. He doesn't have to buy her new clothes now, but what she has, she keeps. **Bein minechassim shehichnisah laba'al venitchayev be'achrayutan**, fine,

R' Yitzchak: Bela'yoteha means her own things, it's...

R' Yoel Asher: Bela'yoteha doesn't necessarily mean clothes, **bela'yoteha** means worn-out things. From what kinds of things? It means used things?

R' Yitzchak: Things that she brought.

R' Yoel Asher: Right. **Bela'yoteha**, the worn items from her dowry that she brought in. Here he says which type of dowry: whether what's called nichsei melog, or whether what's called nichsei tzon barzel. **Bein minechassim shehichnisah laba'al**, and the husband became **nitchayev be'achrayutan**, and that's called nichsei tzon barzel, **bein minechassim** that the husband only eats the fruits from, and is **lo nitchayev be'achrayutan**, which is called nichsei melog. It's... It means,

R' Yitzchak: What she brought, she can go home with it.

R' Yoel Asher: But from the husband she takes nothing: **ve'einah notelet mishel ba'alah klum, va'afilu mina'al sheberaglah umitpachat sheberashah** that he bought her,

R' Yitzchak: Shelakach lah, it's... It means his obligation by law of she'er vechesut,

R' Yoel Asher: Right, that must be bought every yom tov, what further? **Poshetat venotenet**. She takes it off, she gives it back to him, yes. **Vechen kol shenatan lah matanah machazeret oto**, she gives it back to him, **shelo natan lah al menat shetitol vetatze**.

R' Yitzchak: Oh, good.

R' Yoel Asher: You need to know... what you need to know is, how many years, I mean, if for example ten years she was a good wife, can he now take her shoes?

R' Yitzchak: Yes, she had it, she had it until now, but he didn't give it as a gift that she should have it as a divorcee, which she herself wanted.

R' Yoel Asher: Okay, yes. She had it until now, it's not a problem.

The Foundation of "Ve'eini Yecholah" and the Confusion in Modern Times

So, okay, fine, that's all, that's all when she says **meastihuu** and she can't. **Ve'eini yecholah** I think is the more important word than **meastihuu**. The Rambam inserted the word **ve'eini yecholah**.

R' Yitzchak: Because I said, the word here isn't that she's forced, she's forced willingly, it doesn't make any difference. The point is, she doesn't hold by it. Right, good day.

R' Yoel Asher: There's no one to talk to. Be realistic, yes? **Ve'im mardah**, now these things are very much reality, which makes a lot of sense. **Ve'im**, but she doesn't say **meastihuu** and I can't. But what then? **Mardah mitachat ba'alah kedei letza'ero**. And to cause him pain. I hold that nowadays

R' Yitzchak: When ketubah doesn't mean anything, you also have to say that she can't have the children. But that's my shitah, already. **Ve'im mardah**, because for this you need to understand, there can be a person, today, I may say this, today there's a whole confusion, because the poskim, not everyone agrees with the Rambam. This is the shitat haRambam vehaGeonim that you can see soon, that for ma'us alai we **kofin oto lehotzi**, there's a dispute about this, etc. etc. But in any case, as you say, the logic here makes sense.

But always, even according to the Rambam that when she says **meastihuu** she gets a get, she gets nothing for it. The whole ketubah is what the wife relies on, she gets when it's given to her, as you say **kedei shelo tehei kalah be'einav**, she loses, she loses very much. She loses even what she had until now. She gives back, she takes off even, she takes off her, whatever, her bekitche. **Mitpachat sheberashah**. **Mitpachat sheberashah**.

And in modern times, those who say with this shitah, say: yes, she gets, you can force him to give a get, but she also takes his things, and he will still pay her for it, mezonot, because it says ba'al chayav bimezonot, and he pays it for her. Right by the way, the whole thing that they say mezonot for the children is false. It's not given for the children, it's given for the wife.

R' Yoel Asher: Okay, because she's the one who takes care of them day by day.

R' Yitzchak: Yes, yes, so in short it's given to her, she doesn't have to buy mezonot with it, you know? There was once a person who called his wife to beit din, he says that she doesn't buy enough for the children, does he take back the mezonot? No, it goes straight into her bank account, what a proper, original mezonot for the children means that he should

R' Yoel Asher: Go shopping for them.

R' Yitzchak: Okay, you have to, it's not a question, listen, I'm just saying that the reality is that today when the halacha is used, it's used that he still has to pay also. So why did the world have to make a takanah that she has to lose something for this? It can't be that I can be a claimant, and it's my problem, let's say with the Rambam who **kofin oto lehotzi**, but it can't be that he has to pay afterwards.

R' Yoel Asher: Makes no sense.

Halacha 9: Moredet Kedei Letza'ero – Warning and Proclamation

The Difference Between "Meastihuu" and "Kedei Letza'ero"

The Rambam says further: **"Ve'im mardah mitachat ba'alah kedei letza'ero"**,

R' Yitzchak: Ah,

R' Yoel Asher: If it's not the case of **meastihuu**, but she does it **kedei letza'ero**, **"ve'amrah"** even more. She makes drama. Yes, **"ve'amrah hareini metza'eret oto bechach mipnei she'asah li kach vechach"**, very different from **meastihuu**. **Meastihuu** means: I can't stand him, she's become estranged from him. Here she's not estranged from him, there's some connection but she's insulted,

R' Yitzchak: Yes.

R' Yoel Asher: There there's love, there's also drama. There's hatred, there's similar things. **Ki azah chamavet ahavah, kashah kish'ol kin'ah**. **"O mipnei shekilalni o mipnei she'asah imi merivah"**, I want to fix him. So it's clear that this rebellion is itself part of a relationship, if you would say so. That rebellion there is out of a relationship, she's going out of the relationship. Here it's part of the relationship, she now has a complicated relationship, and they say: we'll fix him. You did this to me, I'll do that to you.

The First Warning from Beit Din

"Vechayotza bidevarim eilu", so it's like this: **"sholchin lah mibeit din"**, and he calls her to beit din, she says it before beit din, yes, **"sholchin lah mibeit din ve'omrin lah"**, it's interesting the language **sholchin lah**, because seemingly here **ve'amrah** is, she says it before beit din. It could be that she says it to the husband, the husband comes to say before beit din that this is what she said. **"Sholchin lah mibeit din ve'omrin lah"** they say like this: **"hevi yoda'at"** you should know **"she'im at omedet bemardech"**, that if you remain with your foolish rebellion, **"afilu ketubatech me'ah maneh"**, even if your ketubah is one hundred maneh, **"hifsadet otah"** you lose it.

R' Yitzchak: They scare her.

Discussion: The Language of Choshen Mishpat Versus the Prohibition of "Benei Merivah"

R' Yoel Asher: I want to throw in here that we're not talking here about shalom bayit. It means like this, the beit din won't now be the babysitter to say: why did you scold her? Say quickly "I'm sorry", and now you'll become the best little sheep. It could be that's also done, but the Rambam doesn't speak of that here. Here we speak of the Choshen Mishpat aspect, the rights and obligations language, if she's right. What I want to say is, later we'll see that he's not allowed to live with her during a quarrel, yes? Does the Rambam bring here the benei tesha midot?

R' Yitzchak: But he says yes.

R' Yoel Asher: No, but I want to say something. For example when she says: why wasn't I with him last week? A whole week he behaved, he did with me, he bothered me. Nu. So it could be that the rav, the mashpia, will say: Hey, hey, you know that you're not allowed to live with a wife benei merivah?

R' Yitzchak: What? It's not relevant, he doesn't do it. There's no tashmish here. Both can't anymore,

R' Yoel Asher: Again, he wanted, she didn't let. I'm saying, if you're in the middle of a quarrel, she's even right not to want to have tashmish, because benei merivah is from the benei tesha midot, they'll tell him: apologize to her quickly. But not here is the place, let me finish my point, but not here is the place where all these kinds of things will be discussed. I'm saying, except when there's the issue, he scolded her and she was now mored, except for the right of onah, there are other parts to this. There's also later that a person must be nice to his wife, and that in truth they're not allowed to have onah because they scold each other which is from the benei tesha midot where there's benei merivah and benei shichrut. But what then? Here we speak of the onah part.

R' Yitzchak: A small thing was thrown in but I don't agree with it. You're never allowed to be mored, not even during a quarrel.

R' Yoel Asher: That's the section of moredet. You're not allowed. Fine, the Rambam says further:

R' Yitzchak: She can do teshuvah, we give her time to do teshuvah. She just needs to do teshuvah to apologize, no problem, that's already details.

R' Yoel Asher: You're already arguing further. I'm just saying that the Rambam here speaks of the department of the beit din. At the beit din, the yeshiva where it says onah department, tells him like this. But later the Rambam will speak the other language, that he can't force her, and the Rambam says that you're not allowed to do it through quarreling, all these things.

R' Yitzchak: It's clear. The coercion doesn't come in here, we're talking here that it doesn't exist. The assumption of forcing is never, for that she's a moredet because he can't force her. When he can force her it's not moredet, let's think about it. We don't think about it. It doesn't exist, she goes away, it's not relevant, she doesn't listen. He doesn't force her, he's not an animal, he's not a wicked person, he's not a non-Jew, we're talking about a normal person.

R' Yoel Asher: No,

R' Yitzchak: I'm saying benei merivah is in general, speaks of a much smaller level. He speaks simply that you're not completely with the love. It doesn't speak of her saying I don't want and he forces her, then he's simply a wild animal. There's no such option here at all in all these halachot. Moredet means simply that she says I don't want, right? It doesn't mean more than that.

The Proclamation in Shul for Four Weeks and the Second Warning

R' Yoel Asher: Right? Yes, the Rambam says further: **Ve'achar kach**,

R' Yitzchak: After they've already warned her, it means they warn her.

R' Yoel Asher: Yes, they warn her, they warn her that you're going to lose your ketubah. **Ve'achar kach machrizin aleha bebatei knesiyot uvebatei midrashot bechol yom, arba shabtot zo achar zo**. Four weeks, they call out in shul, they shame her, they use shaming. **Ve'omrin pelonit mardah al ba'alah**. It's interesting. **Pelonit mardah al ba'alah**. Yes. It's interesting, but yes, but women don't come to shul and it's still a weird thing, the men by themselves talk about the tashmish hamitah of so-and-so. An interesting thing.

R' Yitzchak: A chutzpah from the wife looks terrible...

R' Yoel Asher: That means such a matter of disgrace.

R' Yitzchak: That... yes, yes, that's the point, the point is the disgrace.

R' Yoel Asher: It's interesting. They want to shame her. It seems that threatening with the ketubah is still not enough.

R' Yitzchak: Pelonit mardah al ba'alah. No, they threatened her that she'll lose it, but it didn't help. Did it help? Certainly it will help. Yes,

R' Yoel Asher: Yes.

R' Yitzchak: Ve'achar, after they've already called it out,

R' Yoel Asher: There's a chazakah here the measure of three months, three holidays, four weeks, four times, once after the second, that means, it's interesting, because there was such an institution called **hachrazah bebatei knesiyot uvebatei midrashot**. It was also called ikuv kriah, a person could go up in the middle of reading, not let them read, that even in our shul.

R' Yitzchak: That's a later thing. But today there's also this, they call out in the beit midrash for appeals. After the appeals they call this out: Rabbotai, **pelonit mardah al ba'alah**. By the way, today they also tell such things,

R' Yoel Asher: But they write it on WhatsApp. Today they do it in the mikvah, not in shul. He says: **Ve'achar hahachrazah sholchin lah pa'am sheniyah ve'omrin lah**. They tell her: **Im at omedet bemardech hifsadet ketubatech**.

R' Yitzchak: You see clearly here that the ketubah was always a great threat.

R' Yoel Asher: But why do they warn with the ketubah twice? Because perhaps the first time they think you're bluffing.

R' Yitzchak: It's all like Pharaoh, they warn, they warn,

R' Yoel Asher: They warn. Because this is all the warning,

R' Yitzchak: By law you would have to give a get immediately without a ketubah.

R' Yoel Asher: It seems that the ketubah is such a big deal that it's worse than the proclamation. It's much worse than the proclamation. The proclamation is just a tool in preparing

R' Yitzchak: For the warning about the ketubah.

R' Yoel Asher: **And after the proclamation they send to her a second time**...

Law 10: The Order of Loss of Ketubah and the Twelve Months

The Warnings and the Definition of "Nimlechin Bah"

R' Yoel Asher: She's going to lose a ketubah here.

R' Yitzchak: Right. We see clearly here that the ketubah was always a big threat.

R' Yoel Asher: But you see... why do they warn with the ketubah twice? Because perhaps the first time she thinks they're bluffing...

R' Yitzchak: No, it's all like Pharaoh: they warn, they warn, they warn, perhaps, maybe and possibly. Yes, wait.

R' Yoel Asher: If she persisted in her rebellion, and this is all before the divorce.

R' Yitzchak: That means, according to the law they should have immediately given a get without a ketubah. Yes, it seems that the...

R' Yoel Asher: The ketubah is such a big deal that it's worse than the proclamation. It's much worse than the proclamation. The proclamation is only a tool in preparing for the loss of the ketubah. Certainly. **And after the proclamation they send to her from the court a second time...**

R' Yitzchak: There are levels of warning. I don't know exactly what the plain meaning is here.

R' Yoel Asher: But we see here a concept of warning three times. **If she persisted in her rebellion and did not return**, the third time, **nimlechin bah**. What does **nimlechin bah** mean?

R' Yitzchak: Then they talk with her.

R' Yoel Asher: What does it mean they talk with her?

R' Yitzchak: They try to persuade her again.

R' Yoel Asher: It means even then, besides the proclamation, there's also... There are two things. There's something like a good cop and a bad cop. There's the person who makes the proclamations, the announcer, and there's the nimleach, someone talks with her, tries to better understand what's going on. "Nimlechin" means they go to therapy. That means, proclamation is one thing, and **nimlechin bah** is more... they try to understand where she's coming from.

R' Yitzchak: It doesn't say clearly, but what does nimlechin mean...

R' Yoel Asher: Nimleach is a language from **nimleach bemalchei hasharet**, they take her, they give her advice...

R' Yitzchak: They try to talk to her... persuade, yes, yes, right, okay. To convince her, it's not clear. You're right, perhaps here stands the shalom bayit. It's very funny, after the whole threat, then they remember

R' Yoel Asher: To make shalom bayit. No, because now she's already broken, she's already opened her eyes that something is wrong here, and the whole world is against her. Often it's necessary to push until the end, and then one is ready.

R' Yitzchak: Okay. Whatever it is already.

The Process is for Her Benefit to Protect Her

R' Yoel Asher: Nimlechin bah, and if they see that nothing helps, then **she loses her ketubah and she will have no ketubah at all**. And what happens now... That means, we're talking about the whole thing when the husband still doesn't want to divorce her.

R' Yitzchak: No, no, he wants to. The husband wants to divorce her immediately.

R' Yoel Asher: But the husband can give her a get right away.

R' Yitzchak: He can, but with a ketubah. He can with a ketubah, he doesn't want to.

R' Yoel Asher: He doesn't want to... That means losing the ketubah, certainly only.

R' Yitzchak: If he wants to immediately give a get with a ketubah, he can any minute.

R' Yoel Asher: Right, so all these things are... essentially all these proclamations are still to protect her, that until then she still must receive the ketubah.

R' Yitzchak: Right, right. It's very... they give her very much. Presumably you're right, because it turns out that a person gets angry, you can't immediately say moredet, this is apparently the...

R' Yoel Asher: Right, very good.

R' Yitzchak: Yes. It's built very... the law is very nice to her in a certain sense.

Discussion: The Obligation of Onah as Choshen Mishpat versus Shalom Bayit

R' Yoel Asher: Do you understand what I'm saying? Yes. No, but I'm saying, from the subtext of these things it can look like they're torturing the wife, and the husband can be the biggest animal. The husband cursed her with harsh curses. But what are they saying, here we're talking about the law of onah. It could be that the rav also takes on the husband's bones, and he teaches him what wrongs it is to curse people. It looks very strongly as if, there's such a damaged shalom bayit, so she indeed did the serious thing of not doing onah, but he curses. No, I don't believe, it's not a true claim, but that's not the subject here further.

R' Yitzchak: I don't know, that's a different subject. They called the person, he should stop cursing already.

R' Yoel Asher: They go to the beit din cursing department. Here we're talking the whole time about onah, ketubah, this thing.

R' Yitzchak: All these laws are Choshen Mishpat, it's not laws that we learn from shalom bayit. I don't know, shalom bayit must be learned somewhere else.

R' Yoel Asher: The Rambam says further: **And they don't give her a get until twelve months.** Until twelve months.

R' Yitzchak: Twelve months, which we're talking about... I'll just say one thing: there's no right, a woman has no right to rebel. No, because that's like... let me ask another question, why don't you look at it this way? You must remember, you're looking at laws that onah is an obligation, it's even more than a monetary obligation, at least a monetary obligation.

Imagine the husband says one day... okay, I want to tell a story. You sound like, I'm sorry that I'm talking nonsense here, it's relevant though. When a woman comes and says: "I don't want to go to the mikvah", yes, she's a moredet from relations. She says why? "The husband cursed." The rav says to her: why did he curse? Okay.

Tomorrow a husband comes, a woman comes into beit din, she says another story: "My husband stopped buying lunch." Every day, a husband must buy, must pay. Sure. He doesn't put in, I have a bank account. Onah is a greater obligation, they say it's a greater obligation. Just as the husband has an obligation to give her a credit card, she has an obligation not to rebel from relations. It's the same thing.

R' Yoel Asher: Okay.

R' Yitzchak: Onah is a funny person. Yes, but we see later when the

R' Yoel Asher: Rambam adds: onah is a different thing. It's not different, it's worse. It seems in halacha that it's worse.

R' Yitzchak: Again, Master of the Universe, this is already details. After you're an obligation,

R' Yoel Asher: You must put yourself in the situation. But the details are also relevant.

R' Yitzchak: I'm talking now about the reality when they come to the judge. The judge doesn't only learn this chapter, the judge also learns the next chapter that you're telling us that we must have here. No, it's the next chapter. No, it's a bad chapter in Even HaEzer. No. Here in this chapter it also says we don't force anyone. But there's no right. We also don't force a person to give livelihood. But one must. It's the same thing, it's such a rebellion. There's no excuse "I'm not in the mood."

At least when I excuse myself, I see it's not for her, you give her a get without a ketubah. No problem! Any time she can say **ma'astihoo** and I don't want a ketubah. She can always do that, certainly according to the Rambam. There are other Rishonim who argue about this. But according to the Rambam she can always say that. But there's no permission. I'm just bringing out that we are...

R' Yoel Asher: I'm not saying it's a permission, I'm saying the opposite. We're dividing two laws, we can also care about the general rule. That she says that a thief says that one may not steal.

R' Yitzchak: Okay, I'm asking a question: when the husband stops, closes all her credit cards, do you also immediately start thinking perhaps is

R' Yoel Asher: That's an analogy of

R' Yitzchak: The dispute they had before?

R' Yoel Asher: It's different. It's not different, it's always... Okay, let's go further. It's the opposite! It's different, different... It's not different, I don't agree. Let's finish the whole Rambam, because the Rambam later will bring more things about fairness and unfairness. Again, we never say this in this context. It's not true. It's not different, it's worse. The Rambam says: **In this order**, let's not talk personal about it. Be personal, very important.

The Definition of "And They Don't Give Her a Get Until Twelve Months"

R' Yoel Asher: The Rambam says thus: **In this order they do to her,**

R' Yitzchak: And they don't give her a get until twelve months. Not only that they leave her a month, four weeks, after she's already lost the entire ketubah,

R' Yoel Asher: She still gets more, more time. Yes? **And they don't give her a get until twelve months.** Until twelve months he doesn't have to give her a get. No,

R' Yitzchak: And also... He can give her a get, but with a ketubah. He may not give her a get...

R' Yoel Asher: Ah, she still hasn't lost the ketubah. Very good.

R' Yitzchak: And they don't give her a get until twelve months. I don't know what the plain meaning of this is. Perhaps they will be appeased.

R' Yoel Asher: No, it's her right that he doesn't leave her yet, he can't yet go now have a wedding with another and leave her.

R' Yitzchak: No, no, no. Always she's the one who wants the get here. That's the whole story of what we're talking about, she says "I don't want him", Master of the Universe!

R' Yoel Asher: They're going to give her a get without a ketubah. Yes, but they hold her back.

R' Yitzchak: Let's say in the twelve months she breaks. If she breaks in the twelve months, wait a minute,

R' Yoel Asher: I want to know, if she breaks in the twelve months. Yes. But apparently he will have to make a new ketubah from the law **it is forbidden for a man to stay with his wife without a ketubah**. So she hasn't really lost her ketubah, so yes they're taking care of her. I don't know. It's all for her benefit, the whole time is for her benefit.

I would have said the plain meaning like this: that since there's a concept of to pain him, one must give it. It comes out that we see here the concept, the Sages indeed wanted that one shouldn't make a get just like that, I don't know if because of **the altar sheds tears**.

R' Yitzchak: Yes, they try.

R' Yoel Asher: They try. And he doesn't yet lose the right to keep her as his wife, and perhaps she'll, she'll come around, six months later she'll finally forgive that he cursed her. But in the twelve months she doesn't have maintenance, because if she doesn't provide onah, she's a moredet, so she's now in a situation that she's lost the right to maintenance.

R' Yitzchak: Right. But I'm saying that in the twelve months, theoretically she's lost the ketubah, but they're still waiting, perhaps they'll be appeased. And indeed, after they'll be

appeased he'll apparently have to make a ketubah, I don't know.

R' Yoel Asher: There's no ketubah. And also if they're both in agreement that there's no choice, whether he'll still have to give a ketubah or not, that's the question.

R' Yitzchak: Within twelve months can

R' Yoel Asher: He can't send her away without a ketubah. It's interesting, because it did say **and she will have no ketubah at all**.

R' Yitzchak: And what only? **And they don't give her a get**. It could be that **and they don't give her a get**...

R' Yoel Asher: And they don't give her a get means that he has a right, they don't pressure him, they don't force him to give a get.

R' Yitzchak: They don't force, you keep on saying they don't force him. They only force him when she wants,

R' Yoel Asher: When she says **ma'astihoo**. Right, here she indeed wants it.

R' Yitzchak: They don't force her, she has the right to say I don't want a get yet, okay. The point of the time makes sense, people will calm down with time. If they'll calm down they'll go back to the old normal, that's the whole thing. But it's not clear what happens in the twelve months.

R' Yoel Asher: Do you understand what I'm saying? Yes.

R' Yitzchak: Okay. It's very funny that all the commentators go in here **we force him to divorce**. I don't understand, it doesn't come up, it makes it backwards. The plain meaning here is that she wants to stay married and rebel from relations, as if, but she wants the ketubah, that's what she wants.

R' Yoel Asher: No, that's what the regular woman says: he must change, when he'll stop cursing, whatever, everything will be good. So such a process lasts twelve months, already.

The Rambam says: **And if she died before the get**, if she died,

R' Yitzchak: And they fought until the last day, then **her husband inherits her**, because he didn't lose rights, she lost rights. Something like that.

Law 11: Rebellion to Pain Him When There's No Relations Anyway, and Arusah and Yevamah

The Principle of Rebellion: The "Specifically" is Worse Than the Deed

R' Yoel Asher: The Rambam says: **In this order they do to her if she rebelled to pain him.** This order is done if she was rebellious, and the reason was to pain him. The Rambam says: **And even if she was a niddah or sick who is not fit for relations**, even if in truth she couldn't do relations, because she couldn't become pure,

R' Yitzchak: It's the same thing, the "specifically" is worse than the deed.

R' Yoel Asher: And even if her husband was a sailor whose onah is every six months, so he doesn't have the right anyway, but when she says: do you know why I don't have onah? Not because you're nine hundred miles away, but because I don't want to. Right. You see it's very strong the principle, it's the shame of the right, of being rejected. **And even if he has another wife**,

R' Yitzchak: Even if **he has another wife**, he doesn't lack onah at all,

R' Yoel Asher: But the thing is,

R' Yitzchak: She does it **to pain him**. He writes, **and likewise** the Rambam says, **and likewise**

Rebellion by an Arusah and a Yevamah

R' Yoel Asher: Who else is called a moredet? Interesting. **An arusah whose time has come to be married, and she rebels to pain him**, an arusah,

R' Yitzchak: Who has already received kiddushin,

R' Yoel Asher: And the time has come, as we learned earlier in the laws of kiddushin, that when the time comes, they give twelve months or

a widow thirty days, then **and she rebelled**, she was rebellious, she doesn't come to the wedding, and she does it **to pain him, and was not married**, she didn't have a wedding. That means she doesn't let, basically, **to be married** here also means the same thing: she doesn't let herself have onah, it doesn't mean she doesn't come to the feast.

R' Yitzchak: Yes.

R' Yoel Asher: But onah and wedding is the same thing. **This one**, that means **a moredet from relations**, they'll do the same order of proclamations four weeks, the whole process.

R' Yitzchak: And she had to have a wedding. Nisuin means onah, so what else does it mean?

R' Yoel Asher: And likewise a yevamah who didn't want to have yibum to pain him.

R' Yitzchak: Interesting. If she just doesn't want, she can perhaps say she wants chalitzah, but she does it specifically.

R' Yoel Asher: A yevamah who didn't want to have yibum, and she does it **to pain him**, it also seems that the zikah that he has, the mitzvah that he has to be a yavam is like an arusah, and she becomes obligated. Must one have a ma'amar? She becomes obligated from when they're called a yavam and a yevamah, we're not talking here about a shomeret yavam where they haven't yet decided which of the brothers...

The Law of a Yevamah Who is a Moredet and the Order of Proclamations

R' Yitzchak: What?

R' Yoel Asher: No, about that I'm saying, a yevamah can be after they've decided that they won't do chalitzah, but they'll do yibum and the like. **Who didn't want to have yibum** doesn't mean – one can always say, the Sages instituted chalitzah. **Who didn't want to have yibum** means that they discussed yibum, it's like her time has come to be married, the same as a normal woman means an arusah whose time has come to be married, so it means a yevamah whose time has come – I don't know where it said how much time they give for a yevamah – and she does it to pain him, so also **"in this order they do to them"**. I don't know.

R' Yitzchak: I don't know. Okay. It's a bit funny. Perhaps this is according to the opinion that one must do yibum.

R' Yoel Asher: Okay, I don't know.

R' Yitzchak: Aha. He says, it means I don't understand the law of yevamah clearly, one must know better the subject of yibum.

R' Yoel Asher: So there are all the doubts on the spot.

The Proclamations Against a Moredet

What we truly see here is, if there's a place for a truck with signs that should drive around and proclaim against people, it's against moredot.

R' Yitzchak: Not a truck, there's a source, they go by the reading of the Torah, or by... The Rambam says every day by them, the Rambam says four weeks every day, the other Rishonim say only Shabbat. There's a dispute. The Rambam says **four Sabbaths**, but it means every day. The Rambam says clearly every day. Okay, I don't know how...

R' Yoel Asher: Yes, Shabbat because the...

R' Yitzchak: Because the Rosh says that the public is in shul only Shabbat.

R' Yoel Asher: No, also because the onah is Friday night, she can run the next morning to the rav in the beit midrash.

R' Yitzchak: No, we're already talking about weeks that it's gone to beit din and they've made it clear, they've already judged.

Laws 12-13: The Property of a Rebellious Wife Who Leaves After Twelve Months

Okay, the rebellious wife:

R' Yoel Asher: "When she leaves after twelve months without a ketubah", she has already gone through the entire

R' Yitzchak: process and she leaves without a ketubah,

R' Yoel Asher: then **"she must return everything that belongs to the husband"**,

she must return everything to the husband, just as we learned earlier regarding when she says ma'is alai.

R' Yitzchak: I think it's apparently the same thing.

The Law of Seizure Regarding the Worn Items

R' Yoel Asher: But there is one difference. **"But property that she brought in and its worn items still exist"**, which we learned earlier by ma'is alai,

R' Yitzchak: it said that she receives it, and here it says she receives it only if she seizes it.

R' Yoel Asher: Here it doesn't come to her, but here there is a doubt. Here there is a doubt whether the worn items come to her or not. It seems that perhaps it is a doubt about what the law of the Talmud is, so automatically, **"if she seized"**, if she grabbed the worn items –

R' Yitzchak: in the Gemara and, the Rambam said

R' Yoel Asher: regarding all laws when the Gemara remains with a doubt it was a doubt about divorce, it's a kind of thing, a halachic ruling.

R' Yitzchak: Yes, by monetary matters seizure helps.

R' Yoel Asher: By monetary matters seizure helps, because what happens is that the Sages will not remove it from the hand of the possessor except with certainty, and a doubt does not remove from certainty. So **"if she seized"**, if she grabbed, **"we do not remove it from her hand"**. But **"and if the husband seized them"**, if he grabbed, **"we do not remove it from his hand"**, it will be such a case of whoever is stronger prevails.

R' Yitzchak: Oh yes, it doesn't mean whoever is stronger prevails, it means whoever was the possessor, basically.

R' Yoel Asher: Yes.

R' Yitzchak: You don't have a "prevails" here. Yes, but seizure can also mean that it's lying at her place.

R' Yoel Asher: She is holding it.

R' Yitzchak: Whatever, it's in her storage, whatever.

R' Yoel Asher: "We do not remove it from his hand". When someone comes to court, the court will not undertake to remove it.

R' Yitzchak: Not for her side,

R' Yoel Asher: and not for his side.

Lost Property for Which the Husband Accepted Responsibility

"And similarly all that was lost from her property for which the husband accepted responsibility". She brought in property, and the husband accepted responsibility. When there is a normal get, where the husband must give a ketubah, he must give responsibility, he must return the property, restore it as it was. **"He pays her nothing"**, because here you are leaving as a rebellious wife.

R' Yitzchak: Right, and what he would take responsibility for is only if he gives a get. Now that she is a rebellious wife, she can go in peace, she receives nothing, even the things that are entirely hers, they were lost. It has nothing to do with it.

Law 14: The Enactments of the Geonim in Babylonia Against the Law of the Talmud

R' Yoel Asher: The Rambam says: **"This"**, all that I have now explained, how the law of a rebellious wife works, and one goes to the court, there are proclamations, and how it goes with the ketubah – **"this is the law of the Talmud regarding rebellious wives"**, this is the law of the Gemara about a rebellious wife. But **"the Geonim said"**, in the books of the Geonim they say, **"that they have in Babylonia other customs regarding a rebellious wife"**, they say that in Babylonia they conducted themselves differently with a rebellious wife. He doesn't say that the Geonim say... It seems like the Geonim say that perhaps already in the time of the Talmud the custom there was different.

R' Yitzchak: No, no, in Babylonia means they made enactments for various reasons.

R' Yoel Asher: Okay, the Geonim had other enactments for rebellious wives.

R' Yitzchak: What? Yes, we can't now.

Discussion: What Did the Geonim Change?

R' Yoel Asher: But where does the difference come out? What did the Geonim do differently?

R' Yitzchak: They gave gittin immediately, they didn't wait twelve months.

R' Yoel Asher: They didn't wait so long for her.

R' Yitzchak: They weren't nimlechin bah? One must understand, it's a very complicated sugya, as you say. I remember that last time we learned more in depth all these opinions about this, but they changed. The Geonim I think said clearly, as the Rambam says, that it says one thing in the Gemara. It can be two things: it can be a dispute that's in the Gemara, and it can be that in the Gemara it says one thing, but the Geonim made an enactment that one does differently. So, the Rambam doesn't even say what the customs are. That means the Rambam understands that the Geonim knew that what's in the Gemara is one thing, but they had a different custom. But it can also be that they had it differently in the Gemara.

R' Yoel Asher: But their custom was more stringent on the wife. They let the husband send away a get without a ketubah earlier.

R' Yitzchak: It's not clear to me. One must understand how they understood. In short,

R' Yoel Asher: I think the dispute was the details of the four Sabbaths, how much time one gives, or more.

R' Yitzchak: Okay, it's not clear. They changed, but it can be that what they held is a rebellious wife, is what the Rambam calls ma'is alai. In short, it's a whole complication what the meaning is. Shulchan Aruch also doesn't bring the opinion of the enactment of the Geonim, but if I remember, the Geonim held – that means there's a question what the Geonim held, but the Rambam understood something that the Geonim say that one gives immediately a get without a ketubah basically, one doesn't wait the twelve months.

R' Yoel Asher: Do we force the husband to divorce? Did they have to force the husband, or did the husband have the right to give? That's not clear.

R' Yitzchak: It's also not clear as I say, the Rambam understood a certain definition according to how they learned what ma'astihu means and what rebellious wife means. The Geonim, what the Rambam calls a rebellious wife, they call ma'is alai. So it's a bit not

R' Yoel Asher: clear what one is talking about to begin with.

R' Yitzchak: So one must, in short, it's a bit of a mixed up sugya. In short, the Rambam here goes his way, that he always loves the Talmud.

The Rambam Rejects the Customs of Babylonia

R' Yoel Asher: The Rambam says that one should know that the custom of Babylonia, **"those customs did not spread among most of Israel"**. Most Jews, most courts, did not accept it. Custom among most of Israel means to say that the courts don't do so, it has no connection to a custom that every Jew does. Certainly,

R' Yitzchak: "Custom" means here, when the Rambam says **"customs"** doesn't mean that it's a custom,

R' Yoel Asher: It's a custom of the court, obviously. **"And many great ones dispute them in most places"**. In most places of Jews they didn't do like them, meaning **"many great ones"**, the courts, the Torah scholars disputed the Geonim. Therefore **"it is proper to hold and judge according to the law of the Talmud"**.

R' Yitzchak: That means **"dispute them"** means that besides the fact that one doesn't conduct oneself so, they also say that it's something not... not correct.

R' Yoel Asher: Right. Right, because it went against the Talmud. So he concludes: it is **"proper to hold"**.

R' Yitzchak: Not correct, not just, not,

R' Yoel Asher: But it's interesting, the Rambam has here a nice play on words, because he holds in the middle – he just said **"if she seized"**, whoever seizes, has it. Where is it worthwhile to seize? In the law of the Talmud.

R' Yitzchak: Interesting. **"To hold"** means one should accept, yes.

R' Yoel Asher: But I say, the word "seized" was simply lying on his tongue from the previous law.

R' Yitzchak: So the Rambam says that one should ignore the matter of...

R' Yoel Asher: And why does the Rambam bring at all that there are Geonim who say differently?

R' Yitzchak: Because presumably people know, the Rif brings it, these are things that everyone who learns the sugya will see, he immediately asks a question on the Rambam: but why do you say so? It says differently! The Rambam says, I know about it and I ignore it. Thus far the law of rebellious wives.

Law 15: The Law of a Husband Who Is a Rebel

Now we're going to learn about a rebel. There is also a rebel. Yes?

R' Yoel Asher: The Rambam says,

R' Yitzchak: Yes? **"One who rebels against his wife"**,

R' Yoel Asher: Yes, the Rambam says further.

The Meaning of the Term "Rebel" for a Husband

R' Yitzchak: It's interesting that he's also called a rebel.

R' Yoel Asher: Because a rebellious wife makes sense, on that it goes about a rebel regarding sustenance.

R' Yitzchak: Here he's going to talk about a rebel regarding sustenance? Yes both, I would have said that a rebel is a bit of a funny term, because a rebellious wife was interpreted as if he acquires her, and she is a rebel, she resists in his... But you see that there is such a thing as a rebel against his wife, so the terms... a rebel on the... he is a rebel from his obligation.

R' Yoel Asher: It can be so, that there are things where he is the king and she is subjugated. And there is the opposite, when he goes to work all day to bring her money, then he is the servant

R' Yitzchak: And she is the king. She is...

R' Yoel Asher: No, but here he is also a rebel from relations in the end. **"I will not have relations with her"**. Ah. **"One who rebels against his wife and says behold I sustain and support"**.

R' Yitzchak: One sees from the terms, one spoke about this at once, the terms work, they are not always particular about the hierarchy that he is on top.

R' Yoel Asher: So he is indeed a rebel in the deal between them. Rebel doesn't mean like a rebel against the kingdom. Therefore there can also be a...

R' Yitzchak: In short, both are kings, so I fear.

Why By the Husband It Only Says "I Hate Her" and Not "I Am Repulsed"

R' Yoel Asher: Yes. **"One who rebels against his wife and says behold I sustain and support"**. I will continue to sustain and support, **"but I will not have relations with her because I hate her"**, I hate her. This is very similar to the second type of rebellious wife. Earlier we learned about a rebellious wife who doesn't want to give him to pain him, like the first rebellious wife who says I am repulsed by him, this is also to pain her it means apparently.

R' Yitzchak: Here, why is it **"I hate her"**? Because apparently, by the husband "I am repulsed" is not applicable. I am repulsed? Give her a get! You can't have any claims on anyone. It's only applicable that he wants here, he is to anger here. He wants her specifically, yes, **"I hate her"** means the short version of what it says earlier because she curses me,

R' Yoel Asher: I know what, that's what he means.

The Fine of Adding to Her Ketubah

What does one do? By the wife one makes proclamations with these things, the husband one threatens with money, one knows that one works with men. **"We add to her ketubah"**, one adds to the ketubah all the time, **"the weight of thirty-six barley of silver"**, we learned earlier that the ketubah is a certain amount of barley, Rabbi also said barley, how many barleys it was.

R' Yitzchak: He says it's the dinar, yes.

R' Yoel Asher: So here one adds thirty-six, a bit more, barley of silver every Sabbath,

R' Yitzchak: Hmm. Every week, yes? Every week. And then one can remain. **"And he dwells"**?

R' Yoel Asher: Simply every time he is essentially a rebel, yes?

R' Yitzchak: Because every week is

R' Yoel Asher: indeed the measure. **"And he dwells"**, and he can remain living with her **"and not have relations as long as she wishes"**. As long as she – means if she demands a get, she says he doesn't give me a, we already learned earlier,

R' Yitzchak: she can demand a get.

R' Yoel Asher: Right after a week she can say I'm out of it. But if she stays, she sticks around, perhaps he will settle down and so forth. It's the longer story, the complication that with the wife one must make proclamations, how does one deal with the husband? One keeps taking from him more money.

R' Yitzchak: One doesn't take him money,

R' Yoel Asher: One obligates him more, that when he goes to her actually... So therefore basically, what he does is that either he should to her

Continuation of Law 15: The Prohibition of "He Shall Not Diminish" By a Rebel

The Purpose of the Fine and the Negative Commandment

R' Yoel Asher: And he dwells he can remain living with her **and not have relations as long as she wishes to remain**, as long as she... Simply is, if she demands a get, she says: he doesn't give me a... This we learned earlier, we already learned earlier.

R' Yitzchak: After a week she can say "the one who makes vows".

R' Yoel Asher: But if she stays, she sticks around, perhaps he will settle down and so forth – it's the longer story, the complication that with the wife one must make proclamations – how does one deal with the husband? One keeps taking from him more money.

R' Yitzchak: Not one takes him money, one is him...

R' Yoel Asher: One obligates him more that when he goes to her... actually, so therefore, basically what he does is, either he should to her, right, or he should better behave himself, stop being a rebel, or he should give her a get, free her. He doesn't yet want to give her a get, that's his motivation for the fine. Right, but no problem...

R' Yitzchak: The Rambam to pay. The Rambam says:

R' Yoel Asher: You should know that this is not instead. Simply, you shouldn't now think that: ah, I can afford it! He has several wives, to each one he gives thirty-six barley, and he is exempt. **And even though her ketubah keeps increasing**, but there is **he transgresses a negative commandment**.

R' Yitzchak: There is another part.

R' Yoel Asher: The negative commandment. Right, so it means that not that the thirty-six barley is as if in honor of this she forgives or something. No, she forgives nothing, he continues to transgress a negative commandment.

R' Yitzchak: As it says "he shall not diminish".

R' Yoel Asher: What one learns from this: **If he hates** he would expel her, **if he hates he shall send away**, he should expel her. There is indeed a mitzvah of... there is indeed an option of a get, he should give her a get. **If he hates he shall send away**? **If he hates**? This is built on

some Gemara, no? What the Gemara says. Do you remember such a thing? First a condition was made at the time of... ah.

But to afflict, to stay there and afflict her by withholding conjugal rights – interesting, the opposite of "onah" is "to afflict", yes? To afflict. Yes, there's a connection. **To afflict is forbidden**, he may not withhold, therefore he transgresses the prohibition, what he adds. He has a right.

This here the Rambam says very clearly, just as I said, that there are two laws here: the rabbi who is an influencer – you should know, you are transgressing a dangerous sin; after that the Choshen Mishpat session will put pressure by adding more money.

R' Yitzchak: As long as he... the Rambam also says one may not, as if. That he may not do it. One may not. What puts pressure, that's because he has the possibility.

R' Yoel Asher: One cannot force. She doesn't request a get, he doesn't yet want to give a get, therefore I think both times is because the court still wants, as long as, it shouldn't be a get as long as it's still possible, perhaps it will still work, but in the meantime he transgresses a prohibition.

R' Yitzchak: He transgresses a prohibition. And here the Rambam will say that lashes don't come.

R' Yoel Asher: Ah, see, here the Rambam says.

The Source for "If He Hates He Shall Send Away": Gemara Gittin and the Prophecy of Malachi

R' Yitzchak: Ah, but this I say, the Gemara, one brings a Gemara in Gittin 90, there's a verse: **"For he hates sending away"**. Malachi said, this is the verse of **"Hashem brings down tears upon him"**. That means, he says that **"you have betrayed"**, because you were a traitor to your **"wife of your youth"**, and God says **"do not betray"**. The prophet says: **"For he hates sending away"**, now problem, you hate her? So interprets the Gemara: you hate her? Send her away! Why do you keep her, and you don't take care of her? So, and so the Gemara says that by a second marriage, **"if you hate her send her away"**. It seems that the Rambam is built on this thing. And the Rambam...

R' Yoel Asher: Um, go back a moment in this...

R' Yitzchak: The verse **"For he hates sending away"**.

R' Yoel Asher: "And with the wife of your youth do not betray", very nice, one must go from... This is a very beautiful verse, **"And with the wife of your youth do not betray"**. You should not be a traitor, you should not be a rebel. What then? If it happens, you cannot have relations because you have hatred? **"Send away"**, send away. Cannot remain with hatred. **"And he covers violence with his garment"**, don't know what this does here.

R' Yitzchak: In short, one must know if one can interpret the whole verse there, but so interprets the Gemara.

R' Yoel Asher: A parable between God and the Jews?

R' Yitzchak: Huh? No, no, no, it speaks of their wives.

R' Yoel Asher: Not clear what exactly means...

R' Yitzchak: "Judah has profaned the holiness of Hashem",

R' Yoel Asher: "And married the daughter of a foreign god", the abomination that the generation wants to bring. No, no, no.

R' Yitzchak: No, no. It literally means that they took foreign wives, **"bat el nechar", not the el nechar itself. And he argues that the Jewish wives are angry, that's basically the story here. There were people in the days of Malachi, in the days of Ezra, who had Jewish wives, and in addition to that they took on also a gentile wife. The prophet says: What are you pursuing her for? That's the exact knowledge. It's prevention of she'er, kesus, ve'onah, whatever, she remains at home alone. He says: Now problem,**

you want to send her away? There's an interpretation, one must interpret, but this is how the Rambam interprets it: You want to send her away? Send her away! Why are you keeping her, and you're pursuing her? That's the Rambam's view.

So the Rambam comes here in any case to say: The person thinks he's better – what's better, a get? I'm keeping her, I'm giving her... No, a get is better, let her live! Why are you keeping her, and you're fulfilling "le'anos", "lo yigra"? Something like that, that's the characteristic.

R' Yoel Asher: In a way that she...

R' Yitzchak: Is not forgiving, obviously.

R' Yoel Asher: What then? Does she have a choice to forgive, or not? No, if she wants...

R' Yitzchak: She doesn't work. If it's "lo yigra", perhaps it means that it should...

R' Yoel Asher: Not come out that he's transgressing "lo yigra", yes.

R' Yitzchak: What then.

Why One Doesn't Give Lashes for This Prohibition

R' Yoel Asher: We're talking about... The Rambam says: Now when I said that it's a lav, and the lav isn't dependent in the picture of how long one makes it work, it means that it's a proper lav; it's simple that the lav isn't dependent on the other politics. If so, then it's a proper lav, he should receive lashes! **"And why doesn't he receive lashes for this lav? Because there's no action in it."** Hmmm. It's a prevention, it's a shev ve'al ta'aseh, and for this there are no lashes.

R' Yitzchak: Just like the general rule. So in practice, this lav doesn't help us. If we would give him a ruling, we would have a way to force him to do something here. We have no way, we can only tell him that he's doing a lav. It's very funny. The lav doesn't accomplish anything. I mean, it accomplishes for an honest Jew, for the funny honest Jew who only has fear of doing lavs and not of losing money, not of being just a shaygetz. I mean...

R' Yoel Asher: He means to say that you're not doing the right thing. A person who wants to do good, he's a ben adam tov, he says: You're not doing a good thing.

R' Yitzchak: One must come to a...

R' Yoel Asher: No, in the previous... previous?

R' Yitzchak: In the previous case you would have said that...

R' Yoel Asher: Once the beis din says I'm giving it twelve months, it's simple that there's such an option. The Rambam says:

R' Yitzchak: It's not an option.

R' Yoel Asher: It's not truly an option here. Don't say that it's an option. The fact that the beis din doesn't yet force for a get is for other reasons, but he's still transgressing, he's doing something that's not good. So, the Rambam says further. Okay.

Halacha 16: When Husband and Wife Deny Who is the Rebel

The Claims of "Kederech Kol Ha'aretz" and a Dispute About the Measure of Onah

R' Yoel Asher: Halacha 16. And we've already learned before too, and many times one doesn't know what the story is, just like for example it was similar by the case of besulim. What happens when the beis din can't figure out who is truly the rebel?

"A man and his wife who came to court, he says this one is rebelling against me from relations and she says no, rather kederech kol ha'aretz I am with him", as much as he wants. Or the opposite, **"and so if she claims that he is rebelling"**... but, **"rather kederech kol ha'aretz I am with him"**, I mean to follow him, right, on the... or the opposite, right? Yes, **"and he says no, rather kederech kol ha'aretz I am with her"**.

This isn't when they... Many times there is when there's a true dispute: She claims that he must

give more because he's a rach ve'anog; we're not talking about that, they simply deny it.

R' Yitzchak: By the way, I don't know...

R' Yoel Asher: If one takes truly "kederech kol ha'aretz", perhaps he means to say: No, I don't have to give more.

R' Yitzchak: It's just a euphemistic way of saying the amount. But it's interesting, you're actually asking a good question: What is when the dispute isn't whether completely not, the dispute is that he conducts himself that he's a malach, and meanwhile he's a...

R' Yoel Asher: We already had before, that he can't change after the wedding.

R' Yitzchak: Yes.

R' Yoel Asher: But does that already mean a rebel on that level? Umm, ah, whether rebel... Perhaps rebel always goes on this, on the once a week. It seems a bit like that, yes.

R' Yitzchak: That if one is once a week, one calls out...

R' Yoel Asher: And once a week... Okay. I need to think, because... Is it also exactly the lav? The one who has a higher onah?

R' Yitzchak: Apparently there is the lav.

R' Yoel Asher: But it could be that the process of how one ends or yes or not the get, the marriage because of the rebellion, perhaps only there it's different. Okay.

R' Yitzchak: That I'm asking, it's not clear, it stands to...

Cherem and Yichud Before Witnesses

R' Yoel Asher: What does beis din do in such a case? The beis din doesn't know. He or she says rebel, the other says never rebel. **"We make a cherem at first on whoever is rebelling and doesn't admit in beis din"**. We make a cherem, whoever is truly rebelling and isn't admitting, the rabbi will punish very severely. That is, we're going to make a cherem. **And afterwards**, yes, **if they didn't admit** – "we make a cherem" means exactly like the laws of cherem that we learned in beis din.

R' Yitzchak: But without a name. They won't be able to... We learned, yes, but there's no practical difference, it's only to frighten them, because one can't conduct oneself in cherem.

R' Yoel Asher: Because we don't know who's lying.

R' Yitzchak: Ah, we don't know, ah. **And afterwards**... Before we're going to know they've already solved the problem.

R' Yoel Asher: And afterwards, if they didn't admit, they still haven't admitted, **we tell them: Seclude yourselves before witnesses**. Now go into a room, and... Yes. **They secluded themselves**... Because if one had done it, one had made some noises, there truly would have been nothing there.

R' Yitzchak: There are no noises... No.

R' Yoel Asher: It's appropriate to... It's private. No, because if one had done it, it fits with the fact that a person may not have relations before any person, which the Rambam says in other places. So **seclude yourselves before witnesses** means basically: Lock the door. So by normal people at least this helps, because they're going to find themselves here in an embarrassment, outside stand people as witnesses, it's a weird thing.

R' Yitzchak: So, they should... Well, yes, I don't know...

"Mevakshin Min HaNit'an Ve'osin Pesharah": When the Halacha Leaves It to the Judge

R' Yoel Asher: What it will help. Okay, **we request from the defendant**... Yes, one can hear why. **We request from the defendant**, right, we ask from the one who has claims against him.

R' Yitzchak: The wife says that he's rebelling or the opposite, we ask her: Do me a favor, figure out this matter here.

R' Yoel Asher: Right, stop with your craziness, make things give up. **And we make a compromise according to the strength of the judge**.

R' Yitzchak: The Rambam basically doesn't say an answer. Doesn't say what to do. The Ra'avad already says immediately that he doesn't understand what a compromise means.

R' Yoel Asher: Just like we had before in "nimlakin". "Nimlakin" was like: Find some other way.

R' Yitzchak: Not everything can one... Right.

R' Yoel Asher: Just like the rav with his threat doesn't help, let them call the rebbetzin as a therapist, whatever, find some other way. Yes.

R' Yitzchak: It's not clear. And in the Gemara, the Ra'avad says he doesn't understand, in the Mishnah of the same it says **"Heaven between me and you"**.

R' Yoel Asher: Except that pesharah means the world to come, we'll look at Shulchan Aruch too.

R' Yitzchak: Yes. In short, the Rambam, in one place it says one should make a meal, struggle, see them...

R' Yoel Asher: Arrange it like that. So interesting, this looks like the story of Rabbi Shimon bar Yochai.

R' Yitzchak: The famous story.

R' Yoel Asher: Yes, there are practical advice. No, it's very interesting, just like many times... It's very interesting, that the "nimlakin" is like... Here the rabbi is more a tzaddik, where the rabbi says: I know what your problem is, you're both unfortunately hungry and broken, you're both poor people, let me make you a big meal. By struggling see them, that outside will stand witnesses. Okay. **"There's no place here for cherems"** not **"that it's disgraceful to them"**, but the Ra'avad doesn't allow the cherems.

R' Yitzchak: Very interesting. In short, it's not clear. Here the Rambam is completely on your side. At some point, the halacha raises its hands, he says: We don't know what to do, give advice.

R' Yoel Asher: Please. Yes, we don't make "disgraceful to them", yes in short.

R' Yitzchak: The Rambam tries how strongly to make halachos, to seclude before witnesses etc. etc., make cherems. But in the end, give advice. That's the Rambam's way here. Okay.

The Prohibition of "Livol Bifnei Kol Beriyah"

R' Yitzchak: Okay, **"but"**, says the Rambam, **"but"**, ay, let's plainly make clear...

R' Yoel Asher: The problem that she still says, even after yichud we still don't know what the truth is, is only because the witnesses remain outside the room during the yichud. If so, why shouldn't we make, let one be there, actually be a supervisor? **"But to have relations before a person is impossible, because it's forbidden to have relations before any creature."**

R' Yitzchak: Very good.

R' Yoel Asher: Our "before any creature" means even by animals such a thing?

R' Yitzchak: Yes, yes, it actually says so, perhaps in Hilchos De'os, but here we're talking that yes, one may not. This is basically not an option.

R' Yoel Asher: Therefore one doesn't have to... The shalom bayis here doesn't override the derech eretz of...

R' Yitzchak: There's no way. Okay, until here the laws of her conjugal rights. Now we're going to learn "to heal her and to bury her".

R' Yoel Asher: "To bury her" if the "healing her" didn't work out.

R' Yitzchak: First onah, then refuah, then kevurah.

R' Yoel Asher: Very good. **"Before any creature"** means even by animals such a thing?

R' Yitzchak: Okay, it actually says so indeed, so it says I think,

R' Yoel Asher: Perhaps in Hilchos De'os,

R' Yitzchak: But here we're talking that yes, one may not. This is basically not an option. Therefore we know and it's not overriding.

R' Yoel Asher: It means, the shalom bayis here doesn't override the derech eretz of, there's no way.

Halacha 17: The Obligation of "Leraposah"

R' Yitzchak: Okay, until here the laws of onah. Now we're going to learn to heal her and to bury her.

R' Yoel Asher: On her strength, first onah then healing.

R' Yitzchak: If the healing didn't

R' Yoel Asher: Work out he must bury her. The Rambam says thus: The next thing that we learn from the enactments of the Sages regarding the kesuvah is, that **"the woman who became ill, he's obligated to heal her until she recovers"**. He must heal her. That means, if he's not a doctor, he must pay her

R' Yitzchak: Medicines until she becomes healthy.

R' Yoel Asher: Ahh. What happens in such a case **"he saw that the illness is prolonged"**, it's an illness one can't get out of, a long illness, **"and he'll lose much money for healing"**, it's going to cost him very much money, **"and he said to her"**, he says to her thus: **"behold your kesuvah is placed"**, I'm going to give you the amount of the kesuvah, **"or heal yourself from your kesuvah"**, or heal yourself with the money that you receive from the kesuvah. He says: I'm giving you the kesuvah, I'll remain yes married, I'll give you the amount, up to two hundred I'll heal, beyond two hundred I'll raise my hands. **"Or I'm divorcing you and giving the kesuvah and going"**, ahh. **"We listen to him"**, he has the right to do this,

R' Yitzchak: To do this, there's a certain limit as it were how much he must pay, as much as the kesuvah. So he can give her the choice: You want to use the kesuvah and remain, or you say you don't want to remain like this? No problem, we give a get and you're exempt. And you remain with the kesuvah anyway basically.

The Definition of "Mipnei Derech Eretz" and the Source from the Sifrei

R' Yoel Asher: But the Rambam says, obviously that this isn't something that one may do. Perhaps with the Choshen Mishpat he can, one can't force him to pay forever, but **"and it's not proper to do so because of derech eretz"**. Derech eretz here doesn't mean – derech eretz usually means the opposite of chutzpah. Here derech eretz is the opposite of mercy,

R' Yitzchak: Yes. Yes, there's no way. There's no way at all.

R' Yoel Asher: Not at all. And here we're going to see now about lefodsah. You can make here a chapter "lefodsah". The Rambam says: **"She was captured"**,

R' Yitzchak: If she was taken captive. There's brought on this some midrash, that a kal vachomer from a, what's it called? It says by the, he doesn't bring it here? One must tell here. It says by the, not that we're going back, it says in the Sifrei regarding the, where does he bring it? By yefas to'ar, **"veshilachtah lenafshah"**, this means that he may only do this, if she was sick, he must first heal her and then send her away.

R' Yoel Asher: Ah, you can't throw out a sick wife on the street.

R' Yitzchak: "Kal vachomer to the daughters of Israel who are pure and holy", this is the captured yefas to'ar, even then he may not.

R' Yoel Asher: But a yefas to'ar will be derech eretz, by a Jewish wife it will be more than that, it seems, okay. Yes,

R' Yitzchak: I don't know, okay. So, lefodsah.

Halacha 18: The Obligation of "Lefodsah"

The Wife of a Kohen and the Definition of Pidyon Shevuyim

R' Yoel Asher: "And to redeem her". The Rambam says, **"she was captured"**, she was taken captive,

R' Yitzchak: "He's obligated to redeem her". **"If he was a kohen"**,

R' Yoel Asher: And once she was taken captive, there is a law in Hilchos Issurei Bi'ah that a kohen may not be with a wife who was taken

captive, because there's a presumption that she was violated,

R' Yitzchak: Right, even if it's rape.

R' Yoel Asher: So **"she's already forbidden to him"**, she became forbidden now when she was captured, it's going to be a big problem, because he can't take her home afterwards.

The Rambam says, obligated to redeem her isn't to bring her home to himself, that would have been selfish. Lefodsah is to release her from the difficult situation where she is, because that's very clear here. He **"redeems her and returns her to her father's house"**, he redeems her so that she can be free, and not so that she can come to him.

R' Yitzchak: I mean that the novelty is, even you could have said that why should he redeem her? Because he's going to become forbidden anyway, why should he redeem her? His meaning, he must.

R' Yoel Asher: He must redeem her and send her home. To redeem is not, if she was only redeemed because I need to have her, that would have been is it yes like this, good, it would... No, it is, yes. It's for her, this is a right that she has that the husband must release her,

R' Yitzchak: And this she doesn't lose. Yes, but tomorrow, the moment she comes home she becomes out of her, out of husband,

R' Yoel Asher: Right? Yes, but still he,

R' Yitzchak: He has the obligation. Yes,

The Wife of a Yisrael and the Meaning of "Lefodsah" – Bringing Back Home

R' Yoel Asher: "And even if they were in another city, he takes care of her until he returns her to her country". Even to her parents, he must bring her back to... Yes, very interesting. He can't say once we brought her home, the city.

R' Yitzchak: We redeemed her,

R' Yoel Asher: Go stay there in a different city. The definition of redeeming in such a case where, where her father's house is another place, ends when he returns her to her country. And afterwards he can divorce her, **"and gives her all her kesuvah"**, he must give her the kesuvah, because she was a victim, what is she guilty of that she was captured? Right.

"If her husband was a Yisrael that the captive is permitted to him", the captive is permitted to him, it seems here the word is that he can't say I don't want to live

R' Yitzchak: With a wife

R' Yoel Asher: Who was involved with another man.

R' Yitzchak: "He returns her to him as a wife as she was". He means to say that he may.

R' Yoel Asher: He may? It's certain he may,

R' Yitzchak: It's only a law by a kohen. Actually interesting, so what's the novelty? It's not clear. Ah, look what the Rambam says: **"and if he wanted afterwards he divorces her"**, the simple meaning is to redeem.

R' Yoel Asher: One sends a get to the robbers there, only he...

R' Yitzchak: Very good, he can't say, let him say it includes bringing her back home. Simple peshat, perhaps this is the meaning: "lefdotah" means bring her back home, after you give a get, or after he is a kohen and he can't... a kohen is an exception, he can't bring her home, he has to bring her to her father, because he's not allowed to go home with her. But normally "lefdotah" means bring her back home. After that you can give a get, you go back to the normal order. That's somewhat the meaning. Why "lefdotah" means bringing home, I don't know, but that's how it seems. Yes?

R' Yoel Asher: Okay, we're speaking generally, we have to understand the situations, she's in a distant land... yes,

R' Yitzchak: But "lefdotah"... this is a meaning in the condition "lefdotah". The shiur ends when

R' Yoel Asher: She arrives at a safe haven, when she arrives at a safe place.

R' Yitzchak: That's her place. So "lefdotah" doesn't mean redeeming from there, it means bringing home. A new meaning.

R' Yoel Asher: Right.

Halacha 19: The Shiurim of "Lefdotah"

The Din of "Yeser Al Kedei Dameha"

R' Yoel Asher: So, the Rambam says further: **"ein mechayvin et haba'al"**, but here by pidyon shevuyim there is something, a new limit. There is a general halacha in the din of pidyon shevuyim, that we don't redeem any captives for more, yeser al kedei demeihem. The reason is, have we already learned this?

R' Yitzchak: No, but I think we need to see if this is dependent,

R' Yoel Asher: Let's see. Let's see like this: **"ein mechayvin et haba'al lifdot et ishto beyeser al dameha"**, more than what she's worth. How much she's worth I don't know, but there's something, a more worth

R' Yitzchak: And how much she's worth.

R' Yoel Asher: "ela bema shehi shava kish'ar hashevuyot".

R' Yitzchak: Like all others... a Jew shouldn't be more expensive, I mean that's the din by yoser al kedei demeihen, that a Jew shouldn't be more expensive, gentiles will go capture Jews. Yes, so she's not different from all other captives. Just like all other captives we don't redeem beyeser midemeihen, she also isn't. Eh, the husband? Against the husband, not different from anything,

R' Yoel Asher: Anyone else. Does it say here we're not allowed or does it say that the mitzva lefdotah is not a greater obligation than the usual... we're not obligated. The teaching of Chazal also applies when a man wants to redeem a wife. Okay, usually we're not allowed, right.

R' Yitzchak: But here it says we don't have to, the husband is not obligated.

R' Yoel Asher: Again, a person himself who was captured may give as much money as he wants to redeem himself. Does it apply if the man wants, perhaps he'll also be able the same way. It could be. It says there it goes from tzedaka funds is one discussion.

R' Yitzchak: Okay, we need to know, we already spoke about this once. It's simply apparently that he may for himself, but does it mean here

R' Yoel Asher: That he doesn't have to. We need to see apparently if he may for the wife also.

R' Yitzchak: Eh certainly, perhaps he may, he doesn't want to.

R' Yoel Asher: Anyway, but the din of yoser al kedei demeihen, this is also a limitation of the din lefdotah,

R' Yitzchak: This becomes the shiur of lefdotah.

When the Redemption Money is More Than the Kesuba

R' Yoel Asher: Right. The Rambam says: **"hayu dameha yeser al kedei kesubatah"**, the money to redeem her is more than the kesuba, and he wants to say like this, as we learned regarding refuah: **"ve'amar hareini megarshah vezo kesubatah"**, let her use the

R' Yitzchak: kesuba **"telech vetifde et atzmah"**,

R' Yoel Asher: "ein shome'in lo, ela" he has the obligation first to be, **"kofin oto ufodeh otah, afilu hayu dameha ad asara bikesubatah"**, even if it's ten times as much, the pidyon shevuyim costs ten times as much as the kesuba. **"va'afilu ein lo ela kedei fidyonah"**, even if he doesn't have the money, he has to go get it, borrow. Does the obligation go so far.

Discussion: Why is Pidyon Shevuyim Stricter Than Refuah?

R' Yoel Asher: We need to understand, why by pidyon is it different than by refuah?

R' Yitzchak: Because pidyonah is she's in a dangerous situation. In refuah? She's sick, she doesn't know.

R' Yoel Asher: Are you now making a new din in refuah? It's only a type of refuah? I don't know, it's not clear.

R' Yitzchak: I don't know. It's a question, why regarding refuah can he indeed say so? I don't know. I think that refuah she has an option. He gives her the kesuba, let her try to marry a second one, figure something out. Here she's stuck somewhere there in the mountains of darkness.

R' Yoel Asher: Again, you have to make a new ukimta that here refuah doesn't stand here specifically when she has some serious pimple. You could also mean that she's deathly ill, and the man is now going to leave her and she'll die a few days later.

R' Yitzchak: She's stuck with the gentiles somewhere.

R' Yoel Asher: It's different. But she's stuck with an illness, there's also no one who will take care of her. It said it's not derech eretz. But why does he indeed have the right here

R' Yitzchak: And here he doesn't have that right?

R' Yoel Asher: It's still not clear. It can remain open. If someone thinks of a good answer, he can send it in to our... send it in to one of our platforms. Send in a good explanation.

R' Yitzchak: One can put a paper under our door. That's the platform. Okay.

Diyuk in the Lashon of the Rambam: "Choli Aruch" Versus "Choli Gadol"

R' Yoel Asher: It could be, it could be **"ra'ah shehacholi aruch"**, it doesn't say a choli mesukan. A choli aruch means perhaps a chronic illness.

R' Yitzchak: Yes yes.

R' Yoel Asher: She's in a situation where he'll have to pay every week, long term, for something,

R' Yitzchak: Something... it's not any,

R' Yoel Asher: It's not a danger. I'm medayeik on this word **"aruch"**, not "ra'ah shehacholi gadol", and we'll now have to bring an expensive... today, bring an expensive surgery. It has to do with, a choli aruch. You're not making an ukimta. The Rambam said, we may be medayeik in the lashon of the Rambam, in order to explain a difficult question. **"ra'ah shehacholi aruch"**, and it's going to cost him very much money, because she'll now live for long years. She'll have the same longevity as him, but we'll always have to pay for the doctor for something she has.

R' Yitzchak: You're explaining the same thing I'm saying, that refuah is not like an acute thing. It's not peshat that she's stuck, he has to take her out, after that you can see if you want to give her a get. Refuah is peshat, she's here, she's sick. But you're making the same ukimta that you threw out earlier that it's speaking that she's not in danger.

R' Yoel Asher: Because the Rambam doesn't say a choli gadol, but a **"choli aruch"**.

The Obligation of an Individual and of the Kupah Shel Tzedaka by a Choleh Mesukan

R' Yitzchak: I heard, but it's not a difference from the ukimta that you said that it's not a good ukimta, and I hear that it's not such a good ukimta. I already know the ukimtas. I know, perhaps, just to ask a question like this. When we see a Jew, let's, you know what? Forget about the man. If we see a Jew here is a choleh mesukan, we can save him with a million dollars, is he obligated to give?

R' Yoel Asher: You have to go to the Rav, it's not your obligation. By a mes mitzva there is that the first person saw him. By refuah it's simply not the first person who sees him. The first person may not ignore it, presumably al tis'alem, lo ta'amod al dam re'echa, he has to run to the Rav. But we'll look in hilchos tzedaka, who has the obligation? The Rav, the kupah shel tzedaka. That's the point, lerapos... Again, in hilchos tzedaka the Rambam says, the Rambam says that **mitzvas pidyon shevuyim kodem lechol hamitzvos shebaTorah**. It comes out that everyone has to run to do pidyon shevuyim.

Continuation of Halachos 18-19: The Difference Between Pidyon Shevuyim

and Refuah, and the Geder of Nishbeis Pa'am Sheniya

The Monetary Obligation of the Man Versus the Tzedaka Obligation of the Community

R' Yoel Asher: You have to go to the Rav, it's not your obligation. By a mes mitzva there is that the first person saw him. By refuah it's simply, it's not the first person who sees, and the first person may not ignore it, by such "al tis'alem", "lo ta'amod al dam re'echa", he has to run to the Rav. But we'll look in hilchos tzedaka, who has the obligation? The Rav, the kupah shel tzedaka.

That's the point, **lerapo osah**. Again, in hilchos tzedaka the Rambam says, the Rambam says that **mitzvas pidyon shevuyim kodem lechol hamitzvos shebaTorah**, it comes out that everyone has to run to do pidyon shevuyim. But when there is a man, the man has the obligation midin onah.

R' Yitzchak: He's an obligation, we take from the money.

R' Yoel Asher: And when he doesn't have money, it's peshat that he also has to do it. How exactly? Because he'll run after tzedaka? No, no. The obligation of the man is, we take his entire money or he takes it himself and he gives it. He doesn't have to go after money. We've gone far back that there is a tzedaka.

R' Yitzchak: No, we read here, we read earlier, **va'afilu ein lo ela kedei fidyonah**. But he indeed has, we take his entire money, he's not left with a penny. He doesn't have to go for tzedaka for himself, but he has to ask, the peshat that his entire money is obligated for this. But it's an obligation, it's a monetary obligation, it's not a matter of...

The Difference in Reality Between Pidyon Shevuyim and Refuah She'ein Lah Ketzavah

R' Yoel Asher: It could be that pidyon shevuyim the Chachamim looked at as something a matter of pikuach nefesh, which is not so by refuah.

R' Yitzchak: It's more important. But specifically, why is it more important? In what way is it more important?

R' Yoel Asher: *I think I have a good explanation. That being very sick for long years is a new reality that we have today with respirators and all kinds of surgeries. In earlier times, sick for a long term, meant a certain mechuser ever. A person who is healthy and has a problem with a foot, with a hand. Being sick a hundred years ago, or whatever, before modern medicine with very many new things, one died.*

So, I ask a question: a person was diagnosed with cancer, can the man tell her, here you have your two hundred maneh and go on your way? No, one can't, because what we're speaking about there is choli aruch, we'll need treatment the whole time so she won't have suffering. Because it will be such a thing like pidyonah, the Chachamim presumably. Pidyonah the Chachamim look at as a great danger, and refuah we're speaking of other things. I'm saying a reality like this, that the thing that a person should be a choleh mesukan for long years, that if she won't have the treatment and she won't have the medicine, she'll die, expensive medicine every month, didn't exist. I'm saying a reality that it didn't exist.

R' Yitzchak: You're being mechadesh a reality that I don't agree with.

R' Yoel Asher: You don't know. There are things that I know and you don't know.

R' Yitzchak: You know what it was a thousand years ago? And we're still in the middle, no? Yes, yes, yes. Ah, that's fine. In short, I can hear that pidyon has a different din, you're making it difficult why it's a different din, I don't know. It's a question if the reason is a different din. Where am I here in the text? **bameh devarim amurim**, ah.

The Limit on Pidyon Shevuyim: Nishbeis Pa'am Sheniya

R' Yoel Asher: But there is indeed a limit. On pidyon shevuyim there's also a limit. All these things are when the woman was unfortunately captured, but **aval im pada** –

R' Yitzchak: He redeemed her...

R' Yoel Asher: Read for me already the first time. **aval** if he redeemed her –

R' Yitzchak: And she was captured again, yes?

R' Yoel Asher: And he's already fed up, he's already fed-up. **veratzah legarshah**, he wants to divorce her, and she should redeem herself with her own money, **harei zeh megaresh veyiten kesubatah vehi tifde et atzmah**. Why does the halacha say so? I don't know why, is there some suspicion that something there's a conspiracy? Or I don't know what?

R' Yitzchak: It's a chiddush, a man has to be podeh his wife once, that much money he has to give out, not twice.

R' Yoel Asher: Why? She'er, kesus, all other things is every day?

R' Yitzchak: *No, hello, pidyon is a great expense, and it's against something, right? Against peiros we spoke.*

R' Yoel Asher: Against peiros is added...

R' Yitzchak: *No, no, pidyonah not, pidyon is not mid'oraisa, pidyon is derabbanan, pidyon is a certain monetary obligation, there's a limit. Just as we learn every thing has a limit, there's no monetary obligation without any limit. The limit is once, is the limit on the peiros.*

R' Yoel Asher: *Ah, this will be like the choli aruch, this will be the opposite of choli aruch.*

R' Yitzchak: Could be. Every thing has a limit. There he's called a shaygetz, here it doesn't even say he's called a shaygetz.

R' Yoel Asher: *Here our question that we struggled with regarding refuah is answered very well, because it will be like choli aruch. Many things have a limit. It's not clear.*

R' Yitzchak: A one-time crisis one has to... But something a limit, that's how it seems.

R' Yoel Asher: But again it could be all his assets,

R' Yitzchak: Which is indeed in a certain sense unlimited.

R' Yoel Asher: Okay. And by refuah but is also perhaps the same thing,

R' Yitzchak: *The choli aruch means actually she became sick, we now have to do a surgery –*

R' Yoel Asher: *He has to pay for the surgery. Choli aruch will be like she was captured again.*

R' Yitzchak: Not sure, I don't know. We need to know about the whole diyuk that you were now mechadesh from choli aruch, we need to look in the sources if it says so.

Halacha 20: Mi Shenishbeis Ishto Vehu Bimdinas Hayam

R' Yoel Asher: The Rambam says further: **mi shenishbeis ishto vehu bimdinas hayam**, he's in a distant country and the wife was captured, it's like we learned regarding mezonos is **beis din yordin lenechsav umochrin**, we sell his assets **behachrazah**.

R' Yitzchak: But here it's with a hachrazah.

R' Yoel Asher: Ah, earlier it didn't say behachrazah?

R' Yitzchak: Because this is a new reality.

R' Yoel Asher: *Perhaps there it's a matter of a fine on what you're leaving your wife without food.*

R' Yitzchak: *Here a tragedy happened that couldn't be calculated. Hachrazah is that we make sure to get more money for him, right? That's the meaning of the hachrazah, why here do we need hachrazah?*

R' Yoel Asher: Don't know. **ufodim otah kederech shehaba'al podeh**, with the same dinim. That means, lo yosif al kedei nechsav –

R' Yitzchak: Or only once.

R' Yoel Asher: Right.

Halacha 21: Hamadir Es Ishto Venishbeis

R' Yoel Asher: So, the Rambam says what happens in such a case: **hamadir et ishto neder** – someone makes his wife a neder, **shehu chayav biglelalo legarshah veliten kesubatah**. He made a neder –

R' Yitzchak: One of the nedarim –

R' Yoel Asher: That he can't... "hana'as tashmishach alai" for example. And after that she was captured, **achar shehedirah**. The Rambam says, we don't say that the obligation lefdotah goes until the get, but from when there's an obligation to give a get we're already **eino chayav lefdotah, sheme'es shehedirah nischayev legarshah veliten kesubatah**. Interesting the lashon, **nischayev legarshah**, he may already divorce her or... no,

R' Yitzchak: He's obligated. Not may. He's obligated to divorce.

R' Yoel Asher: He's from the people –

R' Yitzchak: That we force him... we force him to give...

R' Yoel Asher: He can still be matir, and here suddenly, yes.

R' Yitzchak: Actually sad. Not only that her husband made her a neder –

R' Yoel Asher: But she's also nishbeis also. Okay.

Halacha 22: Isha Ha'asura Al Ba'alah Me'isurei Lavin Venishbeis

R' Yoel Asher: Further the Rambam says: **ha'isha shehaysa asura al ba'alah me'isurei lavin**, a woman who is forbidden to her husband from prohibitions of lavin –

R' Yitzchak: For example almana lekohen gadol –

R' Yoel Asher: That the kohen gadol didn't follow the mitzva and he took a widow –

R' Yitzchak: She was captured –

R' Yoel Asher: eino chayav lefdotah. Kiddushin is chal, right? It's chal. Right, **eino chayav lefdotah**, because their kiddushin, their marriage is not a legitimate marriage. It's similar to "sheharei nischayev legarshah". She's the whole time a "nischayev legarshah", yes? Apparently. **ela nosen lah kesubatah, vehi tifde et atzmah**.

R' Yitzchak: Ah, always, kesuba she gets.

R' Yoel Asher: Also in that case. The Rambam asks an interesting question: **"But isn't a captive woman forbidden to a kohen, and yet he redeems her"**. I learned earlier that even a captive woman the husband must redeem, and from when she became a captive she became forbidden to a kohen, why is it different from other prohibitions of negative commandments?

Says the Rambam: **"Because she was not forbidden previously"**. She wasn't forbidden previously. **"And the prohibition of captivity is what caused it to her"**, the prohibition of captivity caused it, therefore it's an ones (unavoidable circumstance). She had a wedding with him according to law and custom. Now the captivity happened, so he has the mitzvah from the side of the valid kiddushin.

Meaning, the obligation to redeem her is not because now we are a compatible couple. The obligation to redeem her is not because we are now a good couple that may be together, but because when they had the wedding we were permitted, and then came the obligation. But there there is the whole time an obligation of "he became obligated to divorce her" –

R' Yitzchak: Even from before that.

Discussion About the Explanation of the Prisha and the Parameters of the Prohibition of a Captive Woman

R' Yitzchak: *He brings such an explanation from the Prisha that the obligation to redeem her came into being the moment she became captured, and the prohibition came into being one moment later. So why? It's the same time?*

R' Yoel Asher: *Because of "ba'im k'echad" (coming simultaneously), such... It doesn't make sense, that the obligation... It does make sense, because it's not ba'im k'echad. Meaning, first they capture, somewhere after the capture when it becomes night, when one enters the tent there's yichud... Yes, we already learned earlier, that's how the law of a captive woman comes about when one captures. Why? The obligation of redeeming captives begins the minute she is captured. Yes, one must look in the laws of captivity, perhaps if one knows how long it takes to carry with the truck until one drives to the

tunnel there's still no law, one must look in the laws of captivity.*

R' Yitzchak: But it's a chazakah (presumption) that we learned even in omer –

R' Yoel Asher: *One must look in the laws of captivity if she was only captured for half a day, perhaps it was never –*

R' Yitzchak: A chazakah.

R' Yoel Asher: *The whole chazakah is when it's called a captive woman, seemingly when there wasn't yet enough time for relations or enough...*

R' Yitzchak: Simply it's too much pilpul, one must say a normal answer like you're saying.

R' Yoel Asher: I'm helping now, already, I'm seeking the truth.

R' Yitzchak: I'm exploring all the options. Okay, or we learned when it runs out. Burial.

Law 23: The Husband's Obligation in His Wife's Burial

R' Yoel Asher: ⟦#3⟧ Onah and redemption and healing, now is her burial. **"If his wife died he is obligated in her burial"**, the wife died he is obligated to bury her.

R' Yitzchak: He must pay for the expense.

R' Yoel Asher: And burial is not just the grave itself, but also the little things around it, the sheva berachos of the burial, the wedding... **"And to make for her a eulogy and lamentations according to the custom of the entire province"**, to make a eulogy and lamentations according to the custom of the entire province, how it's done there. There are places where one makes a very big affair, a full band, and there are places where one makes a smaller one. Says the Rambam what is the minimum: **"And even the poorest in Israel should have no less than two flutes"**, two pipers that accompany the eulogy, **"and a lamenting woman"**, and a crying woman. **"And if he was wealthy, everything according to his honor"** –

R' Yitzchak: According to what the custom is.

R' Yoel Asher: He had some Jewish cartoon from R' Elchanan, what was his name? Hertzman? Yes, yes, some mussar personality in a Novardok community in Williamsburg. He used to put many times such pictures, still before the AI pictures: someone sees a magnificent grave of some wealthy person, he says: "That's called living!"

"And if he was wealthy, everything according to his honor". Says the Rambam: **"And if her honor was greater than his honor"**, she was even greater, more an honored woman as we learned "she rises with him but does not descend with him", she has a higher status, then **"they bury her according to her honor, for the woman"** – ah, here I think the Rambam says this language for the first time: **"rises with her husband but does not descend"**, did he already say it? I don't think so – **"and even after her death"**.

Honor of the Living or the Dead Regarding "She Rises With Him Even After Her Death"

R' Yitzchak: *That means, if she's already dead, what is her portion? It's not a law, he became obligated to give –*

R' Yoel Asher: *A burial for the wife according to her standard.*

R' Yitzchak: *Very interesting. Yes, since one might have thought that after she's dead there only remains him –*

R' Yoel Asher: *One should go only according to his standard. It already has to do with the sugya of honor –*

R' Yitzchak: *Of the living or honor of the dead, yes, but this is a –*

R' Yoel Asher: Obligation of burial, the measure, yes.

Law 24: Someone Stood Up on His Own Initiative and Buried Her

R' Yoel Asher: Says the Rambam: **"He did not want to bury his wife"** – he didn't want to, **"and someone stood up on his own**

initiative and buried her" – a second person came to bury her, **"we take from the husband against his will and give to this one"**. It's like earlier what we learned such a similar law regarding the sustenance, a second person came and did his thing.

The Difference Between a Stranger Who Pays for Burial Versus Sustenance

R' Yitzchak: Sustenance he's not obligated. Here he is obligated.

R' Yoel Asher: It's different. Ah, he says **"on his own initiative"**, yes.

R' Yitzchak: If the sustenance is only if she borrowed.

R' Yoel Asher: She borrowed. So **"we take from the husband against"** –

R' Yitzchak: "his will and give to this one", why?

R' Yoel Asher: "So that this one should not be cast to the dogs", she shouldn't lie in disgrace, poor thing.

R' Yitzchak: ⟦#4⟧ I don't understand what he means, what this means. What does this have to do with it?

R' Yoel Asher: Because it's a greater obligation. Since the husband has this obligation, we don't say like there.

R' Yitzchak: *Ah, I mean to say that by the sustenance, so he already brings, that you could think that the person is an animal, he doesn't keep giving sustenance, I don't know. But it's certain that he wants his wife to be buried. No doubt he wants –*

R' Yoel Asher: *That he certainly wants, so he certainly yes did it essentially with his consent.*

R' Yitzchak: *Something like that. There it could always be he had some other calculation.*

R' Yoel Asher: Die now, but not even a funeral... Understand. No, there a person thinks that by sustenance it's something...

R' Yitzchak: *It could always be some scheme. He planned –*

R' Yoel Asher: *He had another plan. She'll go find some Boaz, she'll figure out some scheme. Right.*

R' Yitzchak: Yes.

R' Yoel Asher: Okay. **"He was in another province when his wife died"** – and he's not there,

R' Yitzchak: But it's certain that he wants his wife to be buried. No doubt. He wants it should...

R' Yoel Asher: He doesn't want it should lie there. So he certainly yes did it essentially with his consent.

R' Yitzchak: Something like that. There it could always be he had some other calculation.

R' Yoel Asher: Die now, but not even a funeral... Understand. No, there, a person thinks that by sustenance...

R' Yitzchak: It could always be some scheme, exactly, he planned.

R' Yoel Asher: He had another... I have a living person, now I'll go find some... now I'll figure out some scheme. Right.

R' Yitzchak: Yes.

Burial of the Wife When the Husband is in Another Country – The Law of Announcement

R' Yoel Asher: Okay. **"He was in another province when his wife died"**, and he's not there, also, just like by all other laws – not all other laws, just like by the previous laws that we learned – then **"the court goes down to his property, and sells"**...

R' Yitzchak: Here it says that it's **"without announcement"**.

R' Yoel Asher: One must know the laws of announcement if you can quickly take a look, okay? **"And they bury her"**... This I know, they bury her **"according to the husband's wealth, and according to his honor or according to her honor"**, as he said that it has to do with how wealthy he is, how wealthy she is. But the matter of announcement I don't yet know.

R' Yitzchak: Announcement means that one announces that publicly one has sold, so that one

gets a good price. One sells privately, you found one person who is there to buy...

Discussion: The Difference Between Burial and Redeeming Captives Regarding Announcement

R' Yoel Asher: It's an announcement. To redeem her is an emergency. The opposite. Again.

R' Yitzchak: By redeeming her we said one must have an announcement.

R' Yoel Asher: Ah, also with announcement. And here it says **"without announcement"**.

R' Yitzchak: It says **"for taxes"**, I don't know what is taxes, **"for sustenance and for burial"** is without announcement, but everything else is with announcement. Not clear to me why.

R' Yoel Asher: So again. The announcement is a benefit for the husband that he should receive the most for his land.

R' Yitzchak: Right, but there are things that are important enough that one doesn't require the...

R' Yoel Asher: When is it without announcement again?

R' Yitzchak: Here, burial for example, or by sustenance.

R' Yoel Asher: In the eulogy, yes. One can see that it's...

R' Yitzchak: Not for the eulogy.

R' Yoel Asher: For the... No, for redemption yes, there must be an announcement.

R' Yitzchak: Right. Interesting. He doesn't explain properly. It means in two, I don't know.

R' Yoel Asher: One only sees what's explained somewhere where he says such things.

R' Yitzchak: We have it, one must open it, but it doesn't want to open, so I don't know.

R' Yoel Asher: Ahh. Stuffed with a folder.

R' Yitzchak: Yes, whatever, this isn't moving.

R' Yoel Asher: With this we finished. Ahh. Laws chapter 14. Chapter 14, the thirteenth chapter of the thirteen laws, obligations of husband and wife. No, thirteenth chapter of laws, Sefer Nashim.

R' Yitzchak: Fourteenth chapter.

R' Yoel Asher: The fourteenth chapter of Ishus.

Two Approaches to Answer the Difference Between Burial and Redeeming Captives

R' Yitzchak: Yes. He says that here there's more of an emergency somehow. Why by her redemption isn't there an emergency?

R' Yoel Asher: Her redemption is seemingly a very great emergency! One must know what the redemption speaks of. It's not what one says today kidnapping, perhaps it's not redemption, it's simply actual pikuach nefesh, but announcement is less, one seeks the time.

R' Yitzchak: It seems that the way how it worked, it's not up or down one minute. I don't know what does he want to say?

R' Yoel Asher: Burial one also doesn't speak of one minute.

R' Yitzchak: One speaks, it seems that yes, yes, it must be immediately, that day. I don't know, redemption, I don't know, one can't help here, that's how the law stands.

Perhaps there's a better reason why the difference, perhaps the answer of emergency is not an answer. Perhaps I'm thinking another thing: that redemption can be very expensive, and it's important to get the most money, because there might not be enough money, as opposed to burial where there is enough money. That's my imagination, I don't know any actual explanation... Okay.