Laws of Marriage Chapter 15 (Auto Translated)

English

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Shiur Overview

Lecture Summary: Rambam Hilchot Ishut Chapter 15

Introduction to Chapter 15: The Connection Between Onah, Pru Urvu, and Shalom Bayit

1. The Rambam's Words

(Introduction to the order and structure of Hilchot Ishut Chapter 15, as a continuation from the laws of onah in Chapter 14 until the conclusion of the laws of marital life.)

2. Plain Explanation

In this chapter, the Rambam transitions from the laws of mitzvat onah (in Chapter 14) to the laws of mitzvat pru urvu (procreation), and concludes the chapter with the guidance of the Sages regarding shalom bayit and proper conduct between husband and wife. This completes the section of Hilchot Ishut that addresses the couple themselves regarding their life together, before the Rambam moves on (in Chapter 16) to the laws of collecting the ketubah, litigation, and disputes.

3. Insights and Explanations

*** The connection between Chapter 14 and Chapter 15 (R' Yitzchak):**

In Chapter 14, we learned that mitzvat onah has two components: it is an obligation and servitude between husband and wife, and there is also a prohibition of "ve'onatah lo yigra" (which remains forbidden even when he increases her ketubah as a rabbinic penalty). Now in Chapter 15 comes a third element: a positive commandment of pru urvu. This demonstrates that even when the wife is mochel or both agree not to have onah, it doesn't help if he has not yet fulfilled pru urvu.

From this, the chapter expands to all the details of pru urvu (who is obligated, how many children, the rabbinic obligation, and the wife's obligation), and until the end of the chapter where the Rambam discusses shalom bayit and how a person should conduct himself with his wife (loving his wife, etc.) – because the entire intent of the Torah in marriage is not merely the "basic" Torah obligations of she'er, kesut, and onah, but also the will of the Torah for pru urvu and proper establishment of a household.

*** The difference between she'er and kesut versus mitzvat onah, and the definition of "letzarah" (R' Yoel Asher and R' Yitzchak):**

She'er and kesut are similar to Choshen Mishpat (bein adam lachaveiro), where two people have obligations that they can themselves exchange or be mochel. But with onah, "the Torah intervenes" with a prohibition (just as a person has no right to let another strike him or disgrace him in the beit midrash).

According to this, a new principle is clarified in what the Rambam said in Chapter 14 that if he withholds onah "letzarah" he violates "ve'onatah lo yigra": in general matters of bein adam lachaveiro, if a person is angry with a friend (for example, he doesn't honor him because the other doesn't honor him, or as the Rema writes regarding unloading and loading concerning a "soneh"), or even with she'er and kesut – if the husband is angry and today buys simple "rolls" instead of the expensive ones because she didn't deserve it – it is legitimate according to the law (as long as it's not "lo tisna"). But with onah, the Torah says that one may not use it as a "weapon" when angry. Onah must be an orderly matter according to the definition of Chazal (according to his strength and his work). If a couple is angry (as we see by "ma'is alai" or mordet letzaaro

where there is a prohibition of "lo tonu"), the choice is either to make peace or give a get – but one has absolutely no right to use withholding onah due to calculations and quarrels.

* **The place of mitzvat pru urvu and shalom bayit in Hilchot Ishut:**

* *The question (R' Yoel Asher):* Why does the Rambam place pru urvu in Hilchot Ishut? Pru urvu is not a law between husband and wife (one may even divorce a wife if she cannot have children!), rather it is a mitzvah of sustaining the world that appears several times in Parashat Bereishit and Noach (and is apparently relevant to Bnei Noach, as we see in sheva brachot). Other counters of mitzvot (like Sefer HaChinuch, which follows the order of the parshiyot) count it as the first mitzvah, and according to the Rambam it would apparently belong in Hilchot Yesodei HaTorah or Hilchot Melachim!

* *Answer 1 – Dispute of Rishonim regarding the definition of mitzvat kiddushin (R' Yitzchak):* There is a fundamental dispute among Rishonim (which is relevant to the blessing of erusin and mitzvah bo yoter mibeshlucho). Other Rishonim hold that the mitzvah of marriage is only mitzvat pru urvu, and kiddushin is merely the "vehicle" (the halachic way to do this); according to them, all of Hilchot Ishut would indeed have to be under the heading of pru urvu. But the Rambam holds that the very acquisition of kiddushin (making a permanence and importance of marriage) is a mitzvah in itself. Therefore, the essence of Sefer Nashim is built on the mitzvah and obligations of kiddushin, and pru urvu is brought here as a detail that connects with the laws of onah (when one may not nullify onah due to pru urvu).

* *Answer 2 (R' Yoel Asher):* People take wives as a natural part of life (as it states in Bereishit "ki tovot henah vayikchu lahem nashim"). The Torah comes and gives a mitzvah how to do this in holiness through kiddushin, and then the Torah adds that taking a wife should also be with the goal of pru urvu.

* *Why shalom bayit is here and not in Hilchot Deot (R' Yoel Asher):* Although general conduct between people ("ve'ahavta lere'acha kamocha") is in Hilchot Deot, the Rambam placed the laws of shalom bayit here in Chapter 15, because between husband and wife there are special laws and special sensitivity (due to onah, and to avoid the concerns of "bnei tesha midot" where everything must be with love). Therefore, the Rambam gathered all laws that are specific to husband and wife under one mitzvah.

Halacha 1: Mechilah on Mitzvat Onah and the Obligation of Pru Urvu

1. The Rambam's Words

A woman who gave her husband permission after marriage to withhold her onah, this is permitted. When does this apply? When he had children and already fulfilled mitzvat pru urvu. But if he has not fulfilled it, he is obligated to be with her at every onah until he has children, because it is a positive Torah commandment, as it states "pru urvu" (be fruitful and multiply).

2. Plain Explanation

A wife who gives permission to her husband after marriage that he should withhold her onah (or they both agreed this way), it is permitted and he does not violate "ve'onatah lo yigra." But this is only if he already has children and has already fulfilled mitzvat pru urvu. However, if he has not yet fulfilled pru urvu, he is obligated to be with her at every time of his proper onah until he has children, because pru urvu is a positive Torah commandment ("pru urvu").

3. Insights and Explanations

* **The precision of "after marriage" (R' Yoel Asher):** The Rambam writes that she gave him permission specifically "after marriage" – because if such a condition were made *before* the marriage, the condition would not help because it is a "condition contrary to what is written in the Torah" (as we learned in previous chapters). Only after marriage can she be mochel on her servitude.

* **The definition of the mechilah (R' Yitzchak and R' Yoel Asher):** Although the Rambam's language is "she gave her husband permission" (which looks like the obligation lies on the husband and he asks her permission), the essential meaning is that mitzvat onah is built to satisfy the partner, and if both agree to forgo it, the prohibition of "ve'onatah lo yigra" is removed – except that there is still the positive commandment of pru urvu which forces him to continue maintaining every onah.

* **Why are the measures of "onah" used for the mitzvah of "pru urvu"?**

* *Question (R' Yoel Asher):* The Rambam says a great chiddush that he is "obligated to be with her at every onah." The measures of onah (like a tailor every day, a talmid chacham from Shabbat to Shabbat, etc.) are built on the bein-adam-lachaveiro mitzvah of onah, according to his strength and her distress. But here they have both been mochel on onah, and the only obligation that remains is the positive commandment of pru urvu (bein adam laMakom). Why should the obligation of pru urvu be bound to the measures of onah?

* *Answer 1 (R' Yoel Asher):* Once Chazal made a measure for tashmish, that remains the measure also for pru urvu.

* *Answer 2 – A chiddush lekula (R' Yitzchak):* One might have thought that due to pru urvu a person must do it every day (or every minute) until she becomes pregnant, even a talmid chacham who is obligated from the onah perspective only from Shabbat to Shabbat. The Rambam comes to teach us a chiddush lekula: just as common sense understands that one cannot obligate a person more than his strength and his work ("according to his work") regarding mitzvat onah, so too the mitzvah of pru urvu has boundaries, and the Torah does not demand from a person to tear himself beyond his strength. Therefore, the obligation of pru urvu is also only according to his "onah" that he can. (R' Moshe Feinstein in Igrot Moshe indeed asks why he shouldn't be obligated every second, and the answer is that every mitzvah has its boundaries).

* **The language "at every onah" versus the days that are conducive to conception:**

* *Question (R' Yitzchak and R' Yoel Asher):* If the obligation is only due to pru urvu, why does the Rambam say simply "at every onah"? If she is already pregnant, it's obviously not obligatory. And even when she's not pregnant, we know – and the Gemara also knows (close to her immersion) – that there are certain days that are conducive to becoming pregnant (right after the mikveh and the like), and other days when she cannot conceive. Why doesn't the Rambam say that he is obligated only at times that are conducive to conception?

* *Explanation (R' Yitzchak):* The Rambam means by "at every onah" only his onah that he can (to exclude that he must do more than his onah). But practically, if for a talmid chacham (whose onah is Shabbat) the doctor says according to a "chart" that the time she can conceive is in the middle of the week, it's obvious that the obligation of pru urvu overrides and he must be with her in the middle of the week.

* **[Digression: How much must a person change his lifestyle for pru urvu?]**

* *R' Yoel Asher:* We learned earlier that a person may become a ship-driver (sappan) who is only home once every six months, because livelihood is one of the most important things in marriage. But one must consider: if he has not yet fulfilled pru urvu, may he also go on such an extreme job, or must he change his "lifestyle" in order to fulfill the positive commandment?

* *R' Yitzchak:* The Igrot Moshe indeed asks all these questions, whether a sappan must make sure to come home at the time that is proper for conception.

Halachot 2 and 3: Who is Obligated, From What Age, and the Dispensation for a Talmid Chacham

1. The Rambam's Words

The man is commanded regarding pru urvu but not the woman. From when is the man obligated in this mitzvah? From

sixteen or seventeen years old, and once twenty years have passed and he has not married a woman, he violates and nullifies a positive commandment. If he was engaged in Torah and preoccupied with it and was afraid to marry a woman lest he be burdened with livelihood and be nullified from Torah, he is permitted to delay, for one engaged in a mitzvah is exempt from the mitzvah, and all the more so regarding Torah study. One whose soul desires Torah constantly and is absorbed in it like Ben Azzai and clings to it all his days and did not marry a woman has no sin, provided that his yetzer does not overpower him. But if his yetzer overpowers him, he is obligated to marry a woman even if he has children, lest he come to improper thoughts.

2. Plain Explanation

The mitzvah of pru urvu lies only on the man and not on the woman. The obligation for the man begins from sixteen or seventeen years old, and if twenty years have passed and he has not married, he violates and nullifies a positive commandment.

One who is engaged in learning Torah and fears that marriage will force him to work for livelihood and nullify him from Torah, may postpone marriage, because "one engaged in a mitzvah is exempt from the mitzvah" and all the more so regarding Torah study. A person whose soul constantly desires Torah and is absorbed in it his entire life like Ben Azzai and never married, has no sin – on condition that his yetzer hara does not overpower him. But if his yetzer overpowers him, he is obligated to marry (even if he already has children) so that he should not come to improper thoughts.

3. Insights and Explanations

* **Why is a woman exempt from pru urvu, and does she have a fulfillment of the mitzvah?**

* *Reason for the exemption (R' Yoel Asher and R' Yitzchak):* It is a dispute of Tannaim (Rabbi Yochanan ben Beroka holds that a woman is indeed obligated, but we do not rule that way). Usually a woman is obligated in all positive commandments not bound by time, and here it is even more puzzling because the woman is the one who does the essence of pru urvu (she carries the child for nine months)! One of the Rishonim/commentators says that because it is so difficult for the woman, the Torah did not want to obligate her with such a difficult thing, and the Torah relied on the fact that a woman has a natural inclination to want children. The man, however, is easier to obligate.

* *Does she have a mitzvah when she has children? (R' Yoel Asher and R' Yitzchak):* R' Yoel Asher initially wanted to say that "not the woman" means only that she is not obligated, but if she has children she certainly performs a positive commandment. R' Yitzchak challenged him that it's not true, she has no positive commandment. R' Yoel Asher agreed that she only has a fulfillment like "one who is not commanded but does."

* *Can a woman say she doesn't want children? (R' Yitzchak):* If a woman doesn't want to have children, she will have a status of a "mordet"; she has no right to evade this, even if she doesn't say "ma'us alai" but only that she doesn't want children, because the husband is obligated.

* **The definition of the obligation at sixteen-seventeen years versus twenty years:**

* *The difficulty (R' Yitzchak and R' Yoel Asher):* Every mitzvah in the Torah one becomes obligated at thirteen years (bar mitzvah). If a thirteen-year-old boy marries and has children, he certainly fulfills the mitzvah! What does the Rambam mean that the obligation begins at 16–17 years, and at 20 years he "violates and nullifies a positive commandment"?

* *Analytical principle (R' Yitzchak):* Theoretically and technically one indeed becomes obligated in all mitzvot at thirteen years. But every mitzvah has its boundaries and measures of how and when it applies according to reality. Chazal understood that pru urvu requires certain conditions – like maturity and

money to support a household. Therefore, it is a definition in the mitzvah itself that the obligation begins only at 16–17 years.

* *Practical meaning of the distinction between 16–17 and 20 (R' Yitzchak and R' Yoel Asher):* At 16 or 17 years (depending on each boy's situation, his strength and his money) begins the obligation to **seek** a match. Because finding a match takes time, Chazal gave a few years. But when it becomes 20 years, it must already be finished ("finalized"); after 20 years there are no more excuses, and he is called "violates and nullifies a positive commandment."

* **The Rambam's position regarding the Mishnah of "ben shemoneh esreh lechupah" and resolving the contradiction with Hilchot Deot (R' Yoel Asher and R' Yitzchak):**

* *The Rambam's source:* In Pirkei Avot it states "ben shemoneh esreh lechupah." Why does the Rambam rule 16–17 years? Because the Rambam rules according to the Gemara in Kiddushin. The Rambam held that that Mishnah in Avot is actually a Baraita, and he does not rule it as halacha (also not in Hilchot Talmud Torah regarding the years of learning Mikra, Mishnah, and Gemara). In practice, there is also no contradiction, because if one begins seeking a match at 16–17, one arrives at the chupah around 18 years.

* *Resolving the contradiction with Hilchot Deot (livelihood calculation):* In Sefer HaMadda (Hilchot Deot Chapter 5) it states that a person should first establish livelihood ("plant a vineyard") and a dwelling and only then marry. When a man takes a wife he is obligated to give her a dwelling, she'er, kesut, and onah. At 13–14 years no one expects a boy to be able to earn money to support a household; at that time he begins learning a trade or working. By the time he becomes 16–17 years old (the time that the Sages determined for marriage), he has already worked and possesses a career and a "vineyard" to support a household, and then begins his obligation to seek a wife. Thus the two halachot in the Rambam align completely.

* **Why specifically livelihood bothers the talmid chacham, and not onah (R' Yoel Asher and R' Yitzchak):**

A man is obligated in she'er, kesut, and onah. Seemingly, Chazal already gave advice for a talmid chacham regarding "onah," whose obligation is only once a week (from Shabbat to Shabbat), because Torah weakens his strength (R' Yitzchak adds that from the outside one doesn't see the weakness, but R' Yoel Asher holds that one does see it). But the main problem that the Rambam brings out is "lest he be burdened with livelihood" – the hard work for livelihood that will take away his time from learning (since in those times there was no such concept of a kollel where one marries and doesn't worry about livelihood).

* **The principle of "one engaged in a mitzvah is exempt from the mitzvah" regarding Torah study and other mitzvot:**

* *The question (R' Yoel Asher):* Since the Rambam builds this dispensation on the principle of "one engaged in a mitzvah is exempt from the mitzvah" (and only adds "all the more so regarding Torah study"), it seemingly follows that if someone is engaged in another mitzvah – for example, he serves and cares for his sick father all day – he will also be exempt from marriage! He initially wants to say that actually Torah study is different because Torah comes before everything (as we saw earlier that a wife cannot prevent a husband from going to learn), but the Rambam formulated it with the local principle of "one engaged in a mitzvah."

* *The answer (R' Yitzchak):* The Rambam explicitly places it within the principle of "one engaged in a mitzvah," and thus it is indeed true that also another mitzvah can exempt. The distinction is only practical: most mitzvot don't interfere with marriage. Only with Torah study, since marriage requires going to work for livelihood ("be burdened with livelihood"), which takes the person away from the beit midrash, does the mitzvah of pru urvu become a direct contradiction to his "preoccupation with Torah."

* **The dispensation of Ben Azzai for an entire life ("all his days") versus other mitzvot:**

* *Precision in "and is absorbed in it like Ben Azzai" (R' Yoel Asher):* This is a language that the Rambam also uses in Hilchot Talmud Torah and Hilchot Teshuvah. "Absorbed in it" means that he is completely consumed ("obsessed") with Torah; not only when he sits to learn, but his mind automatically thinks of learning every moment he's not prevented. He has clung to the Torah ("and clings to it") as if he had already married it.

* *Does the exemption go for an entire life with other mitzvot?* R' Yoel Asher holds that the exemption of "one engaged in a mitzvah" for other mitzvot is only good for a temporary period (to delay), but if a person evades pru urvu an entire life he has a sin – except for Torah, where it's possible for a person to become "crazy for Torah" for an entire life. R' Yitzchak holds, however, that theoretically there is no distinction how long it lasts; since it goes with the principle of "one engaged in a mitzvah is exempt from the mitzvah," it can theoretically work for an entire life with every mitzvah. The distinction is only that most people finish their mitzvah at a certain point, whereas Ben Azzai never stopped learning.

* *Trying to find a scenario of another mitzvah "all his days":* R' Yoel Asher tries to find a hypothetical scenario of another mitzvah that takes up a person an entire life: for example, a doctor who heals people seventeen hours a day, or one who prays (like the Ribnitzer Rebbe) who only wants to pray all day. R' Yitzchak rejects both examples: a doctor has time to marry and also earns money from it **[Digression: R' Yitzchak notes in passing that according to the Rambam a doctor may actually not take money]**. And praying is also not a contradiction to marriage, because praying doesn't cost money and one can pray all day and night together with working for livelihood (and even pray for livelihood itself). Only with Torah is there a reality where the "burden of livelihood" is a direct contradiction to "absorbed in it."

* **Resolving the contradiction between "his soul desires Torah" and "his yetzer overpowers him":**

How can a person be at the level of Ben Azzai (his soul desires Torah) and simultaneously be one whose yetzer overpowers him?

* *R' Yoel Asher:* Initially he wanted to say that if the yetzer hara bothers him, he is thereby nullifying Torah and is no longer in the category of "absorbed in it." Then he explains that he is indeed "his soul desires Torah" in the sense that he absolutely does not want to give up his status as a ben Torah, put on work clothes and go work all day for livelihood to support a wife. He wants to remain in the beit midrash, but in the midst of learning there are days when the yetzer overpowers him.

* *R' Yitzchak:* The Rambam speaks of one who still learns and is "his soul desires Torah," but at the same time he has improper thoughts. Why can't such a person marry but still stumble every night with sins ("improper thoughts")? Because a kosher wife costs money and requires hard work for livelihood (which takes him away from learning), whereas sins cost cheaper or nothing, and he doesn't have to go work for them, and they don't take as much time! Therefore, he can technically sit and learn by day and sin by night. The truth is that if someone is truly "absorbed in Torah" (as the Rambam writes in Hilchot Issurei Biah), he won't have so many improper thoughts; but the Rambam comes to warn people who fool themselves and think they are at the level of Ben Azzai while they are at the same time a degenerate ("a lowlife") and full of sins.

* **Dispute over the meaning of "improper thoughts" and "his yetzer overpowers him":**

R' Yoel Asher wondered at the words "even if he has children": here it's not about the mitzvah of pru urvu, and the rabbinic prohibition to be without a wife the Rambam will only say later; and how does a wife help at all to eliminate improper thoughts? Over this develops a dispute in interpretation:

* *R' Yoel Asher's approach:* "Improper thoughts" means literally a thought. Even if nothing will actually result from it, but for a moment he is preoccupied with sins. To this is brought an idea (perhaps from the Maharal) on the Gemara "improper thoughts are worse than the sin": as long as a person doesn't have the strength to put the yetzer to sleep through Torah, the improper thought doesn't stop cooking in his system and torments him, and eventually it will defeat him and bring him to an actual sin (such as living with a woman without chupah and kiddushin or stumbling with a married woman out of desire). But if he had a thought for a short time and overcame it and moved on, it's not called "his yetzer overpowers him," but rather the opposite – he overpowers his yetzer.

* *R' Yitzchak's approach **[Digression: the dispute between Chassidim and Litvaks regarding marrying young]**:* R' Yitzchak strongly disagrees. He holds that the Maharal's Torah doesn't align with the Gemara "when he is hungry make him full and when he is full make him hungry" (that fulfilling the desire doesn't quiet it, but makes it hungrier). According to R' Yitzchak, "improper thoughts" and "his yetzer overpowers him" doesn't mean a sick person ("cholim"), and also not normal improper thoughts that a boy has (about which Chazal say in Bava Batra "we are not saved from them every day"). He shows that the Chassidic claim against the old Lithuanian yeshivot (where they married late in order to be able to learn before going to work) that one must marry young due to improper thoughts, is a mistake in the plain meaning of the Rambam. Proof: a fifteen-year-old boy also has improper thoughts, and yet everyone holds (even the Chatam Sofer, and Rav Chisda in the Gemara who married at fourteen or sixteen) that one doesn't marry before that, and the Rambam himself writes that the normal time is until twenty years! Moreover, for such a simple level of improper thoughts, marriage doesn't help either.

* So what then? The Rambam speaks of a normal person (for example at 45 years) who goes crazy with desire because he has no wife, and becomes an "improper thoughts person" (a "lowlife") – he walks around all day planning sins and doing sins in practice. (This is not like a talmid chacham who stumbles once at night, about which the Gemara says "if he sinned at night, don't think about it during the day," but one whose entire being becomes preoccupied with it). The Rambam calls it "improper thoughts" not only as a clean language for actual sin, but because this expresses the root of the problem: the person's head is completely in it.

* **Three separate reasons and mitzvot to marry (R' Yoel Asher):**

We see here in the Rambam three separate foundations for why one must marry: (a) the mitzvah of kiddushin and holiness (not being single, as at the beginning of Hilchot Ishut), (b) the mitzvah of pru urvu, and (c) to save oneself from the yetzer hara, improper thoughts and desires that come from not having a wife.

Halacha 4: The Measure of Pru Urvu (Male and Female, Seris and Ailonit)

1. The Rambam's Words

How many children should a man have for this mitzvah to be fulfilled? A male and a female, as it states: "male and female He created them." If the son was a seris or the daughter was an ailonit – he has not fulfilled the mitzvah.

2. Plain Explanation

To fulfill the mitzvah of pru urvu, a person must have at least one son and one daughter. If the son is a seris or the daughter is an ailonit (who cannot have children), the father has not fulfilled the mitzvah.

3. Insights and Explanations

* **The reason why one needs a male and a female, and the derivation from the verse "male and female He created them":**

* *R' Yoel Asher's reasoning:* The plain meaning is simple: a male and a female is a "complete set" that can further have children and continue the world (although the brother and sister cannot

marry each other, the father has provided a male and a female for the world). And the verse "male and female He created them" shows that when Hashem created the world – as if fulfilling His pru urvu – He did it with a male and a female so they could further multiply.

* *R' Yitzchak's chiddush in the derivation from the verse:* If it's only a reasoning of continuing the world, why do we need a verse "male and female He created them"? The reasoning itself is enough! Therefore R' Yitzchak says a sharp interpretation of the derivation: the mitzvah of pru urvu is to create a "person" (adam). What is the Torah's definition of an "adam"? The Torah says in this verse: "male and female He created them and blessed them and called their name Adam." Chazal learn from this (like the concept of "half a body") that an individual alone is only half a person; the name "Adam" only applies to a male and a female together. Thus, to fulfill pru urvu (to make a person), one must give birth to a male and a female, who together constitute one "Adam."

* *The back-and-forth on this:* R' Yoel Asher objects that in thousands of places in the Torah an individual is indeed called an "adam" (as he jokes: when it states "adam ki yakriv mikem korban," will we say that an individual cannot bring a sacrifice but only a man and woman together?!), and moreover it doesn't state in the mitzvah of "pru urvu" that one must make an "adam," but that one should multiply, thus R' Yitzchak's approach is a Torah with four steps. R' Yitzchak holds firmly to his interpretation, that in this verse of the creation of man it explicitly states that "adam" is specifically male and female, and only this way do we understand why the Rambam (and the Gemara) must come to the verse "male and female He created them."

* **The law of seris and ailonit:**

* *R' Yoel Asher:* This proves his reasoning! A seris and an ailonit are certainly included in "adam," and therefore the father is not fulfilled with them, because the purpose of pru urvu (and "for settlement He formed it") is that the world should have long-term existence, and they cannot have children.

* *R' Yitzchak:* One could indeed argue about the law (and ask: why isn't "for settlement" enough for the current generation? Why must one worry about tomorrow?), but Chazal indeed learned the reasoning that the child must be fit to procreate further.

Halacha 5: Fulfillment of the Mitzvah Through Grandchildren

1. The Rambam's Words

If children were born to him and died, and they left children – he has fulfilled mitzvat pru urvu; grandchildren are like children. When does this apply? When the grandchildren were male and female, and they came from a male and a female, even though the male is his daughter's son and the female is his son's daughter. But if he had a son or daughter and they died, and one of them left a male and a female – he has not yet fulfilled the mitzvah.

2. Plain Explanation

If a person had children and they died, but they left grandchildren, the grandfather has fulfilled the mitzvah, because "grandchildren are like children." But this is only with two conditions: (a) the grandchildren are a male and a female, and (b) they come from both of his children – both from the son and from the daughter (even if the grandson is from his daughter and the granddaughter is from his son). But if only one of his children left a male and a female (and the second child died without children, or he only had one child), the grandfather is not fulfilled.

3. Insights and Explanations

* **The definition of "grandchildren are like children":**

For the grandchildren to complete the grandfather's mitzvah, it's not enough that there exist in the world a male and a female who descend from him (through one child). It must be that his original measure of "male and female" (his son and his daughter) both have a

continuation. Each one of his two children must leave at least one child (and together the grandchildren must be a male and a female).

* **Grandchildren as part of the grandfather's mitzvah (R' Yitzchak):**

We see from here (although one can doubt how far we can learn from this law) that grandchildren are a direct part of the fulfillment of the mitzvah of the grandfather himself. A grandfather cannot say "what do I have to do with my grandchildren, that's my son's matter" – rather they are literally the fulfillment of his own mitzvat pru urvu.

Halacha 6: A Convert and a Freed Slave Who Had Children Previously

1. The Rambam's Words

If he had children in his non-Jewish state, and he converted along with them – he has fulfilled this mitzvah. But if he was a slave and had children, and he was freed along with them, he has not fulfilled mitzvat pru urvu until he has children after being freed, for a slave has no lineage.

2. Plain Explanation

If a gentile had children while he was a gentile, and then he converted together with his children, he has thereby fulfilled the mitzvah of pru urvu. But if he was a Canaanite slave and had children, and then he and his children were freed and became full Jews, he has not thereby fulfilled the mitzvah, and he must have new children after becoming a free man, because a slave has no lineage whatsoever.

3. Insights and Explanations

* **How can a convert be fulfilled with an act done before the obligation? (The definition of pru urvu and "for settlement He formed it" by gentiles and Jews):**

* *The question and the foundation of "for settlement He formed it" (R' Yoel Asher and R' Yitzchak):* When he gave birth to the children as a gentile, he did not yet have any mitzvah of pru urvu (as it states in Gemara Sanhedrin that a Ben Noach is not commanded on pru urvu), and pru urvu has to do with bringing Jews into the world – how can this be relevant to his mitzvah later when he becomes a Jew?

R' Yitzchak and R' Yoel Asher consider that the Creator created the world "for settlement" (that it should be populated with people), and it indeed states that the matter of "for settlement" is a mitzvah also on Bnei Noach, even if they are not obligated in the mitzvah of pru urvu.

* *Dispute of Amoraim in this law (R' Yitzchak):* In the Gemara (Yevamot 62a) this is a dispute of Amoraim between R' Yochanan and Reish Lakish (and halachically we rule like R' Yochanan that he has fulfilled the mitzvah). Therefore one cannot say that the reasoning here is completely simple and clear, because a great Amora (Reish Lakish) indeed held the opposite (that "a convert who converted is like a child newly born" and he is not fulfilled with the children from his gentile state).

* **The distinction between the act of the mitzvah and the result (outcome) by pru urvu:**

* *R' Yoel Asher:* The essential explanation by the convert is that we look at the combination of the "act" and the "result" (the outcome): the act of having children was done by him in the past, and the end result is that now he has left Jewish children in the world. In many mitzvot the result is very closely attached to the act; but by pru urvu the result is removed by years later – a person doesn't even know if he has actually fulfilled the mitzvah until he sees his grandchildren (since the children themselves must also be able to have children). This is certainly one of the reasons why one doesn't make a blessing on the mitzvah of pru urvu, because one only becomes aware of the result in about seventy years. (R' Yitzchak notes that one does make a blessing at the wedding, but it's a question whether that blessing goes on the mitzvah of pru urvu).

* *R' Yitzchak:* Almost all human actions and mitzvot are built on a result (otherwise it has no

status of an act), like for example mitzvat Talmud Torah, where part of the mitzvah is the result of becoming a talmid chacham, which takes tens of years. Therefore pru urvu is a longer act that extends an entire life. Proof of this is from the Gemara in Masechet Shabbat, that when a person dies they ask him in the next world: "Did you engage in pru urvu?" – they ask about the engagement of his entire life, because one cannot mark one specific moment when one fulfills this.

* **The distinction between a gentile and a slave regarding lineage (R' Yoel Asher and R' Yitzchak):**

A Canaanite slave – although he is obligated in many mitzvot like a Jew – has a problem of "he has no lineage." Since the slave and his offspring belong as property to the master (the master can even arrange with whom he should marry), he is never counted as a father to his children, and even when both are later freed they have no kinship.

In contrast, by a gentile the Gemara says (according to Rabbi Yochanan) that "in their gentile state they have lineage" – two gentiles do have a concept of father and child (although in the Gemara there is also an opinion of "the emission of horses is their emission" that a gentile's seed is ownerless, but halachically they do have lineage among themselves). Although when a gentile converts alone the law is "a convert who converted is like a child newly born" and he loses his lineage to his gentile father (because a Jew with a gentile have no lineage), but here where both converted, the lineage remains that he is his father.

* **The implication of "he converted along with them" – conversion of a family (R' Yitzchak):**

What would be the law if the children converted later, not at the same time as the father? From this language "he converted along with them" (or "they converted with him") is implied a reasoning (similar to a man and wife who convert together) that there is a concept that "a family converts," not just an individual person, and therefore the lineage remains regarding pru urvu, although halachically they are not called relatives for other matters.

* **[Digression: Honoring father and inheritance by a convert and a freed slave (R' Yoel Asher and R' Yitzchak)]:**

We see here how the law is divided ("we divide"): regarding pru urvu the convert is counted as the father, but for other laws they are not called relatives. By a slave who converted or was freed together with his father, it explicitly states that there is no obligation of honoring father from the essential law, and also regarding inheritance the Rambam says that a slave does not inherit his father (due to a decree, lest one make a kal vachomer, etc.). R' Yoel Asher mentions, however, that there can still be a matter of honoring father from the aspect of gratitude, similar to the law by a stepfather where we learn that there is a definition of honoring father.

Halacha 7: Marrying a Woman Who Cannot Have Children, and Compulsion After Ten Years

1. The Rambam's Words

A man should not marry a barren woman, an old woman, an ailonit, or a minor who is not fit to give birth, unless he has fulfilled mitzvat pru urvu or he has another wife to procreate from. If he married a woman and she remained with him ten years and did not give birth, he must divorce her and give the ketubah, or marry a woman fit to give birth. If he does not want to divorce her, we compel him and strike him with a whip until he divorces. If he said "I will not be with her and I will dwell with her before witnesses so that I will not be secluded with her," whether she said it or he said it, we do not listen to them, but he must divorce or marry a woman fit to give birth.

2. Plain Explanation

A person may not marry a barren woman (a woman who cannot have children for a known reason), an old woman (an elderly woman who

can no longer have children), an ailonit (a woman whose organs show from birth that she is not fit to have children), or a minor who is not yet fit to give birth – unless he has already fulfilled pru urvu, or he has another wife from whom he can have children.

If he married a regular woman and she did not give birth for ten years, he must divorce her and pay her ketubah, or take another woman who can have children. If he doesn't want to, we compel him and strike him with a whip until he divorces her. If he or she claims that they will continue living together without relations and before witnesses so there will be no seclusion (until he finds a second wife), we do not listen to them, but we compel him until he divorces her or takes a woman who can have children.

3. Insights and Explanations

* **The definition of the prohibition to marry a barren woman (R' Yoel Asher and R' Yitzchak):**

That one may not marry a barren woman is not an independent prohibition in the marriage itself, but it is simply a nullification of the positive commandment of pru urvu. Therefore, if he has another wife or he has already fulfilled the mitzvah, it is completely permitted.

* **The law of ten years and the source from Avraham Avinu (R' Yoel Asher and R' Yitzchak):**

When a person marries a regular woman (permissibly) and she has no children for ten years, she now receives the halachic status of a "barren woman" that was mentioned at the beginning of the halacha, and he must divorce her or take another wife. He must, however, pay her the ketubah, because she did no wrong – it is an illness and not her fault. The measure of ten years is derived from Parashat Lech Lecha, where Avraham Avinu waited ten years with Sarah Imeinu, and after ten years he married Hagar.

* **Precision in the Rambam's language: "until he divorces" (R' Yoel Asher and R' Yitzchak):**

Earlier the Rambam gave two options – "divorce... or marry a woman fit to give birth" (either divorce or take a second wife). Why does the Rambam write regarding the lashes only "and strike him with a whip **until he divorces**" and doesn't mention "until he marries a woman fit"?

The answer is that generally people don't live with two wives, and it is very expensive to support two women. If he had money and wanted to take a second wife he would have already done it himself; when it comes to compulsion, the only practical way is to compel him to give a get.

* **Compulsion on pru urvu in practical halacha, and the meaning of "strike him with a whip" (R' Yitzchak and R' Yoel Asher):**

* *Compulsion nowadays:* The power of beit din to strike with a whip is the general law of "we compel for a positive commandment." But in Shulchan Aruch (and in Rema) it states that in practice we do not conduct ourselves nowadays to do the compulsion. We indeed find gedolei Yisrael who did not divorce their wives even after not having children for many years (and sometimes one also cannot know with whom the fault lies).

* *The meaning of "whip":* In the Gemara sometimes there is a concept of "compulsion" that means only with words, but here the Rambam says explicitly that we compel physically with a "whip" (a lash) – we don't use any gentle, diplomatic rabbinic words, but with full harsh severity. R' Yoel Asher adds his own thought: a whip is usually given to a slave; perhaps the Sages viewed a man who doesn't divorce his wife due to his wife as a "slave to his wife," and therefore he receives a whip.

* **Why don't we listen to him when he wants to live with her before witnesses without marriage? (R' Yoel Asher and R' Yitzchak):**

Why must we compel him to divorce the first wife if he loves her or is embarrassed before her, and why isn't it enough that he should refrain from living with her while he seeks a second wife?

Initially one might have thought from this language that there is a prohibition (like wasting seed) to have relations with a woman when one knows for certain that there is no chance for pru urvu, and therefore the husband tries to claim that he will avoid relations and seclusion. But R' Yoel Asher and R' Yitzchak reject this: living with her itself is certainly not a prohibition in essence, because the proof is that he may take a second wife and continue staying with the first! Rather the reason why we compel him to divorce is explained in two ways:

* *Approach 1 (from the husband's side):* A second wife was a very rare and uncomfortable thing, and he is already "stuck" with a wife at home. Thus beit din doesn't trust him, and we assume that as long as he is with the first wife he will never take a second. His claims that "I'm about to take a second wife and meanwhile I'm not living with the current one" are viewed as mere excuses to evade a get. Therefore we compel him first to divorce, unless we see in practice that he indeed takes another wife.

* *Approach 2 (from the wife's side, according to Masechet Ketubot):* We don't trust the situation because of the wife: just as she doesn't want him to divorce her, she will also prevent and hinder him from taking a second wife. Therefore, in order for him to be able to fulfill pru urvu, he must first divorce her.

Halacha 8: When the Impediment is From Her or From Him ("Shoots Like an Arrow") and the Laws of Ketubah

1. The Rambam's Words

If he married a woman and remained with her ten years and did not give birth, and he shoots his seed like an arrow, the presumption is that the illness is from her and she leaves without a ketubah, and she has the tosefet; she should not be worse than an ailonit that he did not recognize. If he does not shoot like an arrow, the presumption is that the illness is from him alone, and when he divorces her he gives the full ketubah. If he says the impediment to children is from her and she says it is from him because he does not shoot like an arrow, she is believed, and he may place a general cherem on whoever claims something she does not know with certainty, and he gives the ketubah. If she said "I don't know if it's from him or from me," she has no basic ketubah as we said: leave the money in the possession of its owner until she claims with certainty that he does not shoot like an arrow. Why is she believed in this claim? Because she feels whether he shoots like an arrow or does not shoot, and he does not feel.

2. Plain Explanation

When a couple has no children for ten years, the law of the ketubah depends on whether we know who is the cause:

* If the husband "shoots his seed like an arrow" (his seed shoots out with force like an arrow), the presumption is that the illness/impediment is with the wife. Then she leaves without the basic ketubah, but she does receive the tosefet ketubah (because she is no worse than an ailonit that the husband did not know about).

* If he does not shoot like an arrow, the presumption is that the problem is only with him, and when he divorces her he must pay the full ketubah (basic and tosefet).

* If they have an argument – he says it's from her, and she claims with certainty that it's from him because he does not shoot like an arrow – we believe her. The husband can only place a general cherem on whoever claims something they don't know for certain, and he must pay the ketubah.

* If she says "I don't know if it's from him or from me" (a claim of doubt), she does not receive the basic ketubah, because we leave the money in the possession of the husband until she claims with a certainty.

* The reason why she is believed is because she feels in her body whether he shoots like an arrow, while the husband does not feel it.

3. Insights and Explanations

* **The benefit of divorce and the presumption of "shoots like an arrow" (R' Yitzchak and R' Yoel Asher):**

The entire law of compelling to divorce after ten years only makes sense if the problem is with her; if the problem is with him, divorcing won't help at all. "Shoots like an arrow" doesn't create one-hundred-percent knowledge (there could still be another problem with him), but it creates a halachic "presumption" that his part works and the illness is from her.

* **The contradiction with Halacha 7 and the objection of the Raavad:**

* *The question (R' Yitzchak):* In the previous halacha (Halacha 7) the Rambam wrote simply "he divorces and gives the ketubah," and here he writes that if he shoots like an arrow (which is the usual case) she leaves *without a ketubah*! Moreover, the wife married with the presumption of a normal woman who can have children, why should she lose her ketubah? The Raavad indeed challenges the Rambam ("I have no part in his words, for we only say this with a third husband") and holds that a woman only loses her ketubah after she has married three men and not had children (a presumption for her), but not with the first husband.

* *The answer to the contradiction in the Rambam (R' Yoel Asher):* In a regular case we don't investigate and we don't torment her with examinations, but the law is simply "he divorces and gives the ketubah." Halacha 8 speaks only when litigation begins and we come to clarify with whom the problem lies; if it becomes clear that the presumption is that it's from her, she loses the ketubah.

* **The distinction between basic ketubah and tosefet ketubah (R' Yitzchak and R' Yoel Asher):**

Why does she lose the basic ketubah when the illness is from her, but she does receive the tosefet? The Rambam's foundation is: the basic ketubah is an enactment of the Sages "so that it should not be easy in his eyes to divorce her." But with a woman who is not a bat banim (capable of having children), where the Sages themselves stand and compel the husband to divorce her (just like with forbidden relations or an ailonit), is it relevant to say that the Sages would want him not to divorce her?! Therefore the Sages retroactively nullified the basic ketubah, even though it was not known at the time of the marriage.

In contrast, "tosefet ketubah" is not an enactment of the Sages but his own obligation that the husband wrote to her of his own will, and this cannot be taken away (just like with an ailonit that he did not recognize).

* **The precision of "and when he divorces" when he does not shoot like an arrow (R' Yoel Asher):**

The Rambam writes: "If he does not shoot like an arrow, the presumption is that the illness is from him alone, **and when he divorces** he gives the full ketubah." He doesn't say that he *must* divorce, but "when he will divorce" (if he wants to divorce). Why? Because if the problem is with him ("he does not shoot like an arrow"), we don't compel him to divorce at all, because he anyway cannot have children and may remain with her! But if he decides on his own to divorce her, he must pay the full ketubah, because the impediment is his and the Sages did not nullify the ketubah.

* **The wife's credibility regarding "shoots like an arrow" and the laws of claims of certainty and doubt (R' Yoel Asher and R' Yitzchak):**

* *The reasoning for credibility:* It is a chiddush that the wife knows better than the husband what happens with his seed. The explanation (in the Gemara and in the Rambam) is that the husband doesn't know what happens inside her womb and he doesn't feel how it comes out during relations (R' Yitzchak adds that possibly it goes specifically when he is with her), while the wife does feel it in her body. Therefore, even when the husband claims against her that he does shoot like an arrow, she has more credibility because for her it is a clear "certainty" and he cannot really know.

* *General cherem:* Since the husband cannot prove her a liar, the only thing he can do is place

a "general cherem" (not on her name directly, but generally on whoever claims something they don't know for certain), and then he must pay the ketubah.

* *Monetary presumption with a claim of doubt:* Since the wife comes to extract money from the husband who is the muchzak (possessor) ("leave the money in the possession of its owner"), she can only extract the ketubah when she has a strong claim of certainty ("certainty") that he does not shoot like an arrow (which the husband has no way to refute). But if she says "I don't know," she has no power to extract from the muchzak and she loses the basic ketubah.

* **[Digression: Peirush HaMishnah of the Rambam regarding medical causes of barrenness (R' Yoel Asher)]:**

The Rambam writes in Peirush HaMishnah: "The causes of impediment to birth are many and known to the doctors" – the doctors know of many different medical reasons why a couple cannot have children. Why does the halacha mention only "shoots like an arrow"? Because in halacha we follow the simple presumptions that people can determine themselves at home without doctors, and this depends on whether he shoots like an arrow or not.

Halachot 9–10 (in the sections of the lecture): A Woman Who Demands a Get After Ten Years

1. The Rambam's Words

A woman who comes to demand that her husband divorce her after ten years because she did not give birth, and she says that he does not shoot like an arrow, we listen to her. Even though she is not commanded regarding pru urvu, she needs children for her old age, and we compel him to divorce and he gives only the basic ketubah, for he did not write the tosefet to her on condition that she leave at her will and take it.

2. Plain Explanation

Normally a woman cannot demand a get, but if she comes to demand a get after ten years that she has not given birth and claims that it is his fault because he does not shoot like an arrow, we listen to her. Although a woman has no mitzvah of pru urvu, she needs to have children who will be her company and help her in her old age ("for her old age"). Therefore we compel the husband to give her a get, but he only needs to pay her the basic ketubah and not the tosefet ketubah.

3. Insights and Explanations

* **The right of a woman to demand a get for her own benefit (R' Yoel Asher):**

Usually a woman cannot demand a get just like that, unless she has specific halachic claims like "ma'us alai" and the like. Until now we spoke about where we compel to divorce due to the *mitzvah* of pru urvu (which is for the benefit of settling the world). But here is a new case: the wife is exempt from pru urvu, and the husband is not nullifying her from any mitzvah!

The chiddush is that a person has a full halachic right to want to have children for themselves – not only as a mitzvah, but for their own human needs, comfort and good of the world: to have company and help in old age ("she needs children for her old age"). The claim is so just that beit din compels the husband ("we compel him to divorce") to give her a get with the basic ketubah.

* **The distinction between basic and tosefet ketubah in this case (R' Yoel Asher):**

Why is he here exempt from the tosefet (unlike in Halacha 8)? Because the tosefet he added of his own will with the condition that she stays with him as long as he wants ("if you're gonna stick around"). He didn't write it in a way that she should be able to leave when she wants ("that she leave at her will") and still take his gift.

Halacha 11: Interruptions in the Calculation of the Ten Years

1. The Rambam's Words

If he went on business trips within the ten years, or he was sick or she was sick, or they were imprisoned, that time does not count toward the calculation.

2. Plain Explanation

If during the ten years he traveled on business trips, or one of them was sick, or they were imprisoned, we don't count that time in the calculation of the ten years, because "ten years" is not just a number but ten years that they tried to have children.

3. Insights and Explanations

* **Precision in "imprisoned" (R' Yoel Asher):**

The Rambam writes in plural that both were imprisoned (or he alone), because if only she was imprisoned, he has an obligation to redeem her!

* **Modern doctors versus the presumption of ten years (R' Yitzchak and R' Yoel Asher):**

The entire law of waiting ten years is built on a "presumption" (that after ten years of trying it becomes clear that one cannot have children). According to this it follows that nowadays, if a doctor (an expert) says clearly that something is missing and there is no way to have children, one doesn't need to wait the ten years. A clear medical clarification is at least as strong as a "claim of certainty" (although R' Yitzchak notes that the claim of certainty earlier in the Rambam was also only after ten years). A doctor can also know more clearly whether they have indeed tried as they should ("in what manner").

* **The measure of "went on business trips" (R' Yoel Asher and R' Yitzchak):**

How long must he be absent for it not to be counted? The Rambam doesn't say any specific time (he doesn't require ten years of "intense onah"). It's clear that we won't take a calculator and make precise calculations of how many times he traveled to Uman for a week or was absent for a month; it means that he traveled on longer trips, like for example six months.

Halacha 12: Miscarriage and the Presumption of Miscarriages

1. The Rambam's Words

If she miscarried, we count from the day she miscarried. If she miscarried and again miscarried three times, she is established as one who miscarries, and perhaps he was not privileged to be built up through her, and he divorces and gives the ketubah.

2. Plain Explanation

If she miscarried, we begin counting a new ten years from that day (because the fact that she became pregnant disrupts the previous claims and shows that she can indeed have children). But if she miscarried three times, she already has a presumption that she has miscarriages, and we say that perhaps he was not privileged to be built up through her, thus he must divorce her and give the ketubah.

3. Insights and Explanations

* **Precision in "established as one who miscarries" and "perhaps he was not privileged" (R' Yoel Asher and R' Yitzchak):**

A person might have thought the opposite: that she becomes pregnant three times is proof that her system works! The Rambam says no, it becomes a presumption for miscarriages. But the Rambam uses a precise language: he doesn't write "she is established as one who miscarries" (that she herself is a woman who makes miscarriages, like a "katlanit" who may no longer marry), but "established as one who miscarries" – and adds "perhaps he was not privileged to be built up through her." This means that the presumption is only between her and him; the two of them are not a good match for children, but she can go marry a second person (as it states in Halacha 14).

* **The source of the language (R' Yoel Asher and R' Yitzchak):**

The language "to be built up through her" comes from the verse by Sarah and Rachel ("perhaps I will be built up through her" / "and I too will be

built up through her"). The word "privileged" is a language of Chazal.

Halacha 13: The Wife's Credibility Regarding Miscarriages

1. The Rambam's Words

If he says she miscarried within ten years so that he may remain, and she says she did not miscarry, she is believed, for she does not establish herself as barren. If he says she miscarried twice and she says three times, she is believed, for she does not establish herself as one who miscarries. In all this we have her take an oath of inducement that she did not miscarry or that she miscarried three times, for with this claim he will be obligated to give her ketubah.

2. Plain Explanation

If the wife wants to leave with a get, and he claims that she miscarried in the middle of the ten years (so that he can stay with her longer), and she says that she never miscarried – we believe her, because a woman doesn't seek to make herself a name as a barren woman. Similarly if he says that she miscarried only twice, and she says three times (and wants a get), we believe her, because a woman doesn't want to establish herself as one who miscarries. But in all these cases he can have her take an "oath of inducement" before he pays the ketubah.

3. Insights and Explanations

* **Distinction between general cherem and oath of inducement (R' Yoel Asher):**

In the previous halachot we had that one only places a "cherem," but here he can actually have her take an "oath of inducement" (an oath that one side throws on the other). The reason is because here she is extracting money from him through her claim ("for with this claim he will be obligated to give her ketubah"), so he has the right to make a condition that she receives the ketubah only with an oath of inducement.

Halacha 14: A Woman Who Had No Children With Two Men

1. The Rambam's Words

If she married one and remained with him ten years and did not give birth and he divorced her, she is permitted to marry a second. If she remained with the second ten years and did not give birth, she may not marry a third, and if she married a third she leaves without a ketubah, unless he has another wife or he fulfilled mitzvat pru urvu.

2. Plain Explanation

If a woman was with a man ten years without children and he divorced her, she may marry a second (because we say that the first was not privileged). But if she was with the second also ten years without children, a presumption is already established that the problem is with her, and she may not marry a third man – unless the third has already fulfilled pru urvu or he has another wife. If she did not follow and indeed married a third (who has no children), she leaves without a ketubah.

**3. Insights and

Explanations**

* **Why does she lose the ketubah with the third? (R' Yitzchak and R' Yoel Asher):**

Based on the principle that we learned earlier in the Rambam, the reason is clear: the Sages did not enact any basic ketubah at all for a woman who is established as not a "bat banim" (capable of having children) (when the husband is still obligated in pru urvu and we compel him to divorce her).

Halacha 15: Claim of "Does Not Shoot Like an Arrow" Before the Ten Years

1. The Rambam's Words

A woman who comes to beit din and says "my husband cannot be intimate in the normal way that produces children, or he does not shoot like an arrow," the judges should make a compromise and tell her: it

is proper for you to conduct yourself with your husband until you remain ten years and do not give birth, and then you may claim. We persuade her in the matter; we do not compel her to stay nor do we judge her with the law of a mordet, but we extend the matter until they make a compromise.

2. Plain Explanation

If a woman comes to beit din *before* the ten years and claims that her husband cannot be intimate in a way that produces children or he does not shoot like an arrow, we do not yet compel him to give a get. The judges speak with her and ask her to wait ten years. We don't compel her to stay with him, and we also don't give her the law of a "mordet" (because she has a strong claim), but we extend the matter and negotiate until they come to a compromise.

3. Insights and Explanations

* **The distinction of before ten years versus after ten years (R' Yitzchak):**

Until now we spoke *after* ten years, where the wife has credibility. Here we speak *before* the ten years (she says: why should I wait ten years when I already know now that he does not shoot like an arrow?), and then neither side has credibility to be able to compel the other.

* **Meaning of "we persuade her in the matter" (R' Yoel Asher and R' Yitzchak):**

* *R' Yoel Asher (psychologically):* The judges enter into the topic with her, because women like to talk about how they feel about this.

* *R' Yitzchak (literally):* "Persuade" is a language of turning (like turning debts); we turn her head and we drag out the time.

* **What does "compromise" mean in this case? (R' Yitzchak and R' Yoel Asher):**

"Compromise" here cannot mean in the middle – one cannot be half married! Rather the plain meaning is that since beit din has no power to compel either side before the ten years, we work with them until both agree on a plan: either he agrees to give a get for half a ketubah, or she agrees not to wait ten years but to give him another six months to try, and the like.

Halacha 16: The Rabbinic Mitzvot – Adding Children and Not Living Without a Match

1. The Rambam's Words

Even though a person has fulfilled mitzvat pru urvu, he is commanded by the words of the Sages not to cease from procreating as long as he has strength, for whoever adds one soul in Israel is as if he built a world. Similarly it is a mitzvah of the Sages that a man should not sit without a wife lest he come to improper thoughts, and a woman should not sit without a man lest she be suspected.

2. Plain Explanation

Even after a person has already fulfilled the Torah mitzvah of pru urvu, he is commanded rabbinically to have more children as long as he has strength, because everyone who adds one soul to the Jewish people is as if he built a world. Also there is a mitzvah of the Sages that a man should not be without a wife (so that he should not come to improper thoughts), and a woman should not be without a man (so that she should not be suspected).

3. Insights and Explanations

* **The levels in the Rambam (R' Yitzchak and R' Yoel Asher):**

The Rambam goes according to his order: first he calculated the Torah mitzvah of pru urvu (and onah), and now he brings a second level – the rabbinic mitzvah ("from the words of the Sages") to have more children ("in the evening do not withhold your hand") and not to sit without a wife. (R' Yitzchak notes that here both things clearly stand that they were searching for earlier where it states).

* **Precision in "as if he built a world" (R' Yitzchak and R' Yoel Asher):**

Why does it say "**as if** he built a world"? Because he only gave birth to one person, not an entire

world! But since from that one person will later emerge many children and generations, it is counted "as if" he built a world.

* **The distinction between a man ("lest he come to improper thoughts") and a woman ("lest she be suspected") (R' Yoel Asher and R' Yitzchak):**

For a woman there is also a mitzvah not to be without a man, but the reason is not about "improper thoughts" but "lest she be suspected" (that people should not suspect that she has illegal relationships with men without kiddushin). Is there no prohibition of improper thoughts for women? The explanation is that "improper thoughts" here means as we learned earlier: the man is usually the one who initiates and begins the sin; the woman is not so engaged in improper thoughts themselves, but when she is without a man she is an "easier target" for someone to persuade her, and therefore one comes to suspect her that she lets herself be persuaded by someone.

Halacha 17: Jealousy and Proper Conduct Regarding Onah From the Husband's Side

1. The Rambam's Words

It is an obligation on every man to be jealous for his wife... The Sages said: a man is only jealous for his wife if a spirit of purity enters him, and he should not be jealous for her excessively, and he should not force her and be with her against her will, but with her consent and through conversation and joy.

2. Plain Explanation

Here the laws of pru urvu end and the laws of shalom bayit and conduct between husband and wife begin. It is an obligation on every man to be jealous for his wife, and Chazal said that a man is only jealous for his wife when a spirit of purity enters him (a pure spirit). Therefore he may not be jealous for her beyond measure. Also he may not force her to marital relations against her will, but it must be with her agreement (with her consent), and through joyful conversation and happiness.

3. Insights and Explanations

* **The continuation from Halacha 16 and the definition of "being jealous" here versus Hilchot Sotah (R' Yitzchak and R' Yoel Asher):**

* *The continuation (R' Yoel Asher):* The halacha comes right after the words "lest she be suspected" in the previous halacha: a husband may not be "too nice" and say "I let her do what she wants"; with true love also comes a certain measure of jealousy, and if he has a suspicion that she has relationships with other men he is obligated to react.

* *Hilchot Ishut versus Hilchot Sotah:* R' Yitzchak shows that in Masechet Sotah there is a dispute of Tannaim whether being jealous is a "mitzvah" or a "permission," and the statement of Chazal here ("a man is only jealous for his wife if a spirit of purity enters him") is literally the opinion that jealousy is a mitzvah. Does the Rambam here mean the formal halachic "definition of kinui" from Hilchot Sotah (before witnesses), or a general conduct in the home?

R' Yoel Asher says that it doesn't mean the kinui of Sotah, because nowadays without a Beit HaMikdash there is no mincha of Sotah. R' Yitzchak objects: On the contrary! Without mei Sotah the halachic kinui works even stronger, because if she is nistera she has no way to become pure through drinking the water and he must divorce her! But R' Yitzchak brings proof that here we don't speak of a formal kinui: in Hilchot Sotah the Rambam clearly rules that one should not be so quick to be jealous before witnesses (but first speak between themselves). It must be that the Torah kinui with witnesses is a second level, and here in Hilchot Ishut he speaks of the general conduct in shalom bayit (which is connected with the root of the law of kinui): a husband should not be just a "nice guy" where two people live together without any attention, but there must be a spirit of purity – a purity of "one man and one woman."

* **[Digression: The meaning of the word "kinah" in lashon hakodesh (R' Yitzchak and R' Yoel Asher)]:**

In English we translate kinah as "jealousy," but in lashon hakodesh it means "anger" or "wrath." Proof of this is from Rashi in Chumash on "Kel kana," which translates that kinah is a language of wrath (angry) and being strict.

* **The middle measure in jealousy and in control ("and he should not be jealous for her excessively, and he should not force her...") (R' Yoel Asher and R' Yitzchak):**

Although jealousy is a virtue and a mitzvah ("a passion" that the Torah commands to have), it must be in a middle measure ("and he should not be jealous for her excessively"). He may not be obsessed, because – as the Rambam said earlier – she is not in a prison and she may go out to her family once a month.

R' Yitzchak comments on the continuation ("and he should not force her... but with her consent and through conversation and joy"), that although we could almost make a new halacha at "and he should not force," it all goes in one continuation about the order and balance of husband and wife: the husband should indeed be somewhat in control at home, but there is a measure of how much in control he may be – he may not be an animal.

Even more: the law that he must be with her "with her consent and through conversation and joy" serves as a conclusion and a scale on all the previous harsh laws of a "mordet." Although we see in halacha that it is a terrible thing when a wife does not agree to relations (and she loses her ketubah, etc.), the Rambam warns the husband that in practice he may not conduct himself with force based on those laws; he may not force her, but it must come willingly and from a joyful place ("conversation and joy").

Halacha 18: The Wife's Conduct in the Home (Modesty and Avoiding Jealousy)

1. The Rambam's Words

Similarly the Sages commanded the woman that she should be modest within her home, and not increase laughter and lightheadedness before her husband, and not demand marital relations with her mouth, and not speak about this matter, and not withhold from her husband to distress him until he increases his love for her, but be obedient to him whenever he wishes. She should be careful with his relatives and household members so that a spirit of jealousy should not pass over him, and distance herself from ugliness and from what resembles ugliness.

2. Plain Explanation

Similarly the Sages commanded the wife that she should be modest inside her home: she should not increase laughter and lightheadedness before her husband; she should not request marital relations with her mouth, and should not talk about this matter. Also she should not withhold from her husband to distress him until he will love her more, but she should obey him whenever he wishes. She must also be careful with his relatives and household members so that a spirit of jealousy should not pass over him, and she should distance herself from an ugly thing (ugliness) and from everything similar to it.

3. Insights and Explanations

* **Dispute in interpretation: What is the continuation and root of "modest within her home"?**

* *R' Yoel Asher's approach (continuation from the laws of onah and "conversation and joy"):*

The word "similarly" connects the halacha directly to the end of the previous halacha ("and he should not force her... but with her consent and through conversation and joy"). Since the Rambam commanded that relations must be "with her consent" and "through conversation and joy," one might have thought that there must be complete openness and abandon between husband and wife in these matters. The Rambam comes and sets a boundary (limitation) for the wife: even "within her home" and "before her husband" (not only outside before strange men,

but even with her own husband during the "conversation and joy"), there must be a boundary of modesty.

According to this, the entire halacha comes out one from the other: (1) Since there is "conversation and joy," the Rambam warns: "and not increase laughter and lightheadedness before her husband," and she should not request relations with her mouth in a crude way (as if she is "desperate") or talk about this matter ("and not speak about this matter"), but it should be refined, with a hint. (2) Since he may not force her against her will but it must be "with her consent" (which means that she has the power to say no), the Rambam warns the wife that she may not abuse this power: "and not withhold from her husband to distress him until he increases his love for her" – his obligation is to come through conversation and joy, and her obligation is "be obedient to him whenever he wishes." (3) Regarding jealousy ("and be careful with his relatives..."): Since the husband has an obligation to have a certain jealousy, the Rambam places a responsibility on the wife that she should not think that his jealousy is only "his problem," but she must be careful with his relatives and friends who circulate in the home so as not to arouse in him a spirit of jealousy.

* *R' Yitzchak's approach (everything revolves around the husband's spirit of jealousy and suspicion of promiscuity):*

The word "modest" in Chazal always means a weakening of matters of promiscuity and adultery (and not just a law of how to speak refinedly during conversation and joy; if it were a law in "light conversation," the Rambam would have had to say it for the husband too, not only for the wife!). Therefore the approach is that the Rambam here gathered together a series of statements of Chazal and instructions under one heading – **what the wife must do so as not to awaken the husband's jealousy and suspicions**. ("Modest within her home" doesn't mean wearing modest clothing, but not conducting herself in a promiscuous manner).

Proof from reasoning: What is actually wrong if a wife requests relations with her mouth or speaks about it? Why may the husband indeed request with his mouth and the wife not? But it comes from the nature and law of jealousy! The husband must have a bit of suspicion and be jealous, and he wants to feel that he is the "decider" and is in control of this matter. Thus, when a wife conducts herself too independently or with too much promiscuity even at home with him – she makes too much laughter and lightheadedness, she requests with her mouth and speaks openly about relations like the women who conduct themselves with promiscuity, or she plays "games" of withholding – the husband begins to look at her with suspicion and loses trust in her ("ah, you understand things a bit too well..."). This itself ignites the jealousy in him! Therefore the entire halacha is one long continuation of avoiding the husband's spirit of jealousy, and setting the balance in the home: the husband has the strength and is the "master of the house" (but may not force her against her will), and she cannot become the "boss" or initiator (like requesting with her mouth or withholding), but should let the husband lead the matter.

* **The question of Hagahot Maimoniyot on "and not withhold from her husband... until he increases his love for her" (R' Yitzchak):**

The Rambam writes that a wife may not play any "games" and withhold from the husband so that he will love her more strongly and want her more. The "Hagahot Maimoniyot" right there asks a strong question on the Rambam from the Gemara, where Rav Chisda indeed commanded his daughters to conduct themselves this way with their husbands (to arouse the husband's desire by not immediately giving in to him)! (The question remains without an answer).

Halacha 19: The Husband's Conduct Toward His Wife (Honor, Love and Pleasure)

1. The Rambam's Words

Similarly the Sages commanded that a person should honor his wife more than his own body and love her like his own body, and if he has money he should increase her benefit according to his means, and he should not cast excessive fear upon her, and his speech with her should be gentle, and he should not be sad or angry.

2. Plain Explanation

The Sages commanded that a man should honor his wife more than his own body, and love her like his own body. If he has money, he should benefit her according to his means. He may not cast too great a fear upon her, he should speak with her calmly and gently, and not be withdrawn or angry.

3. Insights and Explanations

* **The distinction between "love her like his own body" and "honor more than his own body":**

* *Approach 1 – Neglecting one's own honor (R' Yoel Asher):* To love ("love her like his own body") is just like the verse "love your neighbor as yourself" – every person loves himself at the root, thus he should also love her that way. But regarding honor it states "more than his own body," because there are people who for some reason or craziness neglect their own appearance and don't honor themselves (for example, he goes with a torn coat, although he does love himself). Such a husband cannot say that he won't buy nice clothes for his wife because he doesn't do it for himself; honoring her is not optional, and he must honor her body even more than he does for his own body.

* *Approach 2 – Spending more on her (R' Yitzchak):* A person must also respect himself! But "more than his own body" simply means that in certain ways he must give her more respect and give in more than for himself, or simply spend more on her nice clothes than on his own.

* *Approach 3 – A psychological foundation: Forgoing honor when one is in control (R' Yitzchak and R' Yoel Asher):* From the Torah the husband is the ruler over the wife, as it states in the verse "and to your husband is your desire and he shall rule over you," and the honor is actually due to him. The Sages come and tell the husband: Forgo your honor and give it away to her ("more than his own body" – I give away to the other what is due to me). Why can he do this? Because in reality he still remains the master of the house! When a person is truly in control, it is a human thing that he should give to those who are under him ("subordinate to him") even more honor than is due to them, because this takes nothing away from his mastery – she won't thereby become the "prince and king."

R' Yoel Asher sharpens this idea with a parable: The one who is the master of the beit midrash can easily give away "shishi" to another, because the beit midrash remains his. But a regular worshiper who is honored with shishi, if he gives it away he has nothing. So too here: Since the wife anyway has fear of the husband and he is in control, he can afford to be magnanimous and honor her "more than his own body."

* **"Increase her benefit according to his means" versus Hilchot She'er Kesut and Onah (R' Yoel Asher):**

Although we already learned earlier the law of "she rises with him" regarding she'er kesut and onah, here the Rambam comes to say more than the basic obligations: when a person raises his standard and becomes a more respectable Jew with more honorable things, he must increase her benefit according to his money.

* **"And he should not cast excessive fear upon her" (R' Yoel Asher and R' Yitzchak):**

Since the husband has a certain ownership (as we see by jealousy, and in Halacha 20 that she must have fear of him), the Rambam must warn that the fear may not be "excessive" (too much). The source for this is in the Gemara in Masechet Gittin, where Rav Chisda learns it from the incident of the concubine in Givah, that because the husband cast excessive fear the entire tragedy resulted (although R' Yitzchak notes that it's not entirely clear to him how we see there in the verse the excessive fear).

* **"And his speech with her should be gentle and he should not be sad or angry":**

* "Gentle" is similar to "the words of the wise are heard in gentleness" (R' Yitzchak).

* *What does "and he should not be sad or angry" mean?* R' Yoel Asher holds that this goes back to "his speech with her" – that his conversation and his relationship with her should not be in a state of sadness and anger. It cannot be an obligation on the man that if something happened to him and he is unfortunately sad, he must become happy before he goes home (here we're not speaking of R' Nachman's "it is a great mitzvah to be happy always").

R' Yitzchak translates that "sad" here doesn't mean sorrowful, but "withdrawn," and he agrees that the plain meaning is that he should not conduct himself with her in anger, which is the Rambam's translation of the Gemara "he must speak to them gently." (R' Yoel Asher wanted to say that the prohibition to be sad and angry in general is in Hilchot Deot because one must always think of Hashem, but R' Yitzchak rejects this: it doesn't state in Hilchot Deot, and a person doesn't need to be sad and angry even without that calculation).

* **[Digression: The nature of "the Sages commanded" – aggadah, rabbinic, or the way of Hashem before Matan Torah? (R' Yoel Asher and R' Yitzchak)]:**

* *R' Yoel Asher:* These types of laws (which in Mishnayot would belong more to Masechet Avot than to Masechet Gittin, and are called "aggadah" or "good advice") are no less obligatory because they are not under a specific mitzvah. On the contrary, they are even more fundamental! Laws like ketubah are innovations of Torah she'be'al peh, but how people should conduct themselves with each other is "the way of Hashem" that Avraham Avinu would have already said before Matan Torah, and it is presumably relevant even for gentiles.

* *R' Yitzchak and R' Yoel Asher:* The structure of the Rambam in this chapter goes down level by level: he begins with pru urvu from the Torah, then from the words of the Sages (rabbinic), then the obligation/mitzvah of jealousy, and then come a series of laws with the language "and similarly the Sages commanded." Although someone like the Chafetz Chaim would seek to make these things a Torah obligation (for example, deriving "love her like his own body" from "love your neighbor as yourself"), the Rambam did not seek to do this, but he places it as commands of the Sages.

Halacha 20: The Wife's Conduct Toward Her Husband, and the Conclusion of the Chapter

1. The Rambam's Words

Similarly the Sages commanded the woman that she should honor her husband exceedingly, and he should have fear over her, and she should do all her deeds according to his word, and he should be in her eyes like a minister or king, walking according to the desires of his heart, and distancing everything he hates. This is the way of the holy and pure daughters and sons of Israel in their marriage, and in these ways their dwelling will be beautiful and praiseworthy.

2. Plain Explanation

The Sages also commanded the wife that she should honor her husband very much, have fear of him, do all her deeds according to his command, and he should be in her eyes like a lord or king – she should walk according to the desires of his heart and distance from the home everything he hates. This is the way of holy and pure Jewish daughters and sons in their marriage, and through these ways their dwelling together will be beautiful and praiseworthy.

3. Insights and Explanations

* **"Honor her husband exceedingly" and the reciprocal picture (R' Yoel Asher and R' Yitzchak):**

For the husband it states "more than his own body," and for the wife it states an extraordinary language: "exceedingly" (very much). R' Yitzchak notes that one should not be too precise in every

word separately, because the Rambam is painting here a general description of a two-sided relationship: he honors her more than his own body, and she honors him exceedingly.

* **The practical expressions of "fear" and "like a minister or king" (R' Yoel Asher and R' Yitzchak):**

The Rambam is not commanding a heart-feeling of fear, but he immediately explains it in action on two levels:

1. "And he should have fear over her" means "and she should do all her deeds according to his word" – she follows what he *commands*.

2. "And he should be in her eyes like a minister or king" goes another level higher, which is expressed in "walking according to the desires of his heart and distancing everything he hates" – she doesn't only do what he *commands* ("according to his word"), but also what he *wants* and desires ("according to the desires of his heart," a language similar to the verse "and walk in the ways of your heart"), and she removes from the home things he hates.

* **The goal of the conduct – "and in these ways their dwelling will be beautiful and praiseworthy" (R' Yoel Asher and R' Yitzchak):**

* *Not a blessing, but the goal of the command:* The conclusion is not just a nice blessing in honor of the end of the chapter (especially since it's not yet the end of Hilchot Ishut). The Rambam gives here the reason and goal of all these laws: a wife (and a husband) should not think that the guidance to honor the husband and have fear of him is a bitter decree that she should suffer an entire life only to be able to say "I followed the Sages," and what does she get from it? Therefore the Rambam assures that the entire goal of the Sages is so that it should not become a "wreck" (a broken, failed home), but they should have a good, pleasant and beautiful marriage ("their dwelling will be beautiful and praiseworthy").

* *Two meanings in the word "yishuvam":* (a) According to R' Yoel Asher, "yishuvam" here means their very dwelling together – the shalom bayit and the living together of the couple itself. (b) R' Yitzchak adds a beautiful hint (by way of drash) that "yishuvam" is from the language of settling the world (having children): it aligns with what the Rambam writes in Hilchot Deot, that if one conducts oneself during marriage in holiness and purity like the way of the Sages, one merits to have beautiful and successful children (wise sons) – this is the "beautiful and praiseworthy dwelling."

* **The Jewish way versus the gentile way of marriage (R' Yitzchak):**

With the words "the way of the holy and pure daughters and sons of Israel" the Rambam shows the contrast to a gentile way of marriage. Among the nations of the world, a marriage is built only on laws, "rights," and a battle of powers. Certainly a Jew also has halachic obligations (like she'arah kesutah ve'onatah, and if not he is a mored), but the Jewish way of life is not to conduct oneself with force and rights, but that the wife wants to do the husband's will, and the husband honors her more than himself.

* **The meaning of "in their marriage" and "holy and pure" (R' Yitzchak and R' Yoel Asher):**

* On one hand, "in their marriage" is a general word for their entire living together (their match and connection). But on the other hand, it contains a hint to the very matter of mitzvat onah and union – it goes back to "and he should not force her and be with her against her will but with her consent," to "love her like his own body," and to the laws of not being jealous excessively.

* *The nature of holiness (R' Yoel Asher):* People think that "holiness and purity" in marriage among the righteous is some external ascetic thing; but here in the Rambam we see that the very love and honor between husband and wife, that itself is the holiness and purity of the sons and daughters of Israel!

* **The conclusion of all Hilchot Kiddushin – not being a "scoundrel with Torah permission" (R' Yitzchak):**

Here at the end of Chapter 15 concludes the section of kiddushin and marital life in the Rambam (before he moves on to claiming the ketubah in Chapter 16), and the conclusion encompasses the entire approach from the beginning of Hilchot Ishut. At the beginning of Hilchot Ishut the Rambam explained that the entire intent of the Torah with kiddushin, ketubah and sheva brachot is that a person should not be like an animal that grabs a woman in the street ("meets a woman in the market"), but it should be with speech and an acquisition.

But even after the kiddushin it is still possible for a person to be a "scoundrel with Torah permission" – he has already made an acquisition of kiddushin, and now he thinks he can do what he wants, against her will, without asking if she wants. Therefore the Rambam concludes that the conduct of love and honor ("holy and pure in their marriage") is the true fulfillment of the intent of the Torah in kiddushin: that the person should not be like "a lion that tears and eats" (a lion that tears and eats on the spot) and give in only to his animalistic "bodily desire," but he should be a person with purity and with order.

Full Transcript

Rambam Hilchot Ishut – Chapter 15: The Mitzvah of Procreation and the Husband's Conduct with His Wife

Introduction to Chapter 15: The Connection Between Mitzvat Onah, Procreation, and Shalom Bayit

R' Yitzchak: ⟦#1⟧ Good. Today is a day when we learn Chapter 15.

R' Yoel Asher: In the Rambam, Sefer Nashim Hilchot Ishut, Chapter 15. And the reason why we're learning it, says R' Yitzchak, is because it's today, a day, every day brings with it a new obligation in Talmud Torah. Is that what you're saying?

R' Yitzchak: Yes, just as they learned yesterday in Hilchot Onah,

R' Yoel Asher: We already spoke,

R' Yitzchak: Something that one learns in order, one must do every day,

R' Yoel Asher: You must every day, exactly. And just make sure **shebechol yom yihyu be'einecha kachadashim**, everything is counted by the day, what the... when the Almighty counts every day, I know,

R' Yitzchak: Ah, the Almighty looks specifically at sunset. Yes,

R' Yoel Asher: It comes in the middle of the day, it passes.

R' Yitzchak: It depends which sunset, but yes. Very good.

What I want to say is this, the connection, yes, simply, I agree. We learned in the previous chapter that there is a mitzvah, that is, there are two things that we learned in the previous chapter:

* There is like an obligation, one is obligated **ve'onatah lo yigra**, it's like an obligation between husband and wife.

* Besides this, there is a prohibition in this. I mean, the prohibition is dependent on the obligation, so it's not clear what the practical difference is. But that's what the Rambam said, that even for example when there is a rabbinic fine, when one adds to her ketubah, the matter of... what does it mean? Of the prohibition doesn't go away, it's still a prohibition.

Now we're going to learn that besides this, and as a continuation of this, there is also a positive commandment. That is, there isn't only mitzvat onah which is indeed an obligation between husband and wife and a prohibition, but besides this there is in this simply a mitzvah, which is the mitzvah of procreation. And it can sometimes come in even when the wife agrees, or both agree

not to have onah, it doesn't help her because there is the mitzvah of procreation.

So naturally it's very interesting that here the Rambam inserts the entire topic of procreation, and it broadens out so far that he explains in general how one must conduct oneself with one's wife, one must have shalom bayit, one must be **ohev et ishto** etc. So it appears that this is all like a connection of this, that after we finished the basic Torah law of she'er kesut ve'onah, we say how much one is obligated, one must indeed understand that not the entire thing of being married is this. There is also the mitzvah, there is like a will and intent of the Torah regarding procreation, one must learn all the details: who is obligated, how much etc. And from what we see that there are times when one is not obligated, and then there is rabbinic procreation, and there is the obligation on the wife regarding procreation, although she is not actually obligated, and naturally there is also the obligation that one should see to remain married. Does that make sense what I'm saying?

The Difference Between She'er and Kesut and Mitzvat Onah (The Definition of "Letz'arah")

R' Yoel Asher: I would have said this a bit differently, similarly. Since it's the last law of... no,

R' Yitzchak: It's not the last of Ishut.

R' Yoel Asher: Of Torah law. From here one goes to collection of the ketubah. Okay, but he finishes with this when he speaks to couples. Now he goes to disputes, more details of... conflicts in the ketubah.

So he has already covered the important things of she'er kesut ve'onah. And she'er kesut ve'onah, as R' Yitzchak said, there is a part that is bein adam lechaveiro, which is similar to Choshen Mishpat, that the two people have obligations and commitments to each other, and the obligations and commitments they can also change according to custom, and according to... one can be mochel. What onah has yes more than this is that as if the Torah gets involved. I don't want to say that word, but as if the Torah says a prohibition, not that it's up to you. Although actually all of Choshen Mishpat is based on prohibitions, like **lo tignov**, or one must be proper with a neighbor which is **hayashar vehatov**. But it's more free what is between you two, whereas onah also has a prohibition.

And on this the Rambam said that the prohibition also comes further with a condition in honor of the fact that if he does it to cause pain, if he does it for any reason they're now fighting, they're going through a hard time, right. But it's still that there is like in bein adam lechaveiro there are also like two laws: there is how much is entirely given over to two people, and how much the Torah says... no, what does it mean, for example if one lets someone do a crazy thing. One lets someone hit him in the middle of the beit midrash, embarrass him in the middle of the beit midrash.

R' Yitzchak: But he's a Jew, he has no right.

R' Yoel Asher: But it can be that the Torah gets involved, not everything is open between two people. But let's quickly return.

R' Yitzchak: No, no, I want to tell you another way. I think, it will help... that this will help say what you're saying.

> **Chiddush:** I think an interesting thing, that when what we learned – this is regarding the previous chapter a bit – what we learned that **letz'arah** he transgresses **ve'onatah lo yigra**, it could be that here lies a new thing. Usually a person is angry, a person... I don't know if one is not allowed to be angry with another Jew, but it's legitimate. Unless someone says, I don't honor that person, because he doesn't honor me. You have a question...

R' Yoel Asher: We spoke once about lysica.

R' Yitzchak: It stands simple but in a certain sense it's legitimate. You can't have any complaint. The Rema even by lysica explains that he has a certain lifnim mishurat hadin, it could be it's a mitzvah, but we understand him that he's angry. Here we see that if one causes pain to a wife with onah, even if you're angry, yes? It doesn't say: if you're angry, make peace. That's at the end of the chapter.

R' Yoel Asher: But... but from the other side we see yes, but like ma'is alai, he transgresses **lo tonu**,

R' Yitzchak: She doesn't transgress.

R' Yoel Asher: When he says, ah, when he says **lo tonu** he must give her a get.

R' Yitzchak: Yes, give a get, **tze'enah ure'enah**, that's what it says. You have no right, you may be angry. If one is angry with a wife, either divorce or make peace. There is no right to withhold onah.

R' Yoel Asher:

> **Chiddush:** There are things that the Torah doesn't let one use as a weapon.

R' Yitzchak: Yes,

R' Yoel Asher: That's how it looks. If the wife... both are there, both are there. The husband brings what's it called? Well, the first thing she'er, he brings money. Today he'll bring weaker rolls because you haven't deserved it, you weren't nice to me, I'll buy simple rolls, yes? The Torah doesn't forbid it. Maybe one needs to know **lo tisna**, but apparently it's not **lo tisna**, a person has no obligation every day to buy the more expensive rolls, yes,

R' Yitzchak: Let's say a small example.

R' Yoel Asher: But the Torah doesn't let one use onah as a weapon. Rather onah must be an orderly thing, the Chazal give the definition **kefi kocho** and **kefi melachto**, and if you give less than this because of calculations it's illegitimate.

R' Yitzchak: Same thing with her here. If she is moredet letz'aro, ah, I'm angry – angry is don't make a nice supper as you say, but that's not any... something like that.

The Place of Mitzvat Procreation and Shalom Bayit in Hilchot Ishut

R' Yoel Asher: Okay. But now learn it differently, I want to get to, but the Rambam wants to cover everything that's relevant here.

> **Question:** There is a part here that is not exactly a bein adam lechaveiro. Procreation is not a bein adam lechaveiro, procreation is much a greater thing, it's kiyum ha'olam. Because of this other counters of mitzvot counted it as the first mitzvah. It makes sense, in Parashat Bereishit and Noach stands I think four times the mitzvah of procreation, or three times or four times. Even before Avraham Avinu the Almighty blesses him so many times, we see in the Torah that procreation is truly from the first foundations. But it is, it doesn't really belong here, it's also not in Sefer Nashim at all. Perhaps the Rambam should have made a sefer, truly yes there is, like Yesodei HaTorah. There is, the Rambam places it here, but I say it could already be belongs in other, in other sections.

R' Yitzchak: Okay, so one must remember,

R' Yoel Asher: In Hilchot Melachim, I don't know what, Klal Yisrael should have existence, yes? There are people who have many children because the state needs to have ah... practical difference, I mean to say it's a different thing, it's not an ishut so strongly that depends on the ish ve'ishah, one may even divorce a wife because she can't have children.

R' Yitzchak: Yes, let's say, if you've already mentioned this, let's say what I know about this. That is, there is as you say, the Chinuch counts procreation simply because he goes according to the order of the parshiyot, not because he holds that it's the most important, because simply because he goes according to the order of the parshiyot and simply then there stands,

R' Yoel Asher: But the Chinuch goes with the Rambam, essentially changed the order, right? But the Rambam has a... apparently also yes, procreation is apparently also from the seven mitzvot of Bnei Noach, it's not counted... seven mitzvot of Bnei Noach, we see they are explained here seven blessings. Ah, a good point,

R' Yitzchak: Yes. ⟦#2⟧

> **Answer (Dispute of Rishonim Regarding the Definition of Mitzvat Kiddushin):** But the interesting thing about procreation is that there is a dispute what is the mitzvah of being married. Remember regarding **mitzvah bo yoter mibeshlucho** and others, that regarding birkat eirusin, the Rambam holds that kiddushin is a mitzvah, and the mitzvah is, as we've learned

the whole time, that when one makes a marriage it should be in the manner of this kinyan.

R' Yoel Asher: The mitzvah is the establishment, the importance that one makes.

R' Yitzchak: There are however other Rishonim who didn't think so, they held this is only a law, it's only a law, but the mitzvah of being married is only the mitzvah of procreation. According to them indeed the entire thing of Hilchot Ishut should have been more under the heading of procreation. The Rambam does it opposite: there are the obligations, the kinyan, which that itself is a mitzvah, and in this there is a detail that it connects to mitzvat procreation, therefore he says here the laws of procreation.

R' Yoel Asher: I think that therefore it's important perhaps for the Rambam to begin with the story. He says like this, that people take wives from after the daughters of kings, yes? The bnei ha'elokim saw **ki tovot henah** and they took them, it's a part of life. So the Torah comes with a mitzvah saying how one should do this. Yes, yes, that indeed comes... And now he says, this taking of wives must also be in a manner that one should, it should be with procreation and why it shouldn't be ⟦#3⟧

R' Yitzchak: That's another thing. That I say, with procreation you're right that it's truly an external mitzvah. The Rambam inserts it because something for some reason ishut for him was more the kinyan which is a mitzvah. And here comes in that although one is exempt, there can still be the mitzvah of procreation.

R' Yoel Asher: And therefore also comes in shalom bayit, because how to conduct oneself with other people, for example as **ve'ahavta lere'acha kamocha** and the like, the Rambam already said in Hilchot De'ot. But there are things that are specific to a husband with a wife, which is not under the category of de'ot, because we already said that there is onah, there are so many things where it's different, and where one must be more sensitive also. The Rambam is perhaps hinting at the Chazal of bnei tesha midot and the like, one must do it with love, he places it in like his order, to place all the external laws under the same, in the same mitzvah.

R' Yitzchak: Okay, let's start to learn.

Law 1: Waiving Mitzvat Onah and the Obligation of Procreation

R' Yoel Asher: ⟦#4⟧ The Rambam says like this:

> **Ha'ishah shehirshot et ba'alah**

R' Yitzchak: She gave permission to her husband,

R' Yoel Asher:

> **achar hanisuin sheyimna onatah**

> **Diyuk:** It doesn't mean one made it as a condition before the marriage. As we learned it wouldn't have worked, because then it would have been called a **tenai al mah shekatuv baTorah**.

But a husband and wife discussed after the marriage, and the wife agreed. The husband asked, it appears this is the case?

R' Yitzchak: Or perhaps the other way around? It looks like the mitzvah of onah is so stretched as we learned, it's an obligation...

R' Yoel Asher: No, it's both, between the two people. The two people made permission that one will withhold onah,

> **harei zeh mutar**

They may do this. It means this won't be the problem of **ve'onatah lo yigra**. **Ve'onatah lo yigra** doesn't say. All these things that we spoke about regarding mitzvat onah is in order to satisfy the partner, or in order to establish a standard here, but if people have explicitly agreed that they don't want onah, then **harei zeh mutar** with this law.

Says the Rambam, this is all very good with the laws that we've spoken about until now, with the laws of connection to onah, but there is yet something to the picture. Says the Rambam, the law that I just said that it's permitted is only when there isn't the other problem of mitzvat procreation. So:

> **bameh devarim amurim beshehayu lo banim**

He already has children,

> **shekvar kiyem mitzvat periyah ureviyah**

As he will soon calculate at how many children one fulfills mitzvat procreation. If he already has that amount, he has already fulfilled mitzvat procreation. So now only mitzvat onah remains, and since they gave permission to each other, mitzvat onah goes away. But if he hasn't yet fulfilled procreation, then even if you say so that mitzvat onah goes away, there is still the mitzvah of procreation. Therefore:

> **chayav livo'el bechol onah ad sheyihyu lo banim**

Here stands a great chiddush: **bechol onah**, we'll return to this. **ad sheyihyu lo banim**. Why? **mipnei shehi mitzvat aseh shel Torah**. There is another positive commandment, **shene'emar peru urevu**, there is a positive commandment that one must have children.

Discussion: The Definition of "Bechol Onah" Regarding Procreation

Therefore, even if you both discussed that there is no longer mitzvat onah, there is however the mitzvah of procreation. And once the Chazal obligate with procreation, they further obligate with the regular measures of mitzvat onah. It's very interesting, because one could think that the measures of mitzvat onah are indeed dependent on the bein adam lechaveiro thing, on their character where they stand. The couple already doesn't have that ishut,

R' Yitzchak: They don't have.

R' Yoel Asher: But once Chazal made a measure, that remains the measure.

R' Yitzchak: There is an obligation (chiyuv) of procreation (pru u'rvu), meaning, a Jew is obligated to have children, soon we'll see how many. So how does one do this? Through marital relations (onah), that's how the fathers know, that's how one does it. Okay. Now, what must I do? Must I engage in marital relations every second, every minute, every day, what is relevant, until he has children?

Now, seemingly, I mean this is how it begins: So you say, I don't have strength, I don't have time, no problem. For the same reason that you are exempt from onah in interpersonal obligations (bein adam l'chaveiro) according to one's occupation (l'fi melachto), you are also exempt from engaging in onah every day regarding pru u'rvu, because one cannot, there is a measure (shi'ur) of how much one is obligated. Okay, but every week, whatever the measure is, the obligation of pru u'rvu applies in the same way.

But yes, here I can think, the Rambam has an interesting language, **"b'chol onah"** (at every onah time). If she is already pregnant, it's obvious that it's not relevant, or if he knows that at that time she cannot yet become pregnant according to what is known. Also it means only his onah.

R' Yoel Asher: That's what I also said earlier, **b'chol onah**.

R' Yitzchak: Kol onah that he can only be.

R' Yoel Asher: It's an interesting thing yes, because we know that there are certain days when one is then propitious (mesugal), right after the mikvah and the like,

R' Yitzchak: Yes? The Gemara already knew this, right? Samuch l'tevilata... yes.

R' Yoel Asher: Okay. So why then wouldn't the Rambam have said that there was kol onah? He should have said at the time when it's most propitious that there should be pru u'rvu.

R' Yitzchak: I mean that this means, I mean it means to exclude what I said, that there is an exemption, it's a novelty (chiddush). The Rambam could have said differently: One could have said that even though a Torah scholar (talmid chacham) is only obligated from Shabbat to Shabbat, that is from the side of onah. But from the side of pru u'rvu he is obligated every day until he has a baby, until she becomes pregnant. The Rambam says no, just as one understands with common sense (seichel

hayashar) that one cannot be obligated, one cannot be obligated regarding pru u'rvu either.

How Much Must a Person Change His Lifestyle for Pru U'rvu?

R' Yoel Asher: Okay, one must actually consider incidentally according to what you're saying. For example, that he may be a ship driver, it has been assumed that since livelihood (parnasah) is an important thing, as we'll see later that when it comes to marriage, parnasah is the most important thing, one of the most important things. Therefore one cannot prevent a person from becoming such a ship driver. But regarding the mitzvah of pru u'rvu one must know how much a person must change his lifestyle in order to fulfill a positive commandment (mitzvat aseh).

R' Yitzchak: A little, yes. These laws we learn in beit...

R' Yoel Asher: But this depends on the onah, very interesting that this also goes to the extreme.

R' Yitzchak: Yes okay. He actually brings, the Igrot Moshe asks all these questions here from below, that perhaps indeed one who is a sailor (safan) must however make sure to come home.

I want to say for example it's obvious that for example one who considers himself a talmid chacham yes, he only needs to on Friday night, or from Shabbat to Shabbat. But the week the doctor says that – I know what he knows, the chart says that one must today in order to... must he do it in the middle of the week. Doesn't it become understood? There is certainly something like pru u'rvu that overrides (gover).

I mean here is a leniency (chiddush l'kula), that even if he hasn't fulfilled pru u'rvu he is only obligated b'chol onah. Very good. R' Moshe Feinstein actually asks a question why shouldn't he be obligated every second. I mean the answer is as we'll see further, pru u'rvu also has parameters (gedarim), every law has parameters. One is not obligated ad infinitum to tear oneself apart for every mitzvah, we're going to learn now various ways when one is obligated. So this is one of the parameters.

Halacha 2: Who is Commanded in Pru U'rvu?

R' Yoel Asher: Very good. So, the Rambam says thus:

R' Yitzchak: Ha'ish metzuveh al pru u'rvu (The man is commanded regarding procreation).

R' Yoel Asher: Who is commanded, yes. Who is obligated in pru u'rvu, who has the mitzvah? The mitzvah of pru u'rvu is on the man, **aval lo al ha'ishah** (but not on the woman). There are certain commentators who say there, that because it's so difficult for the woman, the Torah cannot obligate her with such a difficult thing. Instead, the nature (teva) is that women want to have children. But for the man one can command. I don't remember who,

R' Yitzchak: One of the Rishonim says such a Torah.

Discussion: The Exemption of a Woman and Whether She Has Fulfillment of the Mitzvah

R' Yoel Asher: But it's bad to say simply the plain meaning. Why is it a mitzvah for the man?

R' Yitzchak: It's not a mitzvah for the women?

R' Yoel Asher: Why? That's not everything,

R' Yitzchak: Why? But what is the reason for the commandments (ta'amei hamitzvot)?

R' Yoel Asher: It's not ta'amei hamitzvot. It's, usually a mitzvah that if it's not a time-bound positive commandment (mitzvat aseh shehazman grama), is very strange. She toils, certainly she has the mitzvah. When one says **"metzuvah"**, it means that she is not obligated. But if she does the mitzvah, certainly she does a mitzvat aseh, it's an important thing.

R' Yitzchak: No, she doesn't do any mitzvat aseh? No, it's not true.

R' Yoel Asher: She is involved in the mitzvah? No. It's exactly like one who is not commanded and does (eino metzuveh v'oseh). But here there's a difficult thing, that she is the one who does the pru u'rvu, yes? She is the nine months of pregnancy (yarchei leidah). Why shouldn't one

say the mitzvah is on her? It's a very interesting thing. About what certain books say, I need to remember where I saw it, that because it's difficult for her the Torah didn't obligate her, for the man it's easier to obligate him, and the woman always wants,

R' Yitzchak: And will always have a mitzvah. And if she doesn't want, she'll be a rebellious wife (moredet), it's not as if one can get out of it, you understand? It's not really something so yes.

R' Yoel Asher: Okay. So, **ha'ish metzuveh al pru u'rvu**,

R' Yitzchak: Aval lo ha'ishah (but not the woman).

R' Yoel Asher: Ahh. No, seemingly you're not right. Seemingly if a woman instead of saying ma'us alai (he is repulsive to me) says I don't want to have children.

R' Yitzchak: She is also certainly, certainly it's the same thing. The same thing, she has no right to say that she doesn't want. We'll soon see, we've already seen earlier,

R' Yoel Asher: If she why can't yes,

R' Yitzchak: Okay, according to the law (mitzad hadin),

R' Yoel Asher: Seemingly. Okay, **aval lo**, so, **u'meimatai yitchayev ha'ish b'mitzvah zo?** (And from when is the man obligated in this mitzvah?)

R' Yitzchak: Now, so previously we only held an obligation. By the way, it's a dispute of Tannaim, there was Rabbi Yochanan ben Beroka who held that a woman is indeed obligated. But we don't rule that way. Yes, okay.

From What Age Does the Obligation of Pru U'rvu Begin?

R' Yoel Asher: Okay, the Rambam says: **U'meimatai yitchayev ha'ish b'mitzvah zo?** From when does the man become obligated in this mitzvah? Meaning, unlike other mitzvot that begin from when one becomes a bar chiyuva, an adult (gadol), from thirteen, but this one must be somewhat adult for this, yes? Therefore the Sages gave this measure: **"Miben shesh esreh o miben sheva esreh"** (from sixteen or from seventeen), from when one becomes older, sixteen seventeen.

And even then, let's see, but from when is one actually considered to have nullified (mevatel) a positive commandment? It's like this: **"U'cheiván she'avru esrim shanah"** (and once twenty years have passed), but after twenty years have passed **"v'lo nasa ishah"** (and he hasn't married a woman), he hasn't gotten married, then **"harei zeh over"** (behold he transgresses), then he transgresses the commandments, **"over u'mevatel mitzvat aseh"** (transgresses and nullifies a positive commandment). It's interesting the language, he is nullifying a positive commandment. Meaning, from seventeen there is already the mitzvah, meaning,

R' Yitzchak: If one does it one catches a mitzvah,

R' Yoel Asher: But not, I mean that one is already commanded to do it, but one is not yet nullifying if not, something like that it works.

Discussion: The Parameters of the Obligation at 16-17 Years Versus Bar Mitzvah and 20 Years

R' Yitzchak: It's very unclear what the Rambam is saying here, truly. That is, simply every mitzvah one is obligated when one becomes bar mitzvah,

R' Yoel Asher: So certainly if one does

R' Yitzchak: It when he is bar mitzvah he fulfills a mitzvah, right? You won't say one doesn't fulfill any mitzvah at all because he's not yet sixteen. So what is the meaning of this measure at all? Not clear. The Rambam, I mean the meaning...

R' Yoel Asher: There is the Mishnah, yes? From **ben chamesh l'mikra** (at five for Scripture), what does it say there?

R' Yitzchak: The Rambam doesn't rule based on that Mishnah, the Rambam rules based on the Gemara in Kiddushin that says the numbers. Seemingly the Rambam, I don't know, I

remember the Rambam never rules that Mishnah, so it's not a Mishnah at all, it's only something a Baraita or something...

R' Yoel Asher: I mean later it will be a bit clearer, because we see that sustenance (mezonot) is an important thing, that when one takes a wife one must take care of her property (nechasim). So presumably therefore the Sages gave a time when he can already support a household, yes. According to what we learned from

R' Yitzchak: At six one can already support oneself...

R' Yoel Asher: Eat something alone, but to have a house, he must give her a dwelling (mador), yes? He must give her all the she'er kesut v'onah (food, clothing, and conjugal rights). So one must give time for a person to accumulate a bit of wealth.

R' Yitzchak: So I mean, I would just say the practical meaning what I mean it means. I mean the meaning of the sixteen seventeen means then one must

R' Yoel Asher: Begin looking for a match (shidduch),

R' Yitzchak: But you should already have met by twenty so you should already...

R' Yoel Asher: By twenty one must already finalize, by twenty one must already finalize.

R' Yitzchak: You should already have had. Basically, one gives, it takes time, one must turn around with finding matches, eight girls...

R' Yoel Asher: Meaning from sixteen one must begin, one can already begin thinking of a shidduch, and behave toward this that one can... yes.

R' Yitzchak: One must, not one can, one must. Sixteen seventeen means according to the matter (l'fi inyan), according to how much money he has, how much strength he has and the like, but after twenty there are no more excuses, that's the time. That's what I mean is the meaning.

Academically it's somewhat difficult to understand. The answer is because the mitzvah is built according to reality. I mean technically you're certainly obligated at thirteen like other mitzvot, but there's like a measure, like every kindness (chesed). You understand what I'm saying? I want to say a word: One is obligated in all mitzvot at thirteen, meaning theoretically. But every mitzvah has a measure: when does it apply, how, how much must one? And the Sages understood that pru u'rvu requires certain, as you say, money, maturity, whatever you want to say, so the measure is sixteen, seventeen. You understand what I'm saying? It's like a parameter in the mitzvah.

The Mishnah of "Ben Shmoneh Esreh L'chuppah" and the Calculation of Livelihood

R' Yoel Asher: I see he notes very nicely that in the Mishnah in Avot there it says **ben shmoneh esreh l'chuppah** (at eighteen for the wedding canopy). But the Rambam didn't accept that Mishnah, also not in Hilchot Talmud Torah, the way how he explains the way how one learns with the children. Because the Rambam held that that Mishnah is a Baraita,

R' Yitzchak: And it's not ruled like that Mishnah. Right. Okay, it's actually not a contradiction, because sixteen, seventeen he says one must begin, so around... You understand, eighteen can be seventeen, it's not really a contradiction to that Mishnah, but it's not really a law according to the Rambam.

R' Yoel Asher: But it seems that the Rambam also already said in Sefer HaMada somewhere in Hilchot Talmud Torah, that one must first be able to have livelihood before one learns, right? That one should... but plant a vineyard (yitah kerem)...

R' Yitzchak: In Hilchot De'ot,

R' Yoel Asher: Yes, one should first have livelihood. At thirteen, fourteen no one has any expectation that one should already be able to make money.

R' Yitzchak: Ah yes, he must begin then.

R' Yoel Asher: Sixteen, seventeen is already an age where he can already...

R' Yitzchak: Has already had!

R' Yoel Asher: By sixteen he already has a career,

R' Yitzchak: He has already worked, he has already. Then he goes looking for a wife. Certainly, there's no contradiction between the two laws. Yes.

R' Yoel Asher: And the Rambam says a...

Resolving the Contradiction with Hilchot De'ot

R' Yitzchak: In Hilchot De'ot.

R' Yoel Asher: One must still see a bit, but **"yitah kerem"** in Hilchot De'ot, yes, one should first have livelihood.

R' Yitzchak: At thirteen-fourteen no one has...

R' Yoel Asher: Any expectation that one should already be able to make money.

R' Yitzchak: Ah yes, he must begin then. Sixteen-seventeen is already an age where he can already...

R' Yoel Asher: He has already had.

R' Yitzchak: By sixteen-seventeen he already has a vineyard, he has already worked, he has already; then he just goes looking for a wife. Certainly there's no contradiction between the two laws. Yes.

Halacha 3: The Permission to Delay Due to Torah Study

R' Yitzchak: And the Rambam says: **"V'im hayah osek b'Torah"** – it turns out that he is engaged in Torah learning, he is a learner and he learns...

R' Yoel Asher: He learns Torah and he is engaged (tarud) in Torah, he is occupied with Torah. **"V'hayah mityarei milisa ishah"** – he is afraid of getting married, **"kedei shelo yitrach b'mezonot v'yivatel min haTorah"** – he is afraid that if he gets married it will take away much time from him, because he will have to start working for sustenance. He will have to provide her with she'er, kesut v'onah.

Meaning, regarding onah itself we already gave ourselves advice with what we made the onah of a talmid chacham only once a week, although he is delicate and pampered (rach v'anugah), I mean a palgenit. He not.

R' Yitzchak: Let's say a talmid chacham...

R' Yoel Asher: Torah weakens his strength (Torah metashet kocho).

R' Yitzchak: Yes, but from the outside one doesn't see it.

R' Yoel Asher: One sees it yes. It stands me, but in any case, okay, so. But here we're talking about that he will have to work hard, so **"harei zeh mutar l'hitacher"** – one gives him yes a right, he may delay. Why? **"She'ha'osek b'mitzvah patur min hamitzvah"** – one who is engaged in a mitzvah is exempt from the mitzvah, **"v'chol shekein b'Talmud Torah"** – certainly one who learns Torah is exempt from other mitzvot that come in his way.

Discussion: The Principle of "Osek B'mitzvah Patur Min Hamitzvah" Regarding Talmud Torah and Other Mitzvot

R' Yoel Asher: So one sees very interesting: It's obvious that if the reason is "osek b'mitzvah patur min hamitzvah," I thought simply that if one is engaged in some other...

R' Yitzchak: Mitzvah, he will also be exempt from marrying a woman (lissa ishah)!

R' Yoel Asher: And the Rambam only adds here "kol shekein" (all the more so). What? He has a sick father and he's busy all day with the father healing him, whatever, one who has some other such kind of "osek b'mitzvah patur min hamitzvah." The Rambam only says "kol shekein Talmud Torah."

It could be no, because I thought that what we see here that Torah exempts, it's not simply like... Okay, the Rambam says that simply because "osek b'mitzvah patur min hamitzvah," but we also see, as we saw earlier, that a woman cannot prevent a man from going to learn, and such things. It could be simply that the Sages say that Torah comes before everything. One doesn't need to enter into the local meaning on the spot how it works. The Rambam says that it is indeed with

the principle of "osek b'mitzvah patur min hamitzvah."

R' Yitzchak: Okay. The Rambam puts it explicitly in the principle, that it's not different. You're right, he tells you "kol shekein," but it doesn't fall out; seemingly you're right that another mitzvah also, and so it is, usually...

R' Yoel Asher: The answer is that usually most mitzvot no.

R' Yitzchak: But it also can't, can only pru u'rvu be such a thing that prevents... No, but the answer is simple: most mitzvot aren't relevant, as you say perhaps a case of an old father, could actually be. But usually, when a person does mitzvot, marriage doesn't prevent mitzvot. To be "engaged in Torah (tarud b'Torah)" it prevents, because marriage means that one must provide sustenance.

It hasn't yet occurred simply a kollel where one can get married and not care about livelihood, so therefore if one must get married it's a contradiction, you can't both learn and also... That is one can, but not so much, yes. That's the meaning of "tarud," he will have to go work and not be able to sit in the study hall (beit hamidrash). Okay.

The Law of "Chashkah Nafsho B'Torah" Like Ben Azzai

R' Yitzchak: The Rambam says: If so, therefore it turns out – you'll continue the Rambam, so you'll see that it's correct, yes: **"Mi she'chashkah nafsho b'Torah tamid"** (One whose soul desires Torah constantly)...

R' Yoel Asher: "V'shagah bah k'Ben Azzai" (and is preoccupied with it like Ben Azzai) – interesting the language "shagah bah," as the Rambam has...

R' Yitzchak: Said it in Hilchot Talmud Torah also. In Hilchot Teshuvah and in Hilchot...

R' Yoel Asher: "Shagah bah" means that he can't stop thinking, obsessed with it, like Ben Azzai. Yes, obsessed is a good word for "shagah bah". It means that not only when he makes a "leshem yichud" that I'm now going to learn does he think about learning, but the whole time, as long as no one disturbs him with something else, he thinks about learning, automatically he thinks about learning. That's what "chashkah nafsho baTorah" means.

"V'nidbak bah kol yamav" – all his years he is attached to Torah, he has cleaved to Torah; basically he's already gotten married, he's already gotten married to the Torah. **"V'lo nasa ishah"** – he didn't get married to any woman...

R' Yitzchak: Never.

R' Yoel Asher: He's a monk, he never did, yes – **"ein b'yado avon"**.

Discussion: Does the exemption for a whole life apply to other mitzvos as well

R' Yoel Asher: It means, another person, even if he has some excuse – seemingly the Rambam is speaking here even let's say when there will be an excuse of "oseik b'mitzvah patur min hamitzvah", but it's good for a little while; but if a person will his whole life not have the mitzvah of peru u'revu, he still has an avon of being mevatel a mitzvah.

R' Yitzchak: But that's what's not clear to me, because according to the theory of "oseik b'mitzvah", what's the difference how long? Every day that I'm oseik in this...

R' Yoel Asher: Ah, the pshat is that presumably that's the point, because the Rambam would have said that there's no mitzvah whatsoever that kol yamav he will never be able to get married, except one – about this he says indeed a very high bar: only by Torah is there such a thing as someone who has become crazy, he's become crazy for Torah, there's no one to talk to.

R' Yitzchak: I mean that seemingly theoretically, that's what the Rambam says: since this is built on the mitzvah of "oseik b'mitzvah", so it can work for a whole life too. You're right that usually not, because most people aren't "shagah bah k'Ben Azzai", so they can indeed be mekayem both or not, but whatever, they

finished learning at some point. Ben Azzai never stopped learning, so he may. But the Rambam says a condition, an interesting condition.

R' Yoel Asher: But yes, it could be, one needs to think if there's another reality, not of Torah, but some kind of such attachment. Let's say a doctor who literally heals every day seventeen hours, he heals people.

R' Yitzchak: One can say that it's not a contradiction, he has time to get married too. The problem is only that Torah is something for a person who works. A doctor makes money for his... By the way, the Rambam says that a doctor may not take any money, one should know.

R' Yoel Asher: But I'm speaking hypothetically. If there is a kind of thing like "chashkah nafsho" always in that mitzvah, let's say a davener, something becomes a Ribnitzer, literally he wants the whole day only one thing: to daven to the Almighty, and "nidbak bah kol yamav", it could also be that "ein b'yado avon". But the Rambam speaks generally, because davening he can do while he works too. By Torah you can also find some kind of thing that he will... no, one can't.

R' Yitzchak: One can't, one can't. Davening one can. Both, davening doesn't cost anything, he can daven the whole day and...

R' Yoel Asher: A whole night at once. The point is further here:

R' Yitzchak: "K'dei shelo yitrach b'mezonos", yes?

R' Yoel Asher: Yes, exactly. "Shagah bah k'Ben Azzai", so he can't work and take a wife.

R' Yitzchak: Because what does "yitrach b'mezonos" have a contradiction with davening? On the contrary, he davens for parnassah the whole day, and while working too. That is, Torah is set up that there can be such a situation where it's a contradiction. You're right that theoretically – I mean that you're right theoretically, I mean that practically it's not relevant; also by Torah it's barely relevant, one needs to be a Ben Azzai. Okay, but the Rambam says a condition...

R' Yoel Asher: Very interesting. "Ein b'yado avon" is an interesting expression, it means look further.

R' Yitzchak: Simply...

R' Yoel Asher: Because the whole time he has an "oseik b'mitzvah patur min hamitzvah".

R' Yitzchak: "V'hu" – but the Rambam makes a condition, one needs to understand the condition. Let's finish the condition.

R' Yoel Asher: No, about this I think that the point is something else: that even when there is an exemption of some "oseik b'mitzvah patur min hamitzvah", but if a whole life one will get out of this, one has an avon; and only Torah is something that's relevant for a whole life.

R' Yitzchak: I don't agree. Theoretically I don't see why not. Theoretically it always works, the "oseik b'mitzvah". Perhaps he means... you're forgetting the whole time about the next piece! Look at the next piece, that's the "catch" that he has.

The condition: "V'hu shelo yihyeh yitzro mitgaber alav"

R' Yoel Asher: "V'hu shelo yihyeh yitzro mitgaber alav" – that the person who is "chashkah nafsho baTorah" also has a thing that he doesn't have a strong yetzer hara, the yetzer hara isn't overpowering him, he controls himself. **"Aval im hayah yitzro mitgaber alav"** – he has a very strong yetzer hara, and he's anyway mevatel Torah because the yetzer hara bothers him a lot...

R' Yitzchak: No, not because he's anyway mevatel Torah, but because...

R' Yoel Asher: "Chayav lisei ishah va'afilu hayu lo banim" – let's see: then he must indeed get married, even if he's already been mekayem the mitzvah of peru u'revu, he must get married. Why? **"Shema yavo lidei hirhurim"** – because he'll come to an aveirah, he'll come to hirhurei aveirah.

R' Yitzchak: Be busy with aveiros. But it doesn't say that he's going to stop learning, he's still

learning, but somehow at the same time he has hirhurei aveiros.

Discussion: The meaning of "yitzro mitgaber alav" and "shema yavo lidei hirhurim"

R' Yoel Asher: Let's think about a few things. First of all, it says here **"afilu hayu lo banim"**, so it's not just the mitzvah of peru u'revu. Well certainly, so we're completely confused. So again, the Rambam hasn't yet told us the secret that even after one has had children one must be married. That he'll tell us later, the Rabbanan. Is he hinting at this?

R' Yitzchak: Here he's going... no, no, no.

R' Yoel Asher: But he's speaking now of... that even if he had children he must get married, because of what, that it will cause him hirhurim? Exactly, and a wife will...

R' Yitzchak: Cause him hirhurim? It will...

R' Yoel Asher: Certainly it will, it will weaken it. It doesn't eliminate it. Well, let's say that it will indeed...

R' Yitzchak: Certainly eliminate hirhurim! There's no such thing, there's no such thing. We're speaking now about bnei adam, we're not speaking now about, I don't know what, sick people. A normal person, certainly. By the way, for this it needs to be clear, let's first understand: "yitzro mitgaber alav" means the overpowering that happens only to a person who doesn't have a wife. It doesn't mean that he'll have hirhurim like a Chassidic yeshiva bachur.

R' Yoel Asher: Ah, so let's...

R' Yitzchak: It means something else. You can't say that he has a strong yetzer hara, it's not true. It means that he goes crazy as a person who doesn't have a wife, he goes crazy the whole day thinking about women. And by the way, "hirhurim" is a nice word; not only he thinks, certainly not only hirhurim.

R' Yoel Asher: But the person isn't then "nidbak bah kol yamav" and not "shagah bah k'Ben Azzai"! So it's not a condition, it's not a condition in what he's now said.

R' Yitzchak: No.

R' Yoel Asher: I would indeed say: **"V'hu shelo yihyeh yitzro mitgaber alav"** – let's say that most of the time is "chashkah nafsho baTorah", but there are days when he starts planning aveiros, and he can't control himself, he goes crazy like you say. He is **"chayav lisei ishah"**, because he can become in danger, he can be nichshal with great aveiros.

"Shema yavo lidei hirhurim" means like you say: he's now going to plan how to grab the aveiros, from living with a woman shelo b'chuppah v'kiddushin. Yes, that's what is meant here. Such a one will, or I don't know what, be nichshal with an eishes ish. He'll do wildness, he'll do out of ta'avah, not out of seichel, so he can come to worse aveiros.

It's interesting, one gives here a run from peru u'revu to another mitzvah. Which mitzvah? A mitzvah of not having hirhurim, which is included in getting married?

R' Yitzchak: Not to hirhurim. I say that hirhurim...

R' Yoel Asher: Isn't the problem. There is a mitzvah. So we know why it says here hirhurei aveirah...

R' Yitzchak: It's not because hirhurei aveirah is some new issur. The reason is, it's only explaining the person. There's such a type of person who, let's say he is indeed – by the way, I don't agree with this: if they hold that it's a contradiction to "chashkah nafsho baTorah", it should say how he's not an idler who is oseik in hirhurei aveirah and just says that he's a proper young man. No, we're speaking about one who is "chashkah nafsho baTorah".

But even a "chashkah nafsho baTorah", somehow the Rambam understood that there's such a thing that he also has a hirhurim and one does both at once. He doesn't have strength to get married, but he does have strength to think about it the whole day, and it doesn't cost anything, yes? The difference between a legitimate wife and a hirhurei aveirah is that the latter costs cheaper, true? Or it costs nothing, he doesn't need to work for it, he won't need to work, he'll go every night

do with the hirhurei aveirah. That's not a problem, that's the difference!

So the Rambam says: here on this one hasn't said the exemption. Why? You have another issur, you're transgressing aveiros! Obviously when the Chachamim said that there's a heter not to get married if "chashkah nafsho baTorah", it's not a heter to be a lowlife at the same time, a hirhurei-aveirah person. That's all.

Summary: Three reasons to get married

R' Yoel Asher: So one needs to think this way: basically we've learned here sort of by the way a third mitzvah why to get married:

1. One, yes, the mitzvah of kedushah, as the Rambam said originally.

2. The second mitzvah of peru u'revu.

3. And now we know that not getting married can bring the results, or will it very often bring, or always.

A third reason to get married: To save oneself from hirhurim and aveiros

R' Yitzchak: Obviously when the Chachamim said that there's a heter not to get married because **chashkah nafsho baTorah**, it's not a heter to be a lowlife at the same time, a hirhurei aveirah person, that's all.

R' Yoel Asher: So one needs to think this way, so basically we've learned here sort of by the way a third mitzvah why to get married:

1. One, yes, the mitzvah of kedushah as the Rambam said originally.

2. The second mitzvah of peru u'revu.

3. And now we know that not getting married can bring the results, or can, or will it very often bring, or always will it bring yetzer hara with hirhurim.

R' Yitzchak: Not hirhurim, aveiros. It says here that it doesn't mean just hirhurim. Yes, okay. It means aveirah.

R' Yoel Asher: Hirhurim means even a hirhurim, even if nothing will work out from it, but for a moment he's busy with aveiros.

Discussion: What does the Rambam mean by "yitzro mitgaber alav" and "hirhurim"?

R' Yitzchak: I don't agree. I don't agree. It can't be, because that's the Chassidic claim, I mean that it's a mistake. The Chassidic Jews say for example – it's not at all included in what the Rambam says – but the Chassidic Jews for example say that in the Lithuanian world in the yeshivos there was the custom that once people got married quite late. Why? They said that the mitzvah of talmud Torah is docheh, one needs to be able to learn a few years. And they also understood that after the wedding one can't learn. Yes, today when they conduct themselves anyway to learn they don't have this excuse, so I don't know what the excuse is today. But at least in the old custom that afterwards one goes to work – even if he has a Torah position, he still works, he can't properly learn – so they delayed.

The Chassidim said: Yes, but what about hirhurei aveirah?

It's not correct. The Rambam says one thing, first of all **yitzro mitgaber alav** doesn't mean that a Chassidic bachur who **ein anu nitzoolin meihen b'chol yom**. The question can be asked on the Chasam Sofer: when he's fifteen he doesn't have hirhurei aveirah? How is there an excuse to get married at sixteen? The Gemara says Rav Chisda got married at fourteen. Very good, the Rambam says that the normal is for a person becomes at that age. Ah hirhurei aveirah? We're not speaking about that.

He's speaking about one who is forty-five, and he's already completely crazy, the whole day he plans aveiros, he does aveiros, not only he has hirhurei aveirah, it doesn't mean that. So two things: either it doesn't mean the normal order – it doesn't mean **yitzro mitgaber alav**, it doesn't say here that talmud Torah is nidcheh because someone once has a hirhurei aveirah – and generally for that, for that level of hirhurei aveirah, getting married doesn't help either.

R' Yoel Asher: And that doesn't mean **yitzro mitgaber alav**, on the contrary he is misgaber al yitzro. He had a thought, he gave a little time to the thought, and he was misgaber, he went further. **Yitzro mitgaber alav** means that eventually the thought will defeat him, he'll go to

a place or do something that's a matter of aveirah. One needs to think why the Rambam says **shema yavo lidei hirhurim**.

R' Yitzchak: I mean that's what it means.

R' Yoel Asher: It's even a nicer way. The Rambam says somewhere that **hirhurei aveirah kashim mei'aveirah**, because as long as he hasn't gotten it out of his system...

R' Yitzchak: No, no.

R' Yoel Asher: ...it won't stop tormenting him. So there is, I mean the Maharal says this. It means this: if he's a person who is **yitzro mitgaber alav**, even if he'll struggle for a year's time with the hirhurim, but in the end, because he's not misgaber, because he doesn't have the strength to put to sleep the yetzer and the hirhurim through Torah whatever it is, the pshat is that it doesn't stop cooking, so eventually it will take revenge on him.

R' Yitzchak: I don't know if the Torah is true. There is, it says in the Gemara **mashbi'o ra'ev u'mar'ivo save'a**.

R' Yoel Asher: So that's not a good Torah.

R' Yitzchak: And secondly I mean that hirhurim means action. It's only a nice way of saying – it's not only a nice way, it reveals why the person is a problem. Hirhurim means the person, not that he did. Generally the opposite: he did once an aveirah he doesn't become a talmid chacham, as the Gemara says **avar aveirah balailah al teharheir acharav bayom**. We're not speaking now about that, we're speaking about that he becomes a hirhurei aveirah person, he turns around the whole day, so not the whole day...

Resolving the contradiction between "chashkah nafsho baTorah" and "yitzro mitgaber alav"

R' Yoel Asher: He's still **chashkah nafsho baTorah**! From this I must resolve the contradiction. Let's say this: he's still **nafsho chashkah baTorah** that he doesn't want to work the whole day for parnassah for a wife, he wants to learn. But what then? In the learning there are days when...

R' Yitzchak: Literally the yetzer is misgaber alav.

R' Yoel Asher: He's not there... no, he is there, but he's still **nafsho chashkah baTorah** that he doesn't want to switch and become not a ben Torah and put on work clothes and work the whole day.

R' Yitzchak: The aveiros don't take so much time, it's not necessarily a problem of time, one can quite well do both.

Okay, fine, that's regarding the heter of Torah. The Rambam makes clear that one may a whole life, on condition of the hirhurei aveirah. And the truth is, the Rambam probably thinks that if someone is shogeh baTorah – as the Rambam says in Hilchos Issurei Bi'ah, we'll get to it – that he won't have so many hirhurei aveirah. But many times people fool themselves, that's basically the point.

R' Yoel Asher: One doesn't mean him. Okay, the Rambam says further:

Halacha 4: The measure of peru u'revu – male and female, saris and ailonis

The obligation to have a male and a female

R' Yitzchak: "Kamah banim yihyu lo la'ish"

R' Yoel Asher: Ah, after how many children has one been mekayem the mitzvah of peru u'revu?

R' Yitzchak: The Rambam already said that if one doesn't have...

R' Yoel Asher: ...fulfilled, then he is obligated. How many children must a person have **"for this mitzvah to be fulfilled in his hand?"** Says the Rambam, the measure is: **"a male and a female, as it says 'male and female He created them'"**. That means, when the Almighty made the creation, as if when the Almighty fulfilled the mitzvah of procreation (pru urvu), He did it with male and female. Interesting. One can also understand simply: a male and a female can continue to have children. With a male and a female, one has provided the world with a complete set.

A Novel Interpretation in the Exposition of the Verse "Male and Female He Created Them"

R' Yitzchak: I thought it says in the same verse. How does one learn it from the verse? I don't know clearly. Okay. A person, **male and female He created them**, I want to say an interpretation: pru urvu means he must make people, right? But what does "person" mean? It says **male and female He created them, and He blessed them and called their name Adam**. He says, an "Adam" means male and female. If one wants to make people, one cannot fulfill it by making only a male, because a male is only half a person. Male and female is what "person" means. That's what it says in the verse, that's the meaning of this exposition.

R' Yoel Asher: What the Gemara says **half a body** (palga gufa). Yes. But I think perhaps more simply, no, it's the meaning...

R' Yitzchak: Male and female He created them.

R' Yoel Asher: That's simple. I think more simply that only because the Almighty made an Adam, male and female, could they have more children and fulfill pru urvu.

R' Yitzchak: Because that's the meaning, your Torah. No, no, that's the verse, there's no better interpretation.

R' Yoel Asher: Thousands of times, yes, it means a person, a single person, an Adam.

R' Yitzchak: No, not thousands, by the way, no, not true. That's the verse that says the opposite. It always says that Adam means only a double person.

R' Yoel Asher: One person cannot bring a sacrifice, because it says **"when a person (adam) brings from you"**, there must be a male...

R' Yitzchak: ...and female together to bring a sacrifice.

R' Yoel Asher: Now we're talking about pru urvu. I think the reason is because a male and a female can continue to bring forth a world. Although these two cannot, they are sister and brother, he will find another girl, and she will find another boy, but a male and a female is a way of fulfilling pru urvu so the world will continue. Rabbi Yitzchak says that the...

R' Yitzchak: ...exposition from the verse means what he says.

R' Yoel Asher: But it doesn't say by pru urvu that one must have an Adam. Pru urvu means one must multiply.

R' Yitzchak: Certainly it means that, make more people. But a person...

R' Yoel Asher: Minimum people, it became a Torah with four stages: that an Adam means a male and a female, and when the Torah says pru urvu, it means to say you should give birth to Adams. But what then? Pru urvu, you should multiply, means you should have children.

R' Yitzchak: He brings the verse **male and female He created them**. Righteous one, if he wanted to say the reasoning you're saying, he wouldn't need any verse, he would just say it, you don't need a verse. The verse **male and female He created them** only says what I'm saying, because your reasoning is just a good reasoning. I agree it's a good reasoning, but the verse doesn't explain it, it has nothing to do with the verse. Okay.

The Law of a Sterile Man or a Barren Woman

R' Yoel Asher: We continue. **"If the son was a sterile man"** (saris), if the son is a saris, he won't be able to have children, **"or if the daughter was barren"** (ailonit), she won't be able to have children, **"he has not fulfilled the mitzvah"**, he has not fulfilled the mitzvah.

Why? Because pru urvu is that the world should continue to exist, as we learned that this is the reason why it must be a male and female, so one can continue and have children. So if he is a saris or ailonit – he is still called an Adam, the saris or ailonit – but he cannot have children.

R' Yitzchak: One could argue about this law, if it were written differently, he would also understand. But the reasoning is that he must be

one who can continue. Eh, what's wrong? Now is there a person? He doesn't know.

R' Yoel Asher: And the Gemara uses the verse **"He formed it to be inhabited"** (lashevet yetzarah). The purpose of pru urvu is that the world should be settled with people.

R' Yitzchak: But **lashevet** for this generation is nothing? Must one always worry about tomorrow?

R' Yoel Asher: One has not yet fulfilled it. He did a very beautiful thing, he gets a pinch on the cheek, but now forgive... a mitzvah! Forgive and give birth to two more children, because we want the long term.

Law 5: If Children Were Born and Died – Fulfilling the Mitzvah Through Grandchildren

Grandchildren Are Like Children

R' Yoel Asher: "If children were born to him and they died", what happens? **"If children were born to him"**, a person had children and they died. But **"and they left children"**, they left behind children, **"he has fulfilled the mitzvah of pru urvu"**, because they had children, and they made a continuation of generations, they made further...

R' Yitzchak: "...grandchildren are like children" (bnei banim harei hen k'vanim). On this stands the verse, **grandchildren are like children**, regarding this, that pru urvu – that means, left grandchildren – that means it doesn't say children, one must have children; he has children, he has grandchildren. Yes, the reasonings...

"In what case is this said? When the grandchildren were..." When we say that with grandchildren one fulfills it, it's specifically:

R' Yoel Asher: "When the grandchildren were male and female and came from male and female".

R' Yitzchak: He must have a male and female, therefore he must have grandchildren male and female. But to this comes out a third condition, that the male and female must come somehow from his male and female, but not directly. Yes? **"Even though..."**

R' Yoel Asher: "Even though the male is his daughter's son, and the female is his son's daughter". That means, a person had a male and a female, and his daughter has a son, and his son has a daughter. So in practice he now has two grandchildren, from a male and female, a girl and a boy.

R' Yitzchak: He has a girl and a boy from a girl and a boy. Exactly opposite, that doesn't matter. **"But..."**

R' Yoel Asher: "But if he had a son or daughter and they died"

R' Yitzchak: "And one of them left a male and female, he still has not fulfilled the mitzvah."

R' Yoel Asher: He indeed has two grandchildren, but he doesn't have two children, because one child doesn't count. Because with one child he has not yet fulfilled pru urvu. With one alone he has not yet fulfilled the mitzvah of pru urvu.

The Definition of Grandchildren in the Grandfather's Fulfillment of the Mitzvah

R' Yitzchak: He must have another child who should have another. It's an interesting law. That means, he must have from his two children two children, and it must be male and female. That means, the same thing is for example, if he had a male and a female children, and one of them had a male and a female – that's basically the point – no, that's not enough. Okay. One must have two children, that they themselves have two children.

It's very important. Here one also sees – I don't know if one sees it from here, but I say that it could be that here one sees that the grandchildren are like part of the grandfather's fulfillment of the mitzvah, yes? Sometimes a grandfather says: "What do I have to do with my grandchildren? It's my son's matter." No, your children... do you understand what I'm saying? Yes. But I don't know how much one can learn from this. Okay, that's a law in the end.

Law 6: If He Had Children in His Gentile State – A Convert Who Had Children in His Gentile State

R' Yoel Asher: Yes. Already, such a law stands. What happens, he's going to go into small details now. **"If he had children in his gentile state"**, he was a gentile. A person has the mitzvah when he is a Jew. What happens when he was still a gentile and had children, **"and he and they converted"**, they all converted, he with the children. **"He has fulfilled this mitzvah"**, because he did the act of having children, and the children are Jews, so he left Jewish children. He fulfilled a mitzvah.

It's interesting, because it didn't happen... That means, when he gave birth to them, he didn't yet have any mitzvah. Or perhaps yes? Perhaps the Bnei Noach also have some connection to pru urvu? One must think. And so the beginning was that he had a child, and the end is that he has a Jewish child, so he has the deed and the result.

R' Yitzchak: There was a dispute between Rabbi Yochanan and Reish Lakish about this. Not clear. We rule this way. When I bring a dispute, I mean to say, that if one says the reasoning is clear – it's not clear, because there was a great...

R' Yoel Asher: ...Amora who held differently.

The Definition of Pru Urvu and Lashevet Yetzarah for Gentiles and Jews

R' Yoel Asher: Many mitzvot have a deed with a result.

R' Yitzchak: I say, pru urvu has to do with Jews. Okay, a question arises for us.

R' Yoel Asher: One must think whether by gentiles there is some connection with the mitzvah of pru urvu. If not, the mitzvah is a mitzvah on Jews. When you weren't a Jew, you weren't commanded, right...

R' Yitzchak: So gentiles don't have pru urvu? That's what it says in the Gemara Sanhedrin, it says, that a gentile is not commanded. So what? There's no... the pru urvu means there should be Jews, not there should be people? Generally a new thing. There's no concept at all that there should be gentiles? Why are there so many gentiles? Must have "lashevet yetzarah". It can't be.

R' Yoel Asher: One must have "lashevet yetzarah" that it should be settled with people. One must apparently also have gentiles. Somewhere it says that "lashevet" is a mitzvah also on Bnei Noach. I remember something.

R' Yitzchak: Something rings a bell. One can the Gemara in Sanhedrin, the Gemara that he quotes... he doesn't bring it. Gentiles are not obligated.

The Distinction Between the Act of the Mitzvah and the Result in Pru Urvu

R' Yoel Asher: But I say it's a bit interesting, because by the mitzvah of pru urvu, there are many mitzvot where there's a deed and a result.

R' Yitzchak: Okay.

R' Yoel Asher: The mitzvah of pru urvu, but it's on a large scale, as it can be years removed. That the person doesn't know if he fulfilled pru urvu until his grandchildren.

R' Yitzchak: So... almost all mitzvot one must, there's not a single mitzvah where one must only do the deed.

R' Yoel Asher: There's no such thing... yes, but usually the result is very closely connected to the deed.

R' Yitzchak: It's not years long. Except if one says that part of the mitzvah of Torah study is to be a Torah scholar, one begins doing when one begins learning, and the result is when one is forty or whatever age one is a... I think that all deeds... generally, human deeds are such deeds that make a result. Otherwise it's not called a deed at all. You're right that it's a longer deed, so, indeed. When is one fulfilling? To ask which moments one must do it, have in mind the intention, a whole life is engaged in pru... it says **"were you engaged in pru urvu"**, yes, one asks him a question about his life, right? When a person dies, it says in Tractate Shabbat, one asks **"were you engaged in pru urvu"**. What does it mean? Everything, basically. Right.

R' Yoel Asher: But it is, it can certainly be a reason why one doesn't make a blessing, yes, which we already spoke about something.

R' Yitzchak: Mentioned.

R' Yoel Asher: On this result you're going to become aware in seventy years or so.

R' Yitzchak: One makes a blessing at the wedding, but the question is if it's on the mitzvah of pru urvu, no.

The Distinction Between a Gentile and a Slave Regarding Lineage

R' Yoel Asher: It doesn't really say there. Interesting. Okay, very good. This is when he had children when he was a gentile.

R' Yitzchak: Both converted, but one was a slave.

R' Yoel Asher: He had children as a slave, and he ceased being a slave, he became a freed slave who now gets the status of a Jew.

R' Yitzchak: He and they were freed, both.

R' Yoel Asher: It doesn't help. So one would think it should have the same law as a gentile? I had children, and now they are Jews, but **he has not fulfilled the mitzvah of pru urvu until he gives birth after being freed**, until he gives birth to children after being freed. Why? **Because a slave has no lineage**.

A gentile has no mitzvot, but a slave is much more of a different type, his difference is a different kind of thing. That means, he was indeed, even as a Canaanite slave he had many laws like a Jew, but he has a different problem, that a slave has no lineage. A slave belongs to the master, also his offspring belongs to the master. As one sees that the wife can be assigned, the master, the owner can assign with whom he should marry and so forth, he belongs to the master, therefore he has no lineage. Even now they are freed slaves, but they never became a status of a father with a child regarding lineage.

R' Yitzchak: Right, he has no children. Unlike a gentile, that's the Gemara explicitly there, right, unlike a gentile, he brings a proof, a gentile, it's called in the Gemara, a gentile has lineage. It's true that a gentile with a Jew have no lineage. **"A convert who converted is like a newborn child"**, says that when a person converts, he loses his lineage primarily in law with his gentile father. But both converted, so as if the lineage remains, he remains his father. That's the definition of this. So it seems, that's what it says in the Gemara here.

R' Yoel Asher: I think in the Gemara itself there's an opinion **"the flow of horses is their flow"**, that also a gentile's offspring is...

R' Yitzchak: Ownerless or is no... if a Jew, a Jew with a gentile, says the Gemara, so says Rabbi Yochanan: **"in their gentile state they have lineage"**, that means, two gentiles are, are fathers with children. A Jew with a gentile not, but here both gentiles became together. And the same... it's interesting, why here does the language say **"they converted with him"**, what if they converted later? That's what it says.

The Meaning of "He and They Converted" – Conversion of a Family

R' Yoel Asher: There's a disqualification of offspring... what does it say here? **He and they converted**. Ahh. Okay. No. **He and they were freed...**

R' Yitzchak: What does it say here? **He and they were freed**. Okay. I mean what did I mean to say? But it became together both at the same time? I think that, but I feel that there's such a concept we learned also by the wedding, yes? If he with his wife converted, there's such a thing that a family converts, not just a person. That's what I think. I would have thought it would be better. Our topic is that pru urvu...

R' Yoel Asher: The Rambam says that they're not called relatives.

R' Yitzchak: The father with the children yes, yes, certainly. But regarding another matter of pru urvu, yes. Interesting.

Honoring Father and Inheritance by a Convert and a Freed Slave

R' Yoel Asher: Interesting, by both cases it's like such a splitting and such, one divides the law. That means for example a slave who is now a Jew doesn't have a mitzvah of honoring father

also not on his father? Must think. Perhaps only regarding lineage. Does he have a mitzvah of honoring father?

R' Yitzchak: For example on that father a Jew? No, he doesn't. Not.

R' Yoel Asher: It says explicitly. It says explicitly that not. So there's no mitzvah of honoring father? Now when they are both freed?

R' Yitzchak: Hmmm. Right. Do you remember something?

R' Yoel Asher: Yes. When they are both freed is there also no mitzvah of honoring father? Interesting. Already.

R' Yitzchak: Further says the Rambam: **"A slave does not inherit his father"** because it's a decree, made a kal vachomer and so forth. Okay. That's...

R' Yoel Asher: Yes, there is as gratitude whatever I remember something.

R' Yitzchak: Something that...

R' Yoel Asher: Like a father who is a stepfather there is a, one learns perhaps, where? I don't remember. Where is there the law? That a stepfather also has something of a mitzvah of honoring father, I don't know, from the category of honoring father.

R' Yitzchak: Okay, further. Again one must, a minute, sense, humanity one must be, now we're talking the law whether...

R' Yoel Asher: He fulfills pru urvu.

R' Yitzchak: Okay. Pru urvu he fulfills, not a slave. So rules Rabbi Yochanan in the dispute with Reish Lakish and so rules the Rambam. Okay, already.

Law 7: Marrying a Woman Who Cannot Have Children, and Waiting Ten Years

The Prohibition of Marrying a Barren Woman, Old Woman, Ailonit or Minor

R' Yoel Asher: Says the Rambam further: from the law of pru urvu one must marry a woman who can have children. **A man should not marry a barren woman** (akarah), a woman who cannot have children, or an **old woman** (zekenah) who can no longer have children, or an **ailonit** who doesn't have certain... what, an ailonit means that she is completely...

R' Yitzchak: She cannot have children. You see the organs of this. And an aylonis is just, an aylonis is, we don't know the reason.

R' Yoel Asher: Yes. Or a **ketanah she'einah re'uyah leileid. Ela im kein kiyeim mitzvos pirya v'rivya**, unless he has already fulfilled the mitzvah of pirya v'rivya, **o she'haysah lo ishah acheres lifros u'larbos mimenah**, if he has another wife with whom he will have pirya v'rivya, then he may also be with an aylonis, it's not an issur, it's not nullifying a mitzvos aseh.

R' Yitzchak: No, it's a mitzvos aseh. Yes.

The Din of Waiting Ten Years and the Source from Avraham Avinu

R' Yoel Asher: The Rambam says thus: **Nasa ishah**, what happens here, a case where a person marries, he had a wedding, but he waited with her for ten years, **v'shahasah imo eser shanim v'lo yaldah**, she has not yet given birth. **Harei zeh...** Huh? **Harei zeh yotzi...** he may divorce her. **V'yitein kesubah**, he must give the kesubah. He must divorce, yes. He must, from the din of pirya v'rivya, that is, he can take another one. Or. Yes. In short, from the din of pirya v'rivya, after ten years he must already think that perhaps she cannot have children.

R' Yitzchak: Perhaps that's the point. He is obligated. Perhaps at that time.

R' Yoel Asher: Ah, because now she gets the term "aylonis" that was mentioned earlier. That is, it was permitted to be with her, okay, we'll see, **o yisa ishah hare'uyah...** ahh, he could say there o yisa ishah acheres. **Harei zeh yotzi v'yitein kesubah**, he must divorce her, he must give the kesubah, because she did not do any wrong, it's an illness, it's not her fault. **O**, or he can keep her and take another wife who is indeed **re'uyah leileid**. And they learn this from what we learned in Parshas Lech Lecha, that after ten years when Avraham Avinu had no child from

Sarah, he brings up the problem. Yes, it says in the verse ten years. At that time he married Hagar, yes?

R' Yitzchak: Yes. Both that crashed and both that. Can you explain the drashos to me? Have a little mercy, I'm going to bring another battery.

R' Yoel Asher: Okay, something frightening... but with one thing...

R' Yitzchak: Okay. Yes, it's still working, it's still going. Yes. Okay, go on. The Rambam holds that it's actually an obligation just like from the din of pirya v'rivya, therefore, to such an extent, where am I here?

Coercion for Pirya V'rivya and the Precision of "Ad Sheyotzi"

R' Yoel Asher: To such an extent that **v'im lo ratzah l'hotzi**, what happens, if he doesn't want to give a get to the wife or take a bas banim, one who can have children, **kofin oso**, we force him, **u'makin oso b'shot**, we hit him with a whip. A whip, yes, a whip, that's the right word.

R' Yitzchak: Ad sheyotzi, until he divorces her.

R' Yoel Asher: Interesting, it says **ad sheyotzi**, why doesn't it say "ad sheyisa ishah hare'uyah"? Generally people live...

R' Yitzchak: Not with two wives.

R' Yoel Asher: That's what I know. It's expensive, perhaps he doesn't have...

R' Yitzchak: Money for both. They learned.

R' Yoel Asher: But basically what it says here is that for the mitzvah of pirya v'rivya, the beis din must, or it doesn't say exactly who, the pirya v'rivya police, can force this. Ahh. It's different forcing than other mitzvos aseh, can one always be forced on a mitzvos aseh? No, it's apparently the same.

R' Yitzchak: Ahh. And everywhere is **makin oso b'shot**?

R' Yoel Asher: Don't know how that works? Yes.

R' Yitzchak: Apparently the same. In Shulchan Aruch it says that there are counsels, the coercion is not carried out in practice. Although it says so in the Rambam, the Rama brings that, in short. There were gedolei...

R' Yoel Asher: Yisrael who didn't divorce a wife after not having children for many years, yes? Yes, not many.

R' Yitzchak: Many times it is done yes. One must know, but coercion is a second thing. You say a person already had a giant, he couldn't himself, I don't know, you can't know. In the halachah it says here kofeh l'hotzi. I remember that in Shulchan Aruch it says that we don't practice forcing. Because he only brings it in certain situations, so I don't know. Right.

The Claim of Living Together Without Marital Relations

R' Yoel Asher: So what does he use such a thing? **V'im amar**, if he says that it's not the case that I remain with a wife who doesn't have children, but **eini bo'elah**, I don't have marital relations with her. And even more. Okay, it's also a great feat, but let's first see what he says: **V'hareini shochen imah bifnei eidim kedei shelo esyached imah**. It appears here that there's something of an issur when we know there's no chance for pirya v'rivya, something is not legitimate, that's how it appears here.

R' Yitzchak: Bein she'amrah hi bein...

R' Yoel Asher: She'amar hu ein shomin lahen ela yotzi o yisa ishah hare'uyah l'valad. But it could be that the meaning is a bit simpler, that we don't trust him, that we hold that the reason why he doesn't take another one is because he's stuck with a wife. Although he actually...

Discussion: Why We Force Divorce Even Though He May Take a Second Wife

R' Yoel Asher: It appears that a second wife was a very rare thing, so first we force him to divorce. And even if he says: "I'm not even with her, I'm looking for a second wife." No? That's not the meaning? **"Hareini shochen imah bifnei eidim shelo esyached imah,**

R' Yitzchak: I just don't want to divorce her yet." Nu, why not? What will he do? Just, he loves her. That's the basic idea, right?

R' Yoel Asher: He doesn't want to divorce. He's embarrassed before her.

R' Yitzchak: Why would one want to divorce? But it's something not enough,

R' Yoel Asher: It doesn't help. But I say, one doesn't have to say that living with her is the issur, they haven't yet had what would be called hashchosas zera or whatever it would be called, not kosher.

R' Yitzchak: But it looks something like that. No, it's certainly not an issur, it's proven,

R' Yoel Asher: He can take another one. Right, about this I think he says it only because we assume the first thing must be divorce, because you'll never have another kosher one. It wasn't such a convenient thing, such a common thing to take a second wife. Yes, he's not willing. We force to divorce.

And if he comes with such excuses that we shouldn't force him to divorce, that "I'm about to take another wife, I'm not even living with the current wife", **"ein shomin lahen"**, unless we see that he actually takes another wife. It's not another meaning,

R' Yitzchak: That's not the meaning. It's interesting, what shall I say. Does this halachah stand in the Gemara?

R' Yoel Asher: We don't trust, we hold that she will... He says that she prevents him, women don't want to take, she doesn't want to, she's right, I understand. But she will also prevent another wife,

R' Yitzchak: Therefore he must divorce her.

R' Yoel Asher: It says everything is in Maseches Kesubos. Okay, the meaning is thus. Okay.

The Meaning of "Kofin Oso U'makin Oso B'shot"

R' Yitzchak: "Kofin", I don't know. With a whip. Ah, the whip, because in the Gemara it says that there are times when coercion is only with words, but this is one of those with a whip.

R' Yoel Asher: Interesting, because for a slave one must give a whip, yes? I think the Chachamim looked at such a person as a slave to his wife. One must give him a whip.

R' Yitzchak: I don't know. Whip means in short, do it.

R' Yoel Asher: Actually force, yes.

R' Yitzchak: Yes. Okay, that is.

R' Yoel Asher: Meaning, you shouldn't think a stern phone call. Not such a refined diplomatic rabbinic phone call.

R' Yitzchak: Actually stern.

Halachah 8: When the Impediment is From Her or From Him ("Yoreh K'chetz") and the Dinim of Kesubah

When He is "Yoreh K'chetz" – Chazakah That the Impediment is From Her

R' Yitzchak: "Nasa ishah v'shahah imah eser shanim v'lo yaldah."

R' Yoel Asher: What happens, a woman waited ten years and she didn't give birth, and as we learned, then the din becomes that you must take a

R' Yitzchak: Second one or divorce her.

R' Yoel Asher: But what happens when there are questions in this of...

R' Yitzchak: One must know who the problem is. The whole divorce will only help if she is the problem.

R' Yoel Asher: If he is the problem, it doesn't help at all. So thus, if **"v'hayah hu yoreh shichvas zera k'chetz"**, when his seed comes out, it comes out in a way that it sprays, or that it goes strongly like an arrow, the meaning is that his works.

R' Yitzchak: Chazakah.

R' Yoel Asher: It could still be something wrong, but chazakah. But more or less you know that the chazakah is **"hacholi mimenah"**, that it's her problem, then at that time **"v'setzei shelo bichsubah"**.

Discussion: The Contradiction with Halachah 7 and the Hasagah of the Ra'avad

R' Yitzchak: Why earlier did it say **"yotzi v'yitein kesubah"**?

R' Yoel Asher: "Yotzi v'yitein kesubah" when we don't know for sure.

R' Yitzchak: Aha, but here what can he say why it's a... very unclear. The Ra'avad actually disagrees with this halachah. Says the holy Ra'avad: **"Ein li cheilek bidvarav, she'ein omrim kein ela b'ba'al shlishi"**. He sees...

R' Yoel Asher: The Ra'avad says this only by... later,

R' Yitzchak: When the same woman marries more, it says she doesn't get a kesubah, but just, she married with the chazakah she's a normal woman, with the chazakah she can have children, why shouldn't she have a kesubah? The Rambam held something that if we know clearly that she is the problem,

R' Yoel Asher: Ah, she doesn't get a kesubah. It's interesting because something there's always a difficulty in the sugya, because earlier he said it very simply. The Rambam could have arranged it differently and said: **"Nasa ishah v'shahah imah eser shanim"**, a question begins, must one do either this or that. It's not a contradiction. Usually one doesn't check. **"Yotzi v'yitein kesubah"**, don't bother her.

The Distinction Between Ikar Kesubah and Tosefes Kesubah

R' Yitzchak: "V'yesh lah tosefes."

R' Yoel Asher: "V'yesh lah tosefes"?

R' Yitzchak: Meaning the tosefes kesubah that he himself added. What the Rambam understood is that the Chachamim established a kesubah for such a woman so that he shouldn't be motzi. If the Chachamim stand and tell him to be motzi, how can it be that one makes a kesubah **"shelo tehei kalah b'einav l'hotzi'ah"**?

R' Yoel Asher: Right, as we learned that one who is forbidden to marry doesn't have a kesubah.

R' Yitzchak: Right, so what do you say? Eh, earlier one didn't know? Now problem,

R' Yoel Asher: Now one knows. And the Chachamim can be mafkia the kesubah. That means at the time... eh, the ikar kesubah is from

R' Yitzchak: The Chachamim, therefore the Rambam says **"v'yesh lah tosefes"**, because that he himself made.

R' Yoel Asher: Tosefes is what the husband wrote to her himself, not the ikar kesubah which is takanas Chachamim but he himself added, he undertook, he must indeed pay. **"Lo sihyeh zos pechusah me'aylonis shelo hikir bah"**, it won't be different than the din that a woman is an aylonis, which he didn't know she was an aylonis,

R' Yitzchak: Which has a din of tosefes kesubah. Nu what then? Say, it will be on the video for a second.

R' Yoel Asher: So the ikar kesubah which is takanas Chachamim, the Chachamim established that if it's a woman, such a woman who is not a bas banim, and when there's an issur to be with her, there's no kesubah,

R' Yitzchak: But tosefes must indeed be. Because that he himself, tosefes he himself gave, that's because I still think here... Yes, it's explained.

When He is "Eino Yoreh K'chetz" – The Precision of "U'cheshe'yotzi"

R' Yoel Asher: Says the Rambam, but **"v'im eino yoreh k'chetz"**, if his seed doesn't come out in the manner of yoreh k'chetz, then at that time **"chezkas hacholi mimenu bilvad"**, we think the problem comes from him alone. **"Bilvad"** it says here. **"U'cheshe'yotzi"**, if it's his problem, therefore **"u'cheshe'yotzi yitein kesubah kulah"**, he should give the entire kesubah, ikar and tosefes.

But here it says, the Rambam doesn't tell us in such a case, **"u'cheshe'yotzi"** means only if he wants to divorce, can she demand a get in such a case? Why? Because then we don't tell him that he must divorce, yes? **"Im eino yoreh k'chetz"**, he can remain with her, yes? It's his problem, he can't have children.

R' Yitzchak: We don't say at all?

R' Yoel Asher: Are you sure? Why should they, why should she have to divorce? What should he have to divorce if he is eino yoreh k'chetz?

R' Yitzchak: Yes, so in short how do we hold

R' Yoel Asher: We, if she says,

R' Yitzchak: We know it's a problem from him, then he must give the entire kesubah, that's the point. It's a chazakah it's all kesubah.

R' Yoel Asher: Apparently... yes, apparently he wouldn't have had to divorce, but let's see further. If he wants to give a get, he must give the kesubah,

R' Yitzchak: Because it's his problem.

R' Yoel Asher: There isn't the halachah that a woman who cannot fulfill pirya v'rivya, the Chachamim are

R' Yitzchak: Mevatel the kesubah.

R' Yoel Asher: It's his problem.

The Credibility of the Wife in a Dispute About "Yoreh K'chetz"

R' Yoel Asher: What happens with a dispute? **"Hu omer mimenah nimna havalad, v'hi omeres mimenu nimna, mipnei she'eino yoreh k'chetz, hi ne'emenes."**

R' Yitzchak: One can't know if it's yoreh k'chetz, it's something they know.

R' Yoel Asher: So **"hi ne'emenes"**, the wife knows. Interesting, the wife knows better than the husband?

R' Yitzchak: I don't know... no, perhaps she has credibility from something of removal, because he is motzi kli...

R' Yoel Asher: No, it's also like a matter, it's not a matter of "bari v'shema", she says I know clearly, he is not yoreh k'chetz.

R' Yitzchak: Eh eh, if I understand correctly, right, he doesn't know...

R' Yoel Asher: He doesn't know what happens in her womb, she can indeed know what happens with his seed.

R' Yitzchak: That's what it means... I think it indeed says something like that.

R' Yoel Asher: That... okay, would the...

R' Yitzchak: That he doesn't feel, it could be he doesn't feel, that's what it says in the Gemara. Even if he claims yes, she has more credibility for this.

R' Yoel Asher: Also not clear. **"V'yesh lo l'hacharim"**,

R' Yitzchak: What he can indeed do,

R' Yoel Asher: He can make a cherem **"stam al mi sheto'enes davar she'einah yoda'as oso b'vadai"**. Not on her name, but on one who is claiming something she doesn't know for certain. It means that in case she doesn't know for sure that

R' Yitzchak: He is not yoreh k'chetz,

R' Yoel Asher: Let it be on her cherem. This he can be macharim. But after that **"v'yitein kesubah"**. He must give the kesubah. The only thing he can do is make a cherem. One can blow off. **"V'im amrah..."** A cherem is set aside... Rashi...

The Claim of Shema ("Eini Yoda'as") and the Reason for Her Credibility

R' Yitzchak: If she says, I don't know. **"Eini yoda'as im mimenu im mimeni"**, yes?

R' Yoel Asher: "V'im amrah eini yoda'as

R' Yitzchak: Im mimenu im mimeni", she doesn't know.

R' Yoel Asher: Then **"ein lah ikar kesubah"**, why? Says the Rambam, **"k'mo she'amarnu ha'ameid mamon b'chezkas be'alav"**, because essentially the kesubah is that the wife wants to take out from the husband. So when there's no proof at all, the wife cannot take out from the husband. But when she says with certainty, **"ad sheta'on b'vadai she'eino yoreh k'chetz"**, when she claims with certainty that he is not yoreh k'chetz, and he has no way to refute it, then the wife gets the right also to take out from chezkas be'alav, but when there isn't the strong claim of bari, one cannot take it out from the reshus haba'al who is muchzak.

Says the Rambam, why indeed? **"V'lamah hi ne'emenes b'ta'anah zo, mipnei shehi margeshes im yireh k'chetz o lo yireh"**, she is the one who feels it, it happens in her,

therefore she can feel it, **"v'hu eino margish"**, he doesn't feel it so.

R' Yitzchak: It could be the yoreh k'chetz is specifically when it's with her. I don't know... okay. And the yoreh k'chetz speaks about whatever,

R' Yoel Asher: If it's an illness that it doesn't work properly,

R' Yitzchak: But it's not a difficult,

R' Yoel Asher: Person clear.

Perush HaMishnah of the Rambam About Medical Causes of Infertility

R' Yoel Asher: It's interesting the language of the Rambam that he brings to the side in Perush HaMishnah. The Rambam says: **"Gormei meni'as haleidah rabim yedu'im etzel harofim"**. There are various... the doctors know many reasons why they should

R' Yitzchak: Not be able to have children.

R' Yoel Asher: Right. These are all chazakos (presumptions) that people themselves can become... But what then? The simple version, the version that people talk about, and what people do themselves at home, is either yoreh kachetz (shoots like an arrow) or she. And she can know yoreh kachetz. Very good. Let's continue.

Halachos 9-10: A Woman Who Demands a Get After Ten Years

The Claim of "Tzricha Hi Lebanim Lizknutah"

R' Yoel Asher: "Ha'isha sheba'ah litvo'a ba'alah legarshah", the opposite case. She didn't have any children with him for ten years, and she wants out. That is, she doesn't have the mitzvah of peru u'revu, but she wants to have children. She wants to go out. And she claims: **"Ha'isha sheba'ah litvo'a ba'alah legarshah achar eser shanim mipnei shelo yaldah"**, and she says that it's his problem, **"vehi omeret she'eino yoreh kachetz"**, the reason why they don't have children is because of him, he's not yoreh kachetz. Then **"shom'in lah"**, we listen to her that she has a claim, and the husband will have to give her a get.

The Rambam... regarding the mitzvah of peru u'revu... until now we've been talking about

R' Yitzchak: when he wants to go out,

R' Yoel Asher: or he must go out as a mitzvah of peru u'revu. Here we're talking about her demanding a get. Usually a woman can't demand a get, unless she has certain claims, certain ma'us alai (he is repulsive to me) and the like. Normally a woman can't demand a get. But in such a case **"shom'in lah"**.

Why? When he's preventing her from a mitzvah, fine. But she's not commanded? Says the Rambam: **"Af al pi she'einah metzuvah al peru u'revu"**, she nevertheless has a legitimate claim for why she wants to have children, because a person may also want children for themselves, for their own... peru u'revu is as if for the good of the world. **"Tzricha hi lebanim lizknutah"**, she needs to have children who will be her company, and help her when she's old. And a woman has the right to demand this. Therefore he must give her a get, **"vechofin oto lehotzi"**,

The Claim of a Woman to Have Children in Old Age

R' Yoel Asher: Normally a woman can't demand a get, but in such a case **shom'in lah**. Why? When he's preventing her from a mitzvah, fine, but she's not commanded? Says the Rambam: **af al pi she'einah metzuvah al peru u'revu**, she nevertheless has a legitimate claim for why she wants to have children, because a person may also want children for themselves, for their own peru u'revu-ness, benefit and good of the world. **Tzricha hi lebanim lizknutah** – she needs to have children who will be her company, and help her when she's old, and a woman has the right to demand this, therefore he must give her a get.

Vechofin oto lehotzi – we'll even force him to be motzi, **veyiten ikar ketubbah bilvad** – here he must give the ketubbah that the

Chachamim instituted. Says the Rambam: the tosefet, what he adds, here he'll be exempt from the tosefet ketubbah. Why? The tosefet ketubbah he didn't give so that she could walk away. Tosefet ketubbah was "if you are gonna stick around" as long as I want, you get the tosefet. **Shelo katav lah hatosefet al menat shetetzei lirtzonah** – that she should go out when she wants, **vetitol** – and still get the tosefet ketubbah. But the ikar ketubbah yes, because as stated, she has a legitimate claim to demand a get, therefore the Chachamim give her the ikar ketubbah.

Halacha 11: Interruptions in the Ten Years

R' Yoel Asher: Says the Rambam: What happens if during the ten years it wasn't ten years that the whole time one is checking if one can have children? **Halach bisechorah betoch eser shanim** – he went on longer trips for business during the ten years. **O shehayu choleh, o shehaytah hi cholah** – they had a period of illness. **O shehayu chavushin bebeit ha'asurin** – they were both, yes, because if only she was, he has an obligation to redeem her. They were imprisoned, **ein oleh lahen oto zman min haminyan** – we don't count that time, because ten years isn't just a lucky number.

Discussion: Today's Doctors Versus the Chazakah of Ten Years, and the Shiur of "Halach Bisechorah"

R' Yitzchak: It's ten years that they tried. That makes it so that... all these halachos are chazakah. I mean that for example today, if there's a doctor, I don't know if there's such a thing, one needs to ask the mevinim, just as the Rambam says, if the doctor says clearly, he's missing something, I don't know, there's no way to have children, then one doesn't need to wait the ten years.

R' Yoel Asher: It's all chazakah. It should be as strong as bari at the very least.

R' Yitzchak: Yes, but that is also only after ten years, that claim of bari.

R' Yoel Asher: Okay, but one also needs to know when the Rambam says **halach bisechorah**, how long, because three years of the... The Rambam doesn't say that ten years of intense onah.

R' Yitzchak: The Rambam doesn't say it precisely.

R' Yoel Asher: Yes, normal. So **halach bisechorah betoch eser shanim** means he was missing six months, not that a person was missing a month or so.

R' Yitzchak: Yes, certainly.

R' Yoel Asher: I'm saying it's very difficult, we're not going to say that if one wants to do this one now needs to take a calculator and make exact calculations, how many times he traveled to Uman, and because he's missing a week.

R' Yitzchak: No no, it doesn't mean that.

R' Yoel Asher: Certainly not that. Okay, further. Yes, also, huh? Apparently, here also. A doctor can know more, how many times we tried, in what manner. Okay, indeed so.

R' Yitzchak: I have a sevara that it can itself be frightening.

Halacha 12: Miscarrying and the Chazakah of Nefalim

R' Yoel Asher: Says further: **Hipilah** – if the wife miscarried. That is, she showed with this that she can have... Okay, she miscarried, that means she didn't give birth to a viable child. Yes, but at least we see that she can. From when do we count the ten years? Says the Rambam: **Moneh miyom shehipilah** – that from when she miscarried she couldn't have a child for ten years. That means just as becoming pregnant destroyed all the previous claims. It shows that she can indeed.

But what happens if she was a few times **hipilah**, miscarried, **hipilah vechazrah vehipilah shalosh pe'amim** – one would think the opposite, that it's proof she can become

pregnant, but no, but in practice she's gotten a chazakah that she doesn't give birth to living children, she gives birth to nefalim (miscarriages).

Precision in "Huchzekah Linefalim" and "Shema Lo Zachah Lehibanot Mimenah"

R' Yitzchak: Veshema lo zachah lehibanot mimenah.

R' Yoel Asher: So **shema lo zachah** means an interesting thing. That is, certainly her system works, but he with her isn't a good match. He with her makes nefalim.

R' Yitzchak: Why isn't it actually huchzekah... It doesn't look like that from the words of our Chachamim, it doesn't look like she's a woman who makes nefalim. What's the next... Right, that's in the next halacha that she can have a wedding with a next person. Yes, between them nefalim happen.

R' Yoel Asher: There's no din like a ketlanit (serial killer), if a woman who has killed three men can no longer marry, but that's not the din here. She's not called a mefalet, she's only **huchzekah linefalim**. Mimenu, only with him. Look at this language, we don't say huchzekah lemefalet, **huchzekah linefalim** – that she already has a chazakah that she has nefalim with him. **Veshema lo zachah...** Soon we'll see that when it goes to three people,

R' Yitzchak: Then we begin yes to think that she's the problem.

R' Yoel Asher: Veshema lo zachah lehibanot mimenah, this is a language of the pasuk: **ulai ebaneh mimenah**? Ulai tibaneh mimenah, that's how it says by, yes. But zachah... the tibaneh. The word lo... lizchot, **shema lo zachah**.

R' Yitzchak: Okay. Zachah I don't know, but tibaneh, **ve'ebaneh gam anochi mimenah**, yes, to be helped with children through him.

R' Yoel Asher: Veyotzi veyiten ketubbah.

Halacha 13: The Woman's Credibility Regarding Miscarriages and Shevuat Heiset

R' Yoel Asher: What happens in such a thing: **Hu omer**, he says: **Hipilah betoch eser kedei sheyishaheh** – he says she did miscarry, because he wants to stay with her, **vehi omeret** – she says it doesn't start, I never miscarried, **ne'emenet** – she's believed. That is, we're talking about a case when she wants to go out and he says,

R' Yitzchak: She can't yet go out because in the ten years we did at least have a... become pregnant, she says it doesn't start, then she's **ne'emenet**. Why? **She'einah machzekes atzman be'akarut**.

R' Yoel Asher: A woman doesn't seek to say about herself that she's barren. If she says so, we believe her.

Hu omer hipilah shenayim – she miscarried twice, therefore I need more time, **vehi omeret sheloshah** – therefore I already have the right of huchzekah linefalim. He's playing out all kinds of sides, okay, then **ne'emenet**, because **she'einah machzekes atzman bemapilot** – a woman also doesn't want to establish herself that she miscarried with him.

R' Yitzchak: Ahh, therefore yotzi veyiten ketubbah.

R' Yoel Asher: Yotzi veyiten ketubbah, because when a woman says I can't have children we believe her, women don't seek it.

Uvechol zeh mashbi'ah shevuat heiset shelo hipilah o shehipilah shalosh – in any case according to his claim one doesn't yet need to divorce, but according to her claim one needs to divorce, he can make her swear. Earlier we had excommunication, here he can do more than excommunicate, he can make her swear a shevuat heiset. A shevuat heiset always means an oath that the other side, the mashbi'a, throws upon the one who's going to be nishba. That he should make her swear that **shelo hipilah o shehipilah shalosh shebeta'anah zo yitchayev liten ketubatah**. He's going to become obligated to give her ketubbah, so he has the right to make as a condition to give your ketubbah it must be with a shevuat heiset.

Halacha 14: A Woman Who Didn't Have Children With Two Men

R' Yoel Asher: Says the Rambam further: **Nis'et le'echad** – what happens a woman had a wedding to a husband, and she waited with him ten years **velo yaldah**, and afterwards **vehotzi'ah** – they divorced, then **muteret lehinasei lesheni** – she may now marry another man, we don't say that she's a chazakah, that the...

R' Yitzchak: Two people don't have children.

R' Yoel Asher: This time she didn't have –

R' Yitzchak: Here's the thing.

R' Yoel Asher: Lo zachah lehibanot mimenah. **Shehatah im hasheni** – the second person with whom she married she waited ten years, then **lo tinasei lishlishi**. Once it's already happened twice she must indeed worry that it's indeed her problem, and she shouldn't marry a third person. And if she didn't listen and she did indeed marry a third person, **tetzei belo ketubbah** – he can divorce her without a ketubbah. **Ela im ken yesh lo ishah acheret o shekiyem mitzvat peru u'revu**.

R' Yitzchak: Or he can keep her. Why without a ketubbah?

R' Yoel Asher: Because we've learned, the Rambam has a rule, he doesn't have to give her a ketubbah because she's not a bat banim. The Chachamim didn't institute for a non-bat banim an ikar ketubbah. Or he has another **ishah acheret**, then he may stay with her, or he's already fulfilled **mitzvat peru u'revu**,

R' Yitzchak: He may be with a non-bat banim.

Halacha 15: Claim of "Eino Yoreh Kachetz" Before the Ten Years

R' Yoel Asher: Okay. Says the Rambam: **Ha'isha sheba'ah lebeit din ve'amrah...** another case. She says: **Ba'ali eino yachol leshamesh kederech kol ha'aretz shimush shemolid** – he doesn't know how to live with a wife, he can't, a cohabitation that produces children. Or **she'eino yoreh kachetz** – he doesn't have male potency.

R' Yitzchak: This we're talking about before the ten years. Until now we've seen after ten years, when then she has credibility. Here it's before ten years.

R' Yoel Asher: She says: Why should I wait ten years? I know he's not yoreh kachetz, or I know that he can't. We don't yet divorce. **Ya'asu hadayanin pesharah** – the beit din must negotiate between them. **Veyomru lah**, they say thus: **Ra'ui lach shetitnahagi im ba'alich ad shetishhi eser shanim velo tolidi ve'achar kach titba'i** – the right thing to do is give him a chance for ten years.

Umegalgelin imah badavar – we go into the topic, women like to talk it out and talk out how they feel about this.

R' Yitzchak: We go down with this. **Umegalgelin** always means it's a language... we roll, yes, just as he rolls debts, he rolls, we turn a head.

R' Yoel Asher: That is, we don't say you must, and we also don't say you can already get a get, but **ein kofin otah leishev** – we don't say you must stay living with him, and also if she doesn't stay... we say according to halacha this is still a moredet, because there aren't yet ten years, but **velo danin otah din moredet**, because she does indeed have a strong claim, **ela ma'arichin badavar ad sheya'asu pesharah** – we work with them that they should,

Discussion: The Meaning of "Pesharah" in This Case

R' Yitzchak: Yes, should agree. Pesharah, I mean that pesharah here doesn't mean between, one can't, either married or not.

R' Yoel Asher: Pesharah means in total,

R' Yitzchak: We see that both agree on whatever it is, or he agrees to give a get, he gave half a ketubbah, whatever.

R' Yoel Asher: Or he says by this and this date, don't wait ten years and give me another six months, we work with them.

R' Yitzchak: I mean that the point is mainly that they'll both agree, one can't,

R' Yoel Asher: There's no ability to force,

R' Yitzchak: One, because until ten years no one has any din of credibility, but what? We work.

Halacha 16: The Rabbinic Mitzvot – Adding Souls and Not Living Without a Match

R' Yoel Asher: Says the Rambam further the rabbinic law of peru u'revu. Says the Rambam thus: **Af al pi shekiyem adam mitzvat peru u'revu**, until now we've learned af al...

R' Yitzchak: Pi that onah one needs peru u'revu, now comes that af al pi peru u'revu there's still an obligation of peru u'revu, yes? Another level.

R' Yoel Asher: We learned peru u'revu from the Torah, I think, and always the Rambam counts out after Torah he counts out rabbinic. He says that there's a rabbinic mitzvah to have more children: **Harei hu metzuveh midivrei sofrim** – there's a rabbinic mitzvah **shelo yivatel milifriot velirbot kol zman sheyesh bo koach** – when he has strength he should have more children, **shekol hamosif nefesh achat beYisrael ke'ilu banah olam** – one who adds another child among Jews, that there should be another soul in Israel, he has built a world.

R' Yitzchak: Ke'ilu he built a world.

R' Yoel Asher: Ke'ilu banah olam.

R' Yitzchak: Because not a whole world, he only made one person.

R' Yoel Asher: But from that one world you'll eventually,

R' Yitzchak: Can come out a bunch of children. He's still from that, therefore it's **ke'ilu**.

Vechen, another thing. Ah, you say, earlier you asked where it says, here it clearly says both things.

R' Yoel Asher: Says the Rambam: **Vechen mitzvat chachamim hi shelo yeishev ish belo ishah** – that a man shouldn't be single long, he shouldn't be single, without the word long, **shelo yavo lidei hirhurim** – he shouldn't start being involved in sins and sinful thoughts.

And the same thing a woman: **Velo teishev ishah belo ish** – a woman also shouldn't live without a man. That is, it's also a mitzvah for a woman, although by a woman Rashi doesn't say so strongly the word hirhurim: **shelo techashad** – people shouldn't suspect that she indeed has relations with men illegitimately,

Discussion: The Difference Between a Man ("Shelo Yavo Lidei Hirhurim") and a Woman ("Shelo Techashad")

R' Yitzchak: Without kiddushin. Okay. Interesting. There's no prohibition of hirhurim for women? Or it doesn't mean hirhurim as we've learned, and usually the man,

R' Yoel Asher: Is the one who does that, that is, the man is the one who initiates,

R' Yitzchak: The suspicion is that she lets herself from someone.

R' Yoel Asher: She's not involved in hirhurim, but she's an easier target, and someone does something there. Okay.

Halacha 17: Laws of Shalom Bayit – Jealousy Between Husband and Wife

R' Yoel Asher: Says the Rambam another halacha. Says the Rambam, a law in...

R' Yitzchak: Until here laws of peru u'revu.

R' Yoel Asher: Now it's laws between man and his wife, shalom bayit and the like. Says the Rambam thus: A person shouldn't be too nice and say: Ah, I let her do what she wants. No, **chovah al kol ish lekano le'ishto** – with love comes something with jealousy.

R' Yitzchak: Possibly this can mean,

R' Yoel Asher: Perhaps one could say that if he has a suspicion that she has a relationship... It comes right after perhaps the word **shelo tachshod**, yes? If a person has any suspicion

about his wife that she has a relationship with other men, he should become...

Discussion: Does the Rambam Mean the Halachic Kinui of Sotah or a General Conduct?

R' Yitzchak: It's not clear, there's obviously a dispute among the Tannaim about this in Tractate Sotah, whether being mekane is a reshut or a mitzvah. It appears here that the Rambam holds according to the opinion that it's a mitzvah. On the other hand, it's not clear that he's talking here about kinui literally, the definition of kinui. It could be he means more like practically, he shouldn't allow it.

R' Yoel Asher: Simply, there is no mitzvah of minchat sotah when there is no Beit HaMikdash. It means the essence of kinui, to say: "I don't want you to be with that man."

R' Yitzchak: If there's no mitzvah of sotah, there's no way out; on the contrary, the kinui works better! It works better. Here kinui works, what's the difference? She has no way to become pure, he'll have to give her a get if he's mekane lah venistrah. Ah, so, perhaps that's good.

R' Yoel Asher: It could be he doesn't mean the halachic kinui, he means the essence of the matter. A person must be makpid on his wife regarding the matter of...

R' Yitzchak: But look further.

R' Yoel Asher: "The Sages said", you shouldn't think that being mekane on one's wife is something animalistic, rather it's the opposite, it comes from a good place: **"A man is only mekane to his wife if a spirit of purity enters him"**, from wanting purity, he wants one man one woman, it's not a bad thing.

R' Yitzchak: The **"amru chachamim"** is exactly the opinion that says kinah is a mitzvah.

R' Yoel Asher: Ruach kinah, does ruach kinah mean a ruach tumah or ruach taharah? Very interesting. Ribbono shel olam...

R' Yitzchak: On the other hand, in Hilchot Sotah the Rambam says clearly that one shouldn't be mekane so quickly in front of witnesses.

R' Yoel Asher: He says it here right away.

R' Yitzchak: He says it here right away. No, **"beyoter midai"** means very strongly... Again, apparently, for example, to understand the Rambam is simply it's not clear, that is, there is a definition of kinui.

R' Yoel Asher: He takes witnesses and he says:

R' Yitzchak: "If you seclude yourself with that person." Perhaps here he means generally, he shouldn't let her go around with whomever she wants, and he learns that this is connected to the essential law of kinui. If you want to make an actual kinui d'oraita, that's already another step, though the Rambam holds that that too is a mitzvah. The Rambam certainly rules that it's a mitzvah to be mekane to one's wife. But about that he says one shouldn't do it so quickly, first one should do it between themselves. So it could be that here it means both, but here it doesn't mean regarding the laws of kinui of sotah, it means the general matter.

R' Yoel Asher: Interesting in general that he brought it here, if he already makes a topic in sotah.

R' Yitzchak: It must be that it's something of a...

R' Yoel Asher: About this he thinks that here is more a general matter of what shalom bayit looks like, that there must be such a kind of relationship where there is kinah. It's not just a nice guy,

R' Yitzchak: Two people living together.

The Meaning of the Word "Kinah" in Lashon HaKodesh

R' Yitzchak: As I told you, lekanot, who knows what lekanot means? Lekanot doesn't mean... In English one says jealous, by the way kinah in lashon...

R' Yoel Asher: HaKodesh doesn't mean jealous, it means angry.

R' Yitzchak: Rashi in the holy Chumash says that kinah means anger, so says Rashi, I think he was a good commentator. **"Al kana"**, means angry. But the... Yes, you're right that perhaps anger isn't an exactly good word. In any case, it

means he should be makpid on her, right? Here in this matter. But the language of kinui, certainly comes from sotah, so in short.

The Middle Path in Kinah and in Onah ("And he should not be mekane to her excessively, and he should not force her...")

R' Yoel Asher: But the Rambam says, it is indeed a virtue that one should be mekane to one's wife, but it must be a middle path, **"and he should not be mekane to her excessively"**.

R' Yitzchak: Onah comes, yes, in the next thing after this.

R' Yoel Asher: Okay, but first this, **"and he should not be mekane to her excessively"**,

R' Yitzchak: He shouldn't be very obsessed now.

R' Yoel Asher: As the Rambam already said, she's not in a prison,

R' Yitzchak: She may go to her family. Once a month she may go out. Yes. The Rambam says, now interesting, one could perhaps make another chapter even here, **"and he should not force"**, **"and likewise"** is already a continuation. But it's something of a continuation of the order of husband and wife, not entirely, he needs to be somewhat in control, but there's a measure of how much in control he needs to be.

R' Yoel Asher: The Rambam says, there is indeed a mitzvah of onah that the husband must be with the wife, but...

R' Yitzchak: And there's an obligation that she must, she must also agree.

R' Yoel Asher: But... the Rambam says: **"and he should not force her"**, he may not force her **"and have relations against her will. Rather with her consent"**, it must be with her consent...

R' Yitzchak: Mertzono means that, right?

R' Yoel Asher: Yes. **"And through conversation and joy"**, more than mertzono, it must come from conversation and joy, it must come from a happy place.

R' Yitzchak: *It could be that this is like a conclusion to all these laws of moredet. One sees that it's a terrible thing that she doesn't agree, but the Rambam says, it doesn't mean that the husband should conduct himself in practice according to these laws, he should conduct himself with conversation and joy.*

R' Yoel Asher: But it doesn't fit that **"and he should not force"** begins a new topic...

R' Yitzchak: It must be that one must...

R' Yoel Asher: If it will be so, the **"and likewise"** is a continuation of the **"and he should not force"**.

R' Yitzchak: It fits. Yes, yes, true. **"And she should not demand"**, ahh something like that. Don't know exactly. Okay.

Halachah 18: The Wife's Conduct – "That she should be modest within her home"

Dispute in Understanding: Is "Modest Within Her Home" a Continuation of "Conversation and Joy" or of the Husband's Kinah?

R' Yoel Asher: "And likewise the Sages commanded regarding the woman that she should be modest within her home."

R' Yitzchak: That is, this is the opposite of kinot. She shouldn't do things that cause...

R' Yoel Asher: Him to be mekane. Um, no, I said perhaps that it's different than here. **"Through conversation and joy"** means that there should be a certain openness about the matter of marital relations, but modesty...

R' Yitzchak: But I think modest means as opposed to when she does things. That is,

R' Yoel Asher: An obligation on the woman. No, here we're talking **"within her home"**. No, I think it's a continuation of **"he should not force against her will"**, rather she is a partner in this. Even though she is a partner in this, she must still have modesty. **"And she should not increase in laughter and lightheadedness**

before her husband." So the conversation and joy is...

R' Yitzchak: Certainly connected somehow to the topic of kinah, I don't know how. Why do you say so? Why does one talk about such things? Modest doesn't mean... Modest always means as opposed to matters of immorality.

R' Yoel Asher: No, **"modest within her home"**! **"Modest within her home"**, it doesn't mean when she goes out, but when she is within her home, only with her husband. So it's a continuation of the **"through conversation and joy"**, that although there must be a certain conversation and joy, one must explain... Look ahead, one minute,

R' Yitzchak: Look ahead.

R' Yoel Asher: "She should not increase in laughter and lightheadedness before her husband." It means, although there must be conversation and joy, so I say, but there should be modesty. What does modesty mean? There shouldn't be too much laughter and lightheadedness even before her husband. It means, before another man there's certainly no concern of laughter or... Before her husband there shouldn't be...

R' Yitzchak: It's not a topic like light conversation, do you understand what I'm saying? Because that you would give up precisely for the husband. This must be a topic about the woman.

R' Yoel Asher: "And not..." Do you understand what I'm saying? Yes, well, I'll say it: He may not force, but she must also have a say in the matter. And the say is also limited with modesty and nothing...

R' Yitzchak: I don't like your interpretation.

R' Yoel Asher: Something is wrong with this interpretation, it doesn't work like that. You can't just say something is wrong, because I'm saying... Let me finish, let me say how I understand it. When you have a difficulty is one thing; just you don't feel it, let me finish at least.

R' Yitzchak: Because what you're saying is just a topic... Look, read the whole halachah.

"And she should not demand marital relations verbally, and she should not speak about this matter"

R' Yoel Asher: Okay. Okay. **"And she should not demand marital relations verbally."** We learned that marital relations must come through conversation and joy, you would have understood that it means one talks about it, but in this there is also a limitation. Yes. That in this there is also a limitation that she should not demand verbally, a clear request I need marital relations, it should be as if desperate. **"And she should not speak about this matter"**, she shouldn't talk about this.

R' Yitzchak: Yes. That's all? And further? And what yes? No, another thing she shouldn't do. **"And not"**, I think it looks like a certain immorality, like women who talk about this and so forth.

R' Yoel Asher: So the Rambam says thus: He shouldn't force and have relations against her will, but with her consent, he will certainly talk with her. So this talking with her, how does one talk about this? The Rambam says, there must be modesty, she shouldn't talk about this in a crude way, there shouldn't be laughter and lightheadedness, and you also shouldn't request verbally in a crude manner, but with such, with a hint, with a refined way, and she shouldn't, **"and she should not speak about this matter"**, she shouldn't talk around about this topic.

"And she should not withhold from her husband in order to cause him pain..." and the Question from Hagahot Maimoniyot

R' Yoel Asher: And, he says further: I learned that the husband may not do it against her will, but with her consent, this means that she can withhold, but she must be careful when she withholds. **"And she should not withhold from her husband in order to cause him pain"**, she may not withhold from her husband, to say I don't want, just to cause him pain. **"Until he increases in his love for her"**, but if he will love her more,

R' Yitzchak: Then she will allow. That is, there are women who think that the wisdom is to be that she will specifically say no, until he wants very strongly. This is also not a way. *Rav Kahana said that one plays such games! **"Rather"**, you actually ask the question? He asks the question. Hagahot Maimoniyot asked your question, that Rav Kahana instructed, sorry Rav Chisda. Rav Chisda instructed his daughters to do so.* **"Rather she should listen to him at any time he desires"**,

R' Yoel Asher: "Rather she should listen to him at any time he desires", when she should indeed try to comply. The obligation on him is, he should do it through conversation and joy, and the obligation on her, that when he asks, when he does the right thing, she should also agree from her side.

"And she should be careful with his relatives and household members so that a spirit of kinah should not pass over him"

R' Yoel Asher: The Rambam says further: **"And she should be careful with his relatives and household members."** She must be careful with his relatives, that she shouldn't be too close with the other people who are around the house, with his friends, his people who are around the house. Because, **"so that a spirit of kinah should not pass over him"**. We learned earlier, that there will be jealousy, and there's even an obligation, not too much but something, therefore she should also work on it. It's not only an obligation on him, but she also has a certain responsibility regarding the kinah. You shouldn't think that the kinah is entirely his thing. It has to do with, you conduct yourself in a way that he shouldn't bring a spirit of kinah. **"And she should distance herself from ugliness and from what resembles ugliness"**, she should distance herself from anything, ugliness means something that isn't proper, something that can bring suspicions,

R' Yitzchak: And even **"from what resembles ugliness"**.

R' Yitzchak's Approach: The Entire Halachah of "Modest Within Her Home" and "She Should Not Demand Verbally" is in Order Not to Arouse the Husband's Kinah and Suspicions

R' Yitzchak: *It seems to me that the entire halachah, the Rambam places, obviously he places together here a bunch of different instructions. The Rambam tries to make a practical guide here from a bunch of different, you could say statements of Chazal or instructions that exist. It seems to me that the whole thing of what the Rambam calls **"modest within her home"**, you know what modest means, not modest that she should dress modestly, right? It means modest that she shouldn't conduct herself immorally as if like this. And what I mean...*

R' Yoel Asher: This example is an introduction to **"and she should not demand marital relations verbally"**.

R' Yitzchak: *It's one of the forms of being modest. Could be. But what I mean to say is that the whole thing, it seems to me that the whole thing has to do with the fact that a man has... The Rambam says that it's a mitzvah that he should have a bit of suspicion, not too much, but he shouldn't let himself, he should be mekane, yes? That is he shouldn't want his wife to be one who goes outside. And when a woman is too demanding verbally, or too much like immorality even within her home, even with him, the husband looks: ah, you understand a bit too well. It's not a matter of... from where comes this thing of she shouldn't demand verbally, what's wrong? Why may the husband demand and she not? From where does this actually come? It comes from the fact that a man wants to be like the decider, he wants to be as if in control of this.*

The Balance of Kinah and Conduct in the Home

R' Yitzchak: It's not...

R' Yoel Asher: What? That a "she is above" situation.

R' Yitzchak: Yes, okay, I'm already saying the word "control". The word control sounds funny, but although kinah means exactly that. But it's more that for this I understand that the two

sides, that she shouldn't conduct herself in ways that make him suspicious, whether with his household members, even with him himself, ways that she conducts herself, which can make him like not trust her, and say that she is something too, one could say too independent, I don't know if that's a correct word. Too like immoral, that is immorality.

And obviously, and therefore also not to withhold, the games, in short, she should let him lead the thing, so it seems the thing. And on this comes now the next halachah that on the other hand he shouldn't be an animal, here we're back to **and likewise commanded**.

R' Yoel Asher: But you can say that the laws are like to balance. The husband has a certain strength, a certain power, and he must know when it's a good thing to be mekane, when it's important is good, but when one goes too strong with this it's not good. The husband is the master of the house, but **and he should not force her and have relations against her will but with her consent**, and she from the other side, also can't go become the boss and she demand verbally and so forth.

R' Yitzchak: It should be...

R' Yoel Asher: It's not a matter of being the boss, yes. Yes, okay, whatever, perhaps being the, oh, there are words for this, not being the one who is initiative, but being the, not the appointee but the withholder, it doesn't help because it means control.

R' Yitzchak: Right, exactly, it doesn't mean that. There is such a conduct that looks immoral, which causes men also to think that who knows what goes on there.

R' Yoel Asher: And all this is within the thing that there is something called being mekane to one's wife, there is such a nature. Not a nature, a mitzvah. Yes, as soon as I say that a person becomes jealous if he sees that his wife is in a certain situation. So even when she demands him, it will ignite his kinah.

R' Yitzchak: Kinah doesn't mean jealous, but anyways.

R' Yoel Asher: The passion, the yes,

R' Yitzchak: Yes, it's a mitzvah. It always says it's a mitzvah. Okay, **and likewise the Sages commanded**,

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Halachah 19: The Husband's Conduct Toward His Wife

Honoring More Than His Body and Loving Like His Body

R' Yoel Asher: And likewise the Sages commanded that a person should honor his wife more than his body, that a person should honor his wife more than honoring his body. It means, **and love her**, and he should love her **like his body**. It means, I think the simple meaning is that a person loves himself, so just as he loves himself, one should love one's wife. It's basically like the verse **and you shall love your neighbor as yourself**, also the same thing, like oneself, there is loving like oneself.

And to honor her, one wants to say **yoser migufoh** (more than his own body), because there are people who decide for whatever reason that they don't honor themselves. They love themselves, there's no difference how they twist it, there is some love. There are people who neglect their appearance, for example. It doesn't mean they don't love themselves. So he'll say that he won't give his wife nice clothing, "I also love myself and I walk around in a torn coat." No. Your honoring yourself is not optional. A person can have a craziness or a reason why he doesn't honor himself. He must indeed honor himself. Even one who doesn't honor himself, his own body he doesn't honor, his wife's body he should indeed honor.

R' Yitzchak: I don't agree with this interpretation.

R' Yoel Asher: But what is your interpretation? If "ohev yoser migufoh" (loves more than his own body) isn't relevant, **mechaved yoser migufoh** (honors more than his own body) means what?

R' Yitzchak: Mechaved yoser migufoh means that he should give her more respect than himself in certain ways. That's the interpretation. A person must respect himself, he respects himself. There's no nafka mina (practical difference), what's the nafka mina, but I mean that for example certain things he must let her have.

R' Yoel Asher: On the contrary, you can't simply say as halacha that he should spend more on her nice clothing than...

R' Yitzchak: On his nice clothing and the like?

Marbeh b'tovasa k'fi hamamon (Increases her benefit according to his wealth)

R' Yoel Asher: Yes, also such a thing. Further, **v'im yesh lo mamon, marbeh b'tovasa k'fi hamamon** (and if he has wealth, he increases her benefit according to his wealth). He must spend on her. Actually we already learned this regarding she'er, kesus, v'onasa (food, clothing, and conjugal rights), "oleh imo" (rises with him), but here it says as if not only she'er, kesus, v'onasa. When you raise your standard, you're a wealthy Jew, automatically you have more respectable things, he should also increase her benefit according to how much money he has.

R' Yitzchak: Yes, **v'lo** (and not),

V'lo yatil aleha eima yeseira, viyeheh diburo imah b'nachas (And he should not cast excessive fear upon her, and his speech with her should be gentle)

R' Yoel Asher: V'lo yatil aleha eima yeseira (and he should not cast excessive fear upon her), the husband has a certain ownership, as we learned earlier, he is jealous or the like, and we'll see later that the wife must have more fear of him, but he shouldn't create great fear. It means he must show a certain respect or a certain fear, not too much. **Viyeheh diburo imah b'nachas** (and his speech with her should be gentle), he should speak with her b'nachas, b'nachas means quietly, refined, or calmly. **V'lo yiheyeh** hmm?

R' Yitzchak: Like **divrei chachamim b'nachas nishma'im** (the words of the wise are heard in gentleness). Because this is in the Gemara, **al yatil adam eima yeseira b'soch beiso** (a person should not cast excessive fear within his house). The Gemara says in, where is it brought? This is a Gemara in Gittin, that the Gemara, Rav Chisda says that this is, we learn this from pilegesh b'Giv'ah (the concubine in Gibeah), that he conducted himself with too much eima yeseira, and because of this the entire incident happened. How do we understand that there was eima yeseira there? I don't know exactly.

Discussion: The interpretation of "v'lo yiheyeh atzev v'lo rogez" (and he should not be sad or angry)

R' Yoel Asher: Okay, further the Rambam says: **v'lo yiheyeh atzev v'lo rogez** (and he should not be sad or angry), which if I learn simply is, his speech with her should not be speech of sadness and speech of anger. Because I believe it's difficult that **v'lo yiheyeh** means the husband shouldn't be,

R' Yitzchak: Yes.

R' Yoel Asher: Because if the husband is unfortunately sad because something happened to him, what's the obligation that before he goes home he must be happy? There is a mitzvah, R' Nachman says "mitzvah gedolah liheyos b'simcha tamid" (it's a great mitzvah to always be joyful), we're not talking about that. His speech with her, his relationship, he shouldn't make speech of sadness or anger.

R' Yitzchak: Does it make sense literally? Means withdrawn. "Atzev" doesn't mean sad,

R' Yoel Asher: It means atzev means, okay, let's say atzev means withdrawn and rogez means that. But it doesn't mean that the person can't be, rather it goes back to **lo yiheyeh**, the **diburo imah** (his speech with her) shouldn't be a state of atzev or rogez. Yes, for sure. That a person can't be sad and angry we presumably had in Hilchos De'os that a person must be, there it said various ways how a person must be. Not too much. Think the whole time about the Almighty, automatically one won't be sad and angry, whatever it is.

R' Yitzchak: That's not in Hilchos De'os, and it's not true. It's not a way. One must not be sad and angry without the Almighty also.

R' Yoel Asher: Okay, one must know how in Hilchos De'os.

R' Yitzchak: No, no, no, it doesn't come up, no. You're right. It means he shouldn't conduct himself with her in anger. That the Rambam has translated the Gemara from **tzrich l'meimrinhu b'nichusa** (one must speak to them gently), such sorts of things.

Discussion: The nature of "tzivui chachamim" (commandment of the Sages) and the structure of the chapter

R' Yoel Asher: Right. Actually I was thinking that when there are these types of halachos, which we can say are perhaps more halachos, for example in the Mishnah it would have been in Maseches Avos instead of in Maseches Gittin, for example, what we call aggadah versus halacha, it's not that it's less obligatory, because it's not under a certain mitzvah. Because I was thinking it could be more, because the mitzvos that the Chachamim say as good advice is presumably relevant even for non-Jews. It's more like this would be Avraham Avinu, even before Moshe Rabbeinu, Avraham Avinu would have said these things.

It means, how to write a kesubah, and when one claims a kesubah, which we'll learn in the next chapter, the Chachamim innovated, the Chachamim with their Torah she'be'al peh (Oral Torah), but this is still the very basics. This is indeed derech Hashem (the way of God) of how people should conduct themselves with people. So even though one can also say **v'ahavta l're'acha kamocha** (love your neighbor as yourself) and the like, but even without this it's even more fundamental.

R' Yitzchak: It's not less fundamental.

R' Yoel Asher: And it's miderabanan (rabbinic). It's miderabanan, but I don't know if it's miderabanan. For example that this should be...

R' Yitzchak: But look at this before this, yes?

R' Yoel Asher: V'ohavah k'gufoh (and he should love her as his own body), I just want to wait...

R' Yitzchak: The structure of the Rambam, it goes here as if there are obligations within it from the Torah, I mean pru u'rvu (procreation) started, afterwards there was chapter 15 that spoke of min haTorah (from the Torah) pru u'rvu, afterwards goes miderabanan pru u'rvu, miderabanan. An obligation, this is an obligation, sounds a bit more than it can be a mitzvah, because... yes, a Torah mitzvah. Depends according to what we learned that the mitzvah to be jealous according to how the Rambam rules is a mitzvah, is an obligation. Afterwards there are tzivui chachamim (commandments of the Sages), and tzivui chachamim, and tzivui. It means,

R' Yoel Asher: There are three tzivui chachamim. But you, many of the tzivui chachamim, if for example a Jew like the Chofetz Chaim wants to make that from where does it say in the Torah? This is **v'ohavah k'gufoh**, it says **v'ahavta l're'acha kamocha**. But the Rambam didn't necessarily...

R' Yitzchak: Seek to make it so.

R' Yoel Asher: It's not relevant in the language... Good, further.

Halacha 20: The conduct of the wife toward her husband, and the conclusion of the chapter

Mechavedet beyoser midai, mora, and like a minister or king

R' Yoel Asher: V'chen tzavu al ha'isha (and so they commanded the woman), this is what the Chachamim have... First he says what the Chachamim commanded the husband to do. Now he says what the Chachamim commanded the wife, **shetiheye mechavedet es ba'alah beyoser midai** (that she should honor her husband exceedingly), she should very strongly honor her husband. One is comfortable. Interesting, by the husband it said **yoser migufoh**, here it says **beyoser midai**. She should honor him very strongly. **Viyeheh lo**

aleha mora (and she should have fear of him), she should have a certain fear of him. I don't understand exactly.

R' Yitzchak: What he means to say, it means?

R' Yoel Asher: He's not here commanding a feeling. She should conduct herself in a way of fear.

R' Yitzchak: Look what he says.

R' Yoel Asher: V'sa'aseh kol ma'aseha al piv (and she should do all her actions according to his word), she should follow everything he commands. **Viyeheh b'eineha k'mo sar o melech** (and he should be in her eyes like a minister or king), she should regard him as if he were a minister or a king. Every husband is important, is a king. How? Again it can indeed be he translates it into action, **mehaleches b'sa'avos libo** (she walks according to the desires of his heart), she does what he desires, she lets him what he desires, this is, she goes to do. **U'meracheket kol shisna** (and she distances everything he hates), and she distances everything he hates, she takes out of the house, as if yes, in short.

R' Yitzchak: She doesn't only do what he commands, but also what he wants.

R' Yoel Asher: What does it mean? I say, **v'sa'aseh kol ma'aseha** is the meaning in the **viyeheh lo aleha mora**. **Sar o melech** is even more, as if. Okay, and **u'meracheket kol shisna**,

R' Yitzchak: It holds here by the thing. A certain description of the words, to be precise in the words is a bit of a funny thing. It's a description of how it looks, he honors her **yoser migufoh**, and she honors him **beyoser midai**. Yes, it goes both ways. Right. **V'zeh hu derech** (and this is the way), the Rambam concludes,

R' Yoel Asher: Mehaleches b'sa'avos libo is a biblical phrase? It sounds like a biblical phrase.

R' Yitzchak: V'halach b'darchei libecha u'vmare'ei einecha (and walk in the ways of your heart and in the sight of your eyes). No, it means to say that she does what he wants. It's similar,

Derech b'nos Yisrael u'vnei Yisrael hakedoshim: yiheyeh yishuvam na'eh u'meshubah (The way of the daughters of Israel and the sons of Israel the holy ones: their dwelling should be pleasant and praiseworthy)

R' Yoel Asher: She positions herself toward him. **V'zeh hu derech b'nos Yisrael** (and this is the way of the daughters of Israel), what he just said here is the way of **b'nos Yisrael u'vnei Yisrael hakedoshim hatehorim b'zivugam** (the daughters of Israel and the sons of Israel the holy and pure ones in their union). This is the way how holy Jews make a holy union, through the love and honor that he says. **U'vdrachim eilu** (and in these ways), one will conduct oneself with these ways, **yiheyeh yishuvam na'eh u'meshubah** (their dwelling will be pleasant and praiseworthy), their dwelling together, perhaps their yishuv olam (settling of the world). When one builds together as a Jew a marriage is a yishuv olam. He doesn't mean here to have good children. Their very dwelling should be good together.

R' Yitzchak: Yes.

R' Yoel Asher: I mean here at the end, he says, generally he doesn't mean here like a blessing. Although always ends, okay, it's also not the end of Hilchos Ishus. He says that all these things that have been said until now are so that you should have a good marriage. Not that you should honor your husband a whole life, have fear of him, and what will it bring? You should know, ah, you've done as the Chachamim commanded.

R' Yitzchak: The Chachamim want to arrive at this **yishuvam na'eh u'meshubah**. Yes. No, I want to say the **b'nos Yisrael**, this is the Rambam's way of saying that a Jew conducts himself this way. There is like a gentile way of having a wedding, perhaps it's more bound, more... the gentile doesn't only come with the halachos...

R' Yoel Asher: Okay, it's also not the end of Hilchos Ishus. He says that all these things that have been said until now, are so that you should

have a good marriage. Not that you should honor your husband a whole life, have fear of him, and what will it indeed bring? That you should know that good, you've done as the Chachamim commanded. The Chachamim want to arrive at this **yishuvam na'eh u'meshubah**.

The Jewish way versus the gentile way, and the interpretation of "mechavedeha yoser migufoh"

R' Yitzchak: Yes. I want to say, the **b'nos Yisrael** – this is the Rambam's way of saying that a Jew conducts himself this way. There is like a gentile way of having a wedding, perhaps it's more bound, more... The gentile only comes with the halachos of rights and so forth. The Rambam says: yes, you're a Jew, a Jew has mitzvos – **she'erah, kesusah, v'onasah** (her food, her clothing, and her conjugal rights) there is a mitzvah, if not he's a mored (rebel) etc. – but the way, the Jewish way is not to conduct oneself with power. The Jewish way is that the wife wants to do what the husband wants, and the husband honors his wife **yoser migufoh**.

*By the way, now you grasp "yoser migufoh" means this: although the honor is due to him, as if originally, the husband is indeed the... as it says **"v'el ishech teshukasech v'hu yimshol bach"** (and your desire shall be for your husband, and he shall rule over you), he says: but be a forgoer, make **yoser migufoh**, give her more honor. But the reality is, that however much more honor he'll give her, he'll still remain the ba'al habayis (master of the house). So as if it's compensation, not compensation – there is indeed a thing that when a person is truly in control of something, it's human that he should give to those subordinate to him even more than is due to them, because it's not as if it's real, it doesn't mean that she'll now become the minister and king.*

R' Yoel Asher: You're saying that a person who is very secure in his position, first of all can give honor, and then very obviously: when someone owns a beis medrash he can easily give away shishi. Someone who is in a beis medrash and they honor him with shishi, if he gives it away he doesn't have it. So the husband is anyway enough in control, as he says, there is indeed **aleha mora** (fear upon her), only he should be generous.

R' Yitzchak: This is as if the structure of this, it's as if like **yoser migufoh** – one gives away to the other what is due to oneself. But yes, it's a good thing. On this the Rambam concludes that you shouldn't think this will become a mess; it will be a good dwelling when one conducts oneself this way, this is the...

The meaning of "b'zivugam" and "kedoshim u'tehorim"

R' Yitzchak: I mean that **"b'zivugam"** (in their union) is also here some hint to onah (conjugal relations), I don't know exactly. Presumably he means the topic of **v'lo ya'anos osah v'yivol b'al korchah ela l'da'atah** (and he should not force her and have relations against her will but with her consent). Yes.

R' Yoel Asher: But **"zivugam"** can mean when they're together, it's just such a general term.

R' Yitzchak: Yes, possible.

R' Yoel Asher: But it could be that he means, and also the **yishuvam na'eh u'meshubah** is as if he goes back to this **b'zivugam**. So he does indeed go back to this being jealous. Actually all these things have to do with, yes? **Ohavah k'gufoh** is indeed also – in the words also lies hinted union.

R' Yitzchak: One must know that the **b'nos Yisrael u'vnei Yisrael** are **kedoshim u'tehorim** (holy and pure), this is first of all.

R' Yoel Asher: *And this is also: the holiness and purity of union is the honor and the love, not...*

R' Yitzchak: Yes, because I was thinking about...

R' Yoel Asher: *By tzaddikim (righteous ones) that what outside seems like...*

R' Yitzchak: It's also a concept.

R' Yoel Asher: But yes, but this itself is a tremendous...

The conclusion of Hilchos Kiddushin: kedushas Yisrael versus "naval birshus haTorah" (a scoundrel with the Torah's permission)

R' Yitzchak: I can also recall. I'll explain to you why. *Because we indeed learned, it could be that this is like the Rambam's conclusion of the entire Hilchos Kiddushin. One can see, immediately after this begins already tevi'as hakesubah (claiming the kesubah) and such things, yes? Apparently the main reason why this is here, is because this is the end, yes?*

So, we learned at the beginning, that the entire kavanas haTorah (intention of the Torah) and what there is a kesubah, what there is kiddushin – the Rambam says explicitly, yes, even the sheva brachos (seven blessings) – the whole thing is that it shouldn't be that one grabs, tofes, pogesh isha bashuk (encounters a woman in the marketplace), but it should be with speech, with a kinyan (acquisition). It could be that here afterwards, there can still be like an aspect of "naval birshus haTorah" (a scoundrel with the Torah's permission): he already made kiddushin, now he thinks he can do it against her will, or he doesn't ask her if she wants, and so forth.

So the love, which is kedushas u'tehoras Yisrael (the holiness and purity of Israel), could be that it's simply the fulfillment of the main kavanas haTorah of kiddushin. The whole thing of kiddushin is, he shouldn't be an "ari dores v'ochel" (a lion that tears and eats), he should be a person. That is, there is purity; that means that this disconnects the person from the ratzon gufani (physical desire) – what he wants simply "I want, I grab". There is an order. And this could be the connection.

Okay. *And it could indeed be that the **"yishuvam"** – because the Rambam says so in Hilchos De'os, that if one conducts oneself in union as the way of the Chachamim, one has children who are chachamim (wise). It's perhaps a derash (homiletical interpretation).* Yes, tremendous. Until here is the chapter. Okay.