Laws of Marriage Chapter 18 (Auto Translated)

English

Auto Translated

Shiur Overview

Rambam, Laws of Marriage, Chapter 18

Introduction to Chapter 18: The Definition of an Almana's Maintenance (Mezonot Almana)

1. The Words of the Rambam

(Introduction to the foundations of the chapter before beginning to learn the text inside).

2. Plain Explanation

The chapter deals with the laws of "mezonot almana" — the tenai ketuba that after a man dies, his heirs are obligated to support his widow (with food, clothing, and housing) from the assets of the inheritance, as long as she is a widow and has not taken her ketuba.

3. Novellae and Explanations

* **The difference between the halacha and today's custom (R' Yitzchak):** According to the basic law, a woman does not inherit her husband at all (unlike a man who inherits his wife). All assets go directly to his heirs (who don't even have to be her children). So that she shouldn't be left abandoned with nothing, there is a tenai ketuba that the heirs must continue to support her from the assets. In modern times, however, the custom is generally not to distribute the inheritance until the mother dies, or to leave her the house and bank accounts, which is built on the same idea as the halacha, but involves fewer of all these details.

* **The distinction between get and death — the obligation of assets (R' Yoel Asher):** With a get, she only receives the ketuba money and goes on her way. With the husband's death, however, although the husband is already in the next world and is "free from the dead" (he no longer has the mitzva of she'er, kesut ve'ona), nevertheless the tenai ketuba makes **his money obligated**. That is, the inheritance falls to the heirs with a debt and a condition that the assets must continue to support her.

* **The definition and limit of the obligation (R' Yitzchak):** This is not simply an absolute monetary right (that she should be able to marry a second husband and continue taking money "double"). Rather, the entire foundation is that as long as she remains alone and has no one to take care of her, the inheritance takes care of her.

* **Not against something else (R' Yoel Asher and R' Yitzchak):** On R' Yoel Asher's question whether the tenai ketuba of mezonot almana was established "against" something that the heirs receive from her (just as mezonot during his lifetime is against ma'aseh yadeha), the answer is no — there are only three things that are "against," and this is not one of them; it is simply a continuation and part of the obligation of mezonot (and as will be seen later in the chapter, the heirs receive her ma'aseh yadeha against the mezonot they give her).

Halacha 1: The Definition and Time Limit of Mezonot Almana

1. The Words of the Rambam

A widow is supported from the heirs' assets all the days of her widowhood until she takes her ketuba, and once she claims her ketuba in court she has no mezonot. Similarly, if she sold her entire ketuba or pledged her ketuba or made her ketuba an apoteiki for another, and she said to him "here you will collect your debt," whether she did these things in court or not in an expert court, whether she did it during her husband's lifetime or after his death, she has no mezonot from the heirs. But if

she sold part of it, she has mezonot. And once the widow becomes betrothed, she loses her mezonot.

2. Plain Explanation

A widow is supported from the heirs' assets the entire time she is a widow, until she takes her ketuba. From the moment she claims her ketuba in court, she loses her mezonot (even if she hasn't yet received the money in hand). Similarly, if she sold her entire ketuba, or pledged it, or made it an "apoteiki" for a creditor (that is, she tells him "here you will collect your debt" – from here you will collect your debt), whether she did this in court or not in an expert court (but before three ordinary people, or even without a court in a sale), and whether she did it during her husband's lifetime or after his death – she loses her mezonot. But if she only sold part of the ketuba, she still has mezonot. As soon as the widow becomes betrothed (erusin) to another man, she immediately loses her mezonot.

3. Novellae and Explanations

* **The advice for a widow not to claim the ketuba (R' Yitzchak):** Since the mezonot she eats don't reduce the ketuba amount, it's much wiser for her not to claim the ketuba until she knows clearly what she's going to do next (like getting married or opening a business). Because as long as she doesn't claim it, she gains the mezonot for free, and the ketuba remains whole for later.

* **The precision of "claimed in court" (R' Yoel Asher and R' Yitzchak):** From the Rambam it's precise that she only loses mezonot when she claims the ketuba **in court** (a formal claim where the court begins the process of selling assets). But if she goes to the heirs privately and discusses with them that she wants her ketuba and they negotiate among themselves without a court, she doesn't yet lose her mezonot until she actually receives the money. (Unlike sale, pledge, and apoteiki, which take effect even not in court, because a kinyan/sale doesn't need a court).

* **The distinction between mashkon and apoteiki (R' Yitzchak and R' Yoel Asher):** A "mashkon" is only like a guarantor (security that if she doesn't pay, one can take from it), whereas "apoteiki" ("here you will collect") is more than a mashkon – she designates and transfers from now that the debt should be paid directly from that place (the ketuba).

* **The reason why claiming the ketuba or selling it removes mezonot — Rashi's approach (R' Yitzchak and R' Yoel Asher):** Why does she lose mezonot merely by claiming the ketuba in court or selling it, before she even has the money? Rashi explains (and R' Yitzchak thought of it himself from the context): The obligation of mezonot is only "all the days of her widowhood" – as long as she lives in the state of being a widow of that man. Usually, when a woman requests her ketuba, it's because she's preparing to marry a second husband (and she needs the money to bring in as nichsei melog to the new husband). R' Yoel Asher adds to this reasoning: As long as she leaves the ketuba lying there, she still relates to her deceased husband. Once she "cashes out" (through a claim in court or sale), she shows that she's moving on in life (She's moving on to the next step), therefore the relationship to the first husband ends. Therefore, if she sells only a "portion" (part) of the ketuba, it shows she hasn't yet completely detached, and she still has mezonot.

* **Why with erusin she loses mezonot and the definition of "almana" (R' Yoel Asher and R' Yitzchak):** One might have thought she should have mezonot until "nisu'in," because with erusin the new husband is not yet obligated to give her mezonot, so who will support her? But the foundation is (and it's a kal vachomer from claiming the ketuba): The tenai ketuba doesn't depend on whether she has what to eat or not, but rather it depends on the title **"all the days of her widowhood"** (in the language of the ketuba: "all the days of your dwelling in widowhood"). Once she becomes betrothed to a second husband, she no longer has the name "widow," therefore the obligation falls away. (R' Yitzchak compares it to the mitzva in the Torah of helping a widow – which also only applies as long as she doesn't have a new husband).

Halacha 2: The Widow's Dwelling, Household Items, and When the House Falls or Is Sold

1. The Words of the Rambam

Just as she is supported after his death from his assets, so they give her clothing and household items and a dwelling; she sits in the dwelling she was in during her husband's lifetime and uses the pillows and blankets and servants and maidservants she used during her husband's lifetime. If the dwelling fell, the heirs are not obligated to rebuild it. And if she said "leave it to me and I will rebuild it from my own," we do not listen to her. Similarly, she may not strengthen its weak parts nor plaster it, but she must sit in it as it is or leave. And heirs who sold the widow's dwelling accomplished nothing.

2. Plain Explanation

Just as the widow receives food from his assets after his death, so too the heirs must give her clothing, household items (kelei tashmish, as detailed in chapter 12 or 14), and a dwelling (madir). She remains with the same standards as during her husband's lifetime: she sits in the same dwelling where she was during her husband's lifetime, and continues to use the same pillows and bedding (karim ukesatot) and the same servants and maidservants she used when the husband was alive.

If the dwelling where she lived fell down, the heirs are not obligated to rebuild it. If the widow says: "Leave it to me and I will rebuild it from my own money," we do not listen to her. Similarly, even when the house still stands, she may not strengthen the weak parts of the house (bedek habayit) nor plaster/paint the house (tacha oto), but she must either sit in it as it is, or leave. If the heirs sold the house where the widow lives (while she still has the right to live there), they accomplished nothing and the sale is void.

3. Novellae and Explanations

* **The right to the "actual object" of the house (R' Yitzchak):** The words "she sits in the dwelling she was in during her husband's lifetime" don't mean only that the heirs are obligated to provide her with a similar dwelling with the same standards, but she has a right to continue living in the **actual house** (the physical object of the apartment or room) where she lived with her husband, and the heirs cannot evict her from there and buy her another dwelling.

* **Does the widow actually receive more than during her husband's lifetime? (R' Yoel Asher and R' Yitzchak):**

* *R' Yoel Asher's observation:* In a certain sense, the widow now receives more than during her husband's lifetime. When the husband was alive, she shared the house and items with him (even if a person has multiple wives and each has her own little house, but generally the husband lives there with her, so she only had fifty percent). Now that the husband has died, and the orphan certainly won't move in there to live with her, she's left with the entire house alone.

* *R' Yitzchak's response:* According to the basic law, she doesn't receive more, but exactly what the husband was obligated to give her. Theoretically, the heirs stand in place of the husband and could indeed move in there. The fact that practically they cannot live with her due to problems of modesty and privacy (since she didn't marry the heirs and they are strangers), is a side halacha (which is learned in halacha 4), but in the basic law of madir she doesn't receive more rights than before.

* **The distinction between the obligation of madir and the right to the specific house, and a practical note on "the dwelling fell" (R' Yoel Asher and R' Yitzchak):** When the house falls, the basic obligation of the heirs to provide her with a dwelling doesn't fall away (as we see in halacha 3 that they must rent her another place). What does fall away is her specific right to live in the physical object of the husband's house. The right exists only as long as the house stands as it was during her husband's

lifetime, without any change. Therefore, once it falls, the heirs are freed from the obligation on the property: they can seize the opportunity, sell the property or demolish the old house to build a new large building there, and give her another apartment, and she cannot demand to rebuild it herself. R' Yitzchak adds in his own way that the heirs will probably look for combinations ("schemes") for the house to fall so they can sell it.

* **Dispute in the plain meaning of "she may not strengthen its weak parts nor plaster it" – may she make cosmetic improvements? (R' Yoel Asher and R' Yitzchak):**

* *R' Yoel Asher's approach:* The entire prohibition of "she may not strengthen its weak parts nor plaster it" is a continuation of the law of "it fell." Since her right to the house ends when the house falls, she has no right to do actions that make the house physically stronger (bedek habayit, or "tacha" which means smearing with pitch and the like to strengthen the walls) in order to extend and prolong the time the house will remain standing. But if she wants to paint the house only for beauty, or hang nice things on the walls and change a lamp from her own money – which has nothing to do with strengthening the house against falling – she may certainly do so.

* *R' Yitzchak's approach:* The word "vechen" brings a separate law that is not limited only to "it fell," and "tacha" means simply painting, not strengthening. The reasoning of the law is: Fundamentally, she only has a simple monetary obligation of a dwelling (which the heirs could fulfill with a cheap apartment somewhere else). The fact that she sits in the husband's huge, expensive house – which is much more than what she's actually entitled to – is only because we don't evict her from the situation she was in. Therefore, her entire right is limited to the house *exactly as it is* ("as it is"). Since the house actually belongs to the heirs and not to her (just as a guest in someone else's house cannot change any lamp without permission), she has no right whatsoever to touch or make her own renovations, not even for beauty or changing a lamp. If she's a refined person and wants a nicer house – during her husband's lifetime she could have asked the husband to renovate, but from the heirs she can demand nothing and also cannot do it herself; if she doesn't like the current state of the house ("as it is"), the choice is "or leave" – they'll give her a cheap apartment somewhere else.

* **Investigation into the definition of "they accomplished nothing" — why is the kinyan void when the heirs sell the dwelling? (R' Yoel Asher and R' Yitzchak):**

* *R' Yoel Asher's approach (a remainder/condition in the inheritance):* One must understand in lomdut why the Rambam says "they accomplished nothing" – which means the kinyan itself didn't take effect (and not just that they may not evict her, or that the buyer purchases the house to have later and must let her live there meanwhile). The house never belonged to the widow (even during her husband's lifetime it was the husband's), and the heirs inherited it! But based on the Gemara that the house is "obligated from the husband's lifetime" (from when the husband was alive), one must say that the husband already gave it to her as if given away, and the Chachamim made a condition and remainder in the very inheritance of the orphans. Their "right of inheritance" and kinyan in the house is not complete as long as the widow lives there; they only inherited it for the time when the house will fall or when she will die. Therefore, now they don't have the ownership to be able to sell it. (R' Yoel Asher also notes that here we see that the heirs have in a certain sense a stronger obligation than the husband himself, because they may not remove her from the house).

* *R' Yitzchak's approach (a law regarding an object that is obligated to another's right):* Initially, R' Yitzchak suggests that one doesn't need to arrive at any deficiency in the inheritance itself: the house is one hundred percent the inheritance of the orphans, but the widow has a real "right" (like a lien or agreement) to live there, and one cannot give her another house

against her will. Just as with any two people, if Reuven has an agreement with Shimon that he may live in Shimon's house until after Purim, and Shimon goes meanwhile and sells the house to a third person – since he has no right to do this and take away Reuven's right, the sale is therefore void (and the novelty of the Gemara is that even in certain cases where one might have thought the sale should be valid, we say "they accomplished nothing"). At the end of the discussion, R' Yitzchak agrees that the heirs inherited it with a "lien on the house," that something is lacking in their right to the house, and therefore one cannot sell it (not just as a prohibition of "may not," but as a deficiency in their right).

Halacha 3: Dwelling and Mezonot According to Her Honor and His Honor ("She Rises with Him and Does Not Descend")

1. The Words of the Rambam

If the house fell or the husband had no house at all but rented, they give her a dwelling according to her honor, and similarly her mezonot and clothing according to her honor. And if the husband's honor was greater than hers, they give her according to his honor, because she rises with him and does not descend even after death.

2. Plain Explanation

If the house fell, or the husband never had his own house but rented, the heirs must provide her with an apartment according to her honor (standard). The same is with her food and clothing – everything goes according to her honor (as was already learned in chapters 12 and 13). If the husband's standard was higher than hers, one gives her according to his honor, because a woman rises with her husband in standard and does not descend, even after his death.

3. Novellae and Explanations

* **"The house fell" versus "the dwelling fell" (R' Yoel Asher and R' Yitzchak):** R' Yoel Asher wants to initially make a distinction between "the dwelling fell" (in halacha 2, where only her apartment fell) and "the house fell" (in halacha 3, where the entire house fell and it's no longer possible to live there). R' Yitzchak rejects this and says it's exactly the same thing and there's no distinction between the words "madir" and "bayit": in halacha 2, the Rambam said what the heirs do *not* need to do when it falls (they don't need to rebuild it), and here in halacha 3 the Rambam is explaining what one *does* need to do (one must rent her a dwelling according to her honor).

* **Why can't she demand the same rented apartment? (R' Yoel Asher):** When the house belonged to the husband, she has a direct right to that apartment itself. But when it fell or they lived for rent, the obligation on the heirs is only a financial obligation to pay rent. Therefore, she cannot demand to remain specifically in the same rented apartment, but the heirs can give her another apartment to save money, as long as it's "according to her honor."

* **Does the apartment become smaller because she's now a single widow? (Dispute between R' Yoel Asher and R' Yitzchak):**

* *R' Yoel Asher's side:* "According to her honor" or "according to his honor" doesn't mean the heirs must give her the same large ("size") apartment she had until now. Until now she lived in a large house together with a husband, but now one calculates how much is the standard ("according to his honor") for one person – a single widow.

* *R' Yitzchak's side:* One cannot make the apartment smaller because she doesn't have a husband. Theoretically, even when the husband was alive, his obligation to her was only to give what *she* needs (and what he himself needs is his own matter, unless he bought a separate room just for himself). Therefore, whatever she was entitled to receive from the husband, she continues to receive from the heirs.

* *Why indeed another apartment according to R' Yitzchak:* The novelty of why the heirs don't need to continue renting exactly the same apartment is because "according to his honor" means a general standard (like the custom of respectable householders in that city), and not exactly what she had yesterday. If the husband was generous and gave more than his standard, the heirs don't need to continue this, but give according to the general "his honor."

* **The distinction in the meaning of "even after death" (R' Yoel Asher and R' Yitzchak):**

* *R' Yoel Asher:* The novelty of the Rambam is that one might have thought the principle of "she rises with him" is only as long as the husband lives, but after his death she should fall back to the standard of her father's house; the Rambam comes and says that even after the husband dies, she remains at his higher standard.

* *R' Yitzchak:* We already learned earlier exactly the same language – "she rises with him and does not descend even after death" – regarding the husband's obligation to bury his wife (her burial) according to his honor. But there "after death" means after *her* death (that one shouldn't say that since she's already dead it doesn't matter to her; no, it does matter). Here, however, with a widow, the Rambam uses the same words, but it means something else: "after his death" – after *the husband's* death, that even though he's no longer here, she remains at his honor.

Halacha 4: "The Blessing of the House Is Great" and a Widow Who Wants to Live in Her Father's House

1. The Words of the Rambam

The blessing of the house is great. How so? Five people, each of whom needs a kav of food when eating alone, if the five are in one house and eat together, four kavin suffice for them. And the same is true for other household needs. Therefore, a widow who said "I will not move from my father's house, apportion mezonot for me and give them to me there," the heirs can tell her: if you are with us you have mezonot, and if not, we only give you according to the blessing of the house. But if she had a claim because she is a young woman and they are young men, they give her mezonot sufficient for her alone while she is in her father's house.

2. Plain Explanation

There is a principle that "the blessing of the house is great" – when many people live and eat together in one house, it costs less per person. For example, if five people each need a kav of food when they eat separately, four kavin are enough when they eat together in one house (and the same is with all other household expenses). Therefore, if the widow moves back into her father's house and asks that her mezonot be sent to her there, the heirs can tell her: if you live with us you get full mezonot, but if you go away, we only give you according to the calculation of how much you would have cost us in our house (by subtracting the "blessing of the house," that is, four-fifths). But if she has a legitimate claim why she cannot live with them – because she is a young woman and the heirs are young bachelors, and it could lead to a stumbling block or suspicion that people will look askance at them – then they must send her in her father's house the full mezonot she needs for herself alone.

3. Novellae and Explanations

* **The reality of "the blessing of the house is great" with food (R' Yoel Asher and R' Yitzchak):**

* *R' Yoel Asher:* The principle of "blessing of the house" is understood with a practical example: a house with ten children is cheaper to maintain than ten separate houses with one child in each house (like a bottle of milk that's enough for several people, or the electricity bill).

* *R' Yitzchak's wonder:* With electricity and other household needs one understands it well from "one candle for one, one candle for a hundred," but with a kav of food it means each person actually eats less (only four-fifths of a

kav)! Why is this so? According to feeling, a large family actually buys more food than when each is separate.

* *R' Yoel Asher's answer:* The reality is that no one eats down to the last crumb; a person only wants to eat until he feels calm that there's enough on the table. When five people eat together, it always happens that one eats a bit less than a kav today, and together one gets by with less.

* **The foundational distinction between the obligation of mezonot from the husband and the obligation from the heirs, and the reasoning with "young woman" (R' Yitzchak and R' Yoel Asher):**

* *R' Yitzchak's approach:* Why can the heirs subtract the "blessing of the house" when she doesn't live with them, whereas the husband himself (when he's alive and she lives separately, as in the laws of apportioning mezonot where specific amounts were given and she doesn't eat from his refrigerator) cannot say "if you're not with me I'll send you less," but must send her the full mezonot? The foundation is that the husband has a complete, theoretical financial obligation to feed his wife, therefore he must give her everything that's coming to her, even if she lives separately. But the obligation of mezonot from the heirs to a widow is a weaker obligation (just as leftover mezonot goes to the heirs). With a widow, the obligation is more a "practical thing" than a theoretical debt: she has a right to continue living and eating in her house together with the heirs. Therefore, if she wants to cash it out in money to live in another place, she only has a right to the sum she would have practically cost them in the house (the "blessing of the house" amount). According to this, it's also understood why when "she is a young woman and they are young men" they must indeed pay the full mezonot: since her right begins from the practical situation, as long as she *can* practically live there, they tell her "come live here." But where due to modesty and concern for stumbling/suspicion the practical situation is that she *cannot* live with them, they cannot use this claim, and therefore they become obligated to provide her full mezonot in her father's house.

* *R' Yoel Asher's approach:* It's not the plain meaning that the widow has a power to extract *more* money when she has a claim. On the contrary: fundamentally they must provide her full mezonot, but the Chachamim were lenient on the heirs that they can give less money due to the calculation of "blessing of the house." But the leniency is only when she goes away without a reason; when she has a legitimate claim why she cannot be there, the leniency of blessing of the house falls away. (He adds a principle in learning: although we always seek the "lomdut," the lomdut itself is often built on simple reasoning — "what makes sense").

* **A question about other legitimate claims (R' Yoel Asher and R' Yitzchak):** With a "young woman," her claim is a halachic/"religious" claim that the Chachamim themselves don't want her to be there due to suspicion. But what is the law if she has another practical, legitimate claim for her own reasons – for example, she says there's too much noise in the house and she can't sleep? R' Yitzchak assumes it's a good question ("one must know") and it's indeed a problem, even if we don't call it a "religious" claim.

* **[Digression: The difference in living standards between then and now] (R' Yitzchak and R' Yoel Asher):** R' Yitzchak notes that according to our current standards, the entire argument looks like terrible stinginess – fighting over "a dollar pizza" (the difference of blessing of the house). R' Yoel Asher answers that in the past the values were completely different: today rent (dwelling) is much more expensive than food, whereas in the past food was the main expense. He also makes clear that when she goes back to her father's house ("in her father's house"), she has no right to ask for money for a "dwelling" – they provide the house, and if she doesn't want to use it she loses it, and the entire discussion is only about the mezonot.

Halacha 5: Leftover Mezonot and Clothing, Medical Care, Ransom from Captivity, and Burial of a Widow

1. The Words of the Rambam

Leftover mezonot of the widow and leftover clothing belong to the heirs. A widow who became ill, if she needs medical care that has no limit, it is like mezonot and the heirs are obligated for it. But if the medical care has a limit, she is treated from her ketuba. If she was taken captive, the heirs are not obligated to ransom her, and even if she was a yevama, and even if she was captured during her husband's lifetime, they are not obligated to ransom her from his assets, but she is ransomed from her own. If the widow died, the husband's heirs are obligated in her burial. And if she swore the widow's oath and then died, her heirs inherit her ketuba and they are obligated in her burial, but not the husband's heirs.

2. Plain Explanation

* **Leftover mezonot and clothing:** If the heirs gave the widow money for food or clothing and some remained, the leftover ("motar") belongs to the heirs – just as with a husband.

* **Medical care:** If a widow becomes ill: if she needs "medical care without a limit" (chronic expense without end, like daily medicine), it's counted as mezonot and the heirs must pay. But if it's "medical care with a limit" (a one-time expense with a clear sum, like an operation), the heirs can say she should pay it from her ketuba.

* **Ransom from captivity:** If she is taken captive ("nishbeit"), the heirs are not obligated to ransom her from the husband's assets – even if she's a yevama (waiting for yibum or chalitza), and even if she was captured during her husband's lifetime and then the husband died while she's in captivity – but she must ransom herself from her own money.

* **Burial:** If the widow dies, the husband's heirs are obligated to bury her. But if she already swore the "widow's oath" (to be able to collect her ketuba) and only then died, her own heirs inherit the ketuba, and they (her heirs) are obligated in her burial, not the husband's heirs.

3. Novellae and Explanations

A. Leftover Mezonot and Leftover Clothing

* **The objection of the Ra'avad and the Yerushalmi (R' Yitzchak and R' Yoel Asher):** The Ra'avad writes that he would have also thought like the Rambam, until he found a Yerushalmi that distinguishes between a husband and heirs: with a married woman, leftover mezonot goes to the husband, because "her findings belong to her husband" – since her findings belong to the husband, the Chachamim also gave the leftover mezonot to the husband. But with a widow, where "her findings belong to herself" (her findings belong to her), the leftover mezonot also remains for her. The Rambam, however, doesn't reckon with this Yerushalmi and rules that all leftover mezonot goes to the heirs.

B. Obligation of Medical Care ("With a Limit" versus "Without a Limit")

* **Why is a widow different from a married woman regarding medical care — the leniency and stringency of orphans versus a husband (R' Yitzchak and R' Yoel Asher):** Here there's a paradox: with a husband we learned that even with medical care *without a limit*, the husband can tell her "take your ketuba and go" (although it's not proper conduct, he may do it by giving a get). With orphans, however, with *medical care with a limit* they have a leniency that she pays it herself from her ketuba, but with *medical care without a limit* (which is actually much more expensive in the long term!) the orphans are completely "stuck" and must pay without end.

The foundation is (R' Yitzchak): A husband always has a way out of the obligation – he can give her a get and pay the ketuba. Orphans, however, cannot divorce a widow! As long as she doesn't remarry, she can remain on their heads, and they must pay mezonot plus the ketuba at the end ("to be an orphan is more expensive than to be a husband"). Since orphans have no way

out, the Chachamim made an enactment for the benefit of the orphans with medical care that has a limit (which is a large one-time expense) that one is not obligated more than the ketuba and she treats herself from her ketuba.

* **Rabbi Yochanan's advice in the Gemara to make a "limit" (R' Yitzchak and R' Yoel Asher):** Based

on the Maggid Mishne and the notes, the Gemara is brought about Rabbi Yochanan: Rabbi Yochanan's relatives had a widow who needed medical care without a limit. Rabbi Yochanan gave them advice ("a trick"): Go to the doctor and make with him a "flat fee" (a fixed sum of money) that he takes upon himself to heal her forever. Through this it becomes transformed into "medical care with a limit," and the orphans are exempt (or can subtract it from the ketuba). The Gemara brings out, however, that Rabbi Yochanan later regretted this and said: "We made ourselves like arrangers of judges" – it's not fitting for a rabbi to give such lawyerly advice ("lawyer-ish advice") to twist people out of an obligation.

* **Lomdut distinction in the definition of the obligation of medical care with orphans versus a husband (R' Yitzchak and R' Yoel Asher):**

* *R' Yitzchak:* With a husband there are separate "tenai ketuba" – mezonot, medical care, ransom, burial. With orphans, however, it doesn't say in the ketuba "that you shall be healed from my assets," but only "that you shall sit in my house and be supported from my assets." Therefore, orphans don't have any independent obligation of "medical care" at all; their entire obligation of medical care comes only as part of "mezonot" ("supported" includes medical care).

* *R' Yoel Asher:* "Mezonot" means the daily needs to keep a person alive. A healthy person needs bread, and a chronically ill person needs daily medicine (medical care without a limit) to stay alive – this is literally "mezonot." But medical care with a limit (like lying in a hospital for two months for a large sum) is an "extra intervention"; this already goes beyond the definition of "mezonot," and since orphans are only obligated from the aspect of mezonot, they are exempt from it.

* **[Digression: The Rambam's approach in Pesachim regarding medical care and food] (R' Yitzchak and R' Yoel Asher):** To support the idea that medical care and food are one matter, the famous Rambam in Perush HaMishnayot in Pesachim is brought (regarding Chizkiyahu HaMelech who hid the "Book of Remedies"). The Rambam there goes out against the approach (brought in Ibn Ezra and Ramban) that a servant of Hashem should not go to a doctor but should rely on the Almighty. The Rambam asks them: If so, one should also not eat bread but only pray! Just as a healthy body needs food, a sick body needs medicine. We see from the Rambam himself that medical care is exactly the same as mezonot.

C. Exemption from Ransom from Captivity ("Captured")

* **Three reasons why heirs are exempt from ransom from captivity (R' Yitzchak and R' Yoel Asher):**

1. *The high cost of ransom (R' Yitzchak):* Ransom from captivity is usually very expensive (a husband may sometimes have to pay ten times her ketuba for ransom), so the Chachamim didn't place it on the orphans, and she can always take her ketuba to ransom herself.

2. *The definition of married woman and jealousy (R' Yoel Asher and R' Yitzchak):* The foundation of the husband's obligation "to ransom her" is because she is a "married woman" – with captivity there's always the concern that the captors are having relations with her (bo'el). A husband is jealous for his wife and the thought that "another man holds your wife" and is having relations with her forces the husband to ransom her. With a widow, however, she is single (not anyone's wife), therefore there isn't the strong argument from the husband's side; if she's in danger, it already falls under the general obligation of ransoming captives that lies on all

of Israel, but not as a specific monetary obligation on the heirs.

3. *The language of the ketuba — according to the Gemara (R' Yitzchak):* The obligation of ransom stems from the language in the ketuba: "and I will return you to me as a wife" – the husband obligates himself to ransom her in order to bring her back to himself as a wife. Therefore, as soon as the husband is dead, the concept of bringing back to him is not applicable.

* **[Digression: The law with a Kohen] (R' Yitzchak and R' Yoel Asher):** In the Gemara it says regarding a Kohen whose wife is captured, that although a captive woman is forbidden to a Kohen, there lies upon him an obligation to ransom her and bring her back (and only afterward does she become forbidden to him). R' Yoel Asher notes that it appears the prohibition of Kehuna is a separate matter that is not connected with the monetary obligation he has to return her to her previous state.

* **The initial thought with a yevama (R' Yoel Asher and R' Yitzchak):** Why does the Rambam need to emphasize "and even if she was a yevama"? Because when a brother dies without children, the yavam becomes the heir of the assets (based on "he shall arise in his brother's name," as it says in Tractate Yevamot). Therefore, one might have thought that since the yavam is the heir and he has a zika to her (she waits for him for yibum and is not yet permitted to the market), she is as if his married woman and he should have a greater obligation to ransom her so he can perform yibum with her. The Rambam comes and says no – he only goes with the law of inheritance, and from the aspect of inheritance there is no obligation to ransom her.

* **The initial thought with "captured during her husband's lifetime" (R' Yoel Asher and R' Yitzchak):** One might have thought that since she was captured when the husband was alive, the obligation to ransom has already come upon the husband, and the assets have already become obligated for this debt. Therefore, when the heirs inherit the money, they inherit it with the obligation. Therefore, it's a novelty that they are exempt (because, as R' Yitzchak explained, the obligation is only to bring her back to the husband — "and I will return you to me as a wife" — and he is no longer here).

* **The implication of "but she is ransomed from her own" (R' Yoel Asher versus R' Yitzchak):**

* *R' Yoel Asher:* The words "but she is ransomed from her own" say that the heirs cannot completely walk away ("wash their hands") from her. Just as one Jew who knows that another Jew is in captivity receives a mitzva obligation to save him, so too here, the heirs cannot close their eyes, but they have a claim to her: "ransom yourself with your own money" – that is, the heirs must at least pay her out her ketuba so she will have with what to ransom herself (and with this she goes out from the husband's domain and loses further mezonot).

* *R' Yitzchak:* Is doubtful about the "humanitarian reasoning" here in the halacha. The general obligation to raise money for ransoming captives (or met mitzva with burial) is another topic; here in the Rambam we're speaking purely about monetary laws – from whose pocket one collects the money.

D. Burial of a Widow

* **The connection between ketuba and burial (R' Yitzchak and R' Yoel Asher):** Since a widow cannot collect her ketuba without an oath ("a widow is not paid except with an oath"), if she dies before swearing, the ketuba falls away (because her heirs cannot swear, and "a person does not bequeath an oath to his children"). In such a case, the ketuba money remains with the husband's heirs, and therefore they are obligated in her burial. But if she already swore before dying, the ketuba is already considered as collected, and her heirs inherit the ketuba. The principle is: whoever holds the ketuba money, that one bears the obligation of her burial (similar to the concept "she takes her ketuba and is buried," but here we say it for her heirs).

* **A case where her heirs inherit the ketuba without an oath (R' Yoel Asher):** It's not specifically dependent on "she swore." If, for example, the widow seized movables during her lifetime for her ketuba (a case where she doesn't need an oath because there's no concern that she forgave or already took), and then she died – her heirs will also inherit the ketuba, and therefore the obligation of burial will also fall there on her heirs and not on the husband's heirs. The main connection is: whoever actually receives the ketuba.

* **Is the obligation of burial on her heirs limited to the sum of the ketuba? (R' Yitzchak and R' Yoel Asher):**

* *R' Yitzchak's question:* What if the burial costs more than the ketuba (for example, if one needs to provide eulogizers and the like "according to her honor")? When she's a widow, burial is a tenai ketuba on the husband's heirs. But when she takes the ketuba and is no longer a widow, why should her children "inherit" an obligation of burial together with the ketuba? Perhaps it's a general obligation on children to bury a mother (or from the law of met mitzva)?

* *R' Yoel Asher's answer:* The obligation of burial is a lien that lies in the ketuba money itself (because this is her money). How much they need to spend depends on how much money lies in the ketuba (they cannot be exempt with the cheapest burial if there's money in the ketuba).

* **The objection of the Ra'avad (R' Yoel Asher and R' Yitzchak):** The Ra'avad on the spot disputes the Rambam and calls it a "weak opinion." R' Yoel Asher explains the Ra'avad: When the widow dies without an oath, why doesn't she receive any ketuba from the husband's heirs? Because the husband's heirs claim "perhaps you already received your ketuba during his lifetime!" The Ra'avad asks: If their entire exemption from paying the ketuba is because we say she already received the ketuba, why should the husband's heirs be obligated in her burial? According to their claim, she already has her ketuba, so her own heirs should pay the burial! It comes out according to the Ra'avad that even when "she didn't swear," the obligation of burial falls on her heirs, because burial is different from other obligations and follows who her heirs are. (R' Yitzchak notes that the Ra'avad doesn't remain entirely clear, and one must look further in the laws of burial who is actually obligated to bury a person who dies).

Halacha 6: The Widow's Ma'aseh Yadeha Belongs to the Heirs ("Take Your Ma'aseh Yadeha for Your Mezonot")

1. The Words of the Rambam

The widow's ma'aseh yadeha belongs to the heirs. And an heir who said to the widow "take your ma'aseh yadeha for your mezonot," we do not listen to him, but if she wants this, we listen to her.

2. Plain Explanation

The money the widow earns from her work (ma'aseh yadeha) goes to the husband's heirs. If the heir says to the widow: "keep your ma'aseh yadeha for yourself instead of giving it to us, and support yourself from it (and we will be exempt from mezonot)," we do not listen to him. But if she herself wants to indeed do this and says she wants to keep her ma'aseh yadeha, we do listen to her.

3. Novellae and Explanations

* **The structure of the chapter and the foundation of "this against that" (R' Yitzchak and R' Yoel Asher):** R' Yitzchak divides the chapter: until here the Rambam spoke about the rights the widow receives from the heirs; now he begins to speak about the obligations the widow owes to the heirs. R' Yoel Asher makes it more precise: it's not simply a new list of obligations, but it goes on the previous foundation of "this against that" – since with the husband the Chachamim established that he gives her mezonot and therefore receives her ma'aseh yadeha, therefore now that the heirs bear the yoke of supporting her (mezonot), they receive against this her ma'aseh yadeha.

* **The comparison to the husband and the foundation of the enactment (R' Yitzchak and R' Yoel Asher):** This is exactly the same law as with the husband himself, because the enactment was made "for her benefit" (for her good). R' Yoel Asher explains the foundation: The obligation of mezonot is a stronger obligation and came earlier in time than the matter of ma'aseh yadeha. The Chachamim only later added that the husband receives her ma'aseh yadeha so he shouldn't feel exploited (he should get something back), but his obligation of mezonot is greater. Therefore, the heirs cannot refuse the mezonot, but when she agrees to it, she is simply waiving her right to mezonot and keeps her ma'aseh yadeha.

Halacha 7: The Widow's Work for the Orphans, Her Findings, and the Fruits of Her Assets

1. The Words of the Rambam

All work that a woman does for her husband, a widow does for the orphans, except for pouring the cup, making the bed, and washing his face, hands, and feet. The widow's findings and the fruits of assets she brought to the husband belong to herself, and the heir has nothing in them.

2. Plain Explanation

All work that a woman is obligated to do for her husband (like washing laundry, weaving, etc.), a widow must also do for the orphans (the heirs). But three specific things she doesn't need to do for them: pouring the cup (mezigat hakos), making the bed (hatzaat hamita), and washing his face, hands, and feet (rechitzat panav yadav veraglav).

If the widow found a lost object, or the fruits that grow from the assets she brought to the husband (nichsei melog or nichsei tzon barzel) – although during the husband's lifetime this goes to the husband – with a widow it belongs to her alone (for herself), and the heirs have nothing in it.

3. Novellae and Explanations

* **[Digression: The Rambam's order] (R' Yitzchak):** We haven't yet learned at all which work a woman must do for her husband – until now the Rambam only spoke about what the husband must give to the woman. Only later in chapter 21 will the Rambam explain her obligations to the husband, but here the Rambam already brings in a detail of it regarding a widow.

* **The distinction between monetary work and work of domestic peace (R' Yoel Asher):** Why must the widow do all the work for the orphans? The general work has nothing to do with the essence of being married, but they are attached to the ketuba and to the mezonot (since they support her, she must work). But the three exceptions (mezigat hakos, hatzaat hamita, rechitzat panav yadav veraglav) are not a monetary matter; they are a matter of intimacy, closeness, and domestic peace between a husband and wife. With the husband, both parts were combined – the financial things and the practical things that bring closeness. But a widow doesn't need to have any "domestic peace" and closeness with the heirs, therefore the obligation falls away.

* **A dispute over the definition of the three work items – prohibition of closeness or an ancient ceremony of affection (R' Yitzchak and R' Yoel Asher):**

* *R' Yitzchak's first side:* Technically it should indeed be part of her obligation also to the heirs, but practically she **may not** do it for them due to modesty and closeness. Proof from the laws of nidda: a nidda is theoretically obligated in the work for her husband, but the three things she may not do as distancing measures because it brings closeness; here too, one may not use a strange woman for such things.

* *R' Yoel Asher's objection:* It's not a matter of "one may not" (prohibition of modesty/arayot), because these orphans can be her own children! And furthermore, she is now a single woman, not a married woman. With her own children there's certainly no prohibition of modesty for a mother

to make the bed, pour a cup, or even wash her child's face and hands. Yet she is exempt from it!

* *Argument about what the work actually means:* R' Yoel Asher holds that the words mean simply: pouring a glass, making a bed, and washing the person (in ancient times when there were no "showers," people would bring home a large basin of water and wash people as one washes dishes; and in modern times a woman is not obligated in mezigat hakos at all even for her husband, because it's no longer the custom). R' Yitzchak completely disagrees that it means simply pouring kiddush wine or making a bed as a mother does for a child: we don't live in the lifestyle of the Talmudic sages and we don't know exactly what this was, but it's clear that the three things were a specific "ceremony" and a special order of showing "affection" between husband and wife. It's not a question of a prohibition to touch, but it's an act of affection that a mother doesn't do even for her own children, and certainly not for strange heirs.

* **The reason why fruits belong to her, and the difficulty with findings according to the Rambam (R' Yitzchak and R' Yoel Asher):**

* *Fruits of her assets:* In chapter 12 the Rambam explicitly said that the enactment that the husband eats the fruits of her assets is "against her ransom" (ma'aseh yadeha is against mezonot, and her burial is against her inheritance). Since the heirs are exempt from "her ransom" (halacha 5), it's understandable why they lose the right to eat the fruits of her assets. (R' Yoel Asher initially wanted to say that findings are against ransom, but R' Yitzchak corrected him that fruits are against ransom).

* *Her findings:* R' Yitzchak points to a difficulty according to the Rambam. The Ra'avad held earlier in this chapter (halacha 5) that "her findings" are against "leftover mezonot." Therefore, according to the Ra'avad everything fits: since with a widow leftover mezonot belongs to her, her findings also belong to her. But the Rambam disputes the Ra'avad and rules that leftover mezonot of a widow *does* belong to the heirs! And in chapter 12 the Rambam didn't give any "against" for the woman's findings. If so, why don't the heirs receive her findings?

* *The answer (in the name of the commentators/Gemara):* According to the Rambam, the woman's findings are not against any other obligation, but the Chachamim gave it to the husband due to **enmity** (the husband will be upset and it will disturb the domestic peace if she finds money and keeps it for herself). Therefore, with the heirs, where there isn't the concern of "enmity," the findings remain with the widow.

Halacha 8: The Dowry Itself (Nichsei Melog and Nichsei Tzon Barzel) and If They Increased in Value

1. The Words of the Rambam

And the assets themselves that are her dowry she takes without an oath, and the heirs have no claim on them at all, unless they increased during the husband's lifetime and they were nichsei tzon barzel, for the increase belongs to the husband. And if the widow died without an oath, her heirs inherit her dowry even though it is nichsei tzon barzel, and if there was an increase, the increase belongs to the husband's heirs.

2. Plain Explanation

The assets themselves that she brought in as a dowry she takes back to herself without an oath, and the heirs have no claim whatsoever on them. The only exception is if they were "nichsei tzon barzel" and they increased in value (hotiru) when the husband was still alive – since the profit (motar) of nichsei tzon barzel belongs to the husband, the heirs inherit that increase. And if the widow died before she swore (the widow's oath on her ketuba), her heirs inherit her dowry without an oath even if it is nichsei tzon barzel; but if one knows clearly that there was an "increase," that increase goes to the husband's heirs.

3. Novellae and Explanations

* **Why she doesn't need to swear on the dowry, and the foundational distinction between ketuba and dowry (R' Yoel Asher and R' Yitzchak):** The money and assets of the dowry never became the husband's; it always remained hers. The husband only had a right to eat the fruits, or an obligation of responsibility to guard it (with nichsei tzon barzel). Since she is simply taking back her own thing and there's no reason to suspect it's not hers, she doesn't need to make any oath on it. R' Yitzchak points out that this goes back to the foundation that the Rambam said two chapters ago, that dowry and ketuba are two separate things: all the special laws of ketuba — like the law that she must make an oath (because perhaps she already took for herself), or the law of "the entire ketuba" — only apply to the basic ketuba and tenai ketuba, but not to the dowry.

* **The plain meaning of "they increased" and the distinction between nichsei melog and nichsei tzon barzel (R' Yitzchak and R' Yoel Asher):** R' Yoel Asher initially wanted to interpret that "hotiru" means the assets made "fruits" during the husband's lifetime, and that this applies both to nichsei melog and to nichsei tzon barzel. R' Yitzchak corrects him and is precise in the Rambam that "hotiru" doesn't mean fruits, but that **the asset itself became more valuable** (appreciation of the principal). Therefore, the Rambam says specifically "and they were nichsei tzon barzel":

* With *nichsei melog*, the principal remains entirely hers; if the asset itself rises in value (hotiru), the appreciation belongs to her (the husband only has a right to fruits, not to the appreciation of the assets).

* With *nichsei tzon barzel*, the rule is that she goes out with exactly the value she brought in at the wedding. Therefore, if the assets became more valuable during the husband's lifetime ("hotiru"), the "increase" (the added value) belongs to the husband, and after his death his heirs have a right to the increase.

* **Inheritance of the dowry when she dies without an oath — the assets are not in doubt (R' Yitzchak and R' Yoel Asher):** When the widow dies before making an oath, her heirs inherit the dowry even with nichsei tzon barzel. The novelty is that we don't say the assets are in doubt because of the possibility that there's an "increase" that belongs to the husband's heirs. As long as the orphans don't come with any clear, certain claim and don't know if there was an increase, her heirs take everything. Only if it was established and one knows clearly that there was an increase, then they must return the increase to the husband's heirs.

Halacha 9: A Widow Who Seized Movables for Mezonot or for Ketuba

1. The Words of the Rambam

A widow who seized movables in order to be supported from them, whether she seized during his lifetime or after his death, even if she seized a gold bar, we do not take it from her hand. Rather, we write in court what she seized, and we apportion mezonot for her and calculate with her, and she is supported from what is in her hand until she dies or until she no longer has mezonot, and the heirs take the remainder. Similarly, if she seized movables for her ketuba during her husband's lifetime and he died, she collects from them. But if she seized after his death for her ketuba, she does not collect from them.

2. Plain Explanation

Although a widow usually takes her mezonot from real estate, if she seized (was tofeset) movables from her husband's assets in order to support herself from them — whether she seized it when the husband was still alive or after his death — and even if she seized a piece of gold (kikar zahav) worth much more than what's coming to her, we don't take it out of her hand. Rather, the court writes down the value of what she seized, we apportion for her how much mezonot is coming to her, and we make a calculation with her. She supports herself from what is in her hand until she dies or until she no

longer has mezonot (for example, if she claims her ketuba), and what remains afterward the husband's heirs take back.

Similarly, if the woman seized movables for her ketuba (the two hundred zuz) when the husband was still alive, and then he died, she may collect her ketuba from the movables. But if she was tofeset the movables for her ketuba after his death (after the heirs already inherited it), she cannot collect from them.

3. Novellae and Explanations

* **The power of her seizure with mezonot versus ketuba, and the principle in Choshen Mishpat (R' Yoel Asher and R' Yitzchak):**

* People usually seize more than they need, because a person doesn't know how long he will live. She makes herself like her own apoteiki to support herself from it, but the money remains fundamentally the property of the heirs (therefore they take the remainder).

* Seemingly the heirs can claim: why are you taking ten thousand dollars now for the next ten years? We'll give you every month! The answer is that this is a general law in the laws of seizure in Choshen Mishpat (and in the Gemara there's a story about the specific laws of how she seizes): initially she indeed may not seize, but after the fact we take very little away from a muchzak if he has some legitimate claim and a certain lien on the assets.

* This only works because she seized for mezonot. If she had seized for her ketuba after the husband's death, the heirs would first be exempt from mezonot, and second she has no right to seize for the ketuba because for a ketuba one must make an oath; therefore we do indeed take it back from her.

* **The question on the distinction between during his lifetime and after his death with ketuba, and between ketuba and mezonot (R' Yoel Asher and R' Yitzchak):** Why is there regarding ketuba a distinction when she seized (that during his lifetime it helps and after his death it doesn't), while with mezonot seizure helps even after his death? It appears that the law of ketuba that the husband owes and the law of ketuba that the heirs must give is not the same thing, but the Rambam doesn't explain why. (R' Yitzchak notes that there's a dispute of Rishonim on this, and not all agree with the Rambam).

* *Answer 1 — Tosafot's reasoning on the distinction between ketuba and mezonot (R' Yitzchak):* Tosafot explains why with mezonot we were lenient to seize after death more than with ketuba: with ketuba the woman has a strong lien and she can collect even from purchasers if the heirs sell the land; therefore the Chachamim didn't need to worry about her ketuba after the husband's death, and didn't let her seizure work. Whereas with mezonot the lien is not so strong (if they sell the land she cannot seize from purchasers and she can be left with nothing), therefore the Chachamim were lenient that her seizure should work. (R' Yoel Asher points out, however, that this still doesn't answer the distinction with ketuba itself between during his lifetime and after his death).

* *Answer 2 — The distinction of oath between during his lifetime and after his death with ketuba (R' Yoel Asher):* During her husband's lifetime, if the husband will give her a get, she can indeed take her ketuba immediately without an oath (due to the reasoning of "a person is not brazen before his creditor"). Since there's an aspect that the marriage will end with a get where she doesn't need to swear, her seizure during his lifetime is a good seizure. Whereas after his death, with the orphans, she can never take the ketuba without going to court and making an oath; and where one needs an oath, seizure is not applicable ("grabbing").

* *Comparison to the laws of lender and borrower (R' Yitzchak and R' Yoel Asher):* R' Yitzchak brings that the same law is also found with all loans in the laws of lender and borrower — that if one is tofeset movables during the borrower's lifetime it remains, and after his death it doesn't. On R' Yoel Asher's question why (the heirs take over the loan obligation!), R' Yitzchak answers that it fits with R' Yoel Asher's

reasoning, that with heirs it's always harder to seize due to the laws that apply to heirs.

Halacha 10 (13): Collection of Mezonot from Movables (After the Geonim's Enactment) and from Land ("She Can Prevent")

1. The Words of the Rambam

Even though the Geonim enacted that she collects the ketuba and tenai ketuba from movables, and therefore the widow is supported from movables even though she didn't seize — if her husband left movables and she didn't seize them, the heirs take them and they provide her mezonot, and she cannot prevent them and say "let the movables be placed in court until I am supported from them lest they be lost and I won't have mezonot," and even if he stipulated with her explicitly that she be supported from movables she cannot prevent, and with this we always judge in all courts. But if he left land, she can prevent them from selling. And if they sold, she does not take from the purchasers, for the woman and daughters are only supported from free assets.

2. Plain Explanation

Although the Geonim enacted that a woman collects her ketuba and tenai ketuba from movables, and therefore a widow can also demand mezonot from the movables even if she didn't seize them — nevertheless, if the husband left movables and she didn't seize them, the heirs take the movables and they pay her mezonot monthly. She cannot prevent them and demand that the movables lie in court as collateral (ikul) with the claim that perhaps the movables will be lost or sold and she'll be left without mezonot. Even if the husband explicitly made a condition in the ketuba that she can take mezonot from movables, she cannot prevent; and so all courts rule.

But if he left land, she can indeed prevent the heirs from selling the land. But if the heirs already did sell the land, she cannot take it from the purchasers (lekuchot), because a woman and daughters receive mezonot only from "free assets" (nechasim benei chorin), unlike the basic ketuba which one does indeed take from obligated assets.

3. Novellae and Explanations

* **The strangeness of the law with movables and an explicit condition, and the definition of the Geonim's enactment (R' Yitzchak and R' Yoel Asher):**

* R' Yitzchak notes that the law looks backward: one would have thought that after the Geonim's enactment that movables are obligated for ketuba and mezonot, she should be able to prevent the heirs from selling the movables just as with land, but yet she cannot.

* R' Yoel Asher wonders greatly at the Rambam's words "and even if he stipulated with her explicitly": if one made an explicit condition in the ketuba (as the Rambam himself advised in the previous chapter, because he held that the Geonim's enactment itself is not so simple!), why can she still not prevent here?

* R' Yitzchak suggests that perhaps this is a continuation of the Rambam's own approach that the Geonim's enactment doesn't work so strongly. But R' Yoel Asher points from the language "and with this we always judge in all courts" (unlike earlier where he argued with the custom), that here even those who follow the Geonim agreed that she cannot prevent.

* *The explanation:* Although the Geonim made an enactment that she can collect mezonot

from movables (even without seizure), they didn't want to take away the very "right of inheritance" of the heirs to such a degree that she should be able to go to court and place a lien to forbid the heirs from using or selling their inherited movables.

* **Why does mezonot only go from free assets and not from purchasers? (R' Yitzchak):** Based on the laws of lender and

borrower and Gemara Gittin, the reason why one doesn't collect from obligated assets for mezonot is due to "the enactment of the market" (the loss of the purchasers) because mezonot is something **"that has no limit"**. A lien on assets for purchasers only works when every buyer knows exactly how much the debt is (like a ketuba of maneh and matayim), but with mezonot one doesn't know in advance how much money her food will cost and for how many years (50-60 years) it will extend.

* **A strong argument over the definition of "she can prevent" and selling the land (R' Yoel Asher and R' Yitzchak):**

* *R' Yoel Asher's question:* What is the plain meaning of "she can prevent"? If the land is not actually obligated to her (proof: if they sold it, she cannot take it from the purchasers!), with what power can she prevent the heirs from selling? And furthermore: when the heirs sell the land for cash money, that money they receive is still "inheritance money" (it's only an exchange of land for money, like changing a hundred for two fifties), so she should continue taking mezonot from the cash money that lies with the heirs! Why does she lose her mezonot through the sale?

* *R' Yitzchak's answer (and R' Yoel Asher's agreement):*

1. There are two levels of lien: there's a weaker lien that gives her the right to forbid the heirs from selling as long as it's with them, although the lien is not strong enough to be able to seize from purchasers after the fact (due to the enactment of the market).

2. The main foundation: Unlike during the husband's lifetime where the husband has a personal obligation on the person to feed her, the heirs have **no personal obligation at all** upon themselves to feed the widow! Her entire right to mezonot after death is only a lien on the **land** of the inheritance. According to the basic law (before the Geonim's enactment), movables and money are not obligated at all for mezonot. Therefore, at the moment the heirs sell the land, the land ceases to be "free assets" (and from purchasers one cannot take), and the cash money the heirs received for the land is **movables**, on which according to the basic law there's no lien at all and it becomes their private money! Therefore, the heirs become completely exempt from giving her mezonot if they sell the land, and precisely this is the entire reason why she has a right initially to prevent the sale so she won't lose her mezonot. (Although she cannot claim in court from the money before the Geonim's enactment, she can however "grab" it — be tofeset — if she wants; and after the Geonim's enactment she can already properly request and collect from the money).

Halacha 11 (14): "There Is No Priority in Mezonot" with Multiple Wives

1. The Words of the Rambam

If he left many wives, even though he married them one after another, they are supported equally, for there is no law of priority in mezonot.

2. Plain Explanation

If a person left many wives, even though he married them one after another, there is no law of "priority" (that the first wife should have first right as with collecting the ketuba itself). Rather, all wives receive mezonot simultaneously ("equally") — if there's little money, it's divided equally among everyone.

3. Novellae and Explanations

* **The reasoning why there's no law of priority and the Ra'avad's objection (R' Yoel Asher and R' Yitzchak):**

* *R' Yoel Asher's first thought:* One can connect the law of "there is no law of priority in mezonot" with the previous law that mezonot is only collected from "free assets." The law of priority is only applicable where there's a lien on assets that forbids selling (therefore one looks whose lien was earlier), but with mezonot it's only an obligation on the husband (like a "mitzva") to pay as long as he has free assets. R' Yitzchak rejects, however, the concept of "mitzva" here, because on land there is indeed a lien (she can prevent them from selling!).

* *The version and lomdut of the Ra'avad (R' Yitzchak):* The Ra'avad had a different version in the Rambam: "for there is no law of priority **in movables**." The Ra'avad disputes this and says that even with **land** there's also no law of priority with mezonot. The Ra'avad explains that the obligation of mezonot of a widow (after death) doesn't take effect at the time of the wedding or when he buys the land, but it's a **new obligation** that is born at the moment the husband dies! Therefore, since the husband died at one moment for all his three wives, the lien of mezonot for all wives took effect at the same second, and therefore there's no priority.

* *R' Yoel Asher's claim against the Ra'avad:* Mezonot of a widow is not a new obligation, but the heirs simply take over the continuation of the husband's obligation (tenai beit din), or that mezonot is an obligation that renews every day ("hour by hour").

* **Investigation regarding the law of priority during the husband's lifetime (R' Yitzchak and R' Yoel Asher):**

* *R' Yitzchak's question:* According to the Ra'avad's reasoning, what will be if the husband **lives** (he, for example, went away, and the court "goes down to his assets" to give mezonot to his three wives)? During his lifetime, the obligation indeed took effect at each wedding separately (one after another) — will there then indeed be a law of priority according to the Ra'avad?

* *R' Yoel Asher's answer:* During his lifetime he must give each one as much as he can (and if he doesn't have, he must divorce), and there's no priority because mezonot is an obligation that takes effect anew every day. R' Yitzchak notes that from the Ra'avad's language ("there is no law of priority in mezonot") it indeed appears he makes it a general principle in all cases.

Halacha 12 (15): Mezonot of a Shomeret Yavam

1. The Words of the Rambam

A widow who fell before a yavam, in the first three months she is supported from the deceased's assets. If the fetus was recognized, and similarly if he left her pregnant, she continues to be supported until she gives birth. If she gave birth to a viable child, she continues to be supported all the days of her widowhood like other women. If she was not found pregnant after the three months or she miscarried, she is not supported either from the deceased or from the yavam, but she claims her yavam to perform yibum or chalitza. If she claimed her yavam to perform yibum or chalitza and he stood in judgment and fled, or he became ill, or the yavam was overseas, she is supported from the yavam without any oath at all. If she fell before a minor yavam, she has no mezonot until he grows up and becomes like other yevamim.

2. Plain Explanation

A widow whose husband died without children and she falls before a yavam (shomeret yavam):

1. The first three months (when the yavam may not perform yibum in any case in order to know if she's pregnant from the first husband – hachana) she receives mezonot from the deceased husband's assets.

2. If it became known that she's pregnant (or it was known right when he died that she's pregnant), she continues eating from the husband's assets until she gives birth. If she gave birth to a viable child (ben shel kayama), the zika of yibum falls away and she remains a proper widow who eats from the husband's assets all the days of her widowhood.

3. If after three months it turns out she's not pregnant, or she miscarried, she no longer receives any mezonot — not from the husband and not from the yavam. Rather, she must claim the yavam in court that he should decide: either perform yibum (and then become obligated in mezonot like a husband) or give chalitza.

4. If she claimed him in court and he fled, or he became ill, or he's overseas (and she went to court to claim), she is supported from the yavam's assets without any oath.

5. If the yavam is a minor (whom she must wait for until he grows up), she has no mezonot until he grows up and becomes like all other yevamim.

3. Novellae and Explanations

* **The definition of zika — why the yavam is not obligated before the claim (R' Yoel Asher and R' Yitzchak):** R' Yoel Asher explains why after the three months she doesn't receive any mezonot from the yavam: although the yavam already has a "zika" to her, it doesn't mean he's already married to her (and not even like an arusa regarding this), but at most as if a match was made (meshudechet), where one is not yet obligated in mezonot. R' Yitzchak compares her claim in court to the law of a betrothed young woman (na'ara hame'orasa) who when twelve months arrive (the time came) can claim the groom in court: "decide what you're doing," and if he drags around he becomes obligated in mezonot.

* **Why she doesn't need to swear when she takes mezonot from the yavam — "without any oath at all" (R' Yoel Asher and R' Yitzchak):** On R' Yoel Asher's question why she doesn't need to swear when the yavam fled or is overseas (unlike a normal woman who claims mezonot), R' Yitzchak answers with a sharp reasoning: With a proper husband (or widow) there are two concerns on which one swears — that the husband didn't leave her any money for mezonot before he went away (tzerari), or that she didn't herself seize (tefisa) from his assets. But a yavam is not her husband and not her friend, he's just a brother-in-law! Therefore, the aspect that he previously left her mezonot or that she had access to seize from his assets is not applicable at all, therefore there's no oath.

* **Minor yavam — why doesn't she receive from the deceased's assets? (R' Yoel Asher and R' Yitzchak):**

* *R' Yoel Asher's question:* Why should she with a minor yavam at least not continue receiving mezonot from the heirs (from the deceased husband's assets) while she waits for the minor? One could have said that with yibum ("he shall arise in his brother's name") she remains in the deceased's domain until the yibum (as we see that the yavam inherits the deceased's assets only when he performs yibum)!

* *R' Yitzchak's answer:* Since she's already a "shomeret yavam" (after the three months), she's already "out of widowhood." The obligation and zika pass over to the yavam. The problem here is only incidental: when the yavam is an adult and is capable of performing yibum and he doesn't do it, one can obligate him in mezonot through a claim; but since the yavam is a minor and is not capable of performing yibum, one cannot obligate him. It comes out that the woman falls between the cracks — from the deceased she doesn't receive because she's a shomeret yavam, and from the minor she doesn't receive because he's not bar hachi (R' Yitzchak and R' Yoel Asher note how bitter the situation is for such a woman; see also further in halacha 26 a comparison between a minor yavam and doubtful divorce).

Halacha 13 (16): He Designated Land for His Wife at the Time of Death for Her Mezonot ("For Mezonot" versus "As Mezonot")

1. The Words of the Rambam

One who designated land for his wife at the time of death for her mezonot, and said "let such-and-such place be for mezonot," he increased her mezonot. And if its rent was less than the mezonot appropriate for her, she takes the remainder from other assets. And if its rent was more than what's appropriate for her, she takes it all. But if he said to her "let such-and-such place be as mezonot" and she was silent, she has only the fruits of that place alone, for he set a limit for her mezonot.

2. Plain Explanation

A husband who at the time of death designated a specific land for his wife's mezonot:

1. If he said with a lamed: "let such-and-such place be **for** mezonot," we interpret it in her

favor that he wanted to increase her mezonot (and not limit her). Therefore, if the rent (the fruits) of that place is less than her proper mezonot, she takes the remainder from the other assets. And if the rent is more than her mezonot, she takes everything.

2. But if he said with a bet: "let such-and-such place be **as** mezonot" (instead of mezonot) and she was silent, he made her a limit (restriction), and she receives only the fruits of that place alone (even if it's less).

3. Novellae and Explanations

* **Limitation without forgiveness doesn't work (R' Yoel Asher):** Fundamentally, a husband can never himself limit his wife's mezonot and say she should only take from one land if it's not enough; he's obligated to give her full mezonot. The only way a limitation works (in the second case of "**as** mezonot") is only because "and she was silent" — she agreed and forgave her remaining lien of mezonot.

* **The definition of "he increased her mezonot" — a gift of a dying person or increase of mezonot? (Dispute between R' Yoel Asher and R' Yitzchak):**

* *R' Yoel Asher:* When the place brings in more than her mezonot and she takes everything ("he increased her mezonot"), it must work from the law of a **gift** that he gave her during his lifetime. Proof from the fact that the Rambam writes specifically "at the time of death" — because the words of a dying person are as if written and delivered (it works like a gift without a kinyan); because if she didn't acquire it as a gift, the heirs would have inherited it and it wouldn't help her to take the remainder!

* *R' Yitzchak:* Doubts this and holds that one doesn't need to arrive at the laws of gifts, but it's a law in the laws of mezonot itself — "increase of mezonot" (he enlarged her right to mezonot).

* **The distinction in the plain meaning of "as mezonot and she was silent" (R' Yitzchak and R' Yoel Asher):** R' Yitzchak says a novelty in the second law ("as mezonot"): when he says "as mezonot" and she forgives her obligation of mezonot for the future, the plain meaning is that she takes the field entirely for herself instead of mezonot (just as a husband says "take your ketuba" in a field), and the field becomes her business for better or worse (but in the Rambam's language R' Yoel Asher points out that it says "she has only the fruits of that place alone").

Halacha 14 (17): Oath on a Widow's Mezonot ("One Who Collects from Orphans' Assets")

1. The Words of the Rambam

A widow who came to court to claim mezonot, there is one who ruled that we apportion mezonot for her and we do not make her swear. And it is not proper to rely on this ruling, because the matter was confused for him with a woman whose husband went overseas... And my teachers ruled that she has no mezonot from the court until she swears, for she comes to collect from orphans' assets, and anyone who collects from orphans' assets does not collect except with an oath, and to this my opinion inclines and with this it is proper to judge.

2. Plain Explanation

When a widow comes to court requesting mezonot from the heirs, there is one who ruled that we apportion mezonot for her without an oath (unlike with collecting the ketuba where she must swear). The Rambam rejects this ruling and says one may not rely on it, because that sage confused the law of a widow with the law of a woman whose husband went overseas (where she receives mezonot without an oath). The Rambam brings the approach of his teachers (rabotai), that a widow doesn't receive any mezonot through the court until she swears, because she comes to collect from orphans' assets, and the principle is that "anyone who collects from orphans' assets does not collect except with an oath." The Rambam writes that his opinion inclines to this and so one must rule in practice in court.

3. Novellae and Explanations

* **The distinction between her husband went overseas and a widow (R' Yitzchak and R' Yoel Asher):** Why is it a mistake to compare a widow to a woman whose husband went overseas? When the husband is overseas, the court doesn't need to take upon itself for the husband and make her swear now, because the husband is alive — if he has claims (that he left her tzerari or she seized), he himself will come back later and claim with her! Whereas with a widow where the husband has died and can no longer come back to claim, the principle enters that the court claims for the orphans ("open your mouth for the mute") everything the father might have been able to claim, and therefore we require an oath.

* **The structure of the Rambam's language and approach (R' Yitzchak):** The Rambam builds here on three levels: 1) He brings the "there is one who ruled" (which means the Rif) that she doesn't need to swear, and the Rambam disputes this with reasoning ("it is not proper to rely"); 2) He brings the "my teachers" (perhaps the Ri Migash, although he doesn't write clearly who) that she must swear; 3) The Rambam himself rules that one should follow the teachers. (And the Ra'avad disputes the Rambam here and learns the Gemara's plain meaning differently, and the dispute is brought in Shulchan Aruch).

* **The Rambam's general approach in favor of the muchzak (R' Yoel Asher and R' Yitzchak):** R' Yoel Asher points out that we see here once again (as in previous laws, for example with a widow who falls into illness) that the Rambam takes the side of the heirs more than the widow. R' Yitzchak explains that the Rambam takes very strongly the side of the "muchzak" in all these laws; he is stringent about the presumption of money and is not so willing to take money from people merely on the basis of enactments.

Halacha 15 (18–23): The Order of Selling Assets for a Widow's Mezonot

1. The Words of the Rambam

A widow who came to court to claim mezonot, we make her swear first and we sell without announcement and give her mezonot. And similarly she may sell for mezonot not in an expert court but with three trustworthy people without announcement. And similarly if she sold for mezonot between herself and herself at fair value, her sale is valid, and when the heirs come to make her swear she will swear. And how much do we sell for mezonot? Enough to be supported from them for six months, no more, and we sell on condition that the buyer will give her food for thirty days, food for thirty days. And she returns and sells a second time for six months, and so she continues selling forever until there remains of the assets enough for her ketuba.

2. Plain Explanation

When a widow comes to court requesting mezonot, we first make her swear, and then we sell land without an "announcement" (one doesn't need to announce and advertise the field before selling) and we give her mezonot. Similarly, she herself may sell land for mezonot even not before an "expert court," but before any three trustworthy people ("three trustworthy") who understand how to appraise prices ("shuma"), and also without announcement. Even if she sold completely by herself ("between herself and herself") without any court, if she sold for exactly the right value ("at fair value"), the sale is valid; and when the heirs will come to demand an oath, she will then swear.

For how much time does one sell land for mezonot? For six months, no more. But we sell it with a condition that the buyer pays her out the money month by month ("food for thirty days, food for thirty days"). After six months she sells again for another six months, and so it continues until there remains in the assets only as much as her ketuba is worth.

3. Novellae and Explanations

* **Selling "between herself and herself" without an oath first (R' Yoel Asher and R'**

Yitzchak): Here lies a strong novelty: although the Rambam just ruled that she must swear *before* she receives mezonot ("we make her swear first"), yet if she took it upon herself to sell land ("between herself and herself") for the right price, the oath doesn't prevent her! The sale is immediately valid after the fact, and the heirs cannot void the sale; they can only come afterward and demand that she now swear. R' Yoel Asher connects this with the fact that the obligation of mezonot lies on the land (as we learned earlier that she can prevent the heirs from selling), therefore she has a direct right in the land to sell, and the oath is only something the heirs can demand.

* **The condition of selling for six months and paying every thirty days (R' Yitzchak and R' Yoel Asher):** Why does one sell for six months at once, but the buyer may not give her the money all at once but in six separate payments of thirty days?

* *R' Yitzchak:* One cannot sell a piece of land each month separately (it's not practical to make a sale for one month), therefore we sell a piece for six months. But on the other hand, we don't want her to receive the money for all six months in hand all at once, because it could be that in the middle of the six months she'll get married (or claim her ketuba) and lose her right to mezonot!

* *R' Yoel Asher:* Through the fact that the buyer holds the money and only pays her month by month, if she gets married after four months, the buyer of the land will simply hand over the last two months' money to the heirs.

* **"Until there remains of the assets enough for her ketuba" — what lies in this? (R' Yoel Asher and R' Yitzchak):**

* *R' Yoel Asher:* This shows there's an end (a limit) until when she can take mezonot; she cannot empty out all the assets for mezonot and then the orphans would have to come up with more money for the ketuba, because the obligation lies only on the husband's assets (whether land or movables according to the Geonim's enactment), not on the orphans personally.

* *R' Yitzchak:* Learns another novelty in this: when there remains in the assets only the sum of her ketuba, there's an advantage for her that she can now request her ketuba and take the entire money (for example two hundred zuz) *all at once*, instead of waiting and taking mezonot bit by bit (fifty a month). Because more than this doesn't exist in the assets anyway, she has nothing to lose by requesting the ketuba. (And if she specifically wants to continue taking the remaining money as mezonot bit by bit, that's also no difference).

Halacha 16 (24): Accounting of Ma'aseh Yadeha with Adult and Minor Heirs ("And I Say")

1. The Words of the Rambam

A widow for whom the court apportioned mezonot, we do not calculate with her regarding ma'aseh yadeha until the heirs come and claim it from her. If they found she has ma'aseh yadeha they take it, and if not they go on their way. And I say that if the heirs were minors, the court calculates with her and apportions for them ma'aseh yadeha just as they apportion mezonot for her.

2. Plain Explanation

When the court apportions mezonot for a widow, they don't subtract from her her "ma'aseh yadeha" (which belongs to the heirs), unless the heirs themselves come and claim it from her. If the heirs come and find she earned ma'aseh yadeha, they take it; if they find nothing, they go on their way (they cannot claim why didn't you work). The Rambam says ("and I say"): This is only when the heirs are adults. But if the heirs are minors, the court itself indeed makes the accounting with her, and one apportions for the orphans her ma'aseh yadeha just as one apportions mezonot for her.

3. Novellae and Explanations

* **The approach of the Gemara/Geonim versus the Rambam's "and I say" (R' Yoel Asher and R' Yitzchak):** The first part of the

law is the ruling of others (plain halacha), that the court doesn't mix into ma'aseh yadeha until the heirs themselves come to claim. On this the Rambam comes with his own novelty ("and I say") from the aspect of "open your mouth for the mute" (claiming for minors): adult heirs can help themselves and come claim, therefore the court doesn't look into her earnings; but with minor heirs, the court takes upon itself their interests presumably and must itself include the ma'aseh yadeha in the accounting from the beginning.

* **Two ways to understand "we calculate with her and apportion for them ma'aseh yadeha" (R' Yitzchak):**

1. That the court sets upon her an obligation of how much she *must* work and earn (according to the measure of ma'aseh yadeha that a woman is obligated to make), unlike with adults where if she didn't work they go away with nothing ("they go on their way").

2. How the accounting works practically (depending on the reality): either the court immediately subtracts from her the value of her weekly/monthly earnings (ma'aseh yadeha) from the mezonot sum given to her and the orphans only pay the remainder that's missing, or she hands over her ma'aseh yadeha to the orphans and they pay her out the full mezonot.

Halacha 17 (25): A Widow from Whose Hand No Ketuba Document Emerges ("We Claim for the Heir")

1. The Words of the Rambam

A widow from whose hand no ketuba document emerges has no mezonot, lest she forgave her ketuba or sold it or pledged it, even though the heir doesn't claim we claim for him and we say to her "bring your ketuba and swear and take mezonot," and if their custom is not to write a ketuba she has mezonot.

2. Plain Explanation

A widow who doesn't have a ketuba document in her hand doesn't receive any mezonot, because we're concerned that perhaps she forgave, sold, or pledged her ketuba (and in such cases she loses her mezonot). Even if the heir himself doesn't claim it (because he doesn't know about it), the court claims for him ("we claim for the heir"), and we tell her: bring your ketuba, swear an oath, and then you'll receive mezonot. But in a place where the custom is generally not to write a ketuba document (but they rely on tenai beit din), she indeed has mezonot even without a document, because there the lack of the document is not proof that something happened.

3. Novellae and Explanations

* **The strangeness of losing mezonot through "she sold" (R' Yoel Asher and R' Yitzchak):** R' Yoel Asher stops at the case of "she sold" (sold) and notes it's a bit strange: she only sold her right to the ketuba to a second party to receive money now, but the heirs won't yet pay out that buyer (as long as she doesn't remarry or die), so why should this stop her mezonot from the heirs? R' Yitzchak answers that the principle is a fact: just as she no longer possesses any ketuba, she no longer has any mezonot — and think a second time before selling what one wants to do!

* **The novelty of the law (R' Yoel Asher):** The basic law that "she sold or forgave" loses mezonot we already learned earlier (halacha 1); the novelty here is "even though the heir doesn't claim we claim for him" — that the court itself raises the concerns for the heir when she comes without a ketuba document.

Halacha 18 (26): She and Her Husband Went Overseas ("My Husband Died" / "My Husband Divorced Me") and Doubtful Divorce

1. The Words of the Rambam

A woman who went with her husband overseas and came and said "my husband died," if she wants she is supported like all widows, if she wants she takes her ketuba. If she said "my husband divorced me" she is not believed and she is supported from his assets up to the amount of her ketuba

in any case, for if she is still his wife she has mezonot and if he divorced her as she said she has a ketuba since her ketuba is in her hand, therefore she takes mezonot up to the amount of her ketuba and goes on her way. A woman who had a doubtful divorce and her husband died is not supported from his assets for we do not take from the heir out of doubt, but during her husband's lifetime she has mezonot until she is divorced with a complete divorce.

2. Plain Explanation

* A woman who went with her husband overseas and comes back alone and says "my husband died," she is believed, and she has the choice: if she wants, she takes mezonot like every widow; if she wants, she can immediately collect her ketuba.

* But if she says "my husband divorced me," she is not believed to take the entire ketuba all at once. But she receives mezonot from his assets until the sum of her ketuba, in any case ("from all sides"): if she is still his wife (because we don't believe her), she's entitled to mezonot; and if he indeed divorced her as she says, she's entitled to the ketuba (because she has the ketuba document in hand). Therefore, she takes mezonot until the value of her ketuba, and then goes on her way.

* With a "doubtful divorce" (for example, he threw a get and it's a doubt whether it's close to him or close to her): if the husband then died, she doesn't receive any widow's mezonot, because we cannot take money from the heir out of doubt (perhaps she's a divorcee). But as long as the husband lives, he must indeed give her mezonot until he gives her a valid, complete get.

3. Novellae and Explanations

* **The distinction between during the husband's lifetime and after death with doubtful divorce (R' Yoel Asher and R' Yitzchak):** Why with the husband himself don't we say "we do not take out of doubt" as we say with the heir?

* *R' Yoel Asher's two reasonings:* 1) With the husband there's an obligation for him to give a new get in order to permit the doubt (to which R' Yitzchak asks: that's only if he wants to divorce her, but what if he wants to remain in the doubt?). 2) The husband is already in the presumption of obligation (obligated to her), so it's not she who is taking out of doubt, but on the contrary — the husband wants to get out of the obligation out of doubt!

* *Rashi's approach in Ketubot — prevented because of him (R' Yitzchak):* Rashi in Tractate Ketubot explains that the reason why the husband must pay is because in practice she is "stuck" (prevented) because of him and cannot marry another. Although the husband can claim "one who takes from his fellow, upon him is the proof, perhaps you're already divorced and I'm exempt," we answer

him: since you leave her in practice unable to marry, you bear the responsibility for her mezonot! Do you want to be exempt? Give her a new get! As long as you leave her in doubt, you must pay.

* **[Digression: Comparison to a minor yavam] (R' Yoel Asher and R' Yitzchak):** Based on Rashi's reasoning, R' Yoel Asher asks a strong question: why don't we say the same reasoning with a yevama who fell before a minor yavam (halacha 15, where she doesn't receive any mezonot)? There she's also "stuck" and cannot do chalitza and cannot marry because of him, why shouldn't he be obligated to give her mezonot?

R' Yitzchak answers two answers:

1. A minor is a minor — one cannot have any claims on him that he should free her, he cannot give any chalitza.

2. With the minor yavam it's not *he* who holds her back (it's not considered "prevented because of him"), but *the Torah* itself holds her back ("in the hands of Heaven"). With the husband with the doubtful get, however, it lies in his hands to give her a get, therefore he is responsible.

Halacha 19 (27): A Widow Who Delayed Without Claiming Mezonot, and the Heirs' Claim of "We Gave"

1. The Words of the Rambam

A poor widow who delayed two years and did not claim mezonot, or a wealthy one who delayed three years and did not claim mezonot, she waived and has no mezonot for the years that passed but only from the time she claimed, and if she delayed less than this, even by one day, she did not waive but she claims and takes the mezonot of the years that passed. A widow who claimed mezonot from the heirs, they say "we gave" and she says "I did not take," as long as she has not remarried, upon the orphans is to bring proof or she swears a hesset oath and takes, and once she remarried, upon her is to bring proof or the heirs swear a hesset oath that they gave her.

2. Plain Explanation

* A poor widow who waited two years without requesting mezonot, or a wealthy widow who waited three years without requesting, it is assumed she waived (forgave) the past years, and she only receives mezonot from the time she claims and onward. If she waited even one day less than this measure, she did not waive and she can claim retroactively for the years that passed.

* If the widow claims mezonot (for the past) and the heirs say "we already gave" and she says "I didn't receive": as long as she has not yet remarried, the burden of proof lies on the orphans, or she swears a hesset oath that she didn't receive and takes. But after she already remarried ("once she remarried"), the burden of proof lies on her, and if she has no proof, the heirs swear a hesset oath that they gave and are exempt.

3. Novellae and Explanations

* **Contradiction from the laws of a woman's mezonot when she helped herself without borrowing (R' Yoel Asher and R' Yitzchak):** We learned earlier with a husband who went overseas, that if the woman was hungry or "pressed herself" (helped herself) and did *not* borrow from someone, she cannot claim any mezonot retroactively for the years that passed! Only if she borrowed and a debt remained, must he pay. If so, how does the Rambam say here that if the widow waited less than two/three years (for example a year and a half) she indeed receives mezonot for the "years that passed" even though she seemingly helped herself (for example spent from her own money)?

R' Yitzchak answers that one must indeed say that here too we're speaking that she *borrowed* (she has debts upon herself for those years), and only when she lets it go over two/three years without claiming from the heirs do we say she waived and gave up the debt.

* **The reason for the distinction between "before she remarried" and "once she remarried" (R' Yoel Asher and R' Yitzchak):**

* *R' Yoel Asher's question:* Why does the law change after she remarried? She's now claiming for the time *before* her marriage, and at that time the assets were indeed obligated to her! Why does she suddenly become the "one taking out" just because she's now already remarried?

* *R' Yitzchak's answer:* The laws of muchzak don't depend on when the claim was born, but on the practical reality *now* in court — in whose domain and possession the land lies at the moment of the claim. As long as she hasn't remarried, the orphans' assets are actively obligated to her for mezonot, therefore the land is considered in her domain (she is the muchzeket), and the orphans want to take out from her. But at the minute she remarried, her lien for the future falls away and the land goes back entirely into the possession of the orphans. Therefore, when she now comes claiming a debt for yesterday, the orphans are the muchzakim in the assets and she is the "one taking out from her fellow," therefore the burden of proof lies on her.

* **Note on hesset oath with "she swears... and takes" (R' Yitzchak):** It's quite interesting why the Rambam calls the oath that the widow swears in order to *take* ("she

swears... and takes") a "hesset oath" (which usually a defendant swears to be *exempt*, not a claimant to *take*), and the **Maggid Mishne** on the spot indeed struggles with this language of the Rambam.

Halacha 20 (28): The Law of Additional Ketuba Is Like the Basic Law (And the Ra'avad's Objection)

1. The Words of the Rambam (And the Ra'avad's Language)

The law of additional ketuba is like the basic law, therefore a widow who claimed or sold or forgave or pledged her additional ketuba with the basic amount has no mezonot, and if she claimed part and left part, she is like one who claimed part of the basic amount and left part. And anyone who sells or forgives without specification sold and forgave the addition with the basic amount, for both together are called ketuba everywhere...

(And the Ra'avad on the spot brings out that the Rif learns differently than the Rambam, and the Ra'avad ends his objection to the Rif with the language: "and I wonder at him").

2. Plain Explanation

The additional ketuba (the extra sum the husband added beyond the maneh and matayim) has exactly the same law as the basic ketuba. Therefore, for a widow to lose her mezonot through claiming, selling, forgiving, or pledging her ketuba, she must do it with the entire ketuba — the addition together with the basic amount. If she only claimed part and left over part, it's as if she claimed only part of the basic ketuba (where she doesn't lose her mezonot until she takes everything). And when a woman sells or forgives "without specification" her ketuba without specifying, it means both the basic amount and the addition together, because both together are called "ketuba" everywhere.

The Ra'avad points to a dispute between the Rambam and the Rif, and wonders at the Rif's approach (which implies he himself agrees with the Rambam).

3. Novellae and Explanations

* **Basic and additional as one "package" (R' Yoel Asher and R' Yitzchak):** We don't look at basic ketuba and additional ketuba as two separate obligations, but as one large package that bears the name "ketuba." (R' Yitzchak notes that although there are certain laws in the Talmud where we do indeed make a distinction between basic and additional — where she receives only the basic and not the additional — but regarding all these laws of a widow and people's language, both are counted as one thing). Therefore, this has two consequences:

1. *In her favor:* If she claims only the basic amount and leaves over the addition (or vice versa), it means she only took "part of the ketuba" and she doesn't lose her mezonot.

2. *Against her:* If she forgives or sells "my ketuba" without specification, she lost the entire package — both the basic amount and the addition — and thereby loses her mezonot.

* **The lack of clarity in the Ra'avad's language "and I wonder at him" (R' Yitzchak):** R' Yitzchak stops at the Ra'avad's language and wonders what the Ra'avad actually wants to say here: if the Ra'avad writes "and I wonder at him" about the Rif, does it mean the Ra'avad completely agrees with the Rambam and only wants to point out that the Rif holds differently? Sometimes the Ra'avad says things that are difficult to understand what his intention is.

* **[Digression: The distinction in writing style and goal between the Rambam and the Ra'avad] (R' Yoel Asher and R' Yitzchak):**

* *R' Yoel Asher:* Why isn't the Ra'avad obligated to write as clearly as the Rambam? The Rambam wrote a finished work ("I'm saying everything") and didn't ask that people make notes on him, therefore he had to be extremely clear. The Ra'avad, however, whose entire work is to make notes on the Rambam, assumed that others can also come and make notes on him

("make notes on me as I make on him") and add where it doesn't fit, therefore he wrote more briefly.

* *R' Yitzchak:* The distinction is also in the readers: the Rambam usually writes clearly for everyone, but the Ra'avad assumed he's writing for scholars who already know well all the Gemarot he's speaking about.

* *R' Yoel Asher:* The Ra'avad didn't know that people would someday print his objections inside the Rambam's book for the entire world. He wrote a separate book specifically for great Torah scholars who have already long finished learning the Rambam and are now at the level of learning "Ra'avad's Objections." Therefore, he used an "inside language" (his own language for those who understand) that's made only for Torah scholars.

Full Transcript

Rambam Hilchot Ishut – Chapter 18: Laws of Support for a Widow

Introduction to Chapter 18: The Definition of Support for a Widow

R' Yitzchak: ⟦#1⟧ Gentlemen, today is Chapter 18.

R' Yoel Asher: We're learning Sefer Nashim, Hilchot Ishut Chapter 18. Very good. Yes, we're holding in the middle of the laws of ketubah. In this chapter we're going to learn the law that a widow can be supported, she must receive her she'er, kesut – not onah, excuse me – her she'er, kesut, from the assets of her husband after the husband dies, as long as she dwells in his domain.

So there will be various laws about this: when the wife demands from the heirs that she wants to remain eating from the husband's assets, how far it goes, and in various situations when the heirs must actually follow the conditions of the ketubah and when not, and so forth. That's basically it, I think, yes?

R' Yitzchak: Yes, I think that's the whole thing. Yes. And it's relevant, meaning, I think that in today's times, usually when a person dies, most of the time the inheritance isn't divided until his wife dies too, that's what I think, so it's less.

R' Yoel Asher: Perhaps there's a business, I don't know. For example there's a house, the house isn't sold, they don't throw her out of the house where the husband lived. The bank account that she had together with the husband, generally it's usual that they leave it for her.

R' Yitzchak: Right. So but the law, meaning, you're right, one launches a business and other things I don't know. But the law is essentially, everything goes – I say that we also conduct ourselves based on the idea of the law, but it's not directly perhaps all these laws, it's less. I think certainly it's relevant if someone goes to a din Torah, but the way the law is set up is that when she got married the husband takes care, he's obligated in her support, which includes, as you say, kesut and housing and all other things that are included in this. But when he dies, what will be? She'll remain ownerless. So there's like a condition in the ketubah that she continues to receive.

In other words, even though – ah, this is what I meant to say – even though essentially the moment a person dies, a wife doesn't inherit her husband. That's the important thing that one must remember. We do conduct ourselves yes a bit that the wife inherits, or at least a bit, or at least as long as she lives and so forth. But fundamentally a wife doesn't inherit a husband at all; a husband inherits his wife, but a wife doesn't inherit anything. Everything goes to his. And it doesn't have to be her children at all, right? Everything goes to his children. Now, so that nothing should remain, there remains a condition in the ketubah that the heirs must still support her in the same way, more or less, as the father supported her.

R' Yoel Asher: Yes, so there's a big difference between get and death of the husband. By get, there's only the money of the ketubah, and she goes on her way. Death of the husband is an interesting thing: even though the husband no longer has... it's "lameitim chofshi," he no longer has any mitzvah of she'er kesut ve'onah, it's a mitzvah. But it appears that the condition of the ketubah is that his money becomes obligated. Meaning, even though he's not here, but his money becomes obligated, therefore the heirs must continue to support. Except that, it's like a condition in the inheritance. It's actually inherited, but the condition that the husband undertook, it becomes like a debt, and they must continue to support.

R' Yitzchak: Right. And this has a limit, these are the first laws that we're going to learn. Because it's not simple that she has a right; she marries a second man, immediately it goes away. It's not simple that she can receive double, right? The idea is that since she's going to remain alone, she doesn't have who should take care of her, so the inheritance takes care of her as long as it's needed. That's the basic idea, yes?

R' Yoel Asher: ⟦#2⟧ Yes. I'm asking if you remember: the Sages made various conditions of ketubah one thing against the other, like ma'aseh yadehah... no?

R' Yitzchak: It's not against anything.

R' Yoel Asher: Is there something keneged that she eats her support when she's a widow?

R' Yitzchak: All these keneged's there's only three keneged's, this isn't a keneged. This is a part of mezonot, more or less.

Law 1: How Long the Widow Has Support and When She Loses It

As Long as Her Widowhood and Claiming the Ketubah in Court

R' Yoel Asher: ⟦#3⟧ The Rambam says thus: **"A widow is supported from the assets of the heirs as long as her widowhood."**

R' Yitzchak: The widow can be supported from the...

R' Yoel Asher: Assets that were her husband's assets, now it has become the heirs' assets, it has fallen into the domain of the heirs. **"As long as her widowhood,"** until as long as she's called a widow. What does it mean as long as she's called a widow? Until she marries a second husband. **"Until she takes her ketubah,"** until she comes and says she wants to take her ketubah, as long as she's completely exempt. Then she has as if shaken herself off from the husband, because she has already collected the ketubah money, and then she had to support herself from the ketubah money.

R' Yitzchak: Right, it could be that the idea is as if a ketubah is usually a lot of money. If she takes the ketubah she'll be able to build herself up, she can make a business, I don't know, she can herself. But actually it's smarter for her not to take the ketubah until when she already knows what she's going to do, because she'll lose that, plus the ketubah. It doesn't go down from the ketubah, yes? So. And from when does it mean that she took the ketubah?

R' Yoel Asher: From when she claims the ketubah in beit din: **"And from when she claims her ketubah in beit din she has no support."**

R' Yitzchak: That means, even if she hasn't received it yet. From when she claims, yes.

R' Yoel Asher: A few weeks pass until the beit din sells his assets and so forth, then **"she has no support."** From when she claims the ketubah, but specifically in beit din, she has no support. It means apparently, that if she goes directly to the heirs and she says: "I want my ketubah," and they agree that they won't go through beit din and they'll negotiate it between themselves, they're still yes obligated in support.

R' Yitzchak: Right, right. Beit din is simply that she has a formal like claim, she goes, because he brings her assets in. If she just talks a speech between themselves, they talked. It's not beit din simply.

Sale, Pledge and Apotiki of the Ketubah

R' Yoel Asher: Okay. ⟦#4⟧ Right. The Rambam says: **"And likewise,"** another case of how she

loses the ketubah. She can lose the ketubah through claiming the ketubah – not lose the ketubah, meaning lose the right of support through claiming the ketubah, or in other ways. The ways are thus: **"If she sold her entire ketubah,"** if she sold the whole ketubah to another. **"Or pledged her ketubah,"** that she pledged, she took a loan against the ketubah. **"Or made her ketubah apotiki for another,"** she made the ketubah be apotiki for another person, for someone she owes money to, for someone from whom she borrowed money. And the Rambam immediately explains, what does this word apotiki mean? **"Which is that she says to him 'here you will collect your debt.'"** Apotiki means an acronym "poh tikneh," apotiki means similar to a pledge.

R' Yitzchak: But not a pledge, it's more than a pledge. That means that this will be for his money.

R' Yoel Asher: Ah, a pledge is just such a guarantor such a, that if I won't pay, this is here, from here you'll be able to... receive a pledge. Right. That she has then already transferred her land that the husband gave, whatever the husband prepared for the ketubah, she prepared: from here you'll take your debt, from the ketubah, as it is. These things, right.

These things, **"whether she did these things in beit din, or not in beit din mumchin"** – unlike claiming her ketubah which must be in a proper beit din, but if she in another way sold her ketubah... Right.

R' Yitzchak: Because selling one doesn't sell specifically in beit din.

R' Yoel Asher: So whether she did it in beit din, **"or not in beit din mumchin,"** as we learned earlier that it can also be not before beit din mumchin but just before three men. Whether she did the sale or pledge or apotiki **"during her husband's life, or she did it after her husband's death,"** she did it after the husband died, **"she has no support from the heirs,"** because this is also, it's similar to claiming the ketubah. If she already made business with the ketubah, she also loses her right of support. Right.

The Reason Why She Loses Support by Claim or Sale

R' Yitzchak: He brings here, what's the simple meaning actually so? He says that **Rashi** says that it's not the problem with claiming. The simple meaning is, I tried to say this a minute ago from my own understanding, but as if, I tried to understand that the idea of being supported is all the days of her widowhood, as long as she's a widow. If she takes a ketubah – usually, one takes a ketubah when one plans to have a wedding. Rashi says, that she shows that she's going to have a wedding; for the next wedding she'll need to have the ketubah, she'll make from this nichsei melog, I don't know what.

R' Yoel Asher: One can hear it. As long as she still holds, she's still relating to her deceased husband, she lives there, she's not yet thinking of leaving, she's still there. Once she already leaves, she's already planning her way forward, it's simple she's going on in life, she's going. Next step.

The Rambam says, this is all when she sold the entire ketubah, or one pledged the entire ketubah. **"But if she sold part of it,"** if she only sold a part of her that, it's simple that she hasn't yet given up on the rights that she has...

R' Yitzchak: Then **"she has support,"** if one sold a part. ⟦#5⟧ And besides that if one took the ketubah one will also be able to lose her support, which is the main thing actually.

When the Widow Becomes Betrothed: The Definition of "Widow"

R' Yoel Asher: The last thing is, as was said "as long as her widowhood," when does her time of widowhood end? The Rambam says: **"And from when the widow becomes betrothed,"** from when she becomes betrothed, **"she loses her support."** Because the other way of thinking could have been that only from marriage, from when the new husband becomes obligated in ketubah, until then she doesn't yet have who should support her. It doesn't work that way, because the word isn't that as if as long as she

doesn't have a second one who supports her one must support her by the first one, but as long as she's a widow. Once there was a fresh betrothal she's already not a widow.

R' Yitzchak: Yes.

R' Yoel Asher: A kal vachomer from claiming her ketubah. Yes, by both it shows that it's not simple that one only takes into account whether she has what to eat or not, but one takes into account whether she's still called a widow, meaning she's still in that time, as long as her widowhood.

R' Yitzchak: No, she'll have to eat, that's already monetary laws. The simple meaning is, yes, yes, agreed.

R' Yoel Asher: "All the days of dwelling in your widowhood."

R' Yitzchak: The thing is as long as she's unfortunately a widow. By the way, there's like a mitzvah of helping a widow. As long as is she called a widow? As long as she doesn't have a new husband! Then she's no longer a widow. I think it's the same idea. I don't know if such a law is stated, but okay, now one learns what is the support?

Law 2: Clothing, Household Items and Housing for the Widow

R' Yoel Asher: The thing that's written in the ketubah: **"All the days of dwelling in your widowhood"** can sit in your house and eat from your assets – what does this all include, does it mean only eating? The Rambam says: **"Just as she is supported after his death from his assets,"** just like support, the same thing is also regarding kesut and all other obligations that we learned. **"So they give her,"** the heirs must give her **"kesut,"** the clothing, and **"household items,"** the vessels that we learned in Chapter 12 or later there in maybe 14, which vessels are in the category of tashmish, **"and housing,"** and a house to live in, all these things like the husband.

And now the Rambam says more explicitly: that she remains with the same standards as during her husband's life: **"She dwells in the dwelling that she was in during her husband's life."**

R' Yitzchak: Initially she remains literally, she remains in the same situation.

R' Yoel Asher: She remains in the same...

R' Yitzchak: House, in the same actual house. She has a right to remain in the house.

R' Yoel Asher: Ah okay, she can remain in the house where she was during her husband's life.

R' Yitzchak: But they don't throw her out, since he buys a dwelling whatever. A dwelling we learned earlier it means a room or a house, whatever it is; she remains living in the actual, the very object of the house.

R' Yoel Asher: And **"she uses,"** she can continue to use the **"cushions and covers,"** with the vessels of the house, bedding and so forth, **"that she used during her husband's life."** And she can be served by the **"male and female servants that she used during her husband's life."** That she must remain as until now.

R' Yitzchak: Fine good. What if...

Discussion: Does the Widow Actually Receive More Than During Her Husband's Life?

R' Yoel Asher: It's interesting, in a way she receives even more, yes? Because until now she shared all these things with the husband.

R' Yitzchak: No, no.

R' Yoel Asher: A dwelling is simply her own little house, a person has multiple wives, that's the arrangement.

R' Yitzchak: A dwelling means what he's obligated to give her.

R' Yoel Asher: But say simply that in reality, a husband lives there, it's simple that fifty percent of the house she now has, and the orphan doesn't go crowding in there.

R' Yitzchak: He can yes.

R' Yoel Asher: He can yes crowd in, that's the problem.

R' Yitzchak: It becomes complicated about this. This is perhaps the topic a bit, meaning

practically, the dwelling that remains,

R' Yoel Asher: Remains what she

R' Yitzchak: Had during her husband's life, not more. She doesn't receive more.

R' Yoel Asher: She doesn't receive more, but practically she receives more.

R' Yitzchak: We'll see. Okay, let's see later. It's not correct, I tell you it's not... Theoretically at least the law is, the heirs are in place of her husband. If there's a problem that the heirs, we'll see later, with the heirs, with the husband there's privacy, the heirs are other people, it can't, it's a topic. But the main law isn't that she receives more. Practically, one would see practically how she came out. She has a right to have her own dwelling. She didn't marry the heirs, right? But in practice that... Yes. What is, yes? **It fell.**

When the Dwelling Falls Down (The Dwelling Fell)

R' Yoel Asher: The Rambam says thus: What happens? The dwelling, that the obligation is that she can remain living in it, fell down, her little house became broken, her apartment. So she would have thought that from the law of dwelling, meaning, when it happens when the husband lives, the husband would have received an obligation to... okay,

R' Yitzchak: Let's see. So if okay,

R' Yoel Asher: We said that she can remain in the dwelling, she

R' Yitzchak: Can remain in the

R' Yoel Asher: Dwelling that was all the years when she was with the husband. What happens if that house fell down? So now she wants the heirs to rebuild it.

Translation

R' Yitzchak: The halacha says... she wants the heirs to rebuild it. The question is whether she has a right, whether the right that she has to remain in that same actual house, whether that right remains even after the actual house has collapsed, that they should rebuild it. The dwelling where she

R' Yoel Asher: lived has fallen, **"and the heirs are not obligated to build it."** The heirs are not obligated to rebuild it. That means, the halacha that she has a right to live in the house where she lived until now is only when

R' Yitzchak: it stands and nothing has changed.

R' Yoel Asher: "And if she said," what happens? We go to the next halacha that in such a case the heirs will have to rent her a place. That means, the mitzvah of providing her with food and clothing doesn't fall away, but the right that she can live in the house where she was accustomed, that falls away.

R' Yitzchak: There is no house.

R' Yoel Asher: Right. **"And if she said"**...

R' Yitzchak: "And if she said,"

R' Yoel Asher: What happens here, let's see. **"And if she said,"** if she says **"leave it to me and I will build it from my own money,"** I will put in some money here and rebuild the dwelling, **"we do not listen to her,"** she doesn't have the right to that. If the heirs seize the opportunity and they say: okay, now's an opportunity, we want to completely tear down this house and build a new big piece of real estate, and we will give you instead another apartment, **"we do not listen to her."** They have the right to remove her from there and give her another apartment, because the right that she can remain with the dwelling is only as long as no change has occurred.

She May Not Strengthen Its Cracks Nor Plaster It

R' Yitzchak: "And similarly,"

R' Yoel Asher: Even more than that, **"and similarly,"** even more than that, even when the dwelling has partially fallen, she could actually easily rebuild it herself... ah, we're talking here even when it hasn't fallen. **"And similarly,"** she lives in the house, she doesn't have the right to do renovations and strengthen the house so that she can live there for many years. So **"she may not strengthen its cracks,"** she cannot repair the cracks in the house, strengthen whatever is

too weak and old in the house. **"Nor plaster it,"** she cannot strengthen it with new paint, because all these things further cause the house to remain hers for longer than her right is. Her right is that as long as it is as it is, **"but she dwells in it as it is."**

Discussion: May the Widow Make Cosmetic Improvements in the House?

R' Yitzchak: Right, so as if, because however **"plaster it"** doesn't mean that she

R' Yoel Asher: can

R' Yitzchak: not paint for beauty.

R' Yoel Asher: She may, but I understand, no, for beauty she may do. We mean to say anything that will make, that will change so that the house will remain standing longer

R' Yitzchak: than it would have been. No, they can say: you want to extend, I'm trying to clarify the logic. There is an obligation, like a monetary obligation, a clear obligation, she must have a house, okay, there's a cheap apartment down the block, go move in there. She says: what do you mean? I have a right also to the physical apartment, right? They don't throw her out of the apartment. They say: no problem, but don't paint it. Don't even change any light bulb.

R' Yoel Asher: No, no, I wouldn't agree to that.

R' Yitzchak: Certainly, that's the halacha. Because she has no right.

R' Yoel Asher: No, because **strengthen** and **plaster** are both things that strengthen the house. **Plaster** means they put tar, whatever it is that makes the house strong.

R' Yitzchak: "She dwells in it as it is or she leaves." You have a right to remain in the man's house.

R' Yoel Asher: No, no. They can't prevent putting nice knickknacks on the walls. No, that's not what it says here. They can, yes? Why do you say so?

R' Yitzchak: Because that's the meaning. That's what I'm saying, because she's taking here more money... That's the halacha. She's taking here more money than she's entitled to. That means she's entitled to have a house to live in, from the man's money, very cute. But the house, we're talking here the house is much more expensive than she actually needs,

R' Yoel Asher: Right? Yes.

R' Yitzchak: Nu? Very good. So as long as you live in the house, you can live there. You have no right to make renovations, to make it better.

R' Yoel Asher: It's to strengthen it so it won't fall, so she can extend her time that she has in it.

R' Yitzchak: That's what it says here. It says **"she may not strengthen its cracks."** No, no, it doesn't come to extend. Naturally it falls. Very good. The time from now. She's a better person, she wants a fancy house. When the man is alive, you can nudge the man he should make renovations. One can't make them... You're not happy with the house? No problem, I have for you a cheaper one somewhere else.

R' Yoel Asher: Okay, but what it says here in the halacha is, that the law is that she can live there in the house as it is, as the man left it. She cannot make the house stronger so it will last longer, because once it's fallen, they can put her out. It doesn't say anything about making it nicer, that if she wants to put up a nice light bulb, we're only talking...

R' Yitzchak: Yes, it makes sense. Why?

R' Yoel Asher: It's from her money, she hasn't charged the heirs,

R' Yitzchak: True she has no right to the huge house. She only has right to the huge house as it is,

R' Yoel Asher: because we don't throw her out of his house. But when I go into someone else's house as a guest, can I put in my light bulb? No,

R' Yitzchak: you can't.

R' Yoel Asher: No, you can't! You can't! I don't know the question about the light bulb, but I don't see why you say so. Anything that is changed, makes a real change. About that he catches strengthening or plastering, which is also a

R' Yitzchak: matter of strengthening the house so it won't collapse. Doesn't make stronger, plastering doesn't make stronger,

R' Yoel Asher: It means simply putting paint.

R' Yitzchak: It has nothing to do with painting. This is the halacha that's written here. I'm not influential to be, but I'm telling you what it says. This is the meaning: **"She dwells in it as it is or she leaves."** You're not happy with the state of the house? No problem, I have for you another one. You want the right of the house? The right is literally on the house, you have no right to add to it. It's their house, may they not say what to do? It's their house,

R' Yoel Asher: It's not her house. It makes exactly that she has the right to paint, she may make it nice, it has nothing to do with collapse, it's all the halacha of collapse.

R' Yitzchak: No, it's not! It has no connection. **"And similarly,"** there's no connection, you've closed your eyes that it has to do, it has nothing to do. **"Either she dwells in it or she leaves,"** finish. That's the halacha, and that's what the Rambam says, and you're not right. It seems like always that you're right, but that's because you're unfortunately wrong,

R' Yoel Asher: What will I do. Okay.

Heirs Who Sold the Widow's Dwelling

R' Yoel Asher: The Rambam says further: **"And heirs who sold the widow's dwelling,"** if the heirs didn't listen and they sold the house where the widow lives, where she still has the right to live, **"they have done nothing,"** they have done nothing, because they don't have the right to it.

Discussion: The Definition of "They Have Done Nothing" When Selling the Dwelling

R' Yoel Asher: We need to understand what **"they have done nothing"** means. It seems that it's like a condition in the inheritance that they have

R' Yitzchak: not actually inherited it? No, he talks further that they have no right, further they claim and they sold it, gave her a second house, right? But they don't have the right, the right is hers.

R' Yoel Asher: I want to understand what the right means, that means so, by law of acquisition, it wasn't a good acquisition. Why don't they say... **"they have done nothing"** means it wasn't a good acquisition. With this I think that it's perhaps a condition in the inheritance. They did actually inherit it, but they only inherited the right that when she doesn't live there they can have it,

R' Yitzchak: but as long as she lives there they can't drive her out. It's like an encumbrance, I don't know. What does it mean? A mitzvah of providing the man's ketubah that's one thing, but they're also heirs. To that I say that it could be that it's a law in the inheritance that they don't have the... **"they have done nothing"** means a simple meaning in acquisition? There's no practical difference, they're the heirs, it's their house. Such a halacha, she has a right to live there. If she has a right to live there, how can they sell it? They can't say: I,

R' Yoel Asher: I want to know, what does the word right mean? The right means that it's like a, that she still has a, in their inheritance there's

R' Yitzchak: never been hers. It was never hers. It's her man's house. Even when the man lives it's not hers. There's no such thing, it's only a right. The man is obligated to give her a dwelling, and they're also obligated to give,

R' Yoel Asher: They're also, they have a bit more

R' Yitzchak: obligation than the man, but they may not take away from the house.

R' Yoel Asher: About that I say that it seems to me, we need to know in learning if it's correct, it seems to me that it's something like a condition in the inheritance that their right of inheritance is not full. Something is still there a remainder in the inheritance that it's actually inherited, but it's only inherited to the extent that when the house will collapse or when she will die. As long as she's there they don't yet have the full right. That's how it seems here. Whatever, they can sell it, no

practical difference, the Sages don't say "they may not,"

R' Yitzchak: The Sages say **"they have done nothing,"**

R' Yoel Asher: as if with that acquisition they couldn't sell it.

R' Yitzchak: Come on, obviously, I haven't given you any argument on... but why don't they have the... It could mean so, on the contrary, the question is why we need to say the halacha at all, what is it, she has a right to live there, you have a right to live there they may not throw her out, what is the simple meaning they can sell it, they can't? They can't. **"They have done nothing"** means that the acquisition has fallen, not that they need to let her wait there and

R' Yoel Asher: they will now negotiate with the buyer: ah, she still needs to live there. No, **"they have done nothing,"** they didn't have any, something is lacking in their right of inheritance there to sell. They don't have any, no,

R' Yitzchak: I have a deal,

R' Yoel Asher: every two people who have a deal is so, that I have

R' Yitzchak: a deal that I may live in your house until the day after Purim, and you sell meanwhile the house, and you have no right, so the sale is void. So what's the halacha? Yes, why? Certainly. He has a deal with them, the deal is with them, it's a real deal. On the contrary, that needs, it would have been a presumption that not, the Gemara says that there are ways,

The Definition of the Encumbrance of the Widow's Dwelling and the Inheritance of the House

R' Yitzchak: The Gemara says there's a distinction because it's **"encumbered from his lifetime,"** whatever the reason is, but the fact is that since she has a real obligation,

R' Yoel Asher: he gave it away to her.

R' Yitzchak: Okay, excuse me,

R' Yoel Asher: **"encumbered from his lifetime"** you mean from the man. Yes, but it's simple that they haven't fully inherited the house...

R' Yitzchak: I don't know what fully inherited means, they inherited it with an encumbrance that they must let her live there, therefore they may not sell it, what's the problem?

R' Yoel Asher: We're not talking here about any "may not"... We're talking here about an acquisition,

R' Yitzchak: that something is lacking in their right.

R' Yoel Asher: What does "may not" mean? Every acquisition,

R' Yitzchak: everything is so, therefore it's a question what does "may not" mean... something is lacking in their...

R' Yoel Asher: something is lacking in their right of inheritance. Yes, something is lacking in their right of inheritance.

R' Yitzchak: The house's encumbrance on the...

R' Yoel Asher: The Rambam says further: **"If the house fell,"**

R' Yitzchak: but here we talked, earlier we learned that they have no obligation to rebuild it. Therefore if it fell, they become exempt, they can now sell it. Now they have luck, right? They're going to make schemes, they're probably going to make it fall, so they can sell it. Anyway, if it fell,

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Halacha 3: Dwelling, Sustenance and Clothing According to Her Honor and His Honor

R' Yoel Asher: Yes, the Rambam says halacha 3: **"If the house fell,"** if the house... the entire house fell, it's no longer relevant to live there, different from **"the dwelling fell,"** her apartment fell, the question begins...

R' Yitzchak: No, the same thing! It's exactly the same thing. **"If the house fell"**... there's no difference at all between **"the dwelling fell"** and **"the house fell." "The dwelling fell"** they don't need to build it, and now the Rambam explains what one must do. There's no difference dwelling... the word dwelling and the word

house. It fell, and what did we just talk about? They don't need to build. And what do they need to do?

R' Yoel Asher: "If the house fell," if the house where the woman lives fell, **"or if not"**... or he never had a house, they always lived for rent. In such a case, **"they give her a dwelling according to her honor,"** one must give her a dwelling according to what fits for her, not according to what she wants.

That means, in such a case she cannot demand that they continue to rent the same apartment, because when it belonged to the man it's simple that somehow she has a right in the apartment. But in such a case it's simple that they're going to have to pay rent now. They're not obligated to pay rent specifically for that apartment. In such a case they can pay rent according to what seems to them that they can save, as long as it's according to her honor.

Discussion: The Measure of "According to Her Honor" for a Widow

R' Yitzchak: It needs to be basically the same

R' Yoel Asher: as it was then,

R' Yitzchak: but... yes, it doesn't say it needs to be the same as it was then,

R' Yoel Asher: It's according to her honor, until now... yes, but until now she lived in a big house with a man, now she lives according to the honor of a single widow.

R' Yitzchak: "And similarly," the Rambam says further,

R' Yoel Asher: One minute, go say, **"and similarly her sustenance and her clothing,"** the law of sustenance and clothing, the other food and clothing, is also **"according to her honor,"** according to how much, as we already learned there in chapters 12-13, that everything is according to her honor, according to what she's accustomed to according to her standard.

The Rambam says further a novelty: **"And if the husband's honor was greater than her honor,"** we learned that if the man comes from a higher standard, she rises with him, then she receives more than what she's accustomed to. So a person could have thought that this is only as long as the man lives, but now she should go back to the standard of her father's, whatever, from where she comes? We don't say so, no. **"And if the husband's honor was greater than her honor,"** it's still given to her further **"according to his honor,"** according to the honor of the man that she became accustomed to under the man.

Why? Because the halacha is, we learned, **"because she rises with him,"** the woman goes up, her standard rises, the obligation of how much one must give her money rises according to how much money the man has, or according to what the man is accustomed to, **"and she does not descend,"** it doesn't go down. And the halacha is **"even after death,"** not only when the man lives must he give her according to his standard, but also the heirs must provide her according to the standard that she was accustomed to.

But again, one can say that it doesn't mean to say the same size apartment, one can still calculate how much according to his honor, how much size apartment for one person, or two people,

R' Yitzchak: No, no, no. That means, I already said before, always he only needs to give what she needs, what he needs is his business. So whatever he had to give her a dwelling according to her honor, they must continue to give. It doesn't say that one can make it smaller. That means, how much one can initially, you say that he bought another room just for him, no problem, now we're talking about her room, or whatever exactly the reality we're talking about, I'm saying theoretically only. Theoretically always, because **"they give her a dwelling"** doesn't mean... means practically she probably lives with him, or yes or no, depends according to the custom of the world. But theoretically, always she receives exactly what she deserved from her man, not what she had.

Chunk 3 Translation

In this case there's a complete chiddush (novelty), you see here that they can sell it, so

why don't they have to rent the same apartment? Because they can say that the husband gave more than befitting his honor or her honor, right? Why is it more? Because it didn't occur to him. Kavod (honor) means a standard, it doesn't mean what she had yesterday, right? Kavod is a certain level. According to the custom of the distinguished householders of our city, this is how one conducts oneself. He conducted himself with more, or whatever, the price went down or I don't know what - that's not it. But it doesn't say it becomes less because she doesn't have a husband. Yasher koach (well done).

A Chiddush on the Language "Even After Death"

The Rambam says in halacha 4. But I want to discuss the **"after death"** that we had earlier - it's very interesting, it means something else. Everything we learned regarding her burial, that yes, he must give her according to his honor, it also says the same language regarding her honor: **"it goes up with him and doesn't go down even after death"**. But there it apparently means after her death - that one shouldn't be able to say that now that she's dead she doesn't matter. No, she does matter. But here it means something else, here it means after his death, right? That even if he's not here - in short, it's the same thing, but I'm just saying it's a different language. I mean the same language, but it apparently means something else. Yes. Now we'll learn that regarding mezonot (sustenance), there is indeed a matter that they don't have to provide extras.

Halacha 4: The Blessing of the House is Abundant Regarding a Widow's Sustenance

R' Yoel Asher: The Rambam says: **"The blessing of the house is abundant"**. There's a principle in finances that a house of ten children will be cheaper than ten houses, each with one child. Because if one needs to buy a bottle of milk, one bottle of milk will serve more people than when each person lives in their own place. This is called birkat habayit (blessing of the house), **birkat habayit merubah** (the blessing of the house is abundant), meaning that whatever is spent on the house can feed more people.

The Rambam says: **"How so? Five"** - five people, five means a man who had five wives, yes?

R' Yitzchak: No, no, there's no difference, he's just giving an example.

R' Yoel Asher: He's explaining the concept of birkat habayit. **"Five people, each of whom requires a kav for sustenance when eating alone"** - the rule is that five people, each of whom needs to be provided a kav for sustenance if they were eating alone, but **"if the five were in one house and eating together"**, if the five eat in one house and they eat together, then four kavin are enough. **"And the same law applies to other household needs"** - so is the rule for other household needs, that birkat habayit merubah. Yes, simply so.

Discussion: The Reality of "Birkat Habayit" Regarding Food

R' Yitzchak: It means they don't eat a kav then, each one eats only four-fifths of a kav.

R' Yoel Asher: Yes, and also the electric bill and so forth, it's cheaper with more people.

R' Yitzchak: It's really like that... but certainly, really with electricity I understand it, because it's like **"a candle for one, a candle for a hundred"**. I don't understand it so well with the kav.

R' Yoel Asher: Because no one eats to the last drop, it's only a certain - when one eats as much as one feels comfortable, one sees that there isn't enough food on the table, then each person...

R' Yitzchak: So you're saying that one doesn't actually eat a kav.

R' Yoel Asher: Therefore, yes, among five people there's the one who today ate a little less than a kav. It's easier, you know, it's a reality like that. So,

R' Yitzchak: Therefore a reality with large things. I mean, for example, that a family that buys food in bulk buys more than they would buy

if each person were separate, so it seems to me. Why does it seem so to me?

When the Widow Returns to Her Father's House

R' Yoel Asher: Don't know. So, the Rambam says: **"Therefore"**, for this reason, that a widow who says **"I'm not moving from my father's house"** - in chapter twenty-two one would have to say she moved into her father's house.

R' Yitzchak: Yes, she went home.

R' Yoel Asher: So **"assess sustenance for me"** - you are obligated, you heirs are obligated to provide me with food, clothing and shelter, **"and give it to me there"** - give me the food there. **"The heirs can say to her"** - can the heirs say no? **"If you are with us"** - if you come live with us and eat from whatever is prepared for us, from the birkat habayit, **"you have sustenance, but if not"** - we'll have to send a whole kav. **"But if not, we only give you according to the blessing of the house"** - we're only ready to give as much as it would cost us here in our house together with us, with the heirs. We give her a little less. Do they have the right to make this claim, that if she doesn't want to live with them it should cost them a little less for sustenance?

Chiddush: The Difference Between the Husband's Obligation of Sustenance and the Heirs' Obligation

R' Yitzchak: Right, this is also built on the idea - the simple meaning is as if there is - the obligation of mezonot almanato (widow's sustenance) is in a certain sense more like a practical thing than a theoretical thing, understand? As if she has a right to remain literally in her house. Consequently, it comes out that here one does make a financial calculation from this, but it comes out that she only has a right to the birkat habayit amount, not a right to the entire amount. That means with the husband he can't say this, right?

R' Yoel Asher: Right. Because the husband has a financial obligation, but they live together.

R' Yitzchak: There isn't a beit aviha (father's house), so it's not - no, even if she lives separately. For example, all the laws of poskei mezonot (assessing sustenance) that we learned, where it discussed amounts, we spoke about her not eating from the husband's fridge - then he must give her everything that's coming to her. But with the widow there's less, because the widow doesn't have as strong a financial obligation as the husband, just as also with mezonot there we learned that motar mezonot (leftover sustenance) belongs to the husband, it's a... but in any case, there is such a thing that if she doesn't live with him, whatever, he must give her the full sustenance. He can't say, "One only gives sustenance if one is in the house, and if not one sends less." Here with orphans one can say this - it's a smaller obligation.

The Claim of "Because She is a Child and They are Children"

R' Yoel Asher: The Rambam says, but this is only when there's no real reason why she should be in her father's house. Do the orphans, the heirs, have the right to say they'll give food, clothing and shelter in our house with us? But if she has a justified claim, the reason why she goes to her father is **"because she is a child"** - she's a child, she's a young woman, **"and they are children"** - they're young people, and if they were together it would bring stumbling blocks, or it would cause people to look at them askance - then she has a legitimate claim for why she wants to receive her food, clothing and shelter in another house. In such a case **"they give her sustenance sufficient for her alone while she is in her father's house"** - they won't be able to deduct the calculation of birkat habayit, but they will have to feed her in her father's house. Right.

R' Yitzchak: What's the simple meaning of this? It's interesting. It means as if she has a right. The right begins from a certain practical situation. The practical situation when possible is that she should live there. But here, the practical situation is not that she should live there. One can't say that she should live with them, so

consequently they're obligated in sustenance, something like that.

The Definition of Living with the Heirs and the Leniency of Birkat Habayit

R' Yoel Asher: Right. What's the simple meaning of this?

R' Yitzchak: Interesting. The meaning is, as if she has a right. The right begins from a certain practical situation. The practical situation when possible is that she should live there. But here, the practical situation is not that she should live there, because one can't say that she should live with them. So consequently they're obligated in sustenance, something like that.

R' Yoel Asher: Yes. It's the simple meaning that...

R' Yitzchak: It's not the simple meaning that they...

R' Yoel Asher: Understood to be able to extract more money from them. But it looks something like Chazal (our Sages) were lenient with them that they can give a little less money with the calculation of birkat habayit. But this is only in a case when she doesn't have a claim.

R' Yitzchak: When she doesn't have a reason.

A Question About Other Justified Claims

R' Yoel Asher: Because she's right, as if, with wanting the birkat habayit. This is as if the reasoning. Many things are like this. We always look for the lomdut (analytical reasoning), but many things are - the lomdut is based on what we say makes sense that it should be, right?

No, the question is in a case when she'll have another reason why she doesn't want to live with the heirs. No, no, with a yaldah (child), with a yaldah it's like her claim is like a religious claim, like it comes from a... the Chachamim are satisfied with it, because there really is a suspicion. What happens when she says: because there's a lot of noise and I can't sleep? She has a justified claim, but it's for her reasons - one needs to know.

R' Yitzchak: I don't know. One needs to know. It's a good claim. I don't know if this word is religious. It's really a problem. I don't know. I don't know, the whole thing is altogether terrible stinginess, at least by our standards. One's fighting over a dollar pizza there, what can one mean?

R' Yoel Asher: But anyway. It can be very different from our standards, because our standards are - rent is much more than all these - meaning she lives in the father's house, the simple meaning is she's not using the house, the house that they provide, okay.

R' Yitzchak: But they need to pay her for that, no?

R' Yoel Asher: She's in her father's house, no?

R' Yitzchak: She has a right to request, ah she has...

R' Yoel Asher: She doesn't have a right to request a dwelling, no. I'm just saying that with us...

R' Yitzchak: Okay, but this can be practical, she wants to live there.

R' Yoel Asher: Food is worth less and... I mean, a dwelling is an expensive thing.

Halacha 5 (Part A): Leftover Sustenance and Leftover Clothing

R' Yoel Asher: The Rambam says: halacha 5, **"And leftover sustenance of the widow and leftover clothing"**. She received - they did provide money for food, and food remained, she didn't eat all the food. The same thing is with clothing, she didn't use the clothing they had to buy. She didn't use it? Yes, as we learned earlier regarding the husband, it's not the simple meaning that it's hers, and consequently she also can't use the leftover, but it goes **"to the heirs"**.

The Hasagah (Critique) of the Raavad and the Yerushalmi

R' Yitzchak: So says the holy Rambam. The Raavad says that he would have also thought so, until he found a Yerushalmi that says differently, that indeed motar mezonot (leftover sustenance) of an eishet ish (married woman) belongs to her husband. Why? Because her findings are his, yes?

R' Yoel Asher: If she finds something she must give it to the husband, and correspondingly the Chachamim gave the husband back motar mezonot. However, a widow whose findings are hers...

R' Yitzchak: So leftover sustenance also remains hers.

R' Yoel Asher: So rules the Raavad. But the Rambam doesn't reckon with this.

R' Yitzchak: He says all motar mezonot goes to the heirs. There's no... Interesting. Okay, this is the shiur on mezonot, we also learned about dwelling. Now let's see.

Halacha 5 (Part B): The Obligation of Medical Care for a Widow

R' Yoel Asher: Under clothing were listed various other obligations.

R' Yitzchak: There were ten more things that the Chachamim made.

R' Yoel Asher: There are other obligations that the husband must provide: to heal her, to redeem her, to bury her. So we'll now learn how the orphans become obligated in these three obligations.

The Rambam says: **"A widow who became ill"**. So: **"If she needs medical care that has no limit"** - she needs medical care that doesn't end, meaning she is what's called chronic, she always needs some help. **"This is like sustenance"** - it's called like sustenance. Meaning that until now she only cost two hundred dollars, one only had to buy food. Now one also needs to buy medicine or whatever, one needs to have some wheelchair. I don't mean a wheelchair, a wheelchair is a one-time thing - an expense that's ongoing is like sustenance, it's become more expensive, it costs more money to maintain her, it's called like sustenance, **"and the heirs are obligated in it"**.

"But if it was medical care that has a limit" - if it's a one-time medical expense, meaning she needs a one-time, I don't know, expensive surgery. It's learned by the husband, in such a case the husband can say: use the money from the ketubah for your medical care and he's exempt. **"She is healed from her ketubah"**. Very interesting.

The Difference Between a Husband and Heirs Regarding Medical Care

R' Yitzchak: Very interesting halacha. But practically...

R' Yoel Asher: Medical care that has no limit...

R' Yitzchak: A husband in the long term can also divorce her for the...

R' Yoel Asher: Medical care that has no limit, right? We learned that with a husband he can always say: take the money from the ketubah.

R' Yitzchak: He says it's not nice, that it's not proper conduct, but that he may. The heirs don't have a right, because they can't give a get (divorce), right? They're stuck with her. So, in a certain sense they have a leniency here that if it has a limit she can be healed from her ketubah, but if it has no limit they're really stuck. Yes? And it's as you say, that it's a bit backwards. That is, having no limit becomes more expensive.

The Story in the Gemara with Rabbi Yochanan

R' Yitzchak: But there is indeed a solution for this. I remember that in the Gemara it says that...

R' Yoel Asher: There is a solution for this.

R' Yitzchak: Right? He doesn't bring a Gemara? There is a solution. Perhaps we'll see it later? It's not there. Do you remember that there's a trick? One can take a doctor and make him a fixed fee.

R' Yoel Asher: He brings it in the notes.

R' Yitzchak: The Maggid Mishneh discusses it. The Maggid Mishneh says this? Ah. Rabbi Yochanan said... No. Ah, there's a story. Ah, the Maggid Mishneh brings a story. There's a story in the Gemara, that what? Rabbi Yochanan had relatives who had a widow they had to support, they had to provide medical care regularly. So he said a solution: go, give a doctor a flat fee, ten thousand dollars, I don't know, he should heal her forever. It comes out that what? Now it's medical care that has a limit. Now they're exempt. If it's more than the ketubah, they can

say take the ketubah, and further they're not obligated. And the Gemara says that Rabbi Yochanan regretted this. He said: **"We made ourselves like court advisors"**. It's not fitting to give such advice, lawyerly advice to people.

Why is "Having a Limit" a Leniency in Favor of the Orphans?

R' Yoel Asher: A rabbi shouldn't become a lawyer. I want to understand a bit - the Chachamim said that something that has no limit, the simple meaning is it will require coming up with money every week, it becomes like sustenance. Her upkeep is more expensive. The simple meaning of "has a limit" means less money in the long run, but it's once a larger expense. That is, for whom did they make the thing that with "has a limit" they can give the ketubah and be exempt? For the benefit of the orphans, right? Right.

R' Yitzchak: Interesting. Okay. Right. There is such a rule, one is never obligated more than the ketubah, so there's reasoning around sometimes.

R' Yoel Asher: And why with the husband could he...

R' Yitzchak: A husband can give a get. A husband can give a get. With the husband there isn't the distinction of having a limit and not having a limit, because a husband can always give a get, he'll only owe the ketubah. Orphans can't give... orphans have no way out of their obligation. In general, to be an orphan is more expensive than to be a husband, in this sense. Understand what I'm saying? That is, the widow has a right, for example, as long as she doesn't want to remarry, whatever, she can remain, and they have no way out, they must give her sustenance. The husband always - let's say he's not in the mood, he doesn't feel like paying so much, he can always give a get, he can always say go in peace, and one only needs to pay the ketubah. They always have to pay ketubah plus sustenance.

R' Yoel Asher: There's no way out for them.

R' Yitzchak: It's sad, but one can't divorce a widow.

Analytical Explanation: Medical Care for Orphans is Only From the Law of Sustenance

R' Yoel Asher: Yes. Yes. Now we'll learn about this law. So this is to heal her. The law of redeeming her, redemption.

R' Yitzchak: It could be, I'm thinking of another sevara (logical argument), but perhaps it's shtusim (nonsense). That is, we spoke a second ago, in the ketuva (marriage contract), we say that there are like additional conditions of the ketuva: there's mezonos (sustenance), there's refuah (medical care), there's pidyon (ransom), there's kevura (burial), all extra things. Here we suddenly see that there's no condition, it doesn't say "shetehei nerapeis minichsei" (that she should be healed from my property), it says as if "shetehei yosheves beveisi venizoneis minichsei" (that she should dwell in my house and be sustained from my property), but the Chachamim (Sages) say that "nizoneis" includes also her medical care. So as if medical care has a double aspect, it could be that orphans only have an obligation of medical care from the side of mezonos, because of this "ein lah ketzavah" (it has no limit) is mezonos.

R' Yoel Asher: You understand? But essentially by a husband, mezonos means keeping a person alive. Something like that. A regular person needs to have bread to keep himself alive, the wife also needs to have medicine to stay alive. Refuah she'yesh lah ketzavah (medical care that has a limit) means that she needs to have a medical [procedure], she needs now to be in the hospital for two months, it costs very much money. That becomes mezonos, that's not mezonos of what we're talking about. That's something like an extra intervention.

The Rambam's Position in Pesachim Regarding Medical Care and Food

R' Yitzchak: And it's lomdus (analytical reasoning) this. Perhaps the lomdus is the true decisive factor, but it could be. Like the Rambam says there in Pesachim, that he doesn't understand the position of, nu, do you remember who it could be, who says that he hid the book of remedies, because one must pray. Says the Rambam, nu, perhaps one should also not eat. Okay, mezonos, refuos (medicines), but when one is sick one needs to eat.

R' Yoel Asher: No, the Rambam goes against the Ibn Ezra and Ramban who say that "ma'aleh rofei mibeis oved Hashem" (it's superior for a servant of God to remove the doctor). He says, if so, a servant of God should also not eat. Don't do hishtadlus (effort), rely on the Almighty.

R' Yitzchak: Okay,

R' Yoel Asher: But that's just... yes, I hear what you're saying. The Rambam says further...

Halacha 5 (Part 3): Pidyon Shevuyim (Ransom of Captives) by a Widow

R' Yitzchak: But the same thing nishbis (captured), ah nishbis not exactly.

R' Yoel Asher: What happens when **"nishbis"**? She was taken captive, the obligation doesn't transfer to the husband. To the heirs. To the heirs. This was an obligation that the husband had, that if she was taken captive he must ransom her. But **"ein hayorshin chayavin lifdosah"** (the heirs are not obligated to ransom her). Interesting. But regarding this one thing the Chachamim didn't...

Reasons Why Heirs Are Exempt from Pidyon Shevuyim

R' Yitzchak: I don't know. I can think of a sevara be'alma (general reasoning), but I don't know. Perhaps because it's very expensive simply usually. Mimeilah (therefore) ein hayorshin chayavin means that she can always take her ketuva, right? She'll lose the mezonos from here on. So we learned that also a husband, sheviya (captivity) can be very expensive, he has to pay ten times her ketuva, whatever, for one time. Um. It could be that this matter is something else,

R' Yoel Asher: *Because the thing chayavin lifdosah is about, has to do with the fact that she's an eishes ish (married woman), and we always imagine by nishbis that she becomes... that one is bo'el (has relations with) her,*

R' Yitzchak: *As if one is her husband.*

R' Yoel Asher: *Could be. Mah she'ein kein (not so) a widow, there isn't that argument.*

R' Yitzchak: *Okay. Something like this, perhaps that's like what I thought, perhaps that's like the sevara. As if nishbis means, another person captures your wife, not that his wife is whatever.*

R' Yoel Asher: Ahh. It could be that this matter is something else, because the thing of "chayavin lifdosah" has to do with the fact that she's an eishes ish, and we always imagine by nishbas that one is bo'el her, as if...

R' Yitzchak: One is her husband.

R' Yoel Asher: Could be. Mah she'ein kein a widow, there isn't that argument.

R' Yitzchak: Okay. Perhaps that's the sevara. Regarding nishbas the simple meaning is, another person captures your wife, not that his wife is whatever. Although what then, can the husband stipulate that when he's dead she should be nishbas?

R' Yoel Asher: No, again, we're talking here about who has the obligation? The mitzva is, there are after all good Jews, there are still organizations for pidyon shevuyim. Let off the organizations, no no, the question is whether they have a monetary obligation. Or it could be as long as there's a husband, a husband must be mekane le'ishto (jealous for his wife), he doesn't want to let other people lust after his wife who is his eishes ish. But once she's a penuya (unmarried woman) there isn't that strength. So whether she's in danger, is already a general obligation on people.

R' Yitzchak: Right, you see here the next halacha we'll see that there's a side, the Gemara

had a side, if nishbas bechayei ba'alah (captured during her husband's lifetime) they do yes. You can understand, because then it does bother him yes.

The Halacha by a Yevama and by Nishbas Bechayei Ba'alah

R' Yoel Asher: Okay, says the Rambam: **"va'afilu haysa yevama"** (and even if she was a yevama), even if she's not yet properly muteres lashuk (permitted to the market), because she's a yevama and she's still waiting for chalitza or for yibum, you would have thought that then yes the obligation lifdosah would be greater, that the brother should be able to perform yibum with her.

R' Yitzchak: They shouldn't, perhaps it means to say that the yevama, that perhaps the brother needs her yes.

R' Yoel Asher: If the yavam is the yoresh (heir). Ah, the yavam is the yoresh, yes, when the brother dies without children...

R' Yitzchak: The yavam...

R' Yoel Asher: The yavam becomes the yoresh. Or at least on a portion. **"Yakum al shem achiv"** (he shall rise up in his brother's name), so it says in Yevamos that also money he inherits. So you could have thought that a yavam has a greater obligation because he already has to her a zikah (connection), he should be like similar to an eishes ish. As if kemo ishto (like his wife), right. But they say that no, only with the law of inheritance, and with the law of inheritance there's no law of lifdosah.

Says the Rambam a chiddush (novel ruling): **"va'afilu nishbas bechayei ba'alah"** (and even if captured during her husband's lifetime), she was taken captive during her husband's lifetime, and the husband died, and she still remained in captivity. What you could think like that the obligation came upon him, the obligation doesn't go away, mimeilah the heirs should inherit also the obligation, as if that a portion of the money that they inherit is already meshubad (encumbered) for the obligation lifdosah. We don't say so: **"ein chayavin lifdosah minichsav, ela nifdeis mishel atzma"** (they're not obligated to ransom her from his property, rather she's ransomed from her own). The "ela" (rather) presumably goes back to all the halachos until now. Ela, what yes? **"Nifdeis mishel atzma"**, she must ransom herself from her own money. Or from where does she have her own money?

The Foundation of "Ve'ahadrinach Li Le'ansu" and the Law by a Kohen

R' Yitzchak: From the ketuva... What is this? What did I want to say? Ah, I see, I see that the Gemara says that the reasons, approximately like I said, it says, in the ketuva it says that if she's nishbas, he will bring her back to him **"ve'ahadrinach li le'ansu"** (and I will return you to me as my wife), he brings her back to him. As soon as he's dead, captivity, you understand.

R' Yoel Asher: I'll say what it says explicitly in the Gemara. A kohen (priest)...

R' Yitzchak: A kohen unfortunately is yotzei min haklal (an exception). Actually it goes like this: even by a kohen we learned such a sort of thing, that as if he brings her back, and afterwards she becomes forbidden.

R' Yoel Asher: Yes?

R' Yitzchak: No.

R' Yoel Asher: He must bring her back.

R' Yitzchak: He must bring her back, drag her from the captivity back. Now, the Torah comes and says that a kohen is forbidden with a shevuya (captive woman).

R' Yoel Asher: Ah, it's extra like the prohibition isn't connected to the encumbrance that he has.

R' Yitzchak: Something like that, that's how I understand there. But it's the idea of pidyon isn't just a mitzvas pidyon shevuyim (commandment of ransoming captives) that lies on him, it's that he brings back the wife. If he's dead, he doesn't have what to bring back. Meaning that therefore the Gemara says, therefore even nishbas bechayei ba'alah, actually he doesn't have to whom to bring back, because he's already dead.

Discussion: The Meaning of "Ela Nifdeis Mishel Atzma"

R' Yoel Asher: It's interesting, the last halacha, **"ela nifdeis mishel atzma"**, basically says yes something. He says like that the heirs can't completely wash their hands. It becomes like every Jew. It means, if there's only one Jew who became aware that someone is in captivity. It means so, okay, I come again back...

R' Yitzchak: To other matters of mitzvos...

R' Yoel Asher: No, but I want to say that it is yes relevant, because everyone knows that there's something like a Jew in jail, on whom does the mitzva fall? On the beis din or on whoever it is. But if there's one person who knows about the incident, doesn't a mitzva fall on him. The mitzva la'asos adam re'eihu (to help one's fellow). So there's a thing that here, in the end it says something: if she has her own money, the heir has the claim, ransom yourself mishel atzma. Or at least the heir can say: look, I'll give you the ketuva and ransom yourself. With the last words the Rambam says like that you...

R' Yitzchak: Can't wash your hands. I don't know. Taking a ketuva has a price, because it means that it doesn't go...

R' Yoel Asher: No more mezonos coming. No, the ketuva that, ketuva she gets is because it's simple that she's already going away from the old husband, reshus ba'alah (husband's domain).

R' Yitzchak: Fall away. I hear your sevara, it's a humanitarian sevara, but I don't know. Just so one must create money? I don't know. Just sometimes creating money is a whole other topic. We're not talking now about that. Okay. I mean also kevura, that's stated explicitly, that it's a law of meis mitzva (abandoned corpse), one becomes obligated. But we're talking now about how, from whom to take the money, the chevra kadisha I mean.

Halacha 6: Burial of a Widow

The Connection Between the Ketuva and the Obligation of Burial

R' Yoel Asher: Okay. The third obligation that the husband had was to bury her according to her honor. So the same thing, **"meisa ha'almana yorshei haba'al chayavin bikevurasah"** (if the widow died, the heirs of the husband are obligated in her burial). The yorshei haba'al become obligated to bury her.

"Ve'im nishbe'a shevuas almana ve'achar kach meisa" (and if she swore the oath of a widow and afterwards died), if she already wanted to collect the ketuva, and she already even went to beis din and she made the oath that the ketuva is coming to her and she died. So then she already has the ketuva. It means, although she doesn't have it, she already died, but the ketuva is already now in.

R' Yitzchak: One can already receive the ketuva, because before this she can't receive the ketuva, because even if she dies without the oath, her heirs don't receive the ketuva, right? So if she can already, that is, it looks like, that is one must have the, whoever has the ketuva, he must bury her. So if there's already an oath, means her heirs will actually inherit the ketuva, **"yorshin kesuvasah"** (they inherit her ketuva).

R' Yoel Asher: "Yorsheha yorshin kesuvasah", the heirs will inherit, because she already made the oath. Those who are her heirs, her children or what, will inherit the ketuva. **"Vehem chayavin bikevurasah"** (and they are obligated in her burial), it means that the burial is a law, is an obligation within the ketuva.

R' Yitzchak: "Aval lo yorshei haba'al" (but not the heirs of the husband). That is, the yorshei haba'al don't have any obligation in burial, although one hasn't yet given the ketuva, something like that is the sevara. Yes.

Discussion: The Nature and Amount of the Burial Obligation on Her Heirs

R' Yoel Asher: It's a kind of case of "titol kesuvasah vetikaver" (let her take her ketuva and be buried), here one can't say it for her, one can say it for the heirs.

R' Yitzchak: No, the heirs have an obligation. Perhaps outside of the ketuva, whatever, even if it's more expensive than the ketuva. I don't mean to say so, how much burial costs, has nothing to do, it's not from the ketuva they must pay it, it's whoever has... Why actually?

R' Yoel Asher: No, apparently yes from the ketuva, from money that she has.

R' Yitzchak: Why? If there's no money in the ketuva for this?

R' Yoel Asher: It's after all her money, yes, the ketuva is after all her money.

R' Yitzchak: But there's a difference.

R' Yoel Asher: If it's not enough must they still be obligated? If the ketuva isn't enough to cover burial?

R' Yitzchak: Yes. Perhaps in general heirs are obligated to bury a mother?

R' Yoel Asher: Perhaps he means yes to say, that they're obligated with burial as much money as they have in the ketuva. Not that they must give the cheapest burial.

R' Yitzchak: Don't know. What does lefi kevodah (according to her honor) mean this whole thing? One must buy the eulogizers? Yes. Don't know clearly. Ein lah ketuva ein lah kevura (she has no ketuva she has no burial). Interesting. That's what it says here. It's implied that as if if there's no ketuva, whatever, it becomes a meis mitzva, they must bury the mother like every Jew. But it seems that the ketuva gives something the burial.

No, but there's a chiddush, do you catch what it says here? That is, when she's still a widow, you say that this is included in the conditions of the ketuva that they must give her a burial. Now she's already not a widow, she already took the ketuva also, but her children since they inherited the ketuva, they inherit as if also the obligation to bury her.

Chiddush: A Case Where the Heirs Inherit the Ketuva Without an Oath

R' Yoel Asher: Right. But I'm not sure what you're saying, that you threw in a point that if she hasn't yet made any oath, the children can't inherit.

R' Yitzchak: In such a case where...

R' Yoel Asher: There's a case for example that she took metaltelin (movable property) during her lifetime or something of the things that they will yes inherit, it will actually also be that yorsheha (her heirs) will have to bury, it means.

R' Yitzchak: No, but they learned explicitly that if she died before the oath, the heirs can't after all make the oath, they don't know what she took, they're stuck.

R' Yoel Asher: She doesn't have a ketuva. Yes, but for example, we also had, if she took metaltelin during her lifetime before the ketuva, for example, say a case when the heirs do yes receive the ketuva, even she doesn't need a shevuas almana (widow's oath), the heirs inherit it...

R' Yitzchak: Can only therefore also have to pay the burial. I understand what you mean.

R' Yoel Asher: The simple meaning was actually dependent on the ketuva. How can it be? Because there's no claim to say that perhaps she was mochel (forgave). We had such things, no? We didn't have if she seized, or if she seized it's simple that she actually already collected here. Okay, let's go further.

The Objection of the Ra'avad

R' Yitzchak: The Ra'avad is something disagrees with this halacha I see, he's not happy, he says that it's a **"da'ata kelishta"** (weak opinion). That I already don't know myself.

R' Yoel Asher: I don't catch what he says. He says that when she doesn't swear, what's their claim? That perhaps you're already receiving your ketuva. Nu, why should they then be obligated in her burial? They already gave the ketuva.

R' Yitzchak: It's the opposite, it's after all even when lo nishbe'a (she didn't swear) he holds...

R' Yoel Asher: He that also her heirs, the same heirs, whatever her heirs have. It means he holds that kevura is very different from the other obligations.

R' Yitzchak: Right, completely different, has to do with who your heirs are. I mean perhaps that's just such a law, one must look in the laws of burial, because perhaps every time when a person dies, his heirs, perhaps... Don't know. But here there is yes an obligation on the husband, don't know clearly, don't understand completely the Ra'avad. But the Ra'avad disagrees in any case. Yes. Don't know.

Halacha 7: Ma'aseh Yedei Ha'almana (The Widow's Handiwork) to the Heirs

The Structure of the Chapter and the Foundation of "Zeh Keneged Zeh"

R' Yitzchak: Okay, we're now going to learn, these are the things that she receives, we're now going to learn what she must give, yes? Okay, can you divide it so? There's what are the rights of a widow, there are the obligations of a widow, what the heirs have from her.

R' Yoel Asher: Or you can say differently, that we learned earlier that there's "zeh keneged zeh" (this corresponding to that), so now the question is what she must give back to the heirs.

R' Yitzchak: That is, the same thing I mean. Ah, you mean to say that it's only the "zeh keneged zeh", it's not just. Wait let's see, okay, let's see.

R' Yoel Asher: Says the Rambam: **"Ma'aseh yedei ha'almana"** (the handiwork of the widow), this is, we learned that when a wife works and she profits money from her work, it goes to the husband who supports her. The husband carries the obligation of mezonos, so at least what she works should go to the husband. So now when the heirs have the yoke of supporting her, they receive the ma'aseh yadeha (her handiwork), the ma'aseh yadeha goes **"layorshin"** (to the heirs). And...

Teli Ma'aseh Yadayich Bimzonosayich (Exchange Your Handiwork for Your Sustenance) by a Widow

R' Yitzchak: It's the same halacha as with the husband, right? It means she can, always she can say,

R' Yoel Asher: And he can't say. Right, what we learned, what happens when a husband says to a wife, "take after all your own money and I'm exempt from mezonos"? That doesn't work, only if she agrees, only if she says that.

English Translation

It's the same thing with the heirs: **"And an heir who says to the widow, 'Take your handiwork in exchange for your sustenance (mezonos)'"**, take your own... instead of giving us the ma'aseh yadehah (handiwork), keep it for yourself and you'll support yourself from it – **"ein shomin lo"**, we don't listen to him, we don't listen to the heir. Right. **"But if she wants this"**, but if she says so, then **"shomin lah"**, she can indeed say, "I want to keep my ma'aseh yadehah."

R' Yitzchak: It's to her benefit.

R' Yoel Asher: It's to her benefit. It's the same halacha, right? Right. *That means because the obligation of mezonos is stronger and earlier in time than the matter of ma'aseh yadehah. Ma'aseh yadehah was only added by the Chachamim so that he shouldn't feel exploited, so that he should get something back, but his obligation of mezonos is greater. But when she agrees to this, she's simply waiving the obligation of mezonos, and she keeps her ma'aseh yadehah.* Okay.

Halacha 8 (Part A): The Melachos That a Widow Must Do for the Orphans

R' Yoel Asher: The Rambam, they learned earlier also, there is work that the wife must do for the husband.

R' Yitzchak: They haven't yet learned about this, right? Have they learned about this at all? Not yet, later. Chapter 21, yes. They haven't yet learned the... That is, until now we've only learned what the husband must give to the wife. What the wife must give to the husband, we haven't yet learned. And here comes in a certain

detail that we'll actually learn later. He says that in Chapter 21 the Rambam explains the obligations more. Chapter 21. Okay. In any case, there is such a thing that melachah a woman must do...

R' Yoel Asher: That we learned that there are melachos that the wife must do for her husband. And this is part of the... It's also attached to the kesubah that the husband must support her and everything, but she must do things for the husband.

The Rambam says: All these types of melachos that are listed there – removing the wash from the laundry, weaving, things that the wife must do – the halacha is that **"an almanah (widow) does for the orphans"**, the widow must also do for the orphans. *Because the reason is, it has nothing to do with the essence of being married, rather it has to do with the kesubah, it has to do with the mezonos.* So the widow must do the same things for the orphans.

"Except", there are three of these things that are matters that are more about some intimacy between the husband and wife, it's more a matter of closeness, which has no connection to the orphans. *It's not a monetary matter, it's more a matter of shalom bayis. The widow doesn't need to have good shalom bayis with the heirs.* Therefore **"mezigat hakos"** – pouring a cup, **"vehatzaat hamitah"** – preparing the bed, **"veharchatzat panav yadav veraglav"** – washing him, the law is not that the widow should have to do this for the heirs.

Discussion: The Nature of the Three Melachos – An Issur of Closeness or a Former Custom of Affection?

R' Yitzchak: *It could be that technically for the husband it is indeed part of her obligation, but in practice it's not permitted.*

R' Yoel Asher: *For the husband they combined two types of things, they combined the entirely financial things also the practical things that she helps physically.*

R' Yitzchak: It's a certain servitude, if she says "I don't want to" she must, whatever, I don't know. *But it could be, you see there's the same halacha by a niddah, yes? A niddah may not do, a niddah may not do these three things. Why? Even though theoretically she must, because she's not allowed to, because it's a matter of closeness. So it could be here also, I don't know, I'm just saying, let me throw this in the air, but she's not allowed to. I'm saying that there's something that she's not allowed to, one may not,*

R' Yoel Asher: One may not use a woman for these things. *I don't know about "one may not," because if for example the orphans could also be her children. What she may, she may wash her children's panav yadav veraglav, there's no matter of closeness here because she's not an eishes ish either, she's a penuyah (unmarried woman). But I wouldn't say that the issur here is because one may not, because I'll tell you something stronger: when they're her children, there's no matter of tznius. A mother may be mozeg kos or matziah mitah for the children.* I don't know what it means. I do know what it means: mezigat hakos means pouring a cup.

R' Yitzchak: It says in halacha several times that this is from the

R' Yoel Asher: harchakos that were forbidden by niddah.

R' Yitzchak: I don't agree. It means some certain,

R' Yoel Asher: Some certain style of things that we don't conduct ourselves today.

R' Yitzchak: Have you ever met someone who does harchatzat panav yadav veraglav?

R' Yoel Asher: Because today there are showers, but in former times when they brought home a large basin of water, and they washed people the way one washes dishes, yes.

R' Yitzchak: *I don't agree. Mezigat hakos certainly. It means some certain ceremony, some certain order that existed once.*

R' Yoel Asher: It means very simply.

R' Yitzchak: Yes, I don't agree with you. All these three things were some order. We don't live the lifestyle of the Chachamim, of the Chachmei HaTalmud,

R' Yoel Asher: Excuse me. The truth is that today one cannot say that a wife is obligated in mezigat hakos, because it's no longer a matter of custom.

R' Yitzchak: It doesn't mean what one pours for Kiddush wine. But it's still... I still have no idea what it means. That is, not hatzaat hamitah, not mezigat hakos, not harchatzat panav yadav veraglav. These three things, it was in a certain process, I mean a mother doesn't do this for her child, that's what I want to bring out. It's not something that there is

R' Yoel Asher: For a certain small child, but the mother makes a bed, yes. In former days the wife also did this for the husband.

R' Yitzchak: Makes a bed. No, it doesn't mean that, certainly it doesn't mean that. I wasn't there, I don't know what it means. Must look at a movie from then perhaps to know. I don't know yet what it means. *But I see from all the places that it's some matter of affection. It's not a service that one touches, it's not an issur of touching. It's some sort of affection that was practiced then, and it's something that one doesn't do for a strange man, perhaps even for her own children.* I don't know, something is.

Halacha 8 (Part B): The Widow's Findings and the Fruits of Her Property

R' Yoel Asher: So, the Rambam says further: What happens with... We learned, besides ma'aseh yadehah there's something else, there's her findings (metzi'asah), that if she was lucky and she received money, which also usually goes to the husband.

R' Yitzchak: Rather his findings.

R' Yoel Asher: And what did we learn, her metzi'ah is opposite her redemption (pidyonah)?

R' Yitzchak: That's what we learned, right. Since they're exempt from pidyon, they're exempt from this. Exactly. That's the halacha here. Look, we learned that heirs are not obligated to redeem her, therefore also her metzi'ah,

R' Yoel Asher: "Metzi'at ha'almanah", that she was lucky and she acquired money, or **"upeiros nechasim shehichnisah laba'al"**, she brought in nichsei melog, or nichsei tzon barzel, from which the husband can take fruits – these things, for the husband she's obligated, it goes to the husband. But heirs have no right to this, and this is **"le'atzmah ve'ein leyoresh bahen klum"**. You say very well, her metzi'ah, because they're not obligated with her pidyon, and the fruits, perhaps because...

Discussion: The Reason Why Fruits and Findings Belong to the Widow According to the Rambam and Ra'avad

R' Yitzchak: No, it's the opposite. That is, earlier in the chapter, where did we say the halacha stands

R' Yoel Asher: That what is opposite?

R' Yitzchak: Opposite. *If I catch now there's a bit of a dispute in this. That is, the Rambam said that pidyonah is opposite achilas peiros nechasehah. If so, this is the reason why the heirs who don't have pidyon don't have fruits. Metzi'asah the Rambam didn't say anything. So the Rambam has no explanation apparently why her metzi'ah is for herself.* The Ra'avad, I remember in a second it will

R' Yoel Asher: come the Ra'avad did say. Ma'aseh yadehah? Yes,

R' Yitzchak: No:

* Opposite achilas peiros nechasehah – against pidyonah,

* Ma'aseh yadehah – opposite mezonos,

* Her burial – opposite her inheritance.

That's the Rambam's thing. The Ra'avad we remember a minute ago said here, right, the Ra'avad here in this chapter said, how does the Ra'avad mean? The Ra'avad said that the surplus of mezonos is opposite her metzi'ah.

R' Yoel Asher: Therefore according to the Ra'avad the reason... She also has surplus mezonos.

R' Yitzchak: *But the Rambam disagrees with this. The Rambam says that he does receive,

surplus mezonos is indeed for the heirs, so it can't be that he holds this... Why? By metzi'asah le'atzmah the Rambam doesn't have a proper explanation.* Understand?

R' Yoel Asher: Ahh.

R' Yitzchak: So why is metzi'at ha'almanah for herself? I don't know. That's what it says in the Gemara, but the Rambam doesn't have some reason. Perhaps he holds it's also opposite pidyonah?

R' Yoel Asher: Don't know. Peiros nechasim... Does he say something? Peiros nechasim shehichnisah laba'al is opposite what? Is there something opposite this? Or it's opposite that he takes responsibility, but when...

R' Yitzchak: By the Rambam peiros nechasehah is opposite pidyonah,

R' Yoel Asher: That's stated in the Rambam. No, not surplus did you say?

R' Yitzchak: No, I said that's a dispute with the Rambam. The Rambam says explicitly in Chapter 12: peiros nechasehah opposite pidyonah.

R' Yoel Asher: Ah, okay. Therefore they fall...

R' Yitzchak: For the heirs it's clear that there's no pidyon, therefore there's no fruits. Regarding the metzi'ah the Rambam didn't say that it's opposite anything. The Ra'avad says that it's opposite surplus mezonos, about this according to the Ra'avad the widow indeed has surplus mezonos, because her metzi'ah is for herself, but the Rambam says that the surplus mezonos is for the heirs, therefore he doesn't hold this.

But they bring that the Rambam held that metzi'at ishah is a subject of hatred, that is that the husband will be upset if she finds something and takes it for herself. But by the heirs there isn't this subject of hatred. For the heirs there isn't the matter of hatred, okay. It has no opposite,

R' Yoel Asher: Unlike the Ra'avad that there's some opposite here.

Halacha 9: The Dowry Itself and the Law of "Hosiru" by Nichsei Tzon Barzel

R' Yitzchak: So, the Rambam says further, but he agrees that metzi'at ha'almanah is for herself,

R' Yoel Asher: The Rambam says the peiros nechasim is for herself. Now the Rambam will say, what happens with **"vehanechasim atzman she'hen neduniyasah"**? The property that she brought in when she got married?

The Rambam says: *This money never became the husband's, it was always hers. The husband only had some obligation to watch it if it's nichsei tzon barzel, or he only had a right to eat the fruits, but the property is hers.* So **"noteles osan belo shevu'ah"**, she can continue to take it to herself without an oath. One doesn't need to swear on this. There's no reason to think it's not hers that one should need to swear.

R' Yitzchak: It was always hers...

R' Yoel Asher: "Ve'ein leyorshim..." What? Entirely hers, right. **"Ve'ein leyorshim bahen din ba'olam"**, the heirs have no claim on it at all, **"ela im ken hosiru bechayei haba'al"**. What right do they have? That which grew during the husband's lifetime, it already made fruits, and the fruits always belong to the ba'al. **"Vehayu nichsei tzon barzel"**, the nichsei melog or nichsei tzon barzel goes to the husband, the surplus to the ba'al, they inherited the surplus. On this they do have a right, but not on the property itself.

R' Yitzchak: *Not fruits. "Hosiru" means here this: nichsei melog is hosiru lah, everything is hers. He only has fruits. Am I right? The fruits that were she also receives.*

R' Yoel Asher: Yes, yes.

R' Yitzchak: *"Hosiru" means it became more valuable. If it became more valuable, then by nichsei tzon barzel,*

R' Yoel Asher: The simple meaning is that she leaves with what she brought in,

R' Yitzchak: Right? And if there's more, it's his, then it's theirs.

R' Yoel Asher: In such a case, **"shehemosar laba'al"**, in such a case they have a

R' Yitzchak: right also to the surplus.

R' Yoel Asher: Right. The Rambam says: **"Ve'im mesah ha'almanah belo shevu'ah"**, if the widow died before she made a shevu'as hayorshin, a shevu'as almanah, then **"yorsheha yorshin neduniyasah"**, her heirs inherit the dowry, the nichsei tzon barzel, the nichsei melog.

R' Yitzchak: He says: **"Ve'af al pi shehi nichsei tzon barzel"**, which means the husband apparently has the surplus from it, right? If it became more, it belongs to him.

R' Yoel Asher: *He says here basically that when the orphans don't come with any clear claim of surplus, they don't know if there was surplus in such a thing, they take it.* **"Ve'im hayah bahen"**

Continuation About Collecting the Dowry (Nichsei Tzon Barzel)

R' Yoel Asher: The Rambam says:

R' Yitzchak: "Af al pi shehi nichsei tzon barzel" - which means, the husband apparently has the surplus from it.

R' Yoel Asher: He has a hand in it, and if it became more it belongs to him. He says here basically that when the orphans don't come with a clear claim of surplus, they don't know if there was surplus and such a thing, they take it. If they know clearly that there was surplus, then **"hamosar leyorshei haba'al"**.

R' Yitzchak: Yes, I don't understand the halacha clearly. The Rambam says here a chiddush.

R' Yoel Asher: Heirs can take it except if one knows and has established that there is surplus. It's not the simple meaning that this money, the property is in doubt because if there is surplus it belongs to the yorshei haba'al, rather she can take it, her heirs can take it, and if they come with a claim of surplus, they need to bring a claim that there was surplus and they need to return the surplus to the yorshei haba'al.

The Fundamental Distinction Between Kesubah and Neduniyah

R' Yitzchak: In short, the point here of the halacha is mainly that it goes back to the Rambam that he said two chapters ago, that neduniyah and kesubah are two different things.

All the halachos of kesubah, that is she must make an oath because perhaps she already took for herself, so I mean, is all only for the main kesubah or for the conditions of kesubah according to what we just learned, but the neduniyah is hers, not a subject at all. So, it's a different subject. If it's nichsei tzon barzel, she receives the surplus, she doesn't receive the surplus and so on, I don't know, but it's essentially her property. All the halachos that are special halachos of kesubah, whether the entire kesubah that the Rambam said, right? Whether now the oath etc., has nothing to do with it.

R' Yoel Asher: Her neduniyah has a different halacha, very good.

Halacha 10: A Widow Who Seizes Movable Property for Mezonos

R' Yoel Asher: So, the Rambam says such a halacha: **"Almanah shetafsah mitaltelin kedei shetizun mehen"**, we learned earlier that a widow usually takes from real estate, but she can also seize the movable property. She can go grab from the husband's property movable items,

R' Yitzchak: Not that she can, she has,

R' Yoel Asher: and feed herself with it. Yes, so if she seized movable property kedei shetizun mehen, there's no difference when the seizure was, **"bein shetafsah mechayim bein shetafsah achar moso"**, she seized when he was still alive or when he died. **"Afilu tafsah kikar zahav"**, even if she seized more than what's coming to her, a piece of gold, then **"ein motzi'in miyadah"**, one cannot take it back out of her hand.

That means, that she does have some right to seize. But what then? But it's not a free-for-all world, she must reckon with the heirs, and especially if she takes something that's worth more than her mezonos. **"Kosvin aleha beveis din mah shetafsah"**, they write down in beis din the value of how much she seized. **"Uposkin**

lah mezonos", they give a ruling that mezonos is coming to her, **"umechashvin imah"**,

R' Yitzchak: They reckon with her.

Discussion: The Distinction Between Seizure for Mezonos and Seizure for Kesubah

R' Yoel Asher: Hmm. What does it mean? "Mechashvin" means they calculate how much it comes to more or less. She didn't seize for her kesubah, but for the mezonos. If she had grabbed for the kesubah, she would be like when she takes the kesubah they become exempt. She seized for her mezonos. Yes. She seizes for the...

R' Yitzchak: Kesubah one takes it away, whatever. It's a different subject.

R' Yoel Asher: No, when she grabs for the kesubah,

R' Yitzchak: They would be exempt from mezonos (maintenance). No, no, no. She has no right to seize for the kesubah. For the kesubah she has to make a shevuah (oath). If she has to make a shevuah, yes, correct, she has no right, they'll take it back. But the mezonos, of course, the husband is obligated to give her mezonos.

R' Yoel Asher: Or the heirs are obligated. So ke'ilu (as if), one calculates how much mezonos, but one doesn't take it back, because she has a certain shi'abud (lien) on his property for mezonos. I don't know exactly.

What Remains Goes to the Heirs of the Husband

R' Yoel Asher: "U'foskin lah mezonos u'mechashvin imah" (They assess her mezonos and make an accounting with her), they make a calculation. **"Ve'hi nizones mimah she'biyadah ad she'tamus"** (And she is sustained from what is in her hand until she dies) - she will be able to be sustained, to eat from the thing that she seized until she dies, **"o ad shelo yihyu lah mezonos"** (or until she has no more mezonos), as long as she has mezonos.

R' Yitzchak: Mmm-hmm. Meaning, "lo yihyu lah" means that she will claim the kesubah, or according to the halachah.

R' Yoel Asher: No, again, when the metaltelin (movable property) runs out, will she be able to request new ones, no? With that it ends. Yes, yes. No,

R' Yitzchak: He's only saying if there's more. Usually one seizes more. If there's more when she... what kind of chiddush (novelty) is that?

R' Yoel Asher: Usually people seize more than they need, not less than they need.

R' Yitzchak: Yes.

R' Yoel Asher: One doesn't know how long one will live. Okay, then when she has already died and there's still left from the metaltelin that she seized, it doesn't go to her heirs. Or there's no longer any obligation of mezonos, it doesn't go to her heirs, it goes to their heirs, to the heirs of the husband, because it's essentially theirs. She only seized from there a separate apotiki (security), and from there she sustained herself. **"Ve'yikchu ha'yorshin es ha'she'ar"** (And the heirs take the remainder). Very good.

Discussion: The General Principle of Tefisah in Choshen Mishpat

R' Yoel Asher: The Rambam says further: **"Ve'chen..."** (And likewise...) What is this?

R' Yitzchak: Is this a general law that anyone who has an obligation of money may seize? Or he wasn't allowed to, but one doesn't take it away from him if he seized. It's that sort of thing. Aha, from this particular laws, how exactly she seizes, it says in the Gemara a ma'aseh (incident).

R' Yoel Asher: Here one takes her side strongly, yes. They can claim: why did you now take ten thousand dollars, how much you'll need for the next ten years of mezonos? No, I'll give you every month.

R' Yitzchak: Right.

R' Yoel Asher: But this is like a...

R' Yitzchak: A law from the laws of tefisah (seizure). I think that generally the Chachamim, as is known in Choshen Mishpat, one takes away

things from muchzakim (those in possession) very rarely if they have some claim. She has some claim, she's right. Lechatchilah (initially) she's not allowed to, you might say, but there's no power to remove it. Ve'chen (and likewise)?

Halachah 11: Seizing Metaltelin for the Kesubah (During Life vs. After Death)

R' Yoel Asher: "Ve'chen, im tafsah metaltelin bi'chsubasah" (And likewise, if she seized metaltelin for her kesubah), not for the mezonos, right, but for her kesubah, for her two hundred that she's worth, she seized metaltelin worth **"mei'chayei ba'alah u'mes"** (during her husband's lifetime and he died), the husband died, **"govah mehen"** (she collects from them), she may take the kesubah from the metaltelin that she seized.

R' Yitzchak: What's the meaning of this? Metaltelin we said before that kesubah one cannot. So this means ke'ilu the Rambam's halachah is thus: Regarding seizing for the mezonos, there's no difference when she seized, she collects from it. But regarding kesubah, it depends when she seized. If she seized afterward, as the Rambam says:

R' Yoel Asher: "Aval im tafsah achar moso li'chsubasah" (But if she seized after his death for her kesubah), she seized metaltelin after the heirs already inherited it, she doesn't have the right to seize from the heirs, **"einah govah mehen"** (she doesn't collect from them).

So it appears that the law of kesubah that the heirs must give her and the law of kesubah that the husband must give is not the same thing. Meaning, from the husband she can still take metaltelin, at least she can seize and afterward collect from it, but from the heirs not.

Discussion: Why Is There a Difference Between During Life and After Death for Kesubah?

R' Yitzchak: He doesn't explain why.

R' Yoel Asher: Ke'ilu because we take the side of the heirs?

R' Yitzchak: Perhaps she has a certain right to seize things during life, but not after death for the kesubah?

R' Yoel Asher: Right, why? That's the question. I don't know.

R' Yitzchak: I don't know. If there's a difference? He brings from the Tosafos such a Torah, an interesting Torah: that kesubah the woman can collect even from lekuchos (purchasers), even if the heirs sell the land that is meshu'abad (liened) for her kesubah, she can later collect. So she always has a right, so the Chachamim didn't need to worry so much about the kesubah after the husband's death, because she always gets the kesubah. Mah she'ein kein (not so) mezonos, if they sell all the land - we learned about an almanah (widow) that they cannot sell - but she'll be left with nothing, because it's not such a strong shi'abud. So they ke'ilu understood the woman who seizes.

R' Yoel Asher: Something like that. No, we're talking here about what she seized for the kesubah, the difference between during her husband's life...

R' Yitzchak: Or not during her husband's life. Right, why during her husband's life may she? No, because on the contrary, tefisah doesn't work essentially, one cannot seize for the kesubah. Even for the mezonos one wasn't allowed to seize. For the mezonos the Chachamim were lenient that the tefisah should work because of the concern that there's a way that she'll be left with nothing. Ke'ilu that's the reasoning. It doesn't help why it's correct?

R' Yoel Asher: I hear what you're saying about mezonos, but I don't hear what you're saying regarding kesubah.

R' Yitzchak: Again, regarding kesubah what is it?

R' Yoel Asher: During her husband's life she can collect, and after her husband's life, if she seized after his death...

R' Yitzchak: Then she doesn't collect from them. Why during her husband's life does the seizing help better? I don't know. In general,

what's the difference between the husband's life and after the husband's life that the seizing helps better?

R' Yoel Asher: It could be that from the husband she's not obligated with a shevuah. There's the "ein adam mei'iz panav" (a person is not brazen in his presence). But mah she'ein kein after the husband's life she can't take without a shevuah, so the tefisah is not a good tefisah.

R' Yitzchak: I hear, I'm not clear. I see there's a dispute about this, and not everyone agrees with the Rambam's halachah on this. So I don't know.

R' Yoel Asher: But do you understand what I'm saying? What I'm saying is not a bad reason: that during his life she can take, if he's going to give her a get, she can take without a shevuah with...

R' Yitzchak: Ein adam mei'iz panav.

R' Yoel Asher: So she has a right to seize. But mah she'ein kein from the orphans, she can only take by going to beis din with a shevuah. There's no part in any seizing. A man who perhaps will give a get, in a case where he's going to end the marriage through a get, she seized correctly, because she can immediately take the money without a shevuah.

R' Yitzchak: He says that for all these loans there's the same halachah in Hilchos Malveh Ve'loveh, that if one seizes metaltelin during the borrower's life,

R' Yoel Asher: I mean, it remains. But what have you done specifically to the lender himself? The heirs take over the obligation of the loan.

R' Yitzchak: Right, but it appears as you say, perhaps as you say, because from the heirs it's always harder to seize, because heirs already need... I don't know, I don't know.

Halachah 12-13: Collection of Mezonos from Metaltelin and Land After the Takanas HaGeonim

R' Yoel Asher: Now, the Rambam says thus: We learned in the previous chapter, that the Rambam told us that there's a great chiddush that the Geonim made, that one can also take kesubah from metaltelin and not only from land. Right. The Rambam wasn't so... he brought it down, but he said otherwise one should write it into the kesubah. Right, it's not so simple.

The Rambam says thus: **"Af al pi she'tiknu ha'Geonim"** (Even though the Geonim enacted), the Geonim enacted **"she'tigbeh ha'kesubah"** (that the kesubah should be collected), she can indeed collect both the kesubah, the two hundred, and also the **"u'sna'ei ha'kesubah"** (and the conditions of the kesubah), all other obligations, she can claim **"min ha'metaltelin"** (from the metaltelin). **"U'lefikhakh"** (And therefore) they also decreed, **"tizun ha'almanah min ha'metaltelin af al pi shelo tafsah"** (the widow is sustained from the metaltelin even though she didn't seize). That if the husband only has metaltelin, even if she didn't seize, she can demand that they sustain her from the metaltelin. Right, because the Geonim also made the metaltelin meshu'abad for her kesubah.

What happens? **"Im hiniyach ba'alah metaltelin velo tafsah oson"** (If her husband left metaltelin and she didn't seize them), this means when he's alive, she can demand... He can't say I don't have. Okay, when he doesn't have, I don't have, he'll have to give a get, they'll force him to divorce. One needs to know exactly what he's talking about. So what does it mean?

R' Yitzchak: Just look in here.

R' Yoel Asher: Even when he's alive, she could have taken metaltelin. She could have demanded the inheritance from the metaltelin. But when he dies...

R' Yitzchak: The mezonos is what's meant.

R' Yoel Asher: Mezonos from metaltelin, yes. **"Im hiniyach ba'alah metaltelin velo tafsah oson"** (If her husband left metaltelin and she didn't seize them), if she didn't seize.

R' Yitzchak: We just said that tefisah works, even for the Geonim tefisah works,

R' Yoel Asher: Right? Yes. So in such a case, but here there's no tefisah. **"Ha'yorshin notlin**

oson" (The heirs take them), the heirs can take the metaltelin,

R' Yitzchak: That she seized.

R' Yoel Asher: She didn't seize! Ah, if she didn't seize. Ah, that **"ha'yorshin notlin oson"** (the heirs take them), the heirs take the metaltelin, **"ve'hem ma'alin lah mezonos"** (and they provide her with mezonos), they must give her mezonos from another place. **"Ve'einah yecholah le'akev aleihen"** (And she cannot hold them back), she cannot hold back **"ve'lomar"** (and say) **"yihyu..."** (they should be...)

The Law of Metaltelin That the Widow Didn't Seize

R' Yoel Asher: The mezonos from metaltelin. Yes, **"im hiniyach ba'alah metaltelin velo tafsah oson"** (if her husband left metaltelin and she didn't seize them).

R' Yitzchak: We just said that tefisah works. Even for the Geonim tefisah works, right?

R' Yoel Asher: Yes. So in such a case, but here there's no tefisah. **"Ha'yorshin notlin oson"** (The heirs take them). The heirs can take the metaltelin that she didn't seize. So **"ha'yorshin notlin oson"** (the heirs take them), the heirs take the metaltelin, **"ve'hem ma'alin lah mezonos"** (and they provide her with mezonos), they must give her mezonos from another place. **"Ve'einah yecholah le'akev aleihen"** (And she cannot hold them back), she cannot hold back, **"ve'lomar"** (and say), **"yihyu ha'metaltelin munachin be'veis din ad she'ezon mehen"** (the metaltelin should lie in beis din as collateral until I have enough sustenance).

R' Yitzchak: That one should take the...

R' Yoel Asher: Why? What's her claim? **"Shema yovedu"** (Perhaps they will be lost), perhaps the metaltelin will be lost, they'll sell the metaltelin. **"Velo yihyu li mezonos"** (And I won't have mezonos), they'll claim, they don't have money.

R' Yitzchak: She cannot. That means, with land there are indeed situations where she can. That means,

R' Yoel Asher: He can't perhaps sell or there's because of...

R' Yitzchak: Yes, she can prevent from selling, we'll see later. And the Rambam will say the next halachah. Yes, right.

R' Yoel Asher: But mah she'ein kein (not so),

R' Yitzchak: *It's a chiddush, the halachah is backwards. With land she can say: "Don't sell, because I have a right to the mezonos. Don't sell the husband's land, as long as, to make sure that I have mezonos." But you would have thought that now that the Geonim made an enactment that metaltelin is also meshu'abad to the kesubah, she can hold back from metaltelin? No.*

The Question on Explicit Condition and the Nature of Takanas HaGeonim

R' Yoel Asher: She cannot. Yes? The Rambam says: **"Va'afilu hisnah alav be'feirush she'tizun min ha'metaltelin"** (And even if it was explicitly stipulated that she be sustained from the metaltelin), even if a clear condition was made that she'll be able to take from the metaltelin, as the Rambam said one should do, you should write it into the kesubah. **"Einah me'akeves"** (She doesn't hold back), she cannot hold back the metaltelin. *Here I want to understand why, if one stipulated, one should indeed be able to. I don't know.* Okay, the Rambam says: **"U've'zeh danin tamid be'chol batei dinin"** (And with this all batei din always judge), so all batei din rule that she cannot seize metaltelin after death.

R' Yitzchak: *Perhaps this is simply a continuation of the Rambam's position that the takanas HaGeonim doesn't work that way.*

R' Yoel Asher: No, but he says however: **"U've'zeh danin tamid be'chol batei dinin"** (And with this all batei din always judge), one sees that there he fought with the batei din,

R' Yitzchak: He said: **"Minhag be'chol Yisrael"** (The custom in all Israel).

R' Yoel Asher: No, here it appears that even those who follow like the Geonim knew the

halachah. Right.

R' Yitzchak: It appears that the Geonim didn't want so much that

R' Yoel Asher: One shouldn't be able to sell metaltelin.

R' Yitzchak: Aha, why? I don't know, it's essentially theirs.

R' Yoel Asher: *Right, it could be, the Geonim made an obligation on the husband, but they didn't take away from the right of inheritance of the heirs.*

R' Yitzchak: A bit yes, you know, because she can collect from metaltelin that he left, but not so far that they shouldn't be able to sell, because perhaps she needs to have it for mezonos.

R' Yoel Asher: Ah, it says, they left it when she wants to collect kesubah, but not when she wants to collect mezonos.

R' Yitzchak: Collect she can. No, she can collect mezonos also from metaltelin. What she just cannot is only the next step. Seize she can also, during her husband's life. Yes, afterward she cannot. But here we're not talking about seizing, one cannot go to beis din and make an ikul (restraining order): Don't sell the metaltelin because I need sustenance. That she cannot.

The Law of Land: She Can Hold Back But Cannot Remove from Purchasers

R' Yoel Asher: This is all with metaltelin. **"Aval im hiniyach karka"** (But if he left land), which is the usual way that Chazal enacted from where one should collect kesubah, he left land, then **"yecholah hi le'akev aleihen shelo yimkeru"** (she can hold them back that they not sell), she can indeed hold back the heirs that they may not sell the land, because the land is meshu'abad for her debt.

R' Yitzchak: For her mezonos, for her mezonos.

R' Yoel Asher: Yes. **"Ve'im machru"** (And if they sold), if they indeed sold land, then **"einah motzi'ah miyad ha'lekuchos"** (she doesn't remove it from the purchasers), she cannot take it out from purchasers, unlike for kesubah she can indeed remove it from purchasers. But for her mezonos from a woman, **"she'ein ha'ishah veha'banos nizunos ela mi'nechasim benei chorin"** (for the woman and the daughters are only sustained from free property), there's a halachah that the fact that the wife and the daughters are sustained from his property is different from kesubah which one can also take from property that's been sold, but the wife and the daughters can only be sustained from free property.

R' Yitzchak: Yes.

R' Yoel Asher: The Rav says further, **"Hiniyach nashim rabos"** (He left many wives).

R' Yitzchak: He explains that it says in Hilchos Malveh Ve'loveh that the reason is that it must stand for a fixed amount. That means, when shi'abud on property

R' Yoel Asher: Works with the fact that everyone knows he has two hundred,

R' Yitzchak: But he doesn't know how much money it will cost her to eat. Mezonos extends over 50-60... Yes. Okay.

Halachah 14: There Is No Priority in Mezonos

R' Yitzchak: What does one do if a Jew had many wives, and all of them want mezonos?

R' Yoel Asher: "Hiniyach nashim rabos" (He left many wives), he left several wives, so now the question is: We learned earlier, what happens if a person had several wives, and he must pay each one the maneh or the two hundred? We learned laws of how one does it, that there's a law of priority in this. The woman with whom he had the first wedding, was the first to place a lien on his property, the first to make the property meshu'abad. But that's only regarding kesubah. What happens regarding mezonos?

The Rambam says thus: **"Hiniyach nashim rabos, af al pi she'nesa'an zo achar zo"** (He left many wives, even though he married them one after the other), he married one after the other, one doesn't say that the first gets the first right to mezonos and the others later. One

doesn't say so, rather **"nizunos be'shaveh"** (they are sustained equally). All have a law of mezonos, one must give them all. **"She'ein din kedimah bi'mezonos"** (For there is no law of priority in mezonos), there's no law of priority there. Meaning, if the heirs have very little money, they'll give each one a little. They don't need to give one more,

R' Yitzchak: One less.

Discussion on the Reasoning of "No Priority" and the Hasagas HaRa'avad

R' Yoel Asher: Yes, equally, as we learned before. *Here the law, I think that the phrase "she'ein din kedimah bi'mezonos" also depends on the fact that only the free property is meshu'abad. When the shi'abud goes on all property and one may not sell, it's simple: on which property was the shi'abud first? The shi'abud was first on the first wife when he bought it. But when the obligation is only on the husband, the husband has a mitzvah, an obligation that he must,*

R' Yitzchak: And the obligation doesn't go on that

R' Yoel Asher: He doesn't make his property meshu'abad. He does make his free property meshu'abad. That means, he makes his free property meshu'abad as if he has a mitzvah, that as long as he has the money he must do it.

R' Yitzchak: I don't know who introduced that there's such a concept of mitzvah.

English Translation

R' Yoel Asher: I don't know where you got this at all, that there's no such thing as a mitzvah. The money is not at all encumbered that he's not allowed to sell, he may indeed sell. It's only from free assets, meaning he may sell everything.

R' Yitzchak: He may sell? **"She can prevent them"**, it's not true he may not, **"she can prevent them from being sold"**.

R' Yoel Asher: Land. Now when it's land, because the obligation goes on the land, it's not just movable property. Ah, also regarding sustenance, if there's land also regarding sustenance, so here there's an interesting story.

R' Yitzchak: *The Raavad had a text like you're saying, that here it says **"that there's no law of precedence with movable property"**. And the Raavad made a critique on this, and he said: no, even with land. And the Raavad explains the reasoning, why? Because the obligation of sustenance wasn't created when he got married on those assets, no,*

R' Yoel Asher: It doesn't go on the sustenance.

R' Yitzchak: *He says only that the obligation after death was created when he died, not when he got married, or when he bought the land. Therefore everything was created at the same time, because he had three wives but he died all at once.*

R' Yoel Asher: *What does the obligation of sustenance mean? The obligation of sustenance is when the husband was alive, the heirs take over further.*

R' Yitzchak: No, this is a new obligation, this is a new obligation. What does it mean, it's not a continuation.

R' Yoel Asher: One can call it it's still a condition, a condition of the court.

Investigation: Is There a Law of Precedence in Sustenance During the Husband's Life?

R' Yitzchak: I agree one can think differently, but the Raavad thought that it's the same thing, therefore there's no law of precedence regarding this, because it's a new obligation, because they all became now, **"even though he married them one after another"**.

Fine, let me ask a question: when they're alive, yes, yes? Forget about the dead person. Imagine just a woman comes to collect her sustenance, she goes down to his property we learned, yes? And there are three women, then is there indeed a law of precedence? Do you understand what I'm asking?

R' Yoel Asher: No, he must give to each one as much as he can. Again, if he doesn't have enough money he must divorce them. There's no law that only the first wife

R' Yitzchak: Must he give. He's not there, he's not there, he's not there, remember?

R' Yoel Asher: One goes down to his property. It seems there's no law of precedence with sustenance.

R' Yitzchak: *Why not? Perhaps according to the Raavad there should be? According to the Raavad's reasoning that this is a law*

R' Yoel Asher: No law

R' Yitzchak: *of precedence in sustenance after death, because it was a new obligation. But the earlier obligation perhaps yes. But you'll say no, that sustenance is an*

R' Yoel Asher: *obligation that happens a whole week of sustenance. Every time when he got married with her he must give her sustenance every day. So one can learn it that way.*

R' Yitzchak: One can, but the Raavad doesn't say that. The Raavad says that this is after his death it already arrived. I don't know, perhaps one can indeed learn the Raavad that way. But it's interesting that it's not stated. You're actually right, because normally if he should give a divorce he has no sustenance at all. But, yes, now now. The Raavad does make it like a rule: there's no law of precedence in sustenance.

Debate About the Definition of "She Can Prevent" and Selling the Land

R' Yoel Asher: *I still want to understand: **"she can prevent"**, but the assets are not encumbered, meaning **"she doesn't take from the buyers"**. Then what does **"she can prevent"** mean at all? She can cry, she can scream, but she has no monetary obligation to prevent.*

R' Yitzchak: Certainly there's a monetary obligation!

R' Yoel Asher: If yes, it should have been that she takes from the buyers.

R' Yitzchak: *No. Not so. There's a level of obligation, there's a level of encumbrance which is when it belongs to you. There's another whole level when it's already sold.*

R' Yoel Asher: What does that have to do with it? Again, when the husband is alive, and the wife thinks that if he's going to sell the land he won't... what happens when the husband is alive? Can she prevent him from selling because she needs to have sustenance?

R' Yitzchak: What's the connection?

R' Yoel Asher: You must give me sustenance, I have the right to sell. What's different?

R' Yitzchak: What do you mean? Because when a husband is alive she has sustenance from him.

R' Yoel Asher: Right. And when the heirs take over she has from them.

R' Yitzchak: *No, not from them. She doesn't have from them. From the inheritance. Very good: don't bother my inheritance,*

R' Yoel Asher: I won't have any sustenance. But if they sell the land they still have the obligation of sustenance. No? They don't have?

R' Yitzchak: No, it falls away.

R' Yoel Asher: *They have an obligation of sustenance from the side of the inheritance. That they exchanged land for money, it's still inheritance. There's no difference what the inheritance is, whether the inheritance is cash, or land. That one can't. From this I ask: why would you say such a reasoning? What's the meaning of this? Why do you say this, that if they sell all their lands they become exempt from her, why? Yes?*

R' Yitzchak: *Because it's not an obligation from them. It's their personal money now.*

R' Yoel Asher: It's not some money, it's inheritance money that they exchanged. And if they exchanged from a hundred to fifty do they also become exempt? What something?

R' Yitzchak: *What do you mean? She's only obligated from the land. Fundamentally, one is not at all obligated from movable property, what are you saying, only through the Geonim. We're speaking before the enactment of the Geonim and after the enactment of the Geonim. Fundamentally, movable property is not encumbered. If they have money they don't need to give the widow any sustenance, only from

land. We're speaking now fundamentally, only land is encumbered.*

R' Yoel Asher: The Rambam didn't say so, the Rambam said:

R' Yitzchak: Sustenance from the heirs' property. Certainly! No, no, no, certainly, one only collects... certainly, all encumbrances are only with land.

R' Yoel Asher: Certainly. That's when she collects the ketubah, but the daily food is also only dependent on the land? The Rambam, we haven't seen this yet.

R' Yitzchak: No, the sustenance certainly, certainly. Certainly they've now seen, a whole time they learn this way, all obligations are only with land fundamentally. Only the Geonim allowed...

R' Yoel Asher: But you see the next piece that the Rambam says, yes? **"If he left land"** she can prevent, but she can't take from the buyers.

R' Yitzchak: Because that's a different problem.

R' Yoel Asher: But he'll then lose... the Rambam says, if they sold the land he has no more

R' Yitzchak: obligation to give sustenance? *Certainly not, certainly not, certainly not! That's the whole reason why she can prevent.*

R' Yoel Asher: Because movable property she doesn't collect.

R' Yitzchak: She doesn't collect from movable property.

R' Yoel Asher: So? It seems that she will indeed continue to receive still. What? She can indeed continue to collect sustenance even after they sold land.

R' Yitzchak: No, if there's no land, not there, what can one do

R' Yoel Asher: If there isn't. But you have inheritance money,

R' Yitzchak: Give me that inheritance money.

Collection of Widow's Sustenance from Land and Movable Property (Continuation of Law 14)

R' Yoel Asher: If he left land, she can prevent, but she can't take from the buyers. Because that's a different problem. But the Rambam says that if one...

R' Yitzchak: Sold the land, one no longer has any obligation to give sustenance.

R' Yoel Asher: Certainly not! Certainly not! That's the whole reason why she can prevent. Because she doesn't collect from movable property. What? She can indeed continue to collect sustenance, even after they sold land? No. If there's no land, not there.

What do you mean not there? They have inheritance money!

R' Yitzchak: "Give me from the inheritance!" One doesn't collect from money! She can seize the money if she wants.

R' Yoel Asher: She can seize it, but she can't take it. But with the enactment of the Geonim, yes, the condition of ketubah from movable property.

R' Yitzchak: Yes, after the enactment of the Geonim she can indeed demand, but before that not. But she can seize; before the enactments she could also seize, but take she cannot.

Because it's not a problem, there are encumbrances, not every encumbrance in the world goes to seize from the buyers. We learned, there's a reason, one must consider the buyers also, right? Not every type of debt can...

R' Yoel Asher: One seizes from buyers.

Law 15: Sustenance of a Woman Awaiting Levirate Marriage

The First Three Months and When She's Pregnant

R' Yoel Asher: Already. Section 15 we'll learn this way. The Rambam says such a law: a widow whose husband died without children, and now she's required for levirate marriage, a woman awaiting her brother-in-law. **A widow who fell before a brother-in-law**, she waits for a brother-in-law to come perform levirate marriage or perform chalitzah. So it is: **In the**

first three months, the first three months — we learned that the brother-in-law cannot marry her before three months. Yes, it must be known whether she was pregnant from the previous husband. **In the first three months, she is sustained from the husband's property**, she's still sustained from the...

R' Yitzchak: Assets of the husband.

R' Yoel Asher: The first three months she's sustained from the assets of the husband. That means, the husband's heirs must give her from those assets.

And now one must see this way: **If the fetus became recognizable**, if in the three months it turns out that she's pregnant and she's going...

R' Yitzchak: Not to have levirate marriage.

R' Yoel Asher: Meaning, if she's going to give birth to a viable child she won't need levirate marriage. Or, says the Rambam, not specifically in this case, also when we know that she's pregnant: **And similarly if he left her pregnant she is sustained continuously until she gives birth**, until she gives birth to the child, she must continue to take from the husband's assets.

She gave birth to a viable son, if she gives birth to a child, a living child, it turns out that she's not required for levirate marriage, she's a regular widow, a proper widow, she has a law of sustenance like all widows: **she is sustained continuously all the days of her widowhood like other women**, that as long as she's a widow in the husband's house, she can sit there and eat from his property.

When She's Not Pregnant: The Definition of Connection and the Brother-in-Law's Claim

R' Yoel Asher: She was not found pregnant after the three months or she miscarried, she gave birth to a stillborn, and then she indeed becomes obligated to receive levirate marriage, **she is not sustained neither from the husband's property nor from the brother-in-law's**. Then she doesn't receive the sustenance neither from the husband, also not from the brother-in-law. Because even though the brother-in-law already has to her some obligation, he already has to her some connection, it doesn't mean as if he already married her. It means at most like an engagement was made; an engagement was made one is also not yet obligated in sustenance.

But she claims from her brother-in-law, she can claim from the brother-in-law not to wait long, but **to marry**, to acquire her, to make marriage, and then he'll become obligated to support her, **or to perform chalitzah**, or give chalitzah so she'll become permitted to the market.

R' Yitzchak: That means like the twelve months of the maiden, right? Now the time has arrived... let's go learn the next law. The claim, it means like a claim, they can call him to court: "Decide what you're doing".

R' Yoel Asher: Yes, yes. What happens, **the brother-in-law claimed**, she claimed from her brother-in-law **to marry or perform chalitzah and he stood in judgment**, and they brought him to court, they said: "Jewish man, one must acquire because one must support the woman awaiting levirate marriage", and after that he ran away — **and fled** —

R' Yitzchak: He couldn't...

R' Yoel Asher: Take the yoke, or the spit on the shoes. **Or he became ill**, not in his presence, he became sick, **or the brother-in-law was overseas**, or in general when he wasn't there the whole time, the brother-in-law is overseas and one is looking for how he comes here.

R' Yitzchak: But she did indeed...

R' Yoel Asher: Call him to Torah judgment somehow? She claimed, yes, she went to a court and claimed. So in such a case it means like always when one already claimed from the husband and he drags around, then **she is sustained from the brother-in-law's property without any oath at all**. In such a case she's sustained from the brother-in-law, and she doesn't even need an oath.

Discussion: Why Doesn't She Need to Swear by the Brother-in-Law?

R' Yitzchak: What's relevant about an oath? Because he explains...

R' Yoel Asher: Normally one would need to have an oath that the brother-in-law didn't leave sustenance, and in this case not. Why?

R' Yitzchak: A husband, a widow, there are two types of oaths here, right? A widow must swear that she didn't take anything from the husband. In general when she claims sustenance, a woman, she must swear that the husband didn't leave her any sustenance. But a brother-in-law doesn't leave! He's not her partner at all, he's just a brother-in-law. So therefore there's no side that just he left her or just she seized. Therefore there's no oath.

She Fell Before a Minor Brother-in-Law

R' Yoel Asher: Good. **She fell before a minor brother-in-law**. What happens if the brother-in-law who will eventually perform levirate marriage with her is still a minor, and she must now wait until he grows up? So the law is that she must wait until he grows up and take from him levirate marriage or chalitzah. But one might have thought that automatically she should also eat from his sustenance: **she has no sustenance until he grows up**, she doesn't get sustenance until...

R' Yitzchak: He grows up and becomes like other brothers-in-law.

Discussion: Why Doesn't She Get Any Sustenance from the Heirs While She Waits for the Minor?

R' Yoel Asher: It's troubles. **And becomes like other brothers-in-law**. But wait a minute, why shouldn't she receive from the heirs? What's relevant not until he grows up?

R' Yitzchak: Because she's already a woman awaiting levirate marriage.

R' Yoel Asher: Mm.

R' Yitzchak: Like in a collection of circumstances you have a situation, every time that she's already out as a widow. She's not a widow.

R' Yoel Asher: And becomes like other brothers-in-law. It's interesting, because one can say that conversely, that by a woman awaiting levirate marriage she always remains as if during the husband's life you would think, **he will establish in his brother's name**. She still remains in his domain, even regarding inheritance the brother-in-law who marries her inherits.

R' Yitzchak: Yes, the brother-in-law takes it over, that's the problem. The brother-in-law takes it over. The problem is that the brother-in-law is not capable. When he's capable and I can take the moment that he must...

R' Yoel Asher: He must.

R' Yitzchak: But here he doesn't have to, because he's a minor. So it's just troubles, the woman is just in troubles, well.

R' Yoel Asher: The kind of thing he wants to say here is that being a woman awaiting levirate marriage doesn't mean like a betrothed woman. She already has to him a connection, but it doesn't yet mean like... it means at most like engaged, or someone that one talks about having a marriage, yes.

R' Yitzchak: Regarding this it's nothing. It's something yes if she will claim. Right.

R' Yoel Asher: Alright. The Rambam says further...

R' Yitzchak: It's very sad, one should make sure not to be in that situation. Okay.

Law 16: He Designated Land for His Wife at the Time of Death for Her Sustenance

"For Sustenance" — Increase of Sustenance

R' Yoel Asher: The Rambam says further: **One who designated land for his wife at the time of death for her sustenance**. In a case when the husband was dying he designated land from which she should take the sustenance, **and said let such-and-such place be for sustenance**, from that place she should take

sustenance. So how does one learn the words? One can learn that only from that such-and-such place she should take sustenance, and if something happened to that place, it was burned, he's exempt. One says no: **he increased sustenance for her**, that the husband with this did a good thing. It's a gesture of more, he increased sustenance for her.

Therefore it comes out: **And if its rent was less than the sustenance appropriate for her**, the such-and-such place brings more rent — let's say a house that brings rent, the rent from that place is more than how much sustenance appropriate for her... excuse me. **And if its rent was less than the sustenance appropriate for her**, the such-and-such place that the husband designated doesn't cover the whole sustenance, one doesn't say that the husband with this limited and said only that such-and-such place should be for sustenance, it doesn't work that way. Actually, he can't say it, that means, there's no difference what he meant to say. And just say around...

R' Yitzchak: She can agree in the next half.

R' Yoel Asher: If she waived. No, I say, if something is with the law of waiver. A husband can never say "I'll only give such-and-such place", one must give her full sustenance, however much there is. It can be.

But **if its rent was less than the sustenance appropriate for her she takes the remainder from the other assets**, she can take the rest, because the such-and-such place is not a limitation.

R' Yitzchak: On the contrary, it's a surplus.

R' Yoel Asher: But **"if his reward was more than what was appropriate for her"**, if that particular place brings in more money than how much she needs for sustenance, then **"she takes everything"**, because the husband increased her sustenance.

R' Yitzchak: "He increased for her", she gets double, she gets more.

Discussion: The Nature of "He Increased Her Sustenance" — Gift of a Shechiv Mera or Increased Sustenance?

R' Yoel Asher: That is, and **"he increased for her"**, it also seemingly means that he gave her a gift, it's not an inheritance, the heirs don't get it, because she received it as a gift during his lifetime.

R' Yitzchak: I don't know what it is exactly. It's an increase in sustenance.

R' Yoel Asher: Ah, presumably that's also why the language **"at the time of death"**. I mean at the time of death, when a person says at the time of death it means a gift, even if he didn't make a formal acquisition.

R' Yitzchak: We hold. Yes, but I don't know if it's a gift. It says here **"he increased her sustenance"**, I don't know anything else.

R' Yoel Asher: "He increased her sustenance", but if the heirs come and inherit it, it will be more than just a mitzvah to fulfill the words of the deceased, it must be that she acquired it.

R' Yitzchak: Yes, I agree, but I don't know.

"For Sustenance and She Was Silent" — Fixed Amount and Waiver

R' Yoel Asher: This is when he said **"let such-and-such place be for sustenance"**, the simple meaning is that he made an increase. But there's also a case when it means we view it as a decrease: **"But if he said to her"**, if he said, **"let such-and-such place be for sustenance"**, not "for sustenance" — the "for" is the thing, it should be for sustenance — **"and she was silent"**, and she was silent, the simple meaning is that in this language we learn that it means only from there should she take sustenance. Then **"she has only the fruits of that place alone"**, in such a case she only gets the fruits from the place that he designated, **"for he fixed her sustenance"**, he fixed that only...

R' Yitzchak: From there she should be able to take sustenance. And she agreed. The silence is...

R' Yoel Asher: She agreed, she waived. That means she waived forever now, for the future...

R' Yitzchak: Her obligation for sustenance. Right? That means, she said that she takes this field instead of it. That's the meaning of **"for sustenance"**, you see, it becomes entirely hers. Like "take your ketubah in...". But there's a novelty: she gets the field, right? It's not just that she takes sustenance from it, it becomes hers. So, now she has a business, whatever, let her figure out the business.

Law 17: The Oath of a Widow Who Comes to Claim Sustenance

R' Yoel Asher: The Rambam says: **"A widow who comes to court to claim sustenance"**, a widow comes to court, and claims that they must give her the right to eat from the husband's property after his death. **"There is one who ruled"**, there were those who ruled, **"that we allocate sustenance to her and do not make her swear"**, that in this case, unlike when she comes asking for the ketubah she must swear to the heirs, but when she comes asking for sustenance she doesn't need to swear. Yes. It means, she doesn't need to swear that the husband already gave her, that she has property from the husband from which she can support herself, or whatever oaths might apply to the heirs — we don't make the oath. Right. Why? Why did they learn this? Because they learned that on this the Sages didn't designate an oath.

R' Yitzchak: The Rambam will say what they learned, how they learned it.

R' Yoel Asher: But the Rambam says: **"And it is not proper to rely on this ruling"**, one should not rely on this ruling, one should indeed swear. Why? Because the sage — who is the "there is one who ruled"? The Rif? I don't know — because **"he confused the matter"**, the reason why that one ruled was indeed a mistake, **"because he confused the matter with a woman whose husband went overseas"**. With a woman whose husband went overseas, on this we learned that she doesn't need to swear, she can take her sustenance without an oath.

R' Yitzchak: And if he has claims...

R' Yoel Asher: Let him come later with his claims. Right. But not so when the husband dies. Ah, very good, you say when he's going to come back, we don't need to... Ah, the point is this: usually the court is **"open your mouth for the mute"**, we argue on behalf of the heirs anything that the husband would have perhaps answered. This is only when there are heirs, but when there's "her husband went overseas", we don't spare him: you can come home and argue it, then we'll see.

The Position of My Teachers and the Rambam's Decision

R' Yitzchak: Right, so the Rambam argues that this is a mistake. **"And my teachers ruled"**,

R' Yoel Asher: My teachers argued, **"that she doesn't get sustenance from the court until she swears"**, that she doesn't get sustenance until she swears. Why? **"For she comes to be paid from the property of orphans"**, she's coming to take the money for her sustenance, she wants to be able to take and be paid, to be paid from the property of orphans, as a continuation of her ketubah. The law is that **"anyone who is paid from the property of orphans"**, anyone who gets paid from the property of orphans, **"is only paid with an oath"**, can only take his money with an oath.

The Rambam says, **"and to this my opinion inclines"**, I hold like my teachers, **"and by it is proper to judge"**, when it comes to a din Torah, when it comes to such a case before the court, they should rule like the law, as I say here, as my teachers say.

The Structure of the Rambam's Position in Favor of the Muchzak

R' Yitzchak: Very good. Interesting, the Rambam has three things here:

1. There's the **"there is one who ruled"**, he says it means the Rif. **"It is not proper to rely"**. The Rambam disagrees with this, and he even has a reasoning why.

2. And secondly there's **"my teachers"**, we know, he doesn't say who, perhaps R' Yosef

Migash, we don't know who exactly. Perhaps it's something else. He doesn't say.

3. And then thirdly is that the Rambam holds that one should conduct oneself like the teachers.

Interesting... very many reasons why the Rambam wants one to follow his position.

R' Yoel Asher: We've already had several times that the Rambam doesn't necessarily take the side of the widow, he takes the side very often specifically of the heirs, also regarding when one falls in.

R' Yitzchak: The Rambam takes a very strong position for the muchzak in all these laws. He's not so happy with taking money from people because of enactments, for reasons. Another thing, but I'm saying, it always comes out that he's stringent as if on the presumption of property for now what we have, the two things we've learned.

R' Yoel Asher: Yes. On this the Raavad says — what does the Raavad say? Does the Raavad argue on this law?

R' Yitzchak: I don't know. He says something, he might say. I don't know, one needs to know the Gemara to understand the Raavad.

R' Yoel Asher: The Raavad argues.

R' Yitzchak: He says something else as the simple meaning in the Gemara. The Raavad says that one must indeed swear — no, that one doesn't need to. What does the Raavad say? He asks a question. Okay, I don't know. I know we'll need to finish this chapter soon.

R' Yoel Asher: So let's move on. Yes, the Rambam says,

R' Yitzchak: In short, the Rambam's position is that one must swear, the position of the teachers is that one doesn't need to swear. In the Shulchan Aruch the dispute also appears.

Laws 18-23: The Order of Selling Property for a Widow's Sustenance

Selling in Court or Through Three Trustees Without Announcement

R' Yoel Asher: Yes. So, **"A widow who comes to court to claim sustenance"**, the Rambam says — I just learned — **"we make her swear"**, that we do make her swear. So now the Rambam goes with this ruling, and he says further: **"We make her swear at the outset"**, before we give sustenance, we make her swear, we say that she must swear. **"And we sell without announcement"**, and we can sell without announcement. Just as we learned in the previous chapter that there are times when the court must make an announcement, like for example when he went overseas we make an announcement — when he went overseas was also without announcement, when do we indeed make an announcement?

R' Yitzchak: For her redemption, for certain things.

R' Yoel Asher: Okay,

R' Yitzchak: There are times when the court sells without announcement in general.

R' Yoel Asher: So sustenance is indeed without announcement. Announcement is always, we take the side of the husband or of the heirs that they should get the most money for their land. But in such a case one can: **"we sell without announcement and give her sustenance. And likewise she has the right to sell for sustenance"**, she has the right to sell from the lands of the husband for sustenance.

So we also learned that there are times when one can only sell before an expert court, it means, the husband can claim: only a court that appraises the value so you shouldn't take more than the value. But sustenance for a widow that she takes for her sustenance can indeed sell before any three people: **"not in an expert court but with three trustees"**, and also **"without announcement"**. Three people who can, as the Rambam said yesterday trustees, who can price and are trustworthy.

R' Yitzchak: One doesn't need to have any expert court. Appraisal, it was called a language of appraisal. Right.

Selling Between Herself and Herself and the Oath Afterward

R' Yoel Asher: "And likewise", the Rambam says, **"if she sold for sustenance between herself and herself"**, she didn't go to court at all, she did a bit of a brazen thing, she sold exactly what it's worth, exactly what she needs, **"equal value"**, then also **"the sale is valid"**. We don't say that the heirs come, we don't say that it becomes void. **Equal value** means that it's not,

R' Yitzchak: That she sold for less or for more than it's worth, right? Right, at that price.

R' Yoel Asher: Equal value how much the land is actually worth, then **"when the heirs come to make her swear"**, when the heirs come to make her swear, then she will need to swear, but one can't take away and say until you

R' Yitzchak: swear you can't sell.

R' Yoel Asher: Mm-hm. It means, although the Rambam said that one can indeed demand from her an oath, right, it doesn't prevent her from selling.

R' Yitzchak: Interesting, that the oath should have been beforehand truly, but if she sold, she'll swear afterward, something like that. Yes, yes, yes.

R' Yoel Asher: *It's very interesting, because she can prevent the heirs from selling land, it means that the obligation is on the land, she can also sell, mm-hm, and they can't stop her. But the swearing they can indeed demand.* Ah. Yes.

R' Yitzchak: They can't stop her, they can make her swear, but they can,

R' Yoel Asher: Yes, yes, they can make her, but after the fact the sale is valid.

R' Yitzchak: Right, right.

R' Yoel Asher: It means, already,

R' Yitzchak: Done with what she has a right to.

The Amount of Selling for Six Months and Paying Every Thirty Days

R' Yoel Asher: The Rambam says, the Rambam asks a good question: how much can one sell for sustenance? She can say: sell a land that's worth, because perhaps I'll still live thirty years? The Rambam says no, **"and how much do we sell for sustenance enough to sustain from it for six months"**. Six months a person may worry what I'll eat for the next six months, it comes out, that much she may sell. Properly through, yes. That much she may sell,

R' Yitzchak: But **"not more than this"**.

R' Yoel Asher: Mm-hm. I think the reason is perhaps a good reason, because if she's going to find a new husband, it will take... Um, not necessarily.

R' Yitzchak: Because once she... A meeting. But roughly, yes, it's an amount of time that one can...

R' Yoel Asher: Yes. **"Not more than this"**. The Rambam says further: **"And we sell on condition that the buyer will give her sustenance for thirty days, sustenance for thirty days"**.

R' Yitzchak: Interesting. That means, the way how he pays is that he gives it every thirty days.

R' Yoel Asher: Every thirty days from the...

R' Yitzchak: She can sell for six months at once, but he pays in six payments.

R' Yoel Asher: What's the point of this? She can't demand six months?

R' Yitzchak: *She still means, she can't actually get the money for more than a month at once. Why? Because it could be that she's going to get married in a minute, and she no longer has a right, her right has come.*

R' Yoel Asher: *Ah, and then the buyer of the land should give that — the last two months he'll already give to the heirs, in other words, ah.* That means,

R' Yitzchak: Selling perhaps is not a thing, um it doesn't go, one doesn't sell for a month's time,

R' Yoel Asher: But, no.

Discussion: Until There Remains from the Property Enough for Her Ketubah

R' Yoel Asher: "And she returns and sells", if she goes through six months, she can take another piece of land, and sell **"a second time for six months. And so she sells and continues forever"**, she can always sell land,

"until there remains from the property enough for her ketubah". She can no longer sell all the property, she can. Because if there remains enough for her ketubah, the heirs can say take,

R' Yitzchak: Take your ketubah. Ah, it's not there, that's what she wants to do, it's not that she can't.

R' Yoel Asher: It's interesting, so here we do have an expiration date for sustenance.

R' Yitzchak: Well, how much money is there? There's no more, what does she want to take?

R' Yoel Asher: The obligation doesn't go on them, the obligation goes on the husband's property. Land.

R' Yitzchak: So, come up to the amount that the ketubah costs. No,

R' Yoel Asher: I mean here there's a novelty,

R' Yitzchak: *That when it comes to the ketubah she no longer needs to ask for sustenance, because she can take more. Sustenance is only let's say fifty shekel a month, and the ketubah is two hundred zuz; she can now take the whole two hundred zuz at once, because it's the ketubah, there's no more to take anyway.*

R' Yoel Asher: Yes, normally but this is indeed simple. *I mean on the contrary, the point is that she can't sell all the time anymore and the orphans need to come up with other*

R' Yitzchak: They never need to

R' Yoel Asher: Not come up with anything. Again, let's say the orphans

R' Yitzchak: Only need to pay from the, according to

R' Yoel Asher: The ruling of the Geonim that one also pays from movables.

R' Yitzchak: No difference, it should be the same thing regarding movables, same thing. One puts the movables in the pot. But at the end, what's the novelty? That she can get more than six months, because she takes the whole ketubah at once. And so, she loses nothing, because there's no more to take. On the contrary, she can collect more than it would have been according to the order. Yes, he says she may, he makes clear that she may, if she wants to take not ketubah but sustenance, no difference, it will take slower to take.

R' Yoel Asher: That's all.

Law 24: Accounting for Her Handiwork with Adult and Minor Heirs

The Law with Adult Heirs

R' Yoel Asher: Yes, the Rambam says, **"A widow for whom the court allocated sustenance"**, yes,

R' Yitzchak: Earlier we learned that her handiwork goes to the heirs,

R' Yoel Asher: That the heirs can take the handiwork. The Rambam says thus: **"A widow for whom the court allocated sustenance"**, that the court ruled on how much sustenance they must give her, mm. **"We don't make an accounting with her for her handiwork"**, the court doesn't say: you can't get the whole amount because you need to deduct your handiwork, **"until the heirs come and claim from her"**. That the handiwork goes to the heirs is only something that if the heirs claim they can get it, but it's not something that the court needs to include in the equation beforehand.

R' Yitzchak: What's actually the simple meaning? I don't know.

R' Yoel Asher: "And if" so it says,

R' Yitzchak: In the law.

R' Yoel Asher: "If they found her handiwork", if the heirs come to claim, one finds that she indeed profited money for handiwork, **"they take it"**, they can take it. Therefore, if one doesn't find that she had handiwork, **"they go on their way"**, they can't have any claim that you should have done handiwork or something. The Rambam says,

R' Yitzchak: This is the halachic ruling from others.

The Rambam's Novelty with Minor Heirs

R' Yoel Asher: "And I say" that not always is the claim thus. This is indeed when adult heirs

don't need the court to argue for them, they can come argue themselves. But **"if the heirs were minors"**, in such a case **"the court makes an accounting with her"**, the court must indeed make the accounting of how much handiwork there is, **"and allocate to her handiwork in the manner"** — ah, **"allocate to them"**, to the heirs, **"handiwork in the manner that they allocate to her sustenance"**.

R' Yitzchak: *Perhaps **"allocate to her"** means to tell her how much she needs to do.*

R' Yoel Asher: Ah,

R' Yitzchak: So she must do something. There is an obligation, we will learn later how much women must do ma'aseh yadayim, there whatever we will see there, is the beis din — that is, **mach'shvin can mean two things, as we have now thought:**

1. It can be that it is deducted, meaning you make fifty dollars a year, a week, you only need less than that.

2. Or it can be different, it can be you must give the money and they pay additionally, it depends on the reality.

That is, so, whatever, the point is that the Rambam holds that by minors there is

R' Yoel Asher: Such a law of ketanim bishvilam. **Pesach picha le'ileim**. Now, says the Rambam further, **"almanah"**, all these halachos that we have just learned is...

Continuation: The Calculation of Ma'aseh Yadehah by Orphaned Minors

R' Yitzchak: It can be that they deduct, they say: you make fifty dollars a year, a month, a week, you only need less than that. Or it can be different, it can be that you must give the money and they pay additionally, it depends on the reality, that is. So whatever, the point is that the Rambam holds that by minors there is such a law.

R' Yoel Asher: From what they say: **ketanim bishvilam**, **pesach picha le'ileim**.

Halacha 25: A Widow Who Does Not Have a Kesubah Document in Her Possession

R' Yoel Asher: Says the Rambam further: a widow, all these halachos that we have just learned is when...

R' Yitzchak: She has a shtar kesubah.

R' Yoel Asher: But **almanah she'ein shtar kesubah yotzei mitachas yadah**, she doesn't have the shtar kesubah that would claim her mezonos, then **ein lah mezonos**. Why? **Shema machla kesubasah**, perhaps she was mochel her kesubah and returned it to the husband, **o machrah osah**, or sold it, **o mishkenah osah**, or it was pledged.

R' Yitzchak: And we already learned earlier in the perek that in these cases she doesn't have a kesubah, she doesn't have mezonos.

R' Yoel Asher: "**Machrah**" is very strange, because she sold it, she received money, and with that she doesn't... That person won't pay her out, the person will... It's a distinction.

R' Yitzchak: There's no kesubah, there's no mezonos. Next time one should think before selling what one wants to do.

We Make Claims for the Heir When the Shtar Kesubah Is Missing

R' Yoel Asher: Af al pi shelo ta'an yoresh – ah, here is the chiddush. Until now we already learned, but now the Rambam says a chiddush: even if the heir doesn't claim – she comes with a kesubah, and the heir doesn't say that she was mochel to my father, to the deceased, to her husband, or sold it; the heir doesn't claim it, he doesn't know – but **anu to'anin lo**, the beis din must claim for him that since she doesn't have a shtar kesubah, **ve'omrin lah**, we say to her: **havi'i kesuvasech**, take bring your kesubah, **vehishavei**, make an oath, and then you will take mezonos, **veteli mezonos**.

Says the Rambam that it's not always so: **ve'im ein darkhan lichsov kesubah, yesh lah mezonos**. This is places where the custom is always to write a kesubah; that you don't have a kesubah is somewhat proof that something isn't

right. But if **ein darkhan lichsov kesubah**, one is only obligated to give min hadin because the Chachamim said so...

R' Yitzchak: And then a kesubah doesn't change anything.

Halacha 26: A Woman Who Comes from Medinas Hayam and Doubtful Divorce

R' Yoel Asher: Says the Rambam further: **ha'ishah shehalchah hi u'va'alah limdinas hayam**, a woman who traveled together with her husband to a distant place, **uva'ah**, she comes, **ve'amrah**, she says: **meis ba'ali**, my husband died. She comes home, she returned from medinas hayam, says: my husband died there, and she now needs mezonos. So, we give her the options: **ratzas**, if she wants, **nizones kedin kol ha'almanos**, she can take mezonos; **ratzas**, if she wants, **noteles kesubasah**, she can immediately take her kesubah, and benefit herself...

R' Yitzchak: From what is in the kesubah.

R' Yoel Asher: Right. This is imaginable... He says, every woman, like every widow, she has a right to request mezonos.

But **amrah**, if she says: **geirashni ba'ali**, my husband gave me a get, **einah ne'emenes**, she is not believed to receive the entire kesubah at once. **Venizones minichsav**, she can remain on her husband's property and receive property, **ad kedei kesubasah mikol panim**, up to the value of her kesubah.

R' Yitzchak: A mah nafshach, **she'im**...

R' Yoel Asher: How does the Rambam say? **Mikol panim**, whichever way you turn it, it comes to her. Why? **She'im adayin hi ishto**, if we don't believe her, we say the husband never gave her a get, then **yesh lah mezonos**. **Ve'im geirshah kesh'amrah**, and if it is true that he gave her a get as she says, then **yesh lah kesubah sheharei kesubasah beyadah, lefikach noteles mezonos ad kedei kesubasah veholches lah**. Very good.

The Law of Mezonos in a Case of Doubtful Divorce

R' Yoel Asher: Ha'ishah shehayah lah safek geirushin, there was a doubt. For example, a divorce was performed, doubtful relative to him doubtful relative to her. Yes? **Umeis ba'alah**, and afterwards the husband died. So now the question is whether she is a divorcee or a widow. A divorcee doesn't receive mezonos. **Einah nizones minichsav**. Why? Because she now wants to be motzi from the heir with a doubt: **she'ein motzi'in miyad hayorash misafek**.

R' Yitzchak: Yes, one cannot be motzi.

Discussion: Why Is the Husband Obligated in Mezonos in a Case of Doubtful Divorce During His Lifetime?

R' Yoel Asher: Aval bechayei ba'alah, but the husband is still alive...

R' Yitzchak: Because the property isn't from the heir, but because it's her husband.

R' Yoel Asher: So even though there was a doubtful get, but the husband is obligated to give a new get. In a case of doubtful geirushin the Rambam said that one must give a new get.

R' Yitzchak: If he wants to divorce. What if he wants to remain with the doubt?

R' Yoel Asher: Interesting. Or it can be that a case because the husband is already meshubad to her, so she is not motzi misafek. On the contrary, the husband says: I want...

R' Yitzchak: Not to give her from doubt. He says that this is Rashi. He brings from Rashi in Kesubos, that – let's finish the halacha first.

R' Yoel Asher: That **yesh lah mezonos ad shesisgareish geirushin gemurin**, until she makes a new proper kosher get.

R' Yitzchak: He says that Rashi says in Kesubos that the logic here is that in practice she cannot marry, so she is stuck with the husband. Even though he claims: hamotzi mechaveiro alav hara'ayah – he says: perhaps she is divorced and I am exempt – we say to him: but in practice you don't let her marry, you have responsibility! Give her a new get, no problem. What do you want from a doubt? He must give. Interesting, like... Interesting.

R' Yoel Asher: Because now one must think for example the law of yavam... Why don't we say it that way there? We don't say that as long as you're stuck – I can't do chalitzah again – you are obligated.

R' Yitzchak: When? Because of the minor? He is a minor. What should be done? A minor is a minor, one cannot have claims against him. Also, it's not he who makes her stuck, it's the Torah that makes her stuck.

Hey Yossele, Yossele come in. We need to talk to you. Ah, just kidding.

Halacha 27: A Widow Who Delayed Without Claiming Mezonos and the Claim of "Nasnu"

R' Yoel Asher: Okay. Says the halacha thus: What happens in such a case, **almanah aniyah**, a widow who is poor, **sheshasah shtei shanim**, and she waited two years and she never requested mezonos, **velo tav'ah mezonos**, or **o ashirah**, a widow who is wealthy, who has money, **sheshasah shalosh shanim**, and she waited not two years, but three years, **velo tav'ah mezonos**, and she was not tove'a mezonos – **vitrah**. In both these cases the woman was mevater on mezonos, **ve'ein lah mezonos bashanim she'avru**. She cannot say: pay me now for the two years that I starved, **ela mish'ah shetav'ah**, from when she was tove'a, from then one must give her.

R' Yitzchak: Interesting. She says...

Discussion: When Can One Claim Mezonos Retroactively?

R' Yoel Asher: I was waiting for you to understand yourself, that you should give me yourself, so you became obligated? No, you didn't become obligated. But actually, we already learned that if a woman starves herself she also cannot request retroactively, right? Even from the husband.

R' Yitzchak: But if she... No, usually yes. That is, by halach ba'alah limdinas hayam she can yes, but if she actually had what to eat...

R' Yoel Asher: Dachakah atzman, something like that we learned.

R' Yitzchak: Right? Fasted a day and night. So why is it different here?

R' Yoel Asher: No, again, it can also be the same law.

R' Yitzchak: Again, you see that one can request mishanim she'avru.

R' Yoel Asher: Ve'ein lah mezonos bashanim she'avru ela mish'ah shetav'ah.

R' Yitzchak: Yes, but if she was not mevater then yes.

R' Yoel Asher: Ve'im shahasah pachus mizeh afilu beyom echad lo vitrah, ela tova'as venoteles mezon hashanim she'avru.

R' Yitzchak: So I don't know.

R' Yoel Asher: That she says: I laid out money that I had.

R' Yitzchak: Ah, perhaps that is the point, right. Right, right, there we learned that not... We learned clearly there, right? If a debt remains he must pay the debt, she borrowed; if she gave herself a solution, then you gave a solution, right?

R' Yoel Asher: Nu, why don't we say here that she gave herself a solution?

R' Yitzchak: She didn't, she has debts, she borrowed. She borrowed. Whatever, something like that, yes.

The Claim of "Nasnu" from the Heirs: The Distinction Between Before and After Her Marriage

R' Yoel Asher: Now. **Almanah shetav'ah mezonos min hayorshin**,

R' Yitzchak: A dispute whether we gave...

R' Yoel Asher: A widow who claimed mezonos from the heirs, **hem omrim nasnu**, we already gave, **vehi omeres lo natalti**, I never received. So now there is a din Torah between them. So: **kol zeman shelo nis'eis** – as long as she has not yet married, she is entitled to mezonos.

R' Yitzchak: As if she is the muchzak.

R' Yoel Asher: She is the muchzak, yes. Because the property of the husband is meshubad to her mezonos, so **al hayesomim lehavi ra'ayah** – the orphans must bring proof that they gave her yes, or if they cannot, **o sishava shevu'as heses vetitol**, she can swear that she didn't receive **vetitol**.

But **umishenis'eis** – if she has already married again, and she now says that she was never given mezonos for the times until when she married, now she is a woman whom they are not obligated in her mezonos, so **aleha lehavi ra'ayah**. Why? She is requesting for a time when they were obligated to her? I don't know. Or **o yishavu hayorshin shevu'as heses shenasnu lah** – they have the right to make an oath...

R' Yitzchak: The oath...

Discussion: Why Do the Orphans Become Muchzak "Mishenis'eis" and the Nature of Shevu'as Heses Here

R' Yoel Asher: That they gave her yes. But why **mishenis'eis**? She is requesting for a time when they were obligated to her?

R' Yitzchak: One must think. Ah yes, it has to do, the question to the property: she is now claiming the land, so in whose possession is the land? Before she married, the land is in her possession, she is the muchzak, and they are the motzi mechaveiro, so the halacha becomes that they are alav lehavi ra'ayah. But after she married, it is no longer in her possession. She claims that yesterday – no problem, every time someone claims he has a claim, but the question is always who is the muchzak; it is practically dependent on who is the muchzak. Practically, after mishenis'eis she is no longer in any chazakah, the chazakah is with them, so the law goes to them.

Why does the Rambam say that one must swear a shevu'as heses? I see that the Maggid Mishneh struggles, it's interesting.

R' Yoel Asher: Every kofer hakol...

R' Yitzchak: Usually one must swear a shevu'as heses, but what? And takes the whole? I don't know clearly.

R' Yoel Asher: Apparently. How much the amount, how much she can claim at once, "**vetitol**" means from now they must pay her.

R' Yitzchak: Whatever the mezonos, how much the amount of mezonos is for the claim. I hear. One more halacha in this perek.

Halacha 28: The Law of Tosefes Kesubah Is Like the Law of the Principal

R' Yoel Asher: Says the Rambam: **din tosefes kesubah kedin ha'ikar**. Besides the principal kesubah which is the maneh uma'sayim, there is also a law that if the husband writes in larger amounts he obligates himself. And on the tosefes kesubah there is also the same law that the heirs become obligated. **Lefikach almanah shetav'ah o machrah o machla o mishkenah tosefes kesubasah im ha'ikar ein lah mezonos**. Again, **shetav'ah**, she claimed, that she already...

R' Yitzchak: We learned earlier that all these things that one does with the kesubah one loses mezonos, right? Says the Rambam that – I don't understand – that one must also sell the entire tosefes kesubah, so I think.

R' Yoel Asher: Ahh. If she has a larger kesubah, the halacha becomes that if she was given the kesubah one becomes exempt from mezonos – it's on that larger amount, it's on the kesubah that she has.

R' Yitzchak: Kesubah plus tosefes.

R' Yoel Asher: Kesubah with tosefes. **Ve'im tav'ah miktzas vehinichah miktzas**...

R' Yitzchak: Harei zo kemi...

R' Yoel Asher: Shetav'ah miktzas ha'ikar vehinichah miktzaso.

R' Yitzchak: That we learned that then she still has mezonos. She must sell or claim the entire kesubah. So tosefes is like the law of the principal.

And in practice another thing that is built on this principle that the law of tosefes is like the law of the principal:

R' Yoel Asher: Vechol hamocheres o hamocheles setam, if she sells or is mochel setam – she says "the kesubah", she didn't say whether she means only the principal kesubah or tosefes – we say: **machrah umachla hatosefes im ha'ikar**. It becomes like one big package. I mean, what he means to say is that tosefes kesubah we don't look at as if there are two things: there is a principal...

R' Yitzchak: Kesubah and there is an...

R' Yoel Asher: Extra thing called tosefes kesubah.

R' Yitzchak: There are things where we make some distinction. There are things regarding, for example in certain cases where she takes only the principal and not the tosefes.

R' Yoel Asher: But here the Rambam says: **sheshneihem kesubah shemam bechol makom**. When we say the word "kesubah", we mean the principal kesubah...

The Writing Style of the Ra'avad Compared to the Rambam

The Hasagah of the Ra'avad on the Rif

R' Yitzchak: The Ra'avad says that the Rif says differently, and **temihani alav**. Go understand the Ra'avad, sometimes he says things that I don't understand. That is, the Ra'avad agrees with the Rambam? He only says that the Rif doesn't agree. Okay.

Discussion: Why the Ra'avad Doesn't Write as Clearly as the Rambam

R' Yoel Asher: Interesting, the Ra'avad doesn't have to be as clear as the Rambam, because the Rambam didn't ask anyone to make notes on him. I say everything. But the Ra'avad could have assumed, make notes on me as I make on him. I think it's not right, write something.

R' Yitzchak: Yes, also the Ra'avad assumed that all learners know the gemaros he's talking about. The Rambam usually writes clearly,

R' Yoel Asher: So one should know. But the Ra'avad didn't know that they would print his sefer in the Rambam. He made a sefer for the talmidei chachamim who are already long after Rambam, they are already now at Hasagos HaRa'avad. An inside language for talmidei chachamim.

R' Yitzchak: Okay. Tremendous.