

Laws of Marriage Chapter 4 (Auto Translated)

English

Auto Translated

Shiur Overview

Summary of Chapter 4 of Hilchot Ishut (Rambam)

Halacha 1 — Kiddushin Must Be With Her Consent / Against His Will

The Rambam's Words: "A woman is only betrothed with her consent. And one who betroths a woman against her will — she is not betrothed. But a man who was forced until he betrothed against his will — she is betrothed."

Explanation: A woman is only betrothed with her consent. If she is forced — she is not betrothed. But if the man is forced to betroth — she is indeed betrothed.

Insights and Explanations:

1. **The Foundation of "Taluhu V'Kidesh":** The source is from the Gemara's principle of "taluhu v'zavin — zevinieh zevini" — when one forces a person to sell, the acquisition is valid, because he receives a good thing (money). Similarly with kiddushin — the man receives a wife, which is a good thing, therefore the acquisition is valid even against his will.

2. **Why Doesn't It Work for a Woman?** According to the Gemara, for a woman against her will it is not betrothed, because the man does a "davar shelo k'hogen" — he does an improper thing. The Sages annulled the kiddushin (afkeihu rabanan l'kiddushin). This means, from the Torah it might have worked, but rabbinically it was nullified. Therefore she doesn't need a get — it's a nullification by the Rabbis.

3. **The Rambam Doesn't Give the Reason:** The Rambam himself doesn't give a reason why it doesn't work for a woman. We don't know for certain whether the Rambam holds it's rabbinical (afkeihu) or he has another Torah-level reason.

4. **The Raavad's Question:** The Raavad doesn't fully agree — he thinks that if you remove the reason of "afkeihu rabanan," it would seemingly also have to work for a woman against her will.

5. **The Maggid Mishneh's Distinction:** The Maggid Mishneh brings a profound distinction — a woman who is betrothed against her will is "stuck," because the man can decide whether to give a get or not. She is in a bad situation. Unlike the man — he is never stuck, because in the worst case he can give a get tomorrow.

6. **The Turei Zahav's Point:** The Turei Zahav answers the claim that "today there is the cherem of Rabbeinu Gershom and a man cannot give a get against the woman's will" — the Taz says that the cherem of Rabbeinu Gershom doesn't mean one is forced, one can still give a get.

7. **A Simple Reasoning:** One can simply say that women need more protection from kiddushin against their will than men, because for a man it's a rare thing, and therefore the Sages didn't make a decree for him.

Halacha 2 — Betrothing Many Women at Once

The Rambam's Words: "A man may betroth many women at once... if he betrothed with money, a perutah for each one."

Explanation: A man can betroth several women at once. With kiddushei kesef there must be a perutah's worth for each woman separately.

Insights:

1. **A Document for Several Women:** One can make one document for all the women, but all the names must be written, and it must be "with the knowledge of all of them."

2. **Agency for Several Women:** One of the women can be the agent for all, or all together can agree on one agent — "to receive the kiddushin on behalf of all of them with their knowledge."

3. **Introduction to Complicated Cases:** This halacha is an introduction to the coming halacha which discusses complicated doubts that arise from betrothing several women.

Halacha 3 — "V'At Nami" — Doubtful Kiddushin for a Second Woman

The Rambam's Words: "One who betroths a woman and gives her kiddushin with her knowledge into the hand of her friend... and said 'v'at nami'... and was vague and didn't specify — she is doubtfully betrothed, perhaps he only intended to see what is in her heart."

Explanation: Someone betroths a woman and gives the kiddushin through her friend. Then he says to the friend "v'at nami" (you too). If he didn't explicitly say what he meant, the friend is doubtfully betrothed — because perhaps he only wanted to test her reaction ("to see what is in her heart").

Insights:

1. **The Doubt Is in the Language, Not in Consent:** The doubt isn't whether she wanted — but whether his words "v'at nami" are a language of kiddushin or merely a question. He perhaps meant "v'at mah tomri b'davar zeh?" — what do you say about this?

2. **When She Accepts:** The fact that she accepted the kiddushin is not proof that he meant kiddushin — because she accepted for the friend, not for herself. The fact that she still holds it in her hand is not proof.

Halacha 4 — Zarkathu / Said "Give It to My Father" / "Let Him Receive It for Me"

Part A: Zarkathu

The Rambam's Words: "Be betrothed to me with this dinar — she took it and threw it before him, or into the sea, or into fire, or into something lost — she is not betrothed."

Explanation: If a woman takes the dinar and throws it away — she is not betrothed, because her action shows she doesn't want it.

Part B: "Give It to My Father"

The Rambam's Words: "She said to him give it to my father or to your father or to so-and-so — and he gave it — she is not betrothed."

Explanation: If she says "give it to my father / your father / that person" — she is not betrothed, because this is a way of refusing.

Insights:

1. **"Give It to My Father" as a Protest:** The fact that she says "give it to my father" is a way of saying "I don't want it" — it's a form of refusal, not agency.

Part C: "Let Him Receive It for Me"

The Rambam's Words: "And if she said let him receive it for me — and he gave it — she is betrothed."

Explanation: If she says "let him receive it for me" — she is betrothed, because this is appointing an agent for receipt.

Insights:

1. **"Let Him Receive It for Me" as Agency:** When she says "let him receive it for me" — this is appointing an agent. It is discussed whether the agent must know he is an agent — for an agent for receipt it's perhaps not necessary that the agent know. The Rambam says there must be witnesses, but not that the agent himself must know.

2. **"To So-and-So on My Behalf":** The explanation is: don't give it to the father as his, but give it to me through the father. The **Chelkat Mechokek** argues: when he gives it to the father, he must tell him "I'm giving it to you for your daughter's kiddushin" — because the agent must know what he's doing. But R' Yitzchak is not clear that the father must even be mentally competent — perhaps she can say he can have the money itself (without agency-knowledge).

3. **The Rambam Doesn't Mean This Is the Kiddushin Itself:** When the Rambam says "she is betrothed" he doesn't mean that the act of giving to the father is the kiddushin — but that the fact that she said "let him receive it for me" is a **language of consent**, which makes it valid.

Part D: "Place It on the Rock"

The Rambam's Words: "She said to him place it on the rock — she is not betrothed. And if it was her rock — she is betrothed." "Give it to the dog — she is not betrothed. And if it was her dog — she is betrothed." "A poor person dependent on her" — even if she supports the poor person, he is not like "her dog," because **"there is no such thing as her poor person."**

Explanation: When she says "place it on a rock" it's like throwing it away — not betrothed. But if the rock is hers, she acquires it through placing it in her place. With her dog — he saves her an expense, this is benefit for her. But a poor person she supports is not "hers" in that way.

Insights:

1. **Distinction Between Her Dog and a Poor Person Dependent on Her:** With her dog, when he feeds the dog, he saves her an actual expense — this is clear benefit for her. But with a poor person dependent on her, even though she supports him, he is still a separate person — "there is no such

thing as her poor person." The poor person is not her property like a dog.

Part E: A Dog Running After Her — Doubtful Kiddushin

The Rambam's Words: When a dog runs after her, and she says "give it to this dog" — it is a doubt.

Insights:

1. **Two Interpretations of the Situation:** (1) She means: by saving me from this dog, you're doing me a favor — and this is benefit for kiddushin. (2) She simply means: throw it to the dog and leave me alone — not kiddushin.

2. **Rashi and Rabbeinu Chananel** are brought: every Jew is obligated to save another from a dog based on **"lo ta'amod al dam re'echa"** — so perhaps she doesn't mean kiddushin, but "first do the mitzvah of rescue, and stop your kiddushin-game."

3. **Practical Ramification:** All doubtful situations are discussed when she has left and so forth, and we need to know if she is a married woman and if a get is needed.

Halacha 4 (Continued) — Seller of Produce: "Give Me Some of These"

The Rambam's Words: "He was selling produce or vessels... a woman came and stood and said to him give me some of these, and he said to her if I give you will you be betrothed to me, if she said yes and he gave her — she is betrothed. But if she said give give give, throw it to me, or give me a gift, or words whose meaning is don't play with me with these words — she is not betrothed."

Explanation: When he asks "if I give you, will you be betrothed?" and she answers "yes" — betrothed. But when she says "give give give" or "throw it here" — this shows she only means "give me the merchandise, don't play with me."

Insights:

1. **"Give Give" vs. "Yes":** One "give" can still be understood as agreement. But "give give give" shows she only wants the merchandise, not kiddushin.

2. **Question About Payment:** R' Yitzchak asks: does she need to pay afterward for the produce? R' Yoel Asher thinks apparently not, because he perhaps gave it as a gift. R' Yitzchak answers: "matan" actually means a gift — he lost.

3. **"Mekadesh in the Market":** R' Yitzchak notes this is literally mekadesh in the market, for which one should receive lashes.

Halacha 4 (Continued) — Drinking Wine

The Rambam's Words: "And similarly if he was drinking wine and she said to him give me a cup... and he said to her if I give you are you betrothed with it, and she said to him give me to drink, give drink, or give a drink throw — she is not betrothed, for the words only show give me to drink and don't play with me with another matter."

Explanation: The same principle as with produce — everything is a judgment call about what she means according to the situation.

Halacha 4 (Continued) — One Who Betroths with One Witness

The Rambam's Words: "One who betroths with one witness — we don't concern ourselves with his kiddushin, even though both of them admit."

Explanation: Even if both sides admit there was kiddushin, without two witnesses it's not kiddushin. Witnesses are not just an evidence-mechanism (whether we believe him), but a law in the essence of kiddushin.

Insights:

1. [Digression: Purim Torah about Adam and Chavah] R' Yitzchak asks: how did Adam not betroth Chavah? (1) There was no "prohibited to others" — kiddushin means designating one for the other, "forbidden to all people" — but there was no "all people." (2) There were no witnesses. R' Yitzchak emphasizes these are "just Purim Torahs."

Halacha 4 (Continued) — Invalid Witnesses: Torah-Level, Rabbinic-Level, Doubtfully Torah-Invalid

The Rambam's Words: "One who betroths with Torah-invalid witnesses — we don't concern ourselves with his kiddushin. With rabbinically-invalid witnesses, or with witnesses who are doubtfully Torah-invalid — if he wants to marry, he betroths again with valid witnesses. And if he doesn't want to marry — she needs a get from him."

Explanation: Torah-invalid witnesses — no kiddushin at all. Rabbinically-invalid witnesses or doubtfully Torah-invalid — it's doubtful kiddushin: if he wants marriage, let him betroth with valid witnesses; if not, she needs a get.

Insights:

1. **Question:** R' Yitzchak asks: with rabbinically-invalid witnesses — why is it called a "doubt"? From the Torah they are valid! It should be fully betrothed from the Torah, and only rabbinically a problem.

2. **Answer (R' Yoel Asher):** When from the Torah it's valid but rabbinically invalid — one must be stringent, needs a get. The get is essentially **rabbinic**. With doubtfully Torah-invalid — doubtful Torah law is stringent, which according to the Rambam is **also rabbinic**. So both categories — doubtfully Torah-invalid and rabbinically-invalid — the obligation of a get is rabbinic.

3. **Magen Neshama** is brought: he says rabbinically-invalid witnesses is **like doubtful kiddushin**.

4. **The Rambam's Position:** According to the Rambam's position that doubtful Torah law being stringent is a rabbinic law, it fits well that both — doubtfully Torah-invalid and rabbinically-invalid — have the same law (needs a get), because in both the obligation is only rabbinic.

5. **R' Yitzchak's Note:** "It can't be a halachic doubt" — meaning, one can't say it's a doubt what the halacha is, because one must rule.

Halacha 7 — The Woman's Denial Against Witnesses

The Rambam's Words: "And even if the woman denied and contradicted the witnesses and said you didn't betroth me — we force her to take the get."

Explanation: Even when the woman denies and says she wasn't betrothed, it doesn't help against valid witnesses. We force her to take a get.

Insights: The main point is that with doubtful kiddushin the woman's denial is not relevant, because we're discussing the side where the witnesses are valid witnesses, and against valid witnesses she cannot deny.

Halacha 7 (Continued) — "And So Is the Law of All Doubtful Kiddushin"

The Rambam's Words: "If he wants to marry he betroths again with certainty, and if he doesn't want she needs a get from him out of doubt."

Explanation: With every doubtful kiddushin we go stringently in both directions — if he wants to marry, he must betroth again with certainty; if he doesn't want, she needs a doubtful get.

Insights: Because it's a doubt whether the mitzvah of kiddushin was good, whether he already acquired — he must begin life with a wife with certain kiddushin. The same regarding a get — we assume stringently that perhaps she is betrothed, therefore she needs a doubtful get.

Halacha 8 — Kiddushin of a Minor Orphan (or Who Left Her Father's Authority)

The Rambam's Words: An adult who betrothed a minor orphan or a minor who left her father's authority — there are three levels:

- **Less than six years old** — "even though she is very clever and sells and examines, there is no name of kiddushin here and she doesn't need to refuse."

- **From ten years and up** — "even though she is very foolish, since she was betrothed with her knowledge, she is betrothed for refusal."

- **Between six and ten** — "we examine her mental acuity" — if she "examines and recognizes matters of marriage and kiddushin" she is betrothed for refusal; if not, "she is not betrothed for refusal."

Explanation: A minor orphan (or who left her father's authority through marriage where the father received kiddushin and the man died) — there is no father to whom to give kiddushin. The Sages enacted a rabbinic kiddushin, but only if she has enough understanding. We go by age, not by intelligence alone.

Insights:

1. The Rambam emphasizes we go entirely by age ("even though she is very clever" — under six is nothing; "even though she is very foolish" — over ten is always yes). This is compared to the mitzvah of chinuch where we also go by age.

2. "Betrothed for refusal" means: betrothed rabbinically, and instead of a get she only needs refusal.

3. Whoever is "not betrothed for refusal" — needs nothing, can simply leave.

Halacha 8 (Continued) — What Is Refusal?

The Rambam's Words: "How is she betrothed for refusal? That if she was betrothed and didn't want to

remain with her husband, she needs to refuse before two" — she says "I don't want him" — "and she leaves without a get... and this is called a refuser."

Explanation: Refusal is a form of refusal — she says before two witnesses that she doesn't want, and leaves without a get. This comes in place of divorce with rabbinic kiddushin.

Insights:

1. The Rambam explains the mechanism: **"Because her kiddushin are not complete kiddushin from the Torah, but this minor's kiddushin are from rabbinic words"** — therefore she doesn't need a get.
2. The kiddushin are **"hanging and standing"** — if she stays with him until she becomes an adult, **"her kiddushin are completed and she becomes a fully married woman, and he doesn't need to betroth her again after she grows up"** — the kiddushin become retroactively good.
3. Earlier when the Rambam listed the categories of kiddushin, he didn't list refusal as a separate category — because it's only relevant with rabbinic kiddushin.
4. [Digression: Contradiction between two rabbinic enactments] — the Sages don't like kiddushin of minors (as we see from halacha 11 where it says one shouldn't betroth young girls), but yet they enacted kiddushin for an orphan minor — which seemingly doesn't fit together! It is suggested: (1) perhaps they are different generations / different Sages who enacted the two enactments; (2) with an orphan the reason is different — **"so she shouldn't become ownerless"**, one must have someone protect her, because there is no father caring for her; (3) when there is a father, we have his understanding as a substitute for her understanding — with an orphan this is lacking, therefore the Sages enacted an alternative mechanism.

Halacha 9 — Kiddushin of a Deaf Person/Deaf Woman

The Rambam's Words: "A deaf man who married a competent woman and similarly a deaf woman who married a competent man — their kiddushin are not complete from the Torah but from rabbinic words."

Explanation: Kiddushin of a deaf person (deaf-mute) with a competent woman, or a deaf woman with a competent man — is only rabbinic, an enactment to help deaf people.

Insights:

1. **"Therefore if a competent man came and betrothed the wife of a deaf man who is competent — she is betrothed with second complete kiddushin"** — because the second (competent) and she (competent) can both betroth / be betrothed from the Torah, it's not like betrothing a married woman where kiddushin doesn't take effect. Here it takes effect, because her first kiddushin are only rabbinic.
2. **But:** the second must give a get, **"and she is permitted to her husband the deaf man"** — she remains with the first. The Sages don't allow a second to grab her — because the Sages gave it the name of kiddushin. But it's not like a Torah-level married woman where the second's kiddushin wouldn't take effect at all.

Halacha 9 (Continued) — Shoteh

The Rambam's Words: "A shoteh who betrothed a competent woman or a competent man who betrothed a shoteh — there is no kiddushin here at all, not from Torah words and not from rabbinic words."

Explanation: With a shoteh the Sages didn't enact any kiddushin at all — not from the Torah and not rabbinically.

Insights:

1. The distinction between a deaf person and a shoteh: a deaf person is "not completely insane" — he has some understanding, he just can't hear/speak. Therefore the Sages enacted kiddushin. A shoteh has no understanding at all, and therefore the Sages didn't enact.
2. **"A person cannot live with a snake in a basket"** — one can't live with a snake in a basket. A shoteh is "sends out his pig" — there's no possibility of existence, therefore one doesn't make kiddushin for a shoteh. Trying to help a shoteh will backfire.
3. A minor will grow up and marry, a minor and a deaf person the Sages did enact for, but a shoteh — there's no possibility of existence.

Halacha Regarding Seris, Aylonit, Tumtum and Androginus

The Rambam's Words: A seris (whether naturally or man-made) or an aylonit — **"these are complete kiddushin"** (when he knows she is an aylonit, there's no mistaken purchase). A tumtum and androginus — **"these are doubtful kiddushin and need a doubtful get."**

Explanation: A seris is a person of understanding, he can make acquisitions, he has the law of an adult (after twenty or thirty years). An aylonit is a woman who never became fully developed and cannot have children. With a tumtum and androginus we don't know if they can betroth or be betrothed — on the side that he is a woman he cannot betroth, on the side that she is a man she cannot be betrothed.

Halacha Regarding Betrothing Forbidden Relations — and Kiddushin of a Niddah

The Rambam's Words: "One who betroths one of the forbidden relations did nothing, except for the niddah... One who betroths the niddah she is betrothed with complete kiddushin, and it is not proper to do so."

Explanation: Kiddushin doesn't take effect on forbidden relations, because it's a prohibition that remains forever. But a niddah is different — it's a prohibition that changes (she becomes pure), therefore kiddushin takes effect. But initially one shouldn't do it.

Insights and Explanations:

1. **"And it is not proper to do so" — what is the reason?** It is discussed whether this is a law in the laws of kiddushin (a flaw in the kiddushin itself) or a side problem (lest he touch her flesh, as the Maggid Mishneh brings). The conclusion is that this is a **law in the laws of kiddushin** — "kiddushin that are not subject to consummation" — it's not such good kiddushin, not just a concern about the prohibition of niddah. The Rambam holds it works, but it's not initially proper.

2. Distinction Between Kiddushei Niddah and Chuppat Niddah: The Rambam holds later (chapter 14) that **chuppat niddah doesn't work at all**. Kiddushei niddah works yes, but not initially. This is an important distinction — kiddushin where one can't make chuppah on it, works after the fact.

3. Practical Ramification: Today it's not so relevant, because we make kiddushin and chuppah at the same time. But therefore we try today to calculate that it shouldn't be chuppat niddah, because according to the Rambam chuppat niddah doesn't work at all.

4. Question on the Maggid Mishneh: If the reason is lest he touch her flesh, one should have to say one should never betroth if she hasn't gone to mikvah beforehand. Also with a forbidden relation he won't touch her — but a niddah is a Torah prohibition, not such a big distinction.

5. The Raavad Doesn't Argue About This — he agrees it's not proper, but the Rambam doesn't explain why.

6. [Digression: the Rambam HaMevuar brings from Divrei Yatziv that righteous people made kiddushin again. It's rejected — even if the Rambam holds it's deficient, it's not clear why one needs kiddushin again. Chuppah again can make sense, but chuppah doesn't need a big action — one can fulfill it with bringing home.]

Halacha 13 — A Married Woman Who Receives Kiddushin from Another in Her Husband's Presence

The Rambam's Words: "A married woman who extended her hand and received kiddushin from another in her husband's presence — she is betrothed to the second." Because "a woman who said to her husband in his presence you divorced me — she is believed", because "she doesn't brazen her face before her husband." "But not in her husband's presence — his kiddushin don't take effect on her", until she brings proof that she was divorced before she received the kiddushin.

Explanation: Receiving kiddushin from another in her husband's presence is the same strong brazenness as saying "you divorced me" — it's proof she received a get. Not in his presence is indeed brazen, therefore there is no credibility.

Insights and Explanations:

1. The Innovation That Receiving Kiddushin = Saying "You Divorced Me": A person could have distinguished — saying "you divorced me" is a direct statement, but taking a ring is perhaps not the same measure of chutzpah. The Rambam holds it's the same brazenness before the husband, because it's also with witnesses and the whole action.

2. Dispute Between Rambam and Raavad: The Rambam implies that **it's entirely true** — "she is betrothed to the second" literally. The **Raavad holds it's only stringently** — as if taking effect in betrothal, but a ketubah she won't receive, and marriage she also won't.

3. Question: What if the man says he didn't divorce her? We don't believe him — the law is "a woman who said to her husband in his presence you divorced me is believed," we only believe her.

Halacha Regarding Kiddushin with Secondary Prohibitions, Negative Commandment Prohibitions, and

Positive Commandment Prohibitions

The Rambam's Words: "One who betroths one of the **secondary prohibitions**" (rabbinic prohibition), "or **negative commandment prohibitions**" (like a divorcee to a kohen), "or **positive commandment prohibitions**" (like an Egyptian or Edomite), "and similarly the yavam who betrothed the rival of his yevamah — she is betrothed with complete kiddushin."

Explanation: With all prohibitions that are not as strong as forbidden relations (karet) — kiddushin takes effect. The prohibition is not so strong that the kiddushin shouldn't take effect.

Insights:

1. The rival of a yevamah — what is the prohibition? The prohibition is from the Torah — "yevamah yavo aleha" and not her rival. It's a positive commandment prohibition, not a forbidden relation. The rival was indeed married to the brother, but the verse teaches that only the yevamah herself must be taken, not a second. It's a Torah prohibition but not in the category of forbidden relations, therefore kiddushin takes effect.

2. Why didn't the Rambam list the rival of a yevamah in his earlier list? Because the rival of a yevamah is not a separate mitzvah from the 613 mitzvot — it's part of the mitzvah of yibum. Therefore the Rambam couldn't count it earlier, but here he brings it because he says "from positive commandment prohibitions and similarly the yavam."

3. "And even though it is forbidden for him to marry any of these" — even where kiddushin takes effect, one may not marry — it's a prohibition. "Kiddushin takes effect" only means one needs a get.

Halacha Regarding Yevamah to the Market — Doubtful Kiddushin

The Rambam's Words: "The Sages were in doubt whether kiddushin takes effect on a yevamah to the market like other negative commandment prohibitions, or kiddushin doesn't take effect on her like a forbidden relation."

Explanation: With a yevamah to the market (a yevamah who is betrothed by a stranger, not the yavam) the Sages are in doubt whether kiddushin takes effect like with other negative commandment prohibitions, or doesn't take effect like with forbidden relations. Therefore one needs a get stringently.

Insights:

1. R' Yoel Asher explains there are two levels of stringency with forbidden relations: (1) such strong prohibitions where kiddushin doesn't take effect at all (forbidden relations), (2) lighter ones where kiddushin does take effect (negative commandment prohibitions). With yevamah to the market we don't know where it falls — therefore it's a doubt, and one needs a get stringently.

2. R' Yitzchak brings that this explains the Maggid Mishneh regarding **the rival of a yevamah**: it doesn't say "the rival of a forbidden relation" (which would be a brother's wife with karet, no doubt), but "the rival of a yevamah" — this simply means the brother had two wives, and he has the sanctity of yibum on one of them. The rival has an additional positive commandment prohibition.

3. The entire reason for the list of forbidden relations and secondary prohibitions is about the halacha of whether kiddushin takes effect — there's no other ramification in the laws of kiddushin.

Halacha Regarding Betrothing a Non-Jew or Maidservant

The Rambam's Words: "One who betroths a non-Jew or maidservant they are not kiddushin, she is after kiddushin as she was before kiddushin."

Explanation: With a non-Jew or maidservant kiddushin doesn't work at all — she remains after kiddushin exactly as before kiddushin.

Insights:

1. R' Yoel Asher connects this with the earlier halacha that a non-Jew/maidservant cannot be an agent for kiddushin (because he is not part of the covenant

/ not in the laws of gittin and kiddushin). He thinks of a reasoning: marriage is a decision between people who are the same faith, the same Torah. A non-Jew is not part of that. A maidservant is indeed obligated in mitzvot, but she lacks ownership — the master can always arrange matches, it's a kind of ownership-situation.

2. **R' Yitzchak Disagrees** with the reasoning-approach: kiddushin is an innovation that the Torah innovated only for Jews. With non-Jews and maidservants the concept of kiddushin doesn't exist at all. This is not because it's a transgression (like with forbidden relations where kiddushin doesn't take effect because it's such a strong transgression), but because the entire mechanism of kiddushin doesn't apply to them. With forbidden relations (those liable for relations) kiddushin doesn't take effect because it's a transgression, but with a non-Jew/maidservant it's a different category — kiddushin is simply not applicable.

3. The Language "She Is After Kiddushin as She Was Before Kiddushin": R' Yitzchak makes a precise reading — the Rambam wants to bring out that kiddushin doesn't make her a married woman. But it could be there are other things that make a non-Jewish woman a married woman (through relations or seclusion), just not through kiddushin. This must be learned in the laws of non-Jews.

4. The Prohibition of Inter-marriage with Non-Jews: The Rambam in the laws of forbidden relations distinguishes between "in the manner of marriage" (Torah-level with the seven nations) and "in the manner of relations" (rabbinic). This shows there is a concept that a Jew can "marry" a non-Jew — there's a prohibition on this. R' Yoel Asher explains that the reason for this prohibition is "lest he turn your son away from Me" — it's a branch of idolatry, a different kind of mitzvah than other forbidden relations. With all other forbidden relations there's no distinction between one-time or permanent, but with a non-Jew specifically in a permanent manner (marriage) is Torah-level.

5. Important Point: There can be a reality where a person lives with a non-Jewish woman in the manner of marriage (transgressing Torah-level), but the kiddushin itself does nothing — the act of kiddushin (ring, acquisition) doesn't work on non-Jews or slaves.

Halacha: A Non-Jew and Slave Who Betrothed a Jewish Woman

The Rambam's Words: "A non-Jew and slave who betrothed a Jewish woman their kiddushin are not kiddushin."

Explanation: Also from the other side — a non-Jew or slave who betroths a Jewish woman, it's not kiddushin.

Halacha: An Apostate Jew Who Betrothed

The Rambam's Words: "An apostate Jew who betrothed, even though he worships idolatry willingly — his kiddushin are kiddushin, and she needs a get from him."

Explanation: An apostate — even if he worships idolatry willingly, the harshest kind of apostate — his kiddushin are kiddushin, and his wife needs a get.

Insights:

1. **Why Is an Apostate Different from a Non-Jew?** The Rambam says in other laws that an apostate is "like a non-Jew in all his matters" — his Torah scroll is not valid, his slaughter is not valid, he cannot be a prayer leader, he is invalid for testimony, he cannot fulfill obligations for others, a get he writes is not valid. R' Yoel Asher makes this distinction: "like a non-Jew" with a "like" is not the same as "a non-Jew." In matters of service of God (Torah scroll, slaughter) — where it means nothing to him — he is like a non-Jew. But with kiddushin, which is a matter of acquisition, he is not removed — he is indeed part of the Jewish people, he is not a stranger from our tribe.

2. **R' Yitzchak Disagrees** with the reasoning-approach: he says all reasonings don't work — "that's the halacha," it could have been different, and we would understand just as well. In the Gemara it says an apostate Jew — kiddushin works.

3. **Ramification of Kiddushin with an Apostate:** R' Yitzchak says the Rambam perhaps means to say she shouldn't remain living with the apostate, but if she wants to leave, she needs a get.

4. **Practical Difficulty:** An apostate cannot himself write a valid get (stated explicitly in the Rambam), but he must give a get — he must find a valid Jew who will write the get.

5. [Digression: in the time of the Geonim there were opinions that an apostate doesn't need a get — but this is not simple.]

Halacha: Half Maidservant and Half Free Woman

The Rambam's Words: "One who betroths a woman who is half maidservant and half free woman — she is not betrothed with complete kiddushin until she is freed. And once she is freed her kiddushin are completed... and he doesn't need to betroth her with other kiddushin. And another came and betrothed her after she was freed — this is doubtful kiddushin for both of them."

Explanation: A woman who is half maidservant and half free woman (i.e., two masters had a partnership, and one freed her) — when a Jew betroths her, it's not complete kiddushin until she becomes completely freed. When she is freed, the kiddushin are completed without new kiddushin. But if a second comes and betroths her after the freeing, it's doubtful kiddushin for both.

Insights and Explanations:

1. **The Nature of Half Maidservant:** Half maidservant and half free woman is not a doubt — she is **both** at the same time, like an androgynous regarding maleness and femaleness. She has a double reality.

2. **The Comparison to a Minor Who Becomes an Adult — and the Question on It:** The Rambam's language "her kiddushin are completed" and "he doesn't need to betroth her with other kiddushin" is parallel to a minor who becomes an adult. But with a minor who becomes an adult the mechanism is **rabbinic** — the Rabbis enacted that kiddushin of a minor should continue to Torah-level kiddushin. Here with half maidservant it's **not** a rabbinic matter — it's a real doubt, a dispute of Amoraim, and the Rambam rules stringently that it remains a doubt. Therefore the comparison to a minor who becomes an adult is not so fitting.

3. **Contradiction Within the Rambam — Doubtful Kiddushin Without New Kiddushin:** With all other doubtful kiddushin the Rambam says "if he wants to maintain her" he must betroth again with certainty. But here he says "he doesn't need to betroth her with other kiddushin" — when no second comes, it's good as is. This is an innovation: a doubtful kiddushin that is sufficient without new kiddushin. How is it that "he doesn't need" (= it's good) and in the same halacha "doubtful kiddushin for both of them" (= it's not certain)? This remains an **open difficult question**.

Halacha: Shifchah Charufah

The Rambam's Words: "And who is the shifchah charufah stated in the Torah? This is one who is half maidservant and half free woman who was betrothed by a Hebrew slave."

Explanation: The "shifchah charufah" of the Torah (Leviticus 19:20) is specifically a half maidservant and half free woman who was betrothed by a **Hebrew slave** — not by a normal Jew. The laws of shifchah charufah (that the one who has relations brings only a guilt offering, not death like a married woman) are in the laws of forbidden relations.

Insights:

1. **Why Does the Rambam Bring This Here — Answer to a Question:** Everyone knows that shifchah charufah is a half maidservant and half free woman, and with shifchah charufah it's **not** doubtful kiddushin — it's a known weaker kiddushin with special laws. But the Rambam just said that half maidservant who was betrothed is **doubtful kiddushin!** The answer: shifchah charufah only speaks when a **Hebrew slave** betroths her, but the Rambam's halacha of doubtful kiddushin speaks when a **normal Jew** betroths her. These are two different realities.

2. **Hebrew Slave's Kiddushin:** Although a Hebrew slave is a proper Jew, but when he betroths a half maidservant, it receives a special status of shifchah charufah — a weaker kiddushin with its own laws. A Hebrew slave is permitted with a Canaanite maidservant (according to the law of "his master gives him a Canaanite maidservant"), therefore when he betroths a half maidservant and half free woman, it's more proper kiddushin. With a regular Jew, who is forbidden with a maidservant, it's just doubtful kiddushin.

Halacha: Half Slave and Half Free Man Who Betrothed a Free Woman

The Rambam's Words: "And one who is half slave and half free man who betrothed a free woman — this is doubtful kiddushin."

Explanation: The same law as with a Jew who betroths a half maidservant — also when the **man** is half slave and half free man and he betroths a normal free woman, it's doubtful kiddushin.

Insights:

1. **Symmetry:** The law is symmetrical — whether the woman is half maidservant, or the man is half slave — it's doubtful kiddushin.

2. **Question About Half Slave Who Betroths a Maidservant:** It's asked what is the law when a half slave and half free man betroths a maidservant — is this shifchah charufah? It's discussed but not resolved. A maidservant (complete) has no kiddushin at all, therefore the matter is not relevant.

[General Principle]: Laws of Marriage — Status vs. Behavior

Innovation: Regarding gittin, kiddushin, yibum, chalitzah — all "laws of marriage" — a person's status goes according to how he is (born, created), not according to what he does. This is the foundation why coercion doesn't change with kiddushin — because the Rambam holds that coercion doesn't change at all, but especially with laws of marriage it goes according to the reality of the person's status.

Halacha: Kiddushin of a Drunk Person

The Rambam's Words: "His kiddushin are kiddushin even though he became very drunk — the drunkenness of Lot. And one must deliberate about this matter."

Explanation: A drunk person's kiddushin are valid, even if he drank very much. Only if he reached the level of "the drunkenness of Lot" — where he knows nothing of what's happening — the kiddushin are not valid. But the Rambam says "and one must deliberate about this matter" — one must seriously consult.

Insights and Explanations:

1. **The Principle of a Drunk Person in All the Torah:** A drunk person is responsible for all his actions — he is liable for damages, he receives punishments for transgressions. His acquisitions are valid acquisitions. Only with prayer there is a special law about intention, but that's a different category.

2. **"The Drunkenness of Lot" — The Definition:** The measure of drunkenness that invalidates kiddushin is "until he reached the drunkenness of Lot" — as the verse says "he didn't know when she lay down and when she arose," he literally doesn't know what's happening. This is difficult to make a clear definition — how does one assess how drunk someone is?

3. **"And One Must Deliberate About This Matter" — Why the Rambam Adds This Language:** Two reasons: (a) It's **not a clear definition** — there's no precise measure of drunkenness, and people can't know exactly how drunk the other is. (b) It's a **serious matter** — kiddushin is a serious thing. The Rambam says a similar language in the laws of

gittin also. The judge must seriously assess the reality, not just rule from a book.

4. The Custom to Fast on the Wedding Day: The Rema brings the custom to fast on the wedding day in order to avoid concern of drunkenness. When someone didn't follow the custom (e.g., he drank at the reception), it can create problems.

5. [Digression: Lot's drunkenness and ad d'lo yada] A humorous connection between "he didn't know when she lay down and when she arose" of Lot and the matter of "ad d'lo yada" of Purim. "Ad d'lo yada between cursed is Haman and blessed is Mordechai" is a clean language for the true "ad d'lo yada" of Lot.

6. Practical Questions in Responsa Literature: In responsa literature there are many questions about a drunk person's kiddushin — especially in taverns, where people drank and then betrothed a woman. This is more of a problem than at a wedding, because at a wedding he indeed wants to be betrothed, but in a tavern it can be an unplanned thing.

Halacha: One Who Betroths with Less Than a Perutah's Worth — Doubtful Kiddushin

The Rambam's Words: "One who betroths with less than a perutah she is not betrothed. He betrothed her with food or a vessel and the like that is worth less than a perutah — she is betrothed in doubt, and needs a doubtful get. Perhaps this thing is worth a perutah in another place. You have learned that all who betroth with monetary value — if it was worth a perutah in that country, these are certain kiddushin. And if it's not worth a perutah — these are doubtful kiddushin."

Explanation: When one betroths with literally less than a perutah (a coin), she is not betrothed. But when one betroths with an object (food, vessel) that is not worth a perutah in the area — she is betrothed in doubt and needs a doubtful get, because perhaps the object is worth a perutah in another place.

Insights and Explanations:

1. The Distinction Between a Perutah Coin and Perutah's Worth: With a coin that is less than a perutah, it's clear — she is not betrothed. But with monetary value (an object) the value is not so clear, because prices change from place to place. This is illustrated with the example of an etrog that costs differently in Lakewood than in Williamsburg.

2. "Worth a Perutah in Media" — The Rambam's Translation of the Gemara: The Gemara says "worth a perutah in Media" (Media is a distant country where things are more expensive). The Rambam, in his way, removed the curious name "Media" and wrote "in another place" — because he doesn't live there and it must be a general halacha.

3. "It Seems to Me" — The Rambam's Own Innovation About Cooked Food and Vegetables: The Rambam says "it seems to me" — which means this is his own reasoning, not based on a specific Gemara, Rif, or Yerushalmi. The innovation: when one betroths with **cooked food** or **vegetables** — things that spoil quickly — and it's not worth a perutah in the area, **she is not betrothed at all** (not even a doubt!). The reason: "for this thing doesn't reach another place until it spoils and is lost and won't be worth anything" — by

the time it would arrive at another place where it's perhaps worth more, it will already have spoiled and be worth nothing.

4. The Rambam's Understanding of "Worth a Perutah in Another Place": The Rambam understands that "worth a perutah in another place" is not a theoretical halacha — it means a **practical reality**. A merchant takes things from where it's cheap and sells it where it's expensive — this is normal business. Therefore, when an object can actually be transported to another place and sold there for a perutah, it's worth a perutah. But when it can't actually arrive (like cooked food that spoils), the doubt doesn't exist.

5. "And This Is a Matter of Reasoning" — The Rambam's Rare Self-Compliment: The Rambam writes about his own reasoning "and this is a matter of reasoning" — which is noted as unusual, because the Rambam is very "stingy with compliments."

6. "Country" in the Rambam: When the Rambam says "country" he means a **city**, not a country — which is important for the measure of "in that country."

7. Question from the Gemara on the Rambam: The Gemara (Shmuel) says: "One who betroths with a date — in a place where a basket of dates stands a country — she is betrothed, we are concerned perhaps it's worth a perutah in Media." A date can keep well (dried dates), one can carry it to Media. How does this fit with the Rambam's distinction that only with things one can't sell elsewhere do we look at the local market? Answer: perhaps we're speaking of a fresh date that can't withstand the journey, or perhaps even a dried date can dry out further.

8. R' Yoel Asher's Point: The law of worth a perutah in Media is a stringency specifically for kiddushin. R' Yitzchak agrees it's a special stringency with kiddushin, because kiddushin is not a true acquisition — with damages for example one must pay actual monetary value, but with kiddushin the matter is that "she acquires herself for a perutah's worth" — it's sufficiently important that she agrees.

Halacha: Gifts After Invalid Kiddushin

The Rambam's Words: "One who betroths a woman with less than a perutah... even though he sent gifts afterward, she is not betrothed... And similarly a minor who betrothed... even though he sent gifts after he became an adult... for he sent them because of the first kiddushin which were invalid kiddushin."

Explanation: When someone betrothed with less than a perutah's worth, or betrothed two women with one perutah, or a minor betrothed — even if he sends gifts afterward, she is not betrothed. The reason is because gifts are sent because of the first kiddushin — he assumes they are already betrothed, and the gifts are only an addition after the kiddushin, not for the sake of kiddushin.

Insights:

1. The foundation is that gifts are never made for the sake of kiddushin — it's a gift one sends because one considers oneself already betrothed. If he had known the kiddushin were invalid, he could perhaps have made new kiddushin, but because he convinces himself she is already a bride, the gifts have no kiddushin-intention.

2. The term "gifts" comes from "porter" — one who carries things. It's a "carrying" — a delivery brought to the bride.

Halacha: Where One Must Give the Kiddushin — Giving to Her Hand, Courtyard, etc.

The Rambam's Words: "One who betroths a woman with money or document doesn't need to give the kiddushin into her hand, but once she consented for him to throw her kiddushin and he threw them whether into her hand or into her bosom or into her courtyard or into her field she is betrothed. If she was standing in the husband's domain he needs to give into her hand or into her bosom."

Explanation: One doesn't necessarily have to give the kiddushin into her hand. As long as she agrees, he can throw into her hand, bosom, courtyard, or field. But if she stands in his domain, he must give into her hand or bosom literally, because he can't "give" in his own domain — it hasn't left him.

Insights:

1. "She consented" doesn't mean he wants to throw, but that **she** agrees to the manner of giving — she must agree that he should throw, and that the space where it falls should be the place of receipt.

Halacha: Domain of Both — Doubtful Kiddushin

The Rambam's Words: "If she was standing in a domain that belongs to both of them and he threw her kiddushin with her knowledge she is betrothed with doubtful kiddushin. And even if she said to him place my kiddushin on this place and that place belongs to both of them these are doubtful kiddushin."

Explanation: When the place belongs to both (partnership), even if she tells him explicitly "place it here" — it's only doubtful kiddushin.

Insights:

1. **The Doubt Is a Halachic Doubt, Not a Factual Doubt.** This is proven from the fact that even when she says "place my kiddushin on this place" — she clearly knows where it lies — it's still a doubt. The doubt is: whether the giving in a domain of both counts halachically as "arrived at her domain."

2. **An Educational Reasoning:** In kiddushin the money/document must leave his domain and arrive at her domain. In a domain of both — it arrived at hers (because it's also hers), but it didn't leave him (because it's also his). Therefore it's a doubt whether this counts as giving.

Halacha: Public Domain / Domain That Doesn't Belong to Both — Close to Him / Close to Her

The Rambam's Words: "If they were standing in a public domain or in a domain that doesn't belong to both of them and he threw her kiddushin — close to him she is not betrothed, close to her she is betrothed, half and half... she is betrothed in doubt. How is it close to her and close to him? Anything that he can guard and she cannot — this is close to him. She can guard and he cannot — this is close to her. Both can... or both cannot — this is half and half."

Explanation: In a neutral domain, we go according to "close to him" or "close to her." Close to him = she is not betrothed; close to her = betrothed; half and half = doubt.

Insights:

1. **The Definition of "Close" Is Not Simple Geographic Proximity, But Control — "Can Guard."** The Rambam defines "close to him" as: he can guard (watch) the thing and she cannot. "Close to her" — she can guard and he cannot. This is a definition of control, not just distance.

2. **Practically proximity is usually the same as control,** but there can be exceptions — for example a mountain between them, or he is a hero with a broader reach. In such cases one says "one must deliberate about the matter."

3. **Half and Half** includes two situations: (1) both can guard, (2) both cannot guard — in both cases it's a doubt.

4. **The Distinction Between Domain of Both and Public Domain:** In a domain of both the doubt is a halachic doubt (whether partnership-domain counts as giving). In a public domain the doubt is based on control/proximity — a new kind of definition that is not based on ownership of the space, but on practical control.

Summary of All of Chapter 4 of Hilchot Ishut

The chapter deals with five main themes:

1. **Doubts in the Woman's Consent** — when she said language that is not clear whether she wants (like "v'at nami," "give it to my father," "give give give" and the like), doubts in her consent.

2. **Invalid Witnesses** — details about which witnesses are invalid for kiddushin (one witness, Torah-invalid witnesses, rabbinic, doubtfully Torah-invalid).

3. **Types of People with Special Laws:**

- **Orphan** — rabbinic kiddushin with refusal.

- **Deaf woman** — also rabbinic kiddushin.

- **Shoteh** — no kiddushin at all.

- **Seris and ayronit** — proper Torah-level kiddushin.

- **Tumtum and androginus** — doubt.

- **Forbidden relation** — kiddushin doesn't take effect; **niddah** — takes effect but not initially; **secondary prohibitions, negative commandment prohibitions, positive commandment prohibitions** — takes effect.

- **Non-Jew and maidservant** — no kiddushin.

- **Apostate** — kiddushin takes effect.

- **Half maidservant** — doubt.

- **Drunk** — usually yes, but with the drunkenness of Lot no.

4. **Perutah's Worth** — less than a perutah's worth is not kiddushin; factual doubt (worth a perutah in another place) — doubtful kiddushin; cooked food and vegetables — she is not betrothed at all. Gifts after invalid kiddushin don't change anything.

5. **Domain vs. Hand** — kiddushin doesn't have to arrive at her hand literally, but at her **domain**. On this there can be doubts — domain of both (halachic doubt), public domain (close to him, close to her, half and half — doubt in control).

Thus far Chapter 4 of Hilchot Ishut.

Full Transcript

Chapter 4 of the Laws of Marriage – Betrothal with Consent, Betrothing Multiple Women, and Doubtful Betrothals

Introduction to Chapter 4

R' Yitzchak: Good. Today we are learning the fourth chapter of the Laws of Marriage. Yes?

R' Yoel Asher: Yes, Chapter 4. So, in the previous chapters we learned the main essence of the laws of kiddushin (betrothal), that the three types of kiddushin, the statement and how one must give kiddushin, the age when the father and when the woman herself, agency, and at the end the mitzvah min hamuvchar (the preferred way) how one should do it. And here one goes into various detailed laws, doubts and questions, whether the kiddushin is a valid kiddushin, whether there was sufficient consent, and so forth. This is what the Rambam says. Yes, does the introduction sound right?

R' Yitzchak: Yes, yes, I think they learned it before. Very good. So the first thing we're talking about is the topic of consent. They learned that she goes without an introduction. They learned that a woman... the Rambam goes himself to make the introductions.

Law 1 – A Woman is Only Betrothed with Her Consent

R' Yoel Asher: Let's learn. The Rambam, **a woman is only betrothed with her consent.** A woman can only be betrothed with her consent when she agrees. And if she doesn't agree, **and one who betroths a woman against her will, she is not betrothed.** She is not betrothed.

R' Yitzchak: It doesn't work. It's perhaps obvious, as if it's the same thing twice, right?

The Distinction Between Man and Woman – Talahu V'Kidesh

R' Yoel Asher: The Rambam says, **but a man whom they forced until he betrothed against his will,**

R' Yitzchak: What happens in the opposite case. Since one man said this with consent, even someone who betroths a woman against her will, even with some reasoning, she agreed to a lot of money perhaps, perhaps even she says in the end that she agrees.

R' Yoel Asher: Or a bit, she stretches out her hand for the ring, but it's against her will, they put pressure on her, and so on, she doesn't want. Right. So she is betrothed. But a man whom they forced until he betrothed against his will, they forced him, they compel him to give a ring to the woman. He doesn't do it willingly. But **she is betrothed** so, but in practice yes she is betrothed.

Why? Why must one learn this law this way? In practice he receives a good thing in my opinion, he receives a wife. But why do people need to push him? I don't know who, they need to put pressure on him, he's not ready for a big move. But we know it's a good thing. So there is a law that when a person makes a kinyan (acquisition) after

R' Yitzchak: that they hung on him talui v'kidesh,

R' Yoel Asher: There is a law of talui v'zavin, they hang on a person to sell something, and he went and he sold it, he received the money, so it's a kinyan. So a kinyan can happen against his will.

Discussion: The Opinions on This Distinction

R' Yitzchak: Very good. There is very much analysis in this, it's very problematic. The Raavad doesn't really agree, that is the Raavad says only what I need to extract, then perhaps seemingly by a woman it should also work. And in the Gemara it says that talahu v'kidesh is betrothed, and the Gemara explains very much why, because it's like talahu v'zavin, and the Gemara makes clear the distinction that mah she'ein kein ishah (which is not so with a woman), against her will is not good.

R' Yoel Asher: Why by a woman? According to the same calculation one would have to say that the woman... that it should work even against her will, just as it can work by the man. But since the man does a davar shelo k'hogen (something improper), he does an incorrect thing, as the Rambam said at the end of the previous chapter that it's not a proper thing according to the words of the Sages, it must be with consent, the Sages annulled the kiddushin. So the betrothal is by rabbinic enactment. It means by Torah law, one doesn't need a get (divorce), but it's an annulment by the Rabbis of the kiddushin, therefore the Sages have the power.

R' Yitzchak: So it says in our Gemara. It's not clear that the Rambam means this. The Rambam doesn't give a reason. We don't know. But in any case, the Rambam brings this distinction. One can think of many things, as you began to say. First in practice he makes a distinction, first against his will he can also throw a ring into her house and say you are betrothed, because he will see that one can place it in her domain.

R' Yoel Asher: He doesn't make this distinction either. He doesn't say that if one places it on her finger, she stretched out her finger yes.

R' Yitzchak: In short, it's not clear to me. The details, the Rambam doesn't go into the details. He also doesn't say that this is simply about a decree.

R' Yoel Asher: He doesn't say about rabbinic, he doesn't tell us.

R' Yitzchak: As if with rabbinic, it doesn't say. If someone wants, he can learn here for four hours and figure it out.

Later Reasoning on This Distinction

R' Yoel Asher: I say, one can hear quite simply that forcing a woman is more something that one must be concerned about... as if women need protection more from betrothal against their will than men. So they made a decree. A man who is forced is very rare, and on this they didn't make the decree of annulling the kiddushin by the Rabbis.

R' Yitzchak: I hear. I don't know why you say so, but so... I hear.

R' Yoel Asher: It's not spelled out.

R' Yitzchak: The Rav says, the Maggid Mishneh says but other books. The Maggid Mishneh says that a woman who is betrothed against her will is stuck, because the man can accept her to give or not give. Which is not so with a man, he is never stuck, he is the worst case tomorrow, if he doesn't want, he wants to give a get.

R' Yoel Asher: Oh very nice,

R' Yitzchak: Maggid Mishneh. So says the holy Maggid Mishneh. The Turei says even, eh, someone comes today and says, well, but today there is divrei Rabbeinu Gershon, I can't

give a get. The Turei says to him, no, you can very well. Rabbeinu Gershom didn't mean that one forces a person.

R' Yoel Asher: But one means such a case, one finds a loophole. Someone comes and says that I betrothed myself because they forced me, will they let him transgress

R' Yitzchak: the prohibition of a married woman? So this is the claim of the Turei Zahav. But this is all according to the claim. There are those who say that the Rambam has a Torah reason, and not...

R' Yoel Asher: There is a part of the Gemara of annulling by the Rabbis, an act done not in his presence.

R' Yitzchak: There are those who say that the Rambam doesn't need to come to this. There are reasons that say there are other reasons to distinguish. In any case, the law certainly remains so.

Law 2 – A Man May Betroth Multiple Women at Once

R' Yitzchak: The Rambam says further,

R' Yoel Asher: **A man may betroth multiple women at once**, a person can betroth several women at once, but it's understood that he must be careful that the monetary kiddushin which must be worth a perutah. Not enough that there is a perutah's worth in the kiddushin, but there must be for each woman a perutah's worth, **if he betrothed with money a perutah for each and every one**. And with a document, presumably there must be a separate document for each woman or what?

R' Yitzchak: Ah, perhaps one can make one document, which states all of them?

R' Yoel Asher: I don't know. Yes, but all the names must be written, and with the knowledge of all of them

R' Yitzchak: that their names are written.

R' Yoel Asher: **And one of them or another**. Also when a person betroths several women, one of the women can be the agent for all of them, as we learned that the daughter herself can be the agent. Or he can appoint them an agent **to receive the kiddushin on behalf of all of them with their knowledge**, he can all together agree that the same agent should receive with knowledge.

R' Yitzchak: It comes out, all these things, the law is seemingly an introduction to the next law which will be complicated cases of this. Therefore one must say the principle, a person can betroth three four women at once, and it can even be in the same action, because they all make one person an agent that he should be his agent, therefore everything comes out at once.

Law 3 – One Who Betroths a Woman and Gives Her Kiddushin into the Hand of Her Friend

R' Yitzchak: Now it's so,

R' Yoel Asher: Questions what happens in...

R' Yitzchak: What is not in this? When it's not so clear. Yes.

The Case of "V'At Nami"

R' Yoel Asher: Yes. **One who betroths a woman**, ah, based on this that one can betroth several women, as you say. Someone betroths a woman, **and gives her kiddushin with her knowledge into the hand of her friend**. She gives it to an agent, to a friend of the woman, and all three know for whom he is now giving kiddushin. But now, after he gives the kiddushin, he calls out to the friend, to the woman, **when he**

gave the kiddushin into her hand, you know, **v'at nami** (and you too), the kiddushin should also be for you. If you want, I will also acquire you with this. **And the like**, and she agrees, a bit.

But if it wasn't clear that he said "I want you too" and she agreed, but he gave for one, and he said "v'at" (and you), and he didn't explain more, **and it was unspecified and he didn't explain**. So now begins the question what he meant with this "v'at". So what is the law? The one who received the kiddushin, from the one who said the "v'at", the friend, is **doubtfully betrothed**. Why? **Perhaps he only intended to see what is in her heart**, perhaps he as if tested the waters, as they say. He said "v'at", **and it's as if he said to her 'and you, what will you say about this matter?'**. And since it wasn't so, it wasn't the language of kiddushin,

R' Yitzchak: but a question is whether with this action she should become betrothed. Well, perhaps do you also want? Okay, we'll talk about this.

R' Yoel Asher: And perhaps she received from the friend, perhaps she also meant that she agrees. **For this is still asking to see what is in her heart**,

R' Yitzchak: She hasn't yet decided.

R' Yoel Asher: It's an interesting case. Not always is there a doubtful betrothal, but in a case when she says afterwards that she actually had consent, but it's not clear what the statement was.

R' Yitzchak: If she didn't want, that she doesn't want,

R' Yoel Asher: The question already begins. So she wanted, and the question is, was the language "v'at" proper words of kiddushin?

R' Yitzchak: No, it could be that she received. For this he says "and therefore she received". For any time I go to a woman,

R' Yoel Asher: I say, well, come in,

R' Yitzchak: I take it. If there isn't the action with the friend, then the taking is proof that she...

R' Yoel Asher: But what are you taking? Ah,

R' Yitzchak: Here she takes it for the friend.

R' Yoel Asher: It's not so clear.

R' Yitzchak: Right, she takes it for the friend. She takes it because perhaps we'll see tomorrow. If we see tomorrow, it's obvious not now.

R' Yoel Asher: And it's not doubtfully betrothed.

R' Yitzchak: It remains a doubt.

Law 4 – Be Betrothed to Me with This Dinar

R' Yoel Asher: The Rambam says further, what happens in such a case? **Be betrothed to me with this dinar**. A man gives to a woman.

R' Yitzchak: I can insert here what I just said. Usually it's "be betrothed to me with this dinar", and she takes it, it's enough. But what if she doesn't do so?

Natlat V'Zarkato – When She Throws It Away

R' Yoel Asher: But... she also doesn't say I don't want. But she does such a strange thing. She takes the dinar, **she took it and threw it before him**, she throws it down in front of him, or she throws it to the sea, or to the fire, or to a lost thing, I don't know, into a pit, **she is not betrothed**. Because she

actually didn't say, but she showed with her body language, with her act, what she wants. No one has any doubt that this means she didn't agree.

Amrah Lo Tenhu L'Avi – When She Says Give It to My Father

But what is here? Another case. **She said to him**, you know what? Give it to your father. Why don't you take your father? If you're looking for a wife, take your father for a wife. **Or to your father**, give it to your father. **Or to so-and-so**, give it to that person. **And he gave, she is not betrothed**, because... it's a way of saying, "Hello, Moshe, look for me." And also it's a way of protesting.

R' Yitzchak: That is, if she says directly, "You want to betroth? Heh, perhaps give it to my father."

V'Im Amrah Sheyikablenu Li – When She Makes Him an Agent

R' Yoel Asher: But when she said so, and he gave it to the father...

R' Yitzchak: And if she said, no,

R' Yoel Asher: If she said, "No, give it to my father, he should receive it instead of me," it's a type of agency. **And he gave...** interesting, he didn't appoint her as an agent.

R' Yitzchak: No, she appointed.

R' Yoel Asher: Again. No, she appointed by saying to the man, but she also said to her father, "I am appointing you to be an agent." We learned before, one must say, one must make an agent.

R' Yitzchak: Well, one makes him so, an agent to receive.

R' Yoel Asher: Must one say to the man? Yes, certainly. He doesn't know, he receives, but one sets up the action that one simply approached.

R' Yitzchak: Who meant? This means **sheyikablenu li** - this means, I make him an agent.

R' Yoel Asher: The agent doesn't need to know that he is an agent.

R' Yitzchak: An agent to receive doesn't need to know. Okay. He needs to know. No, the Rambam says, an agent to receive needs even witnesses. No. He needs... well, they have witnesses here. There are witnesses here.

R' Yoel Asher: The man didn't appoint witnesses for the kiddushin.

R' Yitzchak: It doesn't say that the witnesses need to see the agent at the time of the action.

R' Yoel Asher: Okay, **and he gave, she is betrothed**, because it was kiddushin. He doesn't mean because this is the kiddushin, he means this to say that this is yes a language of consent.

R' Yitzchak: Right, that's the calculation.

Doubtful Kiddushin: Situations Where It's Not Clear if the Kiddushin Takes Effect

Law: "Hinichu Al HaSela" – If She Says He Should Place It on a Rock

R' Yitzchak: If you say "give it to that person" simply, it's obvious give it into the world.

R' Yoel Asher: And he actually gave.

R' Yitzchak: When you say "sheyikablenu li", and he actually followed. Certainly he followed, he didn't say anything.

R' Yoel Asher: But the point is that "I'ploni bishvili" is the simple meaning. Doesn't mean give it to the father, give it to me but through the father.

R' Yitzchak: He actually brings that the Chelkat Mechokek argues that when he gives it to the father, he must tell him, "I give it to you for your daughter's kiddushin", because otherwise he doesn't know. It's not clear here.

R' Yoel Asher: That's if "sheyikablenu li". Ah,

R' Yitzchak: One imagines that

R' Yoel Asher: She gave him money,

R' Yitzchak: "Daddy, that money, that money,

R' Yoel Asher: was my kiddushin". The father must know, because the agent must know as if what he's doing when he does the agency. I don't know,

R' Yitzchak: I don't know, I don't know. It's also not clear to me that he even doesn't need to be aware. She can say that he can have the money himself.

R' Yoel Asher: Not clear. But here the main point is that the language "sheyikablenu li" is a language of consent,

R' Yitzchak: A language that she wants.

Rambam's Words: "Hinichu Al HaSela" and "Tenhu LaKelev"

R' Yoel Asher: She said to him, what happens so? **"Place it on the rock"** - place it on the rock, **so she is not betrothed**, because it's like throwing away. But **"and if it was her rock"**, if it's her rock, it's obvious that she will acquire it through placing it in her place.

As with **give it to the poor person**, it means give it to that person, not me. A poor person is worse,

R' Yitzchak: But the point is that give it to the poor person means to say not kiddushin.

R' Yoel Asher: **Give it to the dog, she is not betrothed, but if it was her dog**, he yes meant to say that she has a money expense, that she must always feed the dog, and she gives her a gift of giving to the dog.

Which is not so with a poor person dependent on her, even if she cares for that person, she gives that person money, but it's not like her dog. There's no such thing as her poor person. There are people who have such a poor person of hers.

R' Yitzchak: Yes, that's what it means, it's her poor person, but it's still... I mean it's still the main intention. If she says give it and be betrothed, then there are no questions.

R' Yoel Asher: So give it to the dog, one can hear that her dog is benefit from this.

R' Yitzchak: This is all a bit very strange situations. One must know what she means.

Kelev Ratz Acharehah – Doubtful Kiddushin

R' Yoel Asher: **And the next piece says it even more when the previous piece says, what happens if there's a dog here, her dog and the dog is running after her.**

*****"And she said to him, give it to this dog, *** then you understand from the context, from the background that... ah, this is a doubt, because it can also mean negatively. It can mean... the dog is running after her,**

R' Yitzchak: It's not "go to the dogs," it can mean with what you're saving me from the dog, you'll be doing me a favor. He's actually doing her a favor according to a

R' Yoel Asher: A dog that wrote after her. After her,

R' Yitzchak: Running after her. Running after her. He's doing something with what... what... yes, but nevertheless, perhaps it means further, a dog is still a dog.

In short, he says that perhaps he means to say, so he brings from Rashi, from Rabbeinu Chananel, that every Jew is obligated to save another Jew from a dog, it's a mitzvah (commandment), "lo ta'amod al dam re'echa" (do not stand idly by your neighbor's blood). So, she doesn't mean with your kiddushin (betrothal), she means simply, well, you see a dog is running after me, do that mitzvah first before you fulfill the mitzvah of kiddushin.

R' Yoel Asher: I'm very afraid, I've received information that he sent the

R' Yitzchak: Dog to be his dog. All these stories are discussed as you usually say that she knows, because if she wants she can give herself another kiddushin tomorrow, there's no problem with the whole doubt.

R' Yoel Asher: We're talking here in a manner where she went away and so forth, whether we need a get (divorce), whether she's a married woman, a widow.

Law: Seller of Fruits – "Give Me Some of These"

R' Yoel Asher: So, what happens in such a case? **"If someone was selling fruits or vessels and the like, a woman came and stood and said to him, give me some of these"** - give me from the good fruits. **"And he said to her"** - and he says to her, yes, the seller says to her,

R' Yitzchak: **"If I give to you, will you be betrothed to me?"**

R' Yoel Asher: - if I give you, will you become betrothed to me? **"If she said yes and he gave to her, behold she is betrothed"** - because he gave it on this condition, there's a seller, witnesses, and she received it on this condition, behold she is betrothed.

"But if she said" - if she answered, **"give, give, give, throw it to me"** - throw it in,

R' Yitzchak: **"Or give me as a gift"** - or,

R' Yoel Asher: Give, give, give, as one could perhaps learn that someone might think "give" - yes, I agree. But "give give" doesn't mean agreeing. Or she says "throw it here." **"Or words whose meaning is don't joke with me about these matters"** - don't be busy now with matchmaking, now I'm here for fruits. **"Give only, and he gave,"**

R' Yitzchak: **"She is not betrothed."** And afterwards does she still need to pay for the fruits, or was it a present?

R' Yoel Asher: Ah, apparently she doesn't need to pay, because perhaps he had the... I don't know.

R' Yitzchak: He lost the money. No, a gift means a present. He gave a gift, but a gift is very nice. She means, the point is further, this is further the language. There's someone who says, so what, I betrothed? Yes, already, I already thought of you, no problem.

This is betrothing in the marketplace, no? This is literally in the marketplace, for this one must give lashes. But if she says, yes, you know what? Give a gift. In short, knock yourself out with your kiddushin.

Law: Drinking Wine – The Same Law with Wine

R' Yoel Asher: Very good. **"And similarly if he was drinking wine"** - he's drinking wine, he's drinking wine. **"And she said to him"** - she gets jealous, she says "give me also a cup of wine." **"And he said to her if I give to you behold you are betrothed with it, and she said to him give me to drink, to drink"** - give, yes. **"Or give a drink, throw, she is not betrothed"** - because she didn't say "give me to drink and with this I become betrothed." **"She is not betrothed, for the words only show give me to drink and don't joke with me about another matter."** Give me to drink,

R' Yitzchak: **"Don't joke with me about this matter."** This means, this is the opposite. This is all the situations, a judgment on the situations. A person is standing, he's drinking, well, give me a cup. "Behold you are betrothed to me," just give me the cup. In short, not betrothed. Right? Yes. And the same thing, if she says "yes," then it has the same law, right? This is the novelty, the point. So this is all the matters of whether we know that it's betrothed.

Now one can learn it a bit about witnesses,

Law 4: Betrothing with One Witness – Testimony by Kiddushin

R' Yoel Asher: Yes? Says the Rambam,

R' Yitzchak: Here the Rambam goes further to say what is the law of doubtful kiddushin. Perhaps here is the end of all these rejections.

R' Yoel Asher: So we've already learned that we need to have witnesses, the Rambam goes to say a bit more about this. **"One who betroths with one witness"** – many times it is that one witness is also as strong as two witnesses, but by kiddushin not. **"One who betroths with one witness, we don't worry about his kiddushin, even though both of them admit"** – even if they're both admitting, it's not a doubt. But witnesses don't fail to... the matter of witnesses is not about we're afraid someone won't admit, rather witnesses is a law in the kiddushin.

R' Yitzchak: On this there are inquiries that perhaps you hold with "liable to others." There's such a teaching, remember, how did Adam not betroth Chavah? There was no "liable to others," yes. There are those who argue that one of the problems is that there were no witnesses.

So I argue that we don't need kiddushin at all, because kiddushin means being designated one with the other,

R' Yoel Asher: "Forbidden to all people," there is no "all people."

R' Yitzchak: But it can be others say that we don't need witnesses, because there is no "liable to others." Okay, this is just Purim Torah.

Law: Invalid Witnesses – Biblical, Rabbinic, Doubtfully Biblical Invalid

R' Yoel Asher: Okay. Says the Rambam, **"All the more so one who betroths without witnesses"** – completely without any witnesses is **"we don't worry about his kiddushin."**

Now, who is valid? If someone betroths **"with witnesses invalid by Torah law"** – there is somewhere laws of testimony, yes? Where in laws of testimony, right? Choshen Mishpat in the section of acquisition or...

R' Yitzchak: The Rambam, certainly, in laws of testimony.

R' Yoel Asher: There are laws of testimony. Someone who is invalid from the Torah for testimony – someone

R' Yitzchak: We already had a bit about this in laws of sanctifying the month if you remember. Witnesses invalid from the Torah, witnesses invalid from the Rabbis.

R' Yoel Asher: What happens **"with witnesses invalid by rabbinic law"**? Witnesses invalid by rabbinic law, things that the Sages enacted that everyone should also be invalid for testimony. **"Or with witnesses who are doubtfully invalid by Torah law"** – it's a doubt whether they are in the category of doubtfully invalid for testimony from the Torah. So, **"if he wants to marry,"** if he actually wants to acquire, he wants to have a wedding with her, and now there's a problem, someone brought up an issue that the witnesses perhaps weren't valid, he should quickly, **"go back and betroth with valid ones,"** he should take valid witnesses.

"And if he doesn't want to marry," what is now the thing? He's stuck in a doubt, because witnesses who are doubtfully invalid by Torah law, and the same thing witnesses invalid by rabbinic law. There are times, why witnesses invalid by rabbinic law means a doubt I don't know. We previously had things that aren't valid by rabbinic law.

Good question. Ah, perhaps this is because there's no practical difference from rabbinic law to kiddushin from it. When it's not valid rabbinically, there must be a practical difference rabbinically to kiddushin from it. But simply when it's not valid rabbinically, and when by Torah law it is valid, one must be concerned stringently. One needs a get from doubt.

Discussion: Why Are Witnesses Invalid by Rabbinic Law a Doubt?

R' Yitzchak: In any case. Why should it be from doubt? It should be rabbinic. What's relevant about doubt? Which doubt?

R' Yoel Asher: No, by Torah law it is valid, but by rabbinic law it's not valid.

R' Yitzchak: So where is there such a thing? It's not, it's valid. It's valid by Torah law,

R' Yoel Asher: And invalid rabbinically.

R' Yitzchak: It's like doubtful kiddushin. So brings the Magen Neshama, he says it's like doubtful kiddushin.

R' Yoel Asher: The Sages enacted such a thing. It's basically a rabbinic get. It's also so, doubtfully invalid by Torah law is a get from doubt, and by rabbinic law is a rabbinic get. Actually both, because invalid by Torah law is also only an obligation from the Rabbis according to the Rambam. Both is only rabbinically needs a get. Doubtfully invalid by Torah law, the doubt of Torah law stringently is rabbinic. So basically one can call it she needs a get from him rabbinically.

According to those who learn that doubt is different from rabbinic law, it's actually a bit harder here, but according to the Rambam it fits.

R' Yitzchak: There's a great dispute what is the meaning of invalid by Torah law, invalid rabbinically, but in any case,

R' Yoel Asher: So it says in the language of doubtful kiddushin.

R' Yitzchak: Why is it called doubtful kiddushin? It's a concern. Perhaps there is like a doubt in law.

R' Yoel Asher: Whether we don't actually rule so, whether it's actually so strict or what?

R' Yitzchak: It can't be a doubt in law.

R' Yoel Asher: Can't be.

Doubtful Kiddushin, Kiddushin of a Minor, and Kiddushin of a Deaf-Mute — Laws of Marriage Chapter 4

Law 7 (Continued) — The Woman's Denial in Doubtful Kiddushin

R' Yoel Asher: According to those who learn that doubt is different from rabbinic law, it's actually a bit harder here, but according to the Rambam it fits.

R' Yitzchak: There's a great dispute what is the meaning of invalid rabbinically, but in any case,

R' Yoel Asher: So it says in the language "doubtful kiddushin."

R' Yitzchak: This clearly explains why it's called doubtful kiddushin, we're concerned. Perhaps there is like a doubt in law,

R' Yoel Asher: Whether we don't actually rule so, whether it's actually so strict,

R' Yitzchak: Or what. It can be a doubt in law.

R' Yoel Asher: Says the Rambam, **"And even if the woman denied and contradicted the witnesses and said I wasn't betrothed,"** doesn't help. **"We force her to take the get."**

R' Yitzchak: What is the denial? He says, not relevant. If they are valid witnesses,

R' Yoel Asher: And we're talking about the side that they are valid witnesses,

R' Yitzchak: One must be concerned. Ah, that's the point. Ah,

"And So Is the Law of All Doubtful Kiddushin" — Stringently Both Ways

R' Yoel Asher: Good. **"And so is the law of all doubtful kiddushin."** He's already calculated several times a thing when it's a doubt, when it's a doubt what he meant with his words.

R' Yitzchak: It's always the same thing.

R' Yoel Asher: It's always, **"if he wants to marry he goes back and betroths certainly."** We go stringently both ways. **"And if he doesn't want, she needs from him a get from doubt."**

R' Yitzchak: Yes, one must understand this a bit, because "if he wants to marry," I mean, why does he need another kiddushin?

R' Yoel Asher: Because it's a doubt whether he fulfilled the mitzvah of kiddushin, whether the mitzvah of kiddushin was good, whether he already acquired. What's the problem? The whole meaning is interesting.

R' Yitzchak: Because it's a prohibition? Because it's an obligation?

R' Yoel Asher: No, because he didn't make kiddushin. He needs to start life with a wife with kiddushin, and he hasn't yet made kiddushin, only from doubt. Stringently, we take both ways stringently. "She needs from him a get" also only from doubt, for the same reason.

R' Yitzchak: I hear what you're saying.

R' Yoel Asher: So.

R' Yitzchak: Something I thought that I have a question on this, but it seems it fits.

R' Yoel Asher: The question has been answered. Okay. Yes?

Law 8 — Kiddushin of an Orphaned Minor (Or Who Left Her Father's Authority)

R' Yoel Asher: Simple kiddushin.

R' Yitzchak: So, we learned earlier that kiddushin must be... they didn't learn properly. Now they're learning. They learned that one can betroth an adult, a minor. In short, everything can only an adult do usually. Says the Rambam,

R' Yoel Asher: "A minor who betrothed, his kiddushin is not kiddushin," he did nothing. But what happens in such a case? And also we already learned that if one betrothed a minor, it doesn't help, one must give it to the father specifically. But what happens in such a case? A minor who is a more complicated minor. Let's see, "An adult who betrothed an orphaned minor." A minor who doesn't have a father, so there isn't the father to whom to give. Or "a minor who left her father's authority." Or a minor who brazenly went and had a wedding, a fake wedding, and that one died, and she left her father's authority.

R' Yitzchak: One minute, a real wedding,

R' Yoel Asher: Why a fake one? No, she couldn't, the wedding wasn't any kiddushin.

R' Yitzchak: No, no, no,

R' Yoel Asher: Wait now. Ah, it was with the father's knowledge, excuse me. The father accepted kiddushin for her. The Sages said that she left her father's authority. Yes,

R' Yitzchak: The Sages said that she left her father's authority.

Three Levels — Under Six, Over Ten, and Between

R' Yoel Asher: And now she left her father's authority. So she's such a strange creature, she's actually a minor, but on the other hand there isn't a father who should be over her, she has some authority over herself. So, "if she was less than six years old," we go completely by age, says the Rambam, you shouldn't think that we go by intelligence,

R' Yitzchak: Like regarding for example the mitzvah of education, all mitzvot.

R' Yoel Asher: If she is less than six,

R' Yitzchak: There are three levels.

R' Yoel Asher: "Even though she is extremely intelligent," even if she is such a level, she can already learn Kabbalah, she's smart, "and sells and discerns," everything is very good, "there is no kiddushin here and she doesn't need to refuse," because under six means absolutely no kiddushin. Even the intercourse means intercourse, it has no kiddushin.

R' Yitzchak: Now,

R' Yoel Asher: "And if she was ten years old and above," if she is from ten and higher, "even though she is extremely foolish," even if she is a very foolish girl, and wisdom-wise she is still younger than that, but "since she was betrothed with her knowledge," in practice she has some knowledge because she is already ten, "behold she is betrothed for refusal," so she is betrothed to the extent that it's called like betrothed rabbinically, and the law of refusal will be relevant, which the Rambam will explain what

refusal is. She is betrothed, and she will actually not need a get.

R' Yitzchak: So less than six, certainly not. More than ten,

R' Yoel Asher: Certainly yes. Certainly yes,

R' Yitzchak: Some such rabbinic betrothal. Between six and ten,

R' Yoel Asher: Then we check. "We examine the beauty of her mind," we check how nice her intelligence is.

R' Yitzchak: Beauty means nice,

R' Yoel Asher: Like... and discerning is so, if she knows, "discerns and recognizes the matters of marriage and kiddushin," she understands what she's doing, she knows what marriage and kiddushin are, then we say that it's called betrothed from the Torah, I mean rabbinically, excuse me, it's called kiddushin, a rabbinic kiddushin, still needs to refuse, "and if not," if she doesn't understand what's going on, she's young and also foolish, "she is not betrothed for refusal." Whoever is not betrothed regarding refusal, in practice she needs nothing, she can walk away,

R' Yitzchak: It wasn't called any kiddushin.

What Is Refusal?

R' Yoel Asher: Now the Rambam will say, what does this refusal mean? The Rambam hasn't yet said. Ah, it's interesting, earlier when the Rambam calculated the categories, he didn't calculate the category of refusal.

R' Yitzchak: Yes, but this was...

R' Yoel Asher: It doesn't say so many times. And it's only a thing that's relevant in a case when one is betrothed rabbinically. Says the Rambam so: When we say that someone is betrothed only rabbinically, it means that we don't need a get, but what yes? Refusal. What is this refusal? Says the Rambam so: "How is she betrothed for refusal?" Says the Rambam so: "That if she was betrothed," she became betrothed, "and didn't want to sit with her husband," afterwards, the minor who received kiddushin, doesn't want to remain living with the man, "she needs to refuse," she must refuse "before two." Refusal is a language of... refusal, very good, of not agreeing, opposing. And she must say so: "I don't want him" — I don't want him. "And she goes out without a get," she can go out without a get, "as will be explained in laws of divorce." So there's such a thing called refusal. "And this is called the one who refuses." She doesn't need to have a get.

R' Yitzchak: Ah, this is yes a translation with my word, see? As it is written refusing. Add to the twenty-first word.

R' Yoel Asher: Very good. This is a form of divorce, like when it's rabbinic kiddushin, this is like the get.

R' Yitzchak: In place of divorce this comes.

Why Does She Go Out Without a Get? — Because the Kiddushin Are Dependent

R' Yoel Asher: "And why does she go out without a get?" Says the Rambam, "because her kiddushin is not complete kiddushin from the Torah, but the kiddushin of this minor is from the words of the Sages." It's kiddushin from the words of the Sages. Therefore "and they are dependent," so it's dependent and standing,

R' Yitzchak: Not clear. In short, the Rabbis can make such a situation.

R' Yoel Asher: "That if she sits with her husband until she grows up," if she stays with the man until she becomes an adult, then **"her kiddushin is completed,"** it turns out that the kiddushin from then has now been completed, **"and she becomes a complete married woman. And he doesn't need to go back and betroth her after she grows up,"** because then it turns out that the kiddushin is good retroactively.

R' Yitzchak: The rabbinic kiddushin can create such a thing that it becomes real kiddushin. But the whole thing is lechatchila (from the outset) rabbinic? If it truly didn't work, it wouldn't be able to work. It can work.

R' Yoel Asher: The Chachamim (Sages) made it into kiddushin. The power of the Chachamim is there.

R' Yitzchak: But **ve'im lo ratzta** (and if she does not want), on the one hand she needs to do mi'un (refusal). It can't just be, she has to make it known. Set up two witnesses and say "I don't want",

R' Yoel Asher: **Vetetzei belo get** (and she goes out without a get).

Discussion: Why do the Chachamim make mi'un by an orphan, but they are against kiddushei ketana?

R' Yitzchak: An interesting, very clever thing that the Chachamim did. Why don't they also do this by the father who is mekadesh? Because the father can do it from the Torah, they can't stand against it. But when the mother does it, when she does it,

R' Yoel Asher: It can be. I remember that the Gemara says that if someone wants to marry such an unfortunate orphan who has no one, the Chachamim were metaken (enacted) that there should be a way to arrange it.

R' Yitzchak: On the other hand, that she shouldn't lose out,

R' Yoel Asher: Something like that. Yes. We want her da'at (consent). That means, when the father is there, we have the da'at of the father, which is like her da'at. We go with one,

R' Yitzchak: The father takes care of her. The father is a good father. I ask a question, the same Chachamim who made mi'un also said that one should not be mekadesh young girls.

R' Yoel Asher: Yes, but the Chachamim didn't take away from him... the Chachamim could have said, the Chachamim could have been mafkia (nullified) the authority of the fathers from the Torah, which they made a new takana (enactment) like the takana. They didn't say it, they still say that from the Torah one is mekudeshes. They say one shouldn't do it, they leave it to the father, if there is some heychi timtza (possible case) why the father needs to do it, perhaps the father will be able even rabbinically.

R' Yitzchak: I ask a question, the Chachamim don't like the idea of kiddushei ketana, that's how I see from the eleventh halacha. How can it be? Now there is a ketana that even the Torah doesn't allow, because she is stuck, she is ein lah aviha (has no father), she is an orphan, she is divorced from the nisuin (marriage). The Chachamim say, "Ah, wonderful, baruch Hashem, there is kiddushin". But even then, then the Chachamim say, "No, we need to make mi'un". Do you catch that the two things don't fit? We need an answer. Perhaps it's not the same Chachamim who made the two things? Different generations that enacted the two different takanot. Do you

understand my question, right? Or as you say, that sometimes it's necessary,

R' Yoel Asher: It seems they leave it open. By the orphan it stands like this,

R' Yitzchak: That someone should protect her,

R' Yoel Asher: That she shouldn't become hefker (ownerless), yes.

R' Yitzchak: It doesn't say here, I'm telling you, it says by another thing, by the chereshet (deaf-mute woman) it says in the Rambam.

Halacha 9 — Kiddushei Cheresh and Chereshet

R' Yitzchak: Okay, here there is another kiddushin that is essentially rabbinic, the next halacha,

R' Yoel Asher: Halacha 9, yes? The Rambam says, **Cheresh shenasa pikachat. Cheresh shenasa pikachat vechen chereshet sheniseit lepikvei'ach, ein kiddusheihe gemurin min haTorah ela midivrei sofrim** (A deaf-mute man who married a normal woman, and likewise a deaf-mute woman who married a normal man, their kiddushin are not complete from the Torah but from the words of the Scribes). It's also like the previous case, that it's only kiddushin rabbinically. The Rabbanan were metaken kiddushin. As you said, this is a takana to help deaf-mutes. **Lefikach im ba pikei'ach** (Therefore if a normal man comes)

R' Yitzchak: **Vekidesh eshet cheresh hapikachat** (and betrothed the wife of the deaf-mute, the normal woman),

Im ba pikei'ach vekidesh eshet cheresh hapikachat

R' Yoel Asher: **Harei zo mekudeshes lasheni kiddushin gemurin** (behold she is betrothed to the second with complete kiddushin). Because if someone gives kiddushin to an eshet ish (married woman) normally, it doesn't help. We're talking about such a case, a cheresh took a pikachat, and the pikachat is now rabbinically subject to the cheresh. It's a "fake" kiddushin, a kiddushin midivrei sofrim. So if now comes a healthy person who can be mekadesh from the Torah, and she is also a woman who can be mekudeshes from the Torah, and he gives her kiddushin, it's not like an eshet ish where the kiddushin doesn't take effect. The kiddushin takes effect, because they are two people who from the Torah have the right and they can be mekadesh or become mekudeshes. Therefore she is **mekudeshes lasheni kiddushin gemurin, venoten get** (betrothed to the second with complete kiddushin, and he gives a get). He must give a get.

R' Yitzchak: Who must give a get? The second one.

R' Yoel Asher: The second one must give a get.

R' Yitzchak: Because the Rabbanan said that the first one is mekudash. They tell the second one to give a get, **vehi muteret leva'alah hacheresh** (and she is permitted to her husband the deaf-mute). The first one,

R' Yoel Asher: She remains with him.

R' Yitzchak: A very interesting halacha.

R' Yoel Asher: The Chachamim don't let a second one grab her, because the Chachamim

R' Yitzchak: Did give it the name of kiddushin.

R' Yoel Asher: But not like an eshet ish where we say what you did is irrelevant, she remains with the husband. She needs to make a get, yes. This is when a pikei'ach was mekadesh eshet cheresh.

R' Yitzchak: This is all by deaf-mutes. Deaf-mutes are not completely insane.

Shoteh — Ein kan kiddushin klal

R' Yoel Asher: One can live with the Rabbanan. But **shoteh shekidesh pikachat o pikei'ach shekidesh shota, ein kan kiddushin klal** (an insane person who betrothed a normal woman or a normal person who betrothed an insane woman, there is no kiddushin at all). The Chachamim were not metaken any kiddushin for a shoteh, for a man or a woman who is a shoteh. Therefore there is no kiddushin, **lo midivrei Torah velo midivrei sofrim** (neither from the words of Torah nor from the words of the Scribes).

Kiddushin by shoteh, saris, ailonit, tumtum and androginus; kiddushei nidah; kiddushei eshet ish bifnei ba'alah; kiddushin by sheniyot and issurei lavin

Kiddushin by a shoteh

R' Yitzchak: A katan (minor), for example, for a katan the Chachamim did enact. Why? Because a katan will grow up and he will marry. A ketana is necessary, sometimes they made it. A cheresh also, if she marries she will remain. But a shoteh, the Gemara says, "ein adam dar im nachash bekefifa" (a person cannot dwell with a snake in a basket). Kefifa means a basket.

R' Yoel Asher: Like "kefifa mitzrit" (Egyptian basket). So it won't be a solution for anyone.

R' Yitzchak: A shoteh is meshalei'ach et chazirato (sends away his sow), it's not relevant, so leave it. We don't make any kiddushin for a shoteh.

R' Yoel Asher: Trying to help a shoteh will backfire.

Kiddushin by saris, ailonit, tumtum and androginus

R' Yoel Asher: The Rambam says, what happens with a saris? We already learned that a saris is someone who didn't develop simanei gadlut (signs of maturity), but he is still a human being, he is a ba'al da'at (has understanding), he can do kinyanim (acquisitions), he doesn't have a din gadol (status of adult).

R' Yitzchak: Ah, yes, no, we're talking about a saris who already has a din gadol after the—

R' Yoel Asher: Twenties or over thirty. Whether saris chama or saris adam, as the Rambam explained earlier whether it's through an illness or someone did it. Or a female version of a saris is an ailonit, a woman who never became fully developed and she can't have children. **Harei elu kiddushin gemurin** (behold these are complete kiddushin). We're talking of course when he knows that she is an ailonit, there's no mekach ta'ut (mistaken transaction).

What happens with a tumtum or androginus? There is a problem, because we don't know if they can be mekadesh or if they can be mekudeshes. In both cases, whether the tumtum acted like a man or like a woman, or an androginus, **it is kiddushei safek** (doubtful kiddushin). Because on the side that if he was mekadesh her—

R' Yitzchak: It could be that he is a woman and he can't be mekadesh. If she became mekudeshes, it could be that she is a man and she can't be mekudeshes.

R' Yoel Asher: **Harei elu kiddushei safek utzerichim get misafek** (behold these are doubtful kiddushin and require a get out of doubt).

Kiddushin by arayot — the halacha of kiddushei nidah

R' Yoel Asher: The Rambam says like this: What happens? **"Hamekadesh achat min ha'arayot"** (One who betroths one of the forbidden relations), someone is mekadesh a woman who is an ervah. **"Lo asa klum"** (he has done nothing), kiddushin doesn't take effect on an ervah. What is one kiddushin that takes effect on an ervah? The Rambam says, **"chutz min hanidah"** (except for the nidah). Kiddushin doesn't take effect on an ervah. The Rambam says, one of the arayot is also a nidah, a person's own wife who is a nidah, or just such a woman who is a nidah, which is also from the arayot, but it's a different halacha that a nidah is not an issur that remains forever, therefore kiddushin takes effect. That means, indeed, now she is a nidah, but it's something that changes, which is not so with other arayot. **So "hamekadesh et hanidah harei zo mekudeshes kiddushin gemurin"** (one who betroths the nidah, behold she is betrothed with complete kiddushin). **But the Rambam says, "ve'ein ra'ui la'asot ken"** (but it is not proper to do so), it's not proper to be mekadesh a nidah.

Discussion: What is the meaning of **"ve'ein ra'ui la'asot ken"**?

R' Yitzchak: What is the meaning? Why is the meaning that what?

R' Yoel Asher: "Ve'ein ra'ui la'asot ken".

R' Yitzchak: Ah—

R' Yoel Asher: Because there is a question of yichud (seclusion)?

R' Yitzchak: That means kiddushin she'einan mesurin lebi'ah (kiddushin that are not ready for consummation). And the Rambam holds that it's not proper to be mekadesh a nidah. Although the kiddushin takes effect, but one shouldn't.

R' Yoel Asher: Why shouldn't one? Is there a problem in the kiddushin, or just some side problem that one will stumble in the prohibition of nidah?

R' Yitzchak: Because it's not ra'ui lebi'ah (fit for relations). No, no, no, there is a dispute in the Gemara whether it works, right?

R' Yoel Asher: Aha. So the Rambam says, lechatchila one should be stringent like...

R' Yitzchak: I remember. What does it say here on the side? "Ve'ein ra'ui la'asot ken" — she'ein re'uyah lebi'ah (that she is not fit for relations). The Rambam says that it's not completely finalizing the kiddushin, something like that. The kiddushin only works when she becomes pure, therefore something is not clear.

R' Yoel Asher: The Rambam says one should be stringent in the law of kiddushin she'einan re'uyin lebi'ah. There are other halachot about how he should be careful from nidah, yichud. But here is an extra thing that the kiddushin itself, with the kiddushin itself is not a good thing.

R' Yitzchak: Yes.

R' Yoel Asher: Something like that. That's how it looks here. That means, it's not a law in hilchot nidah, this is a law in hilchot kiddushin. It's not such good kiddushin.

R' Yitzchak: It works, there is no law, it's not an ervah where kiddushin doesn't take effect. But—

R' Yoel Asher: "Ve'ein ra'ui la'asot ken". This is a proof apparently that one could only set a wedding actually a

problem for this.

R' Yitzchak: No, kiddushin is not the same thing as chupah. Again, chupat nidah the Rambam holds later in chapter 14 that it doesn't work at all. Chupat nidah doesn't work. The question is kiddushei nidah. Kiddushin where one can't make chupah, the Rambam holds that it works, but it's not lechatchila. That's the meaning. Why? I don't know, the Ra'avad doesn't argue on this. He doesn't explain. It doesn't say here clearly why not. But that's the... "Ve'ei ra'ui la'asot ken"? He doesn't say. He does bring that the Maggid Mishneh should say that perhaps he will touch her. But, an ervah he also won't touch? Not such a big prohibition. A nidah is a prohibition from the Torah.

R' Yoel Asher: I mean, the ervah is also if she didn't purify herself from her nidah.

R' Yitzchak: We're talking about a normal woman who goes to mikveh, not about today's women who never go to mikveh, here where one must. Okay. According to the Rambam...

R' Yoel Asher: In the institutions where you go they lead, all women go.

R' Yitzchak: By us it's not relevant anyway, because we make the kiddushin and the nisu'in at the same time.

R' Yoel Asher: And one tries to calculate it, because today one can calculate that things are connected.

R' Yitzchak: What is connected?

R' Yoel Asher: Today there is a whole business of trying to calculate that there shouldn't happen a chupat nidah, because today's chupot are together with kiddushin.

R' Yitzchak: It's all one big difference. On the contrary, according to the Rambam, a chupat nidah doesn't work at all, so therefore one must certainly be stringent for the chupah. I'm just saying that according to the Rambam, if we go with the Maggid Mishneh simply, sheda shema yiga bebesarah (lest he touch her flesh), then it should be that one should never make any kiddushin if she didn't go to mikveh beforehand. By us it's not relevant, because we make the kiddushin anyway at the time of the chupah.

Digression: The shita of Divrei Yatziv about repeating kiddushin

R' Yoel Asher: Go back to talking about Rambam Hamevo'ar. Here?

R' Yitzchak: Hamevo'ar. Yes, what does he say?

R' Yoel Asher: He brings from Divrei Yatziv, because the tzaddikim made kiddushin again.

R' Yitzchak: That doesn't make sense. Even the Rambam holds that it's doubtful, not clear why it should be such a...

R' Yoel Asher: Be a minhag (custom).

R' Yitzchak: To make chupah again, that can make sense.

R' Yoel Asher: Chupah one can do, but chupah one can be yotzei (fulfill) with bringing home, perhaps one needs to bring a son-in-law. True.

R' Yitzchak: Chupah is not a thing that needs pillars.

R' Yoel Asher: It needs to be a hall specifically with singers, yes.

R' Yitzchak: It doesn't need poles with the... that one also doesn't need. So I don't know. Why should there be a... yes. Okay. There is a shita in the Gemara perhaps that his nidah doesn't take effect kiddushin.

R' Yoel Asher: But... okay, the Rambam says further.

R' Yitzchak: The Gemara says that kiddushin does take effect. Okay. Yes, interesting halacha. Thirteen, yes?

Halacha 13 — Eshet ish who receives kiddushin from another bifnei ba'alalah

R' Yoel Asher: Yes. **Eshet ish, she is already an eshet ish, it's understood that she can't have another husband, so pashta yadah vekibla kiddushin me'acher bifnei ba'alalah** (she extended her hand and received kiddushin from another in front of her husband). Here there is a wondrous halacha. One would have said, it's not relevant, no kiddushin is applicable. **But she is indeed mekudeshes lasheni** (betrothed to the second). Why? Because she did it in front of the husband. There is a halacha that **ha'isha she'amra leva'alalah befanav geirashteini, that she divorced him, ne'emenet** (the woman who said to her husband in his presence "you divorced me" is believed), she is believed, because we have a chazaka (presumption), **einah me'iza paneha bifnei ba'alalah** (she does not act brazenly in front of her husband), a woman doesn't have such a great measure of chutzpah. Therefore, this is enough proof that the husband divorced her. That means, one won't need to bring witnesses or what, she will be believed. Therefore, receiving kiddushin from another bifnei ba'alalah is the same strength as saying geirashteini. It's the same brazenness bifnei haba'al.

It's an interesting thing. It's a chiddush (novelty), that perhaps a person could have said the brazenness, a person can't say to that one in his face. But take a ring? Perhaps yes. But okay, I hear. We're also talking here with witnesses and the whole thing. It's also a great brazenness bifnei ba'alalah. Therefore this is proof that she received a get. We're probably talking when the husband also agrees that she received a get, no? **Aval im kidsha acher shelo bifnei ba'alalah** (But if another betrothed her not in front of her husband). This is bifnei ba'alalah. **Aval im kidsha acher shelo bifnei ba'alalah** (But if another betrothed her not in front of her husband), if a second one was mekadesh her...

Discussion: What does "ne'emenet" mean — truth or stringency?

R' Yitzchak: What do you understand from this ne'emenet? That's the question. Does it mean stringently or completely true?

R' Yoel Asher: Harei zo mekudeshes lasheni, that's what it says.

R' Yitzchak: The Rambam implies that it's completely true. The Ra'avad says, well well, but a ketubah she won't get, and a wedding she also won't. The Ra'avad holds that it's only stringently, as if taking effect in kedusha.

R' Yoel Asher: But I don't know, what does the husband say? The husband who is there bifnei ba'alalah, if he stands and he says, no, she is indeed brazen. I say clearly, I never gave her a get.

R' Yitzchak: We don't believe him? No.

R' Yoel Asher: Certainly not. We only believe her, from ha'isha she'amra leva'alalah befanav geirashteini ne'emenet. But she didn't say geirashteini here, she received kiddushin. But receiving kiddushin is the same thing as saying geirashteini, yes.

Shelo bifnei ba'alalah — ein kiddushav tofsin bah

R' Yoel Asher: Aval shelo bifnei ba'alalah ein kiddushav tofsin bah (But not in front of her husband his kiddushin don't take effect on her), until she brings proof shenitgaresha kodem shetekabel hakiddushin (that she was divorced before she received the kiddushin), because shelo befanav is indeed brazen. The law that shelo me'iza gives her believability is only when there is a chazaka eino me'iza, when it's bifnei haba'al.

Until now we've talked about arayot from the Torah, actual issurei karet (prohibitions punishable by excision). He hasn't yet said about issurei lav (negative commandments). Okay.

Kiddushin by sheniyot, issurei lavin, and issurei aseh

R' Yitzchak: But hamekadesh achat min hasheniyot—

R' Yoel Asher: Someone who is only a prohibition rabbinically, or someone who is indeed from the Torah but it's issurei lavin, like gerusha lekohen (divorcee to a kohen), or issurei aseh (positive commandments), like Amoni uMo'avi (Ammonite and Moabite), or which was an issur aseh? Mitzri ve'Edomi (Egyptian and Edomite). Ah, yes, because it comes with a general positive commandment. **Vechen hayavam shekidesh tzarat yevamto** (and likewise the yavam who betrothed the rival of his yevama), which is a rabbinic prohibition.

Discussion: What is the prohibition of tzarat yevama?

R' Yitzchak: But, there is also a doubt, we learned about this, no? Tzarat yevama, there is indeed a prohibition, but it's not a prohibition, it's not an ervah, right?

R' Yoel Asher: There is a prohibition that the prohibition of eshet ach (brother's wife) goes away, but there is a prohibition of ahot zekukato (sister of his designated one).

R' Yitzchak: Again, what are you talking about? Tzarat zekukato. No, tzarat yevama. What something zekukato? What is the prohibition of tzarat yevama? There is a prohibition on this.

R' Yoel Asher: One may not marry her rival.

R' Yitzchak: Is this rabbinic or from the Torah? What? From the Torah. But is this in the category of a lav or... yevama yavo aleha velo tzarata (the yevama he shall come upon her and not her rival).

Laws of Kiddushin: Yevama L'Shuk, Non-Jew and Maidservant, and Apostate

R' Yoel Asher: Not that she is so forbidden that she exempts her rival wife from yibum, right? Yes, from the law of eshet ach (brother's wife). But why shouldn't it be like arayot? Not eshet ach.

R' Yitzchak: Not eshet ach. Tzarat yevama (rival wife of the yevama).

R' Yoel Asher: Nu? Ah, tzarat yevama, she wasn't married to his brother.

R' Yitzchak: No, the rival wife was married. It says "yevama yavo aleha" and not a second one—

R' Yoel Asher: Something like that.

R' Yitzchak: Not a rival wife. Okay.

R' Yoel Asher: It's a prohibition of a positive commandment, it's a Biblical prohibition but, **harei zo mekudeshes kiddushin gemurin** (behold she is betrothed with complete betrothal), because kiddushin does take effect on this. The

prohibition is not so strong that the kiddushin shouldn't take effect.

Law: The Sages Were in Doubt Whether Kiddushin Takes Effect on Yevama L'Shuk

R' Yoel Asher: Why? "Nistapek lachachamim im hakiddushin tofsin b'yevama l'shuk k'she'ar chayavei lavin, o ein kiddushin tofsin bah k'erva" (The Sages were in doubt whether kiddushin takes effect on a yevama to a stranger like other prohibitions, or whether kiddushin does not take effect on her like forbidden relations). There are two levels of stringency. There's the one where it's such a strong prohibition that kiddushin doesn't take effect, and there are lighter ones. And the level of prohibition of yevama to a stranger, we don't know how severe it is, the Sages are in doubt about this. Therefore it requires a get l'chumra (as a stringency), kiddushin b'safek (doubtful betrothal), one needs a get l'chumra.

R' Yitzchak: Very interesting, this explains the Maggid Mishneh regarding tzarat yevama. It would have been correct, it should have said tzarat erva, but then there's no doubt, then it's eshet ach, it's karet. Tzarat yevama means simply that he had two wives, the brother, and he has kedushat yibum (sanctity of levirate marriage),

R' Yoel Asher: He has a mitzvah on one of them.

R' Yitzchak: But this is something, an extra prohibition of a positive commandment. The Rambam didn't enumerate it. Very interesting, earlier in his list he didn't say this, one of the things, therefore we don't know. But here the Rambam enumerates it extra. Before he says "me'isurei aseh v'chen hayavam" (from prohibitions of positive commandments and likewise the yavam), which is something new. Why he didn't enumerate it there I really don't know. He says that he didn't enumerate it there because it's not a separate mitzvah, it's still part of the mitzvah of yibum or something like that, it's not one of the 613 mitzvot, tzarat yevama. Therefore the Rambam couldn't enumerate it earlier, but he says it here.

This is indeed the main point, yes, the entire big reason why the Rambam had the list of arayot and sheniyot is because of the law. There's no other practical difference in the laws of kiddushin regarding this. The Rambam says,

R' Yoel Asher: "V'af al pi she'asur lo likhnos achat mikol elu" (And even though it is forbidden for him to marry any of these),

R' Yitzchak: That means, one may not marry. What we say that kiddushin takes effect means only that one needs a get, because marrying is not permitted, it's indeed a prohibition.

R' Yoel Asher: Yes,

R' Yitzchak: One needs a get,

R' Yoel Asher: One needs a get.

Law: One Who Betroths a Non-Jewish Woman or Maidservant - It Is Not Kiddushin

R' Yitzchak: The Rambam says, hamekadesh goya o shifcha (one who betroths a non-Jewish woman or maidservant), one who betroths a non-Jewish woman or maidservant, einan kiddushin (it is not kiddushin), it's not kiddushin, but what? Harei hi achar kiddushin kmo shehayta kodem hakiddushin (behold she is after kiddushin as she was before the kiddushin), the kiddushin did nothing.

Discussion: Why Doesn't Kiddushin Take Effect on a Non-Jew and Maidservant?

R' Yitzchak: So I think I can think of a reason why, because we had earlier that these two types of people cannot be agents for kiddushin, because he is not a ben brit (member of the covenant), and he is not b'torat gittin v'kiddushin (under the law of divorce and betrothal). So both things bring in... What we had earlier is based on this. Based on the law, yes. I think the interesting thing is that marriage is a system with people who are of the same faith, the same Torah. There's a governance that everyone... So a non-Jew is not part of this. A maidservant is actually yes part of this, because the maidservant has mitzvot and the maidservant is subject to the master. But a maidservant for this reason is not b'torat properly with kiddushin, they lack ownership. So a non-Jew is simply that he doesn't agree to our kiddushin, he's not part of the thing. That's what one means by b'torat.

R' Yitzchak: A decree, amo doma l'chamor (his people are like a donkey), whatever. It's exactly the opposite. Kiddushin, I need to start a bit earlier. There's a funny thing, it's agreed in the Gemara that kiddushin doesn't take effect on a non-Jew. That means, we learned, there are all kinds of arayot, where kiddushin doesn't take effect, arayot yes it takes effect, but arayot is arayot, so kiddushin doesn't take effect, because it's as if a sin, and we understand that kiddushin doesn't work on such a case. Then there's a non-Jew or a maidservant where kiddushin doesn't take effect because it's a sin. It's not such a great sin to sleep with a non-Jew or a maidservant, but kiddushin takes effect. But it's a bit of a different category. That they are not that it's not kiddushin, because kiddushin is a chiddush (innovation). The Rambam explained in the first chapter, kiddushin is a chiddush that the Torah innovated for Jews, for non-Jews, and for maidservants. There is no kiddushin.

R' Yoel Asher: You don't need to make the...

R' Yitzchak: If a maidservant is different from a non-Jew,

R' Yoel Asher: A maidservant is for a different reason. The same thing. No, the reason for a maidservant is because a maidservant is a different kind of thing, it's more ownership, because the master can always arrange a match, one can mix it in.

R' Yitzchak: A maidservant doesn't have kiddushin.

R' Yoel Asher: But a maidservant is indeed obligated in the Torah essentially.

R' Yitzchak: What do you mean she's obligated in the Torah?

R' Yoel Asher: The Torah is indeed a chiddush from after Matan Torah for all who are part of this, not for maidservants. Okay, a maidservant is not bat kiddushin (subject to betrothal).

R' Yitzchak: Or you'll say a different reason,

R' Yoel Asher: Okay, but let's go further, which doesn't matter.

R' Yitzchak: You're making more reasons, it doesn't say.

R' Yoel Asher: It says that one b'Torah was in kiddushin, and also one lo yuchas. Okay, let's go further.

Discussion: The Difference Between Non-Jew and Maidservant Regarding Marriage

R' Yoel Asher: But actually with a non-Jew there's also a difference between one who relates to a non-Jew as his wife, as

opposed to one who is

R' Yitzchak: With her in a casual manner.

R' Yoel Asher: It can be called his wife regarding greater stringencies, greater punishments.

R' Yitzchak: There's no such thing, one learned more strongly. A non-Jew has a thing, the Rambam didn't exactly say so, but roughly he explained in the first chapter, a non-Jew has a thing of eshet ish (married woman) through intercourse, or you could say yichud (seclusion), no difference, but not through kiddushin. Through kiddushin, it doesn't elevate, doesn't lower. And this is apparently what the Rambam likes to say in a language, it's a funny language, he said earlier his time in kiddushin. Precisely on this law he adds "harei hi achar kiddushin kmo kodem hakiddushin" (behold she is after kiddushin as before the kiddushin). What he means to bring out is that the kiddushin doesn't make her an eshet ish. Maybe there are other things that make a non-Jew an eshet ish? One needs to learn the laws of non-Jews.

R' Yoel Asher: He also means something, because it's not like it's invalid kiddushin, or it's not because it's a serious matter, but because it's something kiddushin, it's like kiddushin before. It's invalid in a way like... kiddushin doesn't work on her.

R' Yitzchak: Technically this is all the same. Also "harei hi achar kiddushin kmo shehayta kodem hakiddushin". There's no technical practical difference between a non-Jew and a... but that the conceptual understanding is perhaps a bit different.

R' Yoel Asher: Okay. Let's go further.

R' Yitzchak: What you learned earlier, that they learned that the Rambam in Issurei Biah says that there's a prohibition to marry a non-Jew, or the seven nations, one must know there derech chatnut (through marriage), and not so derech biah (through intercourse), which shows that yes there's a concept that a Jew can marry a non-Jew, there's something such a prohibition. If one does this derech chatnut it's forbidden, otherwise it's only rabbinic.

R' Yoel Asher: No, the Rambam gives a reason, because the matter is "pen yasir et bincha me'acharai" (lest he turn your son away from Me), because with one it's part of one's family,

R' Yitzchak: One will forget Judaism. It's an extra kind of prohibition,

R' Yoel Asher: It's not a forbidden intercourse. See that it's more a matter of this,

R' Yitzchak: One calls that there's a prohibition of intercourse.

R' Yoel Asher: Like all other prohibitions of intercourse. But with all other prohibitions of intercourse there's no difference whether one does it in a one-time manner or in a permanent manner. As opposed to with a non-Jew, in a permanent manner there's the prohibition of chatnut, which is "shema ya'achilena" (lest she feed him), which is something a branch of idolatry, it's a different kind of mitzvah.

R' Yitzchak: Okay. Is there such a reality that a person

R' Yoel Asher: And his wife can be married,

R' Yitzchak: But the kiddushin does nothing. That's the difference. The kiddushin, further, even there, to betroth and not transgress. If he lives in a manner of chatnut, he transgresses. If he lives in a manner of not chatnut, he doesn't

transgress that prohibition. It has with kiddushin, the innovation that one puts in a ring or makes a kinyan, one does something, this doesn't work on

R' Yoel Asher: Non-Jews or on slaves.

Law: A Non-Jew and Slave Who Betrothed a Jewish Woman - Their Kiddushin Is Not Kiddushin

R' Yoel Asher: And not only non-Jews and slaves, conversely, there's also with a man: "Goy v'eved shekideshu bat Yisrael, ein kiddusheihen kiddushin" (A non-Jew and slave who betrothed a Jewish woman - their kiddushin is not kiddushin).

Law: An Apostate Jew Who Betrothed - His Kiddushin Is Kiddushin

R' Yoel Asher: "Yisrael meshumad shekidesh" (An apostate Jew who betrothed) - this is however such a law. "Yisrael meshumad". There's a category of a person who is a Jew, but he's an apostate, he does sins publicly. There are laws of an apostate. Where are more laws of an apostate?

R' Yitzchak: What's the question? There are many laws. His testimony is not testimony,

R' Yoel Asher: He's invalid for testimony. Yes, it's difficult to do teshuva.

R' Yitzchak: He's a non-Jew for all matters. The Rambam says many times that an apostate is k'goy l'chol devarav (like a non-Jew for all matters). We learned such laws in the laws of Shabbat. What does l'chol devarav mean? That his Torah scroll is not valid, his slaughter is not valid perhaps, etc. etc.

R' Yoel Asher: He can't be a prayer leader and the like.

R' Yitzchak: Not a prayer leader, the whole world. If he makes a Torah scroll, we learned that it doesn't have the sanctity of a Torah scroll.

R' Yoel Asher: He can't fulfill the obligation. He can't pray and fulfill the obligation.

R' Yitzchak: He doesn't pray, there's no question.

R' Yoel Asher: Why does he make Torah scrolls? In short,

R' Yitzchak: There are many laws that regarding this, the effect, there are effects of mitzvot that an apostate can't do.

Discussion: Why Is an Apostate Different from a Non-Jew Regarding Kiddushin?

R' Yitzchak: But here comes in, you would have thought that it says "k'goy l'chol devarav", simply that he's a non-Jew,

R' Yoel Asher: And therefore he doesn't have gittin and kiddushin. He says, it's "k'goy" and a non-Jew

R' Yitzchak: Is not the same thing.

R' Yoel Asher: As one needs to have... I think that the Rambam said by scrolls, that because when he writes it, it means nothing to him, yes? Such kinds of things in service of God. But here with kiddushin it's a matter of acquisition. He's not removed from this. He's not like a non-Jew who is not part of our tribe. He's indeed part of us,

R' Yitzchak: And you're holding saying half the reasoning, which I don't see the reasoning at all. All these reasonings don't work. That's the law. That an apostate Jew, the law could have been different, you would have understood just as well.

R' Yoel Asher: The law is however that an apostate Jew has...

R' Yitzchak: We're talking here that he betrothed a pious Jewish woman, yes? A fine Jewish woman. Even if he betrothed another apostate woman. No difference. As long as she was born a Jew, kiddushin works. That's the law. Yes. Okay. It was, I remember that there's what perhaps even argue about this law. Okay. Yes. But in the Gemara it says so, that a Yisrael mumar, or meshumad is perhaps the correct version.

The Rambam's Language: Even Though He Worships Idolatry Willingly

R' Yoel Asher: The Rambam says, af al pi she'hu oved avoda zara birtzono (even though he worships idolatry willingly) - we're talking about a real apostate, worships idolatry willingly. There are several types of apostates, but when the Rambam caught here, it seems this is the most severe of them. But regarding kiddushin he's called a Jew, u'tzricha mimenu get (and she needs a get from him). Already. The Rambam says further. Now we're going to learn...

R' Yitzchak: That means, she needs a get, that his wife needs a get, that's the practical difference of kiddushin. Perhaps the Rambam means to say that she shouldn't remain living with the apostate God forbid, but if one must leave, one needs a get.

R' Yoel Asher: One can't just leave. What is he? I don't know. Perhaps one can elevate him, like Dinah wanted to take Esau and lift him up.

R' Yitzchak: No, no.

R' Yoel Asher: I don't know to say. It depends on the situation. And one can come... I mean, one can't make the inference from the Rambam. No, it could be that there's no such thing.

R' Yitzchak: For example, writing a get an apostate can't. It says explicitly in the Rambam that his get that he writes is not valid, but he himself must give a get, and he must find a valid Jew who will make the get for example. There were others who wanted to think differently, it was perhaps in the time of the Geonim who wanted to think that an apostate doesn't need a get and the like. It's not so simple.

One Who Betroths Half Maidservant and Half Free Woman - Doubtful Kiddushin and Completion of Kiddushin

Law: One Who Betroths a Woman Who Is Half Maidservant and Half Free Woman

R' Yitzchak: The birtzono is apparently the opposite of coercion. Yes, the Rambam holds that coercion doesn't change. But regarding gittin and kiddushin, that means not only kiddushin, yibum, chalitza, all these things, you can call it like laws of marriage, the status of a person, this goes more or less with how he was born, it has nothing to do with what he does. Interesting, you can understand why in such a thing one would make the law this way, but that's the law. Okay. Now we're going to learn today a strange case.

R' Yoel Asher: Yes. **Hamekadesh isha shechetzyah shifcha v'chetzyah bat chorin** (One who betroths a woman who is half maidservant and half free woman). We already learned that a maidservant, kiddushin doesn't work, but there's also one who is halfway a maidservant. It means one who was a maidservant to two masters, two had a partnership, and one freed her,

R' Yitzchak: Now she's half.

R' Yoel Asher: So she is both.

R' Yitzchak: He betrothed the woman.

R' Yoel Asher: And she is both. She's not doubtful, she's like an androgynous regarding male and female. She is both. One like this was **eina mekudeshes kiddushin gemurin ad shetitcharer** (she is not betrothed with complete betrothal until she is freed). But when she becomes freed, meaning the second master freed her, then **gamru kidusheha** (her betrothal is completed), it's finished, her betrothal becomes complete. Like we learned earlier with k'kiddushei ketana shegadla (like the betrothal of a minor who matured), that a minor who received betrothal before her time, it's not kiddushin. But if one waited and he remained with her after she became an adult, then the kiddushin is completed, then the kiddushin becomes valid kiddushin.

Discussion: The Status of Ketana Shegadla - Is This Rabbinic?

R' Yitzchak: That means kiddushei moin (quasi-betrothal). There's no connection between the two things, because there we learned that the Rabbis made kiddushin, and somehow the rabbinic kiddushin becomes Biblical kiddushin if they are not protesting. Here there's no

R' Yoel Asher: Subject of the Rabbis. But the language **kiddushin gemurin** was used. It means that it's not proper kiddushin, so that's the word kiddushin gemurin. Gemurin. Here it says the word kiddushin gemurin, and then it says kiddushin not achrin. Gemuri kiddushin.

R' Yitzchak: He means exactly, it's completed,

R' Yoel Asher: It's not yet completed.

R' Yitzchak: It's a... So perhaps like rabbinically she's betrothed,

R' Yoel Asher: Or something such a situation,

R' Yitzchak: That I'm asking about. Because except for a Canaanite slave, chetzyah shifcha v'chetzyah bat chorin, I don't know if it's a subject of rabbinic. It could be that it's more a subject of... I don't know, it's halfway. It's half and half.

R' Yoel Asher: So it's like a doubt in how to do mitzvot. No, it's not a question of mitzvot, it's a question of sanctity.

R' Yitzchak: No, for example,

R' Yoel Asher: I would say like this, for example, if a second one has intercourse with her because she's in this state, is she an eshet ish? We'll see, we'll see. I say the next law talks about this. He had intercourse with a half eshet ish,

R' Yitzchak: The half. And the Rambam implies that it's like half kiddushin rabbinically, that he transgresses eshet ish, or I don't know if it's rabbinic, half, something a different kind of thing.

And When She Is Freed Her Betrothal Is Completed - And He Doesn't Need to Betroth Her Again

R' Yitzchak: Okay. **V'cheiván shenischtrerra, gamru kidusheha** (And when she is freed, her betrothal is completed), like a ketana shegadla, **v'eino tzarich** (and he doesn't need), the one who betrothed, he doesn't need to betroth again. Yes? Yes. What is **ba acher v'kidesháh achar shenischtrerra** (another came and betrothed her after she was freed)? What happens when it was the period when the kiddushin wasn't yet completed? No, after the period.

R' Yoel Asher: After she was freed. After she was freed. A second one came. It's after it was already agreed,

R' Yitzchak: Yes?

R' Yoel Asher: After it already became a gemar kiddushin, yes? Apparently. **"Harei zeh safek kiddushin lishneihem."** That means, "and he doesn't need to betroth her with another kiddushin" in the normal way when no second one comes. If a second one comes, you need to know that the entire halacha

R' Yitzchak: Is actually not so clear, it's a safek.

R' Yoel Asher: Because the first kiddushin was only a kiddushin d'rabbanan slash kiddushei safek. It's not clear. Therefore, now one made a proper kiddushin, on the side that the previous one is not kiddushin, he could indeed be mekadesh. It's a safek, it's a safek in halacha,

R' Yitzchak: A dispute of the Amoraim, and the Rambam rules that it's a safek. Therefore, if no second one comes, there's no problem, she is mekudeshes. As if, it's very interesting.

Discussion: Why is "and he doesn't need" if it's a safek?

R' Yoel Asher: It seems to me here that the Rambam thinks that if

R' Yitzchak: Someone has a kiddushin that is only mispafek kiddushin, it's enough, one doesn't need to make kiddushin again, because the mitzvah of kiddushin he was already yotzei. There's no reason to say two kulas lechumra, you have a safek, let him be mekadesh again. Earlier he did say so, right? By all sfeikey kiddushin he said that if he wants to be kayam, he needs to be mekadesh b'vadai. But here suddenly he doesn't say so,

R' Yoel Asher: He says it's good, it's good. One can say that the Rambam would only say it then when it begins with a d'rabbanan, that one should do so, yes? Just like by a ketanah, the Chachamim were metaken so.

R' Yitzchak: By a ketanah one doesn't need to do it. Here it's like a ketanah. I'm saying, a normal safek kiddushin,

R' Yoel Asher: I told him that one can remain until we, and now nishtachreirah one doesn't need to no. Why doesn't one need to no? Because it's mamshich. You're saying that the same thing will be...

R' Yitzchak: Again, so it says by a ketanah. But by a normal safek kiddushin we don't say so. By a normal safek kiddushin the Rambam says, "im ratzah lekayemah" he needs to be mekadesh again. And here he says clearly that it's a safek kiddushin, that means if a second one comes, but if no second one comes, he says it's good. One needs to understand the technical learning why such a halacha happened.

R' Yoel Asher: And also, why doesn't safek kiddushin remain no? Other flaws, when one is mekadesh someone that one may not be mekadesh m'drabbanan, specifically the rabbinic kiddushin is batel.

R' Yitzchak: This is not d'rabbanan. This I'm saying, the comparison of ketanah shegadlah is not such a good comparison apparently, because there it's m'drabbanan. This is not m'drabbanan, this is truly a safek, a dispute in the Gemara how it works. And the Rambam rules that one must be machmir, as if it remains a safek.

R' Yoel Asher: Safek kiddushin lishneihem, both need to give a get or what?

R' Yitzchak: Yes, but just like the halacha every time, there are two people who have a safek kiddushin, you would ask what the halacha is?

R' Yoel Asher: The Rambam says, is there another category?

R' Yitzchak: So the point that the Rambam adds that there is like ketanah shegadlah, is something of a chiddush from the Rambam. One needs to understand how the Rambam put in this piece, because simply it's just a safek, it always remains a safek. You understand? What the Rambam puts in a normal case, as if gemar kiddushin,

R' Yoel Asher: This is something interesting. How does it become from "and he doesn't need to betroth her" to a safek kiddushin? It's difficult, difficult to learn it.

R' Yitzchak: It's actually backwards. To say that it's a safek, that's normal. How does the question of ketanah shegadlah come in here? It's not ketanah shegadlah, it was a peculiar case, a chatzi shifchah. Perhaps one can be mekadesh her, perhaps not. Okay, ask the rabbis. The rabbis don't know, they make it a safek. But what does this have to do with gemar kiddushin?

R' Yoel Asher: What is the connection of gemar kiddushin here?

Halacha: Shifchah Charufah — Distinction from Chatziyah Shifchah Shekidshah Yisrael

R' Yitzchak: Now the Rambam says,

R' Yoel Asher: There is another term that we know, a category called shifchah charufah. What is the shifchah charufah that we know in the Torah? It's interesting that the Rambam puts it in here.

R' Yitzchak: The Rambam is in the middle of speaking about a chatziyah

R' Yoel Asher: Shifchah v'chatziyah bas chorin that a normal person was mekadesh. Everyone knows that

R' Yitzchak: A shifchah charufah is a sort of shifchah that doesn't have proper kiddushin. And the proof, the one who is bo'el her, that means "shifchah charufah necharefes l'ish", and she's not just a shifchah that doesn't have a man. She has in a sense a man, but she doesn't have a man that one needs to bring a korban asham in total, one doesn't need to do anything more, it's not an issur eishes ish.

The Rambam says, although everyone knows that a shifchah charufah is a chatziyah shifchah v'chatziyah bas chorin,

R' Yoel Asher: But here I learned in halacha that it's a safek kiddushin.

R' Yitzchak: If it's a safek kiddushin, it should be safek eishes ish, not shifchah charufah. Shifchah charufah is not safek kiddushin, shifchah charufah is something else. So the Rambam explains, **"V'eizo hi shifchah charufah ha'amurah baTorah?"**

R' Yoel Asher: Something else. **"Zo mi shechatzyah shifchah v'chatziyah bas chorin",**

R' Yitzchak: The same one,

R' Yoel Asher: But she becomes mekudeshes not like before, rather **"shekidshah eved ivri"**. An eved ivri was mekadesh her, not just a Jew was mekadesh her. Which this is a new sort of reality, and then there are the laws of shifchah charufah that we learn in hilchos issurei biah.

R' Yitzchak: Although an eved ivri is also a proper Jew, but when he is mekadesh a shifchah, then she becomes a shifchah charufah lo, then it's a weaker kiddushin, then the halachos of shifchah charufah begin. But **"u'mi shechatziyo"**, yes?

R' Yoel Asher: That means, until now we didn't have an eved ivri who is mekadesh a proper woman, it's proper. That means, when one learned "eved", one spoke everywhere about an eved kena'ani. But when he takes a shifchah charufah, there are special laws. And what more the special laws are, the Rambam doesn't say here,

R' Yitzchak: That's in issurei biah.

R' Yoel Asher: He only comes to explain, that because he spoke about chatziyah shifchah v'chatziyah bas chorin, you shouldn't make a mistake with something that's known from the Torah.

R' Yitzchak: No, because it's a question on the Rambam, you remember that shifchah charufah is not kiddushin, and here the Rambam says it's a safek. The answer is a distinction: the shifchah charufah speaks when it's kidshah eved ivri, and the Rambam spoke about kidshah a normal Jew. This is apparently the meaning of the Rambam.

Halacha: Chatziyo Eved V'chatziyo Ben Chorin Shekidesh Bas Chorin

R' Yoel Asher: Yes, further we're going to learn, we've already learned about all kinds of people and situations.

R' Yitzchak: Not all,

R' Yoel Asher: But conversely, **"u'mi shechatziyo eved v'chatziyo ben chorin"**, the same thing when the man is the eved who is a chatziyo eved v'chatziyo ben chorin, who was mekadesh a bas chorin, **"harei zeh safek kiddushin."** Just like when a Yisrael is mekadesh a chatziyah, the same thing when an eved is mekadesh a Yisraelis,

R' Yitzchak: A proper bas chorin, it's a safek kiddushin.

R' Yoel Asher: And when a chatziyo eved v'chatziyo ben chorin is mekadesh a shifchah, then it becomes a shifchah charufah, no,

R' Yitzchak: Then it's nothing, I don't know, he doesn't say.

R' Yoel Asher: I don't know, okay. Or perhaps that's shifchah charufah the other way around, a chatziyo eved v'chatziyo ben chorin who is mekadesh a shifchah.

R' Yitzchak: Again, he's mekadesh a shifchah,

R' Yoel Asher: But an eved ivri is mekadesh a chatziyah.

R' Yitzchak: A shifchah doesn't have kiddushin, what comes in here? Shifchah doesn't have kiddushin, we began the halacha,

R' Yoel Asher: Shifchah ein lah kiddushin. The chatziyah, but the ivri is a normal Jew. Shifchah doesn't have kiddushin. An eved ivri is also. Okay, further. There is shifchah charufah is something unique, that there's only one case.

R' Yitzchak: Again,

R' Yoel Asher: An ivri was mekadesh her. A Jewish shifchah there isn't such a Jewish,

R' Yitzchak: A Jewish, a Jewish, what comes in?

R' Yoel Asher: An eved ivri is also a Jew.

R' Yitzchak: The problem is with the shifchah. His kiddushin is indeed good. If a Jew would have been mekadesh her, it's also a safek. Could be, but

Kiddushin B'shichrus U'v'fachos Mishveh Prutah

Shikor's Kiddushin

R' Yoel Asher: The

R' Yitzchak: Chatziah amah v'chatziah bas chorin will be like that over.

R' Yoel Asher: An eved ivri is also. Okay, further. Shifchah doesn't have kiddushin. An eved ivri is also. Okay, further. Shifchah is something unique. There's only one case. There's also a Jewish shifchah. The other about in. A Jewish shifchah there isn't such a Jewish...

R' Yitzchak: It's a Jewess. What comes in?

R' Yoel Asher: An eved ivri is also a Jew. It's something a special Jew. The problem is with the shifchah.

R' Yitzchak: His kiddushin is indeed good. If a Jew would have been mekadesh her, it's also a safek. Could be, but when an eved ivri, all the commentators here don't know clearly what it will say, whether perhaps a Jew will also be a shifchah charufah. But the Rambam says, it could be that there's a distinction, because a Jew is forbidden with a shifchah, therefore it can't be called proper kiddushin. Which is not so with an eved ivri who is permitted with a shifchah kena'anis. You remember, you remember all these things, the master gives him a shifchah kena'anis. So an eved ivri, therefore it's called more kiddushin, therefore it becomes halachos of shifchah charufah. When it's a Jew, it's just a safek kiddushin. One learns earlier, another topic. Shifchah charufah with an eved ivri, the special one, you ask what's special about an eved ivri? What's special is, the eved ivri is permitted with a shifchah. Okay. Now we're going to learn about another sort of person, another sort of Jew, where there's a

R' Yoel Asher: Question on his kiddushin.

R' Yitzchak: There's a cheresh shoteh v'katan, what happens to someone who is another kind of da'as? Yes, they learned the whole group of people, a cheresh, a shoteh, and some of them were in the matter of min, of how ownership, min. Yes, now they have da'as, it's more the criterion of da'as.

Shikor's Kiddushin

Shikor's kiddushin. I'm mekadesh the order and take. We made a long list of all sorts of people whose kiddushin is yes or not effective. And the last on the list. A Jew made a wedding, he was too meticulous about the mitzvah of the wine. No, one must make a blessing on wine, the blessing of erusin, and he drank a whole box. Blessing of erusin, and after the kiddushin, he collapsed. The Rambam said it's before the kiddushin. From half a moment he became drunk, well well. Okay, he was very stringent. No, I once spoke he didn't fast that day and he drank at kabbalas panim. Let's not judge kabbalas panim. As needed,

R' Yoel Asher: So says the holy Rema that because of this

R' Yitzchak: One fasts on the day of the chuppah so there shouldn't be any concern of drunkenness. But a person happens who didn't follow this custom which actually solved the problem. Yes. So what then? "**Kiddushin kiddushin v'af al**"

R' Yoel Asher: "**Pi shenishkar harbeh, even if he drank a lot.**"

The Definition of Shichrus Shel Lot

R' Yitzchak: Drunkenness of the betrothal. Interesting. Perhaps it's not relevant how long as she wants. She also needs to have ratzon, but not that you're making me kiddushin.

R' Yoel Asher: She also needs to have ratzon, but she's making me kiddushin. His awareness of what's going on is...

one can be much more drunk than saying the words, doing the action. A drunk person, so it says and we rule in all of Torah, he's responsible for his actions, he's liable for damage if he was damaging, he receives punishments for a sin that he did when he was drunk. We don't count it. There are I believe things that a drunk person has, we know he doesn't have proper intention, it's a hora'as sha'ah regarding prayer for example, it's another kind of law. But all his acquisitions are acquisitions. Except if he became so drunk that he's truly not aware of what's going on, which is called "**ad shehigi'a leshichrus shel Lot**". It's hard to make a definition. We all know a story in the Torah about Lot, and we know what he did when he was drunk. "**Lo yada b'shichbo u'vkumo**". It's enough of a juicy story that the world should know what we're talking about.

R' Yitzchak: He was mekayem ad d'lo yada, yes? "Lo yada b'shichbo u'vkumo".

R' Yoel Asher: Ah, that's the Torah's ad d'lo yada. "Arur Haman baruch Mordechai" is a language

R' Yitzchak: Clean for the "b'shichbo u'vkumo", that's what he means.

R' Yoel Asher: Haman wanted to lay down the Jew in his lying down.

R' Yitzchak: In short, yes. So then,

U'misyashvin Badavar Zeh

R' Yoel Asher: Then it is in kiddushin, in kiddushin, says the Rambam. But the matter is not so simple. "**U'misyashvin badavar zeh**". That means, you can't come the next day and say, "Ah, you should know, I was drunk like Lot at the wedding." One is not lenient in this. The judge needs to assess how strongly drunk he is. When the Rambam says "misyashvin badavar zeh", he means to say that no one should say that I ruled as it says in the Zohar Rambam. One needs to sit down, one needs to judge it seriously.

R' Yitzchak: On every halacha one needs to judge seriously. But apparently, when he says this, he means to say because

R' Yoel Asher: This is not a clear definition.

R' Yitzchak: And it's a serious matter. In hilchos gittin he says a similar thing. I remember that there are other places where he says such language. Apparently, it always means that it's not a clear thing, there's no measure of drunkenness.

R' Yoel Asher: People don't know how strongly drunk the other person is, how strongly he's happy, how strongly he's drunk. Okay. There are many such questions here, not many, because there are in the responsa books. People come to a tavern and drink, it's presumably a phenomenon that happens, one judges how drunk he was when he said.

R' Yitzchak: Ah, he says, the action isn't, what the poskim speak about at the wedding is presumably a smaller question, because anyway, he wants to be mekudash. The question begins with some crazy people who send things.

R' Yoel Asher: It's in the tavern. There is where the unofficial happens... And the Gemara is even in the marketplace. In today's times, if it's not in the marketplace, it would very possibly be in the tavern. And questions of drunken Lots begin. Living like one comes to the tzaddik's town.

Hamekadesh B'fachos Mishveh Prutah

R' Yitzchak: Until here we learned people. Now one can learn halachos about the measure. After the prutah that we

already learned earlier that kiddushei kesef must be a prutah or worth a prutah. What happens if it's not? What happens this is a safek in distinction that one sees to learn?

The Distinction Between Prutah and Shveh Prutah

R' Yoel Asher: "**Hamekadesh b'fachos miprutah einah mekudeshes.**" If he gives a coin, which we know what the coin is, it's less than a prutah, then she's not mekudeshes. But here there's a chiddush that we learned that also is worth money. Worth money is already a bit more complicated. So, "**kidshah b'ochel**" with food "**o b'chli**", with a gift a vessel, "**v'chayotza bo sheshaveh fachos miprutah**", and one assesses it, behold, it's not worth more than a prutah. Apparently one knows, it's not worth a whole prutah. A person would say, okay, just like when you bring a five cents coin that's not a quarter, whatever a prutah is, it's not. But when it's a valuable thing, it's another halacha. "**Harei zo mekudeshes b'safek**", which is yes mekudeshes b'safek. And what does mekudeshes b'safek mean? "**V'tzrichah get mispafek**". He doesn't tell me that one needs to be mekadesh again.

R' Yitzchak: If one wants.

R' Yoel Asher: Certainly. About what does he say she needs a get mispafek? Because the question is about the divorce. When someone wants to be mekadesh, it costs another prutah to be mekadesh. It's not a problem. But why? You'll understand my question why. It's very difficult. Why should it be different than less than a prutah? Because by something that is worth a prutah, "**shema davar zeh shaveh prutah b'makom acher**", perhaps in other places it is indeed worth more. Therefore it doesn't assess so quickly that it's not worth money. Things change, and there are other regions, in other places it is indeed worth.

Kiddushin with Money: Laws of Giving, Ownership, and Gifts

Discussion: Shaveh Perutah B'Madai — Continuation

R' Yitzchak: Something worth a perutah is not such a clear thing. A perutah is a clear thing, but something worth a perutah - every item has a price. In Lakewood an esrog costs this much, but in Williamsburg the same esrog costs twice as much. You might ask me why? Nobody knows, but that's how it is - in another place it costs more. Perhaps it could be sold in one place and make the perutah, so it's only worth a perutah.

The Rambam's Language: B'Makom Acher

R' Yoel Asher: So, the Rambam goes...

R' Yitzchak: To reach this greatness... The Gemara calls it shaveh perutah b'Madai, but the Rambam in his way removed the curious word Madai.

R' Yoel Asher: B'makom acher - the Gemara's makom acher was Madai, the Rambam doesn't live there.

R' Yitzchak: There's a verse, "relief will arise for the Jews from another place (makom acher)." Where was it in Madai? Ah, it's written in the Torah. **Ha lamadta**, says the Rambam, it comes out, the halachah emerges, yes?

The Rambam's Innovation: Tavshil and Yerek

R' Yoel Asher: But I'm saying, the Rambam is going to place checks and balances on this. Let's finish. **Ha lamadta, shekol hamekadesh b'shaveh kesef**, something that's worth money, now we need to consider it seriously. **Im hayah shaveh perutah b'osah hamedinah**, in that region - by the

way, when the Rambam says "medinah," the listeners should know, of course the scholarly world already knows, a medinah means a city, a town, not a country as we know it - **harei eilu kiddushei vadai**, because in that region it's accepted as worth a perutah, that's the local market. **V'im eino shaveh perutah**, I'm not fooling myself, **harei eilu kiddushei safek**,

R' Yitzchak: Perhaps it's worth a perutah.

R' Yoel Asher: Says the Rambam,

R' Yitzchak: It's absurd to say that everything is perhaps worth a perutah.

R' Yoel Asher: The Rambam says this, the Rambam makes his own innovation,

R' Yitzchak: His own strength. The Rambam states his own strength, which I think the Rambam's strength is basically also the strength of...

R' Yoel Asher: The entire formulation of "v'im eino shaveh perutah," how far does it go? I think it goes one hundred percent far, there's just an exception that the Rambam makes. I don't know, I don't know. I don't know why. Here the Rambam says this, when the Rambam lays down the chapters, the Rambam says here the chapters "**yeira'eh li**", which we know from the story of the Akeidah, "yeira'eh li esseh le'olah beni." The Almighty, when the Rambam says "yeira'eh li," it means it's his own innovation, it's not ruled according to the Rif or according to a Gemara that he found or a Yerushalmi as is his way, but his own reasoning. What? That what was said that less than a perutah is still doubtful kiddushin because of "perhaps it's worth a perutah in another place" is only generally. But if he was mekadesh **b'tavshil**, with something he cooked, **o b'yerek**, which are things that don't last long, they last a few hours to a day or two, then **im lo hayu shaveh perutah b'oso hamakom einah mekudeshes klal**. If that particular thing isn't worth a perutah in that region - he doesn't even say medinah - in that place where it's practical, where one would go eat it, before it spoils, then **einah mekudeshes klal**. She's not mekudeshes at all. Why? **Sheharei davar zeh eino magia l'makom acher**. Yes, there's no doubt at all. There isn't this - the whole time it's only a doubt. She's not mekudeshes. He uses the language "klal." **Sheharei davar zeh eino magia l'makom acher ad sheyifased v'yovad v'lo yihyeh shaveh klum**. That somewhere else it's worth something, by the time it arrives somewhere else it won't be worth anything anymore. That means, when we say something is worth somewhere else, it has to make sense.

Discussion: The Rambam's Understanding of "Shaveh Perutah B'Makom Acher"

R' Yitzchak: But if it's such a case... I don't know why you're pursuing this. The Rambam understood that this is a practical thing. This is apparently what it's built on. What it says "shaveh perutah b'Madai," doesn't mean that therefore there's something that derives from this, here it isn't. The Rambam said, no, it means to say, you can take this vessel there and sell it there.

R' Yoel Asher: No problem. Wait, but once the Rambam said this, it's also not...

R' Yitzchak: It's not hypothetical that one can, but it's a reality that one can. It's hypothetical that one can, but why didn't he take...

R' Yoel Asher: One can also say about the Rambam that if it's ten hours away it's not relevant, if it's three hours away.

R' Yitzchak: No, one can't say that, because one can take a train if there's an important will. Certainly,

R' Yoel Asher: That's the meaning.

R' Yitzchak: The Rambam says that if it's factually impossible, the halachah isn't a theoretical halachah as if someone would say that shaveh perutah has an expansion that it means in Madai. No, shaveh perutah means shaveh perutah. And it's just that sometimes, every merchant knows that a whole business is, you take things from here where it's cheap and sell it where it's expensive. It's a normal thing, she's a business lady, she'll go sell it there, then it's relevant. He says to him, okay, if they can't sell it, it's not relevant. And this is what the Rambam says, "**v'davar shel ta'am hu zeh**". He impresses me. His reasoning?

"V'Davar Shel Ta'am Hu Zeh" - The Rambam's Rare Compliment

R' Yoel Asher: He gives himself a compliment. Very nice. No, it's very interesting, because the Rambam is very stingy with compliments,

R' Yitzchak: But for himself sometimes a person needs to give himself a pat on the back. No, I'll tell you the translation. The translation is that usually when the Rambam sometimes...

Kiddushin with Money: Laws of Giving, Ownership, and Gifts

Discussion: Shaveh Perutah B'Madai — Continuation

R' Yitzchak: It's a normal thing, she's a business lady, she'll go sell it there, she has to make money. He says to him, okay, if she can't sell it, it's not relevant. Our Rambam says, v'davar shel ta'am hu zeh, the Rambam thinks through the halachah. This I'm saying, I don't have a clear Gemara on this, so I can't be certain, I've brought it. This says the Rambam, I've already thought this through, I hold that it can be supported by my reasoning. It's a whole reasoning.

R' Yoel Asher: It's not written. The halachah is also a halachah specifically in kiddushin. I mean usually when a person says, we always look at the local market, it's a stringency.

R' Yitzchak: Apparently it's a special stringency on kiddushin. And we spoke earlier that it could be the reasoning, because kiddushin isn't a true kinyan. When I sell, I have to pay damages of shaveh perutah, I can't pay shaveh kesef arbitrarily. Shaveh kesef must be shaveh kesef.

R' Yoel Asher: What is truly shaveh kesef.

R' Yitzchak: It could even be more. Kiddushin doesn't mean you're selling a woman with a shaveh perutah. It's a thing, this is important enough, she acquires herself with a shaveh perutah. If it's something she can take to another place, okay, it's also acceptable.

R' Yoel Asher: No, I'm saying, when someone comes from another city, he doesn't know the customs so well, and he brings something. When we say shaveh perutah u'v'Madai, he means it's truly considered as kiddushin.

R' Yitzchak: He truly wants to be mekadesh.

R' Yoel Asher: He saw both, it needs to be worth to both, yes? No difference the point, but it could be a reality. The shaveh perutah u'v'Madai also makes a realistic thing, that

there could be a groom who comes in good faith and gives something that in his eyes is worth a lot, and with that is mekadesh. Because after all, there's also here underneath this something of a realistic discussion.

R' Yitzchak: I don't know. I don't know why you're searching, I mean, every time, the reality that things are worth more in other places, that's the normal order, so I think. It's not clear, but it's very interesting, because in the Gemara it says, I ask a question on the Rambam's distinction, because the Gemara, if I remember, says mekadesh b'tamarah, right? We're talking about a date.

R' Yoel Asher: Ah, so how does this fit?

Question from the Gemara: Mekadesh B'Tamarah

R' Yitzchak: But a date can be dried for a long time. Amar Shmuel, kidshah b'tamarah, a date standing like dates of the province and mekudeshes, we're concerned perhaps it's worth a perutah there. Apparently, the reasoning of this is very understandable. In Bavel there were many dates, as everyone knows, there it was very cheap. But in Madai he imagined that there it's more. Yes, simple pshat.

R' Yoel Asher: I thought that dates aren't like the tavshil or yerek of the Rambam. It's something that can keep well.

R' Yitzchak: It's a fresh date, but it's a dried one. Perhaps it's a dried one? Afterwards it can dry too.

R' Yoel Asher: Okay.

Halachah: One Who Is Mekadesh a Woman with Less Than a Perutah — The Law of Sivlonos

R' Yitzchak: Very good. Now we're going to learn more concerns regarding money kiddushin.

R' Yoel Asher: The Rambam says this, "**Hamekadesh ishah b'fachos miperutah**".

R' Yitzchak: This is the question? Yes.

R' Yoel Asher: This means sivlonos.

R' Yitzchak: "**Hamekadesh ishah b'fachos miperutah**". The Rambam brings two examples.

R' Yoel Asher: Of kiddushin that weren't valid, because there wasn't a perutah. Either he gave someone less than the value of a perutah, or "**shekidesh shte nashim biperutah**", which we learned earlier that this isn't mekudeshes.

But what happens? "**Af al pi sheshalach sivlonos l'achar mikan**", afterwards he started sending gifts that are sent to a bride, this is called in the language of the Gemara sivlonos, "**einah mekudeshes**".

Why? A person might have thought perhaps this is kiddushin. Says the Rambam, "**V'chen katan shekidesh**", someone was mekadesh when he was a minor, and a minor's kiddushin isn't kiddushin. But what happens after he became an adult, he became grown, "**af al pi sheshalach sivlonos achar shehigdil**", he sent gifts after he became an adult? Should one think that the sivlonos... Can one think, if the kiddushin wasn't good, okay, let this be the kiddushin.

Says the Rambam, that would be if people send it for the sake of kiddushin, but it doesn't work that way. Sivlonos is a thing in itself that's sent after the kiddushin. "**Shemechamas kiddushin harishonim shalcho shehayu kiddushin pesulin**". The one who sends sivlonos assumes and has the appearance that they're already mekudeshes, and this is just

gifts from afterwards. And in practice they're not mekudeshes, and the sivlonos weren't for the sake of kiddushin.

R' Yitzchak: That means, he made a mistake. If he had been smart, perhaps he could have known, but usually sivlonos isn't something that's made for kiddushin. Sivlonos is something that...

R' Yoel Asher: Is sent for the bride.

R' Yitzchak: The simple meaning, he convinces himself that she's a bride, but she unfortunately isn't, so the sivlonos are for nothing. That's the problem. Yes? Very good. Now we're going to learn... He says that sivlonos is from the language of sevel, one carries it, something that's carried to the bride.

R' Yoel Asher: Sevel means one who carries things.

R' Yitzchak: Ah, it's sivlonos. A carrying. Interesting language.

R' Yoel Asher: Fine, you take a delivery man, a large package.

R' Yitzchak: Yes. Okay, until here we've learned about the perutah. Now we're going to learn how the money or the document needs to arrive to the woman. From this one can also make doubts, we're going to learn details in this.

Halachah: Laws of Giving — He Doesn't Need to Give Into Her Hand

R' Yitzchak: The Rambam makes an introduction, yes? The normal halachah.

R' Yoel Asher: "**Hamekadesh es ha'ishah b'kesef o b'shtar eino tzarich sheyiten hakiddushin l'soch yadah**". One who is mekadesh a woman with money or a document, he doesn't need to give... They said one needs to give the money. Where does one need to give it? Not necessarily into her hand. "**Eino tzarich sheyiten hakiddushin l'soch yadah, ela keiwan sheratzas lizrok lah kiddusheha**", he wants to throw it to her. She was willing means she agrees, right? "**Keiwan sheratzas**"...

R' Yitzchak: He doesn't want to give a throw to her.

R' Yoel Asher: They learned that it needs to be her will.

R' Yitzchak: She has the will to throw to her.

R' Yoel Asher: Where is this to her? She also needs to have the will, to agree that the whole area will be the place of the throwing. She needs to agree to the throwing.

R' Yitzchak: Yes, it's throwing. And he threw into her hand, or between what he threw...

R' Yoel Asher: "**V'zarakam bein l'soch yadah bein l'soch cheikah**", on her hands or on her lap, "**o l'soch chatzerah o l'soch sadeh shelah**", either her courtyard which is in her domain, or her larger concept of domain, "**harei zo mekudeshes**", because it's another way of giving to her.

What happens? "**Haysah omedet bireshus haba'al**", she's standing in the man's domain, then she only has her domain, her own body, her own four amos, "**tzarich sheyiten l'soch yadah o l'soch cheikah**", but if he throws it down anywhere in the place where she is, which is his domain, it doesn't mean given to her. Very good, because it's not her courtyard, it doesn't come to her.

Halachah: Domain Belonging to Both — Doubtful Kiddushin

R' Yoel Asher: What happens in such a case? "**Haysah omedet bireshus shehi shel shneiheim**", they're partners.

R' Yitzchak: And the domain belongs to both. "**V'zarak lah kiddusheha mida'atah**"...

R' Yoel Asher: And he threw it, and instead of it falling into her hand or lap, but in the domain. Now the question is, the place where it fell also belongs to both, it wasn't completely her domain. "**Harei zo mekudeshes kiddushei safek**", it's a doubt if he placed it in her domain. Interesting that it's called a doubt, as if we don't know which foot of the house is hers. No, it's not a doubt about that. That means it arrived in her domain. "**Va'afilu amrah lo hanach kiddushai al makom zeh v'oso hamakom shel shneiheim harei eilu kiddushei safek**".

R' Yitzchak: "**Hayu omdin bireshus harabim o bireshus she'einah shel shneiheim v'zarak lah kiddusheha, karov lo einah mekudeshes, karov lah harei zo mekudeshes, mechetzah l'mechetzah o shehayu safek karov lah safek karov lo v'avdu kodem sheyagi'u l'yadah harei zo mekudeshes b'safek. Keitzad hu karov lah v'karov lo**"...

R' Yoel Asher: "**Kol shehu yachol lishmor osam v'hi einah yecholah**"...

R' Yitzchak: "**Zeh hu karov lo, hi yecholah lishmor v'hu eino yachol zeh hu karov lah, shneiheim yecholin lishmor osam o shneiheim einan yecholin lishmor osam zeh hu mechetzah l'mechetzah**". A doubt if it arrived to her domain, perhaps he...

R' Yoel Asher: Doubt in halachah. Doubt in halachah.

Discussion: Doubt in Reality or Doubt in Halachah?

R' Yitzchak: It could be it's a doubt in halachah, it's a doubt in halachah, as if how we calculate her intent.

R' Yoel Asher: With both doubts in the opinion of the Sages.

R' Yitzchak: What they think about this. It's not a doubt that she doesn't know.

R' Yoel Asher: Then va'afilu amrah lo hanach kiddushai, it doesn't help, it's not a valid document because she doesn't agree or what, va'afilu amrah lo hanach kiddushai al makom zeh, place it here. But what is on a place that belongs to both? The place belongs to both, harei zo mekudeshes safek, as mentioned, because Jews say it doesn't help, it needs to be placed in her domain. It's not an act of kiddushin.

R' Yitzchak: Because you see clearly that the doubt is a halachah, it's not because she doesn't know. She knows clearly, she says, place it on this piece. But it's not her piece, it's both their piece. It's both their piece, it could be, you can explain it like the scholars, that there's a part, parts in kiddushin, it needs to leave his domain and arrive to her domain. Really, he gives something from him to her, it arrived to her certainly, but it didn't leave him, because it's in his domain. Perhaps it means he didn't give it. A reasoning alone, one can say other reasonings. Why is this an inquiry? Very good.

What if it's not just a domain, not his and not hers...

Halachah: Public Domain — Close to Him and Close to Her

R' Yoel Asher: But just in a domain. Hayu omdin bireshus harabim, they didn't follow the prohibition of doing on the street. Hayu omdin bireshus harabim, hayu omdin bireshus harabim, o bireshus she'einah shel shneiheim, a place that

doesn't belong to either, a neutral place, v'zarak lah kiddusheha, then so, karov lo is einah mekudeshes, because then we look at how far and how close. In this place it's not simple that a person only has his four amos, it's a different boundary, but there's how close. Karov lo einah mekudeshes, because he threw it down next to himself, he didn't do the karov lah, and then harei zo mekudeshes.

R' Yitzchak: It's some new type of boundary. The Rambam is going to explain in the next halachah what karov lo and karov lo means, but just briefly. When it's her domain, as long as it's her domain it's hers. When it's his it's his. When it's both, it's a doubt. But what if it's a third party's domain? So it can't be where they are, closer to him is more his, and closer to her is hers. Half and half.

R' Yoel Asher: Half and half, uh, but it remains, we want to make an exception. What happens with half and half? Or... and we can check now, but "v'avdu kodem sheyagi'u leyada" (they were lost before they reached her hand), all these things are hypothetical, or he can fix it quickly now.

R' Yitzchak: He has to put it in again.

R' Yoel Asher: We're talking about it having run away.

R' Yitzchak: And it's a situation. Yes, yes.

Explanation: What Does "Karov Lo" and "Karov Lah" Mean?

R' Yoel Asher: So half and half is because the Rambam says, what does "karov lo" (close to him) "karov lah" (close to her) mean? Here he's going to give us a bit of a definition, because we understood either it's her domain because it's her body, or the area is hers. What is the intermediate case? He says as follows. "Karov lo" "karov lah" doesn't just mean in area, it doesn't mean area at all, rather it's the matter that a person has a certain control around himself, he can guard what's around him. That's called his area.

R' Yitzchak: It makes it much harder to figure out.

R' Yoel Asher: "**Kol she'hu yachol lishmor otan v'hi eina yechola**" (wherever he can guard them and she cannot), let's say a common wind will come and blow away the document of betrothal that was given. He's standing there, he can catch it, so it's obvious that it's his territory. "**Yachol lishmor v'hi eina yechola zeh hu karov lo**" (he can guard and she cannot, this is close to him), that's what "karov lo" means.

R' Yitzchak: That means, if he can guard and she cannot, it means, I don't know what a test of closeness could be, that there's some high mountain...

R' Yoel Asher: It's a concept of control, so to speak.

R' Yitzchak: Right, but I'm saying, usually presumably closeness is the same as that, but it could sometimes be that there's a mountain, there's a...

R' Yoel Asher: It could also be that he's a mighty person, and in such a case perhaps he has a broader reach, on this one will still say, it requires further consideration.

R' Yitzchak: In short, if he can and she cannot, that's "karov lo". When she can and he cannot, that's "karov lah". If both cannot, or both can, it's "mechetzah l'mechetzah" (half and half), it becomes further a doubt.

R' Yoel Asher: That's also reasonable.

Summary of Chapter 4 of Hilchot Ishut

Discussion: The Practical Difference of "Karov Lo" and "Karov Lah"

R' Yitzchak: I don't know what the practical difference of closeness is.

R' Yoel Asher: It could be that there's a high mountain...

R' Yitzchak: Right, but I'm saying, usually presumably closeness is the same as that, but it could sometimes be that there's a mountain, there's a...

R' Yoel Asher: It could also be that he's a mighty person, and in such a case even he has a broader reach, he's a greater person. On this one will still say, it requires investigation.

R' Yitzchak: In short, when he can and she cannot, that's karov lo. When she can and he cannot, that's karov lah. If both cannot—

R' Yoel Asher: Or both can, that's mechetzah l'mechetzah and it becomes further a doubt.

Summary of the Entire Chapter 4

R' Yitzchak: So until here we have learned. The entire chapter was basically details of... let's make a quick summary. I have here a little list, right?

Doubts Regarding the Woman's Consent

All kinds of details of what if we don't know... she said some language that we don't know, there's a doubt in her consent, we don't know clearly if she wants, "v'et" or such sorts of things.

Invalid Witnesses

We had details about the witnesses who are invalid.

Types of People with Special Laws

We had various categories, that is, mainly one category where there is betrothal, the Sages made betrothal, that is an orphan girl. Soon we'll see also a deaf-mute woman, but that's another matter.

We had a long... we can basically make the whole thing here also a list of types of people. The first is there's an orphan girl, let's do it like this:

- **Orphan girl (yetomah)** — there is betrothal rabbinically
- **Deaf-mute woman (chereshet)** — also has betrothal rabbinically
- **Mentally incompetent woman (shotah)** — not
- **Sterile man (seris) and barren woman (ailonit)** — have proper betrothal
- **Tumtum and androgynous** — there is a doubt
- If it's forbidden, it depends: **Forbidden relation (ervah)** — not; **Secondary prohibition (sheniyah)** — yes, etc.
- **Gentile and maidservant** — we don't have
- **Half-maidservant (chatzya shifchah)** — has a doubt
- **Intoxicated person (shikor)** — we learned, it depends, usually yes, it depends

Worth a Perutah

Afterwards we learned about worth a perutah:

- **Less than worth a perutah** — not
- If there's a doubt in reality — perhaps yes
- If it was sent in installments — it doesn't change anything

The Woman's Domain

Afterwards we learned that it doesn't have to reach her hand, it only has to be in her domain, and on this there can also be

doubts, half and half, various categories.

So until here is Chapter 4 of Hilchot Ishut.
