

Laws of Marriage Chapter 7 (Auto Translated)

English

Auto Translated

Shiur Overview

Memory of Shiur – Rambam Hilchos Ishus Chapter 7

General Introduction

In Chapter 6 we learned the **rules of conditions (tenayim)** – what is a tenai, which tenayim are valid, etc. Chapter 7 goes on to learn a **list of various specific tenayim** that people make, and what "nitkayeim hatenai" (the condition was fulfilled) means in each case – i.e., what is the objective meaning of the words that the mekadash said.

The meaning of a tenai is **objective, not subjective** – "what you mean is not what you mean in your head, but what the words you said mean." This is connected to the principle **devarim shebalev einam devarim**. The tenai gives a person the ability to make his devarim shebalev into devarim – but only through clear words, and the Chachamim explain what the words mean.

The chapter has two types of tenayim: (1) the first half – tenayim regarding what the man has (money, field); (2) the second half – tenayim regarding what the woman has (nedarim, mumin).

Halacha 1: Al menas sheyirtzeh avi / Al menas shelo yimcheh avi

The Rambam's words: "Ha'omer le'isha harei at mekudeshes li al menas sheyirtzeh avi – ratzah ha'av, mekudeshes. Lo ratzah, o shemet kodem sheyishma hadavar – einah mekudeshes. Al menas shelo yimcheh avi – shama umicha, einah mekudeshes. Lo micha, o shemet – harei zo mekudeshes."

Explanation: There is a difference between two formulations: (1) "al menas sheyirtzeh" – here

the father must actively say that he wants; silence or death is not enough, because "ratzon" is a positive action. (2) "al menas shelo yimcheh" – here the father only needs not to protest; silence or death counts as not-protesting, because mechiyah is a negative action that did not occur.

Chidushim and explanations:

1. **Shtikah kehoda'ah doesn't apply by "al menas sheyirtzeh"** – We don't say that silence is like agreement. The tenai requires an active agreement, and silence or death is not "ratzon".

2. **By "al menas shelo yimcheh" – death counts as not-protesting** – because mechiyah is an action that must happen; if he died before he heard, he never protested, therefore the tenai is mekuyam.

3. **Machlokes Ra'avad** – The **Ra'avad** argues with the Rambam and holds that even "al menas sheyirtzeh" also means only "eino mocheh" – i.e., "ratzon" doesn't need to be a positive agreement, but it's enough that he's not protesting. This is also a dispute in Shulchan Aruch. It depends on how one learns the Gemara.

4. **"Met haben" – melmadin et ha'av sheyimcheh** – If the son died (after kiddushin but before the wedding), and the father hasn't heard yet, **we teach the father that he should protest** (or say "eini rotzeh"), so that she shouldn't fall before a yavam. Because a mekudeshes without children falls to yibum, and this is not good for her. "Melmadin" means we give him good advice.

Halacha 2: Al menas sheyesh li ma'atayim zuz / Beis kor afar

The Rambam's words: "Harei at mekudeshes li al menas sheyesh li ma'atayim zuz" or "al menas sheyesh li

beis kor afar" – "im yesh sham edim sheyesh lo, harei zo mekudeshes. Ve'im ein lo – harei zo mekudeshes misefeik, shema yesh lo. Vehu omer ein li – kedei lekalkelah." By "beis kor afar bemakom peloni" – if we go look and it's not there, she's also mekudeshes misefeik, because "shema yesh lo sham."

Explanation: If he can prove (with witnesses) that he has the money/land – mekudeshes vadai. If we don't know – mekudeshes misefeik, because perhaps he really has it, and he only says "ein li" kedei lekalkelah.

Chidushim and explanations:

1. **"Edim" – specifically witnesses?** – It's not entirely clear whether the Rambam means specifically formal witnesses, or perhaps it's enough that we know it ourselves. It's left without a clear conclusion.

2. **Why sefeik by "ein lo" – because ein me'idin al hashlilah** – we can't prove that someone doesn't have something. Perhaps he does have it, but he's angry with her and wants to be mekalkel. Therefore she needs a get misefeik.

3. **By "makom peloni"** – there too, even though we can go look, a doubt remains, because perhaps he hid it well. This is harder to understand by a specific place, but the same principle of "kedei lekalkelah" applies.

4. **[Digression: Practical scenario]** – The actual case: he says "I don't have it", she thinks she's free, she marries someone else, he comes tomorrow to beis din and shows that he does have it – this creates a problem of mamzerus. Therefore she's mekudeshes misefeik and needs a get.

Halacha: Al menas she'ar'acha ma'atayim zuz – showing money or field
The Rambam's words: "Al menas she'ar'acha ma'atayim zuz" – harei zo mekudeshes veyar'enah. Her'ah hazuzim beyad acheirim o shehe'r'ah beis kor afar besadeh acheirim – einah mekudeshes. Lakach hame'os bemalveh o beshutafus o

shesachar hasadeh o lekachah be'arissus vehe'r'ah – einah mekudeshes.

Explanation: When a man says "I will show you ma'atayim zuz" he must show his own. If he shows someone else's money or someone else's field – einah mekudeshes. Even if he has a partnership, loan, rental or sharecropping arrangement – einah mekudeshes, because "she'ar'acha" means "sheli le'atzmi".

Chidushim and explanations:

1. The language "she'ar'acha" (I will show you) automatically means that he will show what belongs to him, not someone else's. Even if he didn't say it explicitly, everyone understands that this is the intention.

2. Even if he has a "certain kinyan" or partnership – it's not enough, because it's not entirely his.

3. **Question about partnership:** What about a partnership where he has 400 zuz in partnership and he shows all 400 – his share is 200 zuz? Do we say that because they haven't yet divided, we can't say he showed "his"? The Rema indeed brings this question.

Halacha: Beis kor afar with pits or rocks
The Rambam's words: Hayah lo beis kor afar vehayu bo neka'im amukim asarah tefachim o sela'im gevohim asarah tefachim – im hayu haneka'im mele'im mayim, nimdadin kaselayim ve'ein nimdadin imo mipnei she'ein re'uyim lizri'ah. Ve'im einan mele'in mayim – nimdadin imo mipnei shehem re'uyim lizri'ah.

Explanation: "Beis kor afar" means a place where one can plant. Pits with water are not counted (like rocks), because one can't plant in water. Dry pits are counted, because one can plant there.

Chidushim and explanations:

- The question is how we calculate "beis kor" – by area or by usability. The Rambam rules that "beis kor afar" means a place ra'ui lizri'ah, not just area.

Halacha: Al menas she'ein alayich nedarim

The Rambam's words: "Harei at mekudeshes li bezeh al menas she'ein alayich nedarim" — venimtza alehah echad misheloshah nedarim eilu: shelo tochal basar, o shelo tishteh yayin, o shelo titkashet beminei tzivonin — einah mekudeshes. Ve'im nimtza alehah neder chutz me'eilu, af al pi shehu omer makpid — harei zo mekudeshes. Ve'im amar lah "al menas she'ein alayich kol neder" — afilu nimtze'es shenedrah shelo tochal charuvim — einah mekudeshes.

Explanation: Plain "nedarim" means three specific nedarim of self-affliction: not eating meat, not drinking wine, not adorning herself. Only these three invalidate. But "kol neder" — even the smallest neder invalidates.

Chidushim and explanations:

1. **Why nedarim bother a man:** Maseches Nedarim is in Seder Nashim (in the Gemara) because most nedarim are relevant to women — the husband has a power of hafarah (Parshas Matos). The husband wants a wife who will be "normal" — not with complications that interfere with the normal seder hachaim (cooking, eating together, etc.).

2. **What "nedarim" means in this context:** The three nedarim represent a "set" of things that show that a woman is mesagef herself — she tortures herself, she's "on an inappropriate trip" of excessive piety. Worse nedarim (for example a neder on tashmish) are obviously included. Lighter nedarim (for example not eating carobs) don't bother.

3. **Principle of interpreting tenai-words:** We can't leave "the door open" — a tenai must be something we can verify. Therefore we define "nedarim" plain as the three harsh nedarim, not every neder.

4. **The difference between "nedarim" and "kol neder":** Only when he says "kol neder" does he mean literally every neder, even carobs.

This shows that perhaps in principle he doesn't want a wife who is "the type that makes nedarim" at all.

5. The Gemara says: **"I efshar belo nashim nedranyos"** — it's a reality that women have nedarim.

6. **[Digression: Modern concepts]** Nedarim are compared to today's "issues" — like someone who takes medication, or someone who doesn't open seltzer bottles on Shabbos (example of excessive chumros). Nedarim were a reaction to troubles or salvations — a kind of "therapy" or "avodah".

Halacha: Al menas she'ein bach mumin

The Rambam's words: "Harei at mekudeshes li bezeh al menas she'ein bach mumin" — venimtza vah echad min hamumin haposlin benashim — einah mekudeshes... Nimtza vah mum acher chutz me'osam hamumin — afilu amar makpid ani afilu al zeh — harei zo mekudeshes."

Explanation: When one made a condition "al menas she'ein bah mumin" and we find one of the mumin haposlin — she's not mekudeshes. But if we find a mum that's not from the list of mumin haposlin, even if he says "makpid ani afilu al zeh" — she's mekudeshes.

Chidushim and explanations:

1. The principle is that "mumin" in the context of kiddushin has a specific halachic meaning — not every disgusting thing. The word "mumin" plain in a kiddushin-contract means only the mumin haposlin, and one can't later "add to the list" by saying "makpid ani." If someone has a strange complaint about something not on the list, he should have said it explicitly at the time of the act.

2. **Interpreting words in context:** By "mumin" as by "nedarim" this is a question of interpreting words in context — not just dictionary-meaning, but what a person means in the context of kiddushin. "In this context, beyond the dictionary meaning."

Halacha: Mah hen hamumin haposlin benashim

The Rambam's words: "Kol hamumin haposlin bekohanim poslin benashim" — one should look in Hilchos Bi'as Hamikdash for the full list. **"Veyaser aleihen benashim"** — by women are added: **rei'ach hara (body odor), excessive sweating, rei'ach hapeh, kol aveh, dadim gasin mechavrosehah tefach, tefach bein dad ledad, neshichas kelev vena'aseh hamakom tzalekes, shomah she'al hapadachas** — even very small, even close to her hair, even though it has no hair.

Explanation: The rule is that mumei kohanim (which are in the Torah) are also mumim benashim. Additionally there are specific mumim that are only relevant for women.

Chidushim and explanations:

1. The difference between mumei kohanim and mumei nashim: Mumei kohanim are a kasuv — Hashem wrote them in the Torah. The reason is that a kohen must be an "ish mechubad" who does the avodah, not someone who "draws attention" through his appearance. By women the concept is different — it's about completeness in their "femininity."

2. "Veyaser aleihen benashim" — these are things that are only a defect by a woman but not by a man. For example: a man who sweats too much is not a mum for avodah; breasts are not relevant for men; a scar (tzalekes) by a man is even a "compliment" — but by a woman it's a mum.

3. Shomah she'al hapadachas — the chidush by women: By kohanim a shomah is only a mum when it has hair. By women even a small shomah on the forehead without hair is a mum — **"vezo hi hashomah sheyeseirah be'ishah al hakohanim."** But a shomah with hair on the rest of the face (not padachas), or a large shomah ke'isar even without hair — **"harei zo mum bein bekohanim bein benashim."** The padachas is like the "shelish ha'elyon" by an

esrog — a smooth place where we're more particular.

4. [Digression: Context-dependency of mumim] — The list of mumim has much to do with the context of generation and place, because everything revolves around "da'as kol benei adam" — what people consider normal. Today some of these things (like rei'ach hapeh, rei'ach ra) are very easy to treat, while other things we're particular about today weren't on the list then. However, the Rambam gives a fixed list based on Chazal's world.

Halacha 3: Stam kiddushin without tenai, venimtza bah mumim or nedarim

The Rambam's words: "[Kidshah stam venimtza vah echad min hamumin haposlin o nedarim —] harei zo mekudeshes misefeik."

Explanation: When one didn't make any condition, but just was mekadesh plain, and afterwards we find that she has mumim haposlin or nedarim — she's mekudeshes misefeik, and she needs a get.

Chidushim and explanations:

1. Source of this doubt — Kesubos: In Kesubos it says that she "leaves without a kesubah." The Gemara asks: "without a kesubah" implies that a get she does need — but why, it's a mekach ta'us? Rava's conclusion is that the Tanna himself didn't know what the halacha is — **it's a doubt in halacha:** whether this is really a mekach ta'us (because plain people don't want a wife with mumim), or perhaps he saw it and agreed. Because he didn't explicitly make a condition, there's no proof.

2. "Venimtza vah" — he didn't know: The language "venimtza" means that he didn't see the mum at the time of kiddushin — it was in a place he couldn't see. We can't say "savar vekibel" (he saw and agreed).

3. Savar vekibel after kiddushin: When he lives with her after kiddushin without complaining — the Chelkas Mechokek says: when he became aware and was silent, and only later

did he complain — she's mekudeshes vadai, because "ein ledavar sof" — a person can always notice new things about his wife. Also the concept of "mochel beyiholos" — if he was forgiving at the time of yiholos, it shows it doesn't bother him.

4. Mekudeshes misefeik — practical nafka minah: Mekudeshes misefeik means: (a) she's not permitted to the market without a get; (b) we need to make another kiddushin (as the Rambam says explicitly in Chapter 4 that where it says mekudeshes misefeik we need another kiddushin). The main nafka minah is regarding divorce — because "kiddushin misefeik" looks like a small thing (he already did everything, it's just a "formality"), but divorce is the serious nafka minah.

Halacha: Kidshah al menas she'ein alehah nedarim — vehalachah etzel chacham vehitir lah / rofeh veripha

The Rambam's words: Kidshah al menas she'ein alehah nedarim, venimtze'u alehah nedarim, vehalachah etzel chacham vehitir lah — harei zo mekudeshes. But kidshah al menas she'ein bah mumim, vehayu vah mumim, vehalachah etzel rofeh veripha osah — einah mekudeshes. But if the man made a condition she'ein alav nedarim or mumim, vehalach etzel chacham vehitiru o etzel rofeh veripha'u — harei zo mekudeshes, she'ein la'ish genai bemumin shekvar nirpa'u ve'ein ha'ishah makpedes al zos.

Explanation: By a woman — nedarim that are permitted by a chacham helps (because a chacham uproots the neder retroactively), but mumim that are healed by a doctor doesn't help. By a man — both help, because a woman is not particular about mumim that are already healed.

Chidushim and explanations:

1. The principle of chacham oker lemafre'a: The difference between nedarim and mumim by a woman is because a chacham who permits a neder is oker lemafre'a — as if the

neder never was. Therefore, at the time of kiddushin there really wasn't a neder. But a doctor who heals a mum — the mum was there at the time of kiddushin, it's only now healed.

2. Question on the principle of oker lemafre'a: Why do we need the lomdus principle of oker lemafre'a? Practically, now there's no neder that bothers — just like by healing, now there's no mum. The practical result is the same!

3. Answer — neder is a lomdus thing, mum is a reality thing: A neder is a chalus — when it's permitted, retroactively there never was an issur. But a mum is a reality — even after healing, the fact remains that the person once had an illness. By a woman this is a problem for the man (genai le'ishah), by a man this is not a problem for the woman.

4. Another question — personality of a nedronis: Even if a chacham is oker lemafre'a, the fact remains that this is a type of woman who makes nedarim — this is a personality problem. The language of the Gemara is "eino rotzeh beshem hanedranis" — we don't want a wife who has the name of a nedronis. The Rambam doesn't bring this language.

5. Answer: "Al menas she'ein alayich nedarim" only speaks of the chalus neder, not of the personality. When a chacham is oker lemafre'a, technically there never was a neder — that's what the tenai required. The personality claim is not in this Rambam's halacha.

6. The conclusion: The Rambam's final language ("she'ein la'ish genai bemumin ve'ein ha'ishah makpedes") shows that everything revolves around "makpid" — what bothers the side. This mixes reality with lomdus: by mumim of a woman — the man is particular about the reality that she once had a mum; by nedarim — the oker lemafre'a removes the object of complaint; by a man — the woman is not particular at all.

7. Clarification about the case: We're talking about a situation where at the time of kiddushin she had the mum, and afterwards she was

healed. Not that she once had a mum earlier and now at kiddushin is already healed.

Halacha: Kiddushin with a time condition — Al menas she'eten lach ma'atayim zuz mikan ve'ad sheloshim yom

The Rambam's words: Ha'omer le'ishah harei at mekudeshes li bezech al menas she'eten lach ma'atayim zuz mikan ve'ad sheloshim yom — im nasan lah besoch sheloshim yom mekudeshes, ve'im avru hasheloshim velo nasan einah mekudeshes.

Explanation: He makes kiddushin with a condition that he will give her ma'atayim zuz in thirty days. If he does it — mekudeshes retroactively (because "al menas" works from now). If not — einah mekudeshes.

Chidushim: This is a simple case — "al menas" makes kiddushin from now when the tenai is fulfilled, as we already learned.

Halacha: Harei at mekudeshes li bezuzim eilu le'achar sheloshim yom

The Rambam's words: Harei at mekudeshes li bezuzim eilu le'achar sheloshim yom — af al pi shenis'achlu hame'os besoch sheloshim yom, harei zo mekudeshes. Ve'im chazar bo besoch hasheloshim o chazrah hi — einah mekudeshes.

Explanation: He gives her the money now, but says that kiddushin should take effect only after thirty days. Even if the money is already used up by thirty days — mekudeshes. But if either of them retracts within the thirty days — einah mekudeshes.

Chidushim and explanations:

1. The difference between "al menas" and "le'achar sheloshim yom": By "al menas" kiddushin happens retroactively when the tenai is fulfilled. By "le'achar sheloshim yom" kiddushin happens only after thirty days — but

the act of kinyan (giving the money) already happened now.

2. Question — how can kiddushin take effect without money? It's a "funny situation" — he gave the money a month ago, but kiddushin takes effect only now when the money is already gone. Answer: A person can set a time for when kiddushin should take effect. Usually when one gives money kiddushin happens immediately, but one can delay it. If at thirty days there's no money — doesn't matter, because the act of kinyan already was.

3. The law of chazirah within sheloshim yom: Because kiddushin takes effect only after thirty days, there's an "opening" that each side can retract in the interim. This is a nafka minah of "le'achar sheloshim yom" versus "al menas".

Halacha: Ba sheni vekidshah besoch sheloshim yom (by "le'achar sheloshim yom")

The Rambam's words: Ba sheni vekidshah besoch hasheloshim yom — harei zo mekudeshes lasheni le'olam, lefi shebish'ah shekidshah hasheni lo haysah mekudeshes.

Explanation: If a second man comes and is mekadesh the woman within the thirty days — she's mekudeshes to the second, because at the time of his kiddushin she wasn't yet mekudeshes to the first.

Chidushim and explanations:

1. The second's kiddushin is "le'olam": The second didn't make any condition with time — he just said "harei at mekudeshes li", therefore it's regular kiddushin le'olam.

2. The principle: At the time the second was mekadesh, she wasn't yet mekudeshes to the first — because by "le'achar sheloshim yom" kiddushin takes effect only after thirty days. Therefore she was a penayah and the second's kiddushin takes effect. When the first's kiddushin "arrive" after thirty days, they find her already as an eshes ish, and kiddushin don't take effect on an eshes ish. The second wasn't transgressing

eshes ish because at the time of the act she wasn't yet an eshes ish.

Halacha 8: Me'achshav ule'achar sheloshim yom

The Rambam's words: "Ha'omer le'ishah harei at mekudeshes li me'achshav ule'achar sheloshim yom bedinar zeh, uva acher vekidshah besoch hasheloshim, harei zo mekudeshes misefeik lishneihem."

Explanation: He says "me'achshav ule'achar sheloshim yom" – he wants that after thirty days she should become mekudeshes retroactively from now. This is a compression of two concepts – "me'achshav" and "le'achar sheloshim yom" – which are contradictory. The doubt is what is stronger: the word "me'achshav" or the word "le'achar sheloshim yom."

Chidushim and explanations:

1. Why isn't "le'achar sheloshim yom" a chazirah toch kedei dibur from "me'achshav"? Normally, when someone says "me'achshav" and immediately after "le'achar sheloshim yom," this would be a chazirah toch kedei dibur. But here it's not a chazirah, because he hasn't yet finished his sentence – he's still saying "bedinar zeh." The word "bedinar zeh" comes after "le'achar sheloshim yom," which proves that he's still in the middle of speaking, and therefore "le'achar sheloshim yom" is part of the statement, not a retraction.

2. Question on this chidush – toch kedei dibur by kiddushin: We'll learn later that toch kedei dibur doesn't help by kiddushin ("lechol haTorah kulah toch kedei dibur chutz mimekadash"). If so, "le'achar sheloshim yom" couldn't be a chazirah anyway, even without the chidush of "bedinar zeh"! Answer: Chazirah is not just saying words after a sentence, but chazirah is a situation that everyone understands that now there was a retraction. When he's still in the middle of speaking (he hasn't yet said "bedinar zeh"), it's not at all in the category of chazirah. This is a chidush in the definition of

chazirah – it depends on the situation, not just on the time. (The chidush is noted as a "mekadesh milibo" – a new framework that needs to be proven.)

3. Why is it a doubt in halacha? The doubt is not what the person means (he clearly means both things), but a doubt in halacha – what do we do with such a contradictory statement? The Ramban and others hold that it's a doubt. The Gemara is not clear what the tenai means.

4. Practical application of "me'achshav ule'achar sheloshim yom": A person going to a dangerous place (army, war) who wants to be mekadash a woman, can say "me'achshav ule'achar sheloshim yom" – if he dies within thirty days, the kiddushin don't take effect, and she doesn't need yibum. (Comparable to a get al tenai that appears in the Gemara by Malchus Beis David.)

5. "Shneiheim nosnin get, bein besoch hasheloshim bein le'achar hasheloshim": Why do both need to give a get? Let the second give a get, and the first just give new kiddushin! Answer: "Besoch sheloshim" means that we can already now give a get, because according to the side that "me'achshav" is the main thing, she's already now mekudeshes to the first. "Le'achar sheloshim" doesn't add – according to the side that it's a problem, the doubt remains.

Halacha 9: Multiple men with "me'achshav ule'achar sheloshim"

The Rambam's words: Afilu hen me'ah al haseder hazeh, kiddushei chulan tofsin bah, utzerichah get mikol echad ve'echad, mipnei shehi mekudeshes lechulan besefeik.

Explanation: When the first said "me'achshav ule'achar sheloshim yom" and he "left open" thirty days, more men can come in – one with twenty days, one with ten days, even a hundred men. All kiddushin take effect in doubt, and she needs a get from each one.

Chidushim: "Me'ah" can mean two things: (a) a hundred men within thirty days (if one makes

thirds of days), or (b) one said a hundred days (a longer time frame). Both ways the law works. [Note: This is "very not recommended" — one shouldn't make such tricks, but give kiddushin properly. This is most likely not a ma'aseh shehayah but a lomdus investigation.]

Halacha 10: "Chutz mipeloni"

The Rambam's words: "Harei at mekudeshes li chutz mipeloni" — kelomar shelo te'aser alav, tihyeh eshes ish al kol ha'olam ulifeloni tihyeh kifnuyah — harei zo sefeik mekudeshes.

Explanation: He wants to be mekadesh a woman but exclude one person — she should be an eshes ish for the whole world, but for peloni she should be like a penuyah. The Rambam rules that it's sefeik mekudeshes.

Chidushim and explanations:

Continuation of Translation

Chidushim and explanations:

1. The doubt is a doubt in halacha — it's certain that in halacha there can't be such a thing that she should be penuyah lifeloni, because kiddushin makes her forbidden to everyone. The question is whether the exception makes the entire kiddushin void, or whether the exception is void and the kiddushin remain standing.

2. The matter of "chutz mipeloni" is built on a machlokes Rabbi Eliezer and Chachamim by get — "harei at muteres lechol adam chutz me'ish peloni". Rabbi Eliezer validates and Chachamim invalidate. By kiddushin there's a similar question.

Halacha: "Al menas shetihyi muteres lifeloni" — tenai she'i efshar lekaymo

The Rambam's words: If he says "harei at mekudeshes li" with a condition that she should be "mutures lifeloni" — harei zo mekudeshes, vesihyeh asurah al oso peloni kish'ar ha'am, mipnei shehisnah bedavar she'i efshar lekaymo.

Explanation: When he says explicitly "mekudeshes li" but adds a condition that she should be permitted to a certain man — this is a tenai she'i efshar lekaymo, because an eshes ish cannot become permitted to another man. Therefore — tenai batel uma'aseh kayam, and she's mekudeshes.

Chidushim and explanations:

1. The difference between "chutz mipeloni" (sefeik) and "al menas shetihyi muteres lifeloni" (vadai mekudeshes): By "chutz mipeloni" it's not clear what he means — perhaps he means something other than a tenai, perhaps it's not at all a language of kiddushin. But when he says explicitly "mekudeshes" with a condition "al menas shetihyi muteres lifeloni", it's clear that he made kiddushin with a tenai she'i efshar lekaymo — tenai batel uma'aseh kayam.

2. "I efshar lekaymo" means not only physically impossible, but also halachically impossible — no person can make an eshes ish permitted to another. This includes the concept of "masneh al mah shekasuv baTorah" in the concept of "i efshar lekaymo".

3. **[Digression: Prenup that he won't divorce]** A young man asked about his wife's request to make a "prenup" that he waives the right to divorce her. This is masneh al mah shekasuv baTorah — one can't remove the right of divorce. The real mechanism for such security is tosefes kesubah — one can increase the amount he must pay by a divorce, which is the halachic way to give financial security.

Halacha: Kiddushin "le'achar she'agarshech" — two perutahs

The Rambam's words: Hanosen shteis perutos le'ishah ve'amar lah "harei at mekudeshes li hayom be'achas uve'achas le'achar she'agarshech" — harei zo mekudeshes, uchesheygaresh osah tihyeh mekudeshes, ad sheygaresh osah pa'am sheniyah min kiddushei perutah sheniyah.

Explanation: He gives her two perutahs — one for kiddushin now, and one for kiddushin after he divorces her. She becomes mekudeshes now, and if he divorces her, she automatically becomes mekudeshes again through the second perutah, and he must give her a second get.

Chidushim and explanations:

1. **Question — why isn't the first get invalid?** He doesn't really want to separate from her — a get must be "davar hakores beino levenah"! This isn't resolved but is an interesting question.

2. **The "trick":** One can't make a condition that a get shouldn't work (this is masneh al mah shekasuv baTorah), but one can make a condition for after the get — that after the get kiddushin should take effect again.

Halacha: Davar shelo ba la'olam — goy, eved, shifchah, eshes ish, achos ishto

The Rambam's words: When he says "harei at mekudeshes li le'achar she'esgiyer" (he's a goy), or "le'achar shesisgayri" (she's a goyah), or "le'achar she'eshtacher" / "le'achar shetishachreri" (eved/shifchah), or "le'achar sheyamus ba'alayich" (eshes ish), or "le'achar shetomus achosech" (achos ishto) — einah mekudeshes.

Explanation: In all cases where now kiddushin isn't applicable (because one is a goy, eved, shifchah, eshes ish, or achos ishto), it doesn't help that he says it should take effect later.

Chidushim and explanations:

1. **The main difference between this case and the previous case (two perutahs):** There, at the time of ma'aseh hakiddushin, he's already now a bar kiddushin — he can now be mekadesh. He only adds a condition on when it should take effect. But here, at the time of ma'aseh hakiddushin, he (or she) is not at all bar/bas kiddushin — a goy, an eved, an eshes ish — therefore nothing begins.

2. **Chidush:** Even though we learned earlier that one can make kiddushin "me'achshav ule'achar

sheloshim" (where the ma'aseh kiddushin happens now but takes effect later), nevertheless here it doesn't work — because the ma'aseh nesinas kiddushin itself must happen between people who are bnei kiddushin. Who is the nosen? A goy? An eved? The ma'aseh kiddushin itself is defective.

3. **Sharp question on achos ishto:** By achos ishto, the mekadesh himself is a kosher Jew, and she's a kosher Jewish woman — the issur is only an ervah-issur. Why shouldn't this work that it should take effect after the sister dies? Answer: The issur achos ishto is so strong that it "wins immediately" — the kiddushin are voided immediately, and nothing remains that should take effect later.

4. **The principle:** Kiddushin must be "kiddushin hare'uyim lebi'ah" — the ma'aseh kiddushin must happen at a time when it can actually work.

Halacha: Yevamah lashuk — sefeik

The Rambam's words: Ha'omer leyevamah "harei at mekudeshes li bezei le'achar sheyachlotz lach yevamech" — harei zo mekudeshes misefeik, ho'il ve'ilu kidshah atah hayu kiddushin tofsin bah misefeik.

Explanation: By a yevamah shomeres yavam, if he tells her "harei at mekudeshes li after your yavam gives you chalitzah" — she's sefeik mekudeshes.

Chidushim and explanations:

1. **Why here is a doubt (and not vadai lo like achos ishto):** There's a great machlokes in Masseches Yevamos whether a yevamah lashuk has the same law as chayvei kerisos (where kiddushin don't take effect) or like chayvei lavin/aseh (where kiddushin take effect). Since even now kiddushin would take effect misefeik, the "le'achar sheyachlotz" is also kiddushei sefeik.

2. **The principle:** The status of "le'achar" is determined according to the status of "atah" — if

now it would be sefeik kiddushin, the "le'achar" is also sefeik kiddushin.

Halacha: Davar shelo ba la'olam — "im yeiled ishtecha nekevah"

The Rambam's words: Ha'omer lachavero "im yeiled ishtecha nekevah harei hi mekudeshes li bezeh" — lo amar kelum. Ve'im haysah eshes chavero me'uberes vehukar ha'ubar...

Explanation: If he says "if your wife gives birth to a girl, she should be mekudeshes to me" — it's nothing, because the child doesn't yet exist (davar shelo ba la'olam). But if she's already pregnant and we see the fetus (hukar ha'ubar), it's different.

Chidushim and explanations:

1. Why not at least kiddushei sefeik? Because if it's a male, we can't even speak of kiddushei sefeik — by a male kiddushin isn't applicable at all. Therefore it's nothing (lo amar kelum), not even sefeik.

Halacha: Mekadesh ubar — hukar ha'ubar

The Rambam's words: "Ve'im haysah eshes chavero me'uberes vehukar ha'ubar... harei zo mekudeshes... veyera'eh li shetzorich lachzor ulekadesh osah me'aviha achar shetivaled... kedei sheyichnes osah bekiddushin she'ein bahen dofi"

Explanation: When someone is mekadesh the fetus of his friend's wife, when we already see that she's pregnant (hukar ha'ubar), she's mekudeshes. But the Rambam says "yera'eh li" that we must be mekadesh again after birth, so that it should be "kiddushin she'ein bahen dofi."

Chidushim and explanations:

1. Doubt male/female: We don't know if the fetus is male or female. But this isn't the main problem — the main problem is **davar shelo ba la'olam**: if it's a female, she's not yet born, there's not yet any female. The Rambam holds

(as he brings in Perush HaMishnayos) that even hukar ubarah is still a **davar shelo ba la'olam**. Therefore, on mekach umemkar hukar ubarah perhaps wouldn't work. But what the Gemara says "mekudeshes" is **mishum chumra dekiddushin** — out of doubt we're stringent.

2. The Rambam's chidush — "yera'eh li": The Rambam doesn't just say that it's mekudeshes misefeik. He says that we must be **mekadesh again** after birth, "kedei sheyichnes osah bekiddushin she'ein bahen dofi." This is the Rambam's own chidush — it's not in the Gemara. The "yera'eh li" mainly goes on the chidush that we must be mekadesh again.

3. What does "dofi" mean? "Dofi" means doubts — as we find by the prophet, that "dofi" means we'll have doubts. (An attempt to say that "dofi" means something more than just halachic doubts is rejected.)

4. The Rambam's principle in kiddushin: The Rambam's "yera'eh li" is built on a **broader principle** — the Rambam holds that **kiddushin is almost a positive mitzvah**, there's a concept that it should be proper kiddushin. Therefore, every time there's sefeik kiddushin, if we want to live with her, we must make kiddushin again. Being mekadesh a girl on her mother's belly is "almost like a ben Noach" — this isn't "the holy kiddushin."

5. Machlokes Acharonim — Gra vs. Chelkas Mechokek/Beis Shmuel: The Gra says that the Rambam's "yera'eh li" here means the same as in Perush HaMishnayos — that "mekudeshes" is only **lechumra** (misefeik). The **Chelkas Mechokek** and **Beis Shmuel** say that the Rambam **retracted** from Perush HaMishnayos — because here he doesn't say that it's only sefeik kiddushin, but he says it more as an instruction that we must be mekadesh again. The difference is perhaps not so great, because even by sefeik kiddushin there's no issur to live with her.

Halacha: "Harei at mekudeshes li beme'ah dinar" — gave one dinar

The Rambam's words: "Ha'omer le'ishah harei at mekudeshes li beme'ah dinar, venasan lah dinar — harei zo mekudeshes mishelakchah hadinar, vehu yashlim lah hash'a'ar" — because "shezeh kemi she'amar lah harei at mekudeshes li bedinar zeh al menas she'ashlim lich me'ah dinar, shehi mekudeshes me'achshav."

Explanation: When he says "beme'ah dinar" plain and gives her one dinar, she's mekudeshes from now, and he becomes obligated to complete the rest. This is not like a loan — he's not mekadesh with the loan, but he simply owes the rest.

Chidushim:

- The explanation is not that he sets a minimum that kiddushin must be with a hundred dinar — kiddushin is enough with a perutah. But he becomes obligated for the rest as a debt.
- This is **not** the case of a loan — because he's not mekadesh with the loan, he simply owes.

Halacha: "Beme'ah dinar eilu" — he says "eilu"

The Rambam's words: "Aval im peirash ve'amar lah harei at mekudeshes li beme'ah dinar eilu, vehischil limnos lesoch yadah — einah mekudeshes ad sheyashlim. Va'afilu bedinar ha'acharon shneihem yecholim lachzor." Also: "Nimtza maneh chaser dinar, o nimtza mehen dinar nechoshes — einah mekudeshes."

Explanation: When he says "eilu" he means specifically these hundred dinar. Until he gives all hundred, both can retract. If one is missing, or one is copper instead of silver — einah mekudeshes.

Chidushim:

- **Bad dinar (damaged coin):** When one of the coins is damaged but still in the category — "im yecholah lehotzi'o al yedei hadechak" (one can still push it in by a merchant) — **yachlifenu**, he must exchange it. This means: **kiddushin** is

kiddushin, but he has an obligation to exchange the bad dinar for a good one, because he undertook to her. "Yachlifenu" goes on the case when **she insists on it** — when she complains. If she's mochel, it's simple. But when she screams, she can't void the whole shidduch — he can say "give me time, yachlifenu."

Halacha: Mekadesh with clothing — "shirayei ein tzerichin shuma"

The Rambam's words: "Amar lah harei at mekudeshes li bivgadim eilu shehem shovin chamishim dinar... vehayu min hameshi vechayotzeh bahen sheha'ishah misa'avah lahen... im hayu shavin chamishim — harei zo mekudeshes mish'as lekichah, ve'einan tzerichin shumah bashuk."

Explanation: When he gives her silk clothing or similar that a woman desires, and they're actually worth what he said — she's mekudeshes from that moment, without waiting for an appraisal in the market.

Chidushim and explanations:

1. "Shirayei ein tzerichin shuma" — **the Rambam's explanation in the Gemara:** In the Gemara it says that shirayei (beautiful clothing) don't need a shuma. The Rambam learns this that we don't need to **wait** for a shuma — but it must actually be worth the amount. It's not that "misa'avah" makes it worth more than it's worth.

2. **Why does "ishah misa'avah lahen" make a difference?** By shirayei she has **already now pleasure** — she sees the beautiful clothing and she likes it. Therefore we don't need to wait for a shuma — she's miskadeshes with the pleasure she gets now. But by a plain thing whose entire value is only what "the appraiser in the street says" (like an old stamp that looks like nothing but is worth a thousand dollars) — we need to wait for a shuma.

3. **Question:** If "ishah misa'avah lahen" means that for her it's worth 50 dinar, why must it be exactly 50 dinar in the market? Answer: **It must**

actually be worth — "shavin" means real value. But the chidush is only that we don't need to wait for a formal shuma.

4. The Ramban's approach (contrast): The Ramban held that by a plain thing (like a box of old books) where we don't know the value — if it's not worth it, it's nothing. But by clothing that women like, we don't need to wait for a shuma.

5. Reasoning: By a thing that women don't like, the entire value depends on the actual shuma, and then we need to go measure. By shirayei, although it also depends on reality, the difference is that **we don't wait** for the shuma.

6. Subjective value by kiddushin: We haven't seen any source that helps subjective value by kiddushin. In Choshen Mishpat it's clear in Mekadshin that shuma is relevant, but this is only after we go to a shuma — it's a topic of shuma, not of subjective value.

7. Chidush of Tosafos about shuma by kiddushin: Tosafos says that when one is mekadesh with a diamond (brilliant), she doesn't become mekudeshes until we go to a shuma, because no one knows how much a diamond is worth — a normal person looks at a diamond and has no idea whether it's worth fifty dollars or ten thousand dollars. This is the principle why the custom is to be mekadesh with a plain (simple) ring — to avoid the concern of Tosafos. One can certainly be mekadesh with a fancy ring, because one only needs to say in detail how much it's worth, and it's only a chumra be'alma.

Halacha: Ish ve'ishah shehayu oskin bedivrei eirusin — negotiations about price

The Rambam's words: "Ish ve'ishah shehayu oskin bedivrei eirusin, hu omer beme'ah dinar ekadesh osach, vehi omeres eini miskadeshes lecha ela bima'tayim, vehalach zeh leveiso vezeh leveiso, ve'achar kach tav'u zeh es zeh vekidshu stam — im ha'ish tava es ha'ishah ye'asu divrei ha'ishah, ve'im

ha'ishah tav'ah es ha'ish ye'asu divrei ha'ish."

Explanation: A man and a woman talked about kiddushin. He said me'ah dinar, she said ma'tayim. They went away without agreement. Later they requested each other and were mekadesh plain (without specifying an amount). If the man requested — we go according to the woman (ma'tayim). If the woman requested — we go according to the man (me'ah).

Chidushim and explanations:

1. The kiddushin themselves are certainly valid — because we didn't say "on the basis of our old conversation." The question is only whether the man obligated himself to pay more — it's a question of gift/debt, not of validity of kiddushin.

2. Reasoning for the law: This is a language of gift. When two sides have a dispute (he says a thousand, she says two thousand) and it wasn't decided, the one who comes back to the other shows thereby that he agrees to the other's condition. If the man comes back to the woman — he agrees to her price. If she comes back to him — she agrees to his price.

3. Question: The Rambam doesn't say what happens if the woman requested (i.e., she agrees on me'ah) but he only gave me'ah — is it really not kiddushin, not even lechumra? The "vehalach zeh leveiso vezeh leveiso" means that when he did it right after the argument, it's certain that if he only gave me'ah dinar when she said only bima'tayim, it's certainly not kiddushin.

4. Note about the language "vekidshu": It says "vekidshu" (both together), not "vekidshah" (he was mekadesh her) — which shows that kiddushin is something that happens between both, not just that technically he's mekadesh.

Halacha: Shaliach lekiddushin — shinui tenai

The Rambam's words: "Ha'oseh shaliach lekadesh lo ishah, vehalach hashaliach vekidshah al tenai — einah mekudeshes. Vechen im amar lo lekadesh al tenai

vehalach vekidshah stam, o sheshinah es hatenai — einah mekudeshes."

Explanation: A shaliach who adds a condition on his own, or changes the meshale'ach's condition, or is mekadesh plain when the meshale'ach said with a condition — in all cases she's not mekudeshes, because the shaliach didn't carry out his shlichut.

Chidushim:

- Question — why not tenai batel uma'aseh kayam? Why shouldn't we say that the condition that the shaliach added is void, but the ma'aseh kiddushin should remain? Answer: When the shaliach changes or adds a condition, he's no longer a shaliach at all — "shaliach she'avar al divrei meshale'cho lo asah kelum." A shaliach is a "kind of thought" — a person who does what the other tells him. When this isn't there, there's no longer a shaliach, and therefore the entire act is void, not just the condition.

Halacha: Shaliach lekiddushin — shinui makom

The Rambam's words: "Amar lo kadshah li bemakom peloni, halach vekidshah bemakom acher — einah mekudeshes. [But if he said] harei haba'al bemakom peloni, vekidshah bemakom acher — harei zo mekudeshes, mipnei shemar'eh makom hu lo."

The same law by shaliach lekabbalah: "Vechen hi she'amrah lishlucha kabel li kiddushai bemakom peloni, vekibel bemakom acher — einah mekudeshes. [But if she said] harei haba'al bemakom peloni, vekibel lah bemakom acher — harei zo mekudeshes mipnei shemar'eh makom hi lo."

Explanation: If the meshale'ach says "kadshah li bemakom peloni" (be mekadesh specifically there), and the shaliach goes to another place — not mekudeshes. But if he only says "she's there" (mar'eh makom), and the shaliach is mekadesh in another place — mekudeshes, because he only

showed where she is, not determined a specific place.

Chidushim:

1. Reason why a person wants specifically a certain place: The Gemara says there can be a reason — for example, there he has a friend (chavereh, friend).

2. [Digression: The expression "mar'eh makom"] The expression "mar'eh makom" as we use it today (as a reference to a source) comes from this halachic concept — when someone writes a "mar'eh makom", he means "it's there", not "I specifically want to go there." The use of "mar'eh makom" as a citation-reference is a later expression — it's not in Rishonim. A joke is told about a Jew who learned Minchas Chinuch, where the Minchas Chinuch writes many times "umar'eh makom ani lach" — that Jew understood that when one has a question one can go further, because "mikol makom ani lach." The Minchas Chinuch indeed likes to leave questions open without closing them.

Halacha: Chazirah toch kedei dibur by kiddushin

The Rambam's words: "Hamekadesh es ha'ishah vechazar bo miyad hu o hi, af al pi shechazru besoch kedei dibur, ein chazarasam kelum, vaharei hi mekudeshes."

Explanation: If a man is mekadesh a woman and he or she retracts immediately — even toch kedei dibur (the time it takes to say "shalom alecha rebbi umori") — the chazirah is not valid, and she's mekudeshes. We need a get.

Chidushim and explanations:

1. The rule of toch kedei dibur: The rule of the Gemara: "Kol haTorah kulah toch kedei dibur kedibur, chutz mimegadef ve'oved avodah zarah, mekadesh umegaresh." By four things — megadef, oved avodah zarah, mekadesh, megaresh — toch kedei dibur doesn't help.

2. Machlokes whether it's de'oraisa or derabanan: The Rashbam says that this is only

a law derabanan, because kiddushin is a serious thing.

3. The principle of toch kedei dibur: Normally when a person says something, he doesn't yet mean it until he finishes, until he gives himself a second. This is called "airing ideas" — one hasn't yet firmly said it, one is airing a thought. But by serious things like megadef — there's no such thing as "maybe one is megadef, maybe not" — either yes or no.

4. Reasoning why chazirah doesn't help by kiddushin: It's because kiddushin makes a chalus — the words "harei at mekudeshes" make a chalus kiddushin, and when the chalus already happened, one can't take it back without a get. It's not like testimony where one can say "not true" toch kedei dibur, because there no chalus has yet happened.

5. Addition: In the context of chuppah vekiddushin, one might think that if there's a chazirah immediately, he can say "mishteh ani bach" (I was just joking). But the law is that even this doesn't help — when one got "cold feet" a moment later, the chazirah doesn't help.

Halacha: Bitul tenai bekiddushin

The Rambam's words: "Hamekadesh al tenai, vechazar achar kamah yamim" — when he was mevatal the tenai, "af al pi shebitlo beino levenah shelo bifnei edim, batel hatenai". Also if the tenai was from the ishah, and she's mevatal it beino levenah, the tenai is also batel.

Explanation: By kiddushin al tenai, both sides can be mevatal the tenai even without witnesses, because the tenai is a matter between the two of them.

Chidushim and explanations:

1. We don't need witnesses on bitul hatenai, although the original kiddushin with the tenai were bifnei edim. The principle is that witnesses are on the kiddushin, not on the tenai — the tenai is a matter between the two sides themselves.

2. Great chidush — lefikach: The Rambam says that because we can be mevatal beino

levenah, therefore "hamekadesh al tenai vechanas stam o ba'al stam, harei zo tzerichah get af al pi shelo niskayeim hatenai" — because "shema bitel hatenai kesheba'al o keshechanas". We must always be concerned that perhaps they were mevatal the tenai.

3. Perhaps bitul hatenai doesn't require even explicit words — perhaps it's enough that both sides understand through their actions (like kenisah or be'ilah stam) that the tenai is mevatal.

Halacha: Kiddushin befachos miperutah / bemalveh, vechazar uva'al

The Rambam's words: "Vechen hamekadesh befachos miperutah o bemalveh" — kiddushin that aren't valid — "vechazar uva'al stam bifnei edim, tzerichah get", because "chazakah she'ein adam miYisrael hakesherim oseh be'ilaso be'ilas zenus, vaharei beyado la'asosah be'ilas mitzvah."

Explanation: If someone made invalid kiddushin (like with less than a perutah), and afterwards he had be'ilah bifnei edim, she needs a get — because we assume that he intended to be mekadesh with the bi'ah.

Chidushim and explanations:

1. **"Be'ilas mitzvah":** The Rambam calls the bi'ah that makes kiddushin a "be'ilas mitzvah" — because through this his bi'ah becomes permitted, he doesn't transgress "lo sihyeh kedeshah". This is connected to the Rambam's approach that bi'as penayah is forbidden — if so, the person's interest is to make the bi'ah a mitzvah through kiddushin.

2. **Question on the chazakah:** How can we say "ein adam oseh be'ilaso be'ilas zenus" if we say that bi'as penayah is permitted? The Rambam's answer: The rule only applies by "Yisrael hakesherim" — people who conduct themselves with minhag ishush, not minhag zenus.

3. **"Ad sheyisbarar shenoheig bebi'ah derech zenus":** The Rambam limits the chazakah — if we see that the person conducts

himself bederech zenus (like a boy and girl hiding), we don't apply the chazakah.

4. Explicit machlokes with Geonim: The Rambam brings in Hilchos Gerushin Chapter 10 that some Geonim said that every time a man is bo'el bifnei edim we need a get. The Rambam strongly argues on this — he limits the rule to specific circumstances.

5. Error in kiddushin: If a person made kiddushin that the rabbis know isn't kosher, but the person himself doesn't know (like less than a perutah), we seemingly can't say the chazakah that "ein adam oseh be'ilaso be'ilas zenus" — because he has no intention to be mekadesh with bi'ah, he

thinks his first kiddushin were valid.

6. [Digression:] Bederech tzachus it's brought up that according to this logic a Brisker could say that every chasan should have in mind to be mekadesh with bi'ah in case something wasn't valid by the kiddushin — but this is rejected because generally the kiddushin are valid.

Hakdamah/Addition — Toch kedei dibur (connection to Halacha 1)

Chidushim and explanations:

1. The rule of "toch kedei dibur" — that one can be chozer toch kedei dibur (like by testimony). But by things that make a chalus (like kiddushin, avodah zarah — "eli atah"), one cannot be chozer.

2. "Baruch shem kevod malchuso" after a berachah levatala: "Baruch shem" is not a chazirah/bitul of the berachah levatala — it's only praise, a praise to Hashem after one said His name. It's not a "control Z" (undo). One may not do it lechatchilah, but it's not a bitul.

3. Difference between fleeting speech and chazirah: By megadef for example, where there are witnesses and hasra'ah, the person was aware of what he's doing — then one cannot be chozer. But if it was an impulsive fleeting speech, this is fleeting speech, not a chazirah — the Rambam himself mentions that fleeting speech exists. The difference: when there was legitimate intention

(with witnesses), there can no longer be a chazirah.

Until here Chapter 7.

Additional Material from Chapter 7 (Continuation)

Summary Points on Key Concepts:

1. Objective vs. Subjective Interpretation of Tenayim:

The chapter emphasizes that conditions in kiddushin are interpreted objectively based on common understanding, not subjectively based on what the person claims he meant. This connects to the principle of "devarim shebalev einam devarim" — thoughts in the heart are not legally binding words.

2. Categories of Tenayim:

- Tenayim about what the man possesses (money, land)
- Tenayim about the woman's status (nedarim, mumin)
- Time-based tenayim (me'achshav, le'achar sheloshim yom)
- Exclusionary tenayim (chutz mipeloni)

3. The Principle of "Davar Shelo Ba La'olam":

Kiddushin generally cannot take effect on something that doesn't yet exist. However, there are nuances:

- By "le'achar sheloshim yom" — the kiddushin can be delayed
- By a goy/eved who will convert/be freed — doesn't work
- By an ubar (fetus) — works misefeik according to the Rambam, but requires renewal after birth

4. The Role of Witnesses:

- Witnesses are required for the kiddushin itself
- Bitul tenai doesn't require witnesses (it's between the parties)
- This creates practical doubts when people live together after conditional kiddushin

5. Shuma (Appraisal):

- Generally required when the value is uncertain
- Exception: shirayei (beautiful garments) that women desire — don't need to wait for shuma
- The principle: where there's immediate pleasure/recognition, formal appraisal can be waived

6. Shlichut (Agency) in Kiddushin:

- A shaliach must follow instructions exactly
- Changing the tenai or location (when specified as davka) invalidates the kiddushin
- "Mar'eh makom" (indicating location) vs. specifying a required location

7. Toch Kedei Dibur:

- Generally allows retraction within the time to say "shalom alecha rebbi umori"
- Exception: kiddushin, gerushin, megadef, avodah zarah — no retraction even toch kedei dibur
- Reason: these create immediate chalus (legal status change)

8. Practical Applications:

- The chapter provides frameworks for resolving disputes about kiddushin validity

- Emphasis on requiring a get misefeik in doubtful cases to avoid mamzerus
- Recognition that people's intentions and social norms affect interpretation

9. The Rambam's "Yera'eh Li":

- Appears regarding mekadesh an ubar — should renew kiddushin after birth
- Reflects the Rambam's view that kiddushin should be "she'ein bahen dofi" (without blemish)
- Suggests kiddushin has an element of mitzvah, not just technical validity

10. Chazakos (Presumptions):

- "Ein adam oseh be'ilaso be'ilas zenus" — a kosher Jew doesn't make his relations into zenus
- Limited to "Yisrael hakesherim" who conduct themselves properly
- Creates requirement for get when there's be'ilah after invalid kiddushin

These principles form the foundation for understanding how conditions work in kiddushin and how the halacha balances technical requirements with practical realities and human behavior.

| Full Transcript

Rambam Laws of Marriage Chapter 7 – Conditions in Betrothal: On Condition That My Father Agrees, On Condition That I Have Two Hundred Zuz

Introduction to Chapter 7

R' Yitzchak: Good day, dear Jews, we are learning the holy Torah. Actually we are learning Rambam, it's a part of the holy Torah, Laws of Marriage Chapter 7. And the donors for the holy Torah are R' Avraham Yoel Wertzberger and all the other donors who support the beis medrash. May their merit protect us.

R' Yoel Asher: As we say. Wonderful. So we are holding in the middle of Laws of Betrothal. More specifically, the last chapter we

R' Yitzchak: learned about conditions in betrothal.

R' Yoel Asher: And we learned that there are four types of conditions, four types of laws regarding conditions. And yes, we learned the topics of conditions.

R' Yitzchak: Yes, or better said, in my opinion, in the last chapter we learned rules of how a condition works, what is a condition, what happens when one makes a condition, which type of condition is valid, and so on.

Now we're going to learn basically a completely different thing. It's under the heading of conditions, but we're learning a whole list, I haven't counted, maybe ten, fifteen different types of conditions that people make, what they mean. That is, what does it mean "the condition

was fulfilled"? A person says a condition "on condition that" such and such should happen, one needs to know what is the meaning of such and such.

R' Yoel Asher: People don't speak so clearly. Therefore the Sages tell us various laws, if one made such a type of condition, what did he mean, and when is it considered fulfilled

R' Yitzchak: and when not.

Discussion: Should We Ask the Person What He Meant?

R' Yitzchak: So, I know, I knew you were going to ask this, should one call the person and ask what he meant. Okay,

R' Yoel Asher: we're only speaking because people aren't clear.

R' Yitzchak: It's not a question that it's not clear, because things are objective, not subjective, as I'll always say. And if someone says something, there is a correct meaning of what he means. What you mean is not what you mean in your head. What you mean is what the words that you said mean.

R' Yoel Asher: It doesn't work. Matters in the heart are not matters. Even if one betroths, even if he thinks other things about it. The condition does allow, it makes the matters in the heart, it makes them yes, matters.

R' Yitzchak: You can say clearly.

R' Yoel Asher: So now the question is, when is it considered fulfilled or not.

R' Yitzchak: And to say clearly, you can say clearly what you want. But if you say for example "on condition that I show you two hundred zuz," the Sages come and explain what "show" means.

It's understood that the Sages are explaining, it's based on what people generally think etc. It's not disconnected from what human intellect, but it's not that the Sages look with an x-ray into your head what you meant. They say what the expression meant, yes? That's how I think.

And it begins like this: first law,

Law 1: On Condition That My Father Agrees / On Condition That My Father

Does Not Object

R' Yoel Asher: The Rambam says, "**One who says to a woman, behold you are betrothed to me on condition that my father agrees.**"

R' Yitzchak: One said "on condition," which we said "on condition."

R' Yoel Asher: "On condition" means a hard condition, not a distinction now.

R' Yitzchak: Again, the Rambam already said in the previous chapter. I followed along, one would note to him,

R' Yoel Asher: because they haven't yet mentioned that "on condition" is the preferred language of a condition. It's not preferred, if you want it to be like now, if you want it to happen then, it's different.

R' Yitzchak: And therefore you don't need the conditions. Yes, no distinction. But the angels already said, when you see the condition, you'll fill it in extra how the condition will work.

The Distinction Between "That He Agrees" and "That He Does Not Object"

R' Yoel Asher: "The father agreed," what happens? On condition that my father agrees. It's a good condition, it depends on the father, "**the father agreed, she is betrothed.**"

R' Yitzchak: What the novelty is here is different, right? Agreed, the law says here that there's a distinction "on condition that he agrees" and "on condition that he does not object." Very good. It's a big thing, one needs to know who we're dealing with, fathers or rabbis.

R' Yoel Asher: There's often drama, how would you say that the chassid, now the chassid speaks rabbi, there's often drama between the parents and one of the groom or bride shouldn't agree to the match.

So there's when the father actually accompanies to the wedding, makes a wedding. There's when the father has such an agreement through silence, he's there but he's not really agreeing. And there's what at least he shouldn't overturn, at least he shouldn't go object. And so,

R' Yitzchak: If she says on condition that he agrees, if one needs to depend actually on agreement,

R' Yoel Asher: does one need to ask the father, or does one need to see if the father agreed in some way, did the father agree, she is betrothed, **"he did not agree," or "or he died," he says nothing, "or he died before he heard the matter,"** or he died before he had a chance to hear, **it's not.** If he died it's not relevant.

No, but he actually didn't want. It was actually a condition that he should want. Wanting is something that happens sometimes, it's something that depends on a person, and at a time he either wanted or he didn't want. Silent wasn't a certain moment when he agreed. One doesn't say about this see

R' Yitzchak: that silence is like admission. He should say yes, say that he wants. That's how we learn the meaning into his words.

R' Yoel Asher: Yes, there is,

R' Yitzchak: There is,

R' Yoel Asher: it seems if the language was, **on condition that he does not object...**

R' Yitzchak: The Raavad doesn't agree with this law, just to be clear, but this is the Rambam's understanding of the Gemara. But if he says not "on condition that my father agrees," but he says **"on**

R' Yoel Asher: condition that my father does not object," he shouldn't object, then, objecting is also a specific thing. If **"he heard and objected"** - if he heard and he objected,

R' Yitzchak: "she is not betrothed." "He did not object" - if he didn't object, **"or he died"** - or he died, so he still didn't object, **"behold she is betrothed."**

Right? Because objecting is a negative thing, on condition that he shouldn't object. He shouldn't prevent him. Even if he died, he never heard about it, did he object? No,

R' Yoel Asher: so it's good.

The Son Died – We Instruct the Father to Object

R' Yoel Asher: The Rambam says, what happens in such a law? **"The son died"** - the son, the one who betrothed, "on the understanding" that the father will agree or the father won't object, **"and afterwards the father heard"** - and afterwards the father heard about the match.

Now the question becomes whether she will become a widow or not, because if the father agrees she will become a widow.

R' Yitzchak: The problem isn't a widow, the problem is whether she will become a...

R' Yoel Asher: In the case of yibum there will be yibum. But the question is, the father's action will now complete what was done before, on the understanding of which one betrothed before.

And in such a case, when he said "on condition that he agrees" or "on condition that he does not object," we instruct him that he should indeed object. Why? Because with this he nullifies the betrothal retroactively, **"so that there should be no betrothal and she should not fall before the yavam."** In such a case she won't fall before yibum.

R' Yitzchak: What happened? That she died without children, because we're talking we haven't yet had a wedding, right? Betrothed is already enough for yibum. Therefore it's not good for her that he should want.

One says, **"we instruct the father"** means we give him good advice. That is, certainly you like the match, let's say that you do like the match, it doesn't help.

R' Yoel Asher: Say "I don't want." In the case of yibum, he means to say, in a case when yibum is relevant.

R' Yitzchak: Most times it will be relevant, because we're talking here that she hasn't yet had a wedding, so children they certainly don't have,

R' Yoel Asher: Understand? Right, so the reason is only about the "she should not fall before the yavam," because it's a... what will only be a widow? She shouldn't be a widow so she can marry a Kohen Gadol,

R' Yitzchak: I don't know what. Exactly. How many Kohanim Gedolim are there? I don't know how many, just to marry the Kohen Gadol next.

R' Yoel Asher: I mean,

R' Yitzchak: The person has great competition, he's going to have competition with the Kohen Gadol, I don't know.

Dispute of the Raavad

R' Yitzchak: In short, this is the holy... The Raavad disputes this law, I don't know how our Jews go, we won't go into it, it depends on how one learns the Gemara.

The Raavad doesn't agree, the Raavad says that even if one says "on condition that he agrees," that is, "on condition that he agrees" also means like "he doesn't object," "on condition that he agrees" doesn't mean one needs to say positively. It's a dispute, even in the Shulchan Aruch there's a dispute,

R' Yoel Asher: whether "wanting" is enough agreement, whether "wanting" needs to be agreement, or explicit consent?

R' Yitzchak: Apparently the question is what does "on condition that he agrees" mean?

Law 2: On Condition That I Have Two Hundred Zuz / A Beis Kor of Land

R' Yitzchak: Now one can learn a few laws about a person who betroths a woman, and he says "on condition that" I'm a bit of a wealthy man.

R' Yoel Asher: "On condition that I have two hundred zuz."

R' Yitzchak: Presumably the woman wants this, he wants to prove to her that he's wealthy.

R' Yoel Asher: He says "**behold you are betrothed to me with this on condition that I have two hundred zuz.**" Or he says differently, "on condition" I have a "**beis kor of land.**" "Beis kor" is a measure of land, a large measure of land.

So "**if there are witnesses that he has it,**" if there are witnesses that he actually has the property, that he has two hundred zuz, or he has a beis kor of land, "**behold she is betrothed.**"

"**And if he doesn't have it,**" he can't bring any witnesses, he can't prove,

R' Yitzchak: "**behold she is betrothed in doubt.**"

Discussion: What Does "He Doesn't Have It" Mean?

R' Yoel Asher: Why? That is, if he says he has it, then it seems it's not the problem. "He doesn't have it" means, he says he doesn't have it. No, he says "he doesn't have witnesses." "He doesn't have it" means he doesn't have the money.

R' Yitzchak: No, we don't have witnesses that "he doesn't have it."

R' Yoel Asher: I wouldn't have said like "if he doesn't have it," that he actually doesn't have it. Leave it today with doubt. Yes, "**perhaps he has it,**" maybe he actually does have the money. "**And he says I don't have it,**" he says I don't have the money, "**in order to ruin it.**" So the law doesn't help to break off the match.

R' Yitzchak: In other words, first of all, if we know for certain, it's not clear, but the Rambam says "witnesses," means one actually needs witnesses, maybe he means to say and see it oneself,

R' Yoel Asher: And he knows. Not a distinction.

R' Yitzchak: If we know for certain that he has it, no problem with the betrothal. If we don't know,

R' Yoel Asher: He says I don't have it,

R' Yitzchak: Therefore we don't know, if not he should show where it is,

R' Yoel Asher: There will be witnesses. It's not digging. Maybe one also doesn't need witnesses, maybe it will also help there that he says he has it,

R' Yitzchak: If she believes him. Again, that's the other topic.

R' Yoel Asher: No, she can stipulate whether she wants witnesses, whether she believes half a thing.

R' Yitzchak: No, no, no, it has nothing to do with her. Why does she come in? He also actually

needs, he made a condition. But the problem is, that even if the courts don't know that he doesn't have it, he says he doesn't have it, but there aren't such witnesses as witnesses. One doesn't testify on a negative. How does one know he doesn't have it? Maybe he actually does have it, but he's somehow angry with her now, and he specifically wants...

R' Yoel Asher: I don't know why he's angry, because she only wanted a match on condition that he's rich,

R' Yitzchak: She wants him now

R' Yoel Asher: to undo the gold digger.

R' Yitzchak: Whatever he is. But he says to fix it,

R' Yoel Asher: He says he doesn't have it, so she should now remain...

R' Yitzchak: She'll think she's not betrothed, she married a second one, he'll come tomorrow to the court and say... He'll be able to show that she has,

R' Yoel Asher: And you're making a concern with children with mamzerim.

R' Yitzchak: Exactly, that's the trouble.

R' Yoel Asher: He's here he doesn't have it, there is he doesn't have it, there is he doesn't have it.

R' Yitzchak: Therefore he needs to take

R' Yoel Asher: from her a get.

R' Yitzchak: This told me, on condition that I have two hundred zuz. Generally.

In Such-and-Such Place – Doubt Even When One Can Check

R' Yoel Asher: What did one say like this? **Or a beis kor of land in such-and-such place**, he specifies there and there, is it so, **if he has it in that place**, one should go check. If there is there what he said, she is betrothed, **and if**

R' Yitzchak: **he doesn't have it in that place that he said, behold she is betrothed in doubt.**

R' Yoel Asher: It's worth asking, then one should say that he is... that the betrothal is off? No, he's speaking his betrothal is in doubt. Why?

We are afraid that perhaps he has it there. Maybe he does have the money? Interesting, because by such-and-such place he doesn't weigh it.

R' Yitzchak: Such-and-such place seems it's the bigger place.

R' Yoel Asher: Look at such-and-such place, you didn't see. But maybe he hid it well, also with the same reason that one is afraid to ruin it.

R' Yitzchak: Yes, it's actually harder to understand how such-and-such place can be. Okay.

R' Yoel Asher: One needs to understand. I imagine that if such-and-such place is a certain place to a level that...

Betrothal on Condition: "On Condition That I Show You Two Hundred Zuz," "On Condition That You Have No Vows," "On Condition That You Have No Blemishes"

Laws 24-25 (Continued): "On Condition That I Show You Two Hundred Zuz" – Showing Money or Field

R' Yoel Asher: We're talking in a manner when... I don't know.

R' Yitzchak: Very good. Not clear. There actually are those who dispute this law. Okay. What he says, not that I have, but he says a different language.

R' Yoel Asher: He says, "on condition that I show you," I'll show you the two hundred zuz that he has.

R' Yitzchak: He doesn't say that. Soon we'll see what he says.

R' Yoel Asher: It needs to be something of a certain worth.

R' Yitzchak: Listen. Okay. **"That I show you two hundred zuz",**

R' Yoel Asher: or I'll show you the beis kor of land. **"Behold she is betrothed and let him show her."** And if he will show her,

R' Yitzchak: she will become betrothed.

R' Yoel Asher: What happens now? **"He showed the zuzim in the hand of others,"** I want to see two hundred zuz? Come, I'll take you to the great wealth, there is two hundred zuz there. **"Or he showed a beis kor of land in another's field," "she is not betrothed."** Because when someone says "on condition that I show you two hundred zuz," even if he didn't say it that way, everyone understands that this is what he means, that I'll show you what belongs to me.

R' Yitzchak: Show what belongs to me.

R' Yoel Asher: **"He took the money as a loan or in partnership or he rented the field or took it as a sharecropper and showed it," also "she is not betrothed."** Even if not just at someone else's, he showed things in which he has a certain ownership or a certain partnership. Or as a loan he can use it, or he rented it, or took it as a sharecropper, it's still she is not betrothed, because he didn't show his own two hundred zuz, it's not the whole two hundred zuz his.

R' Yitzchak: As implied by "that I show you,"

R' Yoel Asher: that I show you that I have for myself this thing that I told you, that it's entirely mine.

R' Yitzchak: The "I'll show you" showing doesn't mean showing someone else's.

Discussion: Partnership — Did He Show "His"?

R' Yoel Asher: I have a big question here, what happens in partnership, and he said "I'll show you two hundred zuz," and he shows four hundred zuz? Do we say like we learned yesterday, that since they haven't yet divided, each one can't divide themselves, you haven't shown yours? Or apparently you have shown, your portion is indeed two hundred zuz.

R' Yitzchak: That's what I would have thought. He brings about this a question in the Rema actually, your question.

R' Yoel Asher: Ah, a question.

Law 25 (Continued): Beis Kor of Land with Crevices or Rocks

R' Yitzchak: Okay, now, what if **he had a beis kor of land and there were in it deep crevices ten tefachim,**

R' Yoel Asher: There are there large, it looks like Swiss cheese, there are there huge holes ten tefachim,

R' Yitzchak: or the opposite,

R' Yoel Asher: **Or rocks ten tefachim high****, which both disturb the ability to plant as it should be. Beis kor afar, since it could be that one sometimes measures the value of a real estate plot according to the area, but it seems that when one says beis kor afar it means a place where there is earth, where one can sow.**

R' Yitzchak: The question is how one calculates beis kor.

R' Yoel Asher: The Rambam says that beis kor is calculated as a place that can be used. **If the holes were full of water,** then one calculates the holes like rocks, because one cannot plant in water. But what? **They are not measured with it,** this is not counted as part of the beis kor afar, **because they are not fit for sowing.** Because when one says beis kor afar, one means a beis kor that is earth fit for sowing. **But if they are not full of water, they are measured with it because they are fit for sowing.** One can put in there... It's actually not as convenient, but it's still called beis kor afar.

Halacha 26: "On condition that you have no vows"

R' Yitzchak: Okay,

R' Yoel Asher: Halacha 26. The Rambam says as follows: **One who says to a woman, behold you are betrothed to me with this,** you are betrothed with the money I'm giving, he gives her kiddushin, but he makes an al menas (condition), **on condition that you have no vows,** that you don't have any vows.

We see that there are many laws regarding vows. At one time vows were more common. I would compare it to today, for example, if someone says

"on condition that you don't take any medication, I want to know that you don't have any issues." Vows were an issue, because people were busy with this. People had issues that they made vows. Or it's a matter of piety, a fear, you're too constricted,

R' Yitzchak: Too pious. One would have to say, "on condition that you're not one of those who don't open seltzer bottles on Shabbos."

R' Yoel Asher: It's a matter of piety. A person made a vow because it was part of some therapy, some spiritual work.

Why vows disturb a husband

R' Yitzchak: Let's say one small thing... We've learned until now about things that he has, yes? It's very interesting. There are two types of conditions here in this chapter. The first half of the chapter speaks about all sorts of conditions that people made. What does the condition mean? What counts as a problem? It said earlier, when the husband says, why does a husband need to have money? Okay, sometimes the father needs to agree to the match,

R' Yoel Asher: He needs to have money. What does agreeing mean? Does agreeing mean not objecting?

R' Yitzchak: I'm saying that it was all from the side of the speaker,

R' Yoel Asher: When the husband says. Now, why is a husband particular that the wife shouldn't have any complications from vows?

R' Yitzchak: "Behold you are betrothed to me with this on condition that you have no vows." This is the reason. I mean that the Rambam says, ah, Tractate Nedarim is in Seder Nashim, yes? Not in the Rambam, but in the Gemara. In Seder Nashim, the Rambam explains, because most vows, the question is when a woman... There's a law in Parshas Mattos, when a woman makes a vow, the husband can annul it. The reason for this annulment is because a husband needs a wife who will be normal. If you're a woman,

R' Yoel Asher: You can't have any complications. I don't know if this is specifically piety.

R' Yitzchak: It is, yes.

R' Yoel Asher: Because very often it seems that a vow was a reaction to something. A person had a trouble, so he made a vow. A person had a salvation,

R' Yitzchak: So he made another type of vow.

R' Yoel Asher: It's called complications. It's already a person who has baggage, she can't do everything the husband wants, because she has a vow here, she has a vow there. Let's see,

The three vows that disqualify

R' Yitzchak: "And one of these three vows was found upon her".

R' Yoel Asher: So it's like this, here he didn't say "on condition that you don't have" a certain type of vow, and he also didn't say that you don't have any vows at all, but "on condition that you have no vows." What should one be particular about? The Rambam says, what he means, the Gemara says, that he means primarily such types of vows like this. The three vows he's going to say, "**that you will not eat meat or that you will not drink wine**", the vows that are known that also in nezirus there is only on wine, but in any case a vow of affliction, I won't eat any meat, I won't drink any wine, **or that you will not adorn yourself with colored things**, she won't beautify herself nicely. This means that she will afflict herself in spirit like this. So these things one understands why it disturbs a husband. A husband wants to have a happy wife, not a wife who doesn't adorn herself and who is unfortunately hungry. So **she is not betrothed**, these are ordinary vows.

Things that are worse than this, one understands apparently obviously that this would fall into one of these vows. I don't know, however she made a vow. Okay, a vow that she won't have relations with him is obviously a disqualifying matter. I don't know what, she'll never change her vest. I don't know what. Then certainly one is particular.

But a person says, when it's lighter than this, that she has light vows, it doesn't disturb the husband so much,

R' Yitzchak: So yes, it's fine. That is, he brings, for example, if she says that she will never eat any carobs.

R' Yoel Asher: It doesn't disturb, it doesn't disturb. Okay,

Discussion: What does "vows" mean in context

R' Yitzchak: Wait. Later you see that this is what... In the normal way, a person says vows he means... I mean that nowadays, if someone has a very pious woman, she never eats any meat, I don't know what. Okay, I'm not talking here. It's a problem. It's not a person among people.

R' Yoel Asher: Today I would say, where does it come from? She has some issue. A bit of health, first imaginary, but she holds some matter of looking where it comes from. The three things are a set of things that a person afflicts himself. A woman who afflicts herself, she doesn't put herself in bed, because she wants to look like the tzaddik hador. It's some certain... She's on some not proper trip, yes.

But **if a vow other than these was found upon her**, she has vows, but it's not one of the three vows. **Even though he says he is particular** even though he is particular also about this, **behold she is betrothed**, because this doesn't mean, when a person says that on condition that you have no vows you can't afterwards say, open the gate, and afterwards you must specify which vow. It must obviously be a condition that can be followed. But as I told him, the three things are the main vows.

R' Yitzchak: I told him the translation of the words that you said. If you would mean something else, you need to say something else. My intention doesn't help.

"On condition that you have no vow at all"

R' Yoel Asher: But regarding this, **if he said to her on condition that you have no vow at all**,

R' Yitzchak: That is, he puts in the word "all",

R' Yoel Asher: Then it's actually exactly so, every vow, **even if it was found that she vowed not to eat carobs**, she won't eat carob.

Nu, when does it come out? It will only be relevant if she happens to find a cave with Rabbi Pinchas ben Yair, yes? What's the problem? When is it relevant? But no difference. In practice, he did indeed want, perhaps in principle, he doesn't want a wife who is the type who makes vows,

R' Yitzchak: Who takes on these things. Yes,

R' Yoel Asher: She is betrothed,

R' Yitzchak: But when he didn't say, yes. So this is one thing that disturbs people, their wives have vows. It says in the Gemara **"it is impossible without women who make vows"**, yes? It's an expression.

R' Yoel Asher: Let's think, women who make vows, I don't know if it's a matter of neurosis, perhaps it's... A woman who has issues. Okay,

R' Yitzchak: Anyway,

R' Yoel Asher: We're just talking, no,

R' Yitzchak: Because neurosis is an issue.

R' Yoel Asher: An issue also can't be... Okay, further. No, I want to say that it can be a certain type of issue.

R' Yitzchak: No, but it's things that disturb the normal order of life. She needs to be able to cook for him and eat with him, and the like.

Halacha 27 (beginning): "On condition that you have no blemishes"

R' Yitzchak: Okay, now afterwards there's another thing that sometimes disturbs a person.

R' Yoel Asher: He says **"behold you are betrothed to me"**, and in this we've seen that there is more than sometimes, "blemishes." If a woman has a blemish, it's like this, if he said nothing at all, and it's a blemish that he... Okay, we're going to talk about blemishes. First we're still talking about the matter of "on condition," a matter of the condition not being fulfilled.

He says **"behold you are betrothed to me with this on condition that you have no blemishes"**. Now, I'm asking the same similar question that was said "you have vows." Every person can have some blemish. What then is called a blemish that one says that this won't

match the word? One can say that it's a question of interpreting words. What does "vows" mean when a person says "vows" simply? What does "blemish" mean when a person says "blemish" simply? It's more than translation, it's the plain meaning by kiddushin, by what kind of thing will a person mean?

R' Yitzchak: In the context,

R' Yoel Asher: What is the context,

R' Yitzchak: Above the translation of the dictionary.

R' Yoel Asher: The Rambam says, "**and it was found in her**".

Blemishes that disqualify in women — Laws of Marriage Chapter 7

Continuation of Halacha 2: Blemishes that disqualify in women — The list of blemishes

R' Yoel Asher: So further the same similar question that was said on condition that you have no vows. Every person can have some blemish. What is called a blemish that one says that this won't match the word? One can say that it's a question of interpreting words. What does vows mean when a person says vows simply? What does blemishes mean when a person says blemishes simply? It's more than translation. It's the plain meaning by kiddushin, by what kind of thing will a person mean?

R' Yitzchak: I understand.

R' Yoel Asher: In the context what it means from the dictionary. It's translation... The Rambam says, **and one of the blemishes that disqualify in women was found in her**. One of the blemishes that disqualify in women, which the Rambam is going to explain what these are. There's a list. If one of the major blemishes was found, of the serious blemishes, then **she is not betrothed**, because the condition was not fulfilled. What happens? **Another blemish was found in her other than those blemishes**. A blemish was found, but not from the disqualifying blemishes. It doesn't help to say I am particular even about this. Even if he said I

am particular even about this, **behold she is betrothed**, because the word blemishes doesn't automatically make all types of blemishes, and we're also not going to make it so that he can afterwards —

R' Yitzchak: Add to the list.

R' Yoel Asher: It's not the main blemishes that Chazal say are the main blemishes.

R' Yitzchak: There are certain blemishes that it's agreed disturb. If you're a strange creature, you're missing some side thing, you should have said. Not bad breath.

R' Yoel Asher: Bad breath is a thought of the heart.

R' Yitzchak: If you should have said, a normal person doesn't say this, because when one says blemishes, the translation of the word blemishes, the context of a contract of kiddushin, is not this. And what is this?

What are the blemishes that disqualify in women

R' Yoel Asher: What are the blemishes that disqualify in women? The Rambam says as follows, we already have another principle. The Torah always looks, where else is there such a law? One looked, what are the disqualifying blemishes in kohanim? We want kohanim to be perfect, complete kohanim without blemishes, and whoever has a blemish is not fit. So it was said that these types of things —

R' Yitzchak: Also disqualify in women. **All the blemishes that disqualify in kohanim disqualify in women**.

R' Yoel Asher: If you want to know the longer elaboration, look in the Laws of Entering the Temple, there all the blemishes are listed.

R' Yitzchak: No, not a longer elaboration. There's a principle, the principle is this is an expression. A blemish, it's basically the Torah, Torah is the Chumash. A man gibbous or dwarf or has a blemish, I don't know what it says there, there's a list. And how do you learn the details of the list? Learn the Laws of Entering the Temple, blemishes of kohanim. There's certainly some preacher who has already said at the sheva

brachos sermon, what is the connection of kohanim with women. It's the same. It's very interesting, a kohen is some holy thing, he goes into the Temple, he should be beautiful.

R' Yoel Asher: And a woman also needs to be beautiful.

R' Yitzchak: Soon we'll see that there's no prohibition at all. But in any case, I'm just saying that there's perhaps a concept, blemishes that disqualify in women, blemishes that disqualify in kohanim. Besides this there's more.

In addition to them in women — blemishes that are only by women

R' Yoel Asher: **In addition to them in women.** By women there are added more things that are more specific. That is, perhaps it's not defective in their regular, they are a human being, but in their femininity, in their womanliness, it is indeed defective. It's defective in women, but things that for a man it wouldn't be any problem. **Bad odor, and perspiration** — simply perspiration means she sweats more than normal to sweat.

R' Yitzchak: **And bad breath, and a thick voice.**

R' Yoel Asher: Bad odor and bad breath are two things. There's a body odor, there's a mouth odor. And a thick voice, we learned it by aylonis, yes?

R' Yitzchak: But here one cries that it's not an aylonis.

R' Yoel Asher: But, but this, yes. **And breasts larger than her companion by a tefach** — one is larger than the other, yes. **And a tefach between breast and breast.**

R' Yitzchak: Too much space in between.

R' Yoel Asher: **And a dog bite and the place became a scar** — if there's a large wound, a noticeable wound that comes from a dog.

R' Yitzchak: A scar is a... not a wound, what does it mean? A scar, yes?

R' Yoel Asher: A scar, okay. **And a wart that is on the forehead** — a wart that grows on the

forehead. Is forehead the chest or the forehead?

R' Yitzchak: I think forehead means forehead, yes.

R' Yoel Asher: Forehead is there.

R' Yitzchak: A small one, **even if it's very small.**

R' Yoel Asher: Even if it's a small wart. **Even if it's close to her hair** — even if it's near the hair so one doesn't notice it so much. **And even though there's no hair on it.**

R' Yitzchak: Even if it doesn't have hair, then it's not a sign of maturity. So even such a wart without?

R' Yoel Asher: What does this say that even if there's no hair, it disqualifies hair. **And this is the wart that is extra in a woman over kohanim.** By a kohen there's also a blemish of a wart, but that one is only a blemish that has hair.

R' Yitzchak: Yes? Perhaps all these things, I don't know. But if it's a bit larger, not really near the hair and the like.

R' Yoel Asher: Yes, apparently. **And this is the wart that is extra in a woman over kohanim.**

Discussion: **Why are these blemishes only by women?**

R' Yitzchak: All these you learn from the advice and counsel that kohanim don't have at all. A kohen who sweats a bit too much doesn't disturb the service. And the breasts are certainly not relevant, which is not a male thing. And the same thing a scar, also a small scar, who does it disturb?

R' Yoel Asher: For a man a scar is a compliment. Ah, I was at the barber.

R' Yitzchak: I caught a dog bite.

R' Yoel Asher: Okay, what actually? I don't need to tell anyone. I can say that it comes from a missile.

R' Yitzchak: In short, for the first level, there is indeed a wart which a wart is basically for a kohen also a problem, but a woman is particular even a bit more.

Continuation of the list: A wart on the rest of the face or a large wart

R' Yoel Asher: He says further, but in practice a wart that has hair on the rest of the face —

R' Yitzchak: Not on the forehead.

R' Yoel Asher: We see what happens there. Like the esrog, only the upper third one is particular about a wart.

R' Yitzchak: Ah, it's a smooth place.

R' Yoel Asher: Or a large wart like an issar, even though there's no hair on it.

R' Yitzchak: Issar is the measure of a... yes, issar Italian, so an eighth of this is a perutah. Also, by other things also there's a measure of issar, yes? It's a verse a coin, it was a small coin.

R' Yoel Asher: When one bends down, something needs to... a measure like an issar opposite his heart. So the measure, yes.

R' Yitzchak: In short, it's like a dime. But if it's very large —

R' Yoel Asher: Behold this is a blemish both in kohanim and in women.

R' Yitzchak: Very good. This is what he says, the wart of the small wart that doesn't have hair on the forehead on the, how do you say it, one remembers on the forehead, this is even only a woman. But a large one, or with hair, or on the face, it disturbs even for a kohen. So this is all explicitly stated...

Discussion: Context and time in disqualifying blemishes

R' Yoel Asher: I imagine that the... okay, let's finish the whole matter. Yes, imagine mi manin nedarim. I'm telling you that this matter has very much to do with context, that in that place, in that generation, these things are a very strange thing. Which has everything to do with the da'as of a person, and that it shouldn't be far from da'as kol bnei adam, it shouldn't be batel da'ato. What are today's things, there is bad

breath and bad smell... these things come very easily. There used to be the Orient with all good things. And today there are other things. Which one is makpid on this, seemingly sometimes in those times not.

R' Yitzchak: But let's see soon.

R' Yoel Asher: It could be that the Gemara in Masseches Bechoros said, from the world that they could have, they gave a... it's simple Torah. That means to say, mums that disqualify kohanim and mums that disqualify women are very different, because mums that disqualify kohanim the Almighty wrote in the Torah, that this is it. One can very well in, it's a verse. One can hear that nevertheless it must have to do, because he must be a person who is an honored man who should do the service, and not one who is a freak and who looks like what draws attention. One must think. One must think that there is a great difference.

R' Yitzchak: In Bechorot there is such a halacha of threshing explained, permitted, and the like.

R' Yoel Asher: Ah, ah, okay. Okay, let's not become.

R' Yitzchak: I saw, but also, one conducts oneself, one doesn't just make conditions, so... in any case...

Halacha 3: Plain Kiddushin Without Conditions — And Mums or Nedarim Were Found in Her

R' Yoel Asher: No, I'm already saying plain, okay. No, not plain kiddushin. Now the Rambam goes from... when one made a condition on kiddushin that there is no neder or mum. What happens when one didn't make any conditions? Plain, and one finds that the woman has mums or she has nedarim, that means —

R' Yitzchak: The invalid ones, one of the listed mums or one of the three nedarim that disturb. What is then?

R' Yoel Asher: "Harei zo mekudeshes misefeik." Then she is mekudeshes misefeik. It's very interesting, because he didn't say, but

there is such a chazaka that this is a mekach ta'us, that people don't want a woman who has mums or nedarim. **"Venimtza bah"** also means seemingly that he didn't see the mum, yes? It was in a place that he didn't... or in a way that he hasn't yet seen. One can't say savar vekibel.

Discussion: Why Is It a Sefeik? The Source in Kesubos

R' Yitzchak: How do you say about this?

R' Yoel Asher: **"Nimtza bah echad min hamumim"** doesn't mean that it was on the nose and he already saw it right away.

R' Yitzchak: It's very interesting, because this comes from Kesubos actually. In Kesubos it says that she goes out without a kesuba. The Gemara asks, therefore, without a kesuba implies that she does need a get, but why does she need a get? It's a mekach ta'us. And the conclusion of the Gemara is, Rava says, that it's a sefeik, the Tanna didn't know what the halacha is, it's a sefeik lehalacha. As if, what does that mean? Does this really mean a mekach ta'us? Perhaps he said it? Since he didn't say clearly, there's no proof.

R' Yoel Asher: But this is an Abaye and Rava.

R' Yitzchak: We had to say this Abaye and Rava. The Tannaim didn't know, therefore she remains mekudeshes misefeik.

R' Yoel Asher: Therefore —

R' Yitzchak: He must give her a get.

R' Yoel Asher: He must give her a get.

Discussion: Savar Vekibel — When He Knew and Was Silent

R' Yitzchak: If he wants to give her a get, he wants to give her a get. I mean, I don't know. But if he wants to give a get, he wants to give her a get.

R' Yoel Asher: **"Harei zo mekudeshes misefeik"** is also in a manner when he complains. Obviously. But if after the kiddushin he lives with her, he can't ask here whether he needs to have kiddushin again lechumra. I don't believe that one must... I believe because on this it could be that he agrees it's good for him, then

it's retroactive. Perhaps not? Perhaps it can't go retroactive.

R' Yitzchak: I don't know.

R' Yoel Asher: You learned it from the Chelkas Mechokek. You were Michal when he became aware, but he was silent, and only later he remembered for a reason mekudeshes certainly, because it makes sense, because if not it's in the end. A person can always remark about his wife, if I had known that my wife is such a kind of wife who goes becoming crooked, I wouldn't...

R' Yitzchak: No, that's not an answer. But the thing that...

R' Yoel Asher: Such a Pesach from Eliezer, such a thing like a savar vekibel.

R' Yitzchak: Right, but the savar vekibel must be —

R' Yoel Asher: At the time of the kiddushin a personal thing.

R' Yitzchak: Except that one will say at the end of the chapter, one can see that there is one the mums in marriages not, perhaps it's a concept.

R' Yoel Asher: He was mochel for marriage, he has simply that he showed that it doesn't bother him.

R' Yitzchak: Right, but just like that.

R' Yoel Asher: I don't know.

Discussion: What Does Mekudeshes Misefeik Mean Practically?

R' Yitzchak: All these mekudeshes misefeik —

R' Yoel Asher: Usually mekudeshes misefeik means that she is not permitted to the market.

R' Yitzchak: And so on, she needs a get. But mekudeshes misefeik says that one must make another kiddushin. Earlier, chapter 4, I remembered, the Rambam says explicitly —

R' Yoel Asher: That where it says mekudeshes misefeik, one must make another kiddushin. But I imagine what bothered them is the divorce, because kiddushin misefeik looks like a very small prohibition or what, because you did the mitzva, it's only that it was born... Yes, let's say someone made a kiddushin from one of the kinds of halachos —

R' Yitzchak: That one says kiddushin sefeik.

R' Yoel Asher: He says that he didn't fulfill the mitzva from the Torah of the way how to take a wife. He did all the ways how one takes a wife, it's only that something happened, a mishap. It's not such a kind of mitzva like putting up a mezuzah, it's a kind of mitzva that marriage should be orderly and established.

R' Yitzchak: Earlier one did see. It could be that the case earlier was there two, you remember there were two —

R' Yoel Asher: And one must exchange who.

R' Yitzchak: One must know whether... There's certainly some pious person who found a concern about his kiddushin, he made...

R' Yoel Asher: There are probably those who hold in redoing kiddushin on their wife and the like.

R' Yitzchak: There are those who hold in making divorce. Okay.

Kiddushin With Conditions: Nedarim, Mums, and Time Conditions

Halacha: Kidshah Al Menas She'ein Aleha Nedarim — And She Went to a Chacham and He Permitted Her

R' Yoel Asher: He did all the ways how one takes a wife. It's only that something happened, a mishap. It's not such a kind of mitzva like putting up a mezuzah. It's a kind of mitzva that the marriage should be orderly and established.

R' Yitzchak: Earlier one did see. It could be that the case earlier, where there were two, I remember there were two.

R' Yoel Asher: And one must exchange who.

R' Yitzchak: One must know. There's certainly some pious person who found a concern about his kiddushin and he made.

R' Yoel Asher: There are probably those who hold in redoing kiddushin on their wife and the like.

R' Yitzchak: This one holds in making. Go first. Okay, anyway, this is regarding plain. Another interesting halacha. Ah, what if it changed? One

must try to put together the next two halachos together, right? Yes. Do you understand what I'm saying? Yes. And here there is a difference between a neder and a doctor. Yes? Let's see. Do you understand what I'm saying? Heter. Heter. The neder was healed. There are two kinds of illnesses that a woman can have, a mum and a neder, yes?

R' Yoel Asher: You can write "the neder and the mum were healed," as you said that healing is also called on this Rambam.

R' Yitzchak: No.

R' Yoel Asher: There is a difference. The Rambam says thus: **Kidshah al menas she'ein aleha nedarim, and it turns out that she did have nedarim, but vehalacha etzel chacham vehitir lah**, she went to a chacham and he was matir the nedarim, **then harei zo mekudeshes**, because it's not some gezeiras hakasuv of nedarim, it's the word that it will disturb. The simple meaning is because nedarim is oker lemafre'a? A chacham is oker the neder lemafre'a. When you had the wedding it wasn't yet oker lemafre'a.

R' Yitzchak: Ah, very good.

Discussion: Why Do We Need the Word of Oker Lemafre'a?

R' Yoel Asher: Why do we need to have the word about oker lemafre'a? Why don't we need? Because practically you will never be bothered.

R' Yitzchak: Well, learn the next halacha. **Kidshah al menas she'ein bah mumim vehayah bah mumim.**

R' Yoel Asher: **Vehalacha etzel rofei veripei osah, then einah mekudeshes.**

R' Yitzchak: Very good. The answer is...

R' Yoel Asher: Let's see further, because further comes another certain addition. **Aval im hisnah ha'ish she'ein alav nedarim**, he makes, take me, harei at mekudeshes li, take me for a man, accept me as your man, with the condition that I don't have nedarim or mums. And practically there is, **vehalacha etzel chacham vehitiro etzel rofei veripeu, then in both places harei zo mekudeshes.** By the

man there is no difference between healing and nedarim. Why? **She'ein la'ish genai bemumim.** By a man there is no genai, he is not ashamed with mums that he had and it's already been healed. **Ve'ein ha'isha makpedes al zos,** because a woman is not makpid on this.

What is not so by a woman, the man is makpid on a woman who wasn't a ba'alas mum, who is naturally beautiful let's say, who is naturally healthy, not a woman who now she is also okay. But I say, with this calculation one doesn't really need to say the word about nedarim is oker lemafre'a, because nedarim is not the same kind of thing as mum. Practically, now there is no neder that disturbs us.

R' Yitzchak: What should I do that the Gemara says this part?

R' Yoel Asher: I understand, but I haven't thought it out. Because one must also think a doctor, you can also say he is merapei velo mafri. What does merapei velo mafri mean? It was to me that the person will remain a bit sick? Let's say if a doctor heals well, and one is not sick at all...

R' Yitzchak: One won't see at all that there was once something, and it's the same thought as I am mafri. I have here a problem, and mafri doesn't mean any weakness. He already made the kiddushin. Now, at the time of the kiddushin she had a neder. If she had a neder, the simple meaning is that he said a... then it's not. Eh, later, if the neder was almost, she didn't have at the time.

R' Yoel Asher: But the word would have to be also by the healing of the man, but at the time when the kiddushin were made, it was indeed a sick person. But what then? There is no reason that someone should be bothered.

R' Yitzchak: Because now one has healed. Very good, very good. What doesn't bother her? When he says al mah she'ein li mumim, he doesn't mean to say I don't have this to say, I don't have mumim in my life, I will maintain it.

R' Yoel Asher: I hear, I hear.

R' Yitzchak: You added this. But it doesn't say. Could be, you're right, somewhere it says, you must judge it. In which context it says. I see that there is, in short, one can hold more here.

R' Yoel Asher: But let's go further.

R' Yitzchak: And more or less it fits. Okay, this is the halacha.

Halacha: Kiddushin With a Condition of Time

R' Yoel Asher: Until here we learned. Even here is also the manner when the man doesn't know, the man was concealed. Yes, the question is now that it's a kiddushin. Because if the man says I'm not bothered at all by someone who once had mums, then also seemingly the halacha will be different.

R' Yitzchak: No, no, no.

R' Yoel Asher: There is a halacha when one doesn't know.

R' Yitzchak: When he makes a condition that al menas she'ein becha mumim...

R' Yoel Asher: Should say that by a woman even healed it has a name mum?

R' Yitzchak: She has a mum now! She had a mum yesterday!

R' Yoel Asher: She has a mum now because she once had...

R' Yitzchak: No!

R' Yoel Asher: But one will now heal it.

R' Yitzchak: You're confusing something. It says isha shehayah lah mumim, you mean when she had the wedding. He took a bride, a stinking one. Later after the wedding she healed.

R' Yoel Asher: He never had a wedding.

R' Yitzchak: Yeah, but problem, now she is good, can he now have a wedding. Again the genai la'isha doesn't mean that he has a problem to take a wife that he had yesterday. There can be such people, but we're not talking now about this. We're talking about this at the time of the kiddushin it was the problem.

Halacha: Al Menas She'eten Lecha Masayim Zuz Mikan Ve'ad Sheloshim Yom

R' Yoel Asher: Okay, let's go further. The time that one made the chapter. I made a certain halacha of when a person makes a kiddushin, it should end in a certain time. Or a kiddushin that...

R' Yitzchak: What is the meaning? What is the meaning of this? Now one can learn, when a person makes a condition, and it's dependent tomorrow one will do something, and from this one enters into various complications in kiddushin that one can add time to this.

R' Yoel Asher: Basically, it's a condition on the condition. I made a condition about money, and I can still go add that it should only be until a certain time. Okay, *****"Ha'omer l'isha harei at mekudeshes li b'zeh"*****, with this money that he gives her now, or with this document, *****"al menas she'eten lach ma'asayim zuz mikan v'ad shloshim yom"*****, with a condition, al menas, that from now until thirty days I will give you two hundred zuz. *****"If he gave it to her within thirty days, she is mekudeshes"*****. When? I mean from when he said al menas, just as we learned yesterday that al menas works immediately.

R' Yitzchak: Mekudeshes retroactively from when he made the kiddushin.

R' Yoel Asher: "And if the thirty days passed and he didn't give, the condition wasn't fulfilled, she is not mekudeshes".

R' Yitzchak: The case is simple, yes? He said it with a condition.

R' Yoel Asher: He said the thirty days, she's in such a middle uncertain situation woman.

R' Yitzchak: She's in such an open state. Soon we'll see about this.

Law: Harei At Mekudeshes Li B'zuzim Elu L'achar Shloshim Yom

R' Yoel Asher: About this I can't appeal. Okay, **"Harei at mekudeshes li b'zuzim elu"**.

R' Yitzchak: It's very simple... I want to make it clear, because it's going to get complicated about this. Here is a simple thing, I made a condition, when the condition will be fulfilled, there will be kiddushin from now, apparently, because al menas is from now. Let's say.

R' Yoel Asher: What happens in such a case, **"Harei at mekudeshes li b'zuzim elu"**? Not like he said I will give you, the money that I'm giving you now, but the kiddushin should happen **"l'achar shloshim yom"**.

R' Yitzchak: B'zeh also he gave now.

R' Yoel Asher: No, he also gave a little now, and he's going to add two hundred zuz, and it will still be added. Al menas she'eten lach ma'asayim zuz.

R' Yitzchak: What comes in? Where does it say al menas she'eten lach?

R' Yoel Asher: No, on the previous case I'm saying, he gives her now a perutah, and he's going to give her two hundred zuz.

R' Yitzchak: Yes, al menas she'eten lach has nothing at all to do with kiddushin.

R' Yoel Asher: Right, right, right. He gives her now b'zuzim elu l'achar shloshim yom, yes?

R' Yitzchak: No, he gives her now zuzim. He gives her now zuzim.

R' Yoel Asher: And he gives her now zuzim. **"Even though the money was consumed within thirty days"**, what happens? The money was used up in the thirty days, in the time when he said that then the kiddushin should take effect, the zuzim no longer exist. But the law is **"harei zo mekudeshes, yes she is mekudeshes"**, because now he gave her the zuzim, now he made the act of kiddushin. There's still some kind of obstacle, some kind of thing that still needs to be completed by the thirty days, but the kiddushin already began when he gave it, and then the zuzim existed.

R' Yitzchak: "And if he retracted within the thirty days".

R' Yoel Asher: He says, the thirty days is however yes an opening that the kedushah shouldn't be finalized before then. Therefore...

R' Yitzchak: It doesn't happen, she becomes mekudeshes after thirty days.

R' Yoel Asher: "And if he retracted within the thirty days or she retracted", but if one of them withdrew in the thirty days, then "**she is not mekudeshes**", because in practice we did say that the kedushah should happen l'achar shloshim yom.

R' Yitzchak: So it's as if, the kedushah happens after thirty days even if the money no longer exists. Hey, how can kedushah happen without money? It's a somewhat strange situation. It needs examination a bit how this can be, because kiddushin, it says he gave a month ago, but he made it, one can place a time on when the kiddushin should happen. He places a time, normally when I give money to a woman kiddushin happens that second. A person can say, I'm giving the kiddushin for tomorrow, and come tomorrow the money doesn't exist, it doesn't matter. But here it gets complicated.

Law: Ba Sheni V'kidshah B'toch Shloshim Yom

R' Yoel Asher: What happens like this? A second... the woman with whom the thirty day business was made, a second one came in both cases, yes?

R' Yitzchak: No, in the first case.

R' Yoel Asher: In the first case?

R' Yitzchak: The second.

R' Yoel Asher: It's somehow both. It says in one of the two cases. There's still a period of thirty days.

R' Yitzchak: No, I need to summarize that we're talking about the second case. If you were also talking about the first case, you need to tell me.

R' Yoel Asher: I don't know. "**Ba sheni v'kidshah b'toch ha'shloshim yom**" that was still left open. The thirty days that one can still withdraw. "**Harei zo mekudeshes la'sheni l'olam**".

R' Yitzchak: She becomes mekudeshes retroactively.

R' Yoel Asher: "**Harei zo mekudeshes la'sheni l'olam**". The second man didn't make any condition with time. The second man said harei at mekudeshes li, it becomes mekudash forever like everyone has kiddushin. Not a normal person, because don't take a woman who's already halfway to kiddush. "**Harei zo mekudeshes la'sheni l'olam. Why? Because at the time when the second one was mekadesh her, she was not mekudeshes**". When he was mekadesh her, one cannot be mekadesh. A woman who was already mekudeshes, but she's not yet mekudeshes, an act was already done, it's...

Kiddushin with Conditions: "L'achar Shloshim Yom", "Me'achshav U'l'achar Shloshim", and "Chutz Mi'ploni"

Law 7 (Continued) – "L'achar Shloshim Yom" Without "Me'achshav"

R' Yoel Asher: Therefore, "**and the kiddushin of the second took effect on her and she became a married woman**". "**And after the thirty days when the kiddushin of the first will come**" - when the kiddushin of the first will take effect, they come, "from where did they come, they came from a well to dig", they're going to move from wherever they are - "**they will find her**", the new kiddushin will find her as a married woman. "**And it turns out the first is like one who was mekadesh a married woman**". It comes out that the first man, when he did the act he actually did a good act, but when he makes that the kiddushin should happen, when the thirty days end, this is kiddushin on a married woman, and the law is that kiddushin doesn't take effect on a married woman.

R' Yitzchak: The law is also simple essentially. If he had said "me'achshav" it would be different.

R' Yoel Asher: We could have heard from Chazal some innovation that one cannot be mekadesh as long as there's still something

ongoing, I don't know what. Chazal ruled this way.

R' Yitzchak: It seems to me clear the reasoning. The next law is more complicated, but this law is clear. I made a kiddushin for tomorrow, meanwhile someone snatched her from me. What will I do? Because my act was earlier, and even to such an extent that my act works even without money today, but in practice when will she become a married woman? The same thing, "and another came and stole her from him before this one", he wasn't transgressing on a married woman, she wasn't a married woman but only later.

Law 8 – "Me'achshav U'l'achar Shloshim Yom"

R' Yoel Asher: You were right that the case we just learned is laid out, but he said the language differently. He also made a thirty day condition, but he said the language differently. He said, **"Ha'omer l'isha harei at mekudeshes li me'achshav l'achar shloshim yom b'dinar zeh"**. He said a different language.

R' Yitzchak: He also made a thirty day condition,

R' Yoel Asher: But he said the language differently. He said, "harei at mekudeshes li me'achshav l'achar shloshim yom b'dinar zeh", after thirty days you should become mekudeshes retroactively from now. A different way to say it. It's such a post-facto beginning, a beginning post-facto. It made two concepts and it's squeezed together. It's either me'achshav or l'achar.

R' Yitzchak: He says me'achshav l'achar shloshim yom. If he had said simply l'achar shloshim yom it's simple. But when he says me'achshav, but b'dinar zeh, and he wants that after thirty days she should become his wife from today, and then a second one comes,

R' Yoel Asher: **"And another came and was mekadesh her within the thirty days, harei zo mekudeshes out of doubt to both of them"**. She is mekudeshes out of doubt to

both of them, because the doubt is because we don't know what is stronger,

R' Yitzchak: The word "me'achshav" or the word "l'achar shloshim yom".

Discussion: Why Isn't "L'achar Shloshim Yom" a Retraction Within the Time of Speaking?

R' Yoel Asher: I also think that the word "b'dinar zeh" must come after the word "l'achar shloshim yom", because if not the "l'achar shloshim yom" would be like a retraction within the time of speaking. Yes, because you just said "me'achshav", now you're saying the opposite thing. But since he said it before he finished "b'dinar zeh", it's not a retraction, because it's still part of his sentence.

I'm saying "me'achshav". I would say like this, when a person says "me'achshav", he has finished the kiddushin, and he now says "l'achar shloshim yom", it's a retraction within the time of speaking. But in this case it's not so, because he's still in the middle of speaking, he's still saying "b'dinar zeh". Normally it's a contradiction, "me'achshav" is a contradiction with what he says afterwards "l'achar shloshim yom". I would say, that already means a retraction. You're asking a fine thing. But since he is

R' Yitzchak: Still not finished with "b'dinar zeh"... every time a person adds some condition, usually one actually needs to

R' Yoel Asher: Make the condition before the act about this, but here it also fits. "Me'achshav l'achar shloshim yom", and he still finishes his sentence with "b'zeh".

R' Yitzchak: Let me ask you a question. When a person just says the sentence, "harei at mekudeshes li", she becomes mekudesh right now, and we won't say "b'zeh".

R' Yoel Asher: But here obviously, he's holding a ring, he still wants to say "b'zeh",

R' Yitzchak: So he's still in the middle

R' Yoel Asher: Of his speech of kiddushin.

R' Yitzchak: I'll ask you a question. The obviousness is here the distinction.

R' Yoel Asher: If he had become silent after "harei at mekudeshes li", it could be that in such a case she would become mekudeshes. He calls out five minutes later "me'achshav l'achar shloshim yom", it could be that it would already be too late, it would already mean a retraction. He said "harei at mekudeshes li",

R' Yitzchak: There's a "mechadesh milibo", which is a "lev tahor etc.", a very nice stomach what you're saying from... but from your own stomach you're saying that within the time of speaking is only after a sentence, that you're innovating an entirely new principle. We're going to learn later in this chapter that within the time of speaking doesn't help for kiddushin. The others already mentioned earlier, that "for the entire Torah within the time of speaking except for one who is mekadash etc.". And you're saying that even with all this, if he says... because it must be all these laws,

R' Yoel Asher: "Harei at mekudeshes li al menas".

R' Yitzchak: But truly, indeed so, according to what we spoke earlier, one needs to say "al menas" already after "harei at mekudeshes li". Because if not it becomes a problem, it's already become the moment when he said mekudeshes. What did they learn in the previous chapters?

R' Yoel Asher: It could be that this law is somehow not. It could be that there's something that everyone knows that this means a retraction, when one hasn't changed one's mind. You know what? Let's... something that means a retraction,

R' Yitzchak: Perhaps. But it's not clear.

R' Yoel Asher: What I mean to say, it could be that a retraction always depends on the situation. If everyone saw that this isn't a retraction,

R' Yitzchak: What do your students say? They learned earlier in practice that me'achshav, when one says al menas or me'achshav, one doesn't need to say the condition before the act. It means that one can say it. You need to speak a question. And where did it go that within the time of speaking doesn't help. You'll make an innovation that within the time of speaking is only after a

sentence. You've added a new thing. There is within the time of speaking, and there is... No,

R' Yoel Asher: I'm interpreting the word retraction. Retraction means something. Retraction isn't just saying words, but retraction is some certain situation that everyone who is there understands, ah, now there was a retraction.

R' Yitzchak: No problem. You're placing an innovation, perhaps it's simply somehow correct, and perhaps not.

R' Yoel Asher: But I'm saying, here it triggered me more, because what now doesn't do. It's in the definition a retraction. But he afterwards said b'dinar zeh. It's a big retraction. That's why it's a doubt. It's something that doesn't make sense.

R' Yitzchak: It's a double statement. That's the doubt? Yes. Harei zeh is a doubt to both of them, because we don't know what we do with a thought after thirty days. I don't agree with you. One thinks l'achar shloshim yom is something that makes sense. Every condition that one thinks is like this. True? It's not different from any condition.

R' Yoel Asher: When a person makes it make sense, because you've put into something a condition. You just said it,

R' Yitzchak: Now, for later. What's the difference?

R' Yoel Asher: When there's still a Torah in a condition, it makes sense. It's not a contradiction.

Discussion: What Is the Doubt in "Me'achshav U'T'achar Shloshim"?

R' Yitzchak: It makes sense in your head. But the reasoning is exactly the same. After thirty days, if something happens, who is mekudeshes. He makes this after thirty days, and if something happens plain. The condition is that thirty days have passed. I'll tell you the practical difference, if he died. If we should both survive, let's make such a condition, if we should both survive after thirty days, you are now by the way, there are such people who go into the armies, are afraid that they'll die.

No, I've never heard that anyone does such a thing. I've heard people make a conditional get, a conditional get appears in the Gemara in the kingdom of the House of David. But I'm saying that one can make, people are afraid. He has a doubt, he's going to a dangerous place, he has a bride, he wants to marry her, so he arranges that he wants to perhaps catch dying with the marriage. A second thing is becoming a widow, there's yibum, it causes problems. So he can make, and but this is harei at mekudeshes li me'achshav. A wonderful idea.

In short, I don't know if the doubt is, we don't know what he means. The doubt is apparently a doubt in law. It's a strange situation, actually. So what's there, the "and another came and was mekadesh her" makes it strange. When no other comes, it's simple. Right? Right. And what is it then? Right,

R' Yoel Asher: Mekudeshes out of doubt. What needs to be done? **"Both give a get, whether within the thirty days or after the thirty days"**. It's interesting, why do both give a get? Let the second give a get, and the first should give new kiddushin? Ah, but he needs to give a get as a stringency. No,

R' Yitzchak: Again.

R' Yoel Asher: If the second wants to give a get, apparently the first can simply give new kiddushin. And say a condition, if the previous kiddushin wasn't, one needs to make another condition. A conditional kiddushin. If the previous kiddushin wasn't good kiddushin,

R' Yitzchak: It should become mekudeshes now with this kiddushin. Within thirty means to say that they can already now give a get. Why? Because the doubt is, perhaps the kiddushin was the true thing me'achshav.

R' Yoel Asher: At that time it's a doubt, already now needs a get.

R' Yitzchak: Right. After thirty nothing happens, according to the side that it's a problem.

R' Yoel Asher: Very good. What happens in such a case?

R' Yitzchak: I think that it's a... perhaps, he brings that the Ramban and others do want to argue that it's a doubt. What does he actually mean?

R' Yoel Asher: It's a doubt what he means?

R' Yitzchak: That is, what in general is the condition? This that we just discussed. What is a condition? I said that it's simple

R' Yoel Asher: What the condition is, but it seems the Gemara wasn't so simple what the condition means. One can learn it in different ways, in short, it's a doubt.

Law 9 – Multiple Men with "Me'achshav U'l'achar Shloshim"

R' Yoel Asher: Already, what's another case? That is, the same case... no, the same woman, once we've become aware that me'achshav l'achar shloshim yom is something that can make juicy scholarly debates, one can take it to the next level. One can say like this, he left over, that is he left thirty days open. Now a second one can come and make nineteen days. So nine and twenty men can come in.

R' Yitzchak: A second comes and he says...

R' Yoel Asher: The second said for ten days. **"Even if they are a hundred in this order"**.

R' Yitzchak: A second said thirty, afterwards comes one with twenty, and one with ten.

R' Yoel Asher: Yes, a hundred can be in the thirty there can be a hundred only if one makes thirds of days. Or he means to say, even if they are a hundred, one said a hundred days. Okay, **"the kiddushin of all of them take effect on her"**. So the kiddushin of each one takes effect. Means out of doubt. Means out of doubt. **"And she needs a get from each and every one, because she is mekudeshes to all of them out of doubt"**.

R' Yitzchak: She is mekudeshes to all hundred men with a doubt. You see then that a woman can,

R' Yoel Asher: In short, it's very much not recommended. Whoever listens to our shiur should not do such tricks. If you want to give

kiddushin to a woman, give it properly. Don't mess around with OCD, with making half kiddushin. It's not a good thing. Okay.

R' Yitzchak: Okay, up until here, yes, this is probably not a ma'aseh shehaya,

R' Yoel Asher: It's probably mainly a... yes, yes, but it's a nice lamdanus. It's a lamdanus. They wanted to accept a bachur into the yeshiva, and they said, "Find me such a kind of helper." There were such hundreds of men. There was such a chiddud d'oraita that he would have wanted. Yes, okay.

R' Yitzchak: So let's continue such a shiur that we learned these days.

Halacha 10 – "Chutz MiPloni"

R' Yoel Asher: We can finish that we're going to learn another sort, similar to a tenai, but like except for one. Kiddushin means "mekudeshet li", you are mekudeshet to me, only to me, mekudeshet to me,

R' Yitzchak: You are exclusive to me.

R' Yoel Asher: Yes, like one of the expressions was "yechidi", "harei at yechidati", or something like that. So if someone says differently, "**harei at mekudeshet li**", but he adds right away the words "**chutz miploni**", which means from ploni I am not forbidden? **Kelomar, shelo te'aser alav**, I should not become forbidden to ploni. He wants **tihyeh eshet ish al kol ha'olam, u'liploni** to that ploni **I should be like a penuyah. Harei zo safek mekudeshet**, it's safek mekudeshet. Why?

R' Yitzchak: Also it's apparently a safek in halacha.

R' Yoel Asher: He's certainly sure that in halacha there can't be such a thing. She's certainly not going to be a penuyah to ploni. Because the question is whether... yes, first of all.

Kiddushin with Conditions: "Chutz MiPloni", Davar Shelo Ba L'Olam, and Yevama L'Shuk

Halacha: "Al Menat SheTihyi Muteret L'Ploni" – A Condition That's Impossible to Fulfill

R' Yoel Asher: That means, from ploni I am not forbidden. "Kelomar, shelo te'aser alav", I should not become forbidden to ploni. He says, "tihyeh eshet ish al kol ha'olam, u'liploni", to that ploni, "I should be like a penuyah". "Harei zo safek mekudeshet". She is safek mekudeshet. Why?

R' Yitzchak: Also it's apparently a safek in halacha.

R' Yoel Asher: No, it's certainly sure that in halacha there can't be such a thing. She can't... she's certainly not going to be a penuyah to ploni. But the question is whether she is indeed mekudeshet to him, because "mekudeshet li" is not lacking. He already said "mekudeshet li", that has to be to the whole world. It can be a safek. The other safek is that it's like a tenai batel u'ma'aseh kayam. Yes, it should be such a kind of thing.

R' Yitzchak: If you say "harei at mekudeshet li al—

R' Yoel Asher: menat shetihyi muteret l'ploni", not "chutz miploni", but "muteret l'ploni", then it's clear.

R' Yitzchak: That means, "chutz miploni" is a safek whether he means kiddushin at all. Perhaps he means... who knows what he means. That's a strange expression, it's not an expression of kiddushin at all. But that's how I think is the pshat. If he says explicitly "mekudeshet", but I'm adding a tenai. I want to add to the laws of kiddushin a... how do you say the small letters, yes? A footnote? A condition, okay. Terms and conditions, "chutz miploni", "al menat shetihyi muteret l'ploni". Then it's simple—

R' Yoel Asher: "Harei zo mekudeshet".

R' Yitzchak: And what?

R' Yoel Asher: "V'tihyeh asurah al oto ploni k'she'ar ha'am, mipnei shehetna b'davar she'i efshar l'kaymo". He made a tenai that's not applicable to fulfill, because she's still an eshet ish to that ploni. That means, even let's say it's possible to fulfill it because they can be mezaneh, but muttar it won't become. It's not possible to

fulfill it to make it muttar. The greatest simple Jew can't make anything muttar.

R' Yitzchak: You remember that the Rambam included the entire ma'atan al shekatuv baTorah in the concept of i efshar l'kaymo.

R' Yoel Asher: I'm saying, i efshar l'kaymo is also because for him it's also an issur—

R' Yitzchak: And you can't force him, as we learned earlier.

R' Yoel Asher: But here it's simple, a heter is not applicable. So, it can be that "chutz miploni" is not clear what it means. If it means that, it would indeed be mekudeshet.

R' Yitzchak: But "chutz"—

R' Yoel Asher: We don't know what it means. It can be that "chutz miploni" is something else, that "chutz miploni" other things. Since it's still open, one must be machmir.

R' Yitzchak: And so he's going to say about something else. This is built on the language of a get. There's a machloket Rabbi Eliezer and the Chachamim by a get "harei at muteret l'chol adam chutz ela l'ish ploni". Rabbi Eliezer said that she is muttar, and the Chachamim say that not. And the Gemara says that by kiddushin there's a similar question. That means it's not kiddushin.

That's up until here learning a sort of tenai.

Halacha: Kiddushin "L'Achar She'Agarshech" — Two Prutot

R' Yitzchak: Now we're going to see essentially laws of davar shelo ba l'olam, as I understand, yes? That means, when he makes a kiddushin that it should happen tomorrow, or in a future situation.

R' Yoel Asher: I remember, there is in one of the selichot, "hoy l'eved hayotze... who serves shnei adonim", yes? He says, a person often does teshuva, but he makes such a "chutz miploni, chutz miploni". Okay, earlier we learned about making a tenai that it should take effect later, or "me'achshav al achar shloshim". Here we're going to talk about something a ma'aseh that still needs to be done.

R' Yitzchak: No, no, not a ma'aseh. He wants to do something now for later. Okay.

R' Yoel Asher: Okay. Okay. I want you not with something that's going to happen only later. Yes. **"Hanoten shte prutot l'isha v'amar lah..."** He gives her two prutot. He says, **"harei at mekudeshet li hayom b'achat"** — one of the two kiddushin should work now to become my wife — **"u'v'achat l'achar she'agarshech"**. I love you so much that I want to be mekadesh you now. If I will give you a get, you should quickly immediately become my wife. Very cute. Such an insurance like that. In case I will give you a get, you'll quickly be mekudeshet again. **"Harei zo mekudeshet"** — she becomes mekudeshet now with the first one. **"U'cheshegaresh otah"** — if he's going to give her a get, **"tihyeh mekudeshet"** — she will indeed again become automatically mekudeshet with the pruta that he gave her then. And therefore if he wants to really give her a get, he'll have to give her another get, **"ad sheyagaresh otah pa'am shniya min kiddushei pruta shniya"**.

It's interesting, it doesn't say in Hilchot Gittin, one wouldn't say that the get is pasul because he doesn't really want to separate from her, or I don't know what. But a get has to be something a davar hakoret beino l'veinah.

R' Yitzchak: I don't know further. But, but—

Digression: Prenup That He Won't Give a Get

R' Yoel Asher: But haomer l'isha harei at mekudeshet li b'zeh, I thought of an interesting, a young man asked me whether if his wife wants to make a... a young man who we called together b'seder kiddushin a while ago, his wife wants to make a prenup. What does she want to write? That he's waiving the right to give her a get. He's never going to give her a get. That's matneh al mah shekatuv baTorah, yes? You can't do such a thing. Because everyone, when you have a wedding, you say, I'm never going to give you a get. Yes, that's what having a wedding means. And when you get divorced, you say, it's a shame I had a wedding with you, I never really wanted to be with you. These two things are two extreme

periods in life. You can't make such a matneh al mah shekatuv baTorah.

R' Yitzchak: This you have to say, you probably told me, the insurance, that's hada d'chtiv ketuba. If I gave you a get, I have to pay you. He can make tosefet ketuba, he can say that I said.

R' Yoel Asher: When a woman asks for such a thing it means that she's not sure enough that your kiddushin means one hundred percent kiddushin. You have to convince that it's one hundred percent kiddushin without making such a weird tenai, because yes, the tenai batel—

R' Yitzchak: Ma'aseh kayam. Ah, you can't make that the get shouldn't work. You can indeed do that, you can make a condition for after the get—

R' Yoel Asher: I will need two gittin. About that we thought that's how the trick he could indeed do.

R' Yitzchak: He can promise more in his ketuba. That's the basis that people used to do for such a thing. I don't know if he wants to do that. I'm telling you, he can. Um... yes.

R' Yoel Asher: But... he can make a modaa, but we're afraid that anyway they'll be mevatel modaot. So, okay.

Halacha: Davar Shelo Ba L'Olam — Goy, Eved, Shifcha, Eshet Ish, Achot Ishto

R' Yoel Asher: But haomer l'isha harei at mekudeshet li b'zeh, when he says to his wife... not to a wife, and he adds such a tenai. When will it be?

R' Yitzchak: A period of time.

R' Yoel Asher: Not it's from a change, there's going to be a change. You'll be mekudeshet when the change happens.

R' Yitzchak: But he must wait for that, because now she's a goy, you can't be mekadesh a goy. He goes to the goy and he says, harei at mekudeshet li b'zeh l'achar, or he is a goy.

R' Yoel Asher: He can't be mekadesh her now, because there's still missing a big change in their life. So he's now going to calculate what's still going to happen, or after I will convert, then I'll

be a Jew. A Jew can be mekadesh a goy and there's no kiddushin. Or l'achar shetitgayri, she's a goy. Or **"l'achar she'eshtacher"**, after I will cease being an eved, that an eved is also not b'torat gittin v'kiddushin. Or when she will cease being a shifcha. Or she's an eshet ish, a chutzpah, he tells her "harei at mekudeshet li" when she will cease being an eshet ish, when her husband will die. Or **"l'achar shetemet achotcha"**, he had a wedding with her sister, he says it to his achot ishto. So all these things, **"eina mekudeshet"**, she is not mekudeshet, it doesn't help, it's not a tenai.

R' Yitzchak: Why earlier could you and now you can't?

R' Yoel Asher: He says, because kiddushin has to be... I mean, the Gemara says that kiddushin hara'uyim l'biah on that? It has to be kiddushin that are ra'uy, kiddushin that works. That when he says "harei at mekudeshet li b'zeh", it should be able to happen. Even when he can add a tenai that it should end in thirty days, but now is a time when you can already be mekadesh. But all these that he calculated here, **"eino yachol ata l'kadeshah"**, now he's still a goy, or now she's still an achot ishto, he can't be mekadesh her. Therefore nothing begins to happen.

R' Yitzchak: It's an interesting thing, even though we said that you can make a kiddushin for tomorrow, but the ma'aseh netinat kiddushin, the ma'aseh we did now.

R' Yoel Asher: Who is the one giving kiddushin here? The goy? Or the eved? Or the shifcha?

R' Yitzchak: Or to a goy?

R' Yoel Asher: Achot ishto? Yes, you're giving kiddushin now to achot ishto, but the kiddushin is backwards—

R' Yitzchak: The kiddushin doesn't happen, it becomes tomorrow. Therefore it's a chiddush that this doesn't work.

R' Yoel Asher: What I want to say is, when someone is mekadesh achot ishto, it's not simple that the issur the whole time prevents the kiddushin, they hold in one fight from now

forever. The issur wins immediately, and the kiddushin is out. So, nothing happened?

R' Yitzchak: Yes, but the wild kiddushin would happen after that goes away. That's the chiddush.

R' Yoel Asher: They need to make it when she's a bar chiyuvim, and she's bat kiddushin.

Halacha: Yevama L'Shuk — Safek Mekudeshet

R' Yitzchak: Now, there's a case that's a safek.

R' Yoel Asher: Ah, yevama l'shuk is a different kind of issur, not the same level issur as achot ishto. It's a safek whether the zikah, whether the issur... what?

R' Yitzchak: We already learned earlier that it's a safek. Yes.

R' Yoel Asher: Because there's a big machloket in Masechet Yevamot, whether a yevama l'shuk is the same issur as karet that doesn't take effect kiddushin or it does take effect kiddushin. So, **"haomer l'yevama harei at mekudeshet li b'zeh l'achar shechalatz lach yevamech"**, after she's still a yevama who's still not muteret l'shuk, who's still zekuka, after he's going to give you yibum, **"harei zo mekudeshet misafek"**. Why? Because **"ho'il v'ilu kidshah ata hayu kiddushin tofsin bah misafek"**, since there's a big machloket whether to a yevama shomeret yavam there is kiddushin on her. Whether her issur is like an issur asech, or like an issur karet. An issur karet is never kiddushin tofes. Since the kiddushin is a kiddushei safek—

R' Yitzchak: It's also in such a case kiddushei safek.

R' Yoel Asher: Another thing he means to say here is that **"lo yacholu yevamech"** is not only a practical thing that they can't now be together, it can be a giluy. Yes, okay, simple.

Halacha: Davar Shelo Ba L'Olam — "Im Yalda Ishtecha Nekeva"

R' Yoel Asher: **"Haomer l'chavero"** — he's now going to say such a halacha.

R' Yitzchak: This is all a list of like davar shelo ba l'olam, yes? They learned a case that works yes, and a case that doesn't work, yes? And here

you can see a case that certainly doesn't work. Or what works yes and what doesn't work. It can be davar shelo ba l'olam.

R' Yoel Asher: **"Haomer l'chavero im yalda ishtecha nekeva harei hi mekudeshet li b'zeh"** — if your wife is going to give birth to a girl, I'm looking for a shidduch for my... I have a bachur of twenty-five, an alter bachur. Everyone is an alter Jew? You're now going to give birth to a girl. **"Harei hi mekudeshet li b'zeh"** — **"lo amar klum"**, because she's not yet born. What is a davar shelo ba l'olam. **"V'im hayta eshet chavero me'uberet v'hukar ha'ubar"** — you see that she's pregnant.

R' Yitzchak: We don't know if it's a—

R' Yoel Asher: Zachar or a nekeva, but it's enough that it exists, if it's going to be a girl. How is it interesting, why should this happen? Why shouldn't it be a kiddushei safek? Says the Rambam, because if she's a zachar you can't with any kiddushei safek.

Shiur in Hilchot Ishut — Kiddushin B'Ubar, Kiddushin B'Meah Dinar, and Kiddushin B'Vgadim

Halacha: Mekadesh Ubar — "Yera'eh Li SheTzarich Lachzor U'Lkadesh Otah"

R' Yoel Asher: But **"v'im hayta eshet chavero me'uberet v'hukar ha'ubar"**, you see that she's pregnant, we don't know if it's a zachar or a nekeva,

R' Yitzchak: But it's enough that **"harei zo mekudeshet"** if

R' Yoel Asher: It's going to be a girl.

R' Yitzchak: **"V'yera'eh li"**, why should this happen?

R' Yoel Asher: Why shouldn't it be kiddushei safek? Says the Rambam, because if she's a zachar you can't be mekadesh a zachar. So there won't be any kiddushin at all,

R' Yitzchak: There's no safek.

R' Yoel Asher: So at the time when you made kiddushin it was a kiddushin that's not efshar l'kaymo, a man can't be mekadesh a man. No,

Discussion: Davar Shelo Ba L'Olam or Safek Zachar/Nekeva?

R' Yitzchak: Whoa, he can very well, if she's a nekeva he can be mekadesh her, and if not he indeed can't. The problem is that there's still no nekeva either, it's a davar shelo ba l'olam. If it is, it means a davar sheba l'olam, because it's already hukar ubara means it's a davar sheba l'olam,

R' Yoel Asher: But we don't know that it's a girl, so he doesn't know that his kiddushin is good. When it will be born he'll know,

R' Yitzchak: It will become clear. But says the Rambam, this is the Rambam's own chiddush, **"shetza'rich lachzor u'lkadesh otah me'aviha achar shetivalet"**.

R' Yoel Asher: That what you're saying that **"harei zo mekudeshet"** is l'chumra, but if he really wants to be with her he has to give another kiddushin, **"kedei sheyichanos otah b'kiddushin she'ein bahen dufi"**, he should have a wedding with her a kiddushin she'ein bahen dufi, that there isn't, no one will say any safekot on it, it's a kosher kiddushin, it's a real kiddushin. That means, the Rambam thought, he brings in Perush HaMishnayot,

R' Yitzchak: That the Rambam thought that truly hukar ubara is also a davar shelo ba l'olam. In other words, it can be that on mekach u'memkar wouldn't work hukar ubara. But what it says in the Gemara that mekudeshet means because of chumra d'kiddushin, misafek, we're machmir. But it means, you see further, that if you want to take one of the safek kiddushin's it's not good, you have to make a legitimate kiddushin again. As he brings in Perush HaMishnayot, that the Rambam says about it's a problem of davar shelo ba l'olam. But we see like the Rambam says something a bit more than that. The language, he could have said **"v'yera'eh"**

Discussion: What Does "Kiddushin She'Ein Bahen Dufi" Mean?

R' Yoel Asher: So one must have fear of something that hasn't come into the world. We see that **"kiddushin she'ein bahen dufi"**

means something more, a different kind of thing, that he could always have said "I didn't really want you, you were still then an ubar (fetus) that hasn't come into the world." No, davar shelo ba l'olam is a different matter of kinyan. No, "ein bahen dofi" when he said by a prophet means we'll have doubts about the prophet. No,

R' Yitzchak: Dofi means doubts, exactly.

R' Yoel Asher: Doubts were... So it's not... I should be mekadesh with dofi, it looks like something as if it's something that depends on the two people.

R' Yitzchak: Not that it's some halachic problem. No, no, no,

R' Yoel Asher: The Rambam should have said, yirah li that she's still mekudeshes out of doubt. That's what he should have said, he doesn't say those words. No, it's not out of doubt. She needs to be mekadesh,

R' Yitzchak: That it's a chumra. He sees that as he knows that mekudeshes is certain, it's not just a doubt, but he said that lechatchilah one must make another kiddushin. But this is technically as she understood, because you remember, this is how the Rambam spoke already two or three times. The Rambam holds that every time there's doubtful kiddushin, if one wants to live with her, one must make kiddushin again. It's not clear to me that it should be so, but here the Rambam says clearly that there's something of a concept that the mitzvah of the sefer of kiddushin. The mitzvah sefer kiddushin says that one must make a kiddushin without dofi, it's better, necessary. But this is actually the Rambam's chiddush, and in the Gemara it doesn't say so. That means, you can't even say that the Rambam learned that the Gemara means out of doubt as it says in Perush HaMishnayot, because then it would have been stated. The Rambam says clearly that it's something of a yirah li. I think that the yirah li is mainly about the thing, because who says that one must make another kiddushin? This is the Rambam's chiddush, I think that the yirah li is built on the Rambam's foundation

R' Yoel Asher: Of the concept of kiddushin.

Chiddush: The Rambam's Foundation in Kiddushin

R' Yitzchak: The Rambam was mechadesh that kiddushin, I think this is a chiddush, the Rambam thought it was simple, that kiddushin is almost a positive mitzvah, just as there's a concept that there should be a kiddushin. And the Rambam looks, some girl you were mekadesh on the mother's belly. This is almost like a ben Noach, this isn't the holy kiddushin.

Dispute of Acharonim: Gra Against Chelkas Mechokek/Beis Shmuel

R' Yoel Asher: I see, he brings here like this, what we spoke about is a dispute between the Gra and the others. Like the Chelkas Mechokek and the Beis Shmuel. That the Gra says that what the Rambam says here, he means what he says in Perush HaMishnayos. V'yirah li, as he says in Perush HaMishnayos, that what Chazal say harei zeh mekudeshes is only lechumra. The Chelkas Mechokek and the Beis Shmuel say no. That he retracted from what was stated in Perush HaMishnayos, because he doesn't say here it's only a doubt in kiddushin. Here he says it more as a ruling, as a... it would have been a tremendous thing. I don't mean tremendous thing. He must be mekadesh her again. He doesn't say it's only kiddushin.

R' Yitzchak: Kiddushin in doubt. Yes, but it's not such a difference, because I said kiddushin in doubt, there's no prohibition to live with a woman who is mekudeshes lechumra in doubt. I think that here, from this I hold that it's not that both Acharonim can make something between them. You understand? Okay, until here we learned about various conditions. We're going to learn another future thing essentially, but a future thing that one doesn't need to wait for.

Halachah: "One Who Says to a Woman 'Behold You Are Mekudeshes to Me with One Hundred Dinar'" — Gave One Dinar

R' Yoel Asher: Yes, what happens like this? **One who says to a woman behold you are mekudeshes to me with one hundred**

dinar, and what did he give her now? He only gave her one dinar. **Behold she is mekudeshes from when she took the dinar**, when she took the dinar she is mekudeshes. Eh, he said with one hundred dinar? We say that he becomes obligated to give one hundred dinar, **and he will complete for her the rest**, he now has an obligation to complete the remaining money. He gave as if a gift the remaining money in advance, **for this is like one who said to her behold you are mekudeshes to me with this dinar on condition that I complete for you one hundred dinar**. When a person makes such a manner, he says thus and he gives thus, we learn it the way that Chazal say that the first dinar is now, and the rest I will become obligated, **that she is mekudeshes from now**.

R' Yitzchak: Right. It's not the simple meaning that he makes some measure that the kiddushin, he specifically wants to be mekadesh with one hundred dinar. Rather kiddushin is enough with one dinar, a perutah is also enough for him.

R' Yoel Asher: But this isn't another case of a loan of a perutah, because the remaining one hundred dinar he now becomes obligated to her.

R' Yitzchak: Because he's not mekadesh with the loan, he's simply obligated.

Halachah: "With These One Hundred Dinar" — He Says "These"

R' Yoel Asher: Yes, right. **When are these words said? When he said to her with one hundred dinar without specification. But if he specified and said to her behold you are mekudeshes to me with these one hundred dinar, and he began to count into her hand**, he starts putting in, **she is not mekudeshes until he completes**. Says the Rambam, **and even with the last dinar both of them can retract** if he says "these", the simple meaning is that on this very thing is the entire agreement. Therefore even by the last dinar, we're holding at 99, he brings the hundredth. And he doesn't only say this, but even if one of the... he brings one hundred, but one of

them isn't so good. **It's found to be a maneh lacking a dinar**, a maneh that's missing a dinar. He brings a bag, it's written on it maneh. **Or one of them is found to be a copper dinar**, instead of a dinar of silver let's say. Then further **she is not mekudeshes**, that when he says one hundred dinar these is one hundred dinar these. What happens with us by a bad dinar? In the category it's good, it's a hundred, but it's a crumpled hundred. A fifty is never a hundred. What happens with a crumpled hundred?

R' Yitzchak: He once saw such a concept,

Bad Dinar — "Yachlifenu"

R' Yoel Asher: Crumpled doesn't matter at all. A coin that's very worn. **If she can spend it through difficulty**, one can push it through, one can exchange it, some merchant accepts it,

R' Yitzchak: Then **yachlifenu**, he should exchange it. That means, he must exchange it because he owes her a normal dinar.

R' Yoel Asher: Ah, yachlifenu means he must exchange this because you undertook to her. Kiddushin is kiddushin. Mekudeshes.

R' Yitzchak: Yes. Interesting. It's not clear why the yachlifenu for the matter. Another similar case. I need to think how similar all these cases are.

R' Yoel Asher: Yachlifenu probably means in a manner when she insists on it. If she doesn't insist on it, then it's obvious that there's a mechilah and everyone is happy. When she says I won't be satisfied with such a thing, one can't now with this. I say, when she screams, eh, it's not a good coin because the bad dinar is missing, she can't now say to nullify the entire match. He can say, give me time yachlifenu.

R' Yitzchak: That's what he means to say here.

Halachah: Mekadesh with Garments — "Shira'i Don't Need Appraisal"

R' Yoel Asher: He said to her, **behold you are mekudeshes to me with these garments that are worth fifty dinar**. One

can be mekadesh with the garments that are worth fifty dinar. And the material was a good material, it was from silk, from silk, **and the like that a woman desires**, a woman just loves silk. That means, it's certainly looks like something that she likes very much. But whether it's worth fifty dollars, is a question like this, **if they were worth fifty**, if it's actually worth fifty, then obviously **behold she is mekudeshes from the time of taking. And they don't need appraisal in the market**, one doesn't need to go now to measure it, to appraise it in the market, the second appraisal in the same chapter, means something else. **And afterwards she will be mekudeshes**, we don't say that one must first appraise it **so that her mind will rely**, so that she will truly agree to the match. Rather what then? Since it's a thing that a woman desires, it's a thing that she likes, **since they are worth as he said to her behold she is mekudeshes**.

R' Yitzchak: Since they are equal to what he told you, as he said to her,

R' Yoel Asher: As he said to her, they are worth, they are indeed worth, she loves it, **behold she is mekudeshes from the first moment**. I don't understand why it needs to be exactly fifty dollars.

R' Yitzchak: What comes in the woman desires?

Discussion: Why Must It Be Worth, If "A Woman Desires Them"?

R' Yoel Asher: No, as he said to her doesn't mean to say that one appraised it at fifty. It's dear to her, she looks at it

R' Yitzchak: As if it's fifty. No, no, no, it's not true. It's one worth and one mekudeshes. It must actually be worth. No, it must actually be worth. But the chiddush is...

R' Yoel Asher: The Gemara says, it's approximately, and sometimes it's a bit less worth.

R' Yitzchak: I don't know why, but the Rambam says some chiddush. In the Gemara it says "shira'i don't need appraisal". Shira'i means

beautiful garments. One doesn't need to appraise, it must certainly be worth. If he says it's fifty, it must be fifty zuz. But one doesn't need to wait for the appraisal, so the Rambam learns it. And the Ramban held something that if I give simply a... I don't know, I give you a box, and in the box there are old books, I don't know. I tell you it's worth a thousand dollars, go check if it's worth a thousand dollars, it should be nothing to me. If it's garments that women love such garments, then, if it's actually worth, one doesn't need to wait for the appraisal. I don't understand why.

R' Yoel Asher: As opposed to if women don't love it, then it's entirely dependent on the reality, and then one must go measure it.

R' Yitzchak: Here it's also dependent on the reality,

R' Yoel Asher: But the difference that one doesn't wait...

Chiddush: The Pleasure from Shira'i Is Now

R' Yitzchak: It's true, it must be true. I think the word is that a woman is mekadeshes herself with a certain pleasure that she receives now, that is worth. Let's say it should be worth one hundred and fifty dinar, no problem. But when it's shira'i she already has pleasure now. When it's simply a

R' Yoel Asher: Thing that the entire...

R' Yitzchak: Let me finish, there's such a type of thing that the entire worth of it is that the appraiser in the street says it's worth something. It's some thing, like I say some old stamp, looks to me like a torn stamp. Ah, one goes to market, the first torn stamp is worth a thousand dollars, no problem. Perhaps this is the...

R' Yoel Asher: I hear what you're saying. But I think that in such a case it would be even if it's not 50 dinar, because for her it's worth 50 dinar. He says the word "that a woman desires".

R' Yitzchak: But he says clearly...

R' Yoel Asher: And the Rambam wants to tell us something here that the "that a woman desires" makes the change in the taking effect. I

understand what you're saying, that when for example it's the question whether it's real money or fake money, the kedushah becomes after one has appraised that it's real, it received the stamp. But this is worth.

Discussion About Subjective Worth, Negotiation by Kiddushin, Agent for Kiddushin, and Retraction Within Speaking Time

Continuation of Discussion: Subjective Worth by Kiddushin

R' Yitzchak: One goes to market, the torn stamp is worth a thousand dollars? No problem. Perhaps this is the...

R' Yoel Asher: I hear what you're saying. But I think in such a case it would be even if it's not fifty dinar, because for her it's worth fifty dinar. He doesn't say such a thing.

R' Yitzchak: He says the word

R' Yoel Asher: "That a woman desires". But he says clearly... and this is the problem. The question is, the minute that the market changes a bit.

R' Yitzchak: If there's subjective, he shouldn't say worth... He won't have any problem. "These garments", it's certainly worth more than a perutah. But he says, I give you fifty dinar. There are things, for example,

R' Yoel Asher: You don't know this is the word, perhaps when it's a matter of dearness, when he says fifty dinar he's not particular about the price. He says, no, he says it's yes. True, you love it like fifty dinar.

R' Yitzchak: Let's say clearly. There's no appraisal at all. We haven't yet seen an appraisal that helps subjective worth.

R' Yoel Asher: In Choshen Mishpat it says clearly in mekadshin.

R' Yitzchak: What there is, is this a topic of appraisal. There's sometimes that one must

R' Yoel Asher: Appraise only after one has gone to an appraisal.

Chiddush of Tosafos: Appraisal by Diamond

R' Yitzchak: He says that Tosafos for example says, and he sees the halachah, for example Tosafos says that if one takes for example a brilliant, that one is mekadesh with a diamond, she doesn't become mekudeshes until the appraisal. Why? Because no one knows how much a diamond is worth.

Shira'i, a normal woman knows, this is a garment of approximately fifty. Okay. But this is exactly why the custom is that one is mekadesh with a plain ring. Why doesn't one put any fancy ring? This is a concern from the Tosafos, it's built on the halachah. Because Tosafos says that a thing that is fancy, that you can't, a normal person looks at a diamond, has no idea whether it's worth fifty dollars or ten thousand dollars.

So, therefore one must go to an appraisal, one can't be mekadesh with it. One can certainly yes, because one must say with a perutah, it's only a chumra alone, but this is apparently the reasoning. Another righteous woman you can.

Halachah: A Man and Woman Who Were Engaged in Matters of Betrothal — Negotiation About Price

R' Yoel Asher: A man and woman who were engaged in matters of betrothal. They said nice Torah thoughts on one who says to a man, and found a man and found good,

R' Yitzchak: And spoke between themselves that they're going to have a wedding.

R' Yoel Asher: He says with one hundred dinar I will be mekadesh you. I will be mekadesh you with one hundred dinar. **And she says, no, I will only be mekadeshes to you with two hundred,** I only agree to be mekadeshes with you with two hundred. So, **and this one went to his house and this one to his house.** Each one went in, that ended. **And afterwards they claimed each other,** afterwards, on a next day or a next month, they claimed each other, well, let's have a wedding.

R' Yitzchak: And they were mekadesh without specification, he was mekadesh her...

they were mekadesh each other, you understand? It doesn't say "and he was mekadesh her". Okay. It's also for the feminists.

R' Yoel Asher: I want to show you that it's a normal way

R' Yitzchak: To say that kiddushin is a thing that happens between both. It's not only that actually technically he is mekadesh her, but...

The Law: Who Agrees to Whose Condition

R' Yoel Asher: So, it's very interesting here. Apparently I would have said like this, it's certain that the kiddushin is a kiddushin. No, because one didn't say "on the basis of our old conversation". The question now becomes whether the man obligated himself, whether he now becomes obligated to the woman. **If the man claimed the woman, the woman's words are done,** he must pay her the remaining money. **And if the woman claimed the man, the man's words are done,** one hundred is enough. It looks to me here like the kiddushin is a good kiddushin. The question is like before, whether he must pay her the money.

R' Yitzchak: It's a gift. It's a language of gift. I'm not talking about this, I say why, I nevertheless understood the reasoning of the essence of this. I say, I will pay you a thousand dollars for a job, you say two thousand dollars. So if you come to me, and it ended, it wasn't decided, you come back to me and say, you already agree to me. If I go to you, the simple meaning is I agree to you. This is as if the...

R' Yoel Asher: Ah, this is the word "they claimed each other". Just as it wasn't clear, when the man comes to the woman, **if the man claimed the woman,** the simple meaning is that he agrees as... why are you coming back now? They had a deal. Ah, I agree to your deal. **So the woman's words are done.** **And if the woman claimed the man,** the simple meaning is that she agrees to the hundred, **the man's words are done.**

But the Rambam doesn't say, what happens if the woman claimed and he only gave one hundred? Is there actually no kiddushin, not even lechumra? He doesn't say it. Apparently, one can

say exactly that... at the very least, a doubt it should be perhaps he agreed to his condition. And about this is the "and this one went to his house and this one to his house", if he did it immediately after the argument, it's certain that if he gave one hundred dinar, and he told her only with two hundred, it's certainly no kiddushin. In such a case it's a kiddushin, it's only that he must give her a gift.

Translation

R' Yitzchak: You're missing all the details, it doesn't say. Okay, now when we learn further about... also all these sorts of laws here are sorts of conditions, yes? A condition that I need to have a hundred dinars, peace upon Israel, it's similar to a condition. That is, all sorts of ways, the whole chapter is about how people can make their lives complicated for themselves, for no reason. They're mekadesh, simple, a plain guy, it works. No, if tomorrow, the day after, if my grandmother comes, hello? Now you can see, you can make it doubly complicated, you can send kiddushin with an agent. And what about an agent

Law: Agent for Kiddushin — Changing the Condition

R' Yoel Asher: Can one add conditions. "**One who makes an agent to be mekadesh a woman for him**" - he makes an agent just as we learned that by kiddushin there is agency - "**and the agent went and was mekadesh her on condition**" - he himself added the condition - "**she is not mekudeshes**" because the agent did not carry out being an agent, so the agent has been nullified,

R' Yitzchak: And there was no kiddushin. He added a condition, the other one isn't agreeing, he had no right to make a condition.

R' Yoel Asher: He brings from another place that "**an agent who transgressed the words of the one who sent him has done nothing.**"

Discussion: Why Not "Condition Void, Act Valid"?

R' Yitzchak: Even though he wasn't right, I ask a question, he made a kiddushin kiddushin, he fulfilled it.

R' Yoel Asher: Why shouldn't we say that the condition is void but the act is valid? Just like the condition is void but the act is valid?

R' Yitzchak: It's a new thing, that the agent...

R' Yoel Asher: But you're no longer an agent, the agent has been nullified, you're no longer... you can hear it, an agent is a kind of concept. A person who does what the other one tells him, but when that's not there, there's no longer any agent at all.

R' Yitzchak: That's how it looks.

R' Yoel Asher: Not clear. Or from the same thing the opposite. "**And similarly if he said to him to be mekadesh her on condition and he went and was mekadesh her without condition.**" Or he switched the condition. "**Or if he changed the condition.**"

R' Yitzchak: That means a different condition.

R' Yoel Asher: A different condition. Or he took the same condition and he switched it. "**She is not mekudeshes**" by all these mistakes. Because the agent must expire.

Law: Agent for Kiddushin — Changing the Place

R' Yoel Asher: "**If he said to him 'be mekadesh her for me in such-and-such place.'**" Here we're going to say when the agent changed, but small changes. If he says "**be mekadesh her for me in such-and-such place,**"

R' Yitzchak: "**He went and was mekadesh her in another place,**"

R' Yoel Asher: He should be mekadesh in that specific place, "**he went and was mekadesh her in another place, she is not mekudeshes,**" it wouldn't follow. But if he says "**be mekadesh her for me,**" and I tell you that she is in such-and-such place, and now there's a doubt whether he meant to say I specifically want the kiddushin to be there, tell me so, "**he went and was mekadesh her in another place,**

behold she is mekudeshes," because when he said **"in such-and-such place,"** the assumption is that **"he is showing him the place,"** he just wants to give an idea of where it is. He says that he

R' Yitzchak: Should be mekadesh there. The Gemara says, it could be a reason that a person specifically wants to be mekadesh there, there he has friends, and the like.

R' Yoel Asher: But if he says that **"be mekadesh her for me in such-and-such place"** she is mekudeshes,

R' Yitzchak: Where is she? The same thing in reverse, if the agent is to receive, that she makes an agent.

The Same Law by Agent to Receive

R' Yoel Asher: **"And similarly she who said to her agent 'receive my kiddushin for me in such-and-such place'"** - also the woman can make an agent to receive the kiddushin. If she says "take it in such-and-such place", and the agent went and received it "in another place", **"she is not mekudeshes"**. But if she says to him only "behold the husband is in such-and-such place", go take it, **"and he received it for her in another place, behold she is mekudeshes because she is showing him the place"** - she is

R' Yitzchak: Just showing the place. She shows him a place, she shows him the place. An interesting expression, yes? We use it in the language.

R' Yoel Asher: She is showing the place.

Digression: The Expression "Showing the Place"

R' Yitzchak: Yes. Showing the place. When someone writes a "showing the place", he means to say it's written there. I don't mean that I specifically want to go there.

R' Yoel Asher: What we use all the time as a "showing the place" is not an earlier expression. I remember that it doesn't appear in any... No, but I'm saying, when someone says "see there and there", he calls it a showing the place. It's a later

expression from recently. No, I remember that it doesn't appear in any Rishonim.

R' Yitzchak: I remember there was a Jew who learned Minchas Chinuch, and the Minchas Chinuch writes many times "and I am showing you the place", and it says in the margin. That Jew didn't know. He said, he learned from Minchas Chinuch that sometimes when you have a question, you can go further. Why? He said, it says many times in Minchas Chinuch, "I have a matter here, nevertheless I am going" -

R' Yoel Asher: Anyway I'm going further.

R' Yitzchak: It's good to say a joke also.

R' Yoel Asher: The Minchas Chinuch really likes to leave things open with questions, he doesn't have to close the questions before he goes further.

R' Yitzchak: He says, the mistake is also true.

Law: Retracting Within the Time of Speech by Kiddushin

R' Yoel Asher: The Rambam says further, **"One who is mekadesh a woman"**. Also,

R' Yitzchak: What sort of condition did he use.

R' Yoel Asher: Now we're going to learn about retracting. We already learned that retracting doesn't work. We learned it regarding conditions, right? That even within the time of speech doesn't help. We already learned that within the time of speech the thing hasn't completely finished yet. No, they didn't learn. There is when you can retract, but by kiddushin you cannot retract.

"One who is mekadesh a woman and retracted immediately, he or she" - he or she retracted. That is, she already showed that she agrees, and afterwards she retracted. **"Even though they retracted within the time of speech,"** even if the retraction was within the time of speech, within the time of speech, say peace upon you my rabbi and teacher. **"Their retraction is nothing,"** that is, it's not a retraction. **"And behold she is mekudeshes,"** it's nothing. That is, you need a get, you cannot retract. There are things that you can retract,

R' Yitzchak: There are things that you cannot retract. There is also a dispute about this. He says that the Rashbam says that this is only a rabbinic law, because kiddushin is a serious matter. But in the Gemara it says such a rule: **"The entire Torah, within the time of speech is like speech, except for a blasphemer and one who worships idolatry, one who is mekadesh and one who divorces"**. There are four things. Yes.

Discussion: The Basis of "Within the Time of Speech"

He brings that there is another one who explains that normally when a person says something, he doesn't mean it yet until he finishes, until he gives himself a second. Yes, I really meant it. I speak many times like this, I say this, I say this, and afterwards, ah, no, it's not.

R' Yoel Asher: We call it floating ideas. I haven't said yet, I'm floating an idea. Let's see how the students will hear it, how it's a sale.

R' Yitzchak: But on the serious things, it's a blasphemer, there's no such thing, maybe one is a blasphemer, maybe not.

R' Yoel Asher: Either yes or no. I could have thought that it's in the context. Because we're talking here **"one who is mekadesh a woman"** from the situation when there is chuppah and kiddushin. Because if it's a retraction immediately, he can say "I was joking with you", you can say something, yes? You need to know how one looks with this.

R' Yitzchak: If there is any speech,

R' Yoel Asher: It's a certain law. One got cold feet a moment later, that doesn't help the retraction.

R' Yitzchak: But within the time of speech is a certain law. That someone says testimony for example, he says testimony, he says, "No, not true." That's a retraction, within the time of speech works. Okay. No, I could have thought that there are things that create a status. That is, by kiddushin, the words "behold you are mekudeshes" makes her mekudeshes. That is, back, there is a get for that. When I say testimony

in place, more that there is a system in place. It's not a thing... I can certainly say that testimony says something creates a status, but it's not a thing my speech that becomes something. Idolatry, that I say "you are my god" to the idol, simply yes, you cannot retract. The same thing when people say a blessing, people think that "Blessed be the name of His glorious kingdom" is a thing, that this is a retraction within the time of speech, it's nonsense. "Blessed be the name of His glorious kingdom" is simply that you said the Almighty's name.

R' Yoel Asher: It's an appeasement of sorts.

R' Yitzchak: It's a praise, not even an appeasement. It turns out to be in vain. You can call it an appeasement, but it's more... Did you say it in vain? He says, "Hashem may He be blessed, may He be praised". But when the... Indeed, you shouldn't do it initially, because it's all said without intention, but it's not a retraction, it's not a cancel, it's not a... What's it called in the computer? Control something, yes? Control Z goes back. It's not a Control Z.

R' Yoel Asher: I'm saying, but all these things we're also talking about in a situation when for example a blasphemer, yes? He needs to have witnesses and warning. He starts saying the curse words, they tell him, "there are two witnesses here". So simply when you were a blasphemer you were very aware of what you're doing. When we think of retraction, indeed the thinking when we're already on something a person who was impulsive and he said something, ah, he said, "Oh, what did you think to say? Oh, woe, gevalt". Then it is yes apparently, not only does that mean retraction, it means that what was was a slip of the tongue. As it says here, we don't say that there's no such thing as a slip of the tongue. A slip of the tongue exists. But when you said that it was legitimate, there stand two witnesses, then there can already be no retraction, because you already now have a get.

R' Yitzchak: Not sure.

R' Yoel Asher: Okay. Further.

Law 2: Nullifying a Condition in Kiddushin — Even Without Witnesses

R' Yoel Asher: What happens in such a case? Because he makes a condition, and he wants to nullify the condition. Very good. **"One who is mekadesh on condition, and retracted after several days"**, when he came after several days,

R' Yitzchak: He nullified the condition. That is, the condition has not yet been fulfilled, he says "on condition that I give you within thirty days" and the like.

R' Yoel Asher: A person could have thought, if the condition was at the kiddushin and there were witnesses there, you can't nullify so easily. No, the law is, **"even though they nullified it between themselves not in the presence of witnesses, the condition is nullified"**, because the condition after all is between the two of them, the two of them have the right to nullify the condition. The same thing in reverse, **"and similarly if the condition was from the woman"**, that they only agree on this condition, and she nullified it between themselves, also the condition is nullified.

R' Yitzchak: You don't even need witnesses on the nullification of the condition.

The Great Innovation: Concern for Nullification of the Condition

R' Yoel Asher: But here comes out such a great innovation, because the witnesses knew that the kiddushin is only on condition, and suddenly this changes here.

R' Yitzchak: The witnesses are not on the condition, the witnesses are on the kiddushin.

R' Yoel Asher: Yes, yes, I see the next piece, but address the problem. It will bring obstacles, yes? Because many times kiddushin that is... The Rambam says, **"therefore one who is mekadesh on condition and married without condition or had relations without condition, behold she requires a get even though the condition was not fulfilled"**. Why? Because once we know that you can nullify between themselves, you must always

fear that perhaps you think that the condition was not fulfilled, but perhaps they nullified it, **"lest he nullified the condition when he had relations or when he married"**. It seems that nullification of the condition perhaps doesn't even need to say the words "I am nullifying the condition", but perhaps if the two of them understand, the two of them understand that when you do this it's simply that you're nullifying the condition.

R' Yitzchak: I don't know.

Law 3: Kiddushin with Less Than a Perutah — The Presumption "A Person Does Not Make His Relations Promiscuous Relations"

R' Yoel Asher: The Rambam says, the next piece will apparently also show,

R' Yitzchak: **"And similarly one who is mekadesh with less than a perutah or with a loan"**,

R' Yoel Asher: A thing that was not kiddushin, **"but returned and had relations without condition in the presence of witnesses"**, he means simply made seclusion of relations in the presence of witnesses, **"she requires a get"**. Why? Because **"we are concerned that on this relation he relied"**, that he thinks now that he is now mekadesh with the relations, **"not on those invalid kiddushin"**. Why should we think such a thing? Because he made a relation. What is the other option to say? That it was simply a relation,

R' Yitzchak: Such a worthless relation?

R' Yoel Asher: Promiscuous relations. So there's a presumption, we have a presumption, so we're talking about two proper Jews, so there's a presumption **"that a proper Jew does not make his relations promiscuous relations"**. Such a proper Jew, it's interesting because he says it here on

R' Yitzchak: The man as well,

R' Yoel Asher: I mean that many times this appears "a person

R' Yitzchak: does not make his relations promiscuous relations",

R' Yoel Asher: But "**and behold it is in his power to make it relations of a mitzvah**".

Relations of a Mitzvah — The Relations That Make Kiddushin

R' Yitzchak: It's in his power indeed to make that she should now become mekudeshes through relations. The Rambam says something like this, the relations can be a great mitzvah, I mean you get lashes for this from the Rav, but it's a great mitzvah,

R' Yoel Asher: Relations of a mitzvah, it's the relations that make the kiddushin.

R' Yitzchak: You can make the blessing on this. Even relations of a mitzvah, relations of a mitzvah is a name for the first relations, and what blessing do you make? Seven blessings? In short, it's a mitzvah. We say mitzvah, there are very many mitzvos, yes? In short, it can be a mitzvah, and the mitzvah is also not just a mitzvah, it can permit his relations, not transgress "there shall not be a male prostitute", "there shall not be a female prostitute", sorry. Apparently, according to the Rambam, it depends on our dispute then, that in any case, it's not promiscuity, it's not any way.

R' Yoel Asher: And why should we say that the Jew, he's going to make "like a chicken in an act"?

Law 4: Dispute of Geonim with the Rambam — When Does the Presumption Apply?

R' Yoel Asher: Very good. "**Would that I knew from where is the learning of this one,**

R' Yitzchak: "**how could it enter the mind to say that every person who has relations with an unmarried woman is a prohibition? Behold we say 'a person makes his relations promiscuous relations'?**" This is what the Rambam brought in the question.

The Rambam's Answer: "Proper Jews" and "Way of Promiscuity"

R' Yoel Asher: And the Rambam says that indeed so, it's only if it's not relations in the way

of promiscuity. If you see some such young man

R' Yitzchak: And girl are behaving,

R' Yoel Asher: It's as if they

R' Yitzchak: Know that they're doing trouble. He says some such language in his responsum, that if you see a person conducting himself in the manner of marriage, not the manner of promiscuity, he had a wedding, he lives with her in a house, then we say about him that "a person does not intend his money for promiscuity". It's a presumption. But he asks, the other one asked him a question, how can it be "the rabbis made his relations promiscuous relations"? He says, the rabbis are guilty, not the person does it. Anyway, the Rambam says, when is the presumption? "**Until it becomes clear that he conducts himself in relations in the way of promiscuity**". Then we don't say any presumption, and the Rambam says,

R' Yoel Asher: Because everyone runs, because the feet for the matter are the opposite of this. But it's not clear what the Jew is. There are two things. One is so it's "a person Israel not proper". If we see that he is contemptuous of mitzvos, you can say that he is contemptuous of another mitzvah.

Explicit Dispute of Geonim with the Rambam

R' Yitzchak: But you must remember that this is an explicit Rambam in Laws of Divorce chapter 10, where the Rambam brings that there were some Geonim, who indeed said this, that every man, who has relations before witnesses, requires a get. And the Rambam strongly disputes this there. There is an explicit dispute of Geonim with the Rambam, how far does indeed the presumption here go? When the Rambam here inserted the principle of "proper Jews", he also means "in the situation they are now". It can be simply, it means he made a wedding. Can, you remember once they used to make kiddushin, later the wedding. Before that the person made a wedding. At the wedding there were witnesses, he served chicken at the joy of groom and bride.

R' Yoel Asher: Ah, he would have acted differently, he was indeed mekadesh, but he

didn't know the halacha of pachos mipruta (less than a pruta).

R' Yitzchak: Whatever, he did know. He didn't know there was a problem.

R' Yoel Asher: He didn't know that he's a sheriff, it's a puncher.

R' Yitzchak: He didn't know, he didn't know that it doesn't simply mean that when you see a person is bo'el, you say that it's bo'el kiddushin. It must be in a manner that's normal.

R' Yoel Asher: It's not a Barditchever story, it's something...

R' Yitzchak: It became from a gloss in Barditchever. One must know, the poskim have different... sometimes they say this way, sometimes that way, but that's already another topic.

Question: What if he made a mistake?

He asks a question, what is it if one made a mistake? It's very interesting. This is what he says. For example, if a person made a kiddushin that the rabbis know wasn't kosher, but a normal person doesn't know, one seemingly cannot say the chazaka, because he doesn't have intention of... do you understand?

R' Yoel Asher: Right, of chillul Hashem (desecration of God's name) crisis.

R' Yitzchak: I remember that's actually what it says in the drama.

R' Yoel Asher: One could have a Brisker thought, that every time a groom is bo'el his bride, he should also have in mind that he is mekadesh conditionally on the understanding that something wasn't valid.

R' Yitzchak: Why wouldn't it be valid? It is valid. So, until here chapter 7.