

Laws of Marriage Chapter 9 (Auto Translated)

English

Auto Translated

Shiur Overview

Rambam Hilchot Ishut Chapter 9 — Complete Summary

Introduction

This chapter deals with **doubts in kiddushin** — who is mekudeshet, credibility (ne'emanut), agency (shlichut), doubtful forbidden relations (safek ervah), doubtful married woman (safek eishet ish), rumors (kol), etc. These are analytical topics addressed to **dayanim and rabbis** (mesadrei kiddushin). The Rambam brings all possible cases because the **principles** that emerge from the details are important for thousands of other cases. The Rambam is a halachic work, but not everything he brings is merely because it appears in the Gemara — part of it is specifically because it is an important analytical question.

Halacha 1 — One Who Is Mekadesh Multiple Women at Once (Two Sisters / A Woman and Her Daughter)

The Rambam's Words: One who is mekadesh many women at once and says "You are all mekudeshet to me," and among them were two sisters or a woman and her daughter and the like — none of them are mekudeshet.

Explanation: When a man is mekadesh several women at once with the language "You are all mekudeshet to me," and among them are two sisters or a woman and her daughter (arayot that are only ervah to each other), **none** of the women are mekudeshet — not even those who are kosher.

Insights and Explanations:

1. The "Loop" of Two Sisters at Once: Two sisters are only ervah to each other *if* the

kiddushin takes effect. But if kiddushin does not take effect, neither of them is ervah, and then kiddushin should take effect! The way out of this loop is the principle of **kiddushin hanetunim lebi'ah** — kiddushin must be such that after the kiddushin one can live with the woman. Here, with two sisters at once, each one is a doubt, and neither of them is ra'uyah lebi'ah with certainty.

2. Beteilah Miktzatah Beteilah Kulah: Because part of the kiddushin is invalid (the ervah), the entire act of kiddushin is nullified for everyone. This is **not so simple** — in other matters (like "buy wood and a donkey") we say that what is good is good, and what is bad is bad — we divide. The **Maggid Mishneh** brings that the **Rashba** and others disagree with the Rambam and hold that it is not certain that all are invalid. But the Rambam rules that because it is **one act of kiddushin**, and part of it is invalid, everything is invalid.

3. Distinction Between One After Another vs. At Once: When one is mekadesh one after another (not at once), the first would be mekudeshet and the second would be ervah. Only because **both are at once** do they cancel each other out.

Halacha 2 — "Whoever Among You Is Fit for Relations Is Mekudeshet to Me" / "All of You" with a Maidservant, Non-Jewess, or Ervah

The Rambam's Words (First Part): If he said to them "Whoever among you is fit for relations is mekudeshet to me" — all of them are mekudeshet to him except for the sisters or a woman and her daughter and the like.

The Rambam's Words (Second Part): If he said to them "All of you are mekudeshet to

me," and among them was a maidservant or non-Jewess or one woman who is ervah, such as a married woman or his daughter or his sister and the like — none of them are mekudeshet. But if he said "Whoever among you is fit for relations is mekudeshet to me" — all of them are mekudeshet to him except for that woman in whom kiddushin does not take effect.

Explanation: If he says not "all of you" but "whoever among you is fit for relations shall be mekudeshet to me" — then all the kosher women become mekudeshet, and only the ervah-related ones (two sisters, woman and daughter) or those in whom kiddushin does not take effect (maidservant, non-Jewess) remain excluded. With "all of you" with a maidservant, non-Jewess, or ervah — none are mekudeshet, because the kiddushin were "half kiddushin" and the entire act falls away.

Insights and Explanations:

1. The Distinction Between Halacha 1 and Halacha 2: The distinction is in the **language** of the kiddushin. With "all of you" it is one act upon everyone, and because part is invalid, everything falls. With "whoever among you is fit" he has inserted a **condition/selection** — he means only those who are fit, and therefore the kosher ones are indeed mekudeshet.

2. He Doesn't Need to Know Who: A person doesn't need to know the name of the woman he is mekadesh. He can go to a group of women and say "whoever among you is fit" — this is a valid language that works automatically on the right ones.

3. Distinction Between Maidservant/Non-Jewess Regarding Prohibitions and Arayot: With a maidservant and non-Jewess the principle is that **"not marriage doesn't work"** — it's not just a prohibition, but kiddushin doesn't take effect at all. With two sisters the novelty is that **both become forbidden at the same moment**. Here (with maidservant/non-Jewess/ervah) is a **smaller novelty** — it's just another case of the same principle.

Halacha 3 — "One of You Is Mekudeshet to Me" with Two Sisters

The Rambam's Words: If he said to two sisters "One of you is mekudeshet to me"... all of them require a get... and he is forbidden to have relations with any of them.

Explanation: He says to two sisters "one of you is mekudeshet to me" — both require a get, but he may not be bo'el either of them, because each one is a safek achot ishto.

Insights and Explanations:

Kiddushin She'einan Mesurin Lebi'ah

- **The Foundation of the Dispute:** There is an opinion (Rava) that **kiddushin she'einan mesurin lebi'ah are not kiddushin** — because he cannot actually be bo'el either of them (each one is safek achot ishto), the kiddushin should not take effect at all from the outset. **The Rambam rules like Abaye** that kiddushin she'ein mesurin lebi'ah **are indeed kiddushin** — therefore both require a get. The person only has a **"halachic technical problem"** — one of them he can certainly marry, we just don't know which. The question is whether this is an analytical deficiency in the kiddushin itself, or just a practical problem. This is **one of the 613 disputes** — a dispute between the Rambam and other Rishonim.

Whether Kiddushin Must Be Upon a "Specific Woman"

- **A Fundamental Question:** Why shouldn't we say that kiddushin must be upon a **specific woman** — and if we don't know which one, it's not an act of kiddushin at all? **"You're creating a status on something that can't happen... when people do things that are doubtful, they haven't yet done a complete act."** He didn't mean any specific woman at all — it's not a doubt which one he meant, but **he didn't mean anything**.

- **Answer:** You would be innovating a **new halacha in Torah** that kiddushin must be with knowledge of which woman — but **there is no such halacha**. Proof from terumah: a person

can say "one of these two oranges is terumah" and both become safek terumah — so too with kiddushin. **"He didn't mean nothing"** is not a reason it shouldn't take effect — this is like a doubt that was "born" through the person's act, but it is nevertheless a status.

[Digression: Ethical Comment]

- **"Why should we give power to a person to destroy women with craziness?"** — Why does the Torah give a person the power to create such destruction? Answer: **This is not an analytical question** — a person who does this deliberately is a "sick soul." But **the analysis stands on its own** — we learn here the principle of kiddushin she'ein mesurin lebi'ah, which is an analytical dispute, not a practical question.

Halacha 4 — An Agent Who Was Mekadesh for Himself

The Rambam's Words: One who makes an agent to be mekadesh for him a certain woman, and he went and was mekadesh her for himself [=for himself]... The agent was mekadesh the woman for himself instead of for the sender, and the sender went and was mekadesh **her mother or her daughter or her sister**.

Explanation: We don't know which kiddushin was first — the agent's (for himself) or the sender's (for the sister/mother/daughter). If the agent's kiddushin was first, the sender's kiddushin doesn't take effect (because it's an ervah). If the sender's kiddushin was first, it takes effect. The agent's kiddushin for himself works (he is certainly mekudash to that woman) — **the question is only regarding the sender's kiddushin**.

Insights:

- The connection to the previous halachot: Previously it was one person who himself was mekadesh a group of women and we don't know exactly; here is the agent where we don't know exactly which woman he was mekadesh (or he "stole" — was mekadesh for himself).

Halacha 4 (Continuation) — Agent of Receipt from a Woman

The Rambam's Words: Similarly, a woman who sent an agent to receive kiddushin for her, and he went and received kiddushin, and she herself received kiddushin from another, and it is not known who was first — both give a get. **When does this apply?** With distant relatives, but if the agent was mekadesh her to the father and she herself received kiddushin from the son or brother and the like — both give a get and neither may marry.

Explanation: When a woman sent an agent of receipt to receive kiddushin, and the agent received kiddushin from one man, but at the same time she herself received kiddushin from a second man, and we don't know which was first — both must give a get. But if both men want, one can give a get and the other marry. This is only when the two men are distant (not relatives). But if the agent was mekadesh her to the father, and she herself received kiddushin from the son or brother — both must give a get, and neither can marry.

Insights and Explanations:

1. Distinction Between Agent of Man and Agent of Woman: With a woman we don't need the act of achot ishto to create a problem — with eishet ish itself is enough. The agent of a woman is also different from the agent of a man — with an agent of receipt the principal must have awareness at the time of the act.

2. Why with Distant Relatives Can "One Marry": With eishet ish (distant relatives), the moment one gives a get, she is no longer eishet ish, and the other can live with her. Not so with achot ishto (relatives) — even after the get the prohibition remains, because **achot gerushtato is forbidden**. Therefore the solution of "one gives a get" doesn't help. Not all arayot remain after death — with achot ishto, when the sister dies, it becomes permitted. But achot gerushtato remains forbidden.

3. "Marry" Means with New Kiddushin: "Marry" doesn't mean just taking — the other must perhaps give new kiddushin. The Rambam doesn't say this explicitly here, and in certain cases the Rambam says new kiddushin are required, and in others not — it's a dispute among the poskim.

4. Return to the Investigation About Safek Kiddushin: Whether every safek kiddushin is enough that a person fulfills his obligation, or whether definite kiddushin are needed. Perhaps he already fulfills the mitzvah of kiddushin through the doubt, and he only needs to make a blessing again, but the status is already sufficient.

Halacha 5 — Agent Who Died — One Who Says to His Agent "Go and Be Mekadesh for Me a Woman"

The Rambam's Words: One who says to his agent "Go and be mekadesh for me a woman," and the agent died — this one has the presumption that he was mekadesh, and since he doesn't know which woman he was mekadesh for him, he is forbidden to all... he is forbidden to every woman who has relatives with whom there is no ervah.

Explanation: When someone says to the agent "go be mekadesh for me a woman" (without specifying which one), and the agent dies — we make a presumption that he was mekadesh (chazakah shaliach oseh shelichuto). But we don't know which woman — therefore he is forbidden to all women who have relatives (mother, sister, daughter), because perhaps one of the relatives is the mekudeshet, and he will live with an ervah.

Insights and Explanations:

1. Chazakah Shaliach Oseh Shelichuto — Question from the Other Side: The presumption says that the agent does his mission — but here he must convince a woman! There's a second person in the picture. As Eliezer servant of Avraham said "if the woman will not agree" — perhaps she didn't want! The **Chelkat**

Mechokek discusses this matter — as if everyone wants to make a match. But "chazakah shaliach oseh shelichuto" means that he is a loyal person who does what he is told — but that doesn't mean he succeeds.

2. Practical Application — When Does the Presumption Make Sense: We're talking here when it makes sense — when the agent actually traveled to the city to carry out the mission, not just when something was said. Example of a matchmaker — when someone tells a matchmaker "find me a match," there's not just a presumption that he already found one, unless enough time has passed.

3. Where Is the Woman? — A Logical Question: If the agent actually was mekadesh a woman, where is she? Why doesn't she come forward? We could make a presumption: "chazakah a bride tells people that she is a bride" — but in halacha we don't reckon with this. This reflects a reality where women were quiet, not in the marketplace — therefore it's possible that a woman received kiddushin and we don't know about it.

4. These Are Stringencies: All of this are great stringencies, and also stringencies so that people should be frightened of such things — so that one shouldn't send an agent with such a broad mission. This is a reason why **mitzvah bo yoter mibeshlucho** — because an agent can make great troubles.

5. Tosafot's Question: Tosafot asks — if we take the concern so seriously that the sender is forbidden to all women who have relatives, why shouldn't we say that **all women in the world** should be forbidden to all men, because perhaps they are eishet ish (mekudeshet to the sender)?

6. Tosafot's Answer — Fine: Tosafot answers that the entire halacha is **because of a fine** — we punished the sender for making such a crazy mission (agent to be mekadesh generally).

7. Ramban's Answer — Chezkat Penuyah vs. Presumption About Relatives: The Ramban disagrees with Tosafot and says that this is actually a real law. His profound reasoning: **Every woman herself has a chezkat**

penuyah — therefore all men can marry all women (answer to Tosafot's question). **But** — no one has a presumption that **her relative** (sister, mother, daughter) is not mekudeshet. The chezkat penuyah only works on the woman herself, not on the fact that she is a relative of a mekudeshet. This is a very fine distinction — the presumption helps for the woman's own status, but not for the risk of ervah through relationship.

Counter: The sister of the woman also has **also** a chezkat penuyah! Answer: Yes, she has a presumption, but **now we're not asking the question** about her — we're asking about the sender's right to take a woman who has relatives, and there the presumption is lacking.

A Relative Who Was Eishet Ish at the Time of the Mission

The Rambam: And he is permitted to a woman who has no relatives like these... even though she was divorced before the agent died... and we don't say perhaps the agent was mekadesh her relative after she was divorced, because she was not fit at the time the agent acted. And a person only makes an agent to be mekadesh for him a woman whom he can be mekadesh at the time of the mission.

Explanation: If a woman's relative was an eishet ish at the time when the sender made the agent, even if she later divorced before the agent died, the sender is permitted with that woman. Because a person only makes an agent to be mekadesh a woman who is kosher at the time of the mission.

Insights:

1. **Why Not in Hilchot Shlichut?** If this is a rule that agency only works on women who are fit at the time of the mission, why doesn't this appear in Hilchot Shlichut as a general halacha? Answer: Only with a general agent (which is a crazy creation) do we need to think about this.

2. **Two Approaches to the Principle — Intent or Subject of Agency:** (a) This is a law in **intent** — the sender doesn't mean a woman who is now an eishet ish; (b) This is a law in **the subject of agency** — an agency can only take

effect on something that is relevant at the time of the act.

3. **The Rosh's Reasoning:** The Rosh argues that this is not just an intent matter, but an analytical halacha in agency: a person cannot make an agent on something he has **no right now** to do. Because he cannot now be mekadesh an eishet ish, he cannot transfer the right to the agent. The agent can only transfer permission that the sender has.

Halacha 6 — Five Brothers with Five Sisters

The Rambam: One who had five sons... each one of them requires five gittin from all the brothers.

Explanation: A father with five sons, all made him an agent to be mekadesh, and he was mekadesh one of five daughters of another father, but we don't know which son to which daughter. Each woman requires a get from each brother — 25 gittin in total.

Insights:

1. **Why Not All to All?** The father didn't want to make all five for all five, because he didn't want each one to be an ervah to the other (achot ishto).

2. **If One of Them Died — Chalitzah:** If one of the brothers dies, each woman requires only 4 gittin. But we must also be concerned for yibum — we must give chalitzah for one of them. Chalitzah is enough from one yavam (not like get which each must give). It's a safek tzarat ervah — perhaps she is achot ishto, but it's only a doubt, not a definite rival.

Halacha 7 — Father with Minor/Na'arah and Bogeret

The Rambam: Even if he had a minor daughter or na'arah who is in his authority... and a bogeret who gave him permission to be mekadesh her... and he was mekadesh his daughter generally to another — the bogeret is not included,

unless he specifies and says my daughter the bogeret who made him an agent. Therefore the bogeret is not mekudeshet, and her sister is mekudeshet.

Explanation: A father who has a minor/na'arah (whom he has automatic authority to be mekadesh) and a bogeret (who made him an agent), if he says generally "my daughter" — he means only the minor/na'arah, not the bogeret. Therefore the bogeret is not mekudeshet, and her sister (the minor/na'arah) is mekudeshet.

Insights:

1. Distinction Between Natural Power and Agency Power: The father's power to be mekadesh a minor/na'arah is a **natural power** — it's not something he lost and regained through agency. It's a real power. Therefore, when he says generally "my daughter," he means the daughter over whom he has a natural power. The bogeret's agency is a weaker, added power, and therefore must be explicitly stated.

2. "General Kiddushin" Is for Them: One might have thought that here again becomes a doubt (both sisters forbidden), but no — here we have a "solution" because we know which one he means.

3. Main Novelty: The language "my daughter" is a "language that resolves doubts" or "narrows doubts" — the word itself hints at his intent and narrows the doubts. The principle is: a person when he can, speaks clearly.

Halacha 8 — Two Groups of Daughters from Two Wives, "My Older Daughter" / "My Younger Daughter"

The Rambam's Words: One who has two groups of daughters from two wives, and all are in his authority, and he was mekadesh one of them, and at the time of kiddushin he said to the husband "I was mekadesh to you my older daughter" — even though one could say perhaps he was mekadesh the oldest of the older ones, or the oldest of the younger ones, or the youngest of the older ones who is older

than the oldest of the younger ones — all of them are permitted except for the oldest of the older ones, and she alone is mekudeshet. Similarly if he was mekadesh his younger daughter... all of them are permitted except for the youngest of the younger ones.

Explanation: When a father has two groups of daughters from two wives, and he says "my older daughter" — there are three possible interpretations: (1) oldest of the older ones, (2) oldest of the younger ones, (3) youngest of the older ones who is older than the oldest of the younger ones. Ruling: Only the oldest of the older ones is mekudeshet, all others are permitted. The same in reverse with "younger."

Insights:

1. The Principle of "Most Narrow Meaning": When a person speaks in a kiddushin context (a "certain matter of clarification"), he speaks clearly. "Older" means "there is no daughter older than her" — there is no older one. "Younger" means "there is none younger than her." We follow the most narrow meaning.

2. Distinction Between At Home and Kiddushin Context: At home the father can call different daughters "older" (based on their position in their group), but when he speaks in a kiddushin context — a "certain matter of clarification" — he speaks clearly and means the absolute meaning.

3. The father "is not a crazy father" — we assume he wants to be clear and precise, therefore we follow the strictest, clearest meaning of his language.

Halacha 9 — Father's Credibility to Say "I Was Mekadesh My Daughter"

The Rambam's Words: The father is believed to say about his daughter before she becomes a bogeret that she is mekudeshet, and he forbids her to everyone.

Explanation: The father is believed to say that he was mekadesh his daughter, as long as she is still a minor or na'arah (before she becomes a bogeret), and thereby he forbids her to all men.

Insights:

1. **Credibility Comes with Authority:** When we give a person authority (to be mekadesh), we also give him credibility to say that he exercised his authority. "The two things come together both analytically and also practically."

2. **No Witnesses Need to Be Brought:** The Rambam explains later that there must indeed be witnesses at kiddushin, but here we're talking about credibility — when the father says "I was mekadesh," he means a valid kiddushin with witnesses, and we don't call the witnesses, because that's the meaning of credibility. The beit din doesn't go to say "let's bring the witnesses."

3. This is part of a broader principle: the Torah gave credibility to fathers over their children — regarding lineage, regarding Jewishness, and here regarding kiddushin.

Halacha 10 — "I Was Mekadesh My Daughter and I Don't Know to Whom"

The Rambam's Words: The father who said "I was mekadesh my daughter and I don't know to whom I was mekadesh her" — she is forever forbidden to every person. Until the father says "It became known to me that I was mekadesh her to so-and-so," and she will require a get from him alone. Even though it became known to him after she became a bogeret.

Explanation: When the father says he was mekadesh her but doesn't know to whom, she is forbidden to all men. Until the father says "It became known to me that I was mekadesh her to so-and-so" — then she requires only a get from that person. Even if the father remembers only after she already became a bogeret.

Insights:

1. **"It Became Known to Me" vs. "I Remembered":** "It became known to me"

doesn't mean only "I remembered." It can mean that he "figured it out" — for example, there were several men, he didn't know whose ring it was, and later he solved it. "It became known to me" is broader than "I remembered."

2. **He Doesn't Need to Give an Accounting:** As part of his credibility, the father doesn't need to explain how he became aware.

3. **Time Frame:** The father can say "I don't know" and a few days later say "It became known to me that I was mekadesh her to so-and-so" — it doesn't have to be in the same place or time.

4. **"Even Though It Became Known to Him After She Became a Bogeret":** The **Maggid Mishneh** is mentioned. The principle: The Rambam said "believed before she becomes a bogeret" — this means: as long as she is still a na'arah, he has credibility (just as he has authority). Once he received the credibility (by saying "I was mekadesh" while she was still a na'arah), it remains enough to be able to later solve with "It became known to me that to so-and-so" — even after majority.

5. **Why Does It Say "Requires a Get" by the Father's "It Became Known to Me" but Not "Can Marry"?** By the father it only says "requires a get from him" (implies that he must give a get, not that he may marry), whereas by the man who comes to say "I am the one who was mekadesh her" it says "believed even to marry." Perhaps "requires a get" speaks of a case where that man doesn't agree, but if he agrees, he may indeed marry.

Halacha 11 — "One Came and Said 'I Am the One Who Was Mekadesh Her'"

The Rambam's Words: One came and said "I am the one who was mekadesh her" — he is believed, even to marry, and he doesn't need other kiddushin.

Explanation: When the father said "I don't know to whom I was mekadesh her" and a man comes to say "I am the one who was mekadesh her" — he is believed, he may even marry her, and he doesn't need new kiddushin.

Insights:

1. **Believed Even to Marry:** One might have thought that he is only believed for stringency (to give a get), but no — he is believed even for leniency, he may marry her.

2. **Why Does the Man Have More Credibility Than the Father?** By the father's "it became known to me" it only says "requires a get," but by the man it says "believed even to marry." The man has a "presumption in addition" (as it says in the Rambam).

3. **The Father's Limitation:** When the father already said "I don't know," he cannot later suddenly say "I remember for certain that you were not the one" — he already lost his position to contest.

4. **[Digression: Practical Implications]** The sages here found a good way to help the woman — we don't want a woman to be "forever forbidden," therefore we have a solution: whoever comes and says "I am the one who was mekadesh her" is believed, and the father can no longer contest.

When Two People Come Claiming "I Was Mekadesh Her"

Rambam's Words: When two people come and each says "I am the one who was mekadesh her" — both cannot marry her, but they can agree that one gives a get and the other marries.

Explanation: Both are believed for stringency — both must give a get. But they can agree that one gives a get and the other marries.

Insights:

- When the first one already came and married, and the second comes only afterward — the second is no longer believed. **Why?** Because the credibility is enough for a stringency (to demand a get), but not enough to disrupt an existing marriage. There is already a "presumption" — we already ruled that she is married to the first one, and the second cannot change that status.

Halacha 12 — A Woman Who Said "I Was Mekudeshet and I Don't Know to

Whom" — And One Came and Said "I Was Mekadesh You"

Rambam's Words: A woman who said "I was mekudeshet and I don't know to whom," and one came and said "I was mekadesh you" — he is believed to give her a get and she will be permitted to everyone except him, but he is not believed to marry.

Explanation: He is believed enough to give a get (and through this she becomes permitted to everyone), but he is not believed to marry her himself.

Insights:

1. **Why Not Believed to Marry?** Because "perhaps his desire overcame him" — we suspect that he is lying because he wants to live with her.

2. **Why Can't She Protest?** "And she will agree with him in order to permit her" — she will agree with him because she is "stuck" (she cannot marry anyone), not because she has an evil inclination, but because she doesn't want to remain an eishet ish.

3. **Distinction Between Father and Woman:** In the father's case the man is believed to marry, because the father won't "cooperate" with him (he has no interest). But when the woman herself said "I don't know," she is ready to cooperate because she wants out of her status.

4. **What Does "I Don't Know" Mean?** When she says "I don't know," can she later say "You were certainly not the one — I remember it was a blonde"? In this section it doesn't explicitly state the case where the "doesn't know" remembers later, but we see that it's not ruled out that he/she can still say something.

Halacha 13 — Shavyah Anafshah Chatichah De'isura

He Says "I Was Mekadesh You," She Says "You Did Not Mekadesh Me"

Rambam's Words: One who says to a woman "I was mekadesh you" and she says "you did not mekadesh me" — he is

forbidden to her relatives, and she is permitted to his relatives. He made himself a piece of prohibition.

Explanation: Each one can only harm himself with his claim, not the other. He has credibility only upon himself.

Insights:

1. What Does Shavyah Anafshah Mean? You say that marrying will be a problem — so you should indeed conduct yourself that way. It's a conduct, not a clarification of reality.

2. Why Doesn't It Work on the Other? The act cannot be both — it's only one of them that's true. When we are stringent upon him, it's not because we determined that this is the reality, but because he took it upon himself. Therefore it doesn't work on her.

He Says "I Was Mekadesh You" (to the Mother), She Says "You Only Were Mekadesh

He Says "I Was Mekadesh You" (to the Mother), She Says "You Only Were Mekadesh My Daughter" (and Vice Versa)

Rambam's Words: He says "I was mekadesh you" (to the mother), she says "you only were mekadesh my daughter" — he is forbidden to the relatives of the older one, the older one is permitted to his relatives, he is permitted to the relatives of the daughter, the daughter is permitted to his relatives. And vice versa: he says "I was mekadesh your daughter," she says "you only were mekadesh me" — he is forbidden to the relatives of the daughter, the daughter is permitted to his relatives, he is permitted to the relatives of the mother, the mother is forbidden to his relatives.

Explanation: Each one only becomes forbidden according to their own claim — shavyah anafshah chatichah de'isura. The mother's credibility upon herself cannot forbid the daughter, and vice versa.

Halacha 14 — General Rule: All Kiddushin Claims Are When There Were Witnesses

Rambam's Words: "And all these who claim kiddushin — when they claim that there were kiddushin before witnesses, and they went overseas or died."

Explanation: All cases where we speak of credibility in kiddushin claims, we speak when the claimant claims that there were witnesses who went away or died.

Insights:

1. Why Do We Need Witnesses? Because kiddushin without witnesses is "not kiddushin" — it's nothing. Even if both admit that there were kiddushin without witnesses, it's obvious that it's not kiddushin.

2. Inference from "They Went Overseas or Died": The Rambam doesn't mean only that it must be halachically possible (witnesses), but also that the act must make sense — when there are witnesses, we would ask them. Only because they are away or dead, do we come to credibility. This itself must also make sense — that witnesses should suddenly both die.

3. Credibility Is Not Maximum: The credibility is still a "second best" — beit din still has better claims, it's not like full testimony.

Halacha 15 — A Woman Says "You Were Mekadesh Me" and He Says "I Did Not Mekadesh" — We Request That He Write Her a Get

Rambam's Words: "In every place where a woman says to a man 'you were mekadesh me' and he says 'I did not mekadesh' — we request from him that he write her a get in order to permit her to other people, for he has no loss in this."

Explanation: Even when he has no halachic obligation (because his credibility only works upon himself), we nevertheless ask him to be nice and give a get, because "this one benefits and this one doesn't lose."

Insights:

1. **This Is an Enactment, Not a Law:** Until now we spoke halachically (shavyah anafshah), but here is a practical enactment — we ask him to help.

2. **He Doesn't Become a "Divorcé":** There is no such thing as a "divorcé" for a man. He remains single. Only she becomes a divorcée. Therefore for him there is truly "no loss" — he hasn't changed at all through this get.

When He Gives a Get on His Own

Rambam's Position: When he says "I did not mekadesh" but gives a get on his own — we force him to give a ketubah.

Explanation: If he gives a get on his own (not because beit din asked him), this is a sort of admission that he actually was mekadesh, and therefore he must also give a ketubah.

Insights:

1. **Distinction Between "We Request from Him" and "He Gave a Get on His Own":** When beit din asks him to give a get (we request from him), he does it as a favor in order to permit her, and this is not an admission — he remains with his claim "I did not mekadesh" and for him "he has no loss." But when he gives a get on his own, without beit din asking him, this is a silent admission that he actually was mekadesh, and therefore he must also pay ketubah.

2. **Question About a Torah Scholar:** A Torah scholar knows that later it says in the Rambam that we will ask him for a get. Can't he say "I only gave a get because I wanted to do a favor" — he knows that he will have to pay ketubah! This shows that the "he has no loss" is only something that beit din does (we request from him), not when he does it on his own.

3. **He Becomes a "Nothing":** With a normal divorcée he is forbidden to achot ishto, he remains a relative. But here, because he doesn't believe that he was mekadesh, he doesn't even become forbidden to her relatives. He becomes literally a "nothing" — nothing has changed for him. Only for her there is a stringency so she can marry.

Halacha 16 — An Agent Who Was Mekadesh Her for Himself

Rambam's Words: "One who makes an agent to be mekadesh for him a woman, and he went and was mekadesh her for himself — she is mekudeshet to the agent. And anyone who does this thing, or similar to it in other matters of buying and selling — is called wicked."

Explanation: When an agent goes and is mekadesh the woman for himself instead of for the sender, the kiddushin works for the agent, but he is called wicked.

Insights:

1. **"Called Wicked" as a Halachic Category:** This is not just an ethical comment — it's a real halacha. This is the law of "a poor person who turns over a cake" — whoever grabs something from another. Practically it means that we have a right to call him "wicked" — he cannot claim slander, because he is truly wicked according to halacha.

2. **Practical Consequence of "Called Wicked":** We can shout at him in the street "wicked" and he can do nothing about it. If we write about him "the wicked rabbi" in a newspaper, and he actually grabbed his position from another who was the agent — we may.

3. **[Digression: Parallel to R' Yisrael Lanter]:** With similar halachot like "he has complaints" (by an agreement in speech), we see that there are halachic categories of when we may have complaints against someone and when not.

4. **Can We Demand from Him a Get?** Seemingly, as a law of "called wicked," we can demand from the agent that he give a get for the woman and let the first person (sender) marry her. But perhaps the sender no longer wants the woman after this.

Halacha 17 — Dispute Between Agent and Woman

Rambam's Position: When the agent says "I was mekadesh her for myself" and the woman says "I was mekudeshet to the sender."

Insights:

1. If the Agent Did Not Act with Witnesses (an agent going doesn't require witnesses): We believe the agent for stringency — the agent is forbidden to her relatives, and she is forbidden to the relatives of the sender. But no one can live with her. This is the same halacha of "shavyah anafshah chatichah de'isura" — each one must conduct himself according to what he said.

2. If the Agent Was Established with Witnesses: We don't believe him that he was mekadesh for himself, because there is a presumption that a person doesn't betray a mission that was made with witnesses. **She is mekudeshet to the first one (to the sender).** This is a stronger chazakah shaliach oseh shelichuto when it is established with witnesses.

Halacha 18 — When the Woman Says "I Don't Know"

Rambam's Position: When she says "I don't know to whom I was mekudeshet, whether to the agent or to his sender."

Insights:

1. If Not Established with Witnesses: She is mekudeshet to the second one (to the agent) — we believe the agent completely, because he says so and she is not contradicting him, and there is no presumption against him.

2. If It Was Established That He Is His Agent with Witnesses: We believe him only for stringency — both give a get. But if they wish, they can work it out: one gives a get and one marries. This is the rule with every safek eishet ish.

Halacha 19 — Cancellation of Agency

Rambam's Position: "A woman who made an agent to receive kiddushin for her, and he went and received, and she retracted,

and it is not known whether before he received kiddushin for her she retracted or after the kiddushin — she is mekudeshet from doubt. And similarly a man who made an agent and retracted."

Explanation: When a woman (or man) makes an agent and then cancels, but we don't know whether the cancellation was before or after the kiddushin — she is mekudeshet from doubt.

Insights:

1. Cancellation of Agency Without Witnesses: The Rambam doesn't say that she had to cancel before witnesses — seemingly she can cancel even without doing anything, but she had to say it.

2. The Agent Himself Cannot Cancel: The agent himself cannot cancel his agency — there is a presumption that he carries out his mission.

Halacha 20 — One Who Is Mekadesh One of Five Women and Doesn't Know Which One He Was Mekadesh

The Rambam's Words: Whoever is mekadesh one of five women and doesn't know which one — **he is forbidden to the relatives of all of them, and must give a get to each one. But regarding ketubah — he places one ketubah among them and withdraws.**

Explanation: He must only pay one ketubah, because he certainly only was mekadesh one. The fact that he must give each one a get is a stringency of doubt, but ketubah is a monetary matter — he is not obligated more than one.

Insights:

1. "Places Among Them" — What Does It Mean Practically? The Ritva says that it means he brings it to beit din. The main explanation is that he puts down one ketubah and he has already fulfilled his obligation — he doesn't need to be the one who clarifies who receives it, because it's a law of "the burden of proof is on the claimant" — the women must work it out among themselves.

2. Comparison to Theft and I Don't Know to Whom: The thief must pay one theft, but to whom — that's their problem.

He Was Mekadesh One of Five Women Through Relations — The Sages' Fine

The Rambam: If he was mekadesh through relations one of five women and doesn't know which one — **the sages fined him that he must give ketubah to each and every one.**

Explanation: With kiddushei bi'ah the sages fined that he must pay ketubah to each one, not just one.

Insights:

1. The fine is interesting because it is "not connected to the transgression" directly — it's a monetary fine for being mekadesh through bi'ah.

2. Such a person deserves more than just a slap for being mekadesh through bi'ah — he doesn't even know which one he was mekadesh! "And he didn't know when lying down or when rising."

3. **It is known** that the entire halacha only speaks when **the ketubah that he wrote to one of them was lost** — the ketubah was lost — **and each and every one says "I am the one whom you were mekadesh and you wrote for me and my ketubah was lost."** Because if not, we could identify who has the ketubah.

Halacha 21 — A Rumor That Was Established in Beit Din — What Is a "Kol"

The Rambam: When a rumor goes out that a woman is mekudeshet — she has the presumption of being mekudeshet even though there is no clear proof. But — any rumor that was not established in beit din we don't concern ourselves with it.

Explanation: A "kol" only has power when it is "established in beit din" — this doesn't mean that witnesses come to beit din, but that the rumor reached beit din and beit din recognized it as a significant rumor. Mere gossip or rumors in the beit midrash is not a "kol."

Insights:

- "Established in beit din" doesn't mean that beit din keeps a list of rumors. It means that when a question comes before beit din, beit din must agree that this is a legitimate rumor — not every rumor qualifies.

- The Rambam's order: Until now we learned ways that we establish kiddushin through admission (the man or woman says themselves) or through witnesses. Now we will learn a lower level — **kol** — where even without actual testimony, but through a "rumor" in the world, we can be concerned that she is mekudeshet.

Halacha 22 — How Is the Rumor — Examples of a Valid Rumor

The Rambam: Such as when two came and testified that they looked into a house and saw lit candles, made beds, people coming and going, and women rejoicing with her and saying "so-and-so was mekudeshet today" — this is a rumor that establishes her as mekudeshet.

But if we only heard "so-and-so will be mekudeshet today" (there will be a wedding) — we don't concern ourselves with it, because perhaps they prepared to be mekadesh and she was not mekudeshet — perhaps they prepared but it didn't go through.

Another Example: And similarly if two came and said "we saw like the joy of betrothal and we heard a rumor" — they heard a rumor from so-and-so who heard from so-and-so that so-and-so was mekudeshet before so-and-so and so-and-so, and the witnesses went overseas or died — this too is a rumor that establishes her as mekudeshet.

Insights:

1. The Distinction Between a Valid Rumor and an Invalid One: "She was mekudeshet" (past — it already happened) vs. "she will be mekudeshet" (future — it will be). With future there is a reality-based reasoning that perhaps it didn't go through.

2. The Two People Who Come to Say Are Not Witnesses to the Kiddushin — because then they would be actual testimony. They are only witnesses to the **rumor** — that there is a rumor in the world.

Halacha 23 — Amtala — An Explanation That Weakens the Rumor

The Rambam: All this is only when there was no amtala. If there was an amtala — for example, so-and-so was mekudeshet on condition, or doubtful kiddushin — then she is not established, and we ask her and rely on her words.

Explanation: When the rumor comes with an amtala (a legitimate reason why the kiddushin are not certain), the rumor is weakened, and we can rely on her word.

Insights:

- The mechanism: since there is no clear proof and no strong rumor — when the rumor is weak (because it comes with an amtala), she has credibility to explain why it's not true.

Amtala That Comes After Days

The Rambam: A rumor went out about her that she was mekudeshet to so-and-so, and after days they said an amtala — if the matters appear to beit din that it is so, we rely on the amtala and she is not established as mekudeshet. But if beit din doesn't see it that way — since the amtala was not heard at the time the kiddushin were heard, the rumor is not weakened.

Insights:

- **Distinction Between Amtala at the Time of the Rumor Versus Amtala After Days:** When the amtala comes immediately with the rumor, beit din doesn't go looking to "catch holes" in the amtala — we accept it. But when the amtala comes later, beit din must use their **discretion** — only if "the matters appear" that it's true, do we rely on it. Beit din has a discretionary role with amtala that comes after days that they don't have with amtala that comes at the time of the rumor.

An Incident with One About Whom a Rumor Went Out

The Rambam brings an incident: "An incident with one about whom a rumor went out that she was mekudeshet to the son of so-and-so, and after a time they asked his father and he said 'on such-and-such condition she was mekudeshet to him and the condition was not fulfilled'" — and the sages did not rely on his words, but she is safek mekudeshet, "and as if there is no amtala there."

Insights:

- The Rambam rarely brings incidents, and here he brings it because this is a halacha that has no fixed rule — it depends on "the matters appear," which beit din judges in each case separately.
- The incident is the example of what "the matters appear" means: the sages questioned the father and he didn't look like a believable person, therefore they didn't accept his amtala.

Halacha 24 — First Kol Kiddushin Versus Second Kiddushin Before Us

The Rambam: "A rumor went out about her that she is mekudeshet to so-and-so, and a second one came and was mekadesh her before us — we investigate the first kiddushin that are by rumor. If witnesses came with clear proof that she is mekudeshet to the first one" — the first one gives a get and the second one marries. If not — "the first one doesn't divorce for his kiddushin are by rumor, and the second one marries for his kiddushin are certain."

Explanation: When there is a rumor about first kiddushin, and a second one was mekadesh before witnesses, we check the rumor. If there is clear proof — the first one gives a get. If not — the second one marries.

Insights:

1. What Does "Witnesses with Clear Proof" Mean? The Rambam himself said that a rumor is not clear proof. It must mean more than a

rumor — a stronger confirmation, but not necessarily witnesses who were at the chuppah.

2. The second one's kiddushin itself is proof that he doesn't believe the rumor — because he wouldn't have been mekadesh if he believed that the rumor is true.

If the Second One Divorced — The First One May Not Marry

The Rambam: If the second one gives a get — **"the first one may not marry, lest they say he took back his divorcée from betrothal after she was betrothed to another."**

Insights:

- In truth there is no taking back a divorcée, because the first one's kiddushin was only a rumor (weak). But people will think that the first one gave a get, the second one married and then also gave a get, and now the first one is taking her back — which looks like taking back his divorcée after she was betrothed to another, which is forbidden.

Halacha 25 — Two Rumors

The Rambam: When a rumor went out that she is mekudeshet to so-and-so, and also a rumor that she is mekudeshet to another — **"one writes a get and one marries, whether the first or the last."**

Explanation: Both rumors are equally strong, neither is stronger than the other, therefore one gives a get and the other marries.

Halacha 26 — Sivlonot — A Place Where They Were Accustomed

The Rambam: "A place where they were accustomed to send sivlonot to the betrothed after she is betrothed" — when witnesses saw sivlonot but not kiddushin — **"we are concerned for her that perhaps she was mekudeshet, and she requires a get from doubt."** Even when most of the city's men send sivlonot before betrothal. But **"a place where they were all accustomed to send**

first and then be mekadesh" — then **"we don't concern ourselves with her."**

Insights:

- We don't follow the majority — even when only a minority sends sivlonot after kiddushin, it's enough for a concern. Only when all send before, is there no concern.

- Sivlonot itself is not kiddushin, but proof of kiddushin.

Halacha 27 — Ketubah — Her Ketubah Document Was Established

The Rambam: When a woman has a confirmed ketubah — **"if it is the way of some of the people of the place that they are mekadesh and then write"** — we are concerned for her that she already received kiddushin. **"Even though there is no scribe there"** — we don't say "perhaps she will find a scribe and he will write her a ketubah" — a ketubah is a legitimate proof against a woman's chezkat penayah.

Insights:

- We don't say the practical answer that he just found a scribe and wrote a ketubah for the future — a ketubah remains a concern.

- But it's only a concern (requires a get from doubt), not a certainty.

Halacha 28 — "We Did Not See" Is Not Proof

The Rambam: "Two say 'we saw her that she was mekudeshet on such-and-such day'" — and two others who were in the same courtyard say "we did not see" — **"she is mekudeshet, for 'we did not see' is not proof, for it is the way of people to be mekadesh in private."**

Explanation: Two witnesses who say they saw kiddushin are believed, even when other people in the same place say they didn't see, because kiddushin can happen in private.

Insights:

1. The rule "we did not see is not proof" is based on the fact that kiddushin is a private matter — one can be mekadesh quietly, therefore "I didn't see" is no contradiction to "I did see."

2. This is not a contradiction of witnesses in the classic sense — because "we did not see" is not "it didn't happen," but "I just didn't look." With witnesses to kiddushin themselves there is no such thing as contradiction through "we did not see."

3. When witnesses would have said there was a huge chuppah with music — and others say "we did not see" — seemingly the witnesses would be contradicted, because such a thing cannot be missed. The novelty of the halacha is specifically because "it is the way of people to be mekadesh in private."

4. She is mekudeshet completely (not just requires a get from doubt), because "we did not see" is no proof at all.

Halacha 29 — One Witness Says Mekudeshet

The Rambam: "One witness said she is mekudeshet, and she says 'I was not mekudeshet' — she is permitted." But "one witness says mekudeshet and one says she is not mekudeshet — she may not marry, but if she married she need not leave."

Explanation: One witness alone is weaker than a rumor. When she says "I was not mekudeshet" — she is permitted. But when two witnesses disagree — she may not marry initially, but if she married she need not leave.

Insights:

1. When she herself says "I was not mekudeshet" she has credibility against one witness, because one witness is weaker than a rumor.

2. When two witnesses disagree (one says mekudeshet, one says she is not mekudeshet) — initially we are concerned, but after the fact she need not leave, because in practice she holds that she is not mekudeshet.

3. When she doesn't say "I was not mekudeshet" (but is silent), this is a problem initially.

Halacha 30 — A Woman Who Said "I Was Mekudeshet" and Retracted

The Rambam's Words: If she gave an amtala to her words and there is substance to her words — she is permitted. If she did not give an amtala, or she gave an amtala and there is no substance to it — she is forbidden, and the second kiddushin are doubtful kiddushin, therefore he gives her a get, and she will be forbidden to him and to everyone until her betrothed comes.

Explanation: A woman who said "I was mekudeshet" (I am already mekudeshet), and later she received kiddushin from another man. If she gives an amtala (a good explanation why she said that — for example, she didn't want that man to pursue her), and beit din accepts the explanation (there is substance to her words) — she is permitted. But if she doesn't give an amtala, or the explanation is not good (there is no substance to it) — she is forbidden to the second man (he must give her a get), and forbidden to everyone, until the first "betrothed" comes and admits that he actually was mekadesh her (and he gives her a get), or he says that he never was mekadesh her.

Insights:

1. **The Principle of Credibility and Retraction:** When she retracts from her first declaration, we must judge whether the retraction is credible. The mechanism for this is the "amtala" — a logical explanation why she initially said something that is not true.

2. **Practical Context of Amtala:** The typical case is when a man comes to a woman with a marriage proposal, and she doesn't want him, so she says "I am already mekudeshet" so he will leave her alone. This is a classic amtala — she didn't want to "deal with a headache" with that person. In practice women often say "I'm married" because they don't want a man to

bother them — this makes the halacha very practical.

Halacha 31 — A Woman Who Said "I Am a Married Woman" and Retracted and Said "I Am Single"

The Rambam's Words: And similarly a woman who came and said "I am a married woman," and after a time said "I am single" — if she gave an amtala to her words and there is substance to her words, she is believed.

Explanation: The same law as above, except here it goes on a woman who said "I am an eishet ish" and later says "I am single." If she gives an amtala that has substance — she is believed.

Insights:

- The Rambam presents this case on its own, because here it doesn't just go on kiddushin but on the status of eishet ish — which has more serious implications (prohibition of eishet ish). The same mechanism of amtala applies.

This concludes Chapter 9 of Hilchot Ishut.

| Full Transcript

Rambam Laws of Marriage Chapter 9 — Betrothal in Doubt: Two Women, Forbidden Relations, and Credibility

Introduction to the Shiur

R' Yoel Asher: Good, we're learning Rambam Sefer Nashim, Laws of Marriage Chapter 9. We're holding in the middle of the laws of kiddushin. Today's shiur was donated by my dear friend, a Jew named R' Yeshaya Weinberger. He has a company in Florida called Florida Kosher Villas. Very nice apartments, we've also been there. And he loves to support Torah and to support Jews, and also to promote his company so that it should be zeh neheneh vezeh neheneh (mutually beneficial).

So if you're going for a good vacation, go to him. Because at the very least you have the right and the privilege to go to him. And mimenu yilmedu vechen ya'asu (from him let them learn and do likewise), if someone wants to donate a shiur, it's not lo bashamayim (not in heaven), I imagine there are sponsors for a whole year, but one shiur isn't a lot of money. I don't know if it should be publicized here, or if it should be posted on the exclusive supporters, potential supporters groups, but it's not a big thing.

And mimenu yilmedu vechen ya'asu, if someone wants to donate a shiur, or in any other way, someone wants to become involved in spreading

the light which is a wonderful shiur, let him register, let him make it known. Yes.

R' Yitzchak: Very good, and now people are traveling to Florida in the winter.

R' Yoel Asher: Okay.

Introduction to Chapter 9 — The Nature of the Topics: Doubts, Credibility, and Lomdus

R' Yoel Asher: So, the Rambam says: One who betroths two women... Let me make a strong introduction if you can.

R' Yitzchak: I can't, so you do it.

R' Yoel Asher: The introduction is, I told R' Yitzchak that there are certain sections of Torah that we look at as first seder winter zman, solid sugyos. And there are sugyos in Torah that we look at as end of seder, night seder, chashkas ta'anis (twilight of a fast), we learned them at night seder, or in some bekius program.

So now we're really learning the difficult, complete sugyos, and because they're sugyos, interesting questions come up. We move a bit away from halachos that we've always known, that one must know all the halachos, because a Jew who needs to know how to conduct himself, to many such interesting intellectual... When such a topic as safek (doubt) comes in, which is very interesting, what happens with a safek, must one adopt a stringency.

And when safek comes together with some question of ne'emanus (credibility), a question of shlichus (agency), they're all interesting lomdus concepts, intellectual concepts, when that one becomes my agent becomes my hand, or it's all lomdus of nezikin, or... There are interesting questions.

Some sections are questions of ne'emanus, some chapters are questions of sfeikos (doubts). That is, who is believed to say that he did or didn't betroth that one? What happens? When must one be stringent even when that one isn't believed in these matters? Ne'emanus regarding kiddushin, sfeikos.

Later there are other things, women whom one cannot betroth because they're already an ervah (forbidden relation) or because they're already an eshes ish (married woman). And what happens when it's a safek whether that one is already an ervah or an eshes ish? And how do such sfeikos occur? One goes into kol (rumor). A kol means people talk this way. When does a kol have a certain—

R' Yitzchak: Ne'emanus to be able to rule and the like. In short, so you're saying it's a topic that you learn in the afternoon, that's what people talk about. But I think more specifically, one must see more, there's a very long chapter here, over thirty halachos. But the first few halachos, and also much in the continuation, have something to do with something like this.

Usually a person betroths one woman, usually, nowadays that's the custom. And then it's simple, one woman betrothed, good day. But there are all kinds of heicha timtza'os (theoretical cases) where a person tries to betroth more than one woman. Or for example, that we don't know which woman he betrothed.

I don't know how to say it in one word, I wrote my heading here "sfeikos mi mekudeshes," but I thought that perhaps the word is this, when there are different women in the picture, which one is mekudeshes? If it's a safek, he said, "You can't do, I don't know which one." Such sorts of cases we'll see, everything has something to do with the

broader question that you want to happen with the rest of the world.

R' Yoel Asher: Because one isn't basically one woman.

Discussion: For Whom is the Chapter Written?

R' Yoel Asher: No, but I'm saying, in a basic thing that's interesting is that we've become accustomed from learning the first sections, Mada Ahava Zemanim, it was a person with his esrog, a person with his lulav. There weren't millions of kinds of errors.

Here one isn't speaking to the people at all, one is apparently speaking to the rabbis. The rabbis are the mesadre'i kiddushin (those who arrange betrothals), so one has switched. Now one is speaking to dayanim (judges), and with dayanim one specifically wants to bring out every kind of heicha timtza that will happen among such a multitude of people. That can be one explanation, the practical part of it.

The second thing is that unlike other places the Rambam wants one to know the halachos. Sometimes lomdus comes out of it. Here it appears that all these heicha timtza'os are also to arrive at the lomdus from it, because the lomdus from it will come out in a thousand other cases, because over the generations there will be all kinds of kiddushin, all kinds of marriages, all kinds of people. And with the principles that come out from all these details are important details.

But I'm saying, it's different from the Rambam that we can know for a whole time, because... The Rambam here also does it. It has the same form, he lists all the cases with such... But one does see that he wants to arrive at the lomdus from it.

R' Yitzchak: I don't know, certainly. The Rambam is indeed a halacha book, not a lomdus book. It could be, the Rambam was indeed limited, the Rambam had to bring everything that the Gemara brings, so it could be that's the point.

R' Yoel Asher: Yes. No, but I'm saying, here too it goes away, that when it says for example, when

a very interesting safek occurs, and there's also a question of ne'emanus, that the simple thing that the Rambam brought down isn't about needing to bring all the important halachos from the Gemara, because it's less important than a halacha that can happen. It's only very important because it's a lomdus question. The Rambam didn't bring every single thing that's in the Gemara.

R' Yitzchak: He brings every single piece that's in the Gemara. And if not, it's a question on him.

R' Yoel Asher: He'll forget something. The commentators indeed catch him and ask why he didn't bring this and that.

R' Yitzchak: Okay, let's begin...

Halacha 1 — One Who Betroths Two Women Simultaneously: Two Sisters or a Woman and Her Daughter

R' Yoel Asher: Okay, we've already learned that if one betroths an ervah, the kiddushin doesn't take effect. And there are many times two women whom one cannot have a relationship with both, because it becomes an ervah. For example, a sister, two sisters...

R' Yitzchak: That is, let me say how I understand it. That is, usually if the woman is already an ervah, if to his sister is already an ervah. Here there's an interesting heicha timtza, the answer is simple, but there's a woman, he can marry one of them. One sister or a woman he can marry. The problem is, if he wants to marry both at once, b'vas achas (simultaneously) one of them becomes on both.

R' Yoel Asher: One becomes an ervah on the other, like a woman and her daughter, or two sisters.

R' Yitzchak: Both become an ervah on him, as if, yes. So, the question is, what happens? What should one say that one becomes mekudeshes and not the other?

Discussion: The Logical "Loop" of Two Sisters Simultaneously

R' Yoel Asher: It's also an interesting worldly loop, because it only becomes an ervah if the kedusha (sanctity) takes effect. Kiddushin takes

effect, so it only takes effect on both together. So there's such a... What is the thing?

R' Yitzchak: One doesn't go into actions. It's forbidden to marry both of them because of ervah simultaneously, that he can't...

R' Yoel Asher: He can't if one is mekudeshes.

R' Yitzchak: Because he's not allowed to live, he's not allowed to have a wedding with both of them together, and he wants to do exactly that, both together.

R' Yoel Asher: One is mekudeshes. The reason could be that the way out of the loop is simply the halacha of it must be kiddushin hanesunin leviah (kiddushin that lead to marriage). Kiddushin, that when one finishes the kiddushin it's the woman with whom you may live, here it's not relevant, because each one of them is a safek, each one of them is...

R' Yitzchak: I don't see that it's a loop. Because I'll tell you why? Because this is exactly the prohibition. The Torah says, you may not take a woman and her daughter.

R' Yoel Asher: You take the prohibition, and a year later you remember to take the daughter, the daughter has expired. No. But when you do both—

R' Yitzchak: It also says in the Torah that you may not have a woman and her daughter together. The same thing. Why? It shouldn't be... Understand? You may not take a woman and her daughter. What's the problem? A woman and her daughter is forbidden. If a woman and her daughter is forbidden, the kedusha doesn't take effect.

R' Yoel Asher: No righteous person betroths a woman and her daughter or two sisters simultaneously, one sister is mekudeshes. What are they, one an ervah on the other?

R' Yitzchak: One could have imagined that one of them, he's not doing one of them, he did both.

R' Yoel Asher: Had it been one after the other, the first would have been permitted and the second forbidden, but when both are happening they make each other.

The Rambam's Language: One Who Betroths Many Women Simultaneously

R' Yitzchak: Now in the halacha it becomes a bit more interesting a case. Yes.

R' Yoel Asher: Yes. So it says, **one who betroths many women simultaneously**, what happens in such a case? A person betroths several women, **and says "all of you are betrothed to me"**, all of you should be betrothed. What yes? What turns out that **if among them were two sisters or a woman and her daughter or the like?** Among the many women there's also the case that we learned earlier of two women that one cannot marry both of them, two sisters, a woman and her daughter.

So also the same halacha, **not one of them is mekudeshes**, none of them is mekudeshes. Here a person could have made a distinction that all those who are permitted should indeed become mekudeshes, but we don't say so. We say that since in the kiddushin, part of the kiddushin had in it a power that destroyed it, because there was in it a forbidden relation where the kiddushin doesn't take effect, and the entire act of kiddushin didn't take effect.

R' Yitzchak: On any of them. That is, for some reason it means—

R' Yoel Asher: This is basically not clear.

Discussion: Batlah Miktzasah Batlah Kulah — Dispute Among the Rishonim

R' Yitzchak: On this halacha there are commentators who argue, it depends on what one understands the Gemara and such things. But so, the Rambam ruled that none of them is mekudeshes, because as if it's one act, and since it became invalid...

R' Yoel Asher: Like batlah miktzasah batlah kulah (if part is nullified, all is nullified) on such a thing.

R' Yitzchak: It's not so simple, because for example buying wood and a donkey, there are situations where one says yes, that what is good is good, and what isn't good isn't good. So is the... The Maggid Mishneh brings that the Rashba and

others said that it's not certain that the halacha is as the Rambam says, but the Rambam holds so.

Halacha 2 — "Whoever Among You is Fit for Marriage is Betrothed to Me"

R' Yoel Asher: The Rambam says, **"And if he said to them"** — if however he took many women, the same case that he just said, but what he said was different. He didn't say "all of you," but he said **"whoever among you is fit for marriage is betrothed to me"** — whoever of you I may or I can be with in marriage should be betrothed to me.

One understands that... that it's like a condition, not a condition, rather it's like a choice. He's explaining on what the kiddushin should take effect, only on those who are fit for marriage. **"All of them are betrothed to him except for the sisters or a woman and her daughter and the like"** — except for the sisters or the woman and her daughter, but they're already not forbidden for the previous reason, because one cannot betroth two simultaneously.

R' Yitzchak: Right, but the rest... That is, he made it like an unclear language of choice, because essentially he means to betroth the others, he just said, it should automatically happen.

R' Yoel Asher: One is speaking even in a manner that he doesn't know who of them.

Discussion: A Person Doesn't Need to Know the Names of the Woman

R' Yitzchak: He's speaking but it's a simple halacha. A person doesn't need to know the names of the woman he's betrothing. He can indeed go to a group of women and say "all of you are betrothed to me." Ah, there's a problem, one can't do "all of you" because some of them are forbidden. No problem, I'll say the correct language. Which ones can one? A wealthy man, he goes to the market, he buys a bunch.

R' Yoel Asher: He buys all. Which do you know all?

R' Yitzchak: It's a bundle. What does it mean? Bundle. He gets a discount for buying a bunch at

once. So if so, now in the next halacha one will understand—

R' Yoel Asher: That the halacha is already not specifically.

R' Yitzchak: If so, the halacha that we say when "all of them," the previous halacha, halacha 1 was —

Kiddushin That Don't Lead to Marriage – Laws of Kiddushin in Doubt and Agency

Halacha 2 – "All of You Are Betrothed to Me" When There's Among Them an Ervah, Maidservant or Gentile

R' Yitzchak: Right, but the rest, that is that he made it like an unclear language, he says, essentially he means to betroth the others.

R' Yoel Asher: He just said that it should automatically happen to the one who is good.

R' Yitzchak: One is speaking even in a manner that he doesn't know what becomes of them. Right, but it's a simple halacha. A person doesn't need to know the names of the woman he's betrothing. He can indeed go to a group of women and say "all of you are betrothed to me." Ah, there's a problem, one can't do "all of you" because some of them are forbidden. No problem, I'll say the correct language. Which ones can one? A wealthy man, he goes to the market, he buys a bunch. Which? Which? Which? What does it mean? He gets a discount for buying a bunch at once. So if so, now in the next—

R' Yoel Asher: Halacha one will understand that—

R' Yitzchak: The halacha that we say of "all of them," the previous halacha, halacha 1 was specifically on what now that he's betrothing, both become forbidden in the same moment. But now that one says of "all of them are betrothed," and previously it was that there are among them two who are forbidden to him, but it could be exactly one that is forbidden to him, one doesn't need to arrive at all at the heicha timtza for this halacha. Therefore he says, "And likewise."

R' Yoel Asher: You heard, now is an even greater novelty, that although with the essence of kiddushin, then they become forbidden. Here is somewhat a smaller novelty. He just says another case.

R' Yitzchak: The second assumption is simply that it's even in such a case.

The Rambam's Language

R' Yoel Asher: "If he said to them 'all of you are betrothed to me,' and among them was a maidservant or a gentile or one woman who is an ervah, such as a married woman or his daughter or his sister and the like" – he listed both the category of prohibition and the category of ervah, but also a maidservant and a gentile, not just prohibitions, a maidservant and a gentile don't have marriage, marriage doesn't work, yes? So **"not one of them is mekudeshes"**, none of them is mekudeshes. Because in the kiddushin there was a half kiddushin, it couldn't take effect because there was a forbidden relation, or one who doesn't accept kiddushin, so the entire act of kiddushin falls. The same thing. **"But if he said 'whoever among you is fit for marriage is betrothed to me'"**. Only whoever of you is fit, whoever of you I may live with him, is mekudeshes. He learns, **"all of them are betrothed to him except for that woman in whom the kiddushin doesn't take effect"**.

R' Yitzchak: Very good.

Halacha 3 – "One of You is Betrothed to Me" to Two Sisters

R' Yitzchak: Now however, we'll learn an interesting manner where somehow he can indeed remain stuck. How can it be?

R' Yoel Asher: That is, there can be a manner where he can indeed remain—

R' Yitzchak: Stuck with two women. When the loop is a better loop.

R' Yoel Asher: Like here. **"He said to two sisters"** – he says to two sisters.

R' Yitzchak: That we already know that one of the sisters you may marry, but you can't take both. He says so, **"one of you is betrothed to**

me with this" – one of you two. One of you two is indeed acceptable.

Laws of Marriage Chapter 9 – Uncertainties in Agency for Betrothal (Continued)

R' Yoel Asher: "And he gave to them" – he gives to both of them, he gives and it remains for both of them a perutah, or one takes for both. Or a similar case when the father is the one who betroths because the daughter is a minor, and he has several minor daughters. He says, "**One of your daughters is betrothed to me, and I have accepted her betrothal**". Here it becomes a big problem, because one of them, both cannot be, but we don't know which of them. So which one does he mean? A doubt, we don't know. So the answer is, and consequently the halacha comes out this way. So normally, what would be normal when there isn't this problem? Can he decide which of them he wants, right? Not decide, both will be a doubt. But here he cannot. No, I'm saying, when the kiddushin hasn't yet taken effect, yes? Can one say...

R' Yitzchak: What does it mean that it hasn't yet taken effect?

Discussion: Whether Kiddushin She'ein Mesurin L'biah Are Kiddushin

R' Yoel Asher: Just like that, when there isn't the problem of two sisters, when a person goes and he says "one of you", both are betrothed in doubt, because we don't know which one. Here is an interesting thing, because there was a position, Rava would have argued that here there won't even be a doubt, because he cannot actually be intimate with any of them, because by each one there is a doubt of his wife's sister. Therefore the kiddushin doesn't take effect from the outset. This is what is written "kiddushin she'einan mesurin l'biah". That means, technically –

R' Yitzchak: One of them is valid.

R' Yoel Asher: But because in actual practice –

R' Yitzchak: He won't be able to have relations with any of them, it's called kiddushin she'einan mesurin l'biah. Therefore there's no question.

But the Rambam rules that regarding two women his heart is yes kiddushin. Therefore he says that the halacha is that **all of them require a get**, meaning both are betrothed to him in doubt, but **it is forbidden for him to come to one of them**.

R' Yoel Asher: Kiddushin does take effect, kiddushin does take effect, kiddushin does take effect, because perhaps she is the sister.

R' Yitzchak: Kiddushin takes effect, even though it's impossible for him to come to one of them, because there's an aspect that kiddushin doesn't take effect, because he cannot come to one of them. But the halacha is that kiddushin does take effect, therefore he's stuck, he must give both a get.

Discussion: Whether Kiddushin Must Be to a Specific Woman

R' Yoel Asher: But I don't understand another thing. Why shouldn't we say that it's completely invalid? Because one cannot betroth this way. Kiddushin must be to a specific woman. Why shouldn't it be that way? Why don't we understand that kiddushin is to a specific woman? There's no such halacha. It's a very weird thing. You're making a legal effect on something that cannot happen. It's not invalid. One of you. And now he's leaving a doubt. When people do things that are a doubt, they haven't yet done a complete act. It's weird. Let's forget it.

R' Yitzchak: You forgot your introduction. You understand the halachos, most of them you don't need to look at people. You're a great expert on people, come more. The person who does this, he simply needs to be committed. That's a different topic. In the fifth section of Shulchan Aruch, somewhere, I don't know where it says that the person should be committed. Now you see, what is the halacha? Theoretically. I mean like this, one can...

R' Yoel Asher: Ah that one can, he didn't throw it onto some specific thing, whom I want the most or whom the father wants the most. So, it's a weird thing even if we call it a doubt. A doubt means one of them. This was created. Usually a

doubt means that there was once some woman who was someone's –

R' Yitzchak: And now it's a doubt.

R' Yoel Asher: It's also a doubt.

R' Yitzchak: It's a doubt. We don't know which one he meant.

R' Yoel Asher: But it's not whom he meant at all. We don't know which one. He didn't mean anything. He didn't mean anything. He didn't mean.

R' Yitzchak: That means no intention at all. Intention means it's because there's a certain arrangement. So, you want to innovate a new halacha that betrothal in doubt is not betrothal. But the halacha doesn't hold like you.

R' Yoel Asher: There is betrothal in doubt which betrothal in doubt would mean.

R' Yitzchak: Doubtful relative or not doubtful relative. No problem.

R' Yoel Asher: Why should one give a person the power to make this destruction?

R' Yitzchak: You would have innovated a new halacha in the Torah, that kiddushin must be that we know which woman one is betrothing. And we already –

R' Yoel Asher: Earlier taken the previous one would have had to.

R' Yitzchak: One would have had to. No problem.

R' Yoel Asher: But once, one would have had to make it so, that kiddushin means –

R' Yitzchak: But it doesn't mean.

R' Yoel Asher: One gives power to a person to make it valid. Why should one give power to a person to destroy women with craziness?

R' Yitzchak: One minute, you're going further. Come I told you, the humanistic thing, one goes to the UN. You'll make a cherem against this person. I'm not talking now, perhaps indeed, but indeed, it's obvious that if someone does it deliberately he's an animal, one must beat him or commit him because he's mentally ill. I'm not talking now about that, I'm talking about the learning. As you said before, from the learning, I

find in this such interesting learning, that is kiddushin she'einan mesurin l'biah. Whether that which kiddushin must have valid relations, is that a conceptual thing or a technical thing? The person only has a technical problem, a halachic technical problem, why he cannot be intimate with any of the women. One of them he certainly can, we just don't know which one. Therefore practically he cannot. About this the early authorities had a dispute, a very interesting scholarly dispute, what is the halacha about this? Therefore the halacha was established. It wasn't established because people go around and betroth one of you. I don't believe it. I hope so. You figured that someone would recognize to argue, there are halachos where one says such reasoning, that one cannot make it a doubt. But I think we're accustomed to such learning, because it makes sense in our heads, but most halachos work yes, one can make it a doubt. You say that a person should make a prohibition, he can also make behold one of these two oranges is terumah, and both become doubtful terumah. There are such doubts.

The Rambam's Position on Kiddushin She'einan Mesurin L'biah

R' Yitzchak: Okay, continue. So, this is the halacha of kiddushin she'einan mesurin l'biah.

R' Yoel Asher: It's quickly wrapped up here, yes? It's one of the whole thing. It means there's a dispute between the Rambam and the other Rishonim about kiddushin she'einan mesurin l'biah.

R' Yitzchak: What? Why should there be a dispute?

R' Yoel Asher: What is the Abaye by the whole thing? This is the halacha of Abaye.

R' Yitzchak: Abaye kiddushin she'einan mesurin l'biah are kiddushin.

R' Yoel Asher: It is kiddushin. Ah, very good.

R' Yitzchak: Up to here is one group of halachos.

Halacha 4 – An Agent Who Didn't Fulfill His Agency

R' Yoel Asher: Now we're talking about a new complication. An agent Shmuel, or an agent who... who didn't fulfill his agency, that she heard.

R' Yitzchak: Let's say the word agent, I'll soon express him –

R' Yoel Asher: What exactly is the agency.

R' Yitzchak: I just want to explain what I'm thinking here. It's a similar problem. Before there was one person who himself made betrothal to a bunch of women, and we don't know exactly. Here there's the agent that we don't know exactly which woman was betrothed, or he stole etc.

R' Yoel Asher: Yes? All kinds of complications.

R' Yitzchak: It's the first case –

The First Case: An Agent Who Betrothed for Himself

R' Yoel Asher: That the Rambam brings. "**One who makes an agent to betroth for him a certain woman**", he makes an agent, betroth for me such and such woman. That one went, the agent, **and betrothed her for himself**. He said, if it's good for that one, it's good for me. He betrothed her for himself.

R' Yitzchak: He notices, this works, right? He's a scoundrel –

R' Yoel Asher: But he notices. He did an evil deed. The Rambam will later talk about this –

R' Yitzchak: But he can't do anything.

R' Yoel Asher: We're also talking here when the woman agreed to the agent. I mean, one doesn't need the Rambam to figure this out. And afterwards he went, the sender, the one who sent the agent, went, and he himself gave kiddushin **to her mother or her daughter or her sister** of the woman. Where. We don't know which was first –

R' Yitzchak: Which was later.

R' Yoel Asher: If the agent's kiddushin was first –

R' Yitzchak: Then his kiddushin doesn't take effect, because it's a forbidden relation. If his kiddushin is first, then it does take effect.

R' Yoel Asher: Ah, we don't know which is first. If he betrothed, if he took the agency for himself...

R' Yitzchak: The agent gave for himself.

R' Yoel Asher: The agent is certainly betrothed to that woman.

R' Yitzchak: That's not the question. The question is about the... That is, it's not the question. Both is a question. The question is which kiddushin works. The sender, if the agent has the kiddushin of which the agent's kiddushin was before his kiddushin of the sister, then what? Don't you understand? The agent betrothed a second woman, true? Yes? Maybe the agent, maybe the sender betrothed the woman before he betrothed –

Laws of Marriage Chapter 9 – Uncertainties in Agency for Betrothal (Continued)

Halacha 2 (Continued): An Agent of Acceptance from a Woman – Doubt Who Was First

R' Yitzchak: What is an agent to the sender?

R' Yoel Asher: Not the same person. I don't understand what's going on. The agent violated his agency, and he took another woman. What's the problem now? What does it have to do with that his sender now took the sister?

R' Yitzchak: No, what else happened? They simply confused the case, and they read it wrong.

R' Yoel Asher: The agent betrothed. Nothing. He did fail. Later he'll stand as independent.

R' Yitzchak: A mistake.

R' Yoel Asher: He failed, he betrothed. And at the same time he sabotaged by taking the sister. But the two betrothals cannot work together. The question was understood. So since we're talking apparently when one cannot know, one cannot know. Both require a get, in doubt, stringently, and both are forbidden to him.

R' Yitzchak: They cannot take any of them, because perhaps she is his wife's sister. Very good.

The Rambam's Language: And Similarly a Woman Who Sent an Agent to Betroth Her

R' Yoel Asher: And similarly a woman who sent an agent to betroth her and he went and betrothed her, she went and was betrothed.

R' Yitzchak: The same thing an agent.

R' Yoel Asher: An agent of acceptance. The woman went, that is, when the agent accepted the kiddushin, she became a married woman. But back at home, he traveled to another country, back home, she went, she received kiddushin from a second man. **And we don't know which day was first**, we don't know whose kiddushin was first, whether when the agent transmitted she was already a married woman, or when she herself gave.

Discussion: The Difference Between an Agent of a Man and an Agent of a Woman

R' Yitzchak: By the woman, the difference is that by the woman one doesn't need an act of his wife's sister.

R' Yoel Asher: Because a woman every second one is... right, right, right. But the agent of a woman is also different. Do you remember what we learned before that the agent of a woman is different from the agent of a man? Only that it must be in her presence at the time of transmission.

R' Yitzchak: Yes, what comes in? Okay. Here it's different. But here also the halacha is different. The halacha is "both give a get". But "if they wish" – ah,

R' Yoel Asher: Here it's not... Why is it different? "Two transmissions to him upon him". At the time...

R' Yitzchak: Let's see,

The Rambam's Language: And If They Wish One Gives a Get and One Marries

R' Yoel Asher: And if they wish one gives a get and one marries. The second one must give new kiddushin. "Marries" doesn't mean to be able to take.

R' Yitzchak: It doesn't say here.

R' Yoel Asher: Why shouldn't one

R' Yitzchak: Be concerned that

R' Yoel Asher: The other was first? We talked,

R' Yitzchak: It has to do with our previous inquiry.

R' Yoel Asher: Now, but if that one was first, you didn't give any kiddushin, because your kiddushin bounced. We talked about the

Discussion: Whether Doubtful Kiddushin Is Sufficient for Fulfilling the Mitzvah

R' Yitzchak: Question for now several times already, whether every doubtful kiddushin, whether a person is

R' Yoel Asher: Fulfilled with doubtful kiddushin, true? Ah, ah, whether the... No, it cannot be that the kiddushin ends when she becomes available,

R' Yitzchak: Like for example by a condition, or like within thirty days. No, no, no, I don't understand what you're saying. Like after the get... Again. Every time a person has doubtful kiddushin, we don't know which is first. Both have doubtful kiddushin. Both together doesn't work, because his wife's sister. But one gave... The two Jews went to a Torah court, I don't know, they worked it out, whatever, you give a get, I stay with her. He has doubtful kiddushin with her,

R' Yoel Asher: Right?

R' Yitzchak: Now, it's not clear that every time a person has doubtful kiddushin, he may live with her. We've seen sometimes yes and sometimes no.

R' Yoel Asher: And we also had such a thought that he's already fulfilling the mitzvah of kiddushin, he must again make the blessing and I don't know what, but with the validity it's enough, because it's already enough that this is his wife, and the act of kiddushin was made.

R' Yitzchak: The Rambam said about certain cases that one must make kiddushin again, and in certain cases he doesn't say. I bring here from below that there's a dispute among the poskim

about this. It's not clear in all the cases. But the innovation is only that the Rambam left it open,

R' Yoel Asher: Because the word "marries" itself isn't clear what it means. "One marries" can mean that he gives her kiddushin now.

Discussion: Why by Distant Relatives Is Different from Close Relatives

R' Yitzchak: The halacha that the Rambam says here isn't that. What the Rambam brings out is only that it's different from before, because by his wife's sister, even after the get it doesn't help, he may not marry her. Therefore one cannot make the solution of choosing which one he wants, because it doesn't help at all. As opposed to a married woman, the moment she has a get from one she's no longer a married woman, the other can live with her then. This is the case of a... a woman who married simply a person.

But, the Rambam says further, what here is also the case, on the side the woman is also one of them a relative, one goes back to the same halacha that both must give a get, yes?

The Rambam's Language: In What Case Are We Speaking – With Distant Relatives

R' Yoel Asher: In what case are we speaking, with distant relatives.

R' Yitzchak: Yes, the two people are distant from each other, they have no connection with one another. But, **if the agent betrothed her to a father**, she sent an agent to receive kiddushin, the agent betrothed her to a father,

R' Yoel Asher: And she herself betrothed to a son or brother and the like,

R' Yitzchak: And further we don't know which is first.

R' Yoel Asher: And here it's the same case as we learned before two sisters, so there's the case of two brothers.

R' Yitzchak: Right?

R' Yoel Asher: Yes, it means, besides the problem of a married woman there was also the problem because the two are a contradiction one to the other. Both give a get, one doesn't say one

gives a get and one marries, because this is already yes like

R' Yitzchak: The defect of the kiddushin becomes void,

R' Yoel Asher: Because the same reason as forbidden to both. Not because the kiddushin is void,

R' Yitzchak: We know that it's a doubt. One cannot exchange for the same reason, because for a forbidden relation it doesn't help that one goes away, it remains a forbidden relation. So this is the case of an agent

R' Yoel Asher: Who made a doubt. In short, why does it remain a forbidden relation?

R' Yitzchak: The sister of his divorcee is forbidden.

R' Yoel Asher: All forbidden relations, not everything. There is his wife's sister when the sister has already died.

R' Yitzchak: For most of the

R' Yoel Asher: Things death already helps.

R' Yitzchak: Okay. Yes. These are the halachos. One should look at another brief explanation, one should learn the halachos.

R' Yoel Asher: Yes, let's go further to agent.

R' Yitzchak: This is one case of an agent,

R' Yoel Asher: What other complications can happen with an agent.

R' Yitzchak: A shaliach (agent), where the first type of shaliach was the three halachos where there was a shaliach who was mekadesh (betrothed) her... both were mekadesh, and we don't know which one was first, so it becomes a problem.

R' Yoel Asher: Now we can see that earlier there were doubts that happened regarding a person who gave wrong kiddushin, and doubts that happened through agency. And here it goes further, doubts that happened regarding the shaliach died.

R' Yitzchak: Now we can learn that a shaliach can make even greater troubles. Earlier he made a small... he becomes a shaliach and he is guilty earlier. He is guilty is the person who went

"vekadesh es atzmo" (and betrothed himself). Afterwards there's a new case that a shaliach can

R' Yoel Asher: make even greater troubles.

R' Yitzchak: This is by the way one of the reasons why it's a mitzvah to be mekadesh

R' Yoel Asher: not through a shaliach. I'm afraid that it's

R' Yitzchak: not one of the reasons. I don't understand, but now I'll say there.

Halacha 3: Shaliach Who Died – One Who Says to His Agent "Go and Betroth a Woman for Me"

The Rambam's Language: He Has the Presumption That He Betrothed

R' Yoel Asher: Yes. "One who says to his agent 'go and betroth a woman for me,' and the agent died", the shaliach died somewhere, and we don't know exactly when, we don't know if he already managed to find a woman and be mekadesh, "or he didn't betroth", we don't know if he was mekadesh or wasn't mekadesh.

R' Yitzchak: So what is the halacha?

R' Yoel Asher: So there's a big problem here, yes? It's a...

R' Yitzchak: Let me explain in Yiddish. There are two questions here. First of all, perhaps he wasn't mekadesh at all, not a problem at all. Second, if he was mekadesh, and the person said exactly the language, "go and betroth a woman for me," as we already spoke earlier, that a person can give the shaliach the right to decide which woman to be mekadesh. He doesn't have to say "a specific woman." He can say "a specific woman," then he must be mekadesh "that specific woman," but he can also say "a woman." So the shaliach has the right to be mekadesh. This is not a good idea at all. We looked at the story of Eliezer, this was the plan of Besuel, that he could kill Eliezer. Okay, Yitzchak is not a problem, because he can anyway see with another problem. Anyway, yes, so these are the two questions. The halacha goes like this: on the first question, was he mekadesh? The answer is,

R' Yoel Asher: "He has the presumption that he betrothed". We make a chazaka (presumption) on the shaliach, presumably we understand that when there was enough time and so forth, it should make sense. A chazaka that he was mekadesh. Why? Because there's a chazaka called "chezkas shaliach oseh shelichuso" (presumption that an agent carries out his agency). When you give someone to do a job, he does it.

Discussion: Question on Chezkas Shaliach Oseh Shelichuso

R' Yitzchak: Very good. Interesting. These are all great stringencies, and I think it's also stringencies so that people shouldn't do such things, they should be scared. Because "chezkas shaliach oseh shelichuso" is very good, but he asks a good question on it below.

R' Yoel Asher: But there's also a chazaka that she's a besulah (virgin), right?

R' Yitzchak: No, but there's a second person here in the picture. He has to convince a woman to become mekudeshes (betrothed) to this person. He can,

R' Yoel Asher: Like Eliezer eved Avraham said, "if the woman will not agree." But there's a chazaka that the shaliach will succeed,

R' Yitzchak: I mean to say. That he was successful. But there's a chazaka... a good question.

R' Yoel Asher: Who asks it?

R' Yitzchak: "Shaliach oseh shelichuso" is that he's a loyal person. Who asks the question? It's a good question. He brings the Chelkas Mechokek. As if everyone wants to make a shidduch. No, I thought about it. You say, I always thought about people. Someone tells a shadchan (matchmaker), "find me a good shidduch." The chazaka is because he hasn't yet found him a shidduch. Unless something has gone through enough time, and he keeps calling saying that he has a shidduch for you. Okay, because it's relevant to call, you have to think a bit about the reality. But we're talking here when it makes sense, not when someone was told, "I know when you'll find a

good shidduch." That one goes for the mission, he traveled to the city to carry out what

R' Yitzchak: he was commanded. So then what? But on the other hand, we don't know who he was mekadesh. Says the Rambam,

The Rambam's Language: Since He Doesn't Know Which Woman He Betrothed for Him

R' Yoel Asher: "And since he doesn't know which woman he betrothed for him" – we don't know who he was mekadesh. The chazaka tells us that he was mekadesh someone,

R' Yitzchak: and we don't know which one. So what is the halacha?

R' Yoel Asher: Yes, "he is forbidden to all" – whatever, it's very hard for me even to go further, because it's a very crazy thing. Because today everyone would say, where is the woman? The woman is somewhere... You have to think, women were quiet, women weren't in the marketplace. We're ignoring here that there's a certain woman. Where is the woman? The shaliach died. But if there was a woman who received kiddushin from him, she would have placed a classified, would have asked, would have gone to the beis din.

R' Yitzchak: You say so, so you say.

R' Yoel Asher: There's no woman at all, and why should one say a reasoning that a woman is quiet? I would say such a thing, just as there's a chazaka shaliach oseh shelichuso, there's a chazaka that a kallah (bride) tells people that she's a kallah, that she received kiddushin. But the kallah doesn't come in. In halacha we don't know about this. It could be that the kallah isn't here. I don't know, the kallah is still

R' Yitzchak: pregnant and is in the grave. I don't believe that this case ever happened.

R' Yoel Asher: I'm not sure that a shaliach can die. Actually, it happens to be that this is one thing that can happen. People die. Yes, but it has to make sense that he traveled for this and he

R' Yitzchak: is a good

R' Yoel Asher: person.

Doubts in Kiddushin: Shaliach to Betroth Unspecified, Five Sons and Five Daughters, and an Adult Daughter

Continuation: Shaliach Who Died — Forbidden to Every Woman Who Has Relatives

R' Yoel Asher: But the kallah doesn't come into the halacha, we don't know about this.

R' Yitzchak: It could be that the kallah isn't here.

R' Yoel Asher: I don't know. The kallah is still a... what is the main thing. "He is forbidden to every woman who has relatives." I don't believe this case will happen. Or it doesn't have to...

R' Yitzchak: A shaliach can die. Actually it happens to be that this is one thing that can happen. People die. Yes, but... It has to make sense. He traveled for this and he... and he died and

R' Yoel Asher: he doesn't die too early.

R' Yitzchak: This is the part that's really crazy. The halacha says so.

R' Yoel Asher: He had to... the shaliach had to take two sons-in-law. Yes? It's worth it.

R' Yitzchak: Soon he'll be saying, that we're talking all the time... but Yechezkel's shaliach... you don't understand how you're asking. Yechezkel's shaliach didn't mean that he found sons-in-law and everything.

R' Yoel Asher: Yes, but why shouldn't there also be a chazaka? That if someone was mekadesh with sons-in-law, and there's a woman, one would have already heard something.

R' Yitzchak: It's worth it. And who further, he is forbidden? I mean the question is

R' Yoel Asher: the wrong stage of the case. Tomorrow will actually come, he'll be further.

R' Yitzchak: Now meanwhile what is the halacha. There's a parable. Later one learns about a parable, like someone brings something that makes sense. I have to go check there. Yes, let's just say, I think you're too worried about the

case. Let's say tomorrow the woman will come. No problem.

R' Yoel Asher: Now we're talking until then.

R' Yitzchak: What is the halacha?

The Simple Meaning of the Rambam: Forbidden to Every Woman Who Has Relatives

R' Yoel Asher: So like this, I say that shaliach oseh shelichuso says certainly that he was mekadesh someone, but we don't know whom. A big problem happens here that the sender won't be able to be mekadesh any other woman. I don't mean not any other, very many types of women he won't be able to be mekadesh.

Let's see what he means. Says the Rambam like this: **"He is forbidden to every woman who has relatives who are forbidden relations with her."** He is forbidden with every woman who has relatives where the relatives are ervah (forbidden relations) to her. Meaning, every woman who has a daughter, who is already not young, or every woman who has a mother or sister, which is almost all women. You won't have a wedding. Why?

R' Yitzchak: Because perhaps the sister...

R' Yoel Asher: Because let's say you say, the woman is a fine woman, nothing's wrong with her, she's beautiful. But remember that the shaliach who already died, who we know that he carried out an agency and was mekadesh someone. Well, true, the name of the woman he betrothed. Perhaps the mother of the woman, or the sister, or the daughter. So now you're going to have a wedding with a... you're now going to live with your ervah.

R' Yitzchak: True, his wife, and so forth. Who else got married? **"He is permitted to a woman who has no such relatives."** He has to find an orphan, an only daughter, basically.

Question of Tosafos: Why Not Forbidden to All Women?

R' Yitzchak: Now, Tosafos already asks a good question. You're asking a technical question, it doesn't make sense. Tosafos asks a learned question: if there's such a concern that there's

some woman somewhere who is mekudeshes to this person, and we take it so seriously that he is forbidden to all women who might be her relative, why shouldn't we now say that since the case,

R' Yoel Asher: all the women in the world are forbidden, God forbid? Perhaps they are married women.

Answer of Tosafos: Because of a Fine

R' Yitzchak: Tosafos held this to be a very good question, and they said that it could be that the entire halacha is not actually a halacha, it's only because of a fine, because he makes a crazy shaliach lekadesh sesam (agent to betroth unspecified), it's not a way.

Answer of the Ramban: Chezkas Penuyah on the Woman Herself, Not on the Relatives

R' Yitzchak: But the Ramban says that no, this is actually the law. No, the Ramban says that what you said, there's a chezkas penuyah (presumption of being unmarried). Why is there a problem? Because the Ramban has a deep Torah, a learned Torah. That indeed, when you judge the woman herself, she has a chezkas penuyah. Every woman has a chezkas penuyah. But no one has a chazaka that her sister

R' Yoel Asher: wasn't betrothed.

R' Yitzchak: On the woman herself, exactly. But on the fact that she's a relative, there's no chazaka. How does the chazaka of the relative help? A very fine piece of learning from the Ramban.

Discussion: But the Sister Also Has a Chezkas Penuyah

R' Yoel Asher: And it's very interesting, because with the Ramban's thing one can further say that the sister of the woman also has a chezkas penuyah.

R' Yitzchak: She has a chazaka, but now we're not asking the question.

Discussion: The Reality of the Halacha

R' Yoel Asher: But further with my practical point, it looks here like there was once such a

reality that a woman should receive kiddushin and not tell any soul, because otherwise it doesn't make sense. She's the sister, she lives with her in one generation. If such a wild thing would have happened to her that a man gave her kiddushin and she agreed, he wouldn't have known. So, rather what, something, are we talking here about hypotheticals or yes?

R' Yitzchak: Either this or that, yes? Not clear. Okay. I like Tosafos's explanation practically. We say the halachos so that people shouldn't make any tricks. Yes, something like that. Okay, further.

Halacha: A Relative Who Was a Married Woman at the Time of the Agency

R' Yitzchak: Which other woman can the person have a wedding with?

R' Yoel Asher: Yes? Says the Rambam, **"And he is permitted to a woman who has no such relatives."** That every sister or every close ervah of any woman is perhaps the mystery woman who received the kiddushin, is only when it's relevant. But if someone only has a sister or a mother who couldn't have received kiddushin then, she was a married woman when the shaliach supposedly carried out his agency, **"at the time he made him an agent"**, then we know

R' Yitzchak: that the shaliach didn't

R' Yoel Asher: then could have given kiddushin to this woman because she was a married woman. Says the Rambam, if she was a married woman, then she's not relevant, she's further. But now there's a case when she can be the good wife,

R' Yitzchak: she got divorced afterwards.

R' Yoel Asher: So **"even though she was divorced before the agent died"**,

R' Yitzchak: but after he went with his agency,

R' Yoel Asher: he began his agency, that **"shaliach oseh shelichuso"** there's also a chazaka that he

R' Yitzchak: does it very quickly.

R' Yoel Asher: **"And we don't say perhaps the agent betrothed her relative after she**

was divorced."

R' Yitzchak: Why?

R' Yoel Asher: **"Because she was not eligible at the time the agent was made."** Yes? **"And a person only makes an agent to betroth for him a woman whom he can betroth at the time of the agency."**

R' Yitzchak: Meaning even if she already became unmarried in the middle of the agency before he died, but when a person makes an agent, he doesn't mean a woman who is now a married woman.

Discussion: Why Isn't This in the Laws of Agency?

R' Yoel Asher: Why wouldn't the Rambam have had to say this halacha in the laws of agency, that every time you come to be mekadesh a woman you have to ask if you were married a year ago or a month ago when I came here?

R' Yitzchak: You now have a contradiction from here to halacha. Only when he makes an agent unspecified, which is such a crazy creation that one has to think about.

R' Yoel Asher: We see that the crazy person who throws in kiddushin among many women, but made sure that she wasn't a married woman at the time when he made the agency.

R' Yitzchak: That one is not an agent, that one is himself. By an agent, it must be so. It's a halacha of agency.

Discussion: Why Not Even One Who Will Be Eligible at the Time of the Agency?

R' Yoel Asher: We see that a person can even make an agent to decide himself with whom I should have a wedding. Why shouldn't we say that whoever will be kosher at the time the agent wants to carry out his agency?

R' Yitzchak: What is that? A person doesn't mean.

R' Yoel Asher: We're talking here about a sender who is not a micro-manager, yes? Because you can choose.

R' Yitzchak: It's very far from a micro-manager. Well,

R' Yoel Asher: why should he then, why should he be bound by who is forbidden at the time when he makes the agency? He leaves the whole

R' Yitzchak: thing to the agency. There are two commentators here. There are those who say that this is an intention, and there are those who say that this is a subject of the intention. According to you for example, if he says clearly, you can be mekadesh anyone even someone who just now became eligible it should have worked, but the Rosh argues that no, this is not an agency on him at all. Exactly, because an agency can only be made such a learned thing,

R' Yoel Asher: like tomorrow is first to second, any right that comes to his hand, something like that sort of thing.

R' Yitzchak: But he doesn't now have the right to be mekadesh a woman who is not, and how can he

R' Yoel Asher: give the agent the right? Although the agent gives over authority that he has.

R' Yitzchak: Something like that reasoning. Already,

R' Yoel Asher: another chapter of doubts like this.

Halacha 3: One Who Had Five Sons — Five Brothers with Five Sisters

R' Yitzchak: One who had five sons, meaning something like a similar case of an agent where we don't know which one he was mekadesh.

R' Yoel Asher: Another creative complication one can call it. A father had five sons, and all of them made the father an agent lekadesh lahem ishah (to betroth for them a woman), whichever woman he likes. And the father is a sociable man, and he immediately found a father who has the same problem. Says the baal habor (pit owner) to the baal ha'otel (tent owner), you have five daughters? Ah, no. He doesn't want to make all, because he doesn't want everyone to be an ervah to the other,

R' Yitzchak: ervah to the other, ervah to the ervah is. And what he does is,

R' Yoel Asher: He wants to take... ah, he says, one of your daughters should be betrothed to one of my children. Because they both freed him, he freed one of them further. Let me know, no, he now started them further. But he didn't say which one. Yes, he didn't say which one. He didn't say to which one. The other father accepted the kiddushin, so now there's a big problem, because we don't know which one is betrothed to whom. And also each one is forbidden as the brother or sister of the one with whom you now want to marry.

If he accepted kiddushin, each one of them needs five gittin from all the brothers. Each one needs a get from each one. Since they all gave permission to the father to betroth for them.

R' Yitzchak: So each one of the brothers must give five gittin. Each one of them needs five gittin. Yes. That means,

R' Yoel Asher: Each woman needs from each man.

R' Yitzchak: Each man gives five gittin. It comes out to twenty-five gittin that one will now write.

R' Yoel Asher: The scribe finally became rich. If one of them died, if one of them dies, then each one of them needs four gittin. And one must also be concerned about eshet ish, to say about yibum to the market, one must give chalitzah for one of them.

R' Yitzchak: Ah, chalitzah doesn't need to be given by all, because chalitzah is simply a law that not everyone needs to give chalitzah. It's enough that one gives chalitzah, right? That's the difference between chalitzah and a get.

Discussion: Tzarat Ervah by Yibum

R' Yoel Asher: But achot ishto, ah, I mean to say yibum one can't, but achot ishto it seems is not one of the tzarot that exempts from... automatically, I don't know any tzarot yibum.

R' Yitzchak: It would indeed fall under tzarot yibum. It's a safek.

R' Yoel Asher: But it would be a tzarot yibum, it would fall under, there's still only a matter of a... right, right, right.

R' Yitzchak: It's a tzarah, but it's not a tzarah.

R' Yoel Asher: It's literally a middle tzarah. Okay. Yes. Okay.

Halachah: Father with Daughter Ketanah/Na'arah and Bogeret

R' Yoel Asher: Such a case we're going to learn here. A father... who had... **Even if he had a ketanah or na'arah daughter, who is in his authority.** And they already learned that as long as she's a ketanah or na'arah the father can accept kiddushin for her. Afterwards he has a bat bogeret, and the bogeret gave permission to betroth her. The bogeret is not automatic, the father has permission, but the bogeret told him, Father, I give you permission,

R' Yitzchak: I make you a shaliach.

R' Yoel Asher: **And he betrothed his daughter without specification to another,** and afterwards he went and betrothed his daughter without specification, my daughter. Don't know whom he means here? Does he mean... the daughter who gave him permission, or the daughter for whom he has automatic permission. The Rambam says, we say, **the bogeret is not included, unless he specifies and says my bogeret daughter who made him a shaliach.** Here we know that his power to betroth his ketanah and na'arah daughter is much stronger. It's a natural power that he has. It's not something that he lost and got back through shlichut. It's a true power that he has. Unspecified kiddushin is for them. If he means the bogeret and he does it as a shaliach, he would have had to say so.

R' Yitzchak: He can say this at the kiddushin or...

R' Yoel Asher: **Therefore the bogeret is not betrothed and the ketanah is betrothed.** We don't say that it starts.

Rambam Hilchot Ishut - Kiddushin Through the Father: Credibility, Doubts, and Limiting Language

Halachah 9 (Continued) - "I Betrothed My Daughter" by a Bogeret

R' Yoel Asher: Because here we know, you see, that his power to betroth a bat ketanah and na'arah is much stronger. It's a natural power that he has. It's not something that he lost and he got back through shlichut. It's a true power that he has. And unspecified kiddushin is for them. If he means the bogeret and he does it as a shaliach, he would have had to say so.

R' Yitzchak: He can say this at the kiddushin or...

R' Yoel Asher: **Therefore the bogeret is not betrothed, and her sister is betrothed.** We don't say that it now starts... You could have thought that here becomes a new... It becomes again the same dilemma that both are forbidden. We say no, here it's been solved. Here there is a solution.

R' Yitzchak: Because here one knows which one is meant.

R' Yoel Asher: The next few have solutions.

R' Yitzchak: That means, here it's a way, let's make it a chapter, I don't know what...

R' Yoel Asher: Perhaps here it has to do with the language. We learn into the language that when a person says "my daughter",

R' Yitzchak: One doesn't mean "my bogeret daughter", because "my bogeret daughter" he would have had to say explicitly. That means, the case is that it's the same safek, but he did say something.

R' Yoel Asher: A word that

R' Yitzchak: Hints at his intent.

R' Yoel Asher: A language that resolves the doubts or limits the doubts. Did you say tzimtzum halashon? Very good.

Halachah 10 - Two Groups of Daughters from Two Wives: "My Older Daughter" / "My Younger Daughter"

R' Yoel Asher: One who has two groups of daughters from two wives, one has two wives, and with each one he had a group of daughters. And they're all in his authority, they're all ketanot or na'arot, and he has the authority to betroth them. And he betrothed one of them, he took kiddushin for one. And at the time of the kiddushin he said to the husband, "I betrothed to you my older daughter". He said "my older one". But he has two groups of older ones. That means, that he sits with one group, just as there was the tent of Bilhah, Zilpah, Rachel, Leah, he goes into the tent with one of the groups, he calls her the gedolah because she's the gedolah in that group. But when he said "the gedolah", what did he mean?

R' Yitzchak: That's a big problem. In other words, that what? Almost all are gedolot, right?

Discussion: The Three Possible Meanings of "Gedolah"

R' Yoel Asher: The word "gedolah" here can have different meanings. One can say that it only means the one who is certainly certainly the word "gedolah", but one can say "gedolah" like this: in each group there is the oldest of that group, and also there is one group that is older than the younger one. Let's say the father got married and had a few children, and later he got married to another wife

R' Yitzchak: And had a few children.

R' Yoel Asher: So "gedolah" can mean that sometimes he'll call anybody from the older group, he'll call "ah,

R' Yitzchak: One of my older girls".

R' Yoel Asher: Also the oldest of the youngest group he'll also but here, since he says my older daughter without specification, we do try to give meaning that a person when he can, he speaks clearly. When he said gedolah, he means the most gedolah.

The Rambam's Ruling: Only the Gedolah Shebgedolot is Betrothed

R' Yoel Asher: He says the Rambam like this: ***"Even though one could say perhaps he

betrothed the oldest of the older ones

R' Yitzchak: or the oldest of the younger ones

R' Yoel Asher: or the youngest of the older ones who is older than the oldest of the younger ones" - one could say all the options, three options - in practice we rule that when he said it he said it with intention, and he minimized the options by saying the gedolah. "All of them are permitted except for the oldest of the older ones", and everyone is permitted except for the one who is certainly gedolah, who is gedolah shebgedolot, "and she alone is betrothed".**

The same thing will be with ketanah. "And so if he betrothed his ketanah daughter even though one could say perhaps the youngest of the younger ones or the youngest of the older ones or the oldest of the younger ones who is younger than the youngest of the older ones, all of them are permitted except for the youngest of the younger ones". We say that when he says the ketanah he also meant the most ketanah, therefore only the ketanah shebketanot will be forbidden, I mean the kiddushin will only be on the whole thing, and all other ketanot.

R' Yitzchak: And the Rambam now explains both halachot, yes? Why?

R' Yoel Asher: Because when a person says gedolah, he means the "gedolah that there is no daughter greater than her", that there is no greater one. And when he says ketanah, one means "that there is none younger than her".

The Principle: A Person Speaks Clearly When He Wants to Agree

R' Yitzchak: Interesting how it translates. Gedolah means - there is no greater one. Anyone who knows the gadol hador, you know there is no greater than him.

R' Yoel Asher: No, I said earlier that at home it can be that he calls many of them gedolah, based on the three things. But when a person wants to say something specific of certainty, something specific of clarification, he wants to speak clearly.

R' Yitzchak: It's not a matter of belief,

R' Yoel Asher: You mean to say kiddushin. He wants to agree. He wants yes, he's not a crazy father. It happens, we've already encountered crazy fathers here, but when it doesn't seem so, we say the father is not crazy, and he spoke clearly.

R' Yitzchak: That means, that's the clearest, the most limited understanding of what one says, and we go with the most limited. Now one will actually learn the next group of halachot, and built on the first halachot that stand here, that the father can say that...

R' Yoel Asher: We learned that the father has authority of kiddushin on the younger daughters.

R' Yitzchak: Now one can learn that not about he has authority, not because he has authority, but he also has... one believes him if he says,

R' Yoel Asher: Perhaps about this because he has authority,

R' Yitzchak: And he can also make problems in this way. The father can make troubles.

Halachah 11 - The Father's Credibility to Say "I Betrothed My Daughter"

Authority and Credibility Come Together

R' Yoel Asher: No, it also makes sense that when one has given him authority one has also given him credibility. I tell you, the two things come together both in learning and also practically. When you give a person authority, you also give him credibility, that he should come say I carried out my authority.

No, let's see. **The father is believed to say about his daughter before she becomes a bogeret that she is betrothed, and he forbids her to everyone.** The father has credibility to say about his daughter, as long as she's not yet a bogeret, that means as long as she's still a ketanah or na'arah, he can say that he took kiddushin for her, and he forbids her to everyone, and with this he forbids her to all other men because she's already an eshet ish. On this he has credibility.

The Credibility Doesn't Mean We Call the Witnesses

R' Yoel Asher: Later the Rambam will say on all these halachot that it stands that there must be witnesses there, but here we're talking...

R' Yitzchak: He says that it was with witnesses, with everything. One doesn't believe him because of the witnesses, one believes him that there were witnesses.

R' Yoel Asher: If it will come before a beit din,

R' Yitzchak: Will the beit din say "let's bring the witnesses"? No, they won't say. That's the meaning of "ne'eman".

R' Yoel Asher: The Rambam what he says later is only that everyone who says "kidashti" means to say I made a kosher kiddushin, but one never calls the witnesses, because that's the meaning of credibility, he has credibility, one believes him. There are certain halachot that the Torah gave credibility to fathers on their children, regarding lineage, regarding Jewishness. Here it stands regarding kiddushin.

R' Yitzchak: In short, he says about a young girl who is still a ketanah or na'arah,

R' Yoel Asher: She is betrothed and she is indeed forbidden to everyone.

R' Yitzchak: Usually, a normal way, he also says to whom.

Halachah 12 - "I Betrothed My Daughter and I Don't Know to Whom"

R' Yoel Asher: But what if he says like this? **A father who said I betrothed my daughter and I don't know to whom I betrothed her,** I don't know for whom. Someone took kiddushin for my daughter. I don't know who it was. I called out, there was a huge crowd, "who wants?", someone gave. So here becomes a very difficult halachah, **she is forbidden forever to every person,** she is forbidden to every person. **Until the father says it became known to me that to so-and-so I betrothed her,** until the father remembers and he says "yes, ah, to such and such I betrothed her". He has the credibility. He also has the credibility to forget for a long time.

"It Became Known to Me" - Remembering or Figured Out?

No, it doesn't have to be the same place. He can say "I don't know", and a few days later he says "it became known to me", they made a dream question, "to so-and-so I betrothed her". And then she won't be forbidden to every person, she'll be betrothed to that person, they'll be able to live together too, yes? The Rambam says, **and she will need a get from him alone**,

R' Yitzchak: She won't need a get. Again, the father. And even, what does the Rambam say? If the man himself, there's no problem. As long as he hasn't remembered, she needs a get from the whole world.

R' Yoel Asher: Ah, here he goes to the case that usually one needs gittin when there are doubts, one only needs a get from the man. Why doesn't he say that he can as if be able to marry? And indeed he can.

Even After Bagrut - The Maggid Mishneh's Explanation

R' Yitzchak: "And even though it became known to him after she became a bogeret" - here

R' Yoel Asher: The Rambam says a halachah, **even if she became aware of the whole matter that the father became aware, or the father became aware, after she became a bogeret**, she's no longer a na'arah. Because a father only has a right to say that he betrothed her as a ketanah, he has no right to say about a na'arah.

R' Yitzchak: It can be that he doesn't even have any relationship, he has a right to say "I betrothed my daughter when she was a ketanah". But here he already said "when she was a ketanah", he remembered. That the "it became known to him", I said that the "it became known to him" is very precisely worded, because the Rambam said "he is believed before she becomes a bogeret". Not that he has the credibility forever to say that "before she becomes a bogeret", but as long as she's still a na'arah, just as he has the authority, he also has the credibility as long as she's a na'arah. And once he received the credibility, it remains enough to be able to solve it also by saying "so-and-so". That's a simple prohibition,

R' Yoel Asher: A simple permission. That's what the Maggid Mishneh says.

What Does "It Became Known to Me" Mean?

The Rambam says, how he found it out, I don't understand clearly what "it became known to me" means. "It became known to me" - I remembered, it came back to my memory. "It became known to me" is not "I remembered", I don't agree. It must be something else. It can be that there was a certain situation, there were a few men there, he didn't remember whose ring it actually was, or he didn't think of a case how it could be. Well, "it became known to me" - he figured it out, he solved it. It can be that he doesn't need to give any accounting,

R' Yitzchak: That's part of his credibility. He can say "it became known to me". Now,

R' Yoel Asher: How do I hold here?

R' Yitzchak: "A father who said". No,

R' Yoel Asher: I want to say, once the Rambam says "it became known to me", he has the right, it can be that one won't even ask him, "did you remember or did you become aware another way?" Okay, could be.

Halachah 13 - "One Came and Said I Am the One Who Betrothed Her"

R' Yitzchak: He has credibility. Now, not only does the father have a right to say that "I betrothed her", he knows yes, but a second person will also.

R' Yoel Asher: When there's such a case, "a father who said I don't know to whom I betrothed her", and then the situation becomes "forbidden to every person", but a solution comes like this: a person comes and says, "I am the person about whom that one spoke. **I am the one who betrothed her**, I am the one who betrothed her." Then, the halachah is, then "he is believed" is the person who came now, **"he is believed even to marry"**.

R' Yitzchak: Not only believed to... One could have thought, perhaps he's believed stringently to give a get. No, he may have a wedding with

her. **"And he doesn't need another kiddushin"**, he doesn't need another kiddushin.

Discussion: Why Does the Man Have More Credibility Than the Father?

R' Yoel Asher: It seems that the father doesn't have credibility. What? It seems that the father is not believed to marry. The Rambam says by the father that "she needs a get".

R' Yitzchak: But the second one says that he has more credibility, because he has a chazakah in addition, as it stands here. That's what it says here.

R' Yoel Asher: Why won't the "it became known to him" be enough for that one to acquire?

R' Yitzchak: I don't know, I'm telling you what the Rambam says. Why I don't know? It doesn't say. I thought that in the

R' Yoel Asher: case when "it became known to me that to so-and-so I betrothed you", that one agrees, and that one says it's true, and I want to live with her, that one should be obligated with a get. But perhaps there one doesn't agree to anything, but a get one is obligated to give.

Rambam Hilchos Ishus Chapter 9 – Credibility in Kiddushin (Continued)

R' Yitzchak: Perhaps that's why it's written this way. Okay, let's move on. What dispute is there? Two Jews come.

The Practical Advice for the Woman

R' Yoel Asher: I heard a good opportunity. There's a woman who has already

R' Yitzchak: Set up the credibility already. And so "ba'u shnayim" (two came). I will have learning this guide. What do you need? What? So go read something.

R' Yoel Asher: I mean, here the father will also remain stuck. When a person comes to say "ani isha kidashtiha" (I betrothed this woman), the father won't be able to say anything either, because if the father said "eini yodea" (I don't know). He won't now be able to suddenly say, but I remember for sure that you weren't the one. And because of this I thought that you don't like

when one thinks practically, but I do think, yes, that it's possible that the Sages found here a good way to help the woman. After all, we don't want a situation of a woman who is forbidden forever. So we have advice for this, that when he comes, the father is now already

Rambam Hilchos Ishus Chapter 9 – Credibility in Kiddushin (Continued)

Law: Two Men Claiming "I Betrothed Her"

R' Yitzchak: What is this? Two come,

R' Yoel Asher: Yes? "Shnayim" (two), two people came to say that I'm the one the father took kiddushin from "ani kidashti hu" (I betrothed her), and the other will say "ani kidashti hu" (I betrothed her). So both cannot marry her, she can't be married to one man but rather two men, but two men give a get. And therefore, they can make a deal between themselves that one should waive his claim, "echad kotev get v'echad konas" (one writes a get and one marries). And the previous credibility will be enough for kiddushin.

What happens here? It went the opposite way. One came and said "ani kidashtiha" (I betrothed her), and had a wedding. The second came and said, no, "ani kidashtiha" (I betrothed her). Then the second is not believed, because the first was believed, and kiddushin were already made.

R' Yitzchak: Both were already believed. Now we don't believe both. You need to better explain why.

R' Yoel Asher: Because we see that the credibility was good to make a stringency that one must give a get, but the credibility is not good to prevent now when a person has already had a wedding.

R' Yitzchak: Right, but why? You need a logical explanation, it's not so easy to explain. I understand that common sense is that it's not fair. But there's something like this, that now he already has like a chazakah (presumption), he's already established that she's married to this person, he can't change the status somehow. Something like that.

R' Yoel Asher: As if he has a little credibility, but not enough credibility.

R' Yitzchak: Something like that, the halacha has already been decided. Some kind of chazakah in this situation. Yes. Okay, so this is while when the father said... What about the woman herself?

Law: A Woman Who Said "I Was Betrothed But Don't Know to Whom"

R' Yoel Asher: The woman herself said "kidashti, v'eini yodea et l'mi hitkadashti" (I was betrothed, and I don't know to whom I was betrothed), I don't know from whom I received kiddushin.

R' Yitzchak: That means, you yourself can make the same trouble, not just the father.

R' Yoel Asher: You also don't know. "V'ha'acher v'amar ani isha kidashticha" (and another came and said I betrothed you), one comes and he says, it's me. The person is believed, why is he believed? Earlier we learned when it's the father's action he's believed. But here he's "believed to give her a get,"

R' Yitzchak: He's not believed more than that,

R' Yoel Asher: "V'tiheyeh muteres l'chol adam chutz mimenu, aval eino ne'eman lichanos" (and she'll be permitted to everyone except him, but he's not believed to marry). He's not believed to have a wedding with her.

Discussion: Why Isn't He Believed to Marry?

Why? Because we're afraid that he's lying. Why is he lying? Because "shema yitzro takfo" (perhaps his desire overcame him), he wants to live with her. Hey, won't she also be able to say "I remember it wasn't you"? Or "v'hi targil lo kedai l'hatira" (and she'll agree with him in order to permit herself).

R' Yitzchak: She also agrees. Why? Because she needs a heter (permission), she's stuck.

R' Yoel Asher: Why should she agree? I understood that once she said "eini yodaat" (I don't know), she's no longer relevant, because she says "I don't know". You don't know, you don't know. I see that she can still say, "You're

certainly not the one. I remember it wasn't an old man, I remember it wasn't a black person, it was a blonde". It's a bit interesting to me. The "eini yodaat" means "I don't know", that's it, she can't say anything now.

R' Yitzchak: She won't go live with a person when she believes she knows it's an eshes ish (married woman). That's the question. Now she'll perhaps go, yes, because she wants to. That's the question. What interest he has to lie is obvious. On the contrary,

R' Yoel Asher: We need to understand why by the

R' Yitzchak: Father he doesn't have. Because then we have the father... One doesn't live with the father, one won't be bo'el (have relations with) the father,

R' Yoel Asher: One will be bo'el with the wife.

R' Yitzchak: Why isn't there any "yitzro takfo"? There is, yes, but since the father already said that the father won't cooperate with him, therefore it's less practical. But the woman will cooperate with the man. Why will the woman cooperate?

R' Yoel Asher: Because she's stuck, she can't marry anyone.

R' Yitzchak: I know that she doesn't have a yetzer hara (evil inclination), she didn't think up the deed,

R' Yoel Asher: But it can only be like... The woman doesn't want to be an eshes ish, and the man has a simple "yetzer hara takfo". It doesn't say "v'hi targil lo" because she has "yetzer hara takfo",

R' Yitzchak: Because he came. Because he approached,

R' Yoel Asher: Yes, she didn't choose someone. Perhaps this is also a concern that she'll tell someone... I want already. I don't know by the father, that's not there very well.

Clarification: "Eini Yodaat" Doesn't Mean One Can't Say Anything

Ah, so that's what we were a bit stuck on, when one says... "v'eino yodea" that another person

comes. Michal meant perhaps that you can't say more, because you said "eino yodea". But it's not necessarily so. Even when he says "eino yodea", he can say, "But I remember it wasn't an old Jew".

R' Yitzchak: The case of "ish amar v'eino yodea" (a man said and doesn't know), and afterwards he remembered, isn't written here. In this siman this law isn't written.

R' Yoel Asher: No, but here you see clearly that in such a case it turns out that

R' Yitzchak: The other should cooperate. Again,

R' Yoel Asher: It's not written out. What if she protests?

R' Yitzchak: Will we force her to marry him? There's no such thing.

R' Yoel Asher: She'll say it's not such a thing. But the credibility will say that she's now a moredet (rebellious). I don't know what, if the din of credibility said that he has a din of credibility... He's right, everything is before my shiur. Afterwards, I thought like here they caught the person. The same crazy person who said "kidashti v'eini yodea l'mi" (I betrothed and don't know to whom), and the minute he said "eini yodea l'mi", the door now opened. That a second one knows, yes, the other can come in and say I'm the man.

R' Yitzchak: Yes, sure, obviously. Something doesn't make sense.

R' Yoel Asher: Okay. I don't know, so they didn't say on one side. Okay, we're healthy.

Law: Shavya Anafshei Chatichah D'Isura (Making Oneself Like a Forbidden Piece)

Next piece. A man says to a woman... now,

R' Yitzchak: Further we'll learn credibility, but they'll see that now we'll learn credibility that only works one way. Until now they learned credibility where it's two-sided, a father it's on his daughter, a woman it's on herself because she doesn't know. What deed is there that

R' Yoel Asher: Perhaps there are other types of credibility? Credibility is enough on...

R' Yitzchak: No, there's a dispute, there's a dispute, and each one can harm himself, not the other with his credibility. Right? Okay.

R' Yoel Asher: "Ha'isha shel omed isha" (the woman of a standing woman). I betrothed you with credibility. So he has enough credibility for himself. So "**hu asur bikrovoseha**" (he's forbidden to her relatives), he won't be allowed to marry, for example, her sister or her mother. On what is he forbidden to her relatives? Because she never agreed. So it's only he who made himself a problem and made himself alone. On this we say "shavya anafshei chatichah d'isura" (he made himself like a forbidden piece).

R' Yitzchak: But it's the opposite, "kidashticha" (I betrothed you).

R' Yoel Asher: On what is "lo kidashticha" (I didn't betroth you)?

R' Yitzchak: The same thing is "hu asur bikrovoseha" (he's forbidden to her relatives),

R' Yoel Asher: And "hu asur bikrovoseha". Let's... It's clearly a stringency, because regarding her we decided this way regarding her this way, yes? A stringency like a penalty...

R' Yitzchak: What does "shavya nafshei" mean? Not a thing, it's a "shavya nafshei", you say that marriage will only be a problem, you should actually conduct yourself this way.

R' Yoel Asher: Just a conduct, but it's certainly not a clarification or something.

R' Yitzchak: I don't know what it means.

Discussion: Why Doesn't Shavya Nafshei Work on the Other?

R' Yoel Asher: Because the deed can't be both, it's only one of them that's true. And the minute we were stringent on him... It's not required that we were stringent on him because you said that we need to be concerned that this is the reality. Because then we wouldn't automatically...

R' Yitzchak: He's the one who has the concern.

R' Yoel Asher: He has it. Okay, he said the concern, tell us that we need to be concerned about it. It means it has enough reality. If it has enough reality,

R' Yitzchak: It should also obligate her.

R' Yoel Asher: It doesn't have enough reality. It has a din that he needs to conduct himself this way. Okay.

R' Yitzchak: But we're not dealing with the question. It's a simple question. He holds that it's so. It's so, you're not allowed. I don't understand. Why did you say it? It's so. That's your problem, that you won't be able perhaps in the end to marry her, you say she's forbidden. "Kidashticha" – you don't have credibility, you have credibility on yourself alone.

Law: He Says "Kidashticha" – She Says "Lo Kidashta Ela Biti" (You Only Betrothed My Daughter)

R' Yoel Asher: Okay, now a new twist to the deed. A person says "kidashticha" (I betrothed you), I betrothed you. The woman says, "No, no, no, you're mistaken, you're very close, but it was my daughter. Lo kidashta ela biti" (you only betrothed my daughter), you betrothed my daughter."

What then? So **"asur bikrovos gedolah"** (he's forbidden to the relatives of the older one), because he said "kidashticha". "Gedolah" (older one), by the way,

R' Yitzchak: Is said for a woman.

R' Yoel Asher: Okay. **"Gedolah muteres bikrovav"** (the older one is permitted to his relatives), because she doesn't admit to it, she says "lo kidashta osi" (you didn't betroth me).

R' Yitzchak: And what about the daughter?

R' Yoel Asher: And he's **"muter bikrovos habat"** (permitted to the relatives of the daughter), because he never forbade. And the daughter is also **"muteres bikrovav"** (permitted to his relatives),

R' Yitzchak: Because she never said.

R' Yoel Asher: The mother only has credibility on herself to be stringent, not to...

R' Yitzchak: For those things. The same thing opposite.

R' Yoel Asher: **"Kidashti es bitech"** (I betrothed your daughter), and she says **"lo**

kidashta ela osi" (you only betrothed me). The same thing, **"asur bikrovos habat"** (he's forbidden to the relatives of the daughter), and the daughter is **"muteres bikrovav"** (permitted to his relatives), and he's **"muter bikrovos ha'em"** (permitted to the relatives of the mother),

R' Yitzchak: And the mother is **"asura bikrovav"** (forbidden to his relatives). Why? Because she says "kidashta osi" (you betrothed me).

Great Principle: All Kiddushin Claims Are When There Were Witnesses

The holy Rambam says a great principle

R' Yoel Asher: On all these laws that we just thought, what's going on? Where are the witnesses? Says the Rambam, **"V'chol elu she'to'anin hakiddushin"** (and all these who claim kiddushin), that I gave to someone "v'eini yodea l'mi" (and I don't know to whom), what's going on here? What about witnesses? Says the Rambam, we're talking **"b'she'ta'an hato'en shehayu sham kiddushin bifnei edim"** (when the claimant claims that there were kiddushin before witnesses). If there were witnesses, where are they? **"V'halchu l'medinah acheres o meisu"** (and they went to another country or died),

R' Yitzchak: The witnesses died. Ah, we see from the Rambam that if there are witnesses, yes,

R' Yoel Asher: We would ask them, yes, we would...

R' Yitzchak: Yes, he explains that there were witnesses, he has credibility that there were witnesses. We ask, where are they? I know,

R' Yoel Asher: I traveled on business to China. The Rambam says, that itself must also make sense. A person says there were witnesses, suddenly they both died. Right after that came a

R' Yitzchak: Truck and knocked them down. Why not? That's the credibility. No, because you see here that the credibility still needs to make sense. If there are witnesses, the credibility is still a stringency, it's still a... It wasn't another option. No, no. The credibility isn't maximum credibility,

there are still better ones. Beis din still has better claims. I didn't understand that way, I understood that the Rambam means to say with this, not that it needs to make sense, that it needs to be a halachic...

R' Yoel Asher: Kiddushin without witnesses is no kiddushin. But when he says the words "v'halchu l'medinas hayam o meisu" (and they went overseas or died),

R' Yitzchak: You also made the inference

R' Yoel Asher: That he should

R' Yitzchak: Understand not like

R' Yoel Asher: He should be witnesses. But even "hodu shneihem shehayu hakiddushin b'lo edim" (both admitted that the kiddushin were without witnesses) it's obvious that it's no kiddushin.

Law: A Woman Says "Kidashta'ni" and He Says "Lo Kidashti" – We Request That He Write Her a Get

And the same thing, every time when a woman said to a man "kidashta'ni" (you betrothed me), ah, excuse me, says the Rambam, **"B'chol makom she'tomar isha l'ish kidashta'ni v'hu omer lo kidashti,**

R' Yitzchak: **Mevakshin mimenu"** (we request from him), we ask him. Earlier we learn laws of "zo asura bikrovav" (this one is forbidden to his relatives) and so on.

R' Yoel Asher: And a person shouldn't have credibility on another but only on himself. That means, a person can't say "kidashta'ni", therefore obligations should go on you. So technically a person can walk away. He says, but the Rambam, it's not so. When one says to a man "kidashta'ni", even if he says "lo kidashti" (I didn't betroth), we ask him but he should be nice. Until now we spoke halachically, but here is such a takanah (enactment). We ask him **"sheyichtov lah get kedai l'hatira lish'ar ha'am"** (that he write her a get in order to permit her to other people). Why? **"She'ein lo b'zeh hefsed"** (because he has no loss in this). There's such a thing as helping a person when you have no loss, that

"zeh neheneh v'zeh lo chaser" (this one benefits and this one doesn't lose).

R' Yitzchak: That means, here we see that to be a divorcé is no problem. Tell your friends.

R' Yoel Asher: Ah, here a person could say like this, ah, I catch what you're saying, it's good. Here we see that... He becomes a divorcé. No, that he becomes nothing. She becomes a divorcée. He becomes nothing, nothing changed for him, nothing happened here. There's no such thing as a divorcé. He's a man, he's single.

R' Yitzchak: Right. A woman, that means, something did happen, yes...

Discussion in Hilchos Kiddushin: "Lo Kidashti", An Agent Who Betrothed Her for Himself, and Cancellation of Agency

Continuation of Law: "Hu Omer Lo Kidashti" - Din of Get From Himself and Kesuba

R' Yitzchak: That means, here we see that to be nothing is no problem. Tell your friends.

R' Yoel Asher: Ah, here a person could say like this, ah, I told you, it's very good. Here we see that

R' Yitzchak: He becomes nothing.

R' Yoel Asher: No, that he becomes nothing. She becomes a divorcée, he becomes nothing. Nothing changed, nothing happened here. There is such a thing as nothing. He's a man, he's single.

R' Yitzchak: Right, a woman. Something did happen, yes. If it were, no, it's a bit more complicated. A normal divorcée is something, yes, he's forbidden to his wife's sister,

R' Yoel Asher: He's still a relative of hers.

R' Yitzchak: But he doesn't have the credibility,

R' Yoel Asher: He doesn't believe.

R' Yitzchak: And he doesn't even become forbidden to her relatives.

R' Yoel Asher: It's only such a stringency that she should become, it's a permission that we should save her so she can marry.

R' Yitzchak: And he won't marry

R' Yoel Asher: Her either.

Din "Nasan Lah Get Me'atzmo" - Admission and Obligation of Kesuba

R' Yoel Asher: That we ask him once to give a get, and he does it because he wants to do a favor for a Jew and it doesn't obligate him at all, is when we asked him. But if he said "lo kidashti" (I didn't betroth), but you know what, let me give a get, **"v'nasan lah get me'atzmo"** (and he gave her a get from himself), it's simple that this is some kind of admission. Perhaps we're not talking in the same manner when he says certainly not and I'm only doing you

R' Yitzchak: A favor.

R' Yoel Asher: When he says "lo kidashti" and he gives a get from himself, then **"kofin oso litein kesuba"** (we force him to give a kesuba), because if you're admitting with this, and by giving a get you're admitting, that you need to give a get you also need to give a kesuba.

It's actually interesting, because if the person himself does this, before the "mevakshin mimenu" (we request from him), he himself is the good soul, then he's actually not then. But "nasan lah get me'atzmo", we can say he didn't say "lo kidashti".

R' Yitzchak: Yes, but you understand physically.

R' Yoel Asher: He didn't say, I actually want.

R' Yitzchak: He said "lo kidashti" (I didn't betroth her), I don't understand.

Discussion: Question Regarding a Talmid Chacham Who Knows the Halacha

R' Yoel Asher: Eh, it could be... We're answering here a case... A woman said "kidashtani" (you betrothed me), and he says, okay, come,

R' Yitzchak: Let me give you a get. No, in the whole case before...

R' Yoel Asher: He doesn't agree. He says, normally when a person says "kidashticha" (I betrothed you), if he says yes, then beit din obligates him, that he shouldn't be a rebel, that

he should give her food, clothing and conjugal rights, and so on. So it must be that he didn't agree to live with her.

R' Yitzchak: He doesn't agree, because he says yes that

R' Yoel Asher: He should be ready to give a get.

R' Yitzchak: He says "lo kidashticha" (I didn't betroth you). This is all under the assumption, "he says lo kidashticha." It must be. But something, somehow, we take more seriously

R' Yoel Asher: To give a get is an admission. I want enough that he should have to give a ketubah.

R' Yitzchak: It's a bit strange what I'm saying.

R' Yoel Asher: Okay. No, I mean to say this "if he gave her a get of his own accord," he doesn't say much about the "lo kidashti," but it's certainly, we're speaking when he doesn't say I'm doing it to do a favor like "we request from him."

It's if the Jew is a talmid chacham, yes? A talmid chacham comes to whom they say "kidashtani," and the talmid chacham knows that it's not true, and he says "lo kidashti." The talmid chacham knows that further it says in the Rambam that they'll give a get. One can't say, I only gave her a get because I wanted to,

R' Yitzchak: "Since he has no loss."

R' Yoel Asher: It seems that the "he has no loss" is also only something that beit din does,

R' Yitzchak: "We request from him."

R' Yoel Asher: If beit din says "give a get in order to permit her," then it's a talmid chacham.

R' Yitzchak: If a talmid chacham knows he also knows the halacha, and he knows not to give a get either, because he has to pay the ketubah.

R' Yoel Asher: He says, he didn't say get, like he didn't talk about Shabbat, he makes some trick, he makes an agent.

Halacha: An Agent Who Betrothed Her for Himself

R' Yitzchak: Okay, until now we've learned about cases where there's a dispute between the two people whether they are betrothed, and it's

uncertain. We're learning a case when the agent was a scoundrel. An agent who grabbed,

R' Yoel Asher: You know what it's called? A rogue agent.

R' Yitzchak: A rogue agent. It's he took for himself. The holy Rambam says thus, **"One who makes an agent to betroth a woman for him,**

R' Yoel Asher: and he went and betrothed her for himself" -

R' Yitzchak: A person made an agent,

R' Yoel Asher: Instead of the agent fulfilling his mission, he betrayed and he took the woman for himself.

R' Yitzchak: What is the halacha?

R' Yoel Asher: She is betrothed to the agent. He indeed did a very despicable thing, but he had intent, she had intent, she is betrothed to the agent. We're speaking about his ring. **"And anyone who does such a thing, or similar things in other matters of buying and selling"** - meaning someone sends someone to arrange for him to be able to buy the house, he goes and he buys it for himself, and such kinds of things - **"is called wicked."** What can you do? You can't do anything, but you can shout "wicked." You can cry, you can say "mi shepara."

Discussion: What Does "Called Wicked" Mean?

R' Yitzchak: No, it means this.

R' Yoel Asher: He means that one may not do it, therefore he says that one should not do it.

R' Yitzchak: No, "called wicked" is a real halacha. Let me explain to you. That means a poor person who turned over a cake, yes? "Called wicked." Whoever it means, that the editor should buy the newspaper, and every time they write that so-and-so is making a wedding, he should say "the wicked so-and-so is making a wedding," because it's all in the Shulchan Aruch, "called wicked." This means that one may call after him in the street, "wicked." That's the meaning.

R' Yoel Asher: I mean you can't write in the newspaper, but the good place where you would write is in the Rambam, everyone in their Rambam. At the place where it says "called wicked," he can write in people who shouldn't do such things, because newspapers say, I'm mixing into your affairs.

R' Yitzchak: No,

R' Yoel Asher: I don't agree. No, I don't agree.

R' Yitzchak: No, I don't agree.

R' Yoel Asher: A person can't call another from the Torah,

R' Yitzchak: Everything with the "called wicked" you should give back to me. Normally if a person calls you wicked, call him to a din Torah, or you can sue him for it. The person calls you wicked, he has a right.

R' Yoel Asher: Yes, you remind me though of the trick, when one can't rule on a... the court doesn't have jurisdiction over something, one makes a civil lawsuit whether Kastner was a traitor or not, one makes a civil lawsuit about lashon hara, and there one must rule whether he spoke the truth.

It's indeed a strange thing, yes? She is betrothed. He can do nothing. What can he now do? Demand from him... because you should be betrothed. Ah, and apparently, according to the law of "called wicked," you'll say, if you only want me to be a wicked person, you'll give a get to the woman and let the first person have a wedding with her.

R' Yitzchak: Could be, I don't know, perhaps one can't force it. That's another topic. Perhaps you don't want that one anymore? He doesn't want the woman after the other one had her? It's a different topic.

R' Yoel Asher: It's we can demand from that one to conduct himself according to law and custom, even with the law of acquisition.

R' Yitzchak: No difference. "Called wicked" means I have a right? It's legitimate that you say, I mean that you're right. If I write about him, if I to the newspaper, and I write about him "the wicked rabbi," and it says from the chief rabbi

like they conduct themselves in Satmar, then if the wicked rabbi grabbed his position from another who was the agent, one may. If not, one may not. There are laws.

R' Yisrael Lanter said that it says in similar laws, one has complaints in his heart, yes? Also not on this case, he made an agreement verbally, one can only have complaints. R' Yisrael Lanter said, from here we see that there are laws. On that one you may not have complaints, on that one you may. But I mean that it means practically,

R' Yoel Asher: The beit din can rule such things. Yes,

R' Yitzchak: Now, and now, it comes back,

Dispute Between Agent and Woman: To Whom Is She Betrothed?

R' Yoel Asher: The agent says, the first betrothal that I gave, that was for myself. And the woman says to him, what something? Umm... the man who received the betrothal says, no, I meant to say for the sender. Has he already told that he's an agent or what? There was a case when they

R' Yitzchak: Knew that he's an agent.

R' Yoel Asher: They knew that he's an agent, but he said, in practice, at the last minute I said, I want to betroth her for myself.

R' Yitzchak: But the woman is,

R' Yoel Asher: No, I meant because I knew myself as an agent. Yes, Eliezer the servant of Avraham came.

R' Yitzchak: Now, you're adding, you keep on adding parts to the story from the reality which doesn't help.

R' Yoel Asher: Why is the woman?

R' Yitzchak: This is a dispute. He says, I betrothed you myself? The woman says, no, I was betrothed

R' Yoel Asher: To the first one. So now, it depends what kind of agent was the agent?

Distinction: If the Agent Acted With Witnesses or Not

R' Yoel Asher: If the agent did not act with witnesses, that means, when a person makes an

agent to betroth a woman for him, one can do it with witnesses, and they learned in my room

R' Yitzchak: That one doesn't need to do it with witnesses. They learned that an agent doesn't need witnesses.

R' Yoel Asher: Right, only an agent for receiving needs witnesses. So if the agent did not act with witnesses, then the agent is forbidden to her relatives, we'll believe the agent stringently, he'll be forbidden to her relatives, and she is permitted to his relatives, and the woman is forbidden to the relatives of the sender, and the sender is permitted to her relatives. Makes sense? That means, we won't believe anyone to be able to live with. We also won't believe the woman...

R' Yitzchak: The same law of making oneself a forbidden piece.

R' Yoel Asher: Each one is left out.

R' Yitzchak: What he said, he should conduct himself as he said.

And if the agent was established with witnesses,

R' Yoel Asher: But if there are witnesses, then we believe yes that the agent wouldn't go betray the sender so strongly. That's how I learned it simply. We don't believe him that "I betrothed her for myself." We believe perhaps now he got the chutzpah, but at the time of the act a person won't go betray an agent that was made with two witnesses. So she is betrothed to the first one.

R' Yitzchak: This becomes a presumption, because we know that there's an agent.

R' Yoel Asher: So what we learned earlier, there's a presumption an agent fulfills his mission, has nothing to do with the agency being done through witnesses.

R' Yitzchak: If it's established with witnesses, it's more established that he fulfills his mission. So the agent will tell us.

When the Woman Says "I Don't Know to Whom I Was Betrothed"

R' Yoel Asher: What happens in another case? When she is the one who says "I don't know to

whom I was betrothed, whether to the agent or to his sender."

R' Yitzchak: That means, earlier we said that she knows for certain to the sender, but she doesn't know.

R' Yoel Asher: The agent says for me, and she says I don't know. So if the agent was not established with witnesses, then she is betrothed to the second one, not only permitted and forbidden to her relatives, but we actually believe him, because he says so, and she doesn't contradict him,

R' Yitzchak: And there's no presumption.

R' Yoel Asher: And if it was established that he's his agent, then we'll only believe him stringently, both give a get. And if they want, if they want to work it out between themselves, one can give a get and one can marry.

R' Yitzchak: This is the topic of every married woman in doubt

R' Yoel Asher: One can do so.

Halacha: Cancellation of Agency - Agent for Receiving

R' Yitzchak: Now we'll learn another way. Let's make it clear. So until now we've learned when the agent grabbed, he's a poor person who turned over a cake, he grabbed it, there's a question whom one may. First the normal law we learned that he may not, but it works. And second we learned when it becomes a doubt. Now we're going to learn a new way how there can be a conflict with the agent, that what? She canceled the agency.

R' Yoel Asher: Earlier we already

R' Yitzchak: Learned a case that she betrothed herself in the meantime. Now there's a new way how to make a problem in the meantime.

R' Yoel Asher: An agent can go wrong by him betraying, dying. Now we're going to say when she cancels the agency. The agent himself can't cancel? That I say I'm no longer an agent for that one?

R' Yitzchak: He simply can't do it. Something there's a presumption that he...

R' Yoel Asher: Right. You have an agent to betroth her. A woman made an agent that the other should receive betrothal for her. And he went and he received betrothal for her. But in practice, when he went to the one betrothing, she canceled the agency, "and she retracted," she withdrew. The Rambam here doesn't tell us, she had to say it in front of people, she can do it with thought,

R' Yitzchak: She had to say it. Yes,

R' Yoel Asher: Apparently she can cancel even without doing anything. So now the question, "and it's not known whether before he received betrothal for her she retracted or after the betrothal," we don't know when she withdrew,

R' Yitzchak: Before he received betrothal from a...

R' Yoel Asher: The question whether she is betrothed. "She is betrothed in doubt." The same thing, "and so the man who made an agent and retracted." The same question.

R' Yitzchak: Very good. Now,

Moving to a New Topic: "One Who Betroths One of Five Women"

R' Yoel Asher: "One who betroths one of five women."

R' Yitzchak: It's the wrong place for this law,

R' Yoel Asher: It should be earlier, right? He wants to enter here into the topic of in order, he didn't want to mix it down in that topic, but before he goes to a completely different topic like kol (voice), he wanted to still complete it.

R' Yitzchak: I hear what you're saying, it's a new law. That means, the law will be similar in all laws.

Kiddushin: One Who Betroths One of Five Women, Betrothal Through Relations, and a Voice That Was Established in Beit Din

Continuation: An Agent Who Retracted

R' Yoel Asher: And so the man who made an agent and retracted, the same thing will be.

R' Yitzchak: Very good. Now,

Halacha: One Who Betroths One of Five Women and Doesn't Know Which One He Betrothed

R' Yoel Asher: R' Kadosh, you learned earlier about "one of five women."

R' Yitzchak: It's the wrong place for this law,

R' Yoel Asher: It should be earlier, right? He wants to enter here into the topic of ketubot. He didn't want to mix it in the middle of that topic, but before he goes to a completely different topic, like "kol," he wanted to still complete it.

R' Yitzchak: I hear what you're saying. It's a new law. That means, the law can be similar in other,

R' Yoel Asher: All laws, apparently, yes. A difficult law for the Raavad. It crawls on this, now one must learn. **"One who betroths one of five women,"** yes, they already had such a thing, one of five, **"and he doesn't know which one of them he betrothed."** What they learned, he must give each one of them a get and so on. **"And each and every one says 'you betrothed me,' he is forbidden to the relatives of all of them, and gives a get to each and every one."**

Law of Ketubah: He Leaves One Ketubah Among Them

But what happens regarding the ketubah? If we say that he must give each one a get, we'll say that he must give each one a ketubah. But no, not the ketubah. Because the fact that he must give each one a get is a stringency, a doubt. But he only certainly betrothed one of them. He only needs to give one of them a ketubah,

R' Yitzchak: **"And he leaves."** It's one of them, **"he leaves one ketubah among them."** He gives a thrown ketubah somewhere between them,

R' Yoel Asher: They'll have to work it out, they'll divide it or forgive each other.

Discussion: What Does "Leaves Among Them" Mean

R' Yitzchak: "Leaves among them" means that he should all together regarding giving the

ketubah, right? He must call them all together to be an assembly and say "here is the ketubah,"

R' Yoel Asher: And run away. And again, if he can work out that someone should be the agent and divide it among all,

R' Yitzchak: He certainly can. That's the whole idea.

R' Yoel Asher: "Leaves among them" means that he should be a minimization, even if he does that, he's already fulfilled his obligation. Even if he didn't work out between them. He doesn't work anything for them.

R' Yitzchak: He goes... He says that it means we go to the beit din, "among them." Not clear.

R' Yoel Asher: So says the Ritva.

R' Yitzchak: He must pay one ketubah, they take from him one ketubah, but they don't give it to anyone.

R' Yoel Asher: But it also seems like he doesn't have to be the one who clarifies how it's divided. It's some other person who

R' Yitzchak: Must clarify. It must be a claim, it's indeed a "the burden of proof is on the one who seeks to extract from his fellow." He's certainly not obligated more than one ketubah, that's indeed the reasoning. The question is only for whom?

R' Yoel Asher: Among the whole group they could... Basically it says there, among the whole group they can claim one ketubah. If all five women want, they can do what they want with one ketubah.

R' Yitzchak: Apparently. That's the law, he brings, it's the same law on everything. Theft and I don't know to whom, the same thing. If I don't know, I must pay one theft, but to whom, that's their problem to figure out.

Halacha: He Betrothed One of Five Women Through Relations — Penalty of the Sages

R' Yoel Asher: So, the Rambam says, this is in a normal case of one who betroths one of five women, as much as one can call betrothing one of five women, a normal case. But **if he**

betrothed through relations, he betrothed one of five women through relations. Here the Sages penalized such a person, besides the fact that he gets hit for being someone who betroths through relations, they found here another way to fix him, **they penalized him that he must give a ketubah to each and every one**. The Sages penalized that in such a case he must give a ketubah to each one of them. And why?

Discussion: The Penalty of Betrothal Through Relations

R' Yitzchak: Now the Rambam asks a question, for a ketubah one must indeed have a ketubah?

R' Yoel Asher: Ah. If I betrothed one of them, let the woman come show the ketubah that I gave her.

R' Yitzchak: The Rambam says, the matter is known that the whole

R' Yoel Asher: Law that we spoke about, I must speak in a case,

R' Yitzchak: They claim they at least,

R' Yoel Asher: **that the ketubah he wrote to one of them was lost**, the ketubah was lost.

R' Yitzchak: But what?

R' Yoel Asher: **And each and every one says I am the one you betrothed and wrote to me and my ketubah was lost.**

R' Yitzchak: **Right, you understand? So if there's no kesubah, the whole problem doesn't begin. Besides that, it won't even be a problem for kiddushin perhaps, because we'll know who has the kesubah, and presumably she's also in doubt. That's what the Rambam says, you say that the Raavad doesn't agree.**

R' Yoel Asher: What should I do? But by kiddushei bi'ah, it's a very interesting knas (fine), because the knas isn't connected with the aveirah (transgression). And if there are a thousand women there, he gave there...

R' Yitzchak: Kiddushei bi'ah, let's hear the agreement.

R' Yoel Asher: I understand that the kiddushei bi'ah brings the knas for the bi'ah.

R' Yitzchak: Here there was a Jew who was mekadesh with bi'ah, and he doesn't remember whom. Ribbono shel Olam (Master of the Universe), are you a normal person?

R' Yoel Asher: Ah,

R' Yitzchak: He gets more punishment than just being mekadesh with bi'ah. Being mekadesh with bi'ah is one problem,

R' Yoel Asher: He doesn't even know which one he was mekadesh? "V'lo yada b'shichvah u'v'kumah" (and he didn't know when lying down or rising),

R' Yitzchak: So "v'lo yada." Certainly he must give a kesubah to all.

Transition to New Topic: Kol

R' Yitzchak: So basically, until now they've learned a topic about the trustworthiness of a person,

R' Yoel Asher: Now one can learn another day. I need to reckon. He may give, but I don't know them, they need to admit.

R' Yitzchak: No, no, I don't agree. Okay. "Eini yodei'a" (I don't know), they don't know yet. Now, they hold that "kol achas omeres ani" (each one says it's me). That's the case.

R' Yoel Asher: Each one should receive by,

R' Yitzchak: But only one. One leads that they're liars, but that's their problem. They say, I claim that it's coming to me. We need to reckon a bit. I need to finish Torah Yachol. We'll go a bit quickly.

Introduction: What is "Kol"

R' Yoel Asher: We're going to learn here about kol. Kol means when one says about a person that she's an eshes ish (married woman). Here we'll learn what it means. Not every rechilus (gossip) is called a kol.

R' Yitzchak: Let's say it in Yiddish. Until now we've learned ways that we think that person is mekudeshes because someone says so, it's a hoda'ah (admission). Now we're going to learn... That is, witnesses, the clearest way... Let's say

even clear. The clearest way is the two witnesses who saw the kiddushin. Every kiddushin needs witnesses, and essentially, simply, their job is to solve the problem. But the reality is that there are many ways that without witnesses is also. That is, just a hoda'ah without there having been witnesses is nothing. But when there's a certain hoda'ah or a certain trustworthiness that there was a kiddushin, and in that kiddushin there were witnesses according to halachah, we've learned until now. Now we're going to learn that even less than that, there's sometimes when we believe that there's a kiddushin, which is called "yatza kol" (a report went out). Right?

R' Yoel Asher: From this comes to explain what comes in here.

Halachah: Kol She'huchzak B'Beis Din

R' Yoel Asher: He's going to say what kol is. **"Harei zo b'chezkas mekudeshes"** – it means that she won't accept kiddushin from another man and the like, **"v'af al pi she'ein sham re'ayah berurah"** (and even though there's no clear proof). It means, even the kol is as we'll see, such a kol isn't that a person says "I saw," because that would be called witnesses. It's only some such weak proof.

The Rambam says, what does kol mean? Kol means only a kol that is **"huchzak b'beis din"** (established in beis din). **"Kol kol shelo huchzak b'beis din ein choshin lo"** (Any kol that wasn't established in beis din, we don't worry about it). That is, beis din used to keep their protocol, and a kol means that it came to beis din that people are talking that the

R' Yitzchak: Two people had a wedding. That means "kol she'huchzak b'beis din." It doesn't mean that witnesses will come to beis din, but rather that a kol will come to beis din.

R' Yoel Asher: It was reported to the beis din the kol. **"V'cheitzad hu hakol shetechezek bo she'hi mekudeshes?"** (And how is the kol that she's established as mekudeshes?)

R' Yitzchak: Reported doesn't mean that the beis din has a list. Now, when one judges that the

woman is mekudeshes, one must come to beis din.

R' Yoel Asher: And he sees that there's such a thing as a kol comes to beis din, and a kol that just what people talked about is worth nothing.

R' Yitzchak: I'm telling you a simple thing, it doesn't say that here. You keep imagining stories I don't say. What it says here is only that a kol needs the beis din to agree that it's a kol. That's the meaning of "kol she'huchzak b'beis din." Not that every kol... The beis din sits in the kollel, now there's a doubt. There's a person where there's a claim that she's mekudeshes because there's a kol. You shouldn't say, "I heard in the beis midrash,

Examples of a Valid Kol

R' Yoel Asher: Therefore it's a kol." **"V'cheitzad hu hakol shetuchzak zo bo she'hi mekudeshes? K'gon sheba'u shnayim v'he'idu"** (And how is the kol that this one is established as mekudeshes? Such as that two came and testified) that they looked into the house and they saw such a situation of a wedding, they saw **"neiros dolkim, mitos mutza'os"** (candles burning, beds arranged), nice beds prepared to eat the meal there, and people coming and going, **"u'vnashim semechos lah"** (and women rejoicing with her), and saying, **"omerot"** (saying), "Ah, it's a great simchah, **"niskadshah plonis hayom"** (so-and-so was mekudeshes today), mazal tov on the kiddushin. That is, this is a kol. The Rambam says, this is only when beis din hears that this is the kol that people talked about, then she's b'chezkas mekudeshes.

Distinction: "Niskadshah" versus "Tiskadesh"

R' Yoel Asher: But if the people can only say that they heard women rejoicing and saying **"plonis tiskadesh hayom"** (so-and-so will be mekudeshes today), there's going to be a wedding, kiddushin will be made, **"ein choshin lah"** (we don't worry about her), then we don't have the right to forbid her, **"shema nizdamnu l'kadesh v'lo niskadshah"** (perhaps they prepared for a wedding and backed out),

R' Yitzchak: That she wasn't niskadshah. The same thing, that is, it doesn't have to be such a clear kol, it can even be simpler.

Another Example: Hearing from So-and-so Who Heard from So-and-so

R' Yoel Asher: "V'chein im ba'u shnayim v'amru ra'inu k'mo simchas eirusin, v'shama'nu havrarah" (And likewise if two came and said we saw like a celebration of betrothal, and we heard a report), and they heard a rumor, "v'shama'nu miploni sheshama miploni sheniskadshah plonis bifnei ploni u'ploni v'halchu lahem ha'eidim limdinas hayam o meisu" (and we heard from so-and-so who heard from so-and-so that so-and-so was mekudeshes before so-and-so and so-and-so and the witnesses went to an overseas country or died). Also when two witnesses come and don't say that they were witnesses, because then they would be witnesses, but two witnesses who say that a rumor was heard, but the rumor was a clear rumor, a clear rumor that such and such people had a wedding and such and such people were witnesses. And why don't we ask the witnesses? The witnesses died. This is also a kol that establishes her as mekudeshes.

Halachah: Amaslah — An Excuse That Weakens the Kol

R' Yoel Asher: The Rambam tells me, that we accept the testimony and must be concerned that she's called an eshes ish, is "shelo haysah sham amaslah" (that there wasn't an excuse there), she didn't have a good excuse.

R' Yitzchak: But if there was something

R' Yoel Asher: An excuse why there was

R' Yitzchak: Actually something of a commotion

R' Yoel Asher: At the house but she's not mekudeshes, "v'sham'u ha'amaslah k'sheshama'u sheniskadshah" (and they heard the excuse when they heard that she was mekudeshes),

R' Yitzchak: The kol came with that detail, the kol came with that, then she's not mekudeshes.

And the Rambam gives an example, "**keitzad hi amaslah?**" (How is an excuse?)

Examples of Amaslah

R' Yoel Asher: So, "**plonis niskadshah al tnai**" (so-and-so was mekudeshes on condition). They heard say that such and such, they actually heard talk about a wedding, but they said that it was a wedding on condition. Or they heard say that it was kiddushei safek (doubtful kiddushin). Then "**lo huchzekah**" (she's not established), because perhaps the condition didn't happen, or perhaps...

R' Yitzchak: And then, so what does one do?

R' Yoel Asher: Then "**sho'alin osah v'somchin al devareha**" (we ask her and rely on her words). Then we ask her, and if she answers well... That is, she says that it wasn't really a doubt.

R' Yitzchak: Because the condition wasn't fulfilled and the like?

R' Yoel Asher: No, by kiddushei safek, when people had a doubt. She clarifies that it wasn't even a doubt.

R' Yitzchak: No, no, no. It means that she clarifies, the kol, the clear proof isn't enough. That is, it's not enough. It stood in the kol stood a side, and she decides the side.

R' Yoel Asher: "**Ho'il v'ein sham re'ayah berurah v'lo kol chazak**" (Since there's no clear proof and no strong kol), she has trustworthiness to explain why it's not true and the like. Because the kol came with such a proof such a thing.

Amaslah That Comes After Days

R' Yitzchak: That's when the kol comes with it. What if the kol doesn't come with it? But later the detail that changes the reality was revealed.

R' Yoel Asher: "**Yatza aleha kol sheniskadshah liploni, ul'achar yamim amru amaslah**" (A kol went out about her that she was mekudeshes to so-and-so, and after days they said an excuse). After a few days an excuse came up why the kiddushin wasn't good, and she is indeed permitted to the market.

R' Yitzchak: That is, the world said, not just she said, the kol, the news came. The newspaper put out an update, a correction. They said yesterday that so-and-so is niskadshah.

R' Yoel Asher: The source says she's permitted, the source says she's permitted. No,

R' Yitzchak: It's not. The Rambam says,

The Discretion of Beis Din

R' Yoel Asher: What does one do? Here one goes to beis din, and beis din uses their discretion. **"Im mar'in hadevarim l'veis din shehu chein"** (If the matters appear to beis din that it's so). If it looks to beis din that the amaslah is correct, that the amaslah makes sense, **"somchin al ha'amaslah v'lo tuchzak mekudeshes"** (we rely on the amaslah and she's not established as mekudeshes). Therefore, if the beis din doesn't see it that way, then **"ho'il v'lo nishme'ah amaslah b'eis shenishme'u hakiddushin"** (since an excuse wasn't heard at the time the kiddushin were heard). It means, if there's an amaslah when one hears about a kiddushin, then the beis din won't seek to grab hold of the amaslah.

Kiddushin: Kol, Sivlonus, Testimony, and the Woman's Trustworthiness

A Case with One Woman — An Unreliable Amaslah

R' Yitzchak: There was a case.

R' Yoel Asher: "Ma'aseh b'achas" (There was a case with one woman) - the Rambam doesn't tell so many stories, here he says it as a case - **"ma'aseh b'achas sheyatza aleha kol sheniskadshah livno shel ploni, ul'achar zman sha'alu es aviv v'amar al tnai kach niskadshah lo v'lo niskayeim hatnai"** (There was a case with one woman that a kol went out about her that she was mekudeshes to the son of so-and-so, and after a time they asked his father and he said on such a condition she was mekudeshes to him and the condition wasn't fulfilled). It's actually true that there was a kiddushin, but it was with a condition,

R' Yitzchak: And the condition didn't happen. So according to the previous thing, this should

have been like an amaslah. **"V'lo samchu chachamim al devarav ela amru harei zo safek mekudeshes u'ch'ilu ein sham amaslah"** (And the Sages didn't rely on his words but said behold this one is doubtfully mekudeshes and as if there's no amaslah there). Right? In other words, I mean that this is

R' Yoel Asher: A bit of a contradiction with what he himself said.

R' Yitzchak: No, it's not a contradiction, it's exactly what he said. The Sages judged that it's "mar'in hadevarim" (the matters appear).

R' Yoel Asher: After a time the father said so.

R' Yitzchak: Exactly. So the Rambam brings a case, because this is the exact halachah that has no halachah, there are only cases in it. If the beis din sees that today this makes sense, or it doesn't make sense.

Kol of First Kiddushin versus Second Kiddushin Before Us

R' Yoel Asher: And what does the Rambam add here? Perhaps he gives us a thought on what the Sages mean by "mar'in hadevarim." He says an example, they questioned him,

R' Yitzchak: It looked like he's not a believable person.

R' Yoel Asher: **"Yatza aleha kol she'hi mekudeshes liploni, u'va sheni v'kidshah bifneinu"** (A kol went out about her that she's mekudeshes to so-and-so, and a second one came and was mekadash her before us). A kol went out about a woman that she's mekudeshes to so-and-so. A second one came and gave kiddushin before us, in front of witnesses. **"Bodkin al kiddushei rishon she'hen b'kol"** (We investigate the first kiddushin that are by kol). We check on that there's a kol, it's a true... that the kol is true. **"Im ba'u eidim bire'ayah berurah she'hi mekudeshes larishon"** (If witnesses came with clear proof that she's mekudeshes to the first), if witnesses come with clear proof. It's not witnesses that they were witnesses at the kiddushin, but there are witnesses that the kol is a very strong thing, that the kiddushin of the first was a strong thing.

R' Yitzchak: Clear proof, no. Clear proof, you remember, behold, a kol is not a clear proof, the Rambam said.

R' Yoel Asher: But what does witnesses with clear proof mean? Doesn't mean witnesses who say that I was at the chuppah.

R' Yitzchak: Clear proof, I don't know.

R' Yoel Asher: It was more than a kol. It was more than a kol, a stronger kol,

R' Yitzchak: The Rambam said. He says so, there's a strong proof that the second one holds very strongly not from the kol, right? If not, he wouldn't have been mekadesh. Yes? And he's also a certainty, they have no doubt, they saw themselves, it's not a thing that one needs to believe and hear. If there are witnesses who say "we know clearly, not a kol, we know clearly like a kol, there was a kol," but if not,

R' Yoel Asher: "**Lo megaresh rishon shekiddushav b'kol**" (The first doesn't divorce whose kiddushin are by kol), if not, the first one, whose kiddushin is only a stringency because there's a kol, should give a get, "**v'nosei hasheni shekiddushav vadai**" (and the second one marries whose kiddushin are certain), the second one had two witnesses.

R' Yitzchak: Yes.

R' Yoel Asher: "Bifneinu" (before us), us judges who sit here. He didn't say very clearly who is the "bifneinu."

R' Yitzchak: Certainly it means us.

R' Yoel Asher: Yes, the judges,

R' Yitzchak: Or it was in public, yes. He says,

If the Second Divorced — The First May Not Enter

R' Yoel Asher: "**V'im geirash hasheni**" (And if the second divorced), if the second one gave a get, because he got scared, I don't know what, then one could have said, then the first one can go have a wedding with her. You have no obstacle now. But "**lo yikanes harishon**" (the first may not enter), the first one may not have a wedding with her. Why? "**Shema yomru hechezir gerusho min ha'eirusin achar shenisarsah**

l'acher" (Lest they say he returned his divorcee from the betrothal after she was betrothed to another).

R' Yitzchak: You were already a kol.

R' Yoel Asher: People will think that he was already...

R' Yitzchak: Why did that one give a get? He didn't need to give a get. But he actually gave a get. A person will think,

R' Yoel Asher: What's the explanation? He means that the first one already gave a get, and that one had a wedding afterwards, afterwards he gave a get. So that's machezir gerusho mishenisarsah (returning his divorcee after she was betrothed). And what's the problem? "Shema yomru" (lest they say)? What's the problem? Ah, people will think that one may do such a thing of machezir gerusho. We know that one may not, but in the middle there was a second one. In truth, here it's not machezir gerusho, because the first was weak, it was only a kol.

R' Yitzchak: It looks like the second get certainly wasn't after the get. According to all opinions, the second get wasn't after the first get. Either the second one gives a get because the first one has no kiddushin at all, or he doesn't give a get.

R' Yoel Asher: But it looks like one will think,

R' Yitzchak: Why did that one give a get? He gave kiddushin to the first one, rather what, the first one already gave a get. That one may not do.

Two Kolos — One Writes a Get and One Marries

R' Yoel Asher: "**Yatza aleha kol she'hi mekudeshes liploni**" (A kol went out about her that she's mekudeshes to so-and-so). And it's the same strong kol, the same rumor in the city "**sheniskadshah l'acher**" (that she was mekudeshes to another). And what does one do then? "**Echad koseiv get v'echad kones, bein harishon bein ha'acharon**" (One writes a get and one marries, whether the first or the last), because both have the same stringency and one is

R' Yitzchak: Not stronger than the other.

Sivlonus — Makom Shenohagu

R' Yoel Asher: The Rambam now says a new halachah. We already learned earlier about sivlonus, gifts that one gives for the bride. Sometimes it used to be, there were places where one conducted oneself to give before the wedding gifts, it was only after the wedding.

R' Yitzchak: And it was that sivlonus itself is not kiddushin, but this can be a proof.

R' Yoel Asher: The sivlonus one sends al da'as hakiddushin (with kiddushin in mind). Here we'll see that there are customs in this. "**Makom shenohagu lishloch sivlonus la'arusah achar shetis'ares**" (A place where they were accustomed to send sivlonus to the betrothed after she's betrothed), after the kiddushin, and witnesses came who saw that sivlonus was brought. There weren't witnesses who saw the kiddushin, but witnesses did see when sivlonus is sent. So one can think that this is enough proof, enough witnesses, that she received kiddushin, because she's receiving sivlonus, which is a proof. So indeed, "**choshin lah shema niskadshah**" (we're concerned for her lest she was mekudeshes), but of course only as a stringency, "**u'tzrichah get misafek**" (and she needs a get out of doubt). The Rambam says, "**af al pi sherov anshei ha'ir ein meshalachin ela kodem ha'eirusin**" (even though most people of the city only send before the betrothal), but since it's a makom shenohagu, there's such a custom in the city, it's enough to obligate a get out of doubt. We don't go with this according to the majority. The Rambam says, makom shenohagu kulam lishloch (a place where they're all accustomed to send), this is only when there's a majority, but there are still enough people who do differently, therefore it can create a concern. But a place where everyone sends the sivlonus first and afterwards they're mekadesh, then one doesn't need to be concerned. "**V'ra'u es hasivlonus ein choshin lah**" (and they saw the sivlonus, we don't worry about her), because perhaps kiddushin won't happen later.

Kesubah — Huchzak Shtar Kesubasa

There's what we already learned earlier, that when one says someone is going to be mekadesh, it's never a proof. "**Huchzak shtar kesubasa**" (Her kesubah document was established). We're going to learn this.

R' Yitzchak: A new thing that can be like better than a kol.

R' Yoel Asher: This means a woman, we don't know that she's an eshes ish, but we do know that she has a kesubah with a man.

R' Yitzchak: Huchzak,

R' Yoel Asher: Huchzak means that the kesubah was confirmed. So, ****im derech miktzas anshei hamakom shemekadshin v'achar kach kosvim,**** if in that place there is a custom that some people give the kesubah after kiddushin, then there is also the ra'ayusa, the concern that she has a kesubah, perhaps she already received kiddushin. So ****chosheshin lah**** that she already received kiddushin. Says the Rambam, ****af al pi she'ein sham sofer.**** There is a practical answer. Someone will say that the reason why the person gave a kesubah is because there is no scribe there. And it just happened, he just found a scribe who was available, so he quickly wrote a kesubah for the future. But we don't say that, ****ein omrim shema yimtza sofer v'yichtov lah kesubah,****

R' Yitzchak: Rather a kesubah is a legitimate proof

R' Yoel Asher: In a woman's chezkas penuyah. A proof. A kesubah means that... no, it's only a concern, chosheshin lah. It's not... if the kesubah... if derech kol anshei hamakom that the kesubah is indeed before the kiddushin, then we are only chosheshin lah, as the gabbai said savlanus.

"Lo Ra'inu" Is Not Proof — Two Say We Saw Her Betrothed

R' Yoel Asher: Shnayim omrim ra'инуha shenitkadesah b'yom peloni. Two people say, on such and such day we saw so-and-so betroth her. And two other people who were also in the same place, they were in the same park on the same day, they say, I didn't see. **Afilu im hayu kulam shochnim b'chatzer achas,** everyone was in the same place where it happened, **harei zu mekudeshes.** Why? Says the Rambam a new halachah, **she'ein "lo ra'inu" ra'ayah. "Lo ra'inu" eino ra'ayah.** You didn't see him give kiddushin, you just looked away, you just weren't there. But the two witnesses who say "ra'inu", they were there.

R' Yitzchak: Why? Because a person is never... I didn't hear about it.

R' Yoel Asher: Says the Rambam, **shederech ha'am lekadesh b'tzni'ah.** There is such a thing, there is a custom. I don't mean derech doesn't mean that most women or what, but as he said earlier that... it's a derech. Like we say that some anshei ha'ir receive savlanus. It happens that a person should be mekadesh b'tzni'ah. But no, here she is mekudeshes, we don't say she only needs a get mispak. The "lo ra'inu" is a real proof, shederech ha'am lekadesh b'tzni'ah. Therefore we believe the two witnesses, and the other two witnesses don't change anything, they don't contradict the witnesses.

R' Yitzchak: Because seemingly, the "lo ra'inu" is actual testimony. When it's actual testimony there's certainly no question.

R' Yoel Asher: What is a hachkashah? Such testimony says thus, yes, I was there,

R' Yitzchak: I didn't see. Perhaps he means "ra'inu" further "ra'inu" the voice,

R' Yoel Asher: They saw that people were turning around there and saying, you understand? But we're talking, the shnayim omrim also don't say that they secluded themselves to be witnesses. They say they looked, they saw a strange thing, someone gives someone a ring. But since it's a davar tzanu'a... no, I mean to ask, what will be when he says, there on that day they set up a huge chuppah and there was music, and all the other people say no?

Seemingly the witnesses are contradicted witnesses. He says basically, that when a witness says that someone was mekadesh, and since being mekadesh is something that can be b'tzni'us, we believe such a person. If it were the same thing that he should say that he saw a chuppah v'kiddushin, perhaps we indeed wouldn't believe when

R' Yitzchak: Other people say "lo ra'inu". Why I don't know.

R' Yoel Asher: It seems like the novelty of this halachah is that

R' Yitzchak: People give kiddushin b'tzni'ah. But anshei chatzer doesn't mean witnesses, anshei chatzer means people who should have heard that erusin is taking place.

R' Yoel Asher: Like two voices have a contradiction to each other, okay, it's a small one.

R' Yitzchak: Because I don't believe there is such a thing by witnesses of kiddushin a hachkashah,

R' Yoel Asher: I didn't hear perhaps.

One Witness Says She Is Betrothed

R' Yoel Asher: Okay, what happens in such a case? **Amar ed echad,** not two witnesses. **Ed echad says mekudeshes hi zo, v'hi omeres harei zu mutteres,** because **,lo nitkadasht** we accept one witness, and she has ne'emanus as always. What does that mean? Ed echad is weaker than a voice. **Ed echad omer mekudeshes v'echad omer einah ,mekudeshes**

R' Yitzchak: Then there is indeed a problem,

R' Yoel Asher: So **lo tinase.** Why?

R' Yitzchak: When she knows she has a pesachon peh. If there is just a dispute of two witnesses,

we **R' Yoel Asher:** Then her lo nitkadasht .believe here

R' Yitzchak: Lechatchilah, she doesn't say lo ,nitkadasht

R' Yoel Asher: She says "see, you know."

R' Yitzchak: Yes, again, lo tinase lechatchilah, but **im nis'as lo tetze.** Why lo tetze? Because in

practice she holds that einah mekudeshes. Lechatchilah we are concerned, but not bedi'eved. Now, if a woman says mekudeshes ani,

R' Yoel Asher: That means,

R' Yitzchak: Until now we learned that a woman, you see that a woman has ne'emanus to say that she is mekudeshes or not mekudeshes, if there is a concern it's a problem. Now, there is a case, basically, the last two halachos will speak about a woman who was chozer,

A Woman Says I Was Betrothed and Retracted — If She Gave a Reason

and after a ,**R' Yoel Asher:** She said nitkadasht time she received kiddushin from another person. So **im nasnah amaslah lidvareha**, if .she gives a good answer

A Woman Who Said I Was Betrothed and Retracted — End of Chapter 9

Halachah: A Woman Who Said I Was Betrothed and Retracted, and Was Betrothed to Another

R' Yitzchak: Because in practice she holds that einah mekudeshes. Lechatchilah we are concerned, but not bedi'eved.

Now, if she says a new... now, until now we learned that a woman, you see that a woman has or not 'ne'emanus on herself that nitkadasht .if there is a concern it's a problem ,nitkadasht

Now, there is a case, basically, the last two halachos will speak about a woman who was ,chozer. She said nitkadasht

R' Yoel Asher: And afterwards, after a time, she received kiddushin from another person.

So im nasnah amaslah lidvareha, if she gives a good answer, she says that what she said

mekudeshes ani, I meant to say that the man is going to give me kiddushin, I don't know. No, no, **R' Yitzchak:** It's a good answer, she didn't want that so-and-so should.

R' Yoel Asher: But **im lo nasnah amaslah**, she tried, **aval ein bo mamash**, it's not a good answer. The beis din doesn't buy it. **Harei zu asurah, v'kiddushei sheni kiddushei safek, lefikach nosen lah get, v'tehei asurah alav v'al hakol ad sheyavo arusah.**

She will be asurah alav on this man, because she V'al hakol ad sheyavo arusah. .said nitkadasht The only way she will become permitted, if ,someone will come and be modeh

R' Yitzchak: Say the man will come and say .he will be able to live with her ,nitkadasht

Halachah: A Woman Who Said I Am a Married Woman and Retracted and Said I Am Single

R' Yoel Asher: Says the Rambam further, **v'chen ha'ishah sheba'ah v'amrah eshes ish ani.** And afterwards she retracted **penuyah ani, im nasnah amaslah lidvareha v'yesh bidvareha mamash harei zu ne'emenes.**

R' Yitzchak: I think the normal story goes that so-and-so came and said perhaps you want a shidduch? He says, no, I'm already married. And she didn't say the truth, she said it because she didn't want so-and-so's harassment.

R' Yoel Asher: No, I think these halachos are probably very practical. A woman often says I'm married because she doesn't want

R' Yitzchak: That a man should bother her.

So until here is Chapter 9.