

THE
MAHARSHAM
PROJECT



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לע"נ מרת רבקה ע"ה גליק בת הרב שלו' גרשון זצ"ל

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The Borrowed Ring

When a chassan stands under the chuppah with a ring that isn't really his, does the marriage hold?

A man in the town of Tolmitch used a borrowed ring for his wedding ceremony, borrowed from a married woman, without her husband's knowledge. The couple married, lived together, and began building a life. Then someone raised the alarm: the ring wasn't his to give. **Must this couple go through kiddushin all over again, or does their marriage stand?**

TRANSLATOR'S NOTE

This teshuvah is addressed to the Maharsham's own son, "livni," "to my son." Rabbi Yitzchak HaKohen served as a rav in Boborodyczyn, and this responsum shows a father and son working through a real case together, the younger rabbi submitting his analysis and the father responding with both pride and precision.

To **his son, Rabbi Yitzchak HaKohen, Rav of Boborodyczyn, Galicia.**

THE QUESTION

Somewhere in the town of Tolmitch, a wedding was about to happen. Everything was in order: the chuppah, the witnesses, the families gathered. But the chassan had a problem. He did not have a ring.

So he borrowed one. A married woman in the community lent him her ring as a *מתנה על מנת להחזיר*, a *matanah al menas l'hachzir*, a gift given on the condition that it be returned afterward. The chassan placed the ring on the bride's finger under the chuppah, the blessings were recited, and the couple began married life. By every outward measure, they were husband and wife.

Then the question surfaced. The ring belonged to a married woman. She had lent it without her husband's knowledge or consent. And the foundational rule of *kiddushin* is that the chassan must give the *kallah* something of value that belongs to him. If the ring was not his to give, a serious question arose as to whether the *kiddushin* had taken effect at all.

The ramifications were severe. If the *kiddushin* were invalid, their entire life together had no halachic standing. A public second ceremony would raise painful questions about the original wedding. And yet, ignoring a genuine halachic problem was not an option either. The question demanded a careful, thorough analysis.

Rabbi Yitzchak, the Maharsham's son, had already worked through the problem and leaned toward leniency. He cited the *Chelkas Mechokek* (Even HaEzer 28:35), who testified that the common practice was to be lenient in such cases. He also argued that since the couple had already been living together as husband and wife, their married life itself should function as valid *kiddushin*. He sent his analysis to his father for review.

THE MAHARSHAM'S ANALYSIS

1. Can We Assume the Husband Doesn't Mind?

The Talmud teaches a principle: *nicha lei l'inish l'mivad mitzvah b'mamonei*, a person is generally pleased when his property is used for a mitzvah. On that basis, even though the husband did not know his wife had lent out the ring, perhaps we can assume he would have approved had he been asked.

The Maharsham pushes back. That principle applies only where there is no actual financial loss. But when there is a real risk of losing the item or its value, even the most generous reading requires the owner's actual consent. The *Beis Shmuel* had already raised this concern: a husband might well object to his wife lending out a valuable ring, even for a mitzvah, because there is a real chance of loss.

2. The Woman Who Runs the Household

Here the Maharsham finds firmer ground. In halacha, a woman who is *nosas v'nosenes b'soch habayis*, who actively manages the household's financial affairs, has broader authority over household property. The *Shulchan Aruch* (*Choshen Mishpat* 62) and numerous *poskim* establish that in their era, most women functioned in this capacity.

The Maharsham reasons: if the woman is recognized as conducting business within the home, her lending of the ring carries implicit authority. And since in the present era virtually all women manage household affairs, the lending carries weight. This also resolves the *Beis Shmuel's* original objection. The *Chelkas Mechokek* had testified that the accepted practice was to treat such *kiddushin* as valid. The *Beis Shmuel* questioned how such a practice could have taken root. The Maharsham answers: the practice is sound precisely because women have long been the ones managing household property.

3. Can Their Married Life Validate the Kiddushin?

Rabbi Yitzchak had argued that even if the ring-based kiddushin were flawed, the couple's subsequent life together as husband and wife should itself serve as valid kiddushin.

The Maharsham offers a pointed correction here. He cites the Rema (Even HaEzer, end of Siman 31): when a chassan has reason to believe his original kiddushin were valid, his conduct within the marriage is not performed with the intent of effecting new kiddushin. He thinks he is already married. In other words, living together as husband and wife can only create new kiddushin if there was a conscious intent to do so. But if the chassan believed the original kiddushin were valid, his later conduct was not being done as a new act of kiddushin. The only exception would be if the chassan had learned about the problem with the ring beforehand and then chosen to act with the explicit understanding that this would serve as new kiddushin. Absent that awareness, the couple's married life together cannot retroactively validate the original ceremony.

This is a critical distinction. The son's argument had a certain logic to it: surely a couple who has been living as husband and wife should not need to worry about a technicality in the ring ceremony. But the Maharsham insists on precision. Kiddushin is a halachic act that requires da'as, conscious intent. Good intentions and a settled married life, however real, cannot substitute for that da'as when the original act is in question.

4. The Ring May Belong to Her

The Maharsham notes an additional avenue. If the ring was part of the woman's *nichsei tzon barzel*, property she brought into the marriage, it is technically hers, even if the husband has certain rights to its use. The halachah distinguishes between *nichsei tzon barzel*, where the property remains hers in essence though the husband bears responsibility for it, and *nichsei m'log*, where the husband has rights to the profits but the principal belongs to the wife. In either case, the wife's authority to lend such property is considerably stronger than it would be over property that is entirely the husband's.

This argument works in tandem with the earlier point about a woman who manages the household. Even if the ring were not *nichsei tzon barzel*, the combination of her household authority and the likelihood that the husband would not object creates a solid foundation. But if the ring is in fact her own property, the question virtually disappears.

5. No Real Loss to the Owner

In the second case, from *Izaszta*, the Maharsham adds a practical argument. The ring only needed to be in the bride's possession until after the *sheva brachos* week, and then it would be returned. Temporary use of a piece of jewelry causes no damage. A husband whose ring is borrowed for a week and returned in perfect condition has suffered no loss.

This brings the earlier discussion full circle. The Maharsham had initially questioned whether the principle of *nicha lei* could apply where there was a real risk of financial loss. Here, where the ring is returned intact, that concern falls away entirely. The principle applies cleanly, and the husband's consent can be assumed. The Maharsham is careful to show that multiple independent lines of reasoning converge on the same conclusion: the kiddushin stand.

THE P'SAK

The Maharsham rules that the marriage stands. The kiddushin are valid, and there is no need, min hadin, as a matter of law, to conduct a second ceremony. He writes that it would be wrong, even harmful, to cast doubt on the original kiddushin: ורח"ו להוציא לעז על הקידושין הראשונים, "Heaven forbid we should create a stigma around the first marriage."

However, because the matter touches on the most serious areas of personal status law, the Maharsham adds a practical recommendation: miheyos tov, as an extra measure of piety, the husband should conduct a quiet, private ceremony with two witnesses. He should state explicitly that he is doing this l'yeser sh'eis, as an added precaution to remove even the slightest shadow of doubt, and emphatically not because the original kiddushin were invalid.

For the couple in Tolmitch and the couple in Izaszta, the message was the same: your marriage is real, your children bear no stigma, and the ring that passed between you under the chuppah, borrowed though it was, carried the full weight of kiddushin.

HISTORICAL CONTEXT



This teshuvah opens a window into the practical realities of Jewish wedding ceremonies in small Galician and Hungarian towns in the late nineteenth century. Not every chassan owned a gold ring. Not every community had a gemach stocked with wedding supplies. In towns like Tolmitch and Izaszta, a chassan who needed a ring did what any neighbor would do: he borrowed one. The fact that the Maharsham received multiple versions of this exact question tells us it was not a rare occurrence.

The halachic stakes were enormous. If the kiddushin were deemed invalid, such a ruling could have raised painful questions about the family's status. Requiring a public second ceremony would announce to the community that the original wedding had been defective. The Maharsham understood that a careless ruling here would not merely inconvenience a couple; it could cause lasting damage to a family's standing and peace of mind. His insistence that "Heaven forbid we should create a stigma around the first marriage" was not a rhetorical flourish. It was a recognition that a posek's words carry consequences far beyond the four amos of his study.

What makes this teshuvah especially moving is its audience. The Maharsham is writing to his own son, treating him as a colleague, engaging seriously with his reasoning, pushing back where the analysis falls short, and ultimately guiding him toward the right conclusion. Rabbi Yitzchak's original analysis was thoughtful, and his father affirms certain points while redirecting others. One sees here a father guiding his son in the derech of psak, not by lecturing, but by working through the sugya together, shoulder to shoulder.



KEY TERMS

Matanah al menas l'hachzir · (מתנה על מנת להחזיר) A gift given on the condition that the recipient will return it. Legally, the recipient has temporary ownership but must give it back. This was the arrangement under which the chassan received the ring.

Nosas v'nosenes b'soch habayis · A woman who actively conducts business and manages financial affairs within the household. This status grants her broader authority over household property and was the legal linchpin of the Maharsham's ruling.

La'az · Stigma or suspicion cast upon someone's personal status. The Maharsham warned that publicly requiring new kiddushin would itself cause harm by implying the original marriage was invalid.

A TORAH THOUGHT

- The Maharsham warns against casting la'az on the original kiddushin, even while recommending a quiet second ceremony. How do you balance the desire for halachic certainty with the real human cost of publicly questioning a marriage?
- This teshuvah is a father answering his son's halachic query, affirming some arguments, correcting others. What does it reveal about how Torah leadership is transmitted within a family?

*From the Maharsham's Techeiles Mordechai on Parashas Beha'aloscha**

תכלת מרדכי

The Praise of Not Changing

Rashi on the kindling of the Menorah records a haunting praise: מגיד שבחו של אהרן שלא שינה, "this tells the praise of Aharon, that he did not change." The Maharsham asks the obvious question. Of course Aharon HaKohen did exactly as he was commanded. Where is the praise?

The Midrash answers: when Klal Yisrael said before Hashem, כי אתה ה' נרי, "You Yourself are our lamp, and yet You command us to kindle lamps for You?" Hashem replied, להעלות אתכם בפני אומות העולם, "to elevate you in the eyes of the nations." Drawing on the Beis Aharon and the Toldos, the Maharsham opens the deeper layer.

Hashem is the Whole. A Yid is ממעל חלק, a portion of the Divine drawn down from above; by nature, the part longs to return to the Whole. Yet out of His love for Klal Yisrael, kaviyachol, Hashem reverses the picture. He makes Himself the chelek, and Klal Yisrael the kol. As Chazal teach, עשה רצונו כרצונך, כדי שיעשה רצונך כרצונו. When a Yid sets aside his desires for Hashem's will, kaviyachol the Master of the World sets aside His will for ours.

This is precisely what is hinted in the Menorah. The kohen lights from the western lamp, the place of the Shechinah, and through that single flame the other lamps come alight. The light flows from Hashem to His children. But then, kaviyachol, the picture turns. The Source of all light accepts illumination from us. That is the elevation in the eyes of the nations: not that we provide light to the One Who needs none, but that the Ribono shel Olam sets aside His kavod for the kavod of His children.

Now we can hear Rashi's words with new ears. The Menorah was a test: day after day, year after year, an avodah whose entire message was elevation, kavod, and reflected light. The yetzer can creep in and quietly turn such an avodah into self-regard. And the Torah testifies, ויעש כן, אהרן, מגיד שבחו שלא שינה. He did not change. Not in act, and not in heart. The same Aharon, the same flame, the same purity of intention, כאשר צוה ה' את משה.

* During weeks when Eretz Yisrael and Chutz La'arev read different parsbiyos, this section features a general piece from the Techeiles Mordechai rather than a selection tied to the weekly sedra.

COMING NEXT WEEK

*A man layers wool trousers over linen.
The Torah forbids sh'atnez, but does layering count as mixing?*



WHO WAS THE MAHARSHAM?

Rabbi Shalom Mordechai HaKohen Schwadron, ben HaRav Moshe (1835–1911), served as the Rav of Brezhan in Galicia for over 40 years. He is best known for his seven-volume Shut Maharsham, containing thousands of teshuvos on every area of halachah, and his Da'as Torah commentary on Shulchan Aruch. Regarded as one of the foremost poskim of his generation, his rulings are cited in halachic works to this day.

PRINCIPAL SOURCES

Gemara: Yevamos 52a; Bava Metzia 30a; Meilah 19a; Nedarim 36a. **Rishonim:** Ran (Kiddushin, first perek); Rosh (Kesubos, first perek); Mordechai (Bava Metzia). **Shulchan Aruch & Nosei Keilim:** Even HaEzer 26, 28, 31, 42, 67, 86, 150; Choshen Mishpat 62, 96; Chelkas Mechokek 28:35; Beis Shmuel 28:48, 31, 42:17, 67:6, 150:4; Rema EH 31. **Acharonim:** Magen Avraham OC 14:8, 649, 658:10; Chasam Sofer OC 2; Maharom Mintz 48–50; Teshuvos Bach (new) 80–81; Te'omei Tzvi'ah (R' Dovid Broda).

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A father's ring may be borrowed, but a father's Torah is inherited.

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