

The Soncino Babylonian Talmud



KETHUBOTH

Book II

Folios 29a-54a

CHAPTERS III-IV

TRANSLATED INTO ENGLISH WITH NOTES

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Reformatted by Reuven Brauner, Raanana 5772

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Kethuboth 29a

CHAPTER III

MISHNAH. THESE ARE MAIDENS¹ TO WHOM THE FINE IS DUE.² IF ANYONE HAD INTERCOURSE WITH A MAMZERETH,³ A NETHINAH,⁴ A CUTHEAN,⁵ OR WITH A PROSELYTE [MAIDEN].⁶ A CAPTIVE, OR A SLAVE-WOMAN,⁷ WHO WAS REDEEMED,⁸ CONVERTED,⁹ OR FREED [WHEN SHE WAS] UNDER THE AGE OF¹⁰ THREE YEARS AND ONE DAY.¹¹ IF ONE HAD INTERCOURSE WITH HIS SISTER, WITH THE SISTER OF HIS FATHER, WITH THE SISTER OF HIS MOTHER, WITH THE SISTER OF HIS WIFE, WITH THE WIFE OF HIS BROTHER,¹² WITH THE WIFE OF THE BROTHER OF HIS FATHER, OR WITH A WOMAN DURING MENSTRUATION,¹³ HE HAS TO PAY THE FINE,¹⁴ [FOR] ALTHOUGH THESE [TRANSGRESSIONS]¹⁵ ARE PUNISHED THROUGH [THE TRANSGRESSOR] BEING CUT OFF,¹⁶ THERE IS NOT, WITH REGARD TO THEM, A DEATH [PENALTY] [INFLICTED] BY THE COURT.¹⁷

GEMARA. [Does it mean that only] these blemished maidens get the fine, [but] unblemished ones [do] not?¹⁸ — He means it thus: These are blemished maidens who get the fine:¹⁹ IF ANYONE HAD INTERCOURSE WITH A MAMZERETH, A NETHINAH, A CUTHEAN,²⁰, etc.

[Only] [the Mishnah states] a maiden [receives a fine],²¹ [but not] a small girl.²² Who is the Tanna [who taught this]? Rab Judah said in the name of Rab: It is R. Meir, for it has been taught:²³ A small child from the age of one day²⁴ until [the time that] she grows two hairs²⁵ sale applies to her,²⁶ but not the fine;²⁷ from [the time that] she grows two hairs until she becomes mature,²⁸ the fine applies to her, but not sale.²⁹ This is the view of R. Meir; for R. Meir said: Wherever sale applies,³⁰ the fine does not apply, and wherever the fine applies, sale does not apply. But the Sages say: A small child from the age of three years and one day until [the time

that] she becomes mature — the fine applies to her.³¹ [Does that mean] only the fine [and] not sale!³² — Say:

1. Na'aroth pl. of Na'arah, technically, a girl between twelve years and twelve and a half years of age.
2. If a man has violated any of these maidens mentioned in our Mishnah, he must pay the fine fixed in Deut. XXII, 29.
3. Fem. of Mamzer, v. [Glos.](#)
4. Fem. of Nathin, v. [Glos.](#)
5. A Samaritan, V. [Glos.](#)
6. V. *supra* 11a.
7. A maiden.
8. In the text the word is in the plural, because it refers to a class and not to one person.
9. It is interesting to note that 'CONVERTED' comes before, although it should come after, 'FREED'. The reason is probably because it is, in Hebrew, a shorter word. Of the three words the first has three, the second four, and the fourth, five syllables, not counting the suffix 'waw', ('and'). The sequence of the words chosen makes for symmetry.
10. Lit., 'less than'.
11. He has to pay the fine. For further notes v. *supra* 11a.
12. Whom the brother divorced after the betrothal.
13. And they are all maidens.
14. Lit., 'the fine is due to them'.
15. V. Lev. XVIII, 9ff
16. From life, by premature or sudden death, *Kareth* V. [Glos.](#) Cf. Lev. XVIII, 29: For whosoever shall do any of these abominations, even the souls that do them shall be cut off from among their people.
17. V. e.g., Lev. XX, 9ff. Only death penalty by the court releases from the money fine, v. Gemara.
18. The phrasing of the Mishnah seems to imply that only the following maidens which are enumerated are entitled to fines — namely, only of blemished descent. Surely that is impossible.
19. Although the fine has been fixed for unblemished maidens, whom the man could marry (V. Deut. XXII, 29), it is, the Mishnah tells us, due also to blemished maidens, whom he could not marry. That unblemished maidens get the fine need not be specially mentioned in the Mishnah.
20. He has to pay the fine.
21. Lit., 'a maiden, yes, a minor, no'.
22. A Ketannah. A girl is so called until the age of twelve years. If a minor was violated, the fine, according to the Mishnah, is not due to her.
23. V. Tosef. Keth.

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24. Tosef.: A small child from the age of three years and one day. This is, no doubt, the correct reading. In the text of the Talmud 'three years and' is missing.
25. The sign of beginning maturity.
26. The father may sell his daughter as a maid-servant; v. Ex. XXI, 7.
27. If she was violated; the word Na'arah is used in Deut. XXII, 28, 29, excluding a minor.
28. A girl becomes mature when she is twelve and a half years old. She is then called Bogereth, v. [Glos.](#)
29. When the girl is a Na'arah the father has no more right to sell her.
30. Sale applies only when the girl is a Ketannah, and the fine applies only when the girl is a Na'arah.
31. According to the Sages, the fine is due to the girl both as a Ketannah and a Na'arah. In other words, the word Na'arah in Deut. XXII, 28, 29 is not to be taken strictly.
32. Lit., 'fine, yes; sale, no!'

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also the fine [applies] when sale [applies].¹

But are these [maidens]² entitled to the fine? Why? Read here: 'and she shall be his wife', [that means] one who is fit to be his wife?³ — Said Resh Lakish: [It is written:] 'maiden', 'maiden', 'the maiden'⁴ once⁵ [the word 'maiden' is necessary] for itself,⁶ once to include [those maidens, the marrying of whom involves the transgression merely of] a plain prohibitory law,⁷ and once to include [those maidens, the marrying of whom involves] a transgression punishable with *Kareth*.⁸ R. Papa said: [It is written:]⁹ 'virgin', 'virgin', 'the virgins'; once [the word 'virgin' is necessary] for itself,¹⁰ once to include [those virgins, the marrying of whom involves the transgression merely of] a plain prohibitory law, and once to include [those virgins, the marrying of whom involves] a transgression punishable with *Kareth*. Why does R. Papa not agree with Resh Lakish? —

That [verse]¹¹ he requires for [the same teaching] as that of Abaye, for Abaye said: If he cohabited with her¹² and she died, he is free,¹³ for it is said: 'And he shall give unto the father of the maiden';¹⁴ [this means]: To

the father of a maiden,¹⁵ but not to the father of a dead [person].¹⁶ And why did not Resh Lakish agree with R. Papa? —

That [verse]¹⁷ he requires for an analogy¹⁸ for it is taught: [[t is written:] — 'he shall pay money according to the dowry of virgins,¹⁹ [this means that] this²⁰ shall be like the dowry of virgins,²¹ and the dowry of virgins shall be like this.²² But Resh Lakish also requires it²³ for [the same teaching] as that of Abaye, and R. Papa also requires it²⁴ for the analogy?²⁵ — Take therefore six words:²⁶ 'maiden', 'maiden', 'the maiden', 'virgin', 'virgins', 'the virgins': Two [are necessary] for themselves,²⁷ one for the teaching of Abaye, and one for the analogy, [and] two remain over: one to include [those maidens, the marrying of whom involves the transgression] of a plain prohibitory law, and one to include [those maidens, the marrying of whom involves] a transgression punishable with *Kareth*.

This²⁸ [Mishnah] is to exclude [the view of] that Tanna.²⁹ For it has been taught: [It is written:] and she shall be his wife.³⁰ Simeon the Temanite says: [This means:] a woman who can become his wife;³¹ R. Simeon b. Menassia says: [This means:] a woman who can remain his wife.³² What difference is there between them?³³ — R. Zera said: The difference between them is with regard to a Mamzereth and a Nethinah. According to him who says that there must be the possibility of her 'becoming' his wife, here³⁴ also there is the possibility of her 'becoming' his wife.³⁵ And according to him who says that there must be the possibility of her remaining his wife, here³⁶ there is not the possibility of her remaining his wife.³⁷ But according to R. Akiba, who says: Marriage takes no effect when there is a prohibitory law against³⁸ it, what is the difference between them?³⁹ —

There is a difference between them in the case of a widow who marries a high priest, and this according to R. Simai, for it is taught:⁴⁰ R. Simai says: Of all⁴¹ R. Akiba

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makes Mamzerim,⁴² except [the issue of] a widow and a high priest, for the Torah says: 'he shall not take', and 'he shall not profane',⁴³ [this teaches that] he makes [his issue] profane,⁴⁴ but not Mamzerim,⁴⁵ And according to R. Yeshebab, who says: Come and let us cry out against Akiba b. Joseph, who says: Whenever the marriage is forbidden in Israel⁴⁶ the child [of such marriage] is a Mamzer,⁴⁷ what is the difference between them?⁴⁸ — The difference between them is

1. During the whole period that sale applies to a girl, the fine also applies to her, extending however beyond that period, till her stage of Bogereth.
2. Mentioned in our Mishnah.
3. Lit., 'a woman who is fit for him'. From the words of the Bible one would infer that the fine is payable only if he violated a maiden whom, in law, he could marry. But as to the maidens mentioned in the Mishnah, who are either generally prohibited to an Israelite for marriage, or there is *Kareth* barring their way to marriage, (as in the case of the maidens enumerated in the second clause of the Mishnah), there should be no fine due to them.
4. In Deut. XXII, 28 'maiden'; verse 29: 'the maiden', and 'the' in 'the maiden' is reckoned as a separate word representing the word 'maiden', so that we have the word 'maiden' written three times. To each of the three words a function is assigned in the Talmudic exposition. One 'maiden' refers to the ordinary unblemished maidens, one 'maiden' refers to the blemished maidens as mentioned in the first clause of the Mishnah, and one 'maiden' refers to the maidens enumerated in the second clause of the Mishnah. — The maidens mentioned in the second part of the first clause of the Mishnah seem to occupy a position of their own. V. Tosaf 29a, s.v. [H].
5. Lit., 'one ("maiden")'.
6. For the ordinary maiden, v. note 3.
7. Lit., 'those guilty of a negative prohibition', which carries with it the punishment of flagellation only.
8. V. [Glos.](#)
9. Ex. XXII, 15, 16. There it speaks of seduction. R. Papa, apparently, puts seduction and violation on one level.
10. V. *supra* nn. 3 and 5.
11. Deut. XXII, 29.
12. By force.
13. From paying the fine.
14. The full half-verse is: 'And the man that lay with her shall give unto the father of the maiden fifty silver pieces'. (Deut. XXII, 29.)
15. I.e., of maiden that lives.
16. If the maiden is dead, the father cannot be called any more the father of the maiden'. He can only be called the father of the dead maiden, and to such the fine is not payable.
17. Ex. XXII, 16.
18. *Gezerah Shawah*; an analogy based on similarity of expressions. V. [Glos.](#)
19. Ex. XXII, 16.
20. The money to be paid in the case of seduction. (Ex. XXII, 16.)
21. By 'the dowry of virgins' is meant, according to this teaching, the sum of money to be paid as a fine in Deut. XXII, 29, which is fifty; so here (Ex. XXII, 16) it has to be fifty.
22. As in Ex. XXII, 16 the money consists of *Shekels*, (this is derived from the special word [H], employed for 'pay') so in Deut. XXII, 29, the fifty have to be *Shekels*.
23. The word 'the maiden'.
24. The word 'the virgin'.
25. Both the teaching of Abaye and the analogy are important to Resh Lakish and P. Papa.
26. Lit., 'but six verses are written'. — Make your expositions from all the six words taken together.
27. For the ordinary cases of seduction and violation.
28. Our Mishnah, in which it is taught that the fine is due also in the case of the violation of maidens, the marriage with whom is prohibited, as a Mamzereth or his sister.
29. I.e., the author of the Baraitha. As to the Tannaim mentioned in the Baraitha, the views of both of them are excluded, v. Tosaf a.l.
30. Deut. XXII, 29.
31. Lit., 'to whom there is "becoming"'. But his sister cannot 'become' his wife. The very act of marriage is impossible. No marriage, no betrothal, can take effect. V. Kid. 66b. Therefore the law of the fine would not apply to his sister or to any of the other five maidens mentioned in the second clause of the Mishnah.
32. Lit., 'who is fitting to be retained'. He takes the word 'be', [H], in the sense of 'remaining'. This excludes a Mamzereth, for although marriage with a Mamzereth takes effect, there is 'prohibitory law' attached to it. (v. Kid. 66b). The marriage ought therefore to be discontinued. The Mamzereth is thus a woman who cannot remain his wife. Therefore, according to R. Simeon the son of Menassia, the law of fine does not apply to her. — We thus see that our Mishnah excludes both the view of Simeon the

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Temanite and the view of R. Simeon the son of Menassia.

33. Between Simeon the Temanite and R. Simeon b. Menassia (Rashi).
34. In the case of Mamzereth and Nethinah.
35. The marriage with a Mamzereth or Nethinah takes effect although there is a 'prohibitory law' against it. The Mamzereth or Nethinah can therefore become his wife, although she should not remain his wife. In the view of Simeon the Temanite it is the possibility of her becoming his wife that matters, and therefore they are entitled to the fine.
36. In the case of Mamzereth and Nethinah.
37. In the view of R. Simeon b. Menassia, it is the possibility of her remaining his wife that matters. And since a Mamzereth or Nethinah cannot remain his wife, they are not entitled to the fine.
38. V. Yeb. 44a and 49a and v. ibid. 10b and 52b.
39. Between Simeon the Temanite and R. Simeon the son of Menassia. A Mamzereth or Nethinah could not, on this view, become his wife even according to R. Simeon b. Menassia; what is then the difference between him and Simeon the Temanite?
40. In a Baraitha; v. Yeb. 64a and 68a.
41. I.e., of all the issues of prohibited unions.
42. R. Akiba declares the offspring of all prohibited unions to be Mamzerim, v. Yeb. 49a.
43. Lev. XXI, 14f. The two verses read: A widow or a divorced woman, or a profane woman, or a harlot, these shall he not take; but a virgin of his own people shall he take to wife. And he shall not profane his seed among his people, for I am the Lord who sanctify him. Vv. 10-15 deal with the high priest.
44. The children are only unfit for the priesthood.
45. In this case R. Akiba admits that the marriage takes effect, although there is a prohibitory law against it, so that, in this case, according to Simeon b. Menassia, though the marriage would take effect, since he could not retain her owing to the prohibition, there is no fine, whereas according to Simeon the Temanite, there is a fine.
46. Lit., 'he who has no (permission of) union in Israel'.
47. This rule would include also the marriage of a widow and a high priest and would make also the child of such a marriage a Mamzer.
48. What difference would there be now between Simeon the Temanite and R. Simeon b. Menassia?

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with regard to the marriage with an Egyptian or an Edomite [woman], in which case there is a transgression [merely] of a positive law.¹ — That is all right if R. Yeshebab [by his statement] only came to exclude the view of R. Simai.² But if his statement was his own,³ whenever the marriage is forbidden in Israel, the child [of such a marriage] is a Mamzer. It would include also a marriage with regard to which a positive law has been transgressed. What is [then] the difference between them? — The difference between them is with regard to a girl, who is no more a virgin, who married a high priest.⁴ — And why is this⁵ different?⁶ — It is a law which does not apply to all.⁷

R. Hisda said: All agree that he who has intercourse with a woman during menstruation⁸ [against her will] has to pay the fine,⁹ for according to him who holds that there must be the possibility of her¹⁰ 'becoming' his wife, there is with regard to her¹¹ the possibility of her becoming his wife,¹² and according to him who holds that there must be the possibility of her¹³ remaining his wife, there is with regard to her¹⁴ the possibility of her remaining his wife.¹⁵

Our [Mishnah]¹⁶ likewise excludes the view of R. Nehunia b. ha-Kaneh, for it is taught: R. Nehunia b. ha-Kaneh, made the Day of Atonement equal to the Sabbath with regard to payment; as [he who desecrates] the Sabbath¹⁷ forfeits his life¹⁸ and is free from payment,¹⁹ so [he who desecrates] the Day of Atonement²⁰ forfeits his life²¹ and is free from payment. What is the reason [for the view] of R. Nehunia b. ha-Kaneh? — Abaye said: It is said 'harm'²² [in the case of death]²³ by the hand of man,²⁴ and it is said 'harm'²⁵ [in the case of death] by the hand of heaven, [so I say:] As in the case of the 'harm' done by the hand of man one is free from payment,²⁶ so also in the case of 'harm' done by the hand of heaven, one is free from payment.²⁷ To this R. Adda b. Ahaba,

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demurred: Whence [do you know] that Jacob warned his sons²⁸ against cold and heat,²⁹ which are by the hand of heaven?³⁰ Perhaps [he warned them] against lions and thieves, which are 'by the hand of man?'³¹ — Is it that Jacob warned them against this and did not warn then, against that? Jacob warned then, against every kind of harm.³²

[But] are cold and heat by the hand of heaven? Is it not taught: Everything is 'by the hand of heaven' except cold and heat, for it is said: 'Cold and heat are in the way of the froward; he that keepeth his soul holdeth himself far from them?'³³ Further, are lions and thieves 'by the hand of man'? Did not R. Joseph say and R. Hiyya teach: Since the day of the destruction of the Temple, although the Sanhedrin ceased,³⁴ the four forms of capital punishment³⁵ have not ceased? 'They have not ceased,' [you say]? Surely they have ceased! But [say]

1. With regard to the Edomite and the Egyptian it is stated in Deut. XXIII, 9: 'The children of the third generation that are born unto them shall enter into the congregation of the Lord.' This is a 'positive law'. That the marriage with an Edomite and an Egyptian of the second generation is forbidden is derived from this positive law. And when a prohibitory law is derived from a positive law, it is regarded as a positive law. And in such a case the marriage takes effect, although it should be discontinued. Thus we would have a difference between Simeon the Temanite and Simeon the son of Menassia.
2. If his statement refers only to R. Simai, it is limited by the words of R. Simai, and a positive law (i.e., a prohibitory law derived from a positive law) cannot be brought in.
3. And is therefore unlimited.
4. In Lev. XXI, 13 the high priest is commanded to take as his wife a virgin. If he marries a girl who is no more a virgin the marriage takes effect, although it should be discontinued. And so we have again a difference between Simeon the Temanite and R. Simeon b. Menassia.
5. Prohibition derived from a positive law.
6. From other such prohibitions (e.g., the prohibition with regard to the Edomite and Egyptian) v. p. 164. nn. 6 and 8.
7. It applies only to the high priest. Therefore it is not treated as the other prohibitory laws

- that are derived from positive laws, and it would not be included in the general ruling of R. Akiba even according to R. Yeshebab.
8. The last case in the second clause of our Mishnah.
 9. Although the cohabitation with a woman during menstruation is prohibited and is punishable with *Kareth*, v. Lev. XVIII, 19 and 29.
 10. The violated maiden.
 11. The menstruant woman.
 12. The marriage of a woman during menstruation takes effect. The fact that cohabitation during menstruation is forbidden does not affect the validity of the marriage, cf. Yeb. 49b and Kid. 68a. The condition of Simeon the Temanite is therefore fulfilled.
 13. The violated maiden.
 14. The menstruant woman.
 15. The marriage of a menstruous woman is entirely valid and may be continued. Thus the condition of R. Simeon b. Menassia is fulfilled.
 16. In the second clause of which it is taught that he who violates his sister or any of the other six maidens enumerated, the intercourse with whom is punishable by *Kareth*, has to pay the fine.
 17. By doing forbidden work on that day.
 18. I.e., he is guilty of a transgression punishable by death (by the hand of man, that is by the court), v. Ex. XXXI, 15 and XXXV, 2.
 19. If, in doing the forbidden work on the Sabbath, he caused damage to someone's property (e.g., if he set fire to a stack of corn) he is free from paying for the damage done, since the transgression involves the death penalty, and where there is the death penalty, there is no payment of money, on the principle that the smaller offence, for which the payment of money is due, is merged in the greater offence v. *infra*.
 20. By doing forbidden work on that day.
 21. I.e., he is guilty of a transgression punishable by *Kareth*; v. Lev. XXIII, 29, 30. *Kareth* is a divine visitation. Compare 'And (that soul) shall be cut off from among his people' (v. 29) with 'and I will destroy that soul from among his people' (v. 30). *Kareth* is called in the Talmud 'death by the hand of heaven', while the death penalty, i.e., death by the court, is called 'death by the hand of man'. T. Nehunia b. ha-Kaneh makes 'death by the hand of heaven' (although it is not known when it will come, and when it comes it may be regarded by some people as a natural death; cf. Sema. III, 10) equal to 'death by the hand of man' (which is executed through the Court, and all see that the penalty of death was inflicted for the transgression) and applies to it also the

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principle that the lesser offence is merged in the greater. On this view since the intercourses mentioned in the second clause of our Mishnah are punishable with *Kareth*, the fine would not be paid.

22. [H] Ex. XXI, 22, 23.
23. 'Harm' in Ex. XXI, 22, 23 means (also) death as v. 23 ('then thou shalt give life for life') clearly shows.
24. Cf. v. 22: And if men strive together and hurt a woman with child, etc.
25. V. Gen. XLII, 4. also XLIV, 29 There the reference is to 'harm' that may befall Benjamin on the Journey which may result in death. V. *infra*.
26. In Ex. XXI, 22, when no death (or other 'harm') follows, a payment of money is made. But when death follows, the death penalty is inflicted (v. 23) and no payment of money is made. This is clear, since payment of money is only mentioned to v. 22, and in v. 23 only 'life for life' is mentioned.
27. Abaye's reasoning is as follows: i. He proves that 'harm' refers both to the harm done by man (including death) and to the harm caused by heaven (including death). Therefore 'death by the hand of heaven' equals 'death by the hand of man'. ii. In the case in which 'death by the hand of man' is mentioned, it is stated that the penalty of death is inflicted ('life for life'), and no payment of money is made. The same applies to a case where the penalty is 'death by the hand of heaven'. The analogy could only be between the two words 'harm'. Once the equality of the two kinds of death is established (through the analogy), the equality of the consequences of these two kinds of death follows.
28. In Gen. XLII, 4.
29. So Rashi; fast. 'blowing cold winds'. The words are taken from Prov. XXII, 5.
30. Cold and heat come from God.
31. Thieves are 'the hand of man'. Lions are apparently called 'the hand of man', as they are not 'the hand of heaven' in the same sense in which cold and heat are 'the hand of heaven,' v., however, *infra*.
32. Lit., 'all things'. And such harm as is 'the hand of heaven' is included.
33. Prov. XXII, 5. also A.Z. (Sonc. ed.) p. II, n. 2.
34. And capital punishment could no longer be decreed by the Jewish Courts.
35. Lit., 'the four deaths', v. Sanh. 49b.

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the judgment of the four forms of capital punishment has not ceased.¹ He who would have been sentenced to stoning,² either falls

down from the roof or a wild beast treads him down.³ He who would have been sentenced to burning, either falls into a fire⁴ or a serpent bites him.⁵ He who would have been sentenced to decapitation,⁶ is either delivered to the government⁷ or robbers come upon him.⁸ He who would have been sentenced to strangulation, is either drowned in the river or dies from suffocation.⁹ But reverse it: Lions and thieves are 'by the hand of heaven', and cold and heat are 'by the hand of man'.

Raba said: The reason [for the view] of R. Nehunia b. Hakaneh, is [derived] from here:¹⁰ [It is written:] And if the people of the land do not all hide their eyes from that man, when he giveth of his seed unto Molech, [and put him not to death]; then I will set my face against that man, and against his family, and will cut him off.¹¹ [With these words] the Torah says:¹² My *Kareth* is like your death [-penalty]; as [in the case of] your death[-penalty] one is free from payment, so [in the case of] my *Kareth* one is free from payment. What is the difference between Raba and Abaye? — The difference is [with regard to] a stranger¹³ who ate *Terumah*.¹⁴ According to Abaye he is free [from payment],¹⁵ and according to Raba he is bound [to pay].¹⁶ But is he free [from payment] according to Abaye? Did not R. Hisda say: R. Nehunia b. ha-Kaneh admits that he who stole [forbidden] fat¹⁷ belonging to his neighbor, and ate it, is bound [to pay],¹⁸ because he was guilty of stealing before he came to [the transgression of] the prohibition with regard to [forbidden] fat?¹⁹ Hence [you say that] as soon as²⁰ he lifted it²¹ up he acquired it,²² but he did not become guilty of the transgression²³ punishable with death until he had eaten it. Here²⁴ also, when he lifted it²⁵ up he acquired it, but he did not become guilty of the transgression²⁶ punishable with death until he had eaten it!²⁷ —

Here we treat of a case where his friend stuck it²⁸ into his mouth.²⁹ [But] even then,³⁰ as soon as he chewed it, he acquired it, but he is not guilty of the transgression punishable

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with death until he has swallowed it!³¹ — When [his friend] stuck it into his esophagus.³² How shall we imagine this case? If he can give it back,³³ let him give it back.³⁴ And if he cannot give it back, why should he be guilty?³⁵ — It speaks of a case when he can give it back only with an effort.³⁶ R. Papa said, When his friend put liquids of *Terumah* into his mouth.³⁷ R. Ashi said: [it speaks of a case] when a stranger ate his own *Terumah*.³⁸

1. The punishment comes in corresponding forms.
2. To death by stoning.
3. And kills him.
4. A conflagration.
5. And the poison burns and kills him.
6. With a sword, v. Sanh. 49b.
7. To the Roman Government.
8. And slay him.
9. [H]; so Jast.; Rashi: croup.
10. From the following passage of the Bible.
11. Lev. XX, 4f.
12. I.e., God says in the Torah to Israel.
13. I.e., A non-priest.
14. If a stranger eats *Terumah*, he is punished with death, not with death 'by the hand of man' but with death 'by the hand of heaven'. V. Lev. XXII, 9, 10 and cf. Sanh. 83a. The death 'by the hand of heaven' in this case is, however, a milder form of *Kareth*. *Kareth* proper means the cutting off of the life of the transgressor and of his family. The death in the case of a stranger eating *Terumah* means death similar to that of *Kareth*, namely 'by the hand of heaven,' but applied only to the offender. V. Rashi, a.l. Cf. also Lev. XX, 5 (then I will set my face against that man and against his family and I will cut him off).
15. For the *Terumah*. 'Harm' indicates any kind of death, also the milder form of death 'by the hand of heaven', as that in the case of eating *Terumah*.
16. To the priest for the *Terumah*. Raba derives the reason for the view of R. Nehunia b. ha-Kaneh, from Lev. XX, 4, 5, and there *Kareth* proper is spoken of. According to Raba, therefore, only *Kareth* proper is made equal to death 'by the hand of man' with regard to one being free from payment, but not the milder form of *Kareth*, of death 'by the hand of heaven, as in the case of a stranger eating *Terumah*. In that case, payment must be made.
17. Heleb; v. Lev. III, 17; VII, 23 and 25. In the latter verse *Kareth* is the punishment mentioned for eating Heleb. Cf. Ker. 2a, 4a-b.

18. Although the eating of Heleb is punishable with *Kareth*; v. preceding note.
19. Since the crime of stealing was committed before the sin of eating Heleb, the principle of the lesser offence being merged in the greater (v. *supra* 30a) does not apply.
20. Lit., 'from the time that'.
21. The Heleb.
22. And from that moment becomes liable for the theft.
23. Of eating the Heleb.
24. In the case of *Terumah*.
25. The *Terumah*.
26. Of eating *Terumah*.
27. And he should therefore be liable to pay for it.
28. The *Terumah*.
29. So that he did not acquire it by lifting it up but only from the moment he eats it, so that the offence of stealing and of eating the *Terumah* are committed simultaneously.
30. Lit., 'the end of the end'.
31. The theft is thus committed before the offence of eating the *Terumah*, whereas there is no liability for eating *Terumah* before he swallows it.
32. So there was no chewing.
33. I.e., if he can bring it out of his esophagus.
34. And by failing to do so he becomes liable from that very moment for stealing it.
35. Of the transgression of eating *Terumah*, seeing it was a case of force majeure.
36. [So that even if he had brought it up, it would have been useless. Consequently he cannot be held guilty of stealing. What he can be made liable to pay for is for actually eating the *Terumah*. This act, however, carries with it also a death penalty which applies in this case, since he could by an effort have brought it up. As both penalties do thus arise simultaneously, he is free from payment.]
37. In this case also both penalties come at the same time; cf. previous note.
38. *Terumah* of his own produce, which he separated and was going to give to the priest. In eating it he is guilty of a transgression punishable with death 'by the hand of heaven'.

Kethuboth 31a

and [at the same time] tore the silk garments of his neighbor.¹

The [above] text [stated]: 'R. Hisda said: R. Nehunia b. Hakaneh admits that, if someone stole [forbidden] fat belonging to his neighbor and ate it, he is bound [to pay], because he was guilty of stealing before he

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came to [the transgression of] the prohibition with regard to [forbidden] fat.' Is it to say that he differs from R. Abin? For R. Abin said: If someone threw an arrow [on Sabbath] from the beginning of four [cubits] to the end of four [cubits²] and it³ tore silk garments in its passage⁴ he is free [from payment],⁵ for the taking up⁶ was necessary for the putting down.⁷ Now here⁸ also the 'lifting up' was necessary for the eating.⁹ — Now, is this so?¹⁰ There¹¹ 'the putting down' is impossible without the 'taking up'; but here¹² the eating is possible without the 'lifting up', for, if he likes, he can bend down and eat.¹³ Or: there,¹⁴ if he wants to take it back, he cannot take it back;¹⁵ but here,¹⁶ he can put it back.¹⁷ — What is the [practical] difference between the one answer and the other answer? — The difference is: when someone carried¹⁸ a knife in the public road¹⁹ and it²⁰ tore silk garments in its passage: according to the answer that the 'putting down' is impossible without the 'taking up', here²¹ also the 'putting down' is impossible without the 'taking up'.²² And according to the answer that he cannot take it back, here²³ he can take it back.²⁴

The text [stated above]: 'R. Abin said: If someone threw [on Sabbath] an arrow from the beginning of four [cubits] to the end of four [cubits] and it tore silk garments in its passage he is free [from payment], for the "taking up" was necessary for the "putting down".' R. Bibi b. Abaye raised the following objection: If someone stole a purse²⁵ on Sabbath he is bound [to pay],²⁶ because he was guilty of stealing before he came to the [transgression of] the prohibition which is punishable with stoning,²⁷ but if he dragged it along he is free [from payment], because the desecration of the Sabbath and the stealing come at the same time.²⁸ And why?²⁹ Here also we should say: The lifting up is necessary for the carrying out!³⁰ —

Here we treat of a case when he lifted it up in order to hide it and changed his mind and carried it out.³¹ [But] is he, in this case, guilty [of desecrating the Sabbath]? Did not R.

Simeon say [that] R. Ammi said in the name of R. Johanan: If someone was removing objects from one corner to another corner and changed his mind and carried them out he is free [of the transgression of the desecration of the Sabbath] because the taking up was not from the outset for that [purpose]? — Do not say: in order to hide it, but say: in order to carry it out, only it speaks here of a case when he [paused and] remained standing [for a while].³² For what purpose did he remain standing? If to adjust the cord on his shoulder, this is the usual way.³³ — No; [we speak of a case] where he stood still in order to rest. But how would it be if [he had remained standing] in order to adjust the cord on his shoulder?

1. Ordinarily he would have to pay his neighbor for the damage done to his garments. But as here the liability to death 'by the hand of heaven' for eating the *Terumah* and the obligation to pay to his neighbor for the torn silk garments come at the same time, he is free from having to make the payment to his neighbor.
2. To throw an object a distance of four cubits in the public road on Sabbath is a desecration of the Sabbath, which, if done willfully, is punishable with death 'by the hand of man' (stoning) if after a warning, and with death 'by the hand of heaven' (*Kareth*), if without a warning. V. Shah. 96b and 100a and Ex. XXXI, 14.
3. The arrow.
4. I.e., in the course of its flight.
5. For the silk garments, to their owner.
6. Of the arrow.
7. It is when the object is 'put down' or comes to rest, that the act of transgressing, or of throwing, is completed. But it begins with the 'taking up' of the object. The damage to the silk garments was done between the act of 'taking up' [H] and that of 'putting down', [H]. The penalty of death or *Kareth* is thus regarded as having come at the same time as the obligation to pay for the torn garments, and he is therefore free from payment (Rashi).
8. In the case of one stealing Heleb and eating it.
9. Therefore here also the penalty of *Kareth* for eating Heleb and the obligation to pay for the Heleb to its owner come at the same time, and, according to R. Abin, he would be free from payment.
10. Is this analogy correct?

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11. In the case of throwing the arrow.
12. In the case of eating Heleb.
13. Without lifting; there is therefore no analogy. Hence the liability for stealing came first from the moment of lifting.
14. In the case of throwing the arrow.
15. Once he has thrown the arrow it takes its course.
16. In the case of eating the Heleb.
17. Therefore we do not say that the eating of the Heleb Begins from the time when he lifted it up.
18. Lit., 'He who causes to pass'.
19. To carry an object four cubits in the public road is a desecration of the Sabbath, v. *supra*.
20. The knife.
21. In the case of the knife.
22. And he would be free from payment, v. p. 170. n. 6
23. In the case of the knife.
24. And he would have to pay for the torn garments.
25. With money.
26. To the owner of the purse for the loss of the purse and its contents.
27. He was guilty of stealing as soon as he lifted up the purse, and he was guilty of desecrating the Sabbath only after he carried it into the public road. And as the two guilty acts did not coincide, he is not free from payment.
28. When he got it out from the domain of the owner into the public road.
29. Why should he be bound to pay if he lifted up the purse?
30. And he should be free from payment. V. p. 170, n. 6.
31. The 'lifting up' was therefore not for the purpose of carrying out,
32. [His pause in the owner's domain completed the first act of removing, making him liable for the theft, while the liability for Sabbath desecration begins when he resumes his walk to carry it outside.]
33. Of one who carries a cord, and this pause cannot be regarded as an interruption.

Kethuboth 31b

He would be free [from payment]? [If so] instead of teaching 'but if he dragged it along he is free [from payment]', let him make the distinction in the same case.¹ 'When is this said?² If he stood still to rest; but if [he stood still] to adjust the cord on his shoulder, he is free [from payment]'? But [answer thus:] Whose opinion is this? It is that of Ben 'Azzai, who says: Walking is like standing.³

[But] how would it be if he threw [the purse]?⁴ He would be free [from payment].⁵ Let him then make the distinction in the same case,⁶ thus when is it said:² 'When he walked,⁸ but when he threw it, he is free'? —

The case of dragging it along is necessary [to be stated]. You might have said that this is not the way of carrying out,² so he lets us hear [that it is not so]. Of what [kind of purse does it speak]? If of a large purse, this¹⁰ is the ordinary way [of carrying it out],¹¹ and if of a small purse, this is not the ordinary way?¹² — In fact [it speaks] of a middle-sized [purse]. But where did he carry it to? If he carried it into the public road, there is desecration of the Sabbath but no stealing,¹³ and if he carried it into private ground, there is stealing but no desecration of the Sabbath!¹⁴ — No, it is necessary [to state it] when he carried it out to the sides¹⁵ of the public road. According to whose view?¹⁶ If according to [that of] R. Eliezer, who says: The sides of the public road are like the public road,¹⁷ there is desecration of the Sabbath but no stealing¹⁸ and if it is according to the view of the Rabbis, who say: 'The sides of the public road are not like the public road,' there is stealing but no desecration of the Sabbath?¹⁵ —

Indeed, it is according to R. Eliezer, and when R. Eliezer says: 'The sides of the public road are like the public road', it is only with regard to becoming guilty of the desecration of the Sabbath,¹⁹ because sometimes, through the pressure of the crowd, people go in there,²⁰ but with regard to acquiring, one does acquire there, because the public is not often there.²¹ R. Ashi said: [We speak of a case] when he lowered²² his hand to less than three [handbreadths]²³ and received it.²⁴ [And this is] according to Raba, for Raba said: The hand of a person is regarded as [a place of] four by four [handbreadths].²⁵ R. Aha taught so.²⁶ Rabina [however] taught: Indeed, when he carried it out into the public road, for he acquires also in the public ground.²⁷ [And] they²⁸ differ with regard to a deduction from this Mishnah, for we have

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learned: If he²⁹ was pulling it out³⁰ and it died in the domain of the owner, he is free;³¹ but if he lifted it up or brought it³² out from the territory of the owner³³ and it died, he is bound [to pay].³⁴

Rabina makes a deduction from the first clause, and R. Aha makes a deduction from the second clause. Rabina makes a deduction from the first clause: 'If he was drawing it out and it died in the domain of the owner, he is free'. The reason [for his being free] is because it died in the domain of the owner, but if he had brought it out³⁵ from the domain of the owner³⁶ and it died, he would have been bound [to pay].³⁷ R. Aha makes a deduction from the second clause: 'but if he lifted it up or brought it out [etc.]' Bringing out is like lifting up; as lifting up is [an act through which the object] comes into his possession,³⁸ so bringing out [must be an act through which the object] comes into his possession.³⁹ According to R. Aha the first clause is difficult and according to Rabina the second clause is difficult? — The first clause is not difficult according to R. Aha, for as long as it has not come into his possession it is called: 'in the domain of the owner'.⁴⁰ The second clause is not difficult according to Rabina, for we do not say [that] bringing out is like lifting up.⁴¹

IF ONE HAD INTERCOURSE [BY FORCE] WITH HIS SISTER, OR WITH THE SISTER OF HIS FATHER, etc. There is a question of contradiction against this: The following persons receive [the punishment of] lashes: he who has intercourse with his sister, with the sister of his father, with the sister of his mother, with the sister of his wife, with the sister of his brother, with the wife of the brother of his father, or with a woman during menstruation,⁴²

1. In the first case stated when he lifted up the purse.
2. That the two acts are held not to coincide and he is therefore bound to pay for the purse.
3. Lit., 'he who walks is as he who stands.' It means: every pace made is a new 'lifting up'

and a new 'putting down'. Therefore, the theft is committed with the first 'lifting up' of the purse, and the desecration of the Sabbath is effected when the last pace is made. The two acts therefore do not coincide and he is bound to pay.

4. He lifted up the purse and threw it into the public road.
5. Because the stealing and the desecration of the Sabbath come together: cf. the case of the arrow on *supra* 30a.
6. In the first case stated when he lifted up the purse.
7. That the two acts are not held to coincide and he is therefore bound to pay for the loss to the owner of the purse.
8. And carried out the purse in walking.
9. From one territory to another, and therefore involves no liability.
10. Dragging it along.
11. And why is it necessary to let us hear that dragging it along is a way of carrying out? It is too heavy to carry.
12. And indeed it should not be regarded as 'carrying out' and should not constitute a desecration of the Sabbath.
13. Lit., 'the prohibition of Sabbath is there, the prohibition of stealing is not there'. — Without lifting it up there is no acquisition in the public road. (Rashi.)
14. Since he carried it from one private ground to another private ground next to it. 'Carrying out' is forbidden on Sabbath only from private ground to public ground or from public ground to private ground. V. Shab. 2b and 73a.
15. V. *infra*.
16. Lit., 'according to whom'?
17. V. Shab. 6a.
18. V. note 1.
19. Guilt of the Sabbath.
20. Lit., 'the public press and go in there'.
21. And they have therefore more the character of private ground for the purpose of acquisition by pulling (Meshikah, v. [Glos.](#)).
22. Lit., 'joined'.
23. From the ground. Within three handbreadths from the ground it is public territory. Cf. Shab. 97a.
24. Indeed he dragged the purse along into the public road, and there he put his (second) hand near the ground, less than three handbreadths, and received the purse into the hand, and his hand acquired it for him. Thus the desecration of the Sabbath and the stealing came at the same time: the former when the purse was carried out into the public road (for dragging along is carrying out), and the latter when — simultaneously — it

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dropped into his hand (Rashi). V. also next note.

25. For the purpose of 'taking up' and 'putting down', the place must be at least four by four handbreadths; v. Shab. 4a. Raba said that the hand of a person is regarded as being a place of four by four handbreadths; v. Shab. 5a. And just as it is regarded as a place of four by four handbreadths for the purposes of Sabbath, it is also regarded as such a place for the purposes of acquisition. Therefore, when he received the purse into his hand, although it was lower than three handbreadths from the ground, since his hand is considered a place, in the legal sense, it is as if he had lifted up the purse above the three handbreadths from the ground and he has thus acquired it by lifting it up: the desecration of the Sabbath and the stealing come therefore at the same time (Rashi). 'Lifting' as an act of acquisition must be at least three handbreadths from the ground. V. Kid. (Sonc. ed.) p. 124, n. 5.
26. As R. Ashi said that there is no acquisition in a public domain except by 'lifting up'.
27. By dragging along the purse towards him. No 'lifting up' is necessary. The person acquires the object by pulling it (*Meshikah*) even in a public domain.
28. R. Aba and Rabina.
29. V. B.K. l.c.
30. Lit., 'he pulled it and went'. — He intended to steal the animal.
31. From paying to the owner for the animal, for he has not acquired it yet, since he has not taken it out from the territory of the owner and it has therefore not come into his possession.
32. The animal.
33. And by doing this he acquired the animal.
34. To the owner for the animal, v. B.K. 79a.
35. By the process of 'pulling'.
36. Even into public territory.
37. This shows that pulling an object to oneself acquires also in public territory.
38. [H] has the meaning of domain as well as of possession.
39. [H] here also means 'possession'. By being brought into his private domain the object comes into his possession, but not by being brought out into public territory. Therefore R. Aha requires the device of the person receiving the object into his hand near the ground, as R. Ashi said.
40. Even if it is in the public road.
41. In the sense in which R. Aha says it.
42. Persons who commit, after a warning, a transgression punishable with *Kareth* receive the punishment of lashes, v. Mak. 13a.

Kethuboth 32a

and it is established that one does not receive lashes and pay!¹ — 'Ulla said: There is no difficulty. Here² [it speaks] of his sister [who is] a maiden,³ and there⁴ [it speaks] of his sister [who is] a mature girl.⁵ [But in the case of] his sister [who is] a mature girl, too, [there are damages to be paid for the] shame and deterioration?⁶ — [It speaks of] an idiot.⁷ But [there are still damages to be paid for] the pain?⁸ [It speaks of] a girl who was seduced.⁹ Now that you have come to this,¹⁰ you can even say [that it speaks of] his sister [who was] a maiden [and namely when she was] an orphan¹¹ and [she was] seduced.¹²

Consequently, 'Ulla holds the view that wherever there is money [to be paid] and the punishment of lashes [to be inflicted], he pays the money and does not receive the lashes,¹³ Whence does 'Ulla derive this? — He derives it from [the law with regard to] one person who injures another person. Just as when one person injures another person, in which case there is money to [be paid]¹⁴ and the punishment of lashes,¹⁵ he pays the money and does not receive the lashes,¹⁶ so whenever there are payment of money and the punishment of lashes, he pays the money and does not receive the lashes. [But may it not be argued] it is different with [the case of] one person who injures another person because he is liable for five things?¹⁷ And [if you will say] that [the payment of] money is lighter,¹⁸ [one can say against this] that [here it has been excepted] from its rule [and] permitted to the Court!¹⁹ But he derives it from the refuted false witnesses.²⁰ Just as in the case of refuted false witnesses, whose transgression involves the payment of money and the punishment with lashes,²¹ they pay the money but do not receive the lashes,²² so whenever there are payment of money and the punishment of lashes, he pays the money and does not receive the lashes. [But it may be argued] it is different with the case of refuted false witnesses, because they do not require a warning?²³ [And if you will say] that [the payment of] money is lighter, [one can say

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against this,] that they²⁴ have not done any deed!²⁵ —

But he derives it from both.²⁶ The point common to both is that there are the payment of money and the punishment of lashes, and in either case he pays the money and does not receive the lashes. So whenever there are payment of money and the punishment of lashes, he pays the money and does not receive the lashes. But [it may be argued] the point common to both is [also] that they both have a strict side?²⁷ And if [you will say that the payment of] money is lighter, [one can say against this] that they have both a lighter side?²⁸

1. Since he receives lashes, according to the Mishnah just quoted, he should not pay the fine, and this would be against our Mishnah.
2. In our Mishnah.
3. A Na'arah (v. [Glos.](#)) and the fine is payable; v. *supra* 29a. In this case the penalty of lashes would not be inflicted.
4. In Mak. 13a.
5. A Bogereth (v. [Glos.](#)), and no fine is due, v. *supra* 29a. In this case the penalty of lashes is inflicted.
6. Which she has suffered, (v. *infra* 39a-40b). And there would be both lashes and payment.
7. The girl is not compos mentis, and thus neither shame nor deterioration applies.
8. Caused by the forced intercourse.
9. In the Mishnah Mak. 13a, it was not a case of violation, but of seduction; and in seduction there is no pain: v. *infra* 39b.
10. To say that the Mishnah Mak. speaks of seduction and not violation.
11. Since her father is not alive, the damages are payable to her.
12. And having yielded to his persuasion she will not claim the damages from him; hence lashes are inflicted.
13. Since 'Ulla explains the Mishnah Mak. 13a as dealing with a Bogereth, as otherwise there would be, in his view, no lashes even if he were warned beforehand, but only the payment of the fine.
14. V. Ex. XXI, 19.
15. This is deduced from Deut. XXV, 3 (Rashi).
16. V. *infra* 32b.
17. He has to make five kinds of payments; v. B.K. 83b. The payment of money in this case is therefore particularly heavy and other money payments cannot be compared with it.
18. And if in this case payment of money is to be made and no lashes are to be given, the same

should indeed apply to other cases. Whether the payment is greater or smaller, it is a lighter punishment than lashes, and we see here that the lighter punishment is chosen (cf. Rashi).

19. In this case the Torah has expressly stated that the Court may administer lashes (cf. Deut. XXV, 2). But the Court may prefer, and as a rule does prefer, that the person who was injured should receive money as compensation (Cf. Tosaf. s.v. וְאֵי). Therefore in this case the money is paid and no lashes are given. But in other cases, as in those of violation and seduction, the rule may be different. In these cases the giving of lashes is not mentioned explicitly in the Torah, and thus its permissiveness is not stated. And when in such cases the punishment of lashes and the payment of money are due, lashes are given. And you cannot derive other cases from this case. With regard to the punishment of lashes v. Mak. 13b.
20. Witnesses proved *Zomemim*, v. [Glos.](#)
21. Cf. Mak. 4a.
22. V. *infra* 32b.
23. They are subject to the lex talionis without a warning.
24. The refuted false witnesses.
25. Their transgression consists in words and not in deeds. Therefore the money penalty is imposed and not that of lashes. But with regard to transgressions in deeds, it may be that the transgressor receives lashes!
26. The case of one person who injures another person and the case of the refuted false witnesses.
27. In the one case the five kinds of payment and in the other case the non-requirement of a warning.
28. In the one case the exception (v. p. 176, n. 9), and in the other case the transgression consisted of words and not of a deed. Therefore you cannot compare other cases with this case.

Kethuboth 32b

— But 'Ulla derives it from the two words 'for'.¹ It is written here for he hath humbled her² and it is written there: 'Eye for eye'. As there³ he pays money and does not receive lashes, so wherever there are the payment of money and the punishment of lashes, he pays money and does not receive the lashes.

R. Johanan said: You can even say that it⁴ speaks of his sister who was a maiden. Only

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there⁴ it speaks of a case where they warned him,⁵ and here⁶ it speaks of a case where they did not warn him.⁷ Consequently R. Johanan holds the view that wherever there are the payment of money and the punishment of lashes and they warned him, he receives the lashes and does not pay the money. Whence does R. Johanan derive this?—

The verse says: According to his guilt;⁸ [from this I infer that] you punish him because of one guilt but not because of two guilts, and immediately follow⁹ the words: Forty stripes he may give him.¹⁰ But behold when one person injures another person, in which case there are the payment of money and the punishment of lashes, he pays money and does not receive the lashes? And if you will say that this is only when they did not warn him, but when they warned him, he receives the lashes and does not pay — did not R. Ammi say in the name of R. Johanan that, if one person struck another person a blow, for which no *Perutah*¹¹ can be claimed as damages,¹² he receives the lashes? How shall we imagine this case? If they did not warn him, why does he receive the lashes? Hence it is clear that they warned him, and the reason [why he receives the lashes and does not pay] is because the damages do not amount to a *Perutah*, but if they amount to a *Perutah* he pays the money but does not receive the lashes!¹³ —

[It is] as R. Elai said: The Torah has expressly stated¹⁴ that the *Zomemim* witnesses have to pay money; so [here] also the Torah has expressly stated that the person who injures another person has to pay money. With regard to what has that [teaching] of R. Elai been said? — With regard to the following:¹⁵ 'We testify that So-and-so owes his fellow two hundred Zuz' and they were found to be *Zomemim*, they receive the lashes and pay,¹⁶ for it is not the verse that imposes upon them¹⁷ the lashes¹⁸ which imposes upon them¹⁷ the payment¹⁹ [of money]. This is the view of R. Meir; and the Sages say: He who pays does not receive

lashes.²⁰ [And] let us say: he who receives lashes does not pay?²¹ [Upon that] R. Elai said: The Torah has expressly stated that the *Zomemim* witnesses have to pay more money. Where has the Torah stated this? — Consider; it is written: 'Then shall ye do unto him as he had thought to do onto his brother'; why [is it written further,] 'hand for hand'?²² [This means] a thing that is given from hand to hand, and that is money. [And] the same applies to the case of²³ one person who injures another person. Consider; it is written: 'As he hath done, so shall it be done to him';²⁴ why [is it written further] 'so shall it be rendered unto him'?²⁵ [This means] a thing that can be rendered,²⁶ and that is money.

Why does R. Johanan not say as 'Ulla?²⁷ — If so²⁸ you would abolish [the prohibitory law]: The nakedness of thy sister thou shalt not uncover.²⁹

1. [H]. A deduction based on similarity of expressions — a *Gezerah Shawah* (v. [Glos.](#)).
2. Deut. XXII, 29.
3. Ex. XXI, 24.
4. The Mishnah, Mak. 13a.
5. And he is therefore liable to the payment of money and the penalty of lashes, and the Mishnah in Mak. 13a teaches us that, in that case, he receives the lashes and does not pay the money.
6. In our Mishnah.
7. And he is not liable to the penalty of lashes, and therefore he has to pay the money.
8. Deut. XXV, 2.
9. Lit., 'and next to it'.
10. Deut. XXV, 3. This shows that when there are two guilts, or two punishments for one guilt, he receives the punishment of lashes.
11. A small coin, v. [Glos.](#)
12. Lit., 'in which there is not the value of a *Perutah*'.
13. Which contradicts R. Johanan's ruling.
14. Lit., 'increased'. This means: included something by using an additional word, or additional words.
15. Mak. 4a.
16. The amount they wanted to make the person pay, against whom they falsely testified.
17. Lit., 'brings them to'.
18. For transgressing the ninth commandment.
19. V. Deut. XIX, 19.
20. V. Mak. 4a.

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21. According to the view of R. Johanan.
22. Deut. XIX, 21.
23. Lit., 'also'.
24. Lev. XXIV, 19.
25. Lev. XXIV, 20.
26. Lit., 'with regard to which there is a rendering', 'a giving'.
27. That our Mishnah speaks of the case where he had intercourse with his sister as a Na'arah, which makes him liable to the fine and exempts him from lashes.
28. That is, if he who cohabited with his sister who is a maiden, would be free from receiving lashes after he had been warned.
29. Lev., XVIII, 9. A prohibitory law, if willfully transgressed, and after a warning, is punishable (also) with lashes. Therefore R. Johanan holds that where there are the payment of money and the punishment of lashes, he receives the lashes and does not pay the money. Only our Mishnah speaks of a case where there was no warning, and therefore he pays the fine.

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[But could not one say] also [in the case of] one person who injures another person: If so¹ you would abolish [the prohibitory law], 'he shall not exceed, lest, if he should exceed.'² [And in case of] the *Zomemim* witnesses too, [one could say]: If so you would abolish [the law]: 'then it shall be, if the guilty man deserve to be beaten.'³ But [you must say that in the case of] the *Zomemim* witnesses it is possible to fulfill it⁴ when [the witnesses testified falsely about someone⁵ that he was] the son of a divorced woman or the son of a *Haluzah*.⁶ [Similarly in the case of] a person who injured another person, it also is possible to fulfill it⁷ when he struck him a blow for which no *Perutah* can be claimed as damages.⁸ [And so you can say] also [with regard to] his sister [that] it is possible to fulfill it⁹ in the case of his sister who was a mature girl!¹⁰ —

R. Johanan can answer you: [The verse] for he hath humbled her¹¹ is required for [the same teaching] as of Abaye, for Abaye said: The verse says, 'for he hath humbled her'. This¹² [he shall pay] for he has humbled her, [from which we infer], by implication, that there are also [to be paid damages for] shame

and deterioration.¹³ And 'Ulla?'¹⁴ — He derives it from a teaching of Raba, for Raba said: The verse says: Then the man that lay with her shall give unto the father of the maiden it fifty *Shekel* of silver;¹⁵ [this means that] for the enjoyment of lying [with the maiden he has to pay] fifty [*Shekel* of silver], [and we infer], by implication, that there are also [to be paid damages for] shame and deterioration.

R. Eleazar¹⁶ says: The *Zomemim* witnesses pay money and do not receive lashes, because they cannot be warned.¹⁷ Raba said: You may know it [from the following]:¹⁸ When shall we warn them? Shall we warn them at first?¹⁹ They will [then] say: We have forgotten.²⁰ Shall we warn them during the deed?²¹ They would [then] withdraw and not give any evidence.²² Shall we warn them at the end?²³ [Then] what has been has been.²⁴ Abaye demurred to this: Let us warn them immediately after they have given their evidence?²⁵

R. Aha, the son of R. Ika demurred: Let us warn them at first²⁶ and gesticulate to them [afterwards].²⁷ Later²⁸ Abaye said: What I said²⁹ was nothing. For if one were to say³⁰ that *Zomemim* witnesses require a warning, [it would follow that], if we have not warned them, we would not kill them.³¹ [But then] is it possible³² that who they wished to kill without a warning,³³ that they should require a warning? Surely, it is necessary³⁴ [that the words be fulfilled,] 'then shall ye do unto him as he has thought to do onto his brother',³⁵ and this would not be [the case here]? To this R. Samma the son of R. Jeremiah demurred. But now [according to your argument], [if the witnesses testified falsely about someone³⁶ that he was] the son of a divorced woman or the son of a *Haluzah*,³⁷ since this case is not included in 'as he had thought, etc.' a warning should be required!³⁸ — The verse says: 'Ye shall have one manner of law';³⁹ [this means] a law that is equal for you all.⁴⁰

R. Shisha, the son of R. Idi, said: That a person who injures another person pays

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money and does not receive the lashes is derived from this:⁴¹ [It is written:] And if men strive together and hurt a woman with child, so that her fruit depart.⁴² [Upon this] R. Eleazar said: The verse speaks of a striving with intent to kill, for it is written, But if any harm follow, then thou shalt give life for life.⁴³ How shall we imagine this case? If they did not warn him, why should he be killed? Hence it is obvious that he was warned, [and it is held], when one is warned regarding a severe matter⁴⁴ one also is warned for a light matter,⁴⁵ and [yet] the Torah says: And yet no harm follow, he shall be surely fined.⁴⁶ To this R. Ashi demurred: Whence [do we know] that when one is warned regarding a severe matter one also stands warned for a light matter? Perhaps it is not so!⁴⁷ And even if we will say that it is so, whence [do we know] that [the penalty of] death is severer?

1. Cf., in this case, he has to pay money, he does not receive the lashes, v. *supra* 32b.
2. Deut. XXV, 3. If the lashes are not given, this law is not fulfilled.
3. Deut. XXV, 2, from which is derived the inflicting of lashes on *Zomemim* witnesses, v. Mak. 2b, and *infra*.
4. The flagellation prescribed in Deut. XXV, 2.
5. A priest.
6. V. *Glos.* In this case one cannot do to him as he had thought to do to others; nor is there a money fine, so he receives the lashes, v. Mak. 2a.
7. The flagellation attached to the prohibitory law of Deut. XXV, 3.
8. Where there is no money payment and so he receives the lashes, v. *supra* 32b. V. Rashi.
9. The flagellation attached to the prohibitory law of Lev. XVIII, 9.
10. As long as there is a possibility of fulfilling the law it is not abolished, as in the other two cases; thus there is no point in R. Johanan's objection to 'Ulla's explanation.
11. Deut. XXII, 29, from which 'Ulla derives that the fine is paid and no lashes are inflicted.
12. The fifty *Shekels* of silver.
13. V. *infra* 40b.
14. Whence does he derive Abaye's deduction?
15. Deut. XXII, 29.
16. So marginal glosses to text. R. Eleazar b. Pedath, generally called in the Talmud simply R. Eleazar, was a disciple and later an associate of R. Johanan. Cur. edd.: R. Eliezer.
17. [No verse is required to teach that *Zomemim* witnesses pay and receive no lashes (in opposition to R. Elai *supra* p. 178) as the Talmud proceeds to explain. The case of Mak. 2a (v. *supra* note 3) is an exception since there is no possibility of applying the *lex talionis*; where however it is applicable there are no lashes (Rashi).]
18. That they cannot be warned.
19. Before they gave evidence.
20. The warning. The warning has then lapsed.
21. I.e., during the evidence.
22. Seeing that they are under suspicion they would refuse altogether to give evidence, even true evidence.
23. After they had given their evidence.
24. I.e., what they said they cannot withdraw, and there would be no point in warning them.
25. 'Within as much (time) as is required for an utterance', e.g., 'a greeting'. V. *Nazir* (Sonc. ed.) p. 71 n. 1.
26. Before they gave evidence.
27. I.e., during the evidence. By gesticulating we would remind the witnesses of the warning given to them at first, and they could not say, 'we have forgotten it'.
28. Or, 'another time'.
29. That the *Zomemim* witnesses should require a warning to be lashed.
30. Lit., 'if it enters thy mind'.
31. Although their false evidence, had it remained unrefuted, would have brought about the penalty of death on him against whom they testified.
32. Lit., 'is there anything (like this)?'
33. Since their evidence proved to be false, they could not have given a warning to those against whom they testified.
34. Lit., 'do we not require?'
35. Deut. XIX, 19.
36. A priest.
37. v. *supra* p. 180, n. 3.
38. [If the reason that *Zomemim* witnesses require no warning is because, otherwise, the principle 'as he had though' could not be applied, a warning should be required in this case which the law excepts from the application of this principle].
39. Lev., XXIV, 22.
40. And since in most cases the *Zomemim* witnesses cannot be warned, they need not be warned in this case either.
41. And not (as *supra* 32b) from Lev. XXIV, 20.
42. Ex. XXI, 22.
43. Ex. XXI, 23. ['Harm' means 'death'; and, the verse tells us, although there was no intent of killing the woman, the blow having been directed against the other man, yet the slayer is put to death, v. Sanh. 74a.
44. 'Life for life.'

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45. The lashes for striking a person.
46. We thus see that although there was a warning and he should be liable to being punished with the lashes, he pays the money and does not receive the lashes.
47. And since he does not stand warned for the light matter, he is not liable to the punishment with lashes, and therefore pays the fine.

Kethuboth 33b

Perhaps [the punishment with] lashes is severer, for Rab said: If they had lashed Hananiah, Mishael and Azariah, they would have worshipped the [golden] image?¹ R. Samma the son of R. Assi said to R. Ashi; and some say [that] R. Samma the son of R. Ashi [said] to R. Ashi: Do you not make a distinction between a beating that has a limit² and a beating that has no limit?³ R. Jacob from Nehar Pekod [also] demurred:⁴ That is alright according to the Rabbis who⁵ hold that life⁶ actually means [life].⁷ But according to Rabbi,⁸ who holds that it means money, what is there to say?² —

But, said R. Jacob from Nehar Pekod, in the name of Raba; [it is to be derived] from the following verse:¹⁰ [It is written,] 'If he rise again, and walk abroad upon his staff then shall he that smote him be quit.'¹¹ Would it enter your mind that this one¹² walks about in the street and that one¹³ should be killed?¹⁴ But it teaches that they imprison him;¹³ if he¹² dies, they kill him; and if he does not die, 'he shall pay for the loss of his time, and shall cause him to be thoroughly healed.'¹¹ Now how shall we imagine this case? If they did not warn him, why should he be killed? Hence it is plain that they warned him, and [it is held], one who was warned for a severe matter stands warned for the lighter matter and [yet] the All-Merciful says [that if he does not die] 'he shall pay for the loss of his time, and shall cause him to be thoroughly healed'.¹⁵

To this R. Ashi asked: Whence [do you know] that one who was warned for a severe matter stands warned for a lighter matter? Perhaps not? And if you will even say that he does

[stand warned for the lighter matter], whence [do you know] that death is severer? Perhaps [the punishment with] lashes is severer, for Rab said: If they had lashed Hananiah, Mishael and Azariah, they would have worshipped the [golden] image? R. Samma the son of R. Assi said to R. Ashi, and some say [that] R. Samma the son of R. Ashi [said] to R. Ashi: Do you not make a distinction between a beating that has a limit and a beating that has no limit?¹⁶ R. Mari [also] demurred:¹⁷ Whence [do you know] that [one smote the other] wilfully¹⁸ and 'he shall be quit' [means] from [the penalty of] death? Perhaps [one smote the other] inadvertently¹⁹ and 'he shall be quit' [means] from exile?²⁰ The difficulty remains.

Resh Lakish said:²¹ This²² is the opinion of R. Meir,²³ who says: He receives the lashes and pays [the money].²⁴ — If it is according to R. Meir, [then one who violated] his daughter should also [pay the fine]?²⁵ And if you will say that R. Meir holds [that] one may receive the lashes and pay [the money], but does not hold [that] one may receive the death penalty²⁶ and pay [the money]²⁷ — has it not been taught: If he has stolen and slaughtered [an animal] on Sabbath,²⁸ or has stolen and slaughtered [an animal] for idolatry,²⁸ or has stolen an ox that is to be stoned²⁹ and slaughtered it, he shall pay fourfold or fivefold.³⁰ This is the view of R. Meir,³¹ but the Sages declare him free [from payment]?—

Has it not been stated regarding this: R. Jacob said in the name of R. Johanan, and some say [that] R. Jeremiah said in the name of R. Simeon b. Lakish: R. Abin and R. Elai and the whole company [of scholars] said in the name of R. Johanan [that it speaks of a case when] he [who stole the animal] let it be slaughtered by another person. But is it possible that one sins and another one is punished?³² Raba said: The Divine law says: and slaughter it or sell it; [this teaches that] as the sale is [effected] through [the participation of] another person, so [may] the slaughtering [of the animal] be through

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another person. In the School of R. Ishmael it was taught: [the word] 'or' [is] to include the agent. In the School of Hezekiah it was taught: [the word] 'instead'³² [is] to include the agent. Mar Zutra demurred to this: Is it anywhere to be found that if he does [the deed] himself he is not liable³³ and if an agent does it he is liable? He himself [does not pay], not because he is not liable, but because he suffers the severer penalty. [But] if he [who stole the animal] let it be slaughtered by another person, what is the reason of the Rabbis who declare him free [from paying]? — Who are the Sages?

1. V. Dan. III.
2. The number of lashes given by the Court is limited to forty.
3. The lashes that might have been given to Hananiah, Mishael and Azariah would have had no limit.
4. I.e., against the derivation of R. Shisha, based on the exposition of R. Eleazar.
5. V. Sanh. 79a-b.
6. In Ex. XXI, 23.
7. I.e., the death penalty. In this case the text deals with an attack which was attended by a warning, and so you can make the derivation that he pays the money and does not receive the lashes, as *supra* p. 182, n. 8.
8. Sanh. 79a-b.
9. Since there is no question of a death penalty the text need not necessarily refer to a case where there was a warning, and thus affords no basis for the derivation.
10. Lit., 'from here'.
11. Ex. XXI, 19.
12. Who was smitten.
13. Who smote.
14. Surely that is impossible! If the one was not killed by the injury, the smiter would not receive the death penalty. Then why does the Torah expressly say that 'he that smote him be quit'?
15. Although there was a warning making him liable to lashes. This shows that he pays money and does not receive the lashes.
16. For notes v. *supra* p. 182, nn. 11-12.
17. To the derivation of R. Jacob from Nehar Pekod.
18. In which case only the penalty of death is inflicted, provided there was a warning.
19. And if he killed him he is banished to one of the cities of refuge. V. Num. XXXV, 11ff and Deut. XIX, 2ff.
20. I.e., from banishment to one of the three cities of refuge. [The text thus speaks of a case

where there was no warning, and for this reason makes him liable to a fine where the blow did not result in death; where however there was a warning there would be no payment, but lashes.]

21. With regard to the question from the Mishnah in Mak. 13a; v. *supra* 31b.
22. The view of our Mishnah.
23. Lit., 'whose opinion is this? It is that of R. Meir'.
24. V. *supra* 32b.
25. And in the Mishnah *infra* 36b, it is stated that in such a case no fine is paid, because the penalty of death (by the hand of man) is attached to it. V. also Sanh. 75a.
26. Lit., 'he dies'.
27. In the text follows: 'and not'; i.e., and does he not hold that?
28. And has thus incurred the death penalty.
29. V. Ex. XXI, 28.
30. V. Ex. XXI, 37.
31. We thus see that R. Meir holds that even when there is a death penalty he pays the money.
32. Regarding the payment of money; v. Kid. 43a.
33. To pay the money.

Kethuboth 34a

R. Simeon, who says: An unfit slaughtering is not called¹ slaughtering. This might be right with regard to [the slaughtering for] idolatry and [the slaughtering of] the ox that is to be stoned, but the slaughtering on Sabbath is a fit slaughtering, for we learnt: If someone has slaughtered [an animal] on Sabbath or the Day of Atonement, although he is guilty of [a transgression for which he forfeits] his life,² his slaughtering is a fit one?³ — He holds the opinion of R. Johanan ha-Sandalar,⁴ for it has been taught: If someone has cooked on Sabbath, [if] by mistake, he may eat it, [and if] willfully he may not eat it: This is the view of R. Meir.

R. Judah says: [If] by mistake, he may eat it after the outgoing⁵ of the Sabbath, [if] willfully, he may never eat it. R. Johanan Ha-sandalar says: [If] willfully, others may eat it after the outgoing of the Sabbath, but not he, [if] willfully, neither he nor others may eat it.⁶ What is the reason of R. Johanan Ha-sandalar? As R. Hiyya expounded at the entrance of the house of the Prince:⁷ [It is

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written:] 'Ye shall keep the Sabbath therefore, for it is holy unto you'.⁸ [From this we derive:] As what is holy is forbidden to be eaten, so what has been prepared⁹ on the Sabbath is forbidden to be eaten. If [so, you might say that] as what is holy is forbidden to be enjoyed,¹⁰ so what has been prepared on the Sabbath should be forbidden to be enjoyed? — It says 'unto you'; from this we learn: It shall belong to you.¹¹ You might think [that it is forbidden to eat] even [what has been prepared on the Sabbath] by mistake,¹² [therefore] it is said: every one that profaneth it shall surely be put to death.¹³ [This teaches that only] when [the act was done] wilfully,¹⁴ have I told thee [that it is forbidden as that which is holy] but not [if it was done] by mistake.

R. Aha and Rabina differ concerning this. One says: What has been prepared on Sabbath [is forbidden] according to the Bible, and one says: [only] according to the Rabbis. He who says: According to the Bible — as we have [just] explained.¹⁵ [And] he who says: according to the Rabbis — the verse says: 'It is holy', [that means]: 'it'¹⁶ is holy, but what has been prepared on it is not holy.¹⁷ According to him who says [that the prohibition is only] Rabbinical, what is the reason of the Rabbis who declare him¹⁸ free?¹⁹ — The Rabbis declare him free only with regard to other cases.²⁰

But [with regard to] one who slaughtered for idolatry [one can ask:] as soon as he has cut²¹ a little it²² has become forbidden,²³ so when he continues the slaughtering²⁴ he does not slaughter what is the owner's?²⁵ — Raba said: [it speaks of a case] when he says [that] he worships it²⁶ with the completion of the slaughtering. [But with regard to] the ox that is to be stoned [one can ask]: he²⁷ does not slaughter what is his?²⁸ Here we speak of a case when he²⁹ handed it³⁰ to a keeper and it caused the damage³¹ in the house of the keeper³² and it was sentenced in the house of the keeper and a thief stole it from the house of the keeper. And R. Meir holds the view of R. Jacob and holds the view of R. Simeon. He

holds the view of R. Jacob who says: If the keeper returned it even after the sentence had been pronounced, it is regarded as returned.³³ And he holds the view of R. Simeon who says: that which causes [the gain or loss of] money is regarded as money.³⁴

Rabbah said: Indeed [it speaks of a case] when he³⁵ slaughtered it himself

1. Lit., 'its name is not'. An act of slaughter that does not for any reason whatsoever effect the ritual fitness of the animal to be eaten is not considered by them in the eye of the law a slaughter.
2. V. *supra* 30a.
3. Mishnah, Hul. 14a.
4. Probably 'sandal-maker'.
5. Lit., 'at the outgoing'.
6. According to R. Johanan ha-Sandalar what has been cooked on Sabbath willfully must not be eaten by any Jew. The same would apply to what has been slaughtered willfully on Sabbath. Thus one can say that the slaughtering on Sabbath is an unfit slaughtering.
7. Judah the Prince.
8. Ex. XXXI, 14.
9. Lit., 'the work of'.
10. I. e., to have any use or benefit from it.
11. Although one may not eat it, one may have other uses or benefits from it, e.g., one may sell it to one who is not a Jew and is therefore not bound by these laws.
12. If he did not know it was Sabbath (Rashi).
13. Ibid.
14. For which the death penalty is inflicted.
15. Lit., 'said'.
16. I. e., the Sabbath itself.
17. The prohibition is therefore only Rabbinical.
18. Who stole an animal and slaughtered it on Sabbath.
19. From paying four- or fivefold. Since the animal is, according to Biblical law, fit for food, it should be considered a fit slaughter.
20. Lit., 'the rest', i.e., the other two cases mentioned: the serving of idols and the ox condemned to death.
21. The throat of the animal.
22. The animal.
23. For any use as an animal slaughtered for idol worship v. Hul. 40a.
24. Cutting the throat of the animal until the slaughtering of the animal is complete to make it fit for food.
25. It has already become forbidden to the owner for any use and has thus ceased to be in his

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- possession. He should therefore be free from paying four- or fivefold.
26. The idol. The idolatrous act is to take place when the slaughtering has been completed. Consequently he was slaughtering what was the owner's.
 27. The thief.
 28. The owner's. An ox that is to be stoned for goring a person is forbidden for any use. It is therefore regarded as not belonging any more to the owner. And he should therefore be free from paying four- or fivefold.
 29. The owner.
 30. The ox.
 31. By killing a person. Cf. Ex. XXI, 28.
 32. I. e., while in the possession of the keeper.
 33. Although the condemned animal has no value, the liability of the keeper, who has to return the animal to its owner, is discharged by the keeper returning the animal to its owner.
 34. Since the thief stole the condemned animal the keeper cannot return it to the owner and he has to pay to the owner the value of the animal as it was when he entrusted it to him. The ox that is to be stoned has therefore a money value for the keeper. The thief must therefore pay the four- or fivefold. For fuller notes on the whole passage beginning from 'Resh Lakish said', etc., 33b, v. B.K. (Sonc. ed.) pp. 407-410.
 35. The thief.

Kethuboth 34b

and R. Meir holds the view that [though generally] one may receive the lashes and pay, one cannot receive the death penalty and pay¹ but these [cases]² are different, because the Torah has enacted something novel in [the matter of] fine,³ and [therefore]⁴ he has to pay, although he has to suffer the death penalty.⁵ And Rabbah follows his own principle, for Rabba said: If he had a kid which he had stolen and he slaughtered it on Sabbath, he is bound,⁶ for he was already guilty of stealing before he came to the profanation⁷ of the Sabbath; [but] if he stole and slaughtered it on Sabbath he is free,⁸ for if there is no stealing² there is no slaughtering and no selling.

Rabbah said further: If he had a kid which he had stolen and had slaughtered it at the place he broke into,¹⁰ he is bound,¹¹ for he was already guilty of stealing before he came

to the transgression of breaking in;¹² [but] if he stole and slaughtered it in the place he broke into,¹³ he is free, for if there is no stealing, there is no slaughtering and no selling. And it was necessary [to state both cases]. For if he had let us hear [the case of the] Sabbath [I would have said that he is free from payment] because its prohibition is a perpetual prohibition,¹⁴ but [in the case of] breaking in, which is only a prohibition for the moment,¹⁵ I might say, [that it is] not [so].¹⁶ And if he had let us hear [the case of] breaking in [I would say that he is free from payment] because his breaking in is his warning,¹⁷ but [with regard to the] Sabbath, [in] which [case] a warning is required, I might say that [it is] not [so].¹⁸ [Therefore] it is necessary [to state both cases].

R. Papa said: If one had a cow that he had stolen and he slaughtered it on Sabbath, he is liable¹⁹ for he was already guilty of stealing before he came to the profanation of the Sabbath; if he had a cow that he borrowed and he slaughtered it²⁰ on Sabbath, he is free.²¹ R. Aha the son of Raba said to R. Ashi: Does R. Papa mean to tell us²² [that the same rule²³ applies to] a cow? — He answered him: R. Papa means to tell us [that the same rules applies to] a borrowed [cow]. You might possibly think [that] because R. Papa said that he²⁴ becomes responsible for its food from the time of [his taking possession of the cow by] 'pulling'²⁵ here also he becomes responsible for any unpreventable accident [that may befall it] from the time of borrowing,²⁶ so he lets us hear [that it is not so].²⁷

Raba said: If their father left them²⁸ a borrowed cow,²⁹ they³⁰ may use it during the whole period for which he borrowed it;³¹ if it died,³² they are not responsible for what happened.³³ If they thought that it belonged to their father and they slaughtered it and ate it, they pay the value of the meat at the lowest price.³⁴ If their father left them an obligation of property,³⁵ they are bound to pay. Some refer it³⁶ to the first case,³⁷ and some refer it to the second case.³⁸ He who refers it to the

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first case, so much the more [does he refer it] to the second case, and he differs from R. Papa.³⁹ And he who refers it to the second case⁴⁰ does not refer it to the first case, and he agrees with R. Papa.⁴¹

It is alright [that] R. Johanan⁴² does not say according to Resh Lakish,⁴³ because he wants to explain⁴⁴ it⁴⁵ according to the Rabbis. But why does not Resh Lakish say according to R. Johanan? — He will answer you: since he is free⁴⁶ if they warned him, he is also free [even] if they did not warn him.⁴⁷

And they⁴⁸ follow their own principles,⁴⁹ for when R. Dimi came [from Palestine] he said: He who has committed inadvertently an act which, if he had committed it willfully, would have been punishable with death or with lashes, and [which is also punishable] with something else,⁵⁰ R. Johanan says [that] he is bound,⁵¹ and Resh Lakish says [that] he is free.⁵² R. Johanan says [that] he is bound, for they did not warn him.⁵³ Resh Lakish says [that] he is free,⁵⁴ for since he is free if they warned him, so he is free also when they did not warn him.

Resh Lakish raised an objection against R. Johanan: [It is written]: If no harm follows, he shall be surely fined.⁵⁵

1. Cf. *supra* 33b.
2. In the case of the slaughtering of the stolen animal, *supra* 33b.
3. A fine of four or five times the value of the animal is in itself a novel law.
4. In view of the novel law in these cases.
5. Lit., 'he is killed'.
6. To pay the fine.
7. Lit., 'prohibition'.
8. From paying the fine,
9. The crime of stealing is, as it were, wiped out by the more serious transgression of profaning the Sabbath. There is, therefore, no payment of principal. And since there is no payment of the principal, there is also no payment of the fine for the slaughtering and selling.
10. [H] means here both: the place he broke into and the time of breaking into the place. This breaking in took place after the stealing of the kid, which was a separate act. Cf. Ex. XXII, 2.
11. To pay the fine.

12. In which case he may forfeit his life, v. Ex. XXII, 2.
13. Here the stealing and breaking in are one act.
14. I. e., if he has profaned the Sabbath and incurred the death penalty, this penalty can always be inflicted.
15. The thief's life is forfeit only when he is 'found breaking in'. If he is found later his life is not forfeited, v. Ex. XXII, 2.
16. I. e., that he is not free from payment.
17. I. e., he may be killed without a warning.
18. I. e., that he is not free from payment.
19. To pay the fine.
20. And thus stole it.
21. From paying the fine. For the stealing and the Sabbath desecration by means of the slaughtering were committed simultaneously.
22. Lit., 'come to let us hear'.
23. Which Rabbah applies to the kid.
24. Cf. B.M. 91a.
25. *Meshikah*. v. [Glos.](#)
26. I. e., before he desecrated the Sabbath. And therefore he should have to pay the fine when he slaughters it on Sabbath.
27. That the stealing coincides with the slaughtering, and he is therefore free from payment if he slaughters the borrowed cow on Sabbath.
28. I. e., to his children.
29. I. e., a cow which the father had borrowed.
30. The children.
31. Lit., 'all the days of the borrowing'.
32. Accidentally, without their fault.
33. Lit., 'for its accident'. The children are not responsible because they did not borrow it.
34. Which is generally estimated to be two-thirds of the ordinary price, cf. B.B. 146b.
35. [H], i.e., property which is a security for the payments which would have to be made. He left them (landed) property and with it the obligation which rests upon such property. The chief point in the phrase is the obligation for which such property is a security, and which was passed on to the children.
36. The last statement.
37. I.e., they are not responsible for the accident only if their father did not leave them an obligation of property.
38. When they slaughtered and ate it.
39. Who says that the obligation is incurred when the accident happens. According to the opposing view, the father left them the obligation, which therefore was incurred at the time of borrowing.
40. Where the father left them landed property, they are made to pay the full value of the meat since they ought to have been more careful.
41. Lit., 'and this is the view of R. Papa'. The obligation is incurred with the accident, and at the time of the accident there was no

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- borrower, since the person that borrowed the cow was dead.
42. Who explains the Mishnah as dealing with a case where there was no warning. v. *supra* 32b.
 43. Who explains the Mishnah as representing the view of R. Meir, v. *supra* 33b.
 44. Lit., 'he puts'.
 45. The Mishnah.
 46. From paying the fine.
 47. Since the offence carries with it the penalty of lashes, there is no money payment even where lashes are not inflicted.
 48. R. Johanan and Resh Lakish.
 49. Or 'opinions', stated elsewhere.
 50. I.e., the payment of money.
 51. To make the money payment.
 52. From making the money payment.
 53. And so there is no death penalty, and therefore he pays.
 54. From making the money payment.
 55. Ex. XXI, 22.

Kethuboth 35a

[Now] is not real 'harm' meant?¹ No, the law concerning 'harm' [is meant].² Some say: R. Johanan raised an objection against Resh Lakish: [It is written] 'And if no harm follow, he shall be surely fined'. Is not the law concerning 'harm' [meant]?² No, real 'harm' [is meant].¹

Raba said: Is there any one who holds that he who committed inadvertently an act which, if he had committed it willfully, would have been punishable with death [and which is also punishable with the payment of money] is bound [to make the money payment]? Has not the school of Hezekiah taught: [It is written] He that smiteth a man ... he that smiteth a beast³ [from which we infer:] As in [the case of] the killing of a beast you have made no distinction between [it being done] inadvertently and willfully, intentionally and unintentionally, by way of going down or by way of going up,⁴ so as to free him [from the payment], but [in any case] make him liable to pay, so also in [the case of] the killing of a man you shall make no distinction between [it being done] inadvertently and willfully, intentionally and unintentionally, by way of going down or by way of going up, so as to

make him liable to pay money, but to free him from paying money?⁵

But when Rabin came [from Palestine], he said: [As to] him who committed inadvertently an act which, if he had committed it willfully, would have been punishable with death [and which is also punishable with the payment of money] — all agree that he is free [from the payment of money], they only differ when the act committed inadvertently would, if committed willfully, have been punishable with lashes and something else.⁶ R. Johanan says [that] he is bound [to make the money payment, because] only with regard to those who commit an act punishable with death, the analogy is made,⁷ [but] with regard to those who commit an act punishable with lashes, the comparison is not made. [But] Resh Lakish says [that] he is free [from making the money payment, because] the Torah has expressly included those who commit an act punishable with lashes to be as those who commit an act punishable with death. Where has the Torah included [them]? —

Abaye said: [We infer it from] the double occurrence of 'wicked man'⁸ Raba said: [We infer it from] the double occurrence of 'smiting'.⁹ R. Papa said to Raba: Which 'smiting' [do you mean]? If you mean¹⁰ [the verse]¹¹ 'And he that smiteth a beast shall pay for it, and he that smiteth a man shall be put to death,' this¹² speaks¹³ of the death penalty?¹⁴ — Is it this 'smiting'; he that smiteth a beast shall pay for it: life for life and next to it [comes] And if a man cause a blemish in his neighbor, as he hath done so shall it be done to him?¹⁵ But here [the term] 'smiting' is not mentioned!¹⁶ — We mean¹⁷ the effect of 'smiting'.¹⁸ But this verse refers to one who injures his fellow, and one who injures his fellow has to pay damages?¹⁹ — It if does not refer to a 'smiting' in which there is the value of a *Perutah*,²⁰ refer it²¹ to a smiting in which there is not the value of a *Perutah*.²²

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1. If no harm follows, that is if the woman does not die, he pays the fine. But if the woman dies, no fine is paid, even if he was not warned. This would be according to Resh Lakish and against R. Johanan
2. I. e., if the woman did not die, or if she died but he was not warned, he pays the fine. The 'law concerning harm' would imply warning. No warning, no death penalty, and therefore payment of money. This would accord with R. Johanan.
3. Lev. XXIV, 21. The whole verse reads: And he that smiteth a beast shall pay for it; and he that smiteth a man shall be put to death. — Smiting here means killing.
4. A distinction which obtains in the case of unintentional manslaughter with reference to the liability to take refuge, cf. Mak. 7b.
5. Even if the killing of the man was done inadvertently, and the death penalty is not inflicted, there is no payment of money to be made. R. Johanan could therefore not have said that he was bound to make the money payment, *supra* p. 190.
6. The payment of money.
7. Between he that smiteth a beast and he that smiteth a man; v. *supra*.
8. A *Gezerah Shawah* v. [Glos.](#) The word 'wicked' occurs in Num. XXXV, 31 (in the case of the death penalty) and in Deut. XXV, 2 (in the case of the penalty of the lashes), and therefore an analogy is drawn between the two cases.
9. [Raba disapproves of this double analogy, but assumes that those who are liable to lashes are in every case exempt from payment directly from 'he that smiteth a beast' and not by means of the analogy between them and those liable to the death penalty.]
10. Lit., 'if to say'.
11. Lev. XXIV, 21.
12. The second half of the verse.
13. Lit., 'is written'.
14. And offers no basis of deduction for the penalty' of lashes.
15. Lev. XXIV, 19. This is taken to mean: he shall receive the lashes; v. *infra*.
16. It does not say in this verse 'If a man smiteth his neighbor'. It says 'If a man cause a blemish in his neighbor'.
17. 'We speak of'.
18. To cause a blemish means to smite. And the smiter has to be smitten, that is, he has to receive the lashes.
19. But he does not receive lashes.
20. V. *infra* 32b.
21. I. e., the words 'so shall it be done to him'.
22. And in this case he receives lashes and the analogy with 'he that smiteth a beast' serves to teach, on the view of Resh Lakish, that

there is no payment even where, for one cause or another, there is no infliction of lashes.

Kethuboth 35b

Anyhow, he is not liable to pay damages?¹ — It necessarily [speaks of a case] where, while he smote him, he tore his silk garment.²

R. Hiyya said to Raba: And according to the Tanna of the school of Hezekiah, who says: [It is written] 'He that smiteth a man ... He that smiteth a beast' [etc.,]³ — whence does he know that it⁴ refers to a week-day and there is no distinction to be made?⁵ Perhaps it refers to the Sabbath, [in which case] there is a distinction to be made with regard to the beast itself?⁶ — This cannot be,⁷ for it is written: 'And he that smiteth a beast shall pay for it, and he that smiteth a man shall be put to death.' How shall we imagine this case? If they did not warn him, why should he, if he killed a man, be put to death? Hence it is clear that they warned him,⁸ and if [it happened] on a Sabbath would he, if he smote a beast, pay for it?⁹ Therefore it can only refer to¹⁰ a week-day.¹¹

R. Papa said to Abaye: According to Rabbah, who says [that] the Torah has instituted something novel in the matter of fines and [therefore] he pays although he is killed¹² — according to whom does he put our Mishnah? If according to R. Meir,¹³ [the law regarding] his daughter is difficult,¹⁴ if according to R. Nehunia b. ha-Kana,¹⁵ [the law regarding] his sister is difficult;¹⁶ [and] if according to R. Isaac¹⁷ [the law regarding] a Mamzereth is difficult?¹⁸ It would be alright if he would hold like R. Johanan,¹⁹ [for] he would [then] explain it²⁰ like R. Johanan.¹⁹ But if he holds like Resh Lakish²¹ how can he explain it?²² — He [therefore], of necessity, holds like R. Johanan.

R. Mattena said to Abaye: According to Resh Lakish who says that the Torah has expressly included those who commit an act punishable with lashes to be as those who commit an act punishable with death²³ — who is the Tanna,

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who differs from R. Nehunia b. ha'Kana?²⁴ It is either R. Meir²⁵ or R. Isaac.²⁶

Our Rabbis taught: All forbidden relations and all relations forbidden in the second degree have no claim²⁷ to fine [for outrage]²⁸ or to indemnity for seduction.

A woman who refuses [her husband] by *Mi'un*²⁹ has no claim to fine [for outrage] or to indemnity for seduction. [In this case] a barren woman has no claim to fine for outrage or to indemnity for seduction. And a woman who has gone out³⁰ on account of an evil name,³¹ has no claim to fine for outrage or to indemnity for seduction. What are 'forbidden relations' and what are 'relations forbidden in the second degree'? Shall I say [that] 'forbidden relations'

1. Because the damages do not amount to a *Perutah*. The verse thus affords no basis of deduction for the ruling of Resh Lakish.
2. There the analogy is required, and we are taught that he is liable to lashes for the injury he inflicted and is free from paying for the silk garments even if the lashes are not actually inflicted
3. V. p. 191 and notes,
4. Lev. XXIV, 21.
5. Between 'inadvertently' and 'willfully'; but there is in every case liability to payment.
6. Payment would be due only if he killed it inadvertently. If he killed it willfully he would be liable to the death penalty on account of the desecration of the Sabbath and he would thus be free from the money payment.
7. Lit., 'this does not enter your mind'. It cannot be assumed that the verse refers to the offence having been committed on Sabbath and inadvertently.
8. I. e., he killed him willfully.
9. Where he killed it willfully. Surely not, seeing that he is liable to death!
10. Lit., 'but is it not?'
11. Where no distinction is made between wilful and inadvertent killing of a beast and the same absence of distinction applies *mutatis mutandis* to him who kills a man.
12. *Supra* 34b.
13. Who holds that the lesser penalty is not merged in the greater, v. *supra* 34b.
14. Why should there be no fine in the case of 'his daughter', (*infra* 36b).
15. Who agrees with R. Meir with regard to lashes but not with regard to *Kareth*.

16. Why does our Mishnah impose a fine in the case of 'his sister' which is subject to *Kareth*?
17. Who holds that offenders liable to *Kareth* are not subject to lashes, v. Mak. 14a.
18. Why should there be a fine in this case which is subject to lashes.
19. That our Mishnah deals with a case where there was no warning and hence no infliction of lashes, v. *supra* 32b and 34b.
20. Out Mishnah.
21. That even where his lashes are actually inflicted, since there is a liability to lashes, there is no payment. V. *supra*. 34b.
22. Out Mishnah.
23. So that there is no payment even if the offence was committed unwittingly.
24. V. *supra* 30a. This Tanna would not exempt offenders liable to *Kareth* from payments which would be in accord with our Mishnah which imposes a fine in the case of his sister — an offence involving *Kareth*.
25. Who does not exempt from, payment on account of the penalty of lashes, and thus although there are also lashes in the case of a sister, there is no exemption from the fine, v. *supra* 32b.
26. V. *supra* note 4. He will consequently hold that an offence with his sister is limited to *Kareth* and does not carry with it any lashes and therefore no exemption from the fine.
27. Lit., 'there is not to them'.
28. Deut XXII, 28, 29.
29. V. [Glos.](#)
30. I.e., who had to leave her husband.
31. Presumably with reference to Deut. XXII, 13ff.

Kethuboth 36a

are really forbidden relations¹ and prohibitions of the second degree [are those relations which were forbidden] by the Rabbis?² Why should the latter not receive the fine since they are fit for him Biblically? — But, forbidden relations are those with regard to which one is liable to the penalty of death at the hand of the Court,³ prohibitions of the second degree are those with regard to which there is *Kareth*;⁴ but in the case of prohibitions with regard to which one trespasses a plain prohibitory law,⁵ they receive the fine. And whose opinion is it? [It is that of] Simeon the Temanite.⁵ Some say: 'Forbidden relations' are those with regard to which one is liable to the penalty of death at the hand of the Court or *Kareth*, 'prohibitions

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of the second degree are those with regard to which one transgresses a plain prohibitory law. Whose opinion is this? That of R. Simeon b. Menassia.⁵

[It is said above:]⁶ A woman who refuses her husband by *Mi'un* has no claim to fine [for outrage] or to indemnity for seduction. But any other minor has a claim [to the fine]. Whose opinion would this be? That of the Rabbis, who say: A minor receives the fine.⁷ Read now the other clause: 'A barren woman has no claim to fine [for outrage] or to indemnity for seduction'. This is according to R. Meir, who says: The minor does not receive the fine; and this one came from her state as minor into the state of womanhood.⁸ The first clause would then be according to the Rabbis and the last clause according to R. Meir? And if you would say that all of it is according to R. Meir, but in the case of the woman who refuses her husband by *Mi'un* he holds like R. Judah⁹ — does he indeed hold the view [of R. Judah]?

Has it not been taught: Until when can the daughter exercise the right of *Mi'un*? Until she grows two hairs¹⁰ — [these are] the words of R. Meir. R. Judah says: Until the black is more than the white?¹¹ — But it is according to R. Judah,¹² and with regard to a minor he holds like R. Meir,¹³ But does he¹⁴ hold this view?¹⁵ Did not Rab Judah say [that] Rab said: 'These are the words of R. Meir'?¹⁶ Now if it had been so,¹⁷ he ought to have said: 'These are the words of R. Meir and R. Judah'? — This Tanna¹⁸ holds according to R. Meir in one thing¹⁹ and differs from him in one thing.²⁰ Rafram said: What is meant by 'a woman who refuses her husband by *Mi'un*'? One who is entitled to refuse.²¹ Let him then teach²² 'a minor'? — This is indeed difficult.

[It is said above:] 'A barren woman has no claim to fine [for outrage] or to indemnity for seduction. A contradiction was raised against this: A woman who is a deaf-mute, or an idiot, or barren, has a claim to fine [for outrage], and a suit can be brought [by her

husband] against her concerning her virginity. What contradiction is there? The one [Baraita]²³ is according to R. Meir²⁴ and the other [Baraita] is according to the Rabbis! But he who raised the questions how could he raise it at all?²⁵ — He wanted to raise another contradiction: Against a woman who is a deaf-mute, or an idiot, or has reached maturity,²⁶ or lost her virginity through an accident, no suit can be brought concerning her virginity; against a woman who is blind or barren, a suit can be brought concerning her virginity. Symmachus says in the name of R. Meir: Against a blind woman a suit cannot be brought concerning her virginity! — Said R. Shesheth: This is not difficult: the one [Baraita] is according to R. Gamaliel and the other [Baraita] is according to R. Joshua.²⁷ [But] say when does R. Gamaliel hold this view?²⁸ When she pleads;²⁹ but does he hold this view when she does not plead — Yes, since R. Gamaliel holds that she is believed, [we apply], in a case like this, [the verse], Open thy mouth for the dumb.³⁰

'And against a woman who has reached maturity, one cannot bring a suit concerning her virginity.' Did not Rab say: To a woman who has reached maturity one gives the [whole] first night?³¹

1. Those forbidden in Lev. XVIII.
2. Lit., 'the Scribes', v. Yeb. 21a.
3. V. Lev. XX.
4. v. Lev. XVIII.
5. V. *supra* 29b.
6. *Supra* 35b.
7. V. *supra* 29a.
8. Without having been in the state of Na'arah, since she did not have the signs of maidenhood. And only a Na'arah receives the fine.
9. That a maiden can exercise the right of *Mi'un*, v. *infra*.
10. The signs of puberty, i.e., as long as she is a minor.
11. I. e., after she has reached the state of Na'arah, the growth of the hair having advanced. This shows that R. Meir does not agree with R. Judah in the matter of *Mi'un*.
12. According to R. Judah the Baraita can deal with a Na'arah.

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13. That she has no claim to fine; hence the ruling with regard to a naturally barren woman, v. *supra* p. 195. n. 9,
14. R. Judah.
15. Of R. Meir.
16. V. *infra* 40b.
17. As it has just now been said.
18. Of the Baraitha, cited *supra*.
19. That a minor has no claim to fine.
20. With regard to *Mi'un*.
21. I. e., a minor. The whole Baraitha would then be according to R. Meir.
22. I. e., state expressly.
23. The former Baraitha.
24. That a minor has no claim and similarly a naturally barren woman. cf. n. 4.
25. The answer being so obvious.
26. A Bogereth, v. [Glos.](#)
27. V. *supra* 12b. According to R. Gamaliel's view, since the woman is believed on saying that she was violated after betrothal, in the case of a deaf-mute we admit this plea on her behalf and mutatis mutandis on the view of R. Joshua. v. *infra*.
28. That she is believed.
29. That she was forced after betrothal.
30. Prov. XXXI, 8. I. e., the Court pleads what she could have pleaded.
31. For intercourse. We assume that any bleeding that may proceed is not due to menstruation but to virginity, V. Nid. 64b. And this would show that she has virginity.

Kethuboth 36b

— If he raises the complaint with regard to the bleeding,¹ it is really so;² here we treat of a case where he raises the complaint of the 'open door'.³

[It is said above:] 'Symmachus says in the name of R. Meir: Against a blind woman a suit cannot be brought concerning her virginity'. What is the reason of Symmachus? — R. Zera said: 'because she may have struck against the ground'.⁴ All the others⁵ may also have struck against the ground?⁶ All the others see it⁷ and show it to their mothers,⁸ this one does not see it and does not show it to her mother.⁹

[It is said above]:¹⁰ 'And a woman who goes out because of an evil name has no claim to fine [for outrage] and to indemnity for seduction'. A woman who goes out because of

an evil name is liable to be stoned?¹¹ — R. Shesheth said: He¹² means it thus: if an evil name has gone out concerning her in her childhood¹³ she has no claim to fine [for outrage] or to indemnity for seduction. R. Papa said: Infer from this [that] one does not collect [a debt] with an unsound document. How shall we imagine this case? If to say that a rumor has gone out that the document is forged, and similarly here that a rumor has gone out that she has been unchaste? — Did not Raba say [that] if the rumor has gone out in the town [that] she is unchaste one does not pay any attention to it?¹⁴ — But [the case is that] two [persons] came and said [that] she asked them to commit with her a transgression¹⁵ and similarly here [that] two [persons] came and said [that] he¹⁶ said to them: Forge me [the document]. It is all right there,¹⁷ since there are many unrestrained men.¹⁸ But here¹⁹ — if he²⁰ has been established,²¹ have [therefore] all Israelites been established?²² — Here also, since he²³ was going round searching for a forgery, I can say [that] he [him. self] has forged it and written it.²⁴

MISHNAH. AND²⁵ IN THE FOLLOWING CASES NO FINE²⁶ IS INVOLVED: IF A MAN HAD INTERCOURSE WITH A FEMALE PROSELYTE, A FEMALE CAPTIVE OR A BONDWOMAN, WHO WAS RANSOMED, PROSELYTIZED OR MANUMITTED AFTER THE AGE OF²⁷ THREE YEARS AND A DAY.²⁸ R. JUDAH RULED: IF A FEMALE CAPTIVE WAS RANSOMED SHE IS DEEMED TO BE IN HER VIRGINITY²⁹ EVEN IF SHE BE OF AGE. A MAN WHO HAD INTERCOURSE WITH HIS DAUGHTER. HIS DAUGHTER'S DAUGHTER, HIS SON'S DAUGHTER. HIS WIFE'S DAUGHTER. HER SON'S DAUGHTER OR HER DAUGHTER'S DAUGHTER INCURS NO FINE,³⁰ BECAUSE HE FORFEITS HIS LIFE, THE DEATH PENALTIES OF SUCH TRANSGRESSORS BEING³¹ IN THE HANDS OF *BETH DIN*, AND HE WHO FORFEITS HIS LIFE PAYS NO MONETARY FINE FOR IT IS SAID IN SCRIPTURE, AND YET NO HARM FOLLOW HE SHALL BE SURELY FINED.³²

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GEMARA. R. Johanan said: Both R. Judah and R. Dosa taught the same thing. As to R. Judah [we have the ruling] just mentioned. As to R. Dosa? — It was taught: A female captive³³ may eat *Terumah*;³⁴ so R. Dosa. 'What after all is it', said R. Dosa, 'that that Arab³⁵ has done to her? Has he rendered her unfit to be a priest's wife merely because he squeezed her between her breasts?'³⁶

Said Raba:³⁷ Is it not possible that there is really no [agreement between them]?³⁸ R. Judah may have laid down his ruling³⁹ here⁴⁰ only in order that the sinner may gain no advantage,⁴¹ but there⁴² he may hold the same opinion as the Rabbis;⁴³ or else: [May not] R. Dosa have laid down his ruling⁴⁴ only there⁴⁵ [where it concerns] *Terumah* which [at the present time is only] a Rabbinical enactment,⁴⁶ but in the case of a fine which is a Pentateuchal law⁴⁷ he may well hold the same view as the Rabbis?⁴⁸

Abaye answered him: Is R. Judah's reason here⁴⁹ 'that the sinner may gain no advantage'? Surely it was taught: R. Judah ruled, 'If a female captive was ransomed⁵⁰ she is deemed to be in her virginity,⁵¹ and even if she is ten years old her *Kethubah* is two hundred⁵² Zuz'.⁵³ Now how⁵⁴ [could the reason] 'that the sinner shall gain no advantage' apply⁵⁵ there?⁵⁶ — There also [a good reason exists for R. Judah's ruling, since otherwise⁵⁷ men]⁵⁸ would abstain from marrying her.⁵⁹

Could R. Judah, however, maintain the view [that a female captive] retains the status of a virgin⁶⁰ when in fact, it was taught: A man who ransoms a female captive may marry her, but he who gives evidence on her behalf⁶¹ may not marry her,⁶² and R. Judah ruled: In either case he⁶² may not marry her!⁶³

Is not this,⁶⁴ however, self-contradictory? You said, 'A man who ransoms a female captive may marry her', and then it is stated, 'He⁶⁵ who gives evidence on her behalf may not marry her'; shall he⁶⁶ not marry her [it

may well be asked] because he gives also evidence on her behalf? — This is no difficulty. It is this that was meant: A man who ransoms a female captive and gives evidence on her behalf may marry her,⁶⁷ but he who merely gives evidence on her behalf may not marry her.⁶⁸

In any case, however, does not the contradiction against R. Judah remain?⁶⁹ — R. Papa replied: Read, 'R. Judah ruled: In either case he may marry her'.

R. Huna the son of R. Joshua replied: [The reading may] still be as it was originally given,⁷⁰ but R. Judah was speaking to the Rabbis in accordance with their own ruling. 'According to my view⁷¹ [he argued] the man may marry her in either case; but according to your view⁷² it should have been laid down that in either case he may not marry her'.

And the Rabbis?⁷³ — 'A man who ransoms a captive and gives evidence on her behalf may marry her' because no one would throw money away for nothing,⁷⁴ but 'he who merely gives evidence on her behalf may not marry her' because he may have fallen in love with her.⁷⁵

R. Papa b. Samuel pointed out the following contradiction to R. Joseph:

1. I. e., the lack of it.
2. He is entitled to raise this complaint.
3. V. *supra* 9a. This complaint cannot be raised against a Bogereth.
4. And thus lost her virginity.
5. All other girls. Lit., 'all of them'.
6. And yet a suit can be brought against them concerning their virginity.
7. I. e., notice the accidental loss of their virginity.
8. And it is known that the virginity is lost by accident and no claim arises concerning the virginity at their marriage. And if no accidental loss was made known the claim concerning virginity does arise.
9. But the accidental loss may have happened all the same. Therefore there is no virginity claim against a blind woman.

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10. V. *supra* 35b. (*) The translation from here to the end of the Tractate is by the Rev. Dr. I. W. Slotki.
11. Cf. Deut. XXII, 20, 21.
12. The Tanna.
13. Before she was betrothed.
14. V. Git. 89b. And the same would apply to the document.
15. To have intercourse with her.
16. The alleged creditor.
17. In the case of the woman.
18. Since she solicited two men she might have solicited other men with more success.
19. In the case of the document.
20. The alleged creditor.
21. As a forget.
22. As forgers. He may therefore not have found men who would sign a forged document.
23. The alleged creditor.
24. I. e., forged the signatures of the witnesses.
25. Cf. the previous Mishnah, *supra* 29a.
26. Lit., 'they have no fine', sc. of fifty *Shekels*. (cf. Deut. XXII, 29).
27. Lit., 'more than'.
28. An age when intercourse is possible, and girls in the circumstances mentioned are likely to have succumbed to temptation or violence.
29. Lit., 'behold she is in her sanctity'.
30. Lit., 'they have no fine'.
31. Lit., 'because their death'.
32. Ex. XXI, 22; from which it may be inferred that if 'harm' (i.e., death) follows no monetary fine is incurred.
33. Who was the daughter or wife of a priest.
34. Because she is not suspected of intercourse with her captors. A seduced or violated woman is regarded as a harlot who is forbidden to a priest (cf. Lev. XXI, 7) and is, therefore, also ineligible to eat *Terumah*.
35. Sc. her captor. Arabs were ill-famed for their carnal indulgence (v. Kid. 49b and Tosaf. s.v. [H] a.l.).
36. Git. 81a; cf. 'Ed'. III. 6. Captors. R. Dosa maintains, only play about with their captives but did not violate them.
37. So MS.M. Cut. edd., 'Rabbah'. Cf. Tosaf. *supra* 11a s.v. [H] and *infra* 37a s.v. [H].
38. R. Judah and R. Dosa.
39. That a ransomed captive retains the status of virgin and consequently is entitled to a fine from her seducer.
40. In our Mishnah.
41. By an exemption from the statutory fine (cf. *supra* p. 198. n. 16).
42. In the case of *Terumah* cited from Git. 81a.
43. That a female captive is forbidden to a priest and is ineligible to eat *Terumah*.
44. That a captive retains her status of chastity and may eat *Terumah* if she is a priest's wife or daughter.
45. V. p. 199, n. 14.
46. Pentateuchally even a woman whose seduction was a certainty is permitted to eat such *Terumah*. Hence no prohibition was imposed even in Rabbinic law where seduction is doubtful.
47. And subject to greater restrictions.
48. The first Tanna of our Mishnah.
49. In our Mishnah.
50. [H] so MS.M. Cut. edd., [H], 'was taken captive', is difficult.
51. Cf. *supra* p. 199, n. 1.
52. The statutory sum to which a virgin is entitled. A widow is entitled to one hundred *Zuz* only.
53. Tosef. Keth. III.
54. Lit., 'what'.
55. Lit., 'there is'.
56. Where the husband had committed no sin. Now since this reason is here inapplicable and R. Judah nevertheless gives the captive the status of a virgin, it follows, as R. Johanan has laid down *supra*, that R. Judah maintains his view in all cases including., of course, that of *Terumah* also.
57. I. e., if the captive were only allowed a *Kethubah* of one hundred *Zuz*.
58. On learning that her *Kethubah* was not the one given to a virgin, and suspecting, therefore, that she had been seduced.
59. As such a reason, however, is inapplicable to *Terumah* R. Judah, as Raba had suggested, may well be of the same opinion as the Rabbis.
60. Cf. *supra* p. 199, n. 1.
61. That she had not been seduced.
62. If he is a priest (cf. *supra* p. 199, n. 6).
63. Tosef. Yeb. IV; which proves that a female captive does lose her status of virginity. How then could R. Judah maintain in our Mishnah and in the Baraita cited from Tosef. Keth. III that she retains the status of a virgin?
64. The Baraita just cited from Tosef. Yeb.
65. Implying presumably anyone. even the man who ransomed her.
66. The man who ransomed the captive and who in such circumstances is permitted to marry her.
67. Because no man would spend money on the ransom of a captive with the object of marrying her unless he was convinced of her chastity.
68. In the absence of any special effort on his part to ransom the woman while she was captive he is suspected of tendering false evidence in a desire to gratify his passions.
69. V. *supra* p. 200, n. 20.
70. I. e., that R. Judah ruled: 'He may not marry her'.
71. That a captive retains her status of chastity.

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72. That a captive loses the status of a virgin.
73. On what grounds do they draw a distinction between the man who ransoms a captive and the one who only tenders evidence in her favor?
74. Cf. *supra* note 4.

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Could R. Judah hold the view that [a female captive] is deemed to have retained her virginity¹ when it was, in fact, taught. 'If a woman proselyte discovered [some menstrual] blood² on [the day of] her conversion it is sufficient, R. Judah ruled, [to reckon her Levitical uncleanness from] the time she [discovered it].³ R. Jose ruled: She is subject to the same laws⁴ as all other women⁵ and, therefore, causes uncleanness [retrospectively] for twenty-four hours,⁶ or [for the period] intervening between⁷ [her last] examination and⁷ [her previous] examination.⁸ She must also wait⁹ three months;¹⁰ so R. Judah. but R. Jose permits her to be betrothed and married at once?'¹¹ — The other replied: You are pointing out a contradiction between a proselyte and a captive [who belong to totally different categories, since] a proselyte does not protect her honor while a captive does protect her honor.

A contradiction, however, was also pointed out between two rulings in relation to a captive.¹² For it was taught: Proselytes,¹³ captives¹³ or slaves¹³ who were ransomed, or proselytized. or were manumitted, must wait three months¹⁴ if they were older than three years and one day; so R. Judah. R. Jose permits immediate betrothal and marriage.¹⁵ [The other] remained silent. 'Have you'. he said to him, 'heard anything on the subject?' — 'Thus', the former replied. 'said R. Shesheth: [This is a case] where people saw that the captive was seduced'. If so¹⁶ what could be R. Jose's reason? —

Rabbah replied: R. Jose is of the opinion that a woman who plays the harlot makes use of an absorbent in order to prevent conception. This¹⁷ is intelligible in the case of a proselyte,

who, since her intention is to proselytize, is careful.¹⁸ It¹⁷ is likewise [intelligible in the case of] a captive [who is also careful]¹⁸ since she does not know whither they would take her.¹⁹ It¹⁷ is similarly [intelligible in the case of] a bondwoman [who might also be careful]¹⁸ when she hears from her master.²⁰ What, however, can be said in the case of one who is liberated on account of the loss of a tooth or an eye?²¹ And were you to suggest that R. Jose did not speak²² of an unexpected occurrence,²³ [it might be retorted,] there is the case of a woman who was outraged or seduced²⁴ which may happen unexpectedly and yet it was taught: A woman who has been outraged or seduced must wait three months; so R. Judah, but R. Jose permits immediate betrothal and marriage!²⁵ — The fact, however, is, said Rabbah,²⁶ that R. Jose is of the opinion that a woman who plays the harlot turns over in order to prevent conception.²⁷ And the other?²⁸ — There is the apprehension that she might not have turned over properly.²⁹

FOR IT IS SAID IN SCRIPTURE, AND YET NO HARM FOLLOW HE SHALL BE SURELY FINED, etc. Is, however, the deduction³⁰ made from this text?³¹ Is it not in fact made from the following text:³² According to the measure of his crime,³³ [which implies]³⁴ you make him liable to a penalty³⁵ for one crime, but you cannot make him liable [at the same time] for two crimes?³⁶ — One [text³⁷ deals] with [the penalties of] death and money and the other³⁸ with [the penalties of] flogging and money.

And [both texts³⁹ were] needed. For if we had been told [only of that which deals with the penalties of] death and money³⁷ it might have been assumed [that the restriction⁴⁰ applied only to the death penalty] because it involves loss of life,⁴¹ but not [to the penalties of] flogging and money where no loss of life is involved. And if we had been told only of flogging and money³⁸ it might have been assumed [that the restriction⁴⁰ applied only to flogging] because the transgression for which flogging is inflicted⁴² is not very

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grave,⁴³ but not [to the penalties of] death and money where the transgression for which the death penalty is imposed⁴² is very grave.⁴⁴ [Hence it was] necessary [to have both texts].

According to R. Meir, however, who ruled: 'A man may be flogged and also ordered to pay'.⁴⁵ what need was there for the two texts?⁴⁶ — One⁴⁷ deals with the penalties of death and money

1. Cf. *supra* p. 199, n. 1.
2. Only the menstrual blood of an Israelite woman or of one who was converted to the Jewish faith causes Levitical uncleanness.
3. I. e., only such objects are deemed to be Levitically unclean as have been touched by her after, but not before her discovery.
4. Lit., 'behold she'.
5. Of the Jewish faith.
6. [H], lit., 'from time to time'.
7. Lit., 'from ... to'.
8. Whichever period is the less; v. 'Ed. I, 1
9. After her conversion.
10. Before she is permitted to marry, in order to make sure that she was not with child prior to her conversion.
11. From which Baraitha it follows that R. Judah suspects illicit intercourse, contrary to the statement attributed to him in our Mishnah that a captive is presumed to protect her chastity.
12. Lit., 'captive on captive'.
13. In the original the noun appears in the sing.
14. Cf. notes 9 and 10 *mutatis mutandis*.
15. V. l.c. n. 11.
16. That there is definite evidence against her chastity.
17. Rabbah's explanation.
18. To have an absorbent in readiness in order to avoid conception and the mixing of legitimate, with illegitimate children. Lit., 'she protects herself'.
19. She makes provision (cf. preceding note) against the possibility of being sold to an Israelite master who might set her free.
20. Of her impending liberation.
21. Cf. Ex. XXI, 26f. The bondwoman, surely, could not know beforehand that such an accident would occur.
22. I. e., did not maintain his ruling that a period of three months must be allowed to pass.
23. Lit., 'of itself', when, as in the case of the loss of a tooth or an eye, the woman was not likely to have been possessed of an absorbent.
24. [Rashi does not seem to have read 'seduced' which appears here irrelevant; v. marginal Glosses.]
25. Which shows that even when the unexpected happens R. Jose requires no waiting period.
26. The reading in the parallel passage (Yeb. 35a) is 'Abaye'.
27. No absorbent is needed. Similarly in the case of a liberated captive or slave. Hence the ruling of R. Jose that no waiting period is required.
28. Why does he require a waiting period.
29. And conception might have taken place.
30. That one who suffers the death penalty is exempt from a monetary fine.
31. Lit., 'from here' sc. Ex XXI, 22, cited in our Mishnah.
32. Lit., 'from there'.
33. Deut. XXV, 2, A.V. 'fault', R.V. 'wickedness'.
34. Since the text makes use of the sing.
35. Flogging, spoken of in the text cited.
36. By the imposition of two forms of punishment. V. *supra* 32b and B.K. 83b, Mak. 4b, 13b.
37. Deut. XXI, 22.
38. Deut. XXV, 2.
39. V. preceding notes.
40. To one penalty.
41. The punishment being so severe it alone is sufficient.
42. Lit., 'its transgression'.
43. It is sufficient, therefore, if only one penalty is inflicted.
44. And two penalties might well have been regarded as a proper measure of justice.
45. *Supra* 33b. The second text, therefore, cannot be applied as suggested.
46. V. *supra* notes 6 and 7.
47. Deut. XXI, 22.

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and the other¹ with those of death and flogging. And [both texts were] needed. For if we had been told [only of that which deals with the penalties of] death and money it might have been assumed [that the restriction² applied to these two penalties only] because we must not inflict one penalty upon one's body and another upon one's possessions, but in the case of death and flogging, both of which are inflicted on one's body, it might have been assumed [that the flogging] is deemed to be [but] one protracted death penalty and both may, therefore, be inflicted upon one man.³ And if we had been told about death and flogging only [the restriction⁴ might have been assumed to apply to these penalties only] because no two corporal punishments may be inflicted on the

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same person, but in the case of the penalties of death and money one of which is corporal and the other monetary it might have been assumed that both may be inflicted.⁵ [Both texts were, therefore,] necessary.

What need was there⁶ for the Scriptural text, Moreover ye shall take no ransom for the life of a murderer?⁷ — The All-Merciful has here stated: You shall take no monetary fine from him and thus exempt him from the death penalty.

What was the need⁸ for the Scriptural text, And ye shall take no ransom for him that is fled to his city of refuge?⁹ — The All-Merciful has here stated: You shall take no monetary fine from him to exempt him from exile.¹⁰

But why two texts?¹¹ — One deals with unwitting, and the other with intentional [murder]. And [both texts] were required. For if we had been told¹² of intentional murder¹³ only it might have been assumed [that the restriction¹² applied to this case only], because the transgression for which death is inflicted¹⁴ is grave,¹⁵ but not to the one of unintentional murder where the transgression is not so grave. And if we had been told¹⁶ of unintentional murder¹⁷ is only it might have been assumed [that the restriction¹⁶ applied to this case only] because no loss of life is involved,¹⁸ but not to intentional murder where a loss of life¹⁹ is involved.²⁰ [Both texts were consequently] required.

What was the object²¹ of the Scriptural text, And no expiation can be made for the land for the blood that is shed therein, but by the blood of him that shed it?²² — It was required for [the following deduction] as it was taught: Whence is it deduced that, if the murderer has been discovered after the heifer's neck had been broken,²³ he is not to be acquitted?²⁴ From the Scriptural text, 'And no expiation can be made for the land for the blood that is shed therein, etc.'²⁵

Then what was the need²⁶ for the text, So shalt thou put away the innocent blood from the midst of thee?²⁷ — It is required for [the following deduction] as it was taught: Whence is it deduced that execution by the sword²⁸ must be at the neck? It was explicitly stated in Scripture, 'So shalt thou put away the innocent blood from the midst of thee', all who shed blood are compared to the atoning heifer:²⁹ As its head is cut³⁰ at the neck³¹ so [is the execution of] those who shed blood at the neck.³² If [so, should not the comparison be carried further]: As there³³ [its head is cut] with an axe and at the nape of the neck so here³⁴ too? — R. Nahman answered in the name of Rabbah b. Abbuha: Scripture said, But thou shalt love thy neighbor as thyself,³⁵ choose for him an easy death.³⁶

What need was there³⁷ for the Scriptural text, None devoted, that may be devoted of men, shall be ransomed?³⁸ — It is required for [the following] as it was taught: Whence is it deduced that, when a person was being led to his execution,³⁹ and someone said, 'I vow to give his value⁴⁰ [to the Temple],' his vow is null and void?⁴¹ [From Scripture] wherein it is said, 'None devoted, that may be devoted of man, shall be redeemed'.⁴² As it might [have been presumed that the same law applied] even before his sentence had been pronounced⁴³ it was explicitly stated: 'Of men',⁴⁴ but not 'all men'.⁴⁵

According to R. Hanania b. 'Akabia, however, who ruled that the [age] value of such a person⁴⁶ may be vowed⁴⁷ because its price is fixed,⁴⁸ what deduction does he⁴⁹ make from the text of 'None devoted'?⁵⁰ — He requires it for [the following deduction] as it was taught: R. Ishmael the son of R. Johanan b. Beroka said, Whereas we find that those who incur the penalty of death at the hand of heaven⁵¹ may pay a monetary fine and thereby obtain atonement, for it is said in Scripture, If there be laid down on him a sum of money,⁵² it might [have been assumed that] the same law applied also [to those who are sentenced to death] at the hands of men,⁵³ hence it was explicitly stated

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in the Scriptures. 'None ... devoted⁵⁴ of men shall be redeemed'. Thus we know the law only concerning⁵⁵ severe death penalties⁵⁶ since [they are imposed for offences] which cannot be atoned for⁵⁷ if committed unwittingly;⁵⁸ whence, [however. is it inferred that the same law applies also to] lighter death penalties⁵⁹ seeing that [they are for offences] that may be atoned for⁶⁰ if committed unwittingly?⁶¹ It was explicitly stated in Scripture, 'None devoted'.⁶² But could not this⁶³ be inferred independently from Ye shall take no ransom⁶⁴ which implies: You shall take no money from him to exempt him [from death]?⁶⁵ What need was there for 'None devoted'? — Rami b. Hama replied: It was required. Since it might have been assumed

1. Deut. XXV, 2.
2. To one penalty.
3. Lit., 'and we shall do on him'.
4. To one penalty.
5. V. note 1.
6. Since it has been laid down that no monetary fine may be imposed upon one who suffers the death penalty.
7. Num. XXXV, 31. It is now assumed that כופר, (E.V. ransom) signified 'a monetary fine' that is imposed upon the murderer in addition to his major penalty.
8. Since no monetary fine may be imposed upon one who is flogged, much less upon one who must flee to a city of refuge. Alter: Since a monetary fine is not imposed upon a murderer. Cf. [H], and Tosaf. s.v. [H].
9. Num. XXXV, 32. Cf. *supra* n. 3.
10. Sc. the fleeing to a city of refuge.
11. Num. XXXV, 31 (death and money) and *ibid.* 32 (exile and money). As both deal with murder, could not the lesson of the one be deduced from the other?
12. That no ransom may be substituted for the death penalty.
13. Num. XXXV, 31.
14. Lit., 'its transgression'.
15. And a monetary fine is no adequate punishment.
16. Cf. *supra* note 10, *mutatis mutandis*.
17. Num. XXXV, 32.
18. The murderer's punishment being exile only.
19. The penalty being death.
20. And it might have been presumed that in order to save a human life ransom was allowed to be substituted.
21. In view of Num. XXXV, 31 which forbids ransom to be substituted for capital punishment.
22. Num. XXXV, 33.
23. V. Deut. XXI, 1ff.
24. Though the heifer atones for the people if the murderer is unknown.
25. V. Sot. 47b.
26. In view of the text of Num. XXXV. 33 and the deduction just made.
27. Deut. XXI, 9, forming the conclusion of the section dealing with the ceremony of the 'atoning heifer' (v. note 12).
28. Lit., 'those executed by the sword'.
29. [H], lit., 'the heifer whose neck was broken'.
30. Lit., 'there'.
31. V. Deut. XXI, 4.
32. Sanh. 52b.
33. In the case of the atoning heifer.
34. The execution of a murderer.
35. Lev. XIX, 18.
36. Pes. 75a, Sanh. 52b and 45a.
37. Cf. *supra* note 9.
38. The conclusion is He shall surely be put to death. Lev. XXVII, 29.
39. Lit., 'goes out to be killed'.
40. Lit., 'his valuation upon me'. Cf. Lev. XXVII, 2ff.
41. Lit., 'he said nothing'.
42. Since his life is forfeited his value is nil.
43. Lit., 'his judgment was concluded'.
44. I. e., 'a part of a man', 'an incomplete one', viz. one sentenced to death.
45. I. e., 'a full man', 'one whose life is still in his own hands', viz. a man still on trial before his sentence of death has been pronounced.
46. Who 'was led to his execution'.
47. Lit., 'he is valued', if the person who made the vow used the expression, 'I vow his value' not 'his life'.
48. In Lev. XXVII. Though his forfeited life has no value, his ace (according to Lev. XXVII, 3-7) has a fixed legal value; and the vow, since it did not refer to his life but his value, is interpreted in the Biblical sense and is consequently valid. V. 'Ar. 7b.
49. Who does not apply it to a condemned man.
50. Lit., 'that ... what does he do to it?'
51. Offenders who ate not subject to the jurisdiction of a court of law' (v. Sanh. 15b).
52. Ex. XXI. 30.
53. Sc. by a sentence of a criminal court.
54. [H] denotes dedication, excommunication and also condemnation to destruction or death.
55. Lit., 'there is not to me but', 'I have only'.
56. For offences committed intentionally.
57. By a sacrifice.
58. E.g. wounding one's father or stealing a man (V. Ex. XXI, 15f).
59. If they were committed intentionally.

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60. By a sacrifice.
61. E.g., idolatry or adultery.
62. 'Ar. 7b.
63. That no ransom may be substituted for the death penalty even in the cases of lighter death penalties.
64. Num. XXXV, 31.
65. The death penalty for murder is considered of a lighter character since, the crime, if committed unwittingly, is atoned for by exile.

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that this applied only where murder had been committed¹ in the course of an upward movement,² because no atonement³ is allowed when such an act⁴ was committed unwittingly.⁵ but that where murder was committed in the course of a downward movement,² which [is an offence that] may be atoned for³ if committed unwittingly,⁵ a monetary fine may be received from him and thereby he may be exempted [from the death penalty]. Hence we were taught⁶ [that in no circumstances may the death penalty be commuted for a monetary fine].

Said Raba to him,⁷ Does not this⁸ follow from what a Tanna of the School of Hezekiah [taught]; for a Tanna of the School of Hezekiah taught: He that smiteth a man⁹ [was placed in juxtaposition with] And he that smiteth a beast² [to indicate that just] as in the case of the killing of¹⁰ a beast no distinction is made whether [the act was] unwitting or presumptuous, whether intentional or unintentional, whether it was performed in the course of a downward movement or in the course of an upward movement, in respect of exempting him from a monetary obligation¹¹ but in respect of imposing a monetary obligation¹² upon him,¹³ so also in the case of the killing of¹⁴ a man no distinction is to be made whether [the act was] unwitting or presumptuous, whether intentional or unintentional, whether it was performed in the course of a downward movement or in the course of an upward movement, in respect of imposing upon him a monetary obligation¹⁵ but¹⁶ in respect of

exempting him from any monetary obligation?¹⁷ —

But, said Rami b. Hama, [one of the texts¹⁸ was] required [to obviate the following assumption]: It might have been presumed that this¹⁹ applied only where a man blinded another man's eye and thereby killed him, but that where he blinded his eye and killed him²⁰ by another act a monetary fine must be exacted from him.²¹

Said Raba to him:²² Is not this²³ also deduced from [the statement of] another Tanna of the School of Hezekiah; for a Tanna of the School of Hezekiah [taught:] Eye for eye²⁴ [implies] but not an eye²⁵ and a life for an eye?²⁶ — [This]. however, [is the explanation], said R. Ashi: [One of the texts²⁷ was] required [to obviate the following assumption]: It might have been presumed that since the law of a monetary fine is an anomaly²⁸ which the Torah has introduced, a man must pay it even though he also suffers the death penalty. Hence we were told²⁹ [that even a monetary fine may not be imposed in addition to a death penalty].

But according to Rabbah, who said that it is an anomaly²⁸ that the Torah has introduced by the enactment of the law of a monetary fine [and that therefore an offender]³⁰ must pay his fine even though he is also to be killed,³¹ what application can be made of the text 'None devoted...'?³² — He³³ holds the view of the first Tanna who [is in dispute with] R. Hanania b. 'Akabia.³⁴

MISHNAH. A GIRL³⁵ WHO WAS BETROTHED AND THEN DIVORCED³⁶ IS NOT ENTITLED, SAID R. JOSE THE GALILEAN, TO RECEIVE A FINE [FROM HER VIOLATOR].³⁷ R. AKIBA SAID: SHE IS ENTITLED TO RECEIVE THE FINE AND, MOREOVER, THE FINE BELONGS TO HER.³⁸

GEMARA. What is R. Jose the Galilean's reason?³⁹ — Scripture said, That is not betrothed⁴⁰ [is entitled to a fine],⁴¹ one, therefore, who was betrothed is not entitled

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to a fine. And R. Akiba?⁴² — [In the case of a girl] that is not betrothed [the fine is given] to her father but if she Was betrothed [the fine is given] to herself.

Now then, [the expression,] A damsel⁴³ [implies] but not one who is adolescent;⁴⁴ could it here also⁴⁵ [be maintained] that [the fine is given] to herself?⁴⁶ [Likewise the expression] virgin⁴⁷ [implies] but not one who is no longer a virgin; would it here also⁴⁸ [be maintained] that [the fine is given] to herself?⁴⁶ Must it not consequently be admitted⁴⁸ [that the exclusion in the last mentioned case] is complete,⁴⁹ and so here also⁵⁰ it must be complete?⁵¹ —

R. Akiba can answer you: The text of⁵² 'Not betrothed' is required for [another purpose].⁵³ as it was taught: 'That is not betrothed' excludes a girl⁵⁴ that was betrothed and then divorced who has no claim to a fine; so R. Jose the Galilean. R. Akiba, however, ruled: She has a claim to a fine and her fine [is given] to her father.⁵⁵ This⁵⁶ is arrived at by analogy: Since her father is entitled to have the money of her betrothal⁵⁷ and he is also entitled to have the money of her fine⁵⁸ [the two payments should be compared to one another]: As the money of her betrothal⁵⁹ belongs to her father even after she had been betrothed⁶⁰ and divorced,⁶¹ so also the money of her fine should belong to her father even after she had been betrothed and divorced. If so⁶² what was the object of the Scriptural text, 'That is not betrothed'? It is free for the purpose of a comparison with it and an inference from it by means of a *Gezerah Shawah*.⁶³ Here⁶⁴ it is said, 'That is not betrothed' and elsewhere⁶⁵ it is said, That is not betrothed,⁶⁶ as here⁶⁷ [the fine is that of] fifty [silver coins]⁶⁸ so is it fifty [silver coins] there⁶⁵ also; and as there⁶⁵ [the coins must be] *Shekels*⁶⁹ so here⁶⁷ also they must be *Shekels*.

What, however, moved⁷⁰ R. Akiba [to apply the text] of 'That is not betrothed'⁷¹ for a *Gezerah Shawah* and that of 'Virgin' for the

exclusion⁷² of one who was no longer a virgin?

1. Intentionally. Lit., 'he killed him'.
2. Of the hand, body or instrument.
3. By exile.
4. Murder in the course of an upward movement of the hand or body.
5. V. Mak. 7b.
6. By the text, 'None devoted' from which deduction was made *supra*.
7. Rami b. Hama.
8. The deduction from 'None devoted' that, in the case of murder, the death penalty may not be commuted for a monetary fine irrespective of whether the offence had been committed in the course of an upward. or downward movement.
9. Lev. XXIV, 21.
10. Lit., 'he who kills'.
11. Which in relation to the beast was not spoken of in the text of Lev. XXIV, 21.
12. Which was spoken of in the text *ibid*.
13. I.e., the man who killed the beast must in all cases mentioned pay compensation, and under no circumstance may he evade payment.
14. Lit., 'he too kills'.
15. Of which, in respect of murder, Lev. XXIV, 21 does not speak.
16. Since the text (Lev. XXIV, 21) speaks of the death penalty as the only punishment for murder.
17. V. *supra* 35a, B.K. 35a, Sanh. 79b. This shows that no distinction is made in the case of murder between a downward movement or an upward movement, but in every case no money payment can be imposed in addition to the major punishment. And the same principle must apply to the non-acceptance of a ransom in substitution for the death penalty. What need was there then for the text of 'None devoted' (cf. *supra* p. 208, n. 16)?
18. Either 'None devoted' or 'He that smiteth' (cf. Rashi).
19. That no monetary penalty may be imposed upon one who is to suffer the death penalty.
20. Simultaneously (v. Rashi).
21. As compensation for the eye, in addition to the death penalty for murder. [For the obvious difficulty involved in this reply of Rami b. Hama, which apparently is intended to explain the purpose of the verse 'none devoted' according to R. Ishmael b. R. Johanan b. Beroka; v. p. 210, n. 9.]
22. Rami b. Hama.
23. That for blinding an eye and thereby killing the man no monetary fine may be imposed in addition to the death penalty.
24. Ex. XXI, 24.

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25. I. e., compensation for the loss of an eye.
26. [From this is derived that the Law could not mean actual retaliation, as there was always the danger of loss of life to the offender while not an eye and life for a life (Tosaf.)]. B.K. 84a. The deduction from 'He that smiteth' since it is not needed for this case, must consequently apply to that 'when Be Blinded his eye and killed him By another act'; and the question arises again: What need was there for one or for the other of the two previously cited texts (v. *supra* p. 209. n. 8)?
27. V. *supra* p. 209. n. 8.
28. [H], lit., 'an innovation' sc. different from other laws. In many instances it cannot be justified on logical grounds and can only be accepted as a divine law the reason for which is beyond human comprehension.
29. By means of one of the two texts (v. *supra* p. 209. n. 8) which is not required in respect of ordinary monetary payments.
30. If his offence warrants it.
31. *Supra* 34b, 3 5b.
32. Which, according to his view, is not required to exclude the case just mentioned (cf. *supra* n. 4).
33. Rabbah.
34. *Supra* 37b where deduction is made from this text that a vow to give to the Temple the value of a person who was led to his execution, is null and void. [The whole passage is extremely difficult; v. Tosaf. The main difficulty is presented by the second answer of Ram B. Hama. (v. p. 209, n. 11). The following may be offered in explanation: To revert to the very beginning of the discussion the Talmud, assuming that the verse 'you shall take no fine' denotes that no money payment is to be imposed in addition to a death penalty, asked, what need was there for this verse, in view of the verse 'and yet no harm follow' (v. p. 205). There upon follows the reply that this verse meant to exclude the commutation of the death penalty for money payment. Then the question arises, what need was there for R. Ishmael b. R. Johanan b. Beroka to resort, for what practically amounts to the same ruling, to the verse 'None devoted'? To this Rami b. Hama in his first reply, answers that he needed this latter verse in the case where the murder was committed in a downward course. This reply, however, is rebutted by Raba, as such a contingency is already provided for in the verse 'he that smiteth, etc.' This forces Rami b Hama to fall back on the original assumption that the verse 'you shall take no ransom' comes to teach that no money payment may be imposed in addition to the death penalty; and as to the very first question, what need is there, in view of the verse 'and yet no harm shall follow' for two verses to teach the same thing? — the reply is: it is necessary to provide for a case where the blinding and the killing result from two separate blows. Raba, however, objected that this contingency too was already provided for. Hence R. Ashi's reply, that the extra verse was required to 'extend the rule to the case of a fine (v. Shittah Mekubbezeth. a.l.). This answer, however, the Talmud did not regard as satisfactory according to Rabbah, who held that a fine may be imposed in addition to the death penalty. On his view the verse 'you shall take no ransom' cannot be taken as referring to the imposition of a money payment in addition to the death penalty. Consequently, he would be forced back on the alternative explanation that it serves to teach that no death penalty may be commuted for money payment and thus the question of *supra* p. 208 'what need is there of "None devoted"' remains. To this the answer is, that Rabbah would agree with the first Tanna who is in dispute with R. Hanania b. 'Akabia].
35. Na'arah, v. Glos
36. Had she not been divorced, the offender is put to death and there is consequently no fine.
37. V. Deut. XXII, 29. The reason is stated *infra*.
38. Not to her father.
39. For his ruling in our Mishnah.
40. Deut. XXII, 28.
41. The man ... shall give ... fifty *Shekels* (ibid. 29).
42. How, in view of the Scriptural text cited, can he maintain that SHE IS ENTITLED TO RECEIVE THE FINE?
43. Deut. XXII, 28, Heb. Na'arah.
44. A Bogereth (v. Glos).
45. Since R. Akiba laid down that the exclusion of a fine that was implied by the text of 'not betrothed' is restricted to the girl's father but that the girl herself is still entitled to it.
46. But this is absurd, since no such law is anywhere to be found.
47. Deut. XXII, 28.
48. Lit., 'but'.
49. I. e., no fine is paid either to the girl or to Bet father.
50. The exclusion of which R. Jose the Galilean has spoken.
51. The previous objection against R. Akiba's ruling (cf. *supra* p. 211, n. 8) thus arises again.
52. Lit., 'that'.
53. And is consequently not available for the deduction made by R. Jose the Galilean.
54. V. *supra* p. 211, n. 1.
55. The contradiction between this ruling of R. Akiba and his ruling in our Mishnah is discussed *infra*.

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56. That she is entitled to the fine even after she had been betrothed.
57. V. *infra* 46b.
58. V. Deut. XXII, 29.
59. I. e., a second betrothal while she was still a damsel (Na'arah). V. *supra* p. 211, n. 1.
60. To one man.
61. From him and then betrothed to the other man.
62. If one who was betrothed and divorced is also entitled to a fine.
63. V. [Glos.](#)
64. In the case of an outrage.
65. In the case of seduction.
66. Ex. XXII, 15.
67. In the case of an outrage.
68. V. Deut. XXII, 29.
69. [H]. The text (Ex. XXII, 16) reads יִשְׁקֶל (lit., 'shall weigh', E.V. pay) which is of the same rt. as [H] (*Shekel*).
70. Lit., 'you saw'.
71. Deut. XXII, 28.
72. From the tight to a fine.

Kethuboth 38b

Might [not one equally well] suggest that 'Virgin' should be applied for the *Gezerah Shawah*¹ and 'That is not betrothed' [should serve the purpose of] excluding² a girl³ that was betrothed and divorced? — It stands to reason [that the text of] 'That is not betrothed' should be employed for the *Gezerah Shawah*,⁴ since such a girl³ is still⁵ designated. A damsel that is a virgin.⁶ On the contrary; [should not the expression of] 'Virgin' be applied for the *Gezerah Shawah*, since [a non-virgin] may still be described as one 'That is not betrothed'?⁷ — It stands to reason [that R. Akiba's first view⁸ is to be preferred, since] the body of the one² had undergone a change while that of the other¹⁰ had not.¹¹

As to R. Jose the Galilean,¹² whence does he draw that logical inference?¹³ — He derives it from the following where it was taught: He shall pay money according to the dowry of virgins¹⁴ [implies] that this [payment] shall be the same sum as the dowry of the virgins and the dowry¹⁵ of the virgins shall be the same as this.¹⁶

Does not a contradiction arise between the two statements of R. Akiba?¹⁷ — [The respective statements represent the opinions of] two Tannaim who differ as to what was the ruling of R. Akiba.

[The ruling of] R. Akiba in our Mishnah presents no difficulty since the *Gezerah Shawah* does not altogether deprive the Scriptural text of its ordinary meaning.¹⁸ According to R. Akiba's ruling in the Baraitha, however, does not the *Gezerah Shawah* completely deprive the Scriptural text of its ordinary meaning?¹⁹ — R. Nahman b. Isaac replied. Read in the text:²⁰ That is not a betrothed maiden.²¹ [But] is not a betrothed maiden one [for the violation of whom] the penalty of stoning [but not fine] is incurred?²² — It might have been assumed that, since it is an anomaly²³ that the Torah had introduced by the enactment of the law of a monetary fine, an offender²⁴ must, therefore, pay his fine even if he is also to be executed.²⁵

According to Rabbah, however, who said that it was an anomaly²³ that the Torah had introduced by the enactment of the law of a monetary fine and that an offender²⁴ must pay his fine even if he is also to be executed,²⁶ what can be said [in reply to the objection raised]?²⁷ — He²⁸ adopts the same view as that of R. Akiba in our Mishnah.²⁹

Our Rabbis taught: To whom is the monetary fine [of an outraged virgin³⁰ to be given]? — To her father. Others say: To herself. But why 'to herself'?³¹ — R. Hisda replied: We are dealing here with the case of a virgin who was once betrothed and is now divorced, and they³² differ on the principles underlying the difference between the view of R. Akiba in our Mishnah and his view in the Baraitha.

Abaye stated: If he³³ had intercourse with her and she died,³⁴ he is exempt [from the fine], for in Scripture it was stated, Then the man ... shall give unto the damsel's father,³⁵ but not unto a dead woman's father.³⁶

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This ruling which was so obvious to Abaye formed the subject of an enquiry by Raba.³⁷ For Raba enquired: Is the state of adolescence legally attainable in the grave³⁸ or not? 'Is the state of adolescence attainable in the grave and [the fine,³⁵ therefore,] belongs to her son,³⁹ or is perhaps the age of adolescence not attainable in the grave and [the fine, therefore,] belongs to her father?

1. And not, as has been said, to exclude a non-virgin from her tight to the fine.
2. From the tight to a fine.
3. A Na'arah.
4. So that even a girl (Na'arah) who was once betrothed and divorced should be entitled to the fine.
5. Despite Bet Betrothal and divorce.
6. Hence it is quite reasonable that her right to the fine shall not be lost. A non-virgin however, who is not described as 'a damsel that is a virgin' justly loses her tight to the fine.
7. While a Na'arah that was once betrothed and divorced and cannot so be described should not be entitled to the fine.
8. That a Na'arah that was once betrothed and divorced is entitled to the fine and that a non-virgin is not.
9. The non-virgin.
10. Who was betrothed and divorced.
11. Cf. *supra* note 14.
12. Who, unlike R. Akiba, does not use the expression of 'That is not betrothed' for a *Gezerah Shawah*
13. Stated *supra* 38a ad fin., that a fine of fifty *Shekel* is to be paid both in the case of seduction and that of violation.
14. Ex. XXII, 16, the case of seduction
15. Viz. fifty, as specified in Deut. XXII. 29
16. *Shekels*, as implied from Ex. XXII, 16 (cf. *supra* p. 213. n. 5).
17. In out Mishnah he laid down that the fine BELONGS TO HER while in the Baraita (*supra* 38a) he maintains that it 'is Shawah to her father'.
18. Because in addition to the deduction of the *Gezerah Shawah*, the ordinary meaning of the text. viz. that if the 'damsel... is not betrothed' the fine is given 'unto the damsel's father' but if she was once betrothed it 'BELONGS TO HER', is also in agreement with the law.
19. The implication of the ordinary meaning being that if the damsel was betrothed the fine is paid not to her father but to herself (cf. *supra* note 4.) while according to R. Akiba it

'is given to her father' irrespective of whether she was, or was not betrothed.

20. Deut. XXII. 28.
21. Thus excluding one formerly betrothed but now divorced. The consonants of the original [H] (Aram. [H]) may be read as [H] (as M.T.) 'was betrothed' as well as [H] 'one who is betrothed'.
22. Since no monetary fine may be imposed in addition to the penalty of death. What need then was there a for a Scriptural text to teach the same law?
23. Cf. *supra* p. 210, n. 3.
24. If his crime warrants it.
25. Hence the necessity in this case for the additional Scriptural text.
26. *Supra* 34a, 35b, 38a.
27. Cf. *supra* p. 214, n. 5. The reply given by R. Nahman b. Isaac *supra* — that the offence referred to in the text is against one who was still betrothed and that the implication is that the offender, because he is suffering the penalty of death, is exempt from the monetary fine — is untenable; since, according to Rabbah, such an offender incurs both penalties.
28. Rabbah.
29. Which, as stated *supra*, does not 'deprive the Scriptural text of its ordinary meaning'.
30. This is now assumed to mean a virgin 'that is not betrothed' who is spoken of in Deut. XXII. 28f.
31. The Scriptural text, surely, lays down that the fine is to be given 'Unto the damsel's father'.
32. The respective authors of the two opinions expressed in the last cited Baraita.
33. The offender spoken of in Deut. XXII, 28f.
34. Before he was brought to trial.
35. Deut. XXII, 29.
36. V. *supra* 29b.
37. V. *infra* p. 217, n. 10 final clause.
38. In the case of a virgin who was violated while she was a Na'arah (v. Glos) and died a Na'arah but whose violator was not brought to trial until sometime later when the girl, had she been alive, would have attained the state of Bagruth; (v. Glos).
39. If she had one. As the fine would have been payable to her and not to her father if she had been alive (v. *infra* 41b) so it is now payable to her son who is her legal heir.

Kethuboth 39a

But is she,¹ however, capable of [normal] conception?² Did not R. Bibi recite in the presence of R. Nahman:³ Three [categories of] women may use an absorbent⁴ in their

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marital intercourse:⁵ a minor, and an expectant and nursing mother. The minor,⁶ because otherwise she might become pregnant and die. An expectant mother,⁶ because otherwise she might cause her fetus to degenerate into a sandal.⁷ A nursing mother,⁶ because otherwise she might have to wean her child [prematurely]⁸ and this would result in his death.⁹ And what is [the age of such] a minor?¹⁰ From the age of eleven years and one day to the age of twelve years and one day. One who is under,¹¹ or over this age¹² must carry on her marital intercourse in a normal manner; so R. Meir.

But the Sages said: The one as well as the other carries on her marital intercourse in a normal manner, and mercy¹³ will be vouchsafed from Heaven, for it is said in the Scriptures, *The Lord preserveth the simple*.¹⁴ And should you reply that this is a case where she conceived when she was a Na'arah and gave birth to a child when she was still a Na'arah [it could be objected:] Does one give birth to a child within six months [after conception]? Did not Samuel, in fact, state: The period between the age of na'aruth¹⁵ and that of bagruth¹⁶ is only six months? And should you suggest [that he meant to say] that there were no less but more [than six months] surely [it could be retorted] he used the expression, only!¹⁷ It must be this, then, that he¹⁸ asked: Is the state of adolescence¹⁹ attainable in the grave²⁰ and her father consequently forfeits²¹ [his right],²² or is perhaps the state of adolescence not attainable in the grave²³ and the father, therefore, does not forfeit²⁴ [his right]?

Mar son of R. Ashi raised the question²⁵ in the following manner: Does death effect adolescence²⁶ or not? — The question stands undecided.²⁷

Raba enquired of Abaye: What [is the legal position if] he²⁸ had intercourse and became betrothed?²⁹ The other replied: Is it written in Scripture. 'Then the man ... shall give unto the father of the damsel³⁰ who was not a betrothed woman'?³¹ Following, however,

your line of reasoning, [the first retorted, one can argue in respect] of what was taught: '[If the offender had] intercourse with her and she married [the fine] belongs to herself', is it written in Scripture. 'Then the man ... shall give unto the father of the damsel³² who was not a married woman'? — What a comparison!³³ There³⁴ [the following analogy may well be made]: Since the state of adolescence liberates a daughter from her father's authority³⁵ and marriage also liberates a daughter from her father's authority³⁶ [the two may be compared to one another]: As [in the case of] adolescence, if she attains adolescence after he had intercourse with her,³⁷ [the fine] belongs to the girl herself,³⁸ so also [in the case of] marriage, if she married after he had intercourse with her,³⁷ [the fine] belongs to the girl herself. But as to betrothal, does it completely liberate a daughter from her father's authority? Surely we learned: [In the case of] a betrothed girl³⁹ her father and her husband jointly may invalidate her vows.⁴⁰

MISHNAH. THE SEDUCER PAYS THREE FORMS [OF COMPENSATION] AND THE VIOLATOR FOUR. THE SEDUCER PAYS COMPENSATION FOR INDIGNITY AND BLEMISH⁴¹ AND THE [STATUTORY] FINE, WHILE THE VIOLATOR PAYS AN ADDITIONAL [FORM OF COMPENSATION] IN THAT HE PAYS FOR THE PAIN. WHAT [IS THE DIFFERENCE] BETWEEN [THE PENALTIES OF] A SEDUCER AND THOSE OF A VIOLATOR? THE VIOLATOR PAYS COMPENSATION FOR THE PAIN BUT THE SEDUCER DOES NOT PAY COMPENSATION FOR THE PAIN. THE VIOLATOR PAYS⁴² FORTHWITH⁴³ BUT THE SEDUCER [PAYS ONLY] IF HE DISMISSES⁴⁴ HER. THE VIOLATOR MUST DRINK OUT OF HIS POT⁴⁵ BUT THE SEDUCER MAY DISMISS [THE GIRL] IF HE WISHES. WHAT IS MEANT BY⁴⁶ 'MUST DRINK OUT OF HIS POT'? — EVEN IF SHE IS LAME, EVEN IF SHE IS BLIND AND EVEN IF SHE IS AFFLICTED WITH BOILS [HE MAY NOT DISMISS HER]. IF, HOWEVER, SHE WAS FOUND TO HAVE COMMITTED⁴⁷ AN IMMORAL ACT OR WAS UNFIT TO

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MARRY AN ISRAELITE⁴⁸ HE MAY NOT CONTINUE TO LIVE WITH HER, FOR IT IS SAID IN SCRIPTURE, AND UNTO HIM SHE SHALL BE FOR A WIFE,⁴⁹ [IMPLYING] A WIFE THAT IS FIT 'UNTO HIM.

GEMARA. [For the] PAIN of what?⁵⁰ — The father of Samuel replied: For the pain [he has inflicted] when he thrust her upon the ground. R. Zera demurred: Now then, if he had thrust her upon silk stuffs⁵¹ would he for a similar reason⁵² be exempt? And should you say that the law is so indeed,⁵² was it not [it may be retorted] taught: 'R. Simeon b. Judah stated in the name of R. Simeon.⁵³ A violator does not pay compensation for the pain [he has inflicted] because

1. A girl in her minority. In the case under discussion, which refers to a Na'arah, who died before she became a Bogereth the birth of a child is possible only if conception took place while she was a minor — under twelve years of age.
2. I. e., one that would result in the birth of a child.
3. V. Yeb. 12b, 100b, Nid. 45a.
4. [H] 'hackled wool or flax'.
5. To prevent conception.
6. Is permitted the use of an absorbent.
7. [H], lit., 'a flat fish', i.e., a fish-shaped abortion due to superfetation.
8. On account of her second conception which causes the deterioration of her breast milk.
9. [H], so MS.M. Cut. edd. omit.
10. Who is capable of conception but is exposed thereby to danger.
11. When no conception is possible.
12. When pregnancy involves no fatal consequence.
13. To protect them from danger.
14. Ps. CXVI, 6; sc. those who are unable to protect themselves. From this it follows that a girl under the age of twelve is incapable of normal conception. How then could it be assumed by Raba that a Na'arah (cf. *supra* p. 215, n. 14) might give birth to a child?
15. Abstract of 'Na'arah', (v. Glos).
16. Abstract of 'Bogereth'.
17. Which implies 'no more'.
18. Raba.
19. V. *supra* p. 215, n. 12.
20. And the fine is, therefore, payable to the deceased as if she had been alive. (V. *infra* 41b).
21. [H] lit., 'bursts'.
22. To the fine. As a fine is not inheritable before it has been collected, the father cannot inherit it from his daughter, and the offender is consequently altogether exempt from payment.
23. And the deceased retains the status of a Na'arah.
24. V. *supra* note 5.
25. Attributed (*supra* 38b *ad fin.*) to Raba.
26. I. e., does a Na'arah (v. Glos) assume the status of adolescence the moment she dies, and her father consequently forfeits his right to the fine as if she had actually attained her adolescence in her lifetime? The former version of Raba's question differs from this in that it assumes as a certainty, contrary to Abaye's ruling, that death does not effect adolescence, the only doubt being whether adolescence is attained in due course, in the grave. According to this, the latter version, however, Abaye's very certainty is questioned, and the statement (*supra* p. 215) 'This ruling which was so obvious to Abaye formed the subject of enquiry by Raba' refers to this version.
27. Teku (v. Glos.)
28. The offender spoken of in Deut. XXII, 28f.
29. Before the payment was made. Does the fine still belong to her father or is it now payable to herself?
30. Deut. XXII, 29.
31. Of course not. Scripture draws no distinction between the one and the other.
32. Deut. XXII, 29.
33. Lit., 'thus, now'.
34. Marriage.
35. It is only a minor and a Na'arah (v. Glos) over whom a father exercises his authority (v. *infra* 46b).
36. The vows of a married woman may be invalidated by her husband only and not by her father.
37. While she was still a Na'arah.
38. Since it is the 'father of the damsel' to whom the fine is to be paid (v. Deut. XXII, 29) and not the father of the girl who is adolescent.
39. A Na'arah.
40. V. Ned. 66b and *infra* 46b; which shows that a father maintains partial control over his daughter as a Na'arah even after her betrothal.
41. This is explained *infra*.
42. To the damsel's father.
43. Even if he marries her.
44. This is explained *infra*.
45. [H], an earthen vessel used as a receptacle for refuse or as a plant pot; i.e., the violator must marry his victim whatever her merits or defects.
46. Lit., 'how'.

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47. Lit., 'there was found in her'.
48. Lit., 'to enter into (the congregation of) Israel', on account of her illegitimate or tainted birth.
49. So lit. Deut. XXII, 29.
50. Must the violator pay.
51. A fall which is not painful.
52. Lit., 'thus also'.
53. The parallel passage in B.K. 59a has 'Simeon b. Menasya'.

Kethuboth 39b

the woman would ultimately have suffered the same pain from her husband, but they¹ said to him: One who is forced to intercourse cannot be compared to one who acts willingly?² — [The reference.] in fact,³ said R. Nahman in the name of Rabbah b. Abbuha [is to the] pain of opening the feet, for so it is said in Scripture, And hast opened thy feet to every one that passed by.⁴ But if so, the same applies to one who has been seduced?⁵ R. Nahman replied in the name of Rabbah b. Abbuha: The case of one who has been seduced may be compared to that of a person who said to his friend, 'Tear up my silk garments and you will be free from liability'.⁶ 'My'? Are they⁷ not her father's?⁸ — This, however, said R. Nahman in the name of Rabbah b. Abbuha, [is the explanation]: The smart women among them declare that one who is seduced experiences no pain. But do we not see that one does experience pain? — Abaye replied: Nurse⁹ told me: Like hot water on a bald head.¹⁰ Raba said: R. Hisda's daughter¹¹ told me, Like the prick of the blood-letting lancet.¹² R. Papa said: The daughter of Abba of Sura¹¹ told me, Like hard crust in the jaws.¹³

THE VIOLATOR PAYS FORTHWITH BUT THE SEDUCER [PAYS ONLY] IF HE DISMISSES HER, etc. WHEN HE DISMISSES HER! Is she then his wife?¹⁴ Abaye replied: Read, 'If he does not marry her,¹⁵ So it was also taught: Although it was laid down that the seducer pays [the statutory fine] only if he does not marry her, he must pay compensation for indignity and blemish forthwith. And [in the case of] the

violator as well as [of] the seducer, she herself or her father may oppose.¹⁶

As regards one who has been seduced, this¹⁷ may well be granted because it is written in Scripture. If her father will refuse,¹⁸ [since from 'refusing']¹⁹ I would only [have known that] her father [may refuse], whence [could it be deduced that] she herself [may also refuse]?²⁰ It was, therefore, explicitly stated 'will refuse', implying either of them.²¹ But as regards a violator, though one may well grant that she [may refuse him since] it is written in Scripture. 'and onto him she shall be²² [which implies]²³ only if she is so minded, whence, however, [it may be objected] is it deduced that her father [may also object to the marriage]? — Abaye replied: [Her father was given the right to object] in order that the sinner²⁴ might not gain an advantage.²⁵ Raba replied; It²⁶ is deduced a *minori ad majus*: If a seducer who has acted against the wish of her father alone may be rejected either by herself or by her father how much more so the violator who has acted both against the wish of her father and against the wish of herself.

Raba did not give the same reply as Abaye, because, having paid the fine, [the offender can] no [longer be described as a] sinner gaining an advantage. Abaye does not give the same reply as Raba [because it may be argued:²⁷ In the case of] a seducer, since he himself may object [to the marriage], her father also may object to it; [but in the case of] a violator, since he himself may not object [to the marriage] her father also may have no right to object to it.

Another Baraitha taught: Although it has been laid down that the violator pays forthwith²⁸ she has no claim upon him²⁹ when he divorces her.³⁰ ['When he divorces her']! Can he divorce her?³¹ — Read: When she demands a divorce³² she has no claim upon him.²⁹ If he died, the fine is regarded as a quittance for her *Kethubah*.³³ R. Jose the son of R. Judah ruled: She is entitled³⁴ to a *Kethubah* for one *Maneh*.³⁵

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On what principle do they³⁶ differ? — The Rabbis hold the view that the only reason why³⁷ the Rabbis instituted a *Kethubah* [for a wife was] in order that the man might not find it easy³⁸ to divorce her,³⁹ but [the violator,] surely, cannot divorce her.⁴⁰ R. Jose the son of R. Judah, however, is of the opinion that this man too might torment her until she says to him, 'I do not want you'.⁴¹ **THE VIOLATOR MUST DRINK OUT OF HIS POT.** Said Raba of Parazika⁴² to R. Ashi. Consider! [The fines of a violator and a seducer] are deduced from one another.⁴³

1. The Rabbis who differed from his view.
2. B.K. 59a. Now if the PAIN referred to was that caused by the thrust the first Tanna would not have spoken of pain in the case of a husband.
3. Lit., 'but'.
4. Ezek XVI, 25.
5. Why then is a seducer exempt from paying compensation for pain.
6. By her consent to suffer the pain the woman has exempted the man from paying compensation.
7. The silk garments, sc. her chastity and all it involves (v. *infra* 46b).
8. How then could she grant exemption?
9. Abaye's mother died from childbirth and he was brought up by his nurse (v. Kid. 31b).
10. Slight but pleasurable pain.
11. His wife.
12. [H] 'puncture', [H] 'lancer used for blood-letting'.
13. V. Jast. Aliter: 'palate' (Rashi).
14. Obviously not, since he has not legally married her. How then can the expression of dismissed be used?
15. Since the woman, her father, or the seducer himself may object to the marriage.
16. The marriage.
17. That the girl as well as her father may oppose the marriage.
18. So lit., Ex. XXII, 16. (E.v. utterly refuse).
19. If the verb had nor been repeated.
20. To marry the seducer.
21. Lit., 'from any place'.
22. Deut. XXII, 29.
23. Since it was not stated, 'And he shall take her'.
24. The violator.
25. Over the seducer.
26. Her father's right to oppose the marriage.
27. Against his a minori inference.
28. V. Our Mishnah.
29. In respect of her *Kethubah*.

30. The fine he pays is regarded as a settlement of her *Kethubah*, though it was Bet father who received the payment.
31. Of course not, since Scripture stated, He may not put her away all his days (Deut. XXII, 29).
32. Lit., 'when she goes out'.
33. Cf. *supra* n, 7.
34. Like a woman who married as a widow or divorcee.
35. V. [Glos.](#)
36. R. Jose the son of R. Judah and the Rabbis.
37. Lit., 'what is the reason?'
38. Lit., 'easy in his eyes'.
39. V. *infra* 54a.
40. Cf. *supra* note 8. Hence no *Kethubah* was necessary.
41. She too must, therefore, be protected by a *Kethubah*.
42. Farusag, a district near Bagdad (cf. Obermeyer p. 269).
43. The former from the latter in respect of '*Shekels*' and the latter from the former in respect of the number 'fifty' (v *supra* 38a ad fin.).

Kethuboth 40a

why then should not this law¹ also be inferred?² — Scripture stated, He shall surely pay a dowry for her to be his wife,³ 'her'⁴ [implies]⁵ only if he is so minded [need he marry her].

WHAT IS MEANT BY 'MUST DRINK OUT OF HIS POT', etc.? R. Kahana said, I submitted the following argument before R. Zebid of Nehardea:⁶ Why should not the positive commandment⁷ supersede the negative one?⁸ And he replied to me: 'Where do we say that a positive commandment supersedes a negative one? [Only in a case], for instance, like circumcision in leprosy,⁹ since otherwise it would be impossible to fulfill the positive commandment, but here, if she should say that she did not want [the man for a husband], would [the question of the performance of] the positive commandment⁷ ever have arisen?'¹⁰

MISHNAH. IF AN ORPHAN WAS BETROTHED AND THEN DIVORCED, ANY MAN WHO VIOLATES HER, SAID R. ELEAZAR, IS LIABLE [TO PAY THE STATUTORY FINE]¹¹

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BUT THE MAN WHO SEDUCES HER IS EXEMPT.¹²

GEMARA. Rabbah b. Bar Hana stated in the name of R. Johanan: R. Eleazar made his statement¹³ on the lines of the view of his master R. Akiba who ruled: She¹⁴ is entitled to receive the fine, and, moreover, the fine belongs to her. How is this¹⁵ inferred?¹⁶ — As it was stated, **IF AN ORPHAN ... ANY MAN WHO VIOLATES HER, SAID R. ELEAZAR, IS LIABLE [TO PAY THE STATUTORY FINE] BUT THE MAN WHO SEDUCES HER IS EXEMPT,** [the difficulty arises: Is not the case of] an orphan self-evident?¹⁷ Consequently it must be this that we were taught: **A girl WHO WAS BETROTHED AND THEN DIVORCED** has the same status as **AN ORPHAN.** As [the fine of] an orphan belongs to the orphan herself so does that of a girl who was betrothed and then divorced belong to the girl herself.

R. Zera said in the name of Rabbah b. Shila who said it in the name of R. Hamnuna the Elder who had it from R. Adda b. Ahabah who had it from Rab: The *Halachah* is in agreement with the ruling of R. Eleazar. Rab [in fact] designated R. Eleazar¹⁸ as the happiest¹⁹ of the wise men.

MISHNAH. WHAT IS [THE COMPENSATION THAT IS PAID FOR] INDIGNITY?²⁰ ALL DEPENDS ON THE STATUS OF THE OFFENDER AND THE OFFENDED. [AS TO BLEMISH,²⁰ SHE IS REGARDED AS IF SHE WERE A BOND WOMAN TO BE SOLD IN THE MARKET PLACE [AND IT IS ESTIMATED] HOW MUCH SHE WAS WORTH²¹ AND HOW MUCH SHE IS WORTH NOW. THE STATUTORY FINE²² IS THE SAME FOR ALL, AND ANY SUM THAT IS FIXED PENTATEUCHALLY REMAINS THE SAME FOR ALL.

GEMARA, Might it not be suggested that the All-Merciful intended the fifty *Sela*'²³ to cover all the forms of compensation?²⁴ — R. Zera replied: [If that were so] it would be said, 'Should one who had intercourse with a

princess pay fifty and one who had intercourse with the daughter of a commoner also pay only fifty?'²⁵ Said Abaye to him: If so, the same might be argued in respect of a slave:²⁶ 'Should [compensation for] a slave who perforates pearls be thirty [and that for] one who does

1. That a seducer, like a violator, must marry his victims.
2. Lit., 'in respect of this thing also let them be inferred from one another'.
3. Ex. XXII, 15.
4. [H] lit., 'to him.'
5. Since it is not stated, 'And she shall be his wife' (cf. *supra*. 220, n. 17).
6. Nehardea was a town on the Euphrates, situated at its junction with the Royal Canal about seventy miles north of Sura, and famous for its great academy in the days of Samuel, which is as rivaled only by that of Sura.
7. She shall be his wife (Deut. XXII, 29). Lit., 'let the positive command come and supersede, etc.'
8. The prohibition. e.g., to marry one who was UNFIT TO MARRY AN ISRAELITE.
9. It is forbidden to remove leprosy by means of a surgical operation; but if the leprosy covered the place or circumcision it is permitted to perform the circumcision although the leprosy is removed in the process. Thus the positive commandment of circumcision supersedes the negative one of leprosy.
10. Obviously not, since the girl has the right of objecting to marry him. Similarly, if she happens to be one who is forbidden to marry an Israelite she is advised to object to the marriage (Rashi). [Isaiah Trani: Since the command for the performance of this positive precept is not absolute, it is not sufficiently strong to supersede a negative prohibition.]
11. V. Deut. XXII, 29.
12. Her acquiescence in the offence is regarded as an intimation that she has renounced her claim to the fine, and since, owing to the death of her father, the fine belongs to her, she is fully entitled to remit it.
13. In our Mishnah.
14. A girl who was betrothed and then divorced (v. Mishnah, *supra* 38a).
15. That R. Eleazar follows the ruling of R. Akiba?
16. Lit., 'from what'
17. Since she has no father the fine obviously belongs to her. What need then was there for our Mishnah

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18. R. Eleazar b. Shammu'a, a disciple of R. Akiba (v. Yeb. 62b).
19. So Jast. or 'important', 'notable' (v. Levy).
20. V. Mishnah, *supra* 39a.
21. Before the offence.
22. V. Mishnah, *supra* 39a.
23. Deut. XXII, 29.
24. Lit., 'from all things'.
25. Though the indignity of the former is undoubtedly greater. Hence it follows that, in addition to the statutory sum which the Torah has awarded to all alike, an additional sum for indignity must be paid in accordance with the status of the offended party.
26. Compensation for whom is fixed at thirty *Shekels* (v. Ex. XXI, 32).

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needlework also be thirty?'¹ — This, however, said R. Zera, [is the proper explanation]: If two men had intercourse with her, one in a natural, and the other in an unnatural manner, it would be argued,² 'Should one who had intercourse with a sound woman pay fifty and one who had intercourse with a degraded woman also pay fifty?'

Said Abaye to him: If so, the same might be argued in respect of a slave: 'Should [compensation for] a healthy slave be thirty [and that for] one afflicted with boils also be thirty?'¹ — This, however, said Abaye, [is the explanation]: Scripture said,³ Because he hath humbled her⁴ [as if to say]: These⁵ [must be paid] 'because he hath humbled her', thus it may be inferred that [compensation for] indignity and blemish⁶ must also be paid.⁷

Raba replied: Scripture said, Then the man that lay with her shall give unto the damsel's father fifty [*Shekels* of] silver;⁸ for the gratification of 'lying' [he gives] fifty. Thus it may be inferred that [compensation for] indignity and blemish must also be paid.⁷

But say [perhaps] that [compensation for indignity and blemish is paid] to her?⁹ — Scripture said, Being in her youth in her father's house,¹⁰ [implying that] all

advantages of 'her youth' belong to her father.

[Consider,] however, that which R. Huna said in the name of Rab: 'Whence is it deduced that a daughter's handiwork belongs to her father? [From Scripture] where it is said, And if a man sell his daughter to be a maidservant,¹¹ as¹² the handiwork of a maidservant belongs to her master so does the handiwork of a daughter belong to her father'. Now what need is there¹³ [it may be asked, for this text when] the law¹⁴ can be deduced from [the text of] 'Being in her youth in her father's house'? Consequently [it must be admitted, must it not, that] that text was written in connection only with the annulment of vows?¹⁵ And should you suggest¹⁶ that we might infer¹⁷ from it,¹⁸ [it could be retorted that,] monetary matters¹⁹ cannot be inferred from ritual matters.²⁰ And should you suggest¹⁶ that we might infer it¹⁷ from the law of fine, is [it could be retorted, could it not, that,] monetary payments cannot be inferred from fines?²¹ — This, however, [is the explanation]:²² it stands to reason that [her compensation should] belong to her father; for if he wished he could have handed her over²³ to an ugly man or to one afflicted with boils.²⁴

AS TO BLEMISH, SHE IS REGARDED AS IF SHE WERE A BONDWOMAN TO BE SOLD. How is she assessed? The father of Samuel replied: It is estimated how much²⁵ more a man would pay for a virgin slave than²⁵ for a non-virgin slave to attend upon him. 'A non-virgin slave to attend upon him!' What difference does this²⁶ make to him? — [The meaning], however, [is this: How much more a man would pay for] a virgin slave than²⁵ for a non-virgin slave²⁵ for the purpose of marrying her to his bondman. But even if 'to his bondman', what difference does this²⁷ make to him? — [We are dealing here] with a bondman who gives his master satisfaction.²⁸

MISHNAH. WHEREVER THE RIGHT OF SALE APPLIES NO FINE IS INCURRED²⁹ AND

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WHEREVER A FINE IS INCURRED NO RIGHT OF SALE APPLIES. IN THE CASE OF A MINOR THE RIGHT OF SALE³⁰ APPLIES BUT NO FINE³¹ IS INCURRED;³² IN THE CASE OF A DAMSEL³³ A FINE IS INCURRED³² BUT NO RIGHT OF SALE³⁰ APPLIES. TO A DAMSEL WHO IS ADOLESCENT³⁴ THE RIGHT OF SALE DOES NOT APPLY NOR IS A FINE INCURRED THROUGH HER.

GEMARA. Rab Judah stated in the name of Rab: This³⁵ is the ruling of R. Meir, but the Sages rule: A fine is incurred³² even where the right of sale³⁶ applies. For it was taught: The right of sale³⁶ applies to a minor from the age of one day until the time when she grows two hairs,³⁷ but no fine is incurred through her.³⁸ From the time she grows two hairs until she comes of age a fine is incurred through her but no right of sales applies; so R. Meir, because R. Meir has laid down: Wherever the right of sale applies no fine is incurred, and wherever a fine is incurred no right of sale applies. The Sages, however, ruled: Through a minor from the age of three years and one day until the time she becomes adolescent a fine is incurred.³⁹ Only a fine [you say] but not the right of sale?⁴⁰ — Read: A fine also where the right of sale applies.⁴¹

R. Hisda said: What is R. Meir's reason?⁴² Scripture said, And unto him⁴³ she shall be⁴⁴ for a wife;⁴⁵ the text thus speaks of a girl who may herself contract a marriage.⁴⁶ And the Rabbis?⁴⁷ Resh Lakish replied: Scripture said, na'ar⁴⁸ which⁴⁹ implies even a minor.⁵⁰

R. Papa the son of R. Hanan of Be Kelohith heard this⁵¹ and proceeded to report it before R. Shimi b. Ashi [when the latter] said to him: You apply it⁵² to that law; we apply it to the following: Resh Lakish ruled; A man who has brought an evil name⁵³ upon a minor is exempt,⁵⁴ for it is said in Scripture, And give them unto the father of the damsel,⁵³ Scripture expressed the term Na'arah⁵⁵ as plenum.⁵⁶

R. Adda b. Ahabah demurred: Is the reason then⁵⁷ because the All-Merciful has written

Na'arah, but otherwise it would have been said that even a minor [was included], surely [it may be objected] it is written in Scripture, But if this thing be true, and the tokens of virginity be not found in the damsel, then they shall bring out the damsel to the door of her father's house, and [the men of her city] shall stone her,⁵⁸ while a minor is not, is she, subject to punishment?⁵⁹ — [The explanation,] however, [is that since] Na'arah [has been written] here⁶⁰ [it may be inferred that here only is a minor excluded] but wherever Scripture uses the expression of Na'ar even a minor is included.

1. Though the labor value of the one is undoubtedly higher than that of the other,
2. If no compensation for indignity were paid in addition to the statutory fine.
3. In stating the reason for the statutory fine.
4. Deut. XXII, 29.
5. The fifty *Shekels* mentioned.
6. Which are payable in other cases of injury.
7. Lit., 'that there is'.
8. Deut. XXII, 29.
9. Since 'the damsel's father' was mentioned (ibid.) only in respect of the fifty *Shekels* of fine.
10. Num. XXX, 17.
11. Ex. XXI, 7.
12. Since 'daughter' and 'maidservant' are mentioned in the same verse they may be compared to one another.
13. Lit., 'wherefore to me?'
14. That a daughter's handiwork belongs to her father,
15. And, therefore, no deduction from it can be made in respect of handiwork. Similarly here also, no deduction from it could be made in respect of compensation for indignity and blemish. Thus an objection arises against Raba's explanation.
16. In justification of Raba.
17. That compensation for indignity and blemish belongs to the father,
18. The law of the annulment of vows.
19. Such as compensation.
20. As the fine belongs to her father so does her compensation.
21. The objection against Raba thus remains.
22. Why compensation for indignity and blemish is paid to the father.
23. As wife.
24. Thus subjecting her to indignity and blemish while he himself derives there from pecuniary benefit. As her indignity and blemish are in

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- his hands he is justly entitled to compensation from the man who inflicts them upon her.
25. Lit., 'between ... to'.
 26. The virginity of a slave whom one requires for service.
 27. Cf. previous note *mutatis mutandis*. The main object of a master is the acquisition of slave children.
 28. And his master in return desires to give him the satisfaction of marrying a virgin.
 29. This is illustrated anon.
 30. By her father (cf. Ex. XXI, 7 and 'Ar. 29b).
 31. V. Deut. XXII, 29 and Ex. XXII, 16.
 32. In case of violation or seduction.
 33. Na'arah (v. [Glos.](#)).
 34. Bogereth (v. [Glos.](#)).
 35. That IN THE CASE OF A MINOR ... NO FINE IS INCURRED.
 36. V. p. 226, n. 8.
 37. As a sign of puberty.
 38. V. p. 226, n. 10.
 39. Tosef. Keth. II. Our Mishnah (v. p. 226, n. 13) must consequently represent the ruling of R. Meir.
 40. But this is contrary to the Pentateuchal law (cf. p. 226, n. 8).
 41. From the age of three years and one day until she grows two hairs. under the first age limit, no fine, and above the second age limit until she becomes adolescent, only a fine is incurred.
 42. V. *supra* p. 226, n. 13).
 43. The girl through whom the fine is incurred.
 44. [H].
 45. So lit., Deut. XXII, 29.
 46. Lit., 'who causes herself to be'. [H], implying action on the part of the girl herself independent of that of any other person. A minor whose marriage is dependent on the will of her father is consequently excluded from the text.
 47. How in view of the implication of the text could they maintain that through a minor a fine is incurred?
 48. [H] (So MS.M. and BaH). Cur. edd. [H].
 49. Since M.T. reads נַעֲרָה though the kere is [H] (damsel).
 50. [The Rabbis explain this form as an example of the epicene use of a noun; cf. [G] and [G], child].
 51. The deduction attributed to Resh Lakish.
 52. The deduction from [H].
 53. Deut. XXII, 19.
 54. From the fine of a hundred *Shekels* of silver (v. *ibid.*).
 55. [H] 'damsel'.
 56. With a 'he' at the end, in order to exclude the minor. [This is the only place in the Pentateuch where the word is written plene].

57. Why the fine of a hundred *Shekels* is not payable in respect of a minor.
58. Deut. XXII, 20f.
59. A minor would consequently have been excluded even if Na'ar had been written.
60. Where a minor, as has been proved, must be excluded.

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MISHNAH. HE WHO DECLARES, 'I HAVE SEDUCED THE DAUGHTER OF SO-AND-SO' MUST PAY COMPENSATION FOR INDIGNITY AND BLEMISH ON HIS OWN EVIDENCE BUT NEED NOT PAY THE STATUTORY FINE.¹ HE WHO DECLARES, 'I HAVE STOLEN' MUST MAKE RESTITUTION FOR THE PRINCIPAL ON HIS OWN EVIDENCE BUT NEED NOT REPAY DOUBLE,² FOURFOLD³ OR FIVEFOLD.³ [HE WHO STATES,] 'MY OX HAS KILLED SO-AND-SO' OR 'THE OX OF SO-AND-SO' MUST MAKE RESTITUTION⁴ ON HIS OWN EVIDENCE. [IF HE, HOWEVER, SAID,] 'MY OX HAS KILLED THE BONDMAN OF SO-AND-SO'⁵ HE NEED NOT MAKE RESTITUTION ON HIS OWN EVIDENCE.⁶ THIS IS THE GENERAL RULE: WHOEVER PAYS MORE THAN THE ACTUAL COST OF THE DAMAGE HE HAS DONE⁷ NEED NOT PAY IT ON HIS OWN EVIDENCE.

GEMARA. Why did not he⁸ include 'I have violated'?² — He implied that this was unnecessary: It was unnecessary [to state that if a man declared,] 'I have violated', in which case he casts no reflection on the girl's character,¹⁰ that he must pay compensation for indignity and blemish on his own evidence,¹¹ but [if a man declared,] 'I HAVE SEDUCED', in which case he does cast a reflection on her character,¹² it might have been assumed that he does not pay [such compensation] on his own evidence,¹³ hence he informs us [that he does].

Our Mishnah does not agree with the following Tanna. For it was taught: R. Simeon b. Judah stated in the name of R. Simeon, [Compensation for] indignity and blemish also a man does not pay on his own

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evidence¹⁴ because he¹⁵ cannot be trusted¹⁶ to tarnish the character of another man's daughter.

Said R. Papa to Abaye: What [is the ruling if] she is satisfied?¹⁷ — It is possible that her father might not be satisfied. And what if her father also is satisfied? — It is possible that the members of her family might not be satisfied. What if the members of her family are also satisfied? — It is impossible that there should not be one somewhere¹⁸ who is not satisfied.

HE WHO DECLARES, 'I HAVE STOLEN' MUST MAKE RESTITUTION FOR THE PRINCIPAL, etc. It was stated: [In respect of liability for] half damages.¹⁹ R. Papa ruled: It is a civil obligation,²⁰ but R. Huna the son of R. Joshua ruled: It is penal.²¹ 'R. Papa ruled: It is a civil obligation', for he is of the opinion that cattle as a rule²² cannot be presumed to be safe.²³ Justice, therefore, demands that the owner should make full restitution,²⁴ but the All-Merciful has shown mercy towards him²⁵ because his cattle have not yet become *Mu'ad*.²⁶ 'R. Huna the son of R. Joshua ruled: It is penal', for he is of the opinion that cattle as a rule are presumed to be safe.²⁷ Justice, therefore, demands that the owner should make no restitution at all,²⁸ but it was Divine Law²⁹ that imposed a fine upon him in order that he should exercise special care over his cattle.³⁰

(Mnemonic:³¹ *He damaged what, and killed a general rule.*)

We have learned: The plaintiff and the defendant³² are involved³³ in the payment.³⁴ Now according to him who holds that liability for half damages is a civil obligation³⁵ it is perfectly correct [to say] that the plaintiff is involved in the payment,³⁶ but according to him who maintains that liability for half damages is penal [it may well be asked:] If he receives that which [in strict justice] is not his due how can he be involved³⁷ in the payment?³⁸ — It³⁹ may apply⁴⁰ only to [a loss caused by] a decrease in the value of the

carcass.⁴¹ [But have we not] already learned elsewhere [about] the decrease in the value of the carcass? 'To compensate for the damage'⁴² means that the owner⁴³ must dispose of the carcass?⁴⁴ — One [of the statements deals] with a *Tam*⁴⁵ and the other with a *Mu'ad*.⁴⁵ And [both statements are] required. For if [that relating to] a *Tam* only had been made it might have been presumed [to apply to that alone] because the animal has not yet become *Mu'ad* but not to a *Mu'ad* since [in the latter case the owner] has been duly warned. And if [only the statement relating to] a *Mu'ad* had been made it might have been assumed [to apply to that case alone] because the owner pays full compensation⁴⁶ but not [to that of] a *Tam*.⁴⁷ [Both rulings were consequently] required.

Come and hear: What is the difference [in the case of compensation for damages] between a *Tam*⁴⁸ and a *Mu'ad*?⁴⁹ — In the case of a *Tam* half damages are paid out of its own body,⁴⁸ while in the case of a *Mu'ad* full compensation is paid out of the best of the [defendant's] estate.⁴⁹ Now if⁵⁰ it were the case [that liability for half damage⁵¹ is penal] why was it not also stated⁵² that in the case of a *Tam* no compensation is paid merely on one's own evidence⁵³ whereas in the case of a *Mu'ad*⁵⁴ compensation is paid even on one's own⁵⁵ evidence?⁵⁶ — He⁵⁷ recorded [some distinctions]⁵⁸ and omitted others. What [else, however], did he omit [that should justify the assumption] that he omitted this distinction also.⁵⁹ — He omitted [also the payment of] half *Kofer*.⁶⁰ If [the only point not mentioned] is that of⁶¹ half *Kofer* it is no omission,

1. Prescribed in Ex. XXII, 16, because one's own admission to having committed an act for which a fine is prescribed cannot tender one liable to pay it (v. B.K. 75a).
2. V. Ex. XXII, 3.
3. V. *ibid.* XXI, 37.
4. V. *ibid.* XXI, 30, 35.
5. The fine for which is (v. *ibid.* 32) thirty *Shekels*.
6. Cf. *supra* n. 4.
7. When evidence against him is available.
8. The Tanna of our Mishnah.
9. In addition to 'I have seduced'.

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10. Since the outrage was not her fault but her misfortune.
11. As the girl's character is not called in question the man's admission may well be regarded as a true confession to satisfy his conscience and as a desire to make amends.
12. Cf. *supra* note 3 mutatis mutandis.
13. I. e., his compensation is to be refused on the ground that his word which casts a reflection on the girl's reputation cannot be accepted without valid proof.
14. Cf. *supra* n. 1.
15. In the absence of other valid evidence.
16. Lit., 'not all from him'.
17. To put up with the reflection in order to gain her compensation.
18. Lit., 'in a province of the sea', 'a country beyond the sea'.
19. Restitution made for damage done by the 'Born' (v. B.K. 2b) of a *Tam* (v. Glos).
20. And is consequently payable on one's own evidence.
21. Lit., 'fine', and is payable only where valid evidence, other than the admission of the offender, is available (cf. *supra* p. 228, n. 5).
22. Unless their owner takes special care to check them.
23. They might at any moment do some damage. Hence it is the duty of their owner to hold them under control.
24. For any damage done by his cattle, since such damage is the result of his carelessness (v. *supra* n. 2).
25. By releasing him from half of the payment.
26. 'Cautioned' (v. Glos). But whatever he does pay is a civil liability (v. *supra* p. 229, n. 13).
27. And no special care on the part of the owner is called for.
28. Since it was not his fault that his cattle had done the damage.
29. By ordering him to pay half damages.
30. Cf. B.K. 15a.
31. Containing key words occurring in the following four citations from which objections are raised against the ruling of R. Huna the son of R. Joshua.
32. Lit., 'he who suffered, and he who caused the damage'.
33. This is now assumed to imply 'loss'.
34. B.K. 14b.
35. And that the plaintiff should in strict justice be entitled to full compensation.
36. Since he loses (v. *supra* n. 14) a half of which is really his due.
37. Cf. *supra* n. 12.
38. This an objection arises against R. Huna the son if R. Joshua.
39. The statement that the plaintiff also is 'involved in the payment'.
40. Lit., 'is required'.
41. Between the date on which the animal was killed and that on which the action was tried. Such loss is borne By the plaintiff, the defendant paying only half the difference between the value of the live animal and the carcass as it was on the day of the accident.
42. B.K. 9b.
43. Of the animal that was killed, i.e., the plaintiff.
44. I. e., he must take it in part payment of his compensation, and if its value decreases it is obvious that he must bear the loss (cf. p. 230, n. 20). What need then was there to state the same ruling twice?
45. V. Glos,
46. And, therefore, no further liability is imposed upon him.
47. Where the defendant pays only half of the damages and may, therefore, be expected to bear the loss whenever the value of the carcass had decreased.
48. I. e., of the tort-feasant animal. The defendant's estate remains exempt from all liability.
49. Mishnah, B.K. 26b.
50. So according to Rashal and the parallel passages in B.K. 15a. Cur. edd. omit 'if ... case'.
51. In the case of a *Tam* (cf. *supra* p. 229, n. 22).
52. As another distinction between a *Tam* and a *Mu'ad*.
53. Cf. *supra* p. 229, n. 14.
54. Where the liability is civil.
55. Cf. *supra* p. 229, n. 13 and text.
56. Cf. *supra* p. 230, n. 17.
57. The Tanna of this Mishnah.
58. Between a *tam* and a *Mu'ad*,
59. In an enumeration the Tanna would not have omitted just one point.
60. 'Ransom' (v. Ex. XXI, 30) V. [Glos](#). In the case of manslaughter a *Mu'ad* pays full compensation while a *Tam* does not pay even half (cf. B.K. 41a).
61. Lit., 'on account of'.

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since that [Mishnah] may represent the view of¹ R. Jose the Galilean who ruled that [in the case of] a *tam* half *Kofer* is paid.²

Come and hear: [A MAN WHO SAID.] 'MY OX KILLED SO-AND-SO' OR 'THE OX OF SO-AND-SO MUST PAY COMPENSATION ON HIS OWN EVIDENCE. Now does not [this statement deal] with a *Tam*?³ — No; with a *Mu'ad*. What, however, [would be the

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law] in the case of a *Tam*? Would no liability be established by one's own evidence? Then instead of stating in the final clause, '... THE BONDMAN OF SO-AND-SO HE NEED NOT MAKE RESTITUTION ON HIS OWN EVIDENCE, could not a distinction have been drawn in the very same case, thus: 'This⁴ applies only to a *Mu'ad* but in respect of a *Tam* no liability is incurred by one's own evidence'? — The entire [Mishnah prefers to] deal with a *Mu'ad*.⁵

Come and hear: THIS IS THE GENERAL RULE: WHOSOEVER PAYS MORE THAN THE ACTUAL COST OF THE DAMAGE HE HAS DONE NEED NOT PAY ON HIS OWN EVIDENCE, from which it follows,⁶ [does it not, that if the payment is] less than the cost of the damage,⁷ one must pay compensation even on one's own evidence?⁸ Do not infer: '[But if payment is] less than the cost of the damage [one must pay ... on one's own evidence]',⁷ but infer: '[If payment] corresponds to the actual amount of the damage one must pay compensation even on one's own evidence'. What, however, [would be the law if payment were] less than the amount of the damage?⁹ Would no liability be established by one's own evidence? Then¹⁰ why was it not stated, 'This is the general rule: Whoever does not pay an amount corresponding to the actual cost of the damage he has done pays no compensation on his own evidence', which would imply [that where compensation is] less or more¹¹ [it is to be paid on one's own evidence]?¹² — This is indeed a refutation.¹³

The law, however, [is that the liability for] half damage is penal. 'A refutation' [of a ruling]¹⁴ and [yet it is] the law? — Yes; for the sole basis of the refutation¹⁵ was that¹⁶ the statement¹⁷ did not run, '[whoever does not pay an amount] corresponding to the actual cost of the damage he has done'; [but such a principle]¹⁸ was not regarded by him¹⁹ as exactly accurate, since there is the liability for half damages [in the case of the damage done by] pebbles²⁰ Concerning which there is an Halachic tradition that the liability is

civil.²¹ On account of this consideration he did not adopt [the form of the expression suggested].

Now that you have laid down that liability for half damage is penal, the case of a dog that devoured lambs or that of a cat that devoured big hens is one of unusual occurrence²² and no distress is executed in Babylon.²³ If, however, they²⁴ were small the occurrence is a usual²⁵ one and distress is executed.²⁶ Should the plaintiff,²⁶ however, seize [the chattels of the defendant]²⁷ they are not to be taken away from him.²⁸ Furthermore, if²⁹ he pleads. 'Fix for me a date [by which the defendant must come with me] to the Land of Israel,³⁰ such date must be fixed for him, and if [the defendant] does not go with him he must be placed under the ban. In any case,³¹ however, [the defendant] is to be placed under the ban;³² for he is told, 'Abate your nuisance', in accordance with a dictum of R. Nathan. For it was taught:³³ R. Nathan said, Whence is it derived that a man may not breed a bad dog in his house nor place a shaking ladder in his house? [From Scripture] where it is said, That thou bring not blood upon thine house.³⁴

CHAPTER IV

MISHNAH. IF A GIRL³⁵ WAS SEDUCED [THE COMPENSATION FOR] HER INDIGNITY AND BLEMISH AS WELL AS THE STATUTORY FINE BELONG TO HER FATHER³⁶ [TO WHOM BELONGS ALSO THE COMPENSATION FOR] PAIN IN THE CASE OF ONE WHO WAS VIOLATED. IF THE GIRL'S ACTION WAS TRIED³⁷ BEFORE HER FATHER DIED [ALL THE FORMS OF COMPENSATION] ARE DUE TO HER FATHER,³⁸ IF HER FATHER [SUBSEQUENTLY] DIED THEY ARE DUE TO HER BROTHERS.³⁹ IF HER FATHER, HOWEVER, DIED BEFORE HER ACTION WAS TRIED THEY⁴⁰ ARE DUE TO HER.⁴¹ IF HER ACTION WAS TRIED BEFORE SHE BECAME ADOLESCENT⁴² [ALL FORMS OF COMPENSATION] ARE DUE TO HER FATHER; IF HER FATHER [SUBSEQUENTLY]

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DIED⁴³ THEY ARE DUE TO HER BROTHERS.³⁹ IF, HOWEVER, SHE BECAME ADOLESCENT BEFORE HER ACTION COULD BE TRIED THEY ARE DUE TO HER.⁴⁴ R. SIMEON RULED.' IF HER FATHER DIED,⁴⁵ BEFORE SHE COULD COLLECT [THE DUES] THEY BELONG TO HER.⁴⁶

1. Lit., 'this (is) according to whom?'
2. V. B.K. 26a. The distinction mentioned (v. *supra* n. 1) does not, therefore, apply. The other distinction also, viz, that between full *Kofer* for a *Mu'ad* and half *Kofer* for a *Tam*, cannot be regarded as an omission, since it is included in the first clause which lays down that in the case of a *Tam* half damages are paid and in that of a *Mu'ad* full compensation is paid, a ruling which applies to *Kofer* as well as to damages. Since there is no other omission, this Mishnah proves that the liability for half damage is civil as *supra*.
3. And since liability is established by one's own evidence such liability cannot be penal but civil. Cf. *supra* 230. n, 17.
4. That liability is established by one's own admission.
5. To show that even in respect of a *Mu'ad* there is a case where no liability is incurred By one's own evidence.
6. Lit., 'but'.
7. Such as half damage payable in the case of a *tam*.
8. V. *supra* note 5.
9. V. p. 232. n. 9,
10. Instead of laying down a rule from which a wrong inference might be drawn.
11. Than the actual cost of the damage.
12. Since, however, the rule was not stated in this form it follows that liability for less than the actual cost of the damage (v. *supra* n. 1). is not payable on one's own admission. An objection thus arises against R. Huna the son of R. Joshua (cf. *supra* p. 231, n. 5),
13. The ruling, therefore, that half damages payable in the case of a *tom* is penal, stands refuted.
14. Cf. *supra* nn. 4 and 5.
15. Lit., 'what is the reason that it was refuted?'
16. Lit., 'because',
17. In out Mishnah.
18. Which would have excluded all cases of payment for half damages.
19. The Tanna of this Mishnah,
20. Kicked up by an animal (v. B.K. 17a and cf., 3b).
21. Despite the fact that the compensation is less than the actual damage.
22. And thus coming under the category of damage by the 'horn' (v. B.K. 2b) which is also one of unusual occurrence.
23. Since penal liabilities may be imposed in Palestine only by a judge who is specially ordained for the purpose (Mumhe, v. Glos). No such judges lived in Babylon.
24. The lambs or the hens.
25. Falling under the category of damage by the 'tooth' (cf. B.K. 2b) which is also one of usual occurrence and compensation in which case is a civil liability.
26. Even in Babylon.
27. [So Rashi. R. *Tam*: the animal that caused the damage (Tosaf)].
28. And he retains an amount corresponding to half the damage.
29. Where no chattels were seized.
30. Cf. *supra* p. 233. n. 15.
31. Whether the plaintiff wishes the case to be tried in the Land of Israel or not.
32. 'Until he abates the nuisance'. (So B.K. 15b).
33. B.K. 15b, 46a.
34. Deut. XXII, 8, referring to the duty of removing a cause of danger though one is not directly responsible for any fatal result.
35. Na'Arah (v. [Glos.](#)).
36. Cf. Mishnah *supra* 39a and notes.
37. Lit., she stood before the law.
38. In accordance with Deut. XXII. 20.
39. As heirs of their father. Once the court had ordered payment, the amount in question is considered as the 'actual property' of the father which is inherited by his sons, v. *infra* 43a.
40. Being still penal liabilities.
41. V. *infra* 43a. *Var. lec.* adds, 'R. Simeon ruled: If her father died before she could collect (the dues) they belong to her'.
42. A Bogereth (v. [Glos.](#)).
43. Whether before or after she became adolescent.
44. Because at that age she is no longer under her father's control.
45. *Var. lec.*; 'If she became adolescent'.
46. Because the fine does not become the 'actual property' of the father by mere decision of the court, (cf. *supra* notes 5 and 7).

Kethuboth 42a

HER HANDIWORK, HOWEVER, AND ANYTHING SHE FINDS EVEN IF SHE HAD NOT COLLECTED [THE PROCEEDS]. BELONG TO HER BROTHERS IF HER FATHER DIED.¹

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GEMARA. What [new law] does he teach us?² Have we not [already] learned: The seducer pays three forms [of compensation] and the violator four. The seducer pays compensation for indignity and blemish as well as the statutory fine, and the violator pays an additional [form of compensation] in that he pays for the pain?³ — It was necessary [to teach us² that the compensation is due] TO HER FATHER.⁴ [But] that [the compensation is due] to her father is also obvious, since a seducer has to pay for it? For if [it were to be given] to herself [the objection could be raised], why should the seducer pay [to her when] he acted with her consent?⁵ — It was necessary [to tell us² of the case where] HER ACTION WAS TRIED [which is a point in] dispute between R. Simeon and the Rabbis.⁶

We have learned elsewhere: [If a man said to another] 'You have violated or seduced my daughter', and the other replied. 'I did not violate or seduce her'. 'I adjure you' [said the first] and the other responded. 'Amen', but afterwards admitted his guilt, he is liable.⁷ R. Simeon, however, exempts him, for no fine is paid on one's own admission.⁸ They,⁹ however, said to him: Though no man pays a fine on his own admission he nevertheless pays compensation for indignity and blemish¹⁰ on his own admission.¹¹

Abaye enquired of Rabbah:¹² What is the law according to R. Simeon¹³ where a man said to another, 'You have violated or seduced my daughter, and I have brought you to law and you were ordered to pay me [a stipulated sum, of] money' and the other replied. 'I have neither violated nor seduced her, nor have you brought me to law nor have I been ordered to pay you any money', and after he had taken an oath¹⁴ he admitted his guilt? Is [his liability], since his action had been tried,¹⁵ civil¹⁶ and he consequently incurs thereby a sacrifice for [having taken a false] oath, or is it possible that, though his action had been tried, his liability¹⁷ is still regarded as penal?¹⁸ — The other replied: It is a civil

liability and he incurs thereby the obligation to bring a sacrifice for a false oath.¹⁹

He²⁰ pointed out to him²¹ the following objection: R. Simeon, said, As it might have been presumed that if a man said to another, 'You have violated or seduced my daughter' and the other replied 'I have neither violated nor seduced her', [or if the first said]. 'Your ox has killed my bondman' and the other replied, 'He did not kill him', or if a bondman said to his master,²² 'You have knocked out my tooth' or 'You have blinded my eye'.²³ and he replied. 'I have not knocked it out' or 'I have not blinded it' and [the defendant] took the oath²⁴ but afterwards admitted his liability it might have been presumed that he is liable,²⁵ hence It was explicitly stated in Scripture, And he dealt falsely with his neighbor²³ a matter of deposit, or of pledge, or of robbery, or have oppressed his neighbor; or have found that which was lost, and dealt falsely therein, and swear to a lie,²⁶ as these are distinguished by the characteristics of being civil cases so must all [other cases where similar liabilities²⁷ may be incurred be distinguished by the characteristics] of being civil. These, therefore, are excluded [from liability]²⁸ since they are penal.

1. Unlike compensation. Which is not due to their father before the action had been tried and decided in his daughter's favor, these are his due from the moment they come into existence. As they are consequently his 'actual property' he is entitled to transmit them to his heirs.
2. In our Mishnah.
3. V. 39a for notes.
4. This was not mentioned in the Mishnah cited.
5. If then it is also obvious that the compensation is to be paid to her father what need was there for our Mishnah?
6. The first Tanna (v. our Mishnah).
7. To pay the actual amount due as well as an additional fifth (v. Lev. V, 24). and also to bring a guilt-offering.
8. As the man would have been exempt from the penal liabilities if he had himself admitted the offence in the absence of any other evidence, he must also be exempt from all liabilities (v. *supra* note 6) in the case of a denial. For it was

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- not a civil liability (Mamon), but a penal liability (Kenas) that he had denied.
9. The Rabbis who differed from him.
 10. Which are not Kenas but Mamon.
 11. V. Shebu. 36b.
 12. Rabbah b. Nahmani who was his teacher.
 13. Who (according to the Mishnah of Shebu. cited) exempts one from liability in the case of a denial.
 14. In confirmation of his denial.
 15. And he was ordered to pay.
 16. [Having been ordered to pay, he can no longer secure exemption by his own admission; his liability is now considered of the Mamon class (Rashi)].
 17. Since it was originally penal.
 18. [Var. lec. add: 'and he who confesses to a liability for a fine is exempt'. On this reading, Abaye's question was also whether his own admission, after the action had been tried, exempts him from payment; v. Tosaf.]
 19. [Car. lec. omit: 'and he incurs ... false oath'. In that case Rabbah's answer is given in general terms. He merely replied, 'it is a civil liability', which for the present is taken to mean that it is so both in respect of an obligation to an oath and to liability to payment; cf. n. 6, v. Tosaf.]
 20. Abaye.
 21. Rabbah.
 22. Lit., 'his bondman said to him'.
 23. In compensation for which he demands his freedom (v. Ex. XXI, 26f). Such compensation is also deemed to be penal, because a slave was regarded as his master's chattels.
 24. In confirmation of his denial.
 25. V. *supra* p. 236, n. 6.
 26. Lev. V, 21f.
 27. V. *supra* p. 236, n. 6.
 28. The instances enumerated by R. Simeon.

Kethuboth 42b

Does not [this ruling refer to a man] whose action had already been tried?¹ — No, [it deals] with one whose action had not yet been tried.² But, surely, since the first clause deals with the case of a man whose action had been tried, would not the final clause also deal with such a case? For in the first clause it was stated: 'I only knew [that liability³ is incurred in] cases where compensation is paid for the actual value only, whence, however, is it deduced that [such liability is also incurred in] cases where the payment is double,⁴ fourfold⁵ or fivefold⁵ and [in those

of] the violator, the seducer and the calumniator?⁶ From Scripture which explicitly stated, And commit a trespass,⁷ [implying that all such are] included'. Now, how is this statement to be understood?

If [it is one referring to] a man whose action had not yet been tried [the objection could be raised:] Is double compensation payable in such circumstances?⁸ It is obvious, therefore, that [the reference is to one] whose action had already been tried. And since the first clause deals with one whose action had been tried, the final clause also must deal, must it not, with one whose action had already been tried?⁹ —

The other replied: I could have answered you that the first clause deals with one whose action had already been tried, and the final clause with one whose action had not yet been tried and that the entire Baraitha represents the view of R. Simeon, but I would not give you forced interpretations, for, were I to do so, you might retort: Then either the first clause should begin with 'R. Simeon said' or the final clause should conclude with 'these are the words of R. Simeon'.¹⁰ The fact, however, is that the entire [Baraitha] refers to one whose action had already been tried, the first clause being the view of the Rabbis and the final clause that of R. Simeon, and I must agree with you in regard to the sacrifice for [taking a false] oath,¹¹ for the All-Merciful has exempted him¹² [as may be deduced] from [the text] And he deal falsely.¹³ When I, however, said, that 'It is a civil liability' [I was only implying that a man had the right] to transmit such a liability as an inheritance to his sons.¹⁴

Again he¹⁵ raised an objection against him:¹⁶ R. SIMEON RULED, IF HER FATHER DIED BEFORE SHE COULD COLLECT [HER DUES] THEY BELONG TO HER. Now if you maintain [that such compensation] is a civil liability in respect of being transmitted as an inheritance to one's sons, why should the compensation belong to her? Should it not, in fact, belong to the

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brothers? — This subject, said Raba, both Rabbah and R. Joseph found difficult for twenty-two years¹⁷ and no solution was forthcoming. It was only when¹⁸ R. Joseph assumed the presidency of the academy¹⁹ that he solved it: There²⁰ it is different [from other penal liabilities] because Scripture said, Then the man that lay with her shall give unto the damsel's father fifty [Shekels of] silver²¹ [which implies that] the Torah has not conferred upon the father the right of possession before the money had actually been handed to him; when Rabbah, however, said, 'It is a civil liability in respect of being transmitted as an inheritance to his sons' he was referring to other penal liabilities.²² But then, in the case of a bondman it is written in Scripture, He shall give into their master thirty Shekels of silver,²³ would it here²⁴ also [be maintained that] the Torah has not conferred upon the master the right of possession before the money had actually been handed to him? —

The yitten²⁵ cannot be compared²⁶ with we-nathan.²⁷ If so,²⁸ [instead of deducing the exemption from sacrifice] from the Scriptural text, 'And he deal falsely',²⁹ should not the deduction rather be made from 'Then ... shall give'?³⁰ — Raba replied: The text of 'And he deal falsely' was required in a case, for instance, where the girl's action had been tried and then she became adolescent³¹ and died, in which case³² when the father receives³³ [the fine] he inherits [it] from her.³⁴ If so,³⁵ [however, how could it be said:] 'These, therefore, are excluded [from liability] since they are in fact penal' when they are in fact³⁶ civil? — R. Nahman b. Isaac replied: [The meaning is], These are excluded since they were originally penal.

He³⁷ pointed out to him³⁸ another objection: R. Simeon, however, exempts him, for no fine is paid on one's own admission.³⁹ The reason then⁴⁰ is because his action had not been tried⁴¹ but if it had been tried,⁴² in which case he does pay,⁴³ even on his own admission,⁴⁴ he would incur, also, would he not, [the obligation of bringing] a sacrifice for

swearing [a false oath]?⁴⁵ — R. Simeon argues with the Rabbis on the lines of their own view. According to my own view [he argued] the All-Merciful has exempted the man⁴⁶ even after he had been tried [as may be deduced] from the text 'And deal falsely'.⁴⁷ According to your view, however, you must at least admit that [the man is exempt] if he has not yet been tried, since the claim advanced against him is penal

1. At one court where he was ordered to pay; and he now denies his liability before another court. As R. Simeon nevertheless exempts him from liability (cf. *supra* p. 236, n. 6), an objection arises against Rabbah.
2. I.e., whose liability had not yet been legally established and the amount claimed is still 'Kenas' and not 'Mamon'.
3. V. *Supra* p. 236, n. 6.
4. V., Ex. XXII, 3.
5. Ibid. XXI, 37.
6. Lit., 'who brought out an evil name' (V. Deut. XXII, 19).
7. Lev. V, 21, a general statement preceding the details enumerated in the following verses.
8. certainly not. For, in the first instance, there is no proof that the man had stolen the object and, secondly, even if he had stolen it he might yet make his own confession and thereby obtain exemption from the double payment.
9. V. *supra* note 4.
10. Why then did R. Simeon's name appear at the beginning of the final clause, thus indicating that only that, and not the first clause represented his view?
11. That according to R. Simeon he is not liable to bring his sacrifice even if his action had already been tried.
12. Even if his action had been previously tried.
13. Lev. V, 22 (cf. *supra* p. 238, n. 1 and text).
14. [And much more so in regard to liability to payment on self admission, cf. p. 237 n. 7, v. Shittah Mekubbezeth]. In this respect only is it deemed to be civil if the father died after the action had been tried, though the collection of the sum had not yet been effected.
15. Abaye.
16. Rabbah.
17. I.e., during all the period Rabbah occupied the presidency of the academy at Pumbeditha (cf. Ber. 64a and Hor. 14a).
18. After the death of Rabbah.
19. Cf. *supra* n. 8.
20. The case of a fine for seduction or violation spoken of in our Mishnah.
21. Deut. XXII, 29 emphasis on 'give'.

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22. [Cf. *supra* 237, n. 4). The whole passage is extremely difficult. Commentators explain that Rabbah had it on tradition that a penal liability becomes civil in respect of inheritance after action had been taken, and the whole discussion was to elucidate exactly the implications of this vague tradition; v. Tosaf. 42a, s.v. [H].
23. Ex. XXI, 32.
24. Since the verb 'to give' was used.
25. [H] which is used in Ex. XXI, 32.
26. Lit., alone', 'is in a separate category'.
27. [H] (Perfect with *waw* consec.). The former indicates merely future action while the latter implies the pluperfect, 'he shall have given'.
28. That deduction may be made from Deut. XXII, 29 to the effect that the fines of a violator and a seducer have a different legal status from that of other fines in that they remain penal even after the offender had been tried.
29. Cf. *supra* p. 238, n. 1 and text.
30. Cf. *supra* n. 8. While the text beginning 'And deal falsely' (Lev. V. 21) excludes only those liabilities which were originally penal but are not so now after the court had issued its ruling (v. *supra* 42a, ad fin.), the text of Then ... shall give (Deut. XXII, 29) deals specifically with the fines of a violator and a seducer, laying down that so long as no collection of the fines had been effected, they remain penal even after the court had issued its ruling (v. Rashi and cf. Tosaf. a.l., s.v. ht). [Although the verse 'And deal falsely' is necessary for other penal liabilities, the fine of a violator should not have been included seeing that it belongs to a class by itself as is deduced from 'Then ... shall give', v. Shittah Mekubbezeth].
31. A Bogereth. When the fine, according to R. Simeon (cf. *supra* p. 235. n. 11, and text), belongs to her.
32. Lit., 'for there'.
33. Lit., 'inherits'.
34. And as far as he is concerned the liability, the payment of which had been ordered by the court, is no longer penal but civil. Hence the necessity for the text of 'And he deal falsely' to indicate that the defendant is nevertheless exempt from a sacrifice (cf. Tosaf. s.v. [H]) because originally the liability was penal (v. Rashi).
35. That the Baraita (*supra* 42a) deals with a case where the action had already been tried and that the father inherits the fine from his daughter.
36. Cf. *supra* n. 1.
37. Abaye.
38. Rabbah.
39. Mishnah cited *supra* 42a.
40. Why the offender is exempt.

41. Previously, before a court. For if it had been tried he could not subsequently make a voluntary admission that would exempt him.
42. By the first court, and he was ordered to pay.
43. On the ruling of the second court.
44. The money involved being no longer penal but (on account of the ruling of the first court) civil.
45. Though the sum involved was originally penal. A contradiction thus arises between this Mishnah and the Baraitas both of which speak in the name of R. Simeon.
46. From the sacrifice for a false oath.
47. Cf. *supra* 42a ad fin.

Kethuboth 43a

and one who makes a voluntary admission in a penal case is exempt.¹ But the Rabbis are of the opinion that the claim² is [mainly] in respect of compensation for indignity and blemish.³ On what principle do they⁴ differ? — R. Papa replied: R. Simeon is of the opinion that a man would not leave that which is fixed⁵ to claim⁶ that which is not fixed,⁷ while the Rabbis hold the view that no man would leave a claim⁸ from which [the defendant] could not be exempt even if he made a voluntary admission⁹ and advance a claim² from which he would be exempt¹⁰ if he made a voluntary admission.

R. Abina enquired of R. Shesheth: To whom belongs the handiwork of a daughter who¹¹ is maintained¹² by her brothers?¹³ Are they¹⁴ in loco parentis and as in that case her handiwork belongs to her father so here also it belongs to her brothers; or [is it more reasonable that] they should not be compared to their father, for in his case she is maintained out of his own estate but here she is not maintained out of their estate?¹⁵ — He replied: You have learned about such a case: A widow is to be maintained out of the estate of [her deceased husband's] orphans, and her handiwork belongs to them.¹⁶ [But] are [the two cases in every way] alike? It may not be any satisfaction to a man that his widow should be liberally provided for,¹⁷ but he might well be pleased, might he not, that his daughter should?¹⁸

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Does this¹⁹ imply that a man has preference for his daughter than for his widow? Surely, R. Abba said in the name of R. Jose:²⁰ The relationship between²¹ a widow and her daughter, in the case of a small estate,²² has been put on the same level as that of the relationship between²¹ a daughter and her brothers. As in the case of the relationship between a daughter and her brothers, the daughter is maintained²³ while the brothers can go begging at [people's] doors, so also in the case of the relationship between a widow and her daughter, the widow is maintained and the daughter can go begging at [people's] doors;²⁴ [which shows, does it not, that the widow is given preference]? — As regards [provision against] degradation²⁵ a man gives preference to his widow;²⁶ as regards liberal provision²⁷ he gives preference to his daughter.²⁸

R. Joseph objected: HER HANDIWORK, HOWEVER, AND ANYTHING SHE FINDS, EVEN IF SHE HAS NOT COLLECTED [THE PROCEEDS], BELONG TO HER BROTHERS IF HER FATHER DIED. The reason²⁹ then is³⁰ that [they originated during] the lifetime of their father, but [if they originated] after his death [they would belong] to herself. Does not [this refer to a daughter] who is maintained?³¹ — No; [this is a case of one] who is not maintained.³² If she is not maintained, what need is there to state [such a case]?³³ For even according to him who ruled that a master is entitled to say to his bondman, 'Work for me and I will not maintain you'³⁴ the ruling applies only to a Canaanite bondman concerning whom 'With thee' was not written in Scripture, but not to a Hebrew slave concerning whom with thee³⁵ was written in Scripture. How much less [then would such a ruling apply] to one's daughter? — Rabbah b. 'Ulla replied: It³⁶ was only required in the case of a surplus.³⁷

Said Raba: Did not such a great man as R. Joseph know that [sometimes there may] be a surplus when he raised his objection?³⁸ The fact however is, Raba explained, that R. Joseph raised his objection from our very

Mishnah. For it was stated, HER HANDIWORK, HOWEVER, AND ANYTHING SHE FINDS, EVEN IF SHE HAS NOT COLLECTED [THE PROCEEDS]; but from whom [it may be asked] is she to collect anything she finds? Consequently it must be conceded that it is this that was meant: HER HANDIWORK is like ANYTHING SHE FINDS; as anything she finds belongs to her father³⁹ [if she finds it] during his lifetime, and to herself [if she finds it] after his death⁴⁰ so also in the case of her handiwork, [if it was done] during the lifetime of her father it belongs to her father [but if it was done] after his death it belongs to herself. Thus it may be concluded [that the ruling of R. Shesheth stands refuted].⁴¹

So it was also stated:⁴² Rab Judah ruled in the name of Rab, The handiwork of a daughter who is maintained by her brothers belongs to herself. Said R. Kahana: What is the reason? Because it is written in Scripture And ye make them an inheritance for your children after you,⁴³ [implying]: 'them'⁴⁴ [you may make an inheritance] 'for your children', but not your daughters for your children. This tells us that a man may not transmit his authority⁴⁵ over his daughter to his son.⁴⁶ To this Rabbah demurred: It might be suggested that the Scriptural text⁴⁷ speaks of [payments in connection with] the seduction of one's daughter, fines and mayhem!⁴⁸ And so did R. Hanina learn: The Scriptural text⁴⁷ speaks of [payments in connection with] the seduction of one's daughter, fines and mayhem!⁴⁹

Is not mayhem injury involving bodily pain?⁵⁰ — R. Jose b. Hanina replied:

1. Cf. *supra* p. 236, n. 7.
2. Of the father, in the Mishnah of Shebu. 36b, cited *supra* 42a.
3. Which are civil liabilities.
4. R. Simeon and the Rabbis.
5. The statutory fine, prescribed in Deut. XXII, 29.
6. Compensation for indignity and blemish.
7. Since it varies according to the status of each individual.
8. Cf. p. 241, n. 17.

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9. Cf. *supra* n. 1.
10. Since it is penal.
11. In accordance with the terms of her mother's *Kethubah* (v. [Glos.](#)); cf. *infra* 52b.
12. Until she is married. (V. *infra* 52b).
13. The sons of her deceased father.
14. Since they maintain her.
15. But of that which their father had left them (cf. *supra* nn. 7 and 8).
16. Mishnah, *infra* 59b. As the handiwork of a widow who is entitled to maintenance by the terms of her *Kethubah* belongs to the sons of the deceased, so obviously does that of a daughter who is also maintained by virtue of a claim in the *Kethubah* of her mother. (Cf. *supra* n. 7).
17. By retaining her handiwork for herself. [H], lit., 'relief', 'comfort'. (Rt. [H] or [H], lit., 'to be far', 'to be placed wide apart', hence 'to have space or room to live in comfort'.)
18. Her handiwork may, therefore, belong to her.
19. The suggestion just made.
20. The parallel passage in B.B. 140b reads, 'Assi'.
21. Lit., 'at', 'at the side of'.
22. Which does not suffice for the maintenance of the dependents of the deceased man for a period of twelve months (v. B.B. 139b).
23. Out of the estate of the deceased.
24. B.B. 140b.
25. Begging.
26. He feels more humiliation when his widow goes begging than when his daughter does so.
27. Cf. *supra* p. 242, n. 13.
28. It is a father's wish, as a rule, that his daughter shall be enabled to save up some money for her marriage dowry.
29. Why these BELONG TO HER BROTHERS.
30. As in the case of COMPENSATION and FINE spoken of in the same Mishnah.
31. Out of her father's estate by her brothers. How then could R. Shesheth rule that the handiwork of a daughter in such circumstances belongs to her brothers?
32. Where the deceased, for instance, left no property.
33. I.e., what need was there for the author of our Mishnah to provide a text from which we are to infer that a daughter's handiwork and anything she finds that originated after her father's death belong to herself?
34. Git. 12a.
35. Deut. XV, 16, He fareth well with thee.
36. The text of our Mishnah from which the inference mentioned is to be drawn (v. p. 243 n. 11).
37. Sc. if the daughter's earnings exceeded the cost of her maintenance. Our Mishnah was necessary for the purpose of the inference (cf. p. 243 n. 11) that the surplus also belongs to herself.
38. Of course he knew and, therefore, he could not possibly have raised an objection in the form attributed to him.
39. In return for her board. A father is under no legal obligation to maintain his daughter (v. *infra* 49a) and it was, therefore, enacted that in recognition of his consideration for her all she finds shall belong to him (v. B.M. 12b).
40. Her father's heirs can lay no claim to her finds because the board they provide for her is not an act of kindness on their part but a legal obligation, cf. *supra* p. 243, n. 7.
41. Cf. *supra* p. 243, n. 9.
42. By Amoraim.
43. Lev. XXV, 46.
44. Canaanite bondmen.
45. Lit., 'privilege', 'advantage'.
46. Hence the ruling that the handiwork of a daughter, though it belongs to her father, does not belong to her brothers.
47. Lev. XXV, 46, from which the ruling mentioned (v. *supra* p. 244, n. 11) has been deduced.
48. Assault involving bodily injury. V. *infra* n. 3.
49. All of which are unusual income and cannot be regarded as an income that brothers might properly expect. Handiwork, however, which may normally be expected, the brothers may justly expect from their sister in return for the maintenance with which they provide her.
50. Compensation for which is not due even to her father (v. B.K. 87b). What need then was there to exclude his heirs?

Kethuboth 43b

The wound [may be supposed to] have been made in her face.¹

Rab² Zera stated in the name of R. Mattena who had it from Rab: (others assert [that it was] Rabbi² Zera who stated in the name of R. Mattena who had it from Rab): The handiwork of a daughter who is maintained by her brothers belongs to herself, for it is written in Scripture, And ye make them an inheritance for your children after you³ [implying]: 'Them'⁴ [you may make an inheritance] 'for your children', but not your daughters for your children. This tells us that a man may not transmit his authority over his daughter to his son.⁵

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Said Abimi b. Papi to him: Shakud⁶ made this statement.⁷ Who is Shakud? — Samuel. But, surely, was it not Rab who made this statement? — Read: Shakud also made this statement.

Mar the son of Amemar said to R. Ashi, Thus the Nehardeans have laid down: The law is in agreement with the ruling of R. Shesheth.⁸

R. Ashi [however] said: The law is in agreement with Rab.⁹ And the law is to be decided in agreement with the view of Rab.

MISHNAH. IF A MAN GAVE HIS DAUGHTER¹⁰ IN BETROTHAL AND SHE WAS DIVORCED, [AND THEN] HE GAVE HER [AGAIN] IN BETROTHAL AND SHE WAS LEFT A WIDOW, HER *KETHUBAH*¹¹ BELONGS TO HIM.¹² IF HE GAVE HER IN MARRIAGE AND SHE WAS DIVORCED [AND THEN] HE GAVE HER [AGAIN] IN MARRIAGE AND SHE WAS LEFT A WIDOW, HER *KETHUBAH*¹³ BELONGS TO HER.¹⁴ R. JUDAH SAID: THE FIRST¹⁵ BELONGS TO HER FATHER.¹⁶ THEY,¹⁷ HOWEVER, SAID TO HIM: HER FATHER, AS SOON¹⁸ AS HE GIVES HER IN MARRIAGE, LOSES ALL CONTROL OVER HER.¹⁹

GEMARA. The²⁰ reason²¹ is that when HE GAVE HER IN MARRIAGE [the first time] SHE WAS DIVORCED [and that when] HE GAVE HER [AGAIN] IN MARRIAGE, SHE WAS LEFT A WIDOW [for the first time],²² but if she had been left a widow twice²³ she would not have been fit to marry again. The Tanna²⁴ has thus indirectly laid down an anonymous ruling in agreement with Rabbi who holds that if [a thing has happened] twice presumption is established.²⁵

R. JUDAH SAID: THE FIRST BELONGS TO HER FATHER. What is R. Judah's reason? — Both Rabbah and R. Joseph explained: Since her father has acquired the right to it²⁶ at the time of the betrothal.²⁷ Raba objected: 'R. Judah ruled that the first²⁸ belonged to her father; R. Judah nevertheless admitted that if a father gave his

daughter in betrothal while she was still a minor and she married after she had attained adolescence he has no authority over her'.²⁹ But why? Might it not here also be argued,³⁰ 'Since her father has acquired the right to it at the time of the betrothal'?³¹ The fact, however, is that if any statement [in the nature mentioned] has at all been made it must have been made in the following terms:³² Both Rabbah and R. Joseph explained: Because it³³ was written while she was still under his authority.³⁴

As to the recovery [of a *Kethubah*],³⁵ from which date may distraint be effected?³⁶ — R. Huna replied: The hundred³⁷ or the two hundred³⁸ from the date of the betrothal³⁹ and the additional jointure⁴⁰ from that of the marriage.⁴¹ R. Assi, however, replied: The former as well as the latter [may be distrained upon only] from the date of the marriage.⁴²

But could R. Huna, however, have given such a ruling?⁴³ Has it not been stated: If a wife produced against her husband two *Kethuboth*, one for two hundred, and one for three hundred *Zuz*, she may, said R. Huna, distraint from the earlier date if she wishes to collect the two hundred *Zuz* [but if she desires to collect the] three hundred *Zuz* she may distraint from the later date only. Now if the ruling were as stated⁴⁴ she should be entitled, should she not, to distraint to the extent of two hundred *Zuz* from the earlier date and to that of one hundred from the later date? — But [even] according to your conception [it might equally be objected why] should she [not] distraint for all the five hundred *Zuz*, two hundred from the earlier date and three hundred from the later date? What then is the reason why she cannot distraint for all the five hundred? [Obviously this:] Since the man did not write in her favor,⁴⁵ 'I willingly added to your credit three hundred *Zuz* to the two hundred' he must have meant to imply: 'If you desired to distraint from the earlier date you would recover [no more than] two hundred, and if

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you desired to distrain from the later date you would receive three hundred'.

1. As an exposed wound decreases her value, compensation is due to her father, since it is he who suffers the loss.
2. Zera traveled from Babylon to Palestine where he was ordained by R. Johanan and had the title of Rabbi conferred upon him. His former title was only Rab. The following statement was made by him, according to the first reading, before, and according to the second reading after his ordination.
3. Lev. XXV, 46.
4. Canaanite bondmen.
5. Cf. *supra* p. 244, n. 11.
6. [H] 'careful speaker' (cf. Rashi a.l.), 'industrious scholar' (Jast.) 'studious' (Aruk).
7. The ruling and deduction reported by R. Zera.
8. V. *supra* p. 242, n. 12 and text.
9. In opposition to R. Shesheth.
10. While she was a minor or a Na'arah (v. [Glos.](#)).
11. Of the second, as well as that of the first betrothal.
12. Because the income of a daughter under the state of Bogereth (V. [Glos.](#)) belongs to her father.
13. Whether of the first or the second marriage.
14. Because a father's control over his daughter, even if she is a minor, ceases as soon as he gives her in marriage; and since the collection of a *Kethubah*, though not its writing, must always follow the marriage the amount collected is the rightful possession of the daughter.
15. Sc. the *Kethubah* of the first marriage.
16. The reason is stated *infra*.
17. The Rabbis who differed from his view.
18. Cur. edd. insert in parentheses, 'if'.
19. Hence it is she who is entitled to receive her *Kethubah*.
20. The interpretation of this passage is difficult and that of Rashi is here adopted (v. Tosaf. s.v. [H]).
21. For the illustration in the second clause of the Mishnah.
22. So that it is possible for her to remarry a third time.
23. Instead of having been divorced.
24. Of our Mishnah by avoiding any unhappy illustration in which the woman cannot marry again.
25. If a woman, for instance, was widowed twice she is deemed to be a dangerous companion to men, and is, therefore, forbidden to marry again (v. Yeb. 64b).
26. Lit., 'them'. The plural referring generally to the two respective amounts of the statutory *Kethubah*, two hundred so for a virgin and one hundred for a widow or divorcee (v. Rashi, s.v. [H]).
27. When the daughter was still under her father's authority. In the case (if the second *Kethubah*, however, which is subsequent to the first marriage R. Judah agrees, of course, with the Rabbis.
28. Cf. *supra* p. 246, n. 8.
29. Sc. the *Kethubah* belongs to herself and not to her father.
30. That the *Kethubah* should belong to the father (cf. *supra* n. 5).
31. Since such argument, however, was not used the statement attributed above to Rabbah and R. Joseph cannot be authentic.
32. Lit., 'but if it was said, it was said thus'.
33. The *Kethubah* for the first marriage. On the use of the pl. [H] cf. *supra* n. 2. [Although the liability in regard to the *Kethubah* began at betrothal, it was not reduced to writing till nuptials proper; cf. Rashi. For other interpretations v. Asheri].
34. Unlike the Rabbis who were guided by the time of the collection (cf. *supra* p. 246, n. 7) R. Judah holds that the date of the writing of the *Kethubah* is the determining factor. Hence his ruling in our Mishnah (where the writing took place while the daughter was in her minority) that the *Kethubah* is the father's property. In the Baraita cited, however, (where the writing took place when the daughter was already adolescent, I. e., shortly before her marriage) the *Kethubah* rightly belongs no longer to her father but to herself.
35. From property sold between the date of the betrothal and that on which the *Kethubah* was written.
36. I.e., does the right of distraint begin on the date of the betrothal (when the man becomes Rabbinically liable for the *Kethubah*) or (as in the case just dealt with) on the date the *Kethubah* was written? (V. Rashi. Cf., however, Tosaf s.v. [H]).
37. For a widow or a divorcee.
38. In the case of a virgin.
39. Since these amounts are statutory liabilities applicable to all.
40. Which differs according to individual arrangements, v. *infra*.
41. When the *Kethubah* is written and formal acquisition (*Kinyan* v. [Glos.](#)) is effected.
42. Having accepted the written *Kethubah* that bore the later date on which her marriage took place the woman is assumed to have surrendered her rights to the statutory amount, which she had acquired earlier on betrothal, in favor of her new advantages as well as any disadvantages that were conferred by the written document.

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43. Lit., 'did H. Huna say so'? That the earlier obligation (statutory *Kethubah*) is recoverable from the earlier date (betrothal), and the latter one (additional jointure) from the later date (marriage).
44. V. *supra* note 8. Lit., 'there is'.
45. In her second *Kethubah*.

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Here also¹ [it may similarly be said:] This is the reason why she cannot distrain [for the additional jointure from the earlier date]: Since he did not write in her favor, 'I have added a hundred *Zuz* to the two hundred'² she [having accepted the deed] must have renounced her former lien.³

The Master⁴ has laid down that if she wishes she may distrain with the earlier *Kethubahs* and if she prefers she may distrain with the later one.⁵ Is it then to be assumed [that this ruling] differs from that of R. Nahman who laid down that if two deeds⁶ were issued one after the other the latter cancels the former?⁷ — [No, for] has it not been stated in connection with this statement that R. Papa said: R. Nahman nevertheless admits that if the man has added⁸ one palm⁹ the insertion was intended as an additional privilege?¹⁰ And here also, Surely, [the husband] has added something.¹¹

[To turn to] the original text.¹² R. Nahman laid down that if two deeds were issued one after the other the latter cancels the former. Said R. Papa: R. Nahman nevertheless admits that if the man has added one palm the insertion was intended as an additional privilege.¹³ It is obvious [that the reason why both deeds are valid where] the first [was a deed] of sale and the second [a deed] of gift¹⁴ [is because the action of the owner] was intended¹⁵ to improve the other's rights,¹⁶ as a safeguard against¹⁷ the law of pre-emption;¹⁸ and much more [is this¹⁹ obvious where] the first was for a gift and the second for a sale, for it may then be presumed that the latter was written in that manner in order to safeguard the other against a creditor's rights.²⁰ [What], however, [is the reason why]

the second cancels the first where both deeds²¹ were for a sale or both for a gift? — Rafram replied: Because it may be presumed that [the holder of the deeds] has admitted to the other [the invalidity of the first deed].²² R. Aha replied: Because it might be presumed that [the holder of the deeds] has surrendered his security of tenure.²³ What is the practical issue between them?²⁴ — The disqualification of the witnesses,²⁵ payment of compensation for usufruct²⁶ and land tax.²⁷

What is [the decision] in respect of the *Kethubah*?²⁸ — Come and hear what Rab Judah laid down in the name of Samuel who had it from R. Eleazar the son of R. Simeon:²⁹ [The statutory *Kethubah* of] a *Maneh*³⁰ or two hundred *Zuz*³¹ [may be distrained for] from [the date of] the betrothal but the additional jointure only from the date of the marriage. The Sages, however, ruled: The one as well as the other [may be distrained for only] from the date of the marriage. The law is that the one as well as the other [may be distrained only] from the date of the marriage.

MISHNAH. THE DAUGHTER OF A PROSELYTE WOMAN WHO BECAME A PROSELYTE TOGETHER WITH HER MOTHER³² AND THEN³³ PLAYED THE HARLOT IS SUBJECT TO THE PENALTY³⁴ OF STRANGULATION,³⁵ BUT NOT TO³⁶ [STONING AT] THE DOOR OF HER FATHER'S HOUSE³⁷ NOR [DOES HER HUSBAND PAY THE] HUNDRED *SELA*'³⁸ IF SHE WAS CONCEIVED IN UNHOLINESS³⁹ BUT HER BIRTH WAS IN HOLINESS⁴⁰ SHE IS SUBJECT TO THE PENALTY OF STONING BUT NOT TO³⁶ [THAT OF BRINGING HER OUT TO 'THE DOOR OF HER FATHER'S HOUSE', NOR [DOES HER HUSBAND PAY THE] HUNDRED *SELA*'. IF SHE WAS BOTH CONCEIVED AND BORN IN HOLINESS⁴⁰ SHE IS REGARDED AS A DAUGHTER OF ISRAEL IN ALL RESPECTS.⁴¹ ONE⁴² WHO HAD A FATHER BUT NO DOOR OF HER FATHER'S HOUSE',⁴³ OR A 'DOOR OF HER FATHER'S HOUSE' BUT NO FATHER, IS NEVERTHELESS SUBJECT TO THE

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PENALTY⁴⁴ OF STONING,⁴⁵ [FOR THE REGULATION, 'TO] THE DOOR OF HER FATHER'S HOUSE',⁴⁶ WAS ONLY INTENDED AS [AN INDEPENDENT] PRECEPT.⁴⁷

1. The last cited ruling of R. Huna.
2. But has included the two hundred in the three hundred under a later date.
3. Her right to distraint does, therefore, begin on the later date only. In the case of ordinary *Kethuboth*, however, to which R. Huna's first ruling refers, a special clause to the effect that the husband has willingly added the additional jointure to the statutory *Kethubah* forms part of the contract. The woman's original rights consequently remain unimpaired (cf. *supra* p. 248, n. 8).
4. I.e., R. Huna in his second ruling. *supra* 43b.
5. Lit., 'with that'.
6. Relating to the same transaction and the same persons.
7. And the right to distraint begins with the second date. Were R. Nahman's ruling to be applied to the case spoken of by R. Huna, would not the second *Kethubah* have cancelled the first and the woman would have had no choice in the matter?
8. In the text of the second deed.
9. Or any other object or money. The addition of a palm applies to a sale, or gift of a plot of land.
10. Lit., 'he wrote It for an addition'. The deed is not thereby impaired. and it is, therefore, within the right of the holder of the deeds to distraint either with the second deed and thus recover the original as well as the addition but from the later date only, or to distraint from the first date the original alone without the addition.
11. Another hundred *Zuz*.
12. Which was cited in the discussion just concluded.
13. V. p. 249 for notes.
14. And related to the same transaction and the same persons as the first one.
15. Lit., 'he (intended) when he wrote for him'.
16. Even though no material addition was made to the original sale.
17. Lit., on account of'.
18. In virtue of which the next abutting neighbor can insist on exercising the right of first purchase. This right applies to a sale but not to a gift. [H] lit., 'one on the border', sc the owner of an adjacent field who has the right of Pre-emption.
19. The reason for the validity of both deeds.
20. Only a buyer may claim compensation from the original owner if a creditor of that owner had distrained upon the land he bought. A donee has no such right. By the writing of the second deed the owner has conferred upon the donee the additional rights of a buyer.
21. Lit., 'both of them'.
22. And willingly accepted the second though his rights of distraint were thereby restricted to the later date.
23. During the period intervening between the date of the first, and that of the second deed.
24. Rafram and R. Aha.
25. According to Rafram the witnesses, since they put their signatures to an invalid document, must be regarded as legally unfit for further evidence. (So Rashi. Tosaf., however, s.v. [H], object to this view and (a) restrict the disqualification of the witnesses in respect of such a deed only as is held by the man who had cast aspersion on their characters or (b) apply the disqualification to the signatures). According to R. Aha, who does not question the authenticity of the deed, the character of the witnesses is not in any way affected.
26. Which the holder of the deeds enjoyed between the first and the second date. According to Rafram, the holder of the deeds must pay such compensation since the first deed is presumed to be invalid. According to R Aha no such compensation is paid since the holder of the deeds renounced only his security of tenure but not his usufruct.
27. The original owner must pay it according to Rafram and the holder of the deeds according to R. Aba.
28. I.e., 'from which date may distraint be effected?' (V. p. 247, n. 11 and 248, n. 1).
29. *Var. lec.* 'Eliezer b. Shamua' (Bomb. ed.).
30. V. [Glos.](#)
31. The respective amounts due (a) to a widow or divorcee, and (b) to a virgin.
32. Lit., 'the female proselyte whose daughter became a proselyte with her'.
33. Having become betrothed while she was still a Na'arah (v. [Glos.](#)).
34. Lit., 'behold this'.
35. The penalty prescribed for a faithless married woman.
36. Lit., 'she has not either'.
37. Prescribed in Deut. XXII, 21 for a betrothed Israelite damsel (Na'arah) who played the harlot.
38. Due from a man who wrongfully accused his wife (v. Deut. XXII, 19). [Nor is he flagellated, the fine and the flogging being prescribed in juxtaposition to one another (Ritba)].
39. Sc. while her mother was still a heathen.
40. After her mother's conversion.
41. She is subject to the penalties and entitled to the privilege as prescribed in Deut. XXII. 19, 21.

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42. Any daughter of Israel (Rashi) who played the harlot while she was a betrothed Na'arah.
43. When her father, for instance, had no house.
44. Lit., 'behold this'.
45. V. *supra* note I.
46. [H] (Deut. XXII, 21). Cur. edd. read [H].
47. Not as an indispensable part of the penalty.

Kethuboth 44b

GEMARA. Whence is this¹ deduced? — Resh Lakish replied: Since Scripture said, That she die² it³ included also her who WAS CONCEIVED IN UNHOLINESS BUT HER BIRTH WAS IN HOLINESS: If so, [should not her wrongful accuser]⁴ also be flogged⁵ and [condemned] to pay the hundred *Sela*?⁶ Scripture stated, That she die⁷ [implying that she] was included in respect of death but not in respect of the fine.

Might it not be suggested [that Scripture intended] to include one who was both conceived and born in holiness? — Such a person is a proper Israelite woman.⁸ But can it not be said that [Scripture intended] to include one conceived and born in unholiness? — If this were so what purpose would be served⁹ by the expression,¹⁰ 'In Israel'?¹¹

R. Jose b. Hanina ruled: A man who brought an evil name upon an orphan girl is exempt, for it is said in Scripture, And give them unto the father of the damsel,¹² Which excludes this girl who has no 'father'.

R. Jose b. Abin, or it might be said, **R. Jose b. Zebida**, raised an objection: If her father utterly refuse¹³ [was meant]¹⁴ to include an orphan girl in respect of the fine,¹⁵ so **R. Jose the Galilean**.¹⁶ [Why then should the orphan in this case¹⁷ be excluded]? — He raised the objection and he himself supplied the answer: [This¹⁸ is a case of a girl] who became an orphan after the man had intercourse with her.¹⁹

Rabbah²⁰ ruled: He²¹ is guilty. Whence [did he infer this]? — From that which **Ammi** taught: A virgin of Israel,²² but not a

proselyte virgin.²³ Now if you assume that in a case of this nature²⁴ in Israel²⁵ guilt is incurred, one can well see why it was necessary for a Scriptural text to exclude proselytes. If you, however, assume that in a case of this nature in Israel²⁵ [the offender] is exempt [the difficulty would arise:] Now [that we know that the offender] is exempt [even if he sinned] against Israelites²⁵ was it any longer necessary [to mention exemption if the offence was] against proselytes?²⁶

Resh Lakish ruled: A man who has brought an evil name²⁷ upon a minor is exempt,²⁸ for it is said in Scripture, And give them unto the father of the damsel,²⁹ Scripture expressed the term Na'arah³⁰ as plenum.³¹ To this **R. Aha**³² **b. Abba**³³ demurred: Is the reason then³⁴ because in this case 'the Na'arah'³⁵ was written [in Scripture], but otherwise it would have been said that even a minor [was included], surely, [it may be objected] it is written in Scripture, But if the things be true, and the tokens of virginity be not found in the damsel, then they shall bring out the damsel to the door of her father's house and [the men of the city] shall stone her,³⁶ while a minor is not, is she, subject to punishment?³⁷ — [The explanation,] however, [is that, since] Na'arah [has been written] here³⁸ [it may be inferred that only where Na'arah³⁹ is used is a minor excluded] but wherever Scripture uses the expression Na'arah⁴⁰ even a minor is included.⁴¹

Shila taught: There are three modes [of execution] in the case of a [betrothed] damsel⁴² [who played the harlot]. If witnesses appeared against her in the house of her father-in-law⁴³ [testifying] that she had played the harlot in her father's house⁴⁴

1. That IF SHE WAS CONCEIVED IN UNHOLINESS BUT HER BIRTH WAS IN HOLINESS SHE IS SUBJECT TO THE PENALTY OF STONING.
2. Deut. XXII, 21, which is superfluous after Shall stone her with stones (ibid.).
3. By the insertion of the superfluous expression.
4. *Supra* p. 251, n. II.
5. In accordance with Deut. XXII, 18, v. p. 251. n. 11.

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6. V. Deut. XXII, 19.
7. Ibid. 21; emphasis on 'die'.
8. And requires no special text to include her.
9. Lit., 'what would it benefit him'.
10. Deut. XXII, 21.
11. None whatever. Hence it follows that the last mentioned was excluded.
12. Ibid. 29.
13. גזלן גזלן Ex. XXII, 16, dealing with a case of seduction.
14. Since the verb was repeated (v. note 2).
15. One form of the verb ([H]) referring to the father and the other (the infin. [H]) to a girl who has no father.
16. Which shows that, though the laws in respect of seduction (Ex. XXII, 15f) are inferred from those of outrage (Deut. XXII, 28) and vice versa, and though in the latter case Scripture specifically stated that the fine is payable to the damsel's father (ibid. 29), an orphan is nevertheless entitled to the fine.
17. In that of an evil name.
18. The Tannaitic ruling of R. Jose the Galilean.
19. Only such an orphan is included. All others are excluded by the Scriptural mention of father.
20. In opposition to the view of R. Jose b. Hanina *supra*.
21. The man who brought an evil name upon an orphan.
22. Deut. XXII, 19.
23. I.e., the penalties spoken of in the Scriptural text apply only to the former and not to the latter.
24. Sc. that of a girl who is fatherless. A proselyte, though his or her heathen parents are alive, has the status of one who is fatherless.
25. Sc. an Israelite girl who is fatherless.
26. Of course not, since the latter case would be self-evident a *minori ad majus*. As exemption, however, was specified in this case it may be concluded that in that of an Israelite orphan guilt is incurred.
27. V. Deut. XXII, 19.
28. From paying the prescribed fine 'of a hundred Shekels'.
29. V. Deut. XXII, 19.
30. Damsel, Heb. [H].
31. With 'he' at the end of the word. As elsewhere [H] is written [H] (Na'ara) defective, it is assumed that the plenum here was intended to refer to Na'arah (v. [Glos.](#)) only, and not to a minor, v. *supra* 40b, and notes.
32. Var. 'Adda' (cf. *supra* 40b).
33. Var. 'Ahabah' (cf. l.c. and MS.M.).
34. Why the fine mentioned is not incurred where a minor is concerned.
35. [H], 'the ... damsel'.
36. Deut. XXII. 20f.

37. And a minor would consequently have been excluded even if [H] defective had been written.
38. Where a minor is obviously excluded because she is not subject to penalties.
39. [H].
40. [H].
41. I.e., the exclusion mentioned was not necessary for the case spoken of in this context where it is obvious (v. *supra* n. 11) but for the purpose of a general deduction.
42. Na'arah (v. [Glos.](#)).
43. Sc. after her marriage.
44. While she was betrothed.

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she is stoned at the door of her father's house,¹ as if to say,² 'See the plant that you have reared'. If witnesses came [to testify] against her in her father's house that she played the harlot in his house she is stoned at the entrance of the gate of the city. If having committed the offence³ she eventually⁴ attained adolescence⁵ she is condemned to strangulation.⁶

This⁷ then implies that wherever there occurred a change in one's person, one's mode of execution also must be changed. But is not this contradicted by the following: 'If a betrothed damsel⁸ played the harlot and [her husband] brought upon her an evil name⁹ after she had attained adolescence,¹⁰ he is neither to be flogged¹¹ nor is he to pay the hundred *Sela*',¹² but she and the witnesses who testified falsely against her¹³ are hurried¹⁴ to the place of stoning'?¹⁵ 'She and the witnesses who testified falsely against her!' Can this be imagined?¹⁶ — But [this is the meaning:] 'She¹⁷ or¹⁸ her witnesses¹⁹ are hurried¹⁴ to the place of stoning'?²⁰ — Raba replied: You speak [of the law relating to a husband] who brought up an evil name; but this law is different [from the others],²¹ because it is an anomaly.²² For, elsewhere, if a girl²³ entered the bridal chamber,²⁴ though no intercourse followed, she is condemned to strangulation if she committed adultery, but [a woman upon whom a husband] brought an evil name is condemned to Stoning.²⁵

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Said R. Huna the son of R. Joshua to Raba: Is it not possible that the All-Merciful created the anomaly only where no constitutional change had taken place,²⁶ but where a constitutional change had occurred²⁷ the All-Merciful has created no anomaly?²⁸ — The fact however is, explained R. Nahman b. Isaac, [that the question whether a change in status] involves, or does not involve a change [in the penalty] is [a point in dispute between] Tannaim. For we have learned: If they²⁹ committed a sin before they were appointed [to their respective offices] and [then] were appointed, they are regarded³⁰ as laymen. R. Simeon ruled: If their sin came to their knowledge before they were appointed³¹ they are liable,³² but if after they were appointed³³ they are exempt.³⁴

1. Cf. Deut. XXII. 21.
2. To the parents.
3. While she was a Na'arah.
4. Before her trial.
5. V. [Glos.](#) s.v. Bogereth.
6. The penalty prescribed for adults. Only a Na'arah (v. [Glos.](#)) is subject to the penalty of stoning.
7. R. Shila's last mentioned ruling that the penalty of a Na'arah who attained majority is changed from stoning to strangulation.
8. V. p. 254, n. 20.
9. V. Deut. XXII, 14.
10. Sc. when their marriage took place (Rashi).
11. v. *ibid.* 18.
12. V. *ibid.* 19.
13. And were proved *Zomemim* (v. [Glos.](#)).
14. [H] lit., 'go early', sc. they cannot escape their doom and might as well get it over as soon as possible (Rashi).
15. [H], a structure twice a man's height (i.e. six cubits) from which the condemned man was thrown before he was stoned (v. Sanh. 453 [Sone. ed.] p. 295).
16. Obviously not. If she is condemned they must be true witnesses, and if they are condemned she must be innocent.
17. If she was found guilty.
18. The *waw* of [H] may be rendered 'or' as well as 'and'.
19. In the case where their falsehood was established by other witnesses.
20. Thus, at all events, it follows that despite the change in her person she is still subject to the former penalty, which is in contradiction with the ruling of Shila (v. *supra* note 1). (The penalty of a Na'arah is stoning and that of one

who is in her adolescence is only strangulation).

21. Such as the law of Shila which deals with an accusation by witnesses and not with an evil name brought by a husband.
22. Lit., 'novelty', and no comparison with, or inference from an anomalous law may be made.
23. Even a Na'arah (v. [Glos.](#) and cf. *infra* 48b).
24. Huppah (v. [Glos.](#)).
25. [Although had she committed the offence at the time of the defamation, i.e., after marriage, she would be strangled. This proves that in the case where the husband himself, and not witnesses, brings a charge, after marriage, of infidelity having taken place during betrothal, we do not apply the principle that the intervening change in the woman's status effects retrospectively a change in the penalty. And it is the exception which the law makes in this case which proves the general rule to the contrary elsewhere, v. Tosaf.].
26. As in the case just cited where the change affects only her status — from betrothal to marriage.
27. I.e., when the girl had attained her adolescence as in the case spoken of by Shila.
28. The contradiction pointed out (v. *supra* p. 255, notes 1 and 14) would consequently arise again.
29. A High Priest and a ruler whose sin-offerings differ from those of laymen. The former's offering being a bullock (Lev., IV, 3) the latter's a he-goat (*ibid.* 23) while that of a layman is a she-goat (*ibid.* 28) or a lamb (*ibid.* 32).
30. In respect of their sin-offerings.
31. So that both the commission of the sin and their awareness of it occurred while they were in the same status as laymen.
32. To bring sin-offerings as prescribed for laymen (v. *supra* note 4).
33. So that their sin was committed while they were still laymen and subject to one kind of offering, and their awareness set in when, as a ruler or High Priest, another kind of offering was due.
34. Completely; on account of the change in their status (Hor. 10a). Consequently it may be assumed that the first Tanna who holds that a change in status does not involve a change of offering, maintains also that a change in the person involves no change of penalty, while R. Simeon who maintains that a change of status removes the obligation of an offering, will hold all the more so that a change in the person removes a man's liability to his former penalty and thus subjects him to the penalty appropriate to his new condition, and thus

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Shila's teaching will be in accordance with R. Simeon.

Kethuboth 45b

[But] is it not to be maintained that R. Simeon was heard to be guided by [the time of] the awareness also,¹ did you, how ever, hear that he Was guided by [the time of] awareness alone and not also by that of the commission of sin? For were that so,² should they³ not have brought an offering in accordance with their present status, the High Priest a bullock, and the ruler a he-goat?⁴ — Surely R. Johanan said to the Tanna:⁵ Read, 'She is to be condemned to stoning.'⁶

But why?⁷ Did not the All-Merciful⁸ speak of a betrothed 'damsel'⁹ and this one is adolescent? — R. Elai replied: Scripture said, the damsel¹⁰ [implying] her who was a damsel⁹ before.¹¹ Said R. Hanania to R. Elai: If so,¹² should not [the husband] also be flogged and pay the hundred *Sela*?¹³ — 'May the All-Merciful', the other replied, 'save us from such an opinion'.¹⁴ 'On the contrary [the first retorted], may the All-Merciful save us from such an opinion as yours'. What, however, is the reason?¹⁵ — R. Isaac b. Abin, or, as some say, R. Isaac b. Abba, replied: In her case it was¹⁶ her behavior that brought about her [punishment] but in his case it was is the inclination of his lips¹⁷ that brought about his [penalties]. 'In her case it was her behavior that brought about her [punishment]' and when she played the harlot she was still a Na'arah.¹⁸ 'But in his case it was the inclination of his lips that brought about his [penalty]'; and when does he incur his guilt? Obviously at that time,¹⁹ and at that time she Was already adolescent.

Our Rabbis taught: A betrothed damsel¹⁸ who played the harlot is to be stoned at 'the door of her father's house'.²⁰ If she had no 'door of her father's house'²¹ she is stoned at the entrance of the gate of that city. But in a town which is mostly inhabited by idolaters she is stoned at²² the door of the court.

Similarly you may say: A man who worships idols²³ is to be stoned at the gate [of the city] where he worshipped, and in a city the majority of whose inhabitants are idolaters he is stoned at the door of the court.²⁴

Whence are these rulings derived? — From what our Rabbis have taught: [By the expression] thy gates²⁵ [was meant] the gate [of the city] wherein the man has worshipped. You say, 'The gate [of the city] wherein the man has worshipped', might it not mean the gate where he is tried?²⁶ — [Since the expression] 'thy gates' is used below²⁷ and also above²⁸ [an analogy is to be made:] As 'thy gates' mentioned above²⁹ refers to the gate [of the city] wherein he worshipped³⁰ so does 'thy gates' that was mentioned below²⁷ refer to the gate [of the city] wherein the man had worshipped. Another interpretation: 'Thy gates',²⁵ but not the gates of idolaters.³¹ [As to] that [expression of] 'thy gates', has not a deduction already been drawn from it?³² — If [the purpose of the expression were only] this deduction³³ Scripture would have used the expression 'gate'; why thy gates'? Both deductions may, therefore, be made.

Thus we obtain [rulings in respect of] idolatry,³⁴ whence do we [derive the law in respect of] a betrothed girl?³⁵ R. Abbahu replied: 'Door'³⁶ is inferred from 'door',³⁷ and door³⁷ from 'gate',³⁸ and 'gate'³⁷ from 'thy gates'.³⁹

Our Rabbis taught: [A husband] who brings up an evil name [upon his wife] is flogged⁴⁰ and he must also pay a hundred *Sela*'.⁴¹ R. Judah ruled: As to flogging, [the husband is] flogged in all circumstances; as to the hundred *Sela*', however, where he had intercourse with her⁴² he pays them but if he did not have intercourse with her⁴³ he does not pay. They⁴⁴ differ on the same principles as those on which R. Eliezer b. Jacob and the Rabbis differed,⁴⁵ and it is this that [each of the former group] meant: [A husband] who brought an evil name [upon his wife] is flogged and he must also pay a hundred *Sela*', whether he had intercourse, or did not

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have intercourse with her, [this being] in agreement with the Rabbis.⁴⁶ R. Judah ruled: As to flogging [the husband is] flogged in all circumstances;⁴⁷ as to the hundred *Sela'*, however, where he had intercourse with her he pays them but if he did not have intercourse with her he does not pay; in agreement with R. Eliezer b. Jacob.⁴⁸

Another reading.⁴⁹ All the statement⁵⁰ is in agreement with the opinion of R. Eliezer b. Jacob⁴⁸ and it is this that [each of the former group]⁵¹ meant: [A husband] who brought an evil name [upon his wife] is flogged and he must also pay the hundred *Sela'* only where he had intercourse with her.⁵² R. Judah ruled: As to flogging, [the husband is] flogged in all circumstances.⁵³

Can R. Judah, however, maintain that 'as to flogging, [the husband] is flogged in all circumstances' when it was taught: R. Judah ruled, If he had intercourse he is flogged but if he did not have intercourse he is not flogged? — R. Nahman b. Isaac replied: [By the ruling of R. Judah that the husband] 'is flogged'⁵⁴ [was meant] chastisement⁵⁵ which is a Rabbinical penalty.⁵⁶

1. I.e., the nature of an offering cannot be determined by that status alone in which a man finds himself at the time he committed his sin. If his liability to that offering is to be established he must have the same status when he becomes aware of his sin. It is on this account, and not because a change of status involves a change of penalty, that R. Simeon exempts a man from an offering where he became aware of his sin after he had assumed a new status.
2. That a change of status involves a man in the offering or penalty of his new condition, in agreement with Shila's ruling, irrespective of that man's former status in which his sin was committed.
3. Laymen who became aware of their sins after they had been appointed High Priests or rulers.
4. The answer being in the affirmative the objection against Shila again arises (v. *supra* p. 255, notes 1 and 14).
5. Who recited Shila's ruling in his presence.

6. Sc. despite the change in her person her penalty remains unaltered. That is, Shila's teaching is rejected.
7. I.e., why (v. *supra* note 5) is she to be stoned.
8. In prescribing the penalty of stoning.
9. Na'arah (v. *Glos.*).
10. Deut. XXII, 21 emphasis on 'the', [H] with the 'he' article.
11. Sc. at the time of the offence (v. *supra* note 5).
12. That the determining factor is the time of the offence.
13. The penalties prescribed in Deut. XXII, 18f.
14. An evasive reply. R. Elai held the reason to be so obvious that he refused to discuss it. Cf. the reason given *infra*.
15. Why the girl's constitutional change alters the man's penalties and not hers.
16. Lit., 'this'.
17. Sc. his organs of speech. It was his talk that brought an evil name upon her.
18. Na'arah (v. *Glos.*).
19. When he spread the report.
20. If the witnesses came after she had married (v. Rashi). Cf. *supra* p. 251, n. 10.
21. Cf. *supra* p. 252, n. 3.
22. Or 'outside'; cf. Tosaf. s. v. [H], a.l.
23. MS M., 'and in the case of idolatry'.
24. Tosef. Sanh. X.
25. Deut. XVII, 5
26. The judges' seat was at the city gate (cf. Ruth IV, 1ff).
27. Deut. XVII, 5, which follows, and prescribes the punishment of the crime mentioned in v. 2 that precedes R.
28. Deut. XVII. 2.
29. Where the commission of the crime is spoken of.
30. Since the text specifically deals with that subject. (v. n. 12).
31. I.e., if most of the inhabitants of a city are idolaters the execution is not carried out at the gate of the city but at the court gate.
32. In the analogy *supra*. Lit., 'you have drawn it out'. How could two deductions be made from one word?
33. Lit., 'so'.
34. Since the texts cited deal with that subject.
35. Na'arah (v. *Glos.*).
36. Door of her father's house (Deut. XXII, 21) in the text dealing with the punishment of a betrothed girl.
37. Door of the gate of the court [H] (Num. IV, 26).
38. V. *supra* n. 5. Since both nouns ([H]) 'door', and ([H]) 'gate' are placed in juxtaposition, the analogy may be made: As 'door' ([H]) in this text is near 'gate' ([H]) so is 'door' in Deut. XXII, 21 (v. *supra* n. 4) to be regarded as occurring near 'gate'. Hence the ruling that

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- if the girl has no 'door of her father's house' she is to be stoned at the 'gate' of the city.
39. Deut. XVII, 5, which deals with idolatry; the analogy being: As in the case of idolatry so also in that of a betrothed girl the execution takes place at the gate of the court wherever the city is inhabited by a majority of idolaters.
 40. As prescribed in Deut. XXII, 18.
 41. V. Deut. XXII, 19.
 42. And then brought up the evil name by alleging that he had found no tokens of virginity (v. *ibid.* 17).
 43. And his allegation is based on the evidence of witnesses.
 44. The Rabbis and R. Judah.
 45. *Infra.*
 46. Who maintain that the Scriptural section dealing with the case of a husband who 'brought up an evil name' upon his wife applies in all circumstances, whether intercourse did or did not take place.
 47. For even where the Scriptural section under discussion does not apply, the penalty of flogging must still be inflicted on account of the infringement of the prohibition against tale bearing.
 48. Who holds that the section under discussion deals only with a case where intercourse preceded the allegation.
 49. Lit., 'some there are who say'.
 50. Lit., 'all of it', sc. the views of both the Rabbis and R. Judah.
 51. V. p. 259, n. 12.
 52. In full agreement with R. Eliezer b. Jacob (cf. *supra* n. 1).
 53. For the reason given p. 259, n. 15; but he is exempt from the payment of the hundred *Sela*'.
 54. 'In all circumstances'.
 55. [H] V. [Glos.](#) s.v. *Makkath Marduth*.
 56. Pentateuchally, however, no flogging is inflicted unless intercourse preceded the charge.

Kethuboth 46a

R. Papa replied: By the expression¹ 'If he had intercourse he is flogged',² which was used there,³ the monetary fine⁴ [was meant].⁵ But could one describe a monetary fine as 'flogging'? — Yes, and so indeed we have learned:⁶ If a man said, 'I vow to pay half of my valuation'⁷ he must pay half of his valuation. R. Jose the son of R. Judah ruled: He is flogged⁸ and must pay his full valuation. [And in reply to the question,] why should he be flogged? R. Papa explained: He

is 'flogged'⁸ by [having to pay his] full valuation.⁹ What is the reason?¹⁰ — [The ruling¹⁰ in the case of a vow for] a half of one's valuation¹¹ is a preventive measure against the possibility [of a vow for] the value of half of one's body,¹² such a half¹³ being an organic part¹⁴ on which one's life depends.¹⁵

Our Rabbis taught: *And they shall fine him*¹⁶ refers to¹⁷ a monetary fine; *And chastise him*¹⁸ refers to¹⁷ flogging. One can readily understand why '*And they shall fine*' refers to a monetary payment since it is written, '*And they shall fine him a hundred Shekels of silver and give them unto the father of the damsel*';¹⁹ whence, however, is it deduced that '*And chastise him*' refers to flogging? — R. Abbahu replied: We deduce '*Shall chastise*'¹⁸ from '*Shall chastise*',²⁰ and '*Shall chastise*'²⁰ from '*Son*',²¹ and '*Son*'²¹ from '*Son*'²² [occurring in the Scriptural text:] *Then it shall be, if the wicked man deserve*²³ *to be beaten*.²⁴

Whence is the warning²⁵ against bringing up an evil name [upon one's wife] deduced? R. Eleazar replied: From *Thou shalt not go up and dawn as a talebearer*.²⁶ R. Nathan replied: From *Then thou shalt keep thee*²⁷ from every evil thing.²⁸ What is the reason that R. Eleazar does not make his deduction²⁹ from the latter³⁰ text?²⁸ — That text²⁸ he requires for [the same deduction] as [that made by] R. Phinehas b. Jair: From the text,³¹ *Then thou shalt keep thee from every evil thing*;²⁸ R. Phinehas b. Jair deduced²⁹ that a man should not indulge in [morbid] thoughts by day that might lead him to uncleanness by night.³² What then is the reason why R. Nathan does not make his deduction from the former³³ text?³⁴ — That text³⁴ is a warning to the court that it must not be lenient with one³⁵ [of the litigants] and harsh to the other.

If [a husband] did not tell the witnesses,³⁶ 'Come and give evidence for me' and they volunteered to give it, he³⁷ is not to be flogged nor is he to pay the hundred *Sela*'.³⁸ She, however, and the witnesses who testified falsely against her are hurried³⁹ to the place

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of stoning. 'She and the witnesses who testified against her'! Can this be imagined? — But [this is the meaning]: 'She or her witnesses are hurried to the place of stoning.³⁹ Now the reason then⁴⁰ is because he did not even tell them [to give their evidence].⁴¹ Had he, however, told them [he would have been subject to the prescribed penalties]⁴² even though he did not hire them. [This ruling thus serves the purpose] of excluding the view of R. Judah concerning whom it was taught: R. Judah ruled, [a husband] incurs no penalties⁴² unless he has hired the witnesses.⁴³

What is R. Judah's reason? R. Abbahu replied: An analogy is drawn between the two forms of the root 'to lay'.⁴⁴ Here⁴⁵ it is written, And lay⁴⁶ wanton charges against her,⁴⁷ and elsewhere it is written, Neither shall ye lay⁴⁸ upon him interest,⁴⁹ as there⁴⁹ [the offence is committed through the giving of] money⁵⁰ so here [also it can be committed only by the giving of] money.⁵¹ R. Nahman b. Isaac said, and so did R. Joseph the Zidonian recite at the school⁵² of R. Simeon b. Yohai: An analogy is drawn between the two forms of the root 'to lay'.⁵³

R. Jeremiah raised the question: What is the ruling⁵⁴ where [the husband] hired them⁵⁵ with a piece of land?⁵⁶ What [if he hired them] for a sum less than a *Perutah*?⁵⁷ What [if both witnesses were hired] for one *Perutah*?

R. Ashi enquired: What [is the ruling where a husband]⁵⁸ brought an evil name [upon his wife] in respect of their first marriage? What [if a levir⁵⁹ brought up an evil name] in respect of his brother's marriage? — You may at all events solve one [of these questions].⁶⁰ For R. Jonah taught: I gave my daughter unto this man⁶¹ only unto this man⁶² but not to a levir.⁶³

What [is the ruling of] the Rabbis and what [is that of] R. Eliezer b. Jacob?⁶⁴ — It was taught: What constitutes⁶⁵ the bringing up of an evil name [against one's wife]?⁶⁶ If [a

husband] came to the *Beth Din* and said, 'I, So-and-so, found not in thy daughter the tokens of virginity'. If there are witnesses that she committed adultery while living with him she is entitled to a *Kethubah* for a *Maneh*.⁶⁷ 'If there are witnesses that she committed adultery while living with him [you say,] she is entitled to a *Kethubah* for a *Maneh*'! But is she not in that case subject to the penalty of stoning?⁶⁸ — It is this that was meant: If there are witnesses that she committed adultery while she was living with him she is to be stoned; if, however, she committed adultery before [her marriage] she is entitled to a *Kethubah* for a *Maneh*.⁶⁹ If it was ascertained that the evil name had no foundation in fact⁷⁰ the husband is flogged and he must also pay a hundred *Sela'* irrespective of whether he had intercourse [with her] or whether he did not have intercourse [with her]. R. Eliezer b. Jacob said: These penalties⁷¹ apply only where he had intercourse [with her].

According to R. Eliezer b. Jacob⁷² one can well understand why Scripture used the expressions, 'And go in unto her'⁷³ and 'When I came nigh to her',⁷⁴ but according to the Rabbis⁷⁵ what [could be the meaning of] 'And go in unto her'⁷³ and 'When I came nigh unto her'?⁷⁴ 'And go in unto her'⁷³ with wanton charges, and 'When I come nigh to her'⁷⁴ with words.

According to R. Eliezer b. Jacob⁷² one can well see why Scripture used the expression, 'I found not in thy daughter the tokens of virginity',⁷⁶ but according to the Rabbis⁷⁵ what [could be the sense of the expression], 'I found not in thy daughter the tokens of virginity'? — I found not far⁷⁷ thy daughter witnesses to establish her claim to tokens of virginity.⁷⁸

It was quite correct for Scripture, according to R. Eliezer b. Jacob,⁷⁹ to state, And yet these are the tokens of my daughter's virginity;⁸⁰ but according to the Rabbis⁸¹ what could be the sense of [the expression,] 'And yet these are the tokens of my

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daughter's virginity'?⁸⁰ — And yet these are the witnesses who establish⁷⁸ the tokens of my daughter's virginity.

One can well understand, according to R. Eliezer b. Jacob,⁷⁹ why Scripture wrote, And they shall spread the garment,⁸⁰ but according to the Rabbis⁸¹ what [could be the sense of the instruction,] And they shall spread the garment? — R. Abbahu replied: They explain⁸² [the charge] which he submitted against her;⁸³ as it was taught: 'And they shall spread the garment' teaches that the witnesses of the one party and those of the other party come, and the matter is made as clear as a new garment. R. Eliezer b. Jacob said: The words are to be taken in their literal sense: [They must produce] the actual garment.⁸⁴

R. Isaac son of R. Jacob b. Giyori sent this message in the name of R. Johanan: Although we do not find anywhere in the Torah that Scripture draws a distinction between natural and unnatural intercourse In respect of flogging or other punishments, such a distinction was made in the case of a man who brought an evil name [upon his wife];⁸⁵ for he is not held guilty unless, having had intercourse with her, [even]⁸⁶ in an unnatural manner, he brought up an evil name upon her in respect of a natural intercourse.

In accordance with whose view?⁸⁷ If [it be said to be] in accordance with the view of the Rabbis [the husband, it could be retorted, should have been held guilty] even if he had no intercourse with her. If [it be said to be] in agreement with the view of R. Eliezer b. Jacob

1. Lit., 'what'.
2. [H]. The rt. [H] may signify (a) flogging and also (b) the infliction of any penalty or suffering.
3. In the last cited ruling of R. Judah.
4. The hundred *Shekels*.
5. The payment of the fine only is dependent on previous intercourse, but flogging is inflicted in all circumstances (v. *supra* p. 259. n. 15).

6. MS.M., 'it was taught'. Cf. 'Ar. 20a and Tosef. 'Ar. III.
7. V. Lev. XXVII, 2ff.
8. [H] (cf. *supra* note 5).
9. Or 'he is punished by having to pay etc'.
10. For the payment of his full valuation when the man only vowed half of it.
11. [H], as prescribed in Lev. XXVII, 2ff.
12. [H]
13. Lit., 'and the value of his half'.
14. MS.M. [H] Cur. edd. [H] 'limb'.
15. And where the value of such a part or limb is vowed the full valuation must be paid.
16. Deut. XXII, 19.
17. Lit., 'this'.
18. Deut. XXII, 18.
19. Deut. XXII, 19.
20. Deut. XXI, 18.
21. Ibid.
22. Ibid. XXV, 2 (v. *infra* n. 14).
23. Lit., 'son'.
24. V. *supra* n. 13. As this text in which 'son' occurs (v. *supra* n. 14) speaks definitely of flogging (v. Deut. XXV, 2-3) the punishment of the 'son' spoken of in Deut. XXI, 18, concerning whom also the expression of 'chastise' (ibid.) was used, must also be that of flogging; and since 'chastise' (ibid.) implies flogging, 'chastise' in Deut. XXII, 18 must also mean flogging. V. Sanh. 71b.
25. Sc. a negative precept for the transgression of which flogging is incurred. No flogging is inflicted for an offence unless there is a prohibition in regard to it.
26. Lev. XIX, 16.
27. [H] the Nif. of [H] which implies a negative precept.
28. Deut. XXIII, 10.
29. Lit., 'said'.
30. Lit., 'from that'.
31. Lit., 'from here'.
32. The verse following (Deut. XXIII, 11) speaking of a man ... that is not clean ... by night. V. A.Z. 20b.
33. Lit., 'from that'.
34. Lev. XIX, 16.
35. The Heb. of Lev. XIX, 16 cited, is [H] the third word being composed of the letters forming the phrase [H] 'lenient or gentle to me'.
36. Who testified that his wife committed adultery before her marriage.
37. Though the evidence had been proved to be false.
38. V. Deut. XXII, 18f.
39. For notes v. *supra* p. 255, n. 4ff.
40. Why the husband is exempt.
41. Since the ruling runs, 'did not tell them', and not 'did not hire them'.
42. V. Deut. XXII, 18f.

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43. Who testified that his wife committed adultery before her marriage.
44. Or 'to put'. Lit., 'it comes (from) putting (and) putting'.
45. In the case of an evil name brought up by a husband (Deut. XXII, 13ff).
46. [H], rt. [H] 'to put', 'to lay'.
47. Deut. XXII, 14.
48. [H], rt. [H].
49. Ex. XXII, 24.
50. Interest.
51. Sc. the hiring of the witnesses.
52. MS.M. 'Zaidana of the school'. [Probably of Bethsaida].
53. V. *supra* p. 262, n. 13ff.
54. According to R. Judah who laid down that a husband incurs no penalties unless he has hired the witnesses.
55. The witnesses (v. *supra* p. 262, n. 12).
56. Does R. Judah include land also under the term of 'money', or does he, since his ruling was deduced from the law of interest, restrict the price of the hiring to movables only, such as money and foodstuffs, which are specifically mentioned in connection with the laws of interest, (v. Ex. XXII, 24 and Deut. XXIII, 20).
57. V. [Glos.](#)
58. Who remarried his wife after he had once divorced her.
59. Who was under the obligation to contract levirate marriage with his deceased brother's wife (cf. Deut. XXV, 5ff).
60. The last.
61. Deut. XXII, 16.
62. I.e., the husband.
63. Sc. the penalties prescribed in the section apply only to the former.
64. Referred to *supra* 45b ad fin.
65. Lit., 'how'.
66. V. Deut. XXII, 13ff.
67. V. [Glos.](#)
68. How then could one speak of giving her a *Kethubah*?
69. The statutory sum due to a non-virgin.
70. Lit., 'is not an evil name'.
71. Lit., 'words', the penalties prescribed in the section of Deut. XXII, 13ff.
72. Who restricts the application of the penalties (v. *supra* n. 3) to a husband with whom intercourse had taken place.
73. Deut. XXII, 13.
74. *Ibid.* 14.
75. Who maintain that the penalties always apply, irrespective of intercourse.
76. Deut. XXII, 17.
77. The *lamed* in [H] may be rendered 'in' (as E.V.) or 'for' as here expounded.
78. By refuting the evidence of the first witnesses who accused her of the offence. [H] (read as

[H]) is to be regarded as the Piel of [H], 'to make fit', and referring to the action of the witnesses who establish the fitness or honesty of the accused.

79. V. *supra* note 4.
80. Deut. XXII, 17.
81. V. *supra* note 7.
82. [H] (E.V., '*and they shall spread*') is rendered, '*And they shall explain*'. [H], 'to explain', [H], 'to spread', *Shin* and *Sin* being interchangeable.
83. [H] '(the allegation) which he submitted against her'. A play on the word [H] (E.V. the garment) v. Tosaf.
84. As proof of the tokens.
85. Only where his witnesses accused her of illicit intercourse in a natural manner is he, when their evidence is proved to be false, liable to pay the fine of a hundred *Shekels*; but where his witnesses alleged unnatural intercourse he is exempt from the fine even though their evidence was proved to be false.
86. V. Rashi.
87. Has the last mentioned statement been made?

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must not the intercourse in both cases be in a natural manner?¹ — The fact, however, is, said R. Kahana in the name of R. Johanan, that the husband is not held guilty unless he had intercourse in a natural manner and he brought up an evil name upon her in respect of a natural intercourse.

MISHNAH. A FATHER HAS AUTHORITY OVER HIS DAUGHTER² IN RESPECT OF HER BETROTHAL [WHETHER IT WAS EFFECTED] BY MONEY,³ DEED⁴ OR INTERCOURSE;⁵ HE IS ENTITLED TO ANYTHING SHE FINDS AND TO HER HANDIWORK; [HE HAS THE RIGHT] OF ANNULING HER VOWS⁶ AND HE RECEIVES HER BILL OF DIVORCE;⁷ BUT HE HAS NO USUFRUCT⁸ DURING HER LIFETIME.⁹ WHEN SHE MARRIES, THE HUSBAND SURPASSES HIM [IN HIS RIGHTS] IN THAT HE HAS¹⁰ USUFRUCT DURING HER LIFETIME,¹¹ BUT HE IS ALSO UNDER THE OBLIGATION OF MAINTAINING AND RANSOMING HER¹² AND TO PROVIDE FOR HER BURIAL. R. JUDAH RULED: EVEN THE POOREST MAN IN ISRAEL MUST PROVIDE¹³

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NO LESS THAN TWO FLUTES AND ONE LAMENTING WOMAN.

GEMARA. 'BY MONEY'. Whence is this¹⁴ deduced? — Rab Judah replied: Scripture said, Then shall she go out for nothing without money,¹⁵ [which implies that] this master¹⁶ receives no money¹⁷ but that another master does receive money;¹⁸ and who is he? Her father.¹⁹ But might it not be suggested that it²⁰ belongs to her?²¹ — Since²² it is her father who contracts²³ her betrothal, as it is written in Scripture, I gave my daughter unto this man,²⁴ would she take the money!²⁵ But can it not be suggested that this²⁶ applies only to a minor²⁷ who has no legal right²⁸ [to act on her own behalf], but that a Na'arah²⁹ who has such rights³⁰ may herself contract her betrothal, and she herself receives the money? — Scripture stated, Being in her youth in her father's house,³¹ [implying that] all the advantages of her youth belong to her father.

[Consider], however, that which R. Huna said in the name of Rab: 'Whence is it deduced that a daughter's handiwork belongs to her father? [From Scripture] where it is said, And if a man sell his daughter to be a maidservant,³² as³³ the handiwork of a maidservant belongs to her master so does the handiwork of a daughter belong to her father'.³⁴ Now what need was there,³⁵ [it may be asked, for this text when] deduction³⁶ could have been made from [the text of] 'Being in her youth in her father's house'?³¹ Consequently [it must be admitted, must it not, that] that text was written in connection only with the annulment of vows?³⁷ And should you suggest that we might infer this³⁸ from it,³⁹ [it could be retorted that] monetary matters cannot be inferred from ritual matters.³⁹ And should you suggest that we might infer it is from [the law of] fine,⁴⁰ [it could be retorted, could it not, that] monetary payments cannot be inferred from fines? And should you suggest that it might be inferred from [the law of] compensation for] indignity and blemish,⁴¹ [it could be retorted] that indignity and blemish are

different,⁴² since [the rights] of her father [are also, are they not], involved⁴³ in it?⁴⁴ —

[This], however, [is the explanation]:⁴⁵ It is logical to conclude that when the All-Merciful excluded⁴⁶ [another] going out,⁴⁷ the exclusion Was meant to be [understood in a manner] similar to the original.⁴⁸ But⁴⁹ one 'going out', surely, is not like that of the other: For⁵⁰ in the case of the master [the maidservant] goes entirely out of his control while in the 'going out' from the control of her father [the daughter's] transfer to the bridal chamber is still lacking?⁵¹ — In respect of the annulment of vows, at any rate, she passes out of his control; for we have learned: In the case of a betrothed damsel⁵² it is her father and her husband who jointly annul her vows.⁵³

DEED OR INTERCOURSE. Whence do we [deduce this]?⁵⁴ — Scripture said, And becometh another man's wife⁵⁵ is [from which it may be inferred that] the various forms of betrothal⁵⁷ are to be compared to one another.⁵⁷

HE IS ENTITLED TO ANYTHING SHE FINDS,

1. Since he takes the verses literally.
2. While she is under the age of twelve and a half years and one day.
3. Sc. the money belongs to him.
4. The receipt of the deed by him effects his daughter's betrothal.
5. It is within his rights to allow such an act to have the validity of a *Kinyan* (v. [Glos.](#)).
6. V. Num. XXX. 4ff.
7. If she was divorced during her betrothal before attaining her adolescence (v. [Glos.](#) s.v. *Bogereth*).
8. Of property that came into her possession from her mother's side.
9. Such property passes into the possession of a father as heir to his daughter only after her death.
10. In addition to the privileges enjoyed by a father.
11. Cf. *infra* 65b, Kid. 3b.
12. If she was taken captive.
13. For his wife's funeral.
14. That the money of the betrothal belongs to her father.

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15. Ex. XXI, 11, referring to a Hebrew maidservant.
16. To whom a father sold his daughter (v. *ibid.* 7).
17. When she leaves him on becoming a Na'arah (v. [Glos.](#) and cf. Kid. 4a).
18. When, on marriage, she passes out of his control.
19. Since beside the master spoken of in the Scriptural text (cf. Ex. XXI, 8) the daughter of an Israelite has no other master but her father.
20. The money of her betrothal.
21. The implication of the text cited merely indicating that, unlike the case of the liberation of an Israelite maidservant, her passing out of her father's control at betrothal is attended by money, without necessarily meaning that this money goes to her father.
22. Lit., 'now'.
23. Lit., 'accepts'.
24. Deut. XXII, 16.
25. Of course not. Hence it must be concluded that it, as stated in our Mishnah, belongs to her father.
26. A father's right to the betrothal money of his daughter, as implied in the Scriptural text cited.
27. Though the Scriptural text referred to deals with an evil name brought upon a Na'arah (v. [Glos.](#)) it might nevertheless be contended that the betrothal of that Na'arah took place while she was still a minor.
28. Lit., 'a hand'.
29. V. [Glos.](#)
30. Lit., 'a hand'.
31. Num. XXX, 17.
32. Ex. XXI, 7.
33. Since 'daughter' and 'maidservant' appear in juxtaposition an analogy between them may be drawn.
34. *Supra* 40b, *infra* 47a, Kid. 8a.
35. Lit., 'wherefore to me'.
36. That a father is entitled to his daughter's handiwork.
37. And, therefore, no deduction from it can be made in respect of handiwork. Similarly, here also, no deduction from it could be made in respect of a father's right to his daughter's money of betrothal. The previous question, therefore, arises again.
38. That a father is entitled to his daughter's money of betrothal.
39. From the law of the annulment of vows.
40. As the fine prescribed in Deut. XXII, 19, belongs to her father so does the money.
41. Which belongs to her father (v. *supra* 40b).
42. From the case under consideration.
43. As a father has the right to dispose of the indignity and blemish of his daughter while she is still a Na'arah, by allowing any sort of person to marry her, he is also entitled to compensation for any indignity or blemish anyone inflicted upon her without his consent.
44. The question, whence is it deduced that the money of betrothal belongs to her father, thus arises again.
45. Why deduction may be made from Ex. XXI, 11 (cf. *supra* p. 266 notes 13-20, and text).
46. Cf. *supra* p. 266 notes 15-18 and text.
47. V. *supra* p. 266, n. 17.
48. As in the original it is the master, and not the maidservant, who, in the absence of the specific text to the contrary, would have received the money for the latter's redemption, so in the implication it must be the father (who corresponds to the master), and not his daughter, who is to receive the money when she passes out of his control at betrothal (v. Rashi). [Now since we learn that her father is entitled to her betrothal money, it follows that the right to effect her betrothal is vested in him, Tosaf.].
49. Lit., 'but that'.
50. Lit., 'there'.
51. Until her entry into the bridal chamber (Huppah, v. [Glos.](#)) a daughter is still partially under the control of her father who is still entitled to her handiwork and remains her heir.
52. Na'arah (v. [Glos.](#)).
53. The father alone has no longer the right to do so. For further notes on the passage v. Kid. (Sonc. ed.) p. 36.
54. A father's absolute right to effect the betrothal of his young daughter (v. *supra* p. 266, nn. 3-4) by these two methods.
55. Deut. XXIV, 2; and *becometh* [H].
56. [H] lit., 'beings', 'becomings', of the same rt. [H] as that of [H] (v. *supra* p. 268, n. 15).
57. As betrothal by money is entirely in the hands of the father (to whom the money belongs, as has been shown *supra*) so is betrothal by deed or intercourse.

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in order [to avert] ill feeling.¹

TO HER HANDIWORK. Whence do we deduce this? — [From that] which R. Huna quoted in the name of Rab: Whence is it deduced that a daughter's handiwork belongs to her father? — [From Scripture] where it is stated, And if a man sell his daughter to be a maidservant,² as the handiwork of a maidservant belongs to her master so does

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the handiwork of a daughter belong to her father.³ But may it not be suggested that this⁴ [applies only to] a minor whom he may sell, but the handiwork of a Na'arah⁵ whom he cannot sell belongs to herself? — It is but logical to assume that it should belong to her father; for should it be imagined that her handiwork does not belong to him [the objection could well be advanced against] the right⁶ which the All-Merciful has conferred upon a father to consign his daughter to the bridal chamber: How could he consign her when he thereby⁷ prevents her from doing her work?⁸

R. Ahai demurred: Might it not be suggested that he⁹ pays her compensation [for the time] she is taken away [from her work] or else, that he consigns her during the night,¹⁰ or else that he might consign her on Sabbaths¹¹ or festivals?¹¹ — [The fact], however, [is that in the case of] a minor no Scriptural text was necessary.¹² For since¹³ is he may even sell her was it at all necessary [to state that her handiwork belongs to him]?¹⁴ If a Scriptural text¹⁵ then was at all necessary [it must have been] in respect of a Na'arah.

TO ANNUL HER VOWS. Whence do we [deduce this]? [From Scripture] where it is written,¹⁶ Being in her youth in her father's house.¹⁷

AND HE RECEIVES HER BILL OF DIVORCE. Whence is this deduced? — From Scripture where it is written, And she departeth and And becometh,¹⁸ 'departure'¹⁹ being compared to 'becoming'.²⁰

BUT HE HAS NO USUFRUCT DURING HER LIFETIME. Our Rabbis taught: A father has no usufruct²¹ during the lifetime of his daughter.²² R. Jose the son of R. Judah ruled: A father is entitled to usufruct²¹ in the lifetime of his daughter. On what principle do they differ? — The first Tanna is of the opinion that the Rabbis were well justified in allowing usufruct to a husband, since otherwise he might refrain from ransoming [his wife].²³ What, however, can be said²⁴ in

respect of a father? That he would refrain from ransoming her? [It is certain that] he would ransom her in any case. R. Jose the son of R. Judah, however, is of the opinion that a father also might refrain from ransoming [his daughter], for he might think: She is carrying a purse²⁵ about her, let her proceed to ransom herself.²⁶

WHEN SHE MARRIES, THE HUSBAND SURPASSES HIM [IN HIS RIGHTS] IN THAT HE HAS USUFRUCT, etc. Our Rabbis taught: If [a father] promised his daughter in writing²⁷ fruit,²⁸ clothes or other movable objects²⁹ that she might take³⁰ with her³¹ from her father's house to that of her husband, and she died,³² her husband does not acquire these objects. In the name of R. Nathan it was stated: The husband does acquire them. Must it be assumed that they³³ differ on the same principles as those on which R. Eleazar b. Azariah and the Rabbis differed? For we learned: A woman who was widowed or divorced, either after betrothal or after marriage, is entitled to collect all³⁴ [that is due to her]. R. Eleazar b. Azariah ruled: [Only a woman widowed or divorced] after her marriage recovers all [that is due to her], but if after a betrothal a virgin recovers only two hundred *Zuz*³⁵ and a widow only one *Maneh*³⁵

1. Between father and daughter.
2. Ex. XXI, 7.
3. Cf. *supra* 40b, 46b, Kid. 3b.
4. Lit., 'these words', a father's right to his daughter's handiwork.
5. V. *Glos.*
6. Lit., 'but that'.
7. Lit., 'surely'.
8. During her preparations for, and the performance of the bridal chamber ceremonial. Since, however, a father does enjoy the right it must be concluded that a daughter's handiwork does belong to her father.
9. A father who consigns his daughter into the bridal chamber.
10. When people usually rest from their work.
11. On which days work is forbidden. The question thus arises again: Whence is it deduced that a daughter's handiwork belongs to her father?

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12. To confer upon her father the right to her handiwork.
13. Lit., 'now'.
14. Obviously not.
15. Viz., the superfluous word נמנה, to be a maidservant (Ex. XXI, 7), from which the analogy is drawn *supra*. The ordinary text deals, of course, with a minor.
16. In the Section dealing with the invalidation of vows.
17. Num. XXX. 17. 'Being in her youth' [H], sc. while she is yet a Na'arah (v. [Glos.](#)).
18. Deut. XXIV, 2.
19. I.e., divorce.
20. Sc. a wife (cf. Deut. XXIV, 2: Becometh ... wife). As a father may contract his daughter's betrothal so may he accept her divorce.
21. V. *supra* p. 266, n. 7.
22. V. l.c. n. 8.
23. Should she ever be taken captive.
24. In justification of his claim to the usufruct of his daughter's property.
25. The savings of the proceeds of her property.
26. And should her savings be insufficient he would refuse to supplement them.
27. Lit., 'wrote for her', as her dowry.
28. Detached from the ground (v. *infra*).
29. Lit., 'vessels', 'chattels'.
30. Lit., 'which shall come'.
31. On betrothal.
32. During the period of her betrothal.
33. R. Nathan and the first Tanna.
34. I.e., her additional jointure as well as her statutory *Kethubah*.
35. V. [Glos.](#), sc. her statutory *Kethubah* only.

Kethuboth 47b

for the man wrote [the additional jointure] for her with the sole object of marrying her.¹ [Must it then be assumed] that he who ruled that 'her husband does not acquire' [upholds the same principle] as R. Eleazar b. Azariah² while he³ who ruled that 'the husband does acquire' [upholds the same principle] as the Rabbis?⁴ — No; all⁵ [may, in fact, hold the same view] as R. Eleazar b. Azariah.⁶ [For] he who ruled, 'her husband does not acquire', [is obviously] in agreement with R. Eleazar b. Azariah.⁷ And as to him³ who ruled, 'the husband does acquire' [it may be explained that] only [in respect of undertakings] from him⁸ towards her² did R. Eleazar b. Azariah maintain his view,¹⁰ [for the reason that] 'the man wrote [the additional jointure] for her with the sole object of marrying her',¹¹ but

[in respect of undertakings] from her¹² towards him¹³ even R. Eleazar b. Azariah may admit [that betrothal has the same force as marriage] since [undertakings of such a nature]¹⁴ are due to [a desire for] matrimonial association, and such association, surely, had taken place.¹⁵

HE IS ALSO UNDER THE OBLIGATION OF MAINTAINING HER, etc. Our Rabbis taught: Maintenance was provided for a wife in return for her handiwork, and her burial¹⁶ in return for her *Kethubah*.¹⁷ A husband is, therefore, entitled to usufruct. 'Usufruct!' Who mentioned it?¹⁸ — A clause is missing, and this is the proper reading: Maintenance was provided for a wife in return for her handiwork, her ransom In return for usufruct,¹⁹ and her burial in return for her *Kethubah*;²⁰ a husband, therefore, is entitled to usufruct.¹⁹

What [was the need for] 'therefore'?²¹ — It might have been presumed [that a husband] must not consume the fruits¹⁹ but should rather leave them,²² since, otherwise,²³ he might refrain from ransoming her, hence we were informed that that [course]²⁴ was preferable, for sometimes [the proceeds of the fruit] might not suffice²⁵ and he²⁶ would have to ransom her at his own expense.

Might I not transpose [the sequence]?²⁷ — Abaye replied: They²⁸ ordained the common for the common²⁹ and the uncommon for the uncommon.³⁰

Said Raba: The following Tanna is of the opinion that maintenance³¹ is a Pentateuchal duty. For it was taught: She'erah³² refers to³³ maintenance, for so it is said in Scripture, Who also eat the she'er³⁴ of my people;³⁵ Her raiment³⁶ [is to be understood] according to its ordinary meaning; 'Onatha³⁷ refers to the time for conjugal duty³⁸ prescribed in the Torah,³⁹ for so it is said in Scripture, If than shalt afflict⁴⁰ my daughters.⁴¹ R. Eleazar said: 'She'erah' refers to the prescribed time for conjugal duty,³⁹ for so it is said in Scripture, None of you shall approach to any

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that is near of kin⁴² to him to uncover their nakedness;⁴³ 'Her raiment' [is to be taken] according to its literal meaning; 'Onatha refers to maintenance, for so it is said in Scripture, And he afflicted thee,⁴⁴ and suffered thee to hunger.⁴⁵

1. And since he did not marry her she can have no claim to it. V. *Infra* 54b, 89b; B.M. 17b.
2. As the latter makes the woman's right to her additional jointure dependent on marriage, so also does the former make the husband's right to the dowry his wife brings from her father's house dependent on marriage. In the opinion of both betrothal entitles one only to the prescribed statutory rights.
3. R. Nathan.
4. As they deem betrothal to be as valid as marriage in respect of conferring upon a woman the right to her additional jointure as well as to her statutory *Kethubah*, so does R. Nathan deem betrothal to be conferring upon a husband the right to the dowry his wife has brought him. As the additional jointure which is included in the document of the *Kethubah* is acquired on betrothal by the woman, so is the dowry which is also included in the same document acquired on betrothal by the man.
5. R. Nathan and the first Tanna.
6. Whose ruling is (as stated *infra*) the accepted law.
7. Cf. *supra* note 6.
8. A husband.
9. A wife.
10. That betrothal does not confer upon a woman the right of acquisition.
11. V. *supra* p. 271. n. 5.
12. A wife.
13. A husband.
14. The dowry e.g., which her father promises to her husband.
15. By the betrothal. Hence the ruling that, in this respect, betrothal alone confers the same rights as marriage.
16. Variant, 'ransom' (Sheiltoth).
17. Here it means the dowry (v. *supra* n. 4) which, like the statutory *Kethubah* and the additional jointure, is also entered in the *Kethubah* document.
18. Lit., 'their (sc. the fruits') name'; the first clauses of the Baraitha cited speak only of 'handiwork' and '*Kethubah*' and these, surely, provide no reason for a husband's right to usufruct.
19. Of her *Melog* (v. [Glos.](#)) property which was not entered in the *Kethubah*.
20. V. *supra* note 7.

21. The ruling 'a husband therefore ... usufruct' seems superfluous after the statement, 'her ransom in return for usufruct'.
22. I. e., allow their proceeds to accumulate, and thus create a fund for his wife's ransom.
23. Lit., 'if so'; were he to consume the fruit or to spend their proceeds.
24. That the husband shall enjoy usufruct and that in return for this he shall assume the obligation of ransoming his wife.
25. To cover the full amount of the ransom. Lit., 'that they be not full'.
26. Since, in accordance with the ordinance, he enjoyed usufruct and undertook the obligation of ransom. (V. *supra* note 14).
27. In the Baraitha, thus: Maintenance in return for usufruct and ransom in return for handiwork. A wife would consequently be prevented from retaining her handiwork even if she declined maintenance.
28. The Rabbis.
29. Maintenance and handiwork are both part of a person's daily routine.
30. Usufruct for ransom. It is rare that a wife should own *Melog* (v. [Glos.](#)) property or that she should be carried away as a captive. Both usufruct and ransom are consequently uncommon.
31. Of a wife by her husband.
32. E.V. Her food, [H] ([H] with pronom suffix; v. *infra* n. 8) Ex. XXI. 10.
33. Lit., 'these'.
34. [H] E. V. flesh.
35. Micah III, 3.
36. Ex. XXI. 10.
37. [H], R.V., Her duty of marriage; A.J.V., Her conjugal rights, Ex. XXI, 10. [H] (rt. [H] in Piel, 'to afflict'; v. *infra* nn. 12 and 14).
38. [H] (rt. [H] v. *supra* n. 11).
39. Cf. *infra* 61b.
40. [H], (rt. [H]).
41. Gen. XXXI, 50.
42. [H]
43. Lev. XVIII, 6.
44. [H] (rt. [H]).
45. Deut. VIII, 3.

Kethuboth 48a

R. Eliezer b. Jacob interpreted: [The expressions] She'erah kesutha,¹ [imply]: Provide her with raiment according to her age, viz. that a man shall not provide his old wife² [with the raiment] of a young one nor his young wife with that of an old one. [The expressions], Kesutha we- 'Onatha³ [imply.] Provide her with raiment according to the

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season of the year,⁴ viz. that he shall not give her new raiment⁵ in the summer nor worn out raiment⁶ in the winter.⁷ R. Joseph learnt: Her flesh⁸ implies close bodily contact,⁹ viz, that he must not treat her in the manner of the Persians who perform their conjugal duties in their clothes. This provides support for [a ruling of] R. Huna who laid down that a husband who said, 'I will not [perform conjugal duties] unless she wears her clothes and I mine', must divorce her and give her also her *Kethubah*.

R. JUDAH RULED: EVEN THE POOREST MAN IN ISRAEL, etc. This¹⁰ then implies that the first Tanna is of the opinion that these¹¹ are not [necessary]. But how is one to imagine [the case]? If these¹¹ were required by the woman's status,¹² what [it may be objected could be] the reason of the first Tanna who ruled [that these¹¹ were] not [required]? And if these¹¹ were not required by the woman's status,¹³ what [it may be objected could be] the reason of R. Judah? — [The ruling was] necessary only [in a case], for instance, where these were demanded by his status but not by hers. The first Tanna is of the opinion that the principle that she¹⁴ rises with him¹⁵ but does not go down with him¹⁶ is applied only during her lifetime¹⁷ but not after her death, while R. Judah maintains [that the principle applies] even after her death. R. Hisda laid down in the name of Mar 'Ukba that the *Halachah* is in agreement with R. Judah.

R. Hisda further stated in the name of Mar 'Ukba: If a man became insane *Beth Din* take possession¹⁸ of his estate and provide food and clothing for his wife, sons and daughters, and for anything else.¹⁹ Said Rabina to R. Ashi: Why should this²⁰ be different from that concerning which it was taught: If a man went to a country beyond the sea and his wife claimed maintenance, *Beth Din* take possession of²¹ his estate and provide food and clothing for his wife, but not for his sons and daughters or for anything else?²² The other replied: Do you not draw a distinction

between one who departs²³ deliberately and one who departs²⁴ without knowing it?²⁵

What [is meant by] 'anything else'? — R. Hisda replied: Cosmetics were meant,²⁶ R. Joseph explained: Charity. According to him who replied, 'Cosmetics', the ruling²⁷ would apply with even greater force to charity.²⁸ He, however, who explained, 'charity' [restricts his ruling²⁷ to this alone] but cosmetics [he maintains] must he given to her, for [her husband] would not be pleased that she shall lose her comeliness.

R. Hiyya b. Abin stated in the name of R. Huna: If a man went to a country beyond the sea, and his wife died, *Beth Din* take possession²⁹ of his estate and bury her in a manner befitting the dignity of his status. [You say] 'In a manner befitting the dignity of his status', and not that of her status!³⁰ — Read, In a manner befitting his status also; and it is this that he³¹ informs us: She rises with him [in his dignity] but does not go down with him [to a lower status] even after her death.

R. Mattena ruled: A man³² who gave instructions that when [his wife] died she shall not be buried at the expense of his estate must be obeyed.³³ What, however, is the reason [for obeying the man] when he has left instructions? Obviously because the estate falls to the orphans;³⁴ but the estate falls to the orphans, does it not, even if he left no instructions?³⁵ — [The proper reading], however, is: A man³² who gave instructions that when he dies he shall not be buried at the expense of his estate³⁶ is not to be obeyed, for it is not within his power³⁷ to enrich his sons and throw himself upon the public.

MISHNAH. SHE³⁸ REMAINS³⁹ UNDER THE AUTHORITY OF HER FATHER⁴⁰ UNTIL SHE ENTERS

1. [H] (Ex. XXI, 10), 'her age, her raiment'. [H] = flesh (cf. *supra* note 8), hence 'body', 'age'.
2. Lit., 'to her'.
3. [H] (Ex. XXI, 10), 'her raiment and her time' [H] = 'time', 'season'.

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4. Lit., 'her season'.
5. Which might be too warm for her in the hot weather.
6. Being worn thin they would not provide sufficient protection from cold.
7. Lit., 'in the days of the rains'.
8. Cf. *supra* p. 273, n. 6.
9. Lit., 'nearness of flesh'.
10. Since the ruling is attributed to R. Judah.
11. Two flutes and one lamenting woman.
12. Lit. 'that it is her (sc. her family's) custom'.
13. Cf. *supra* n. 8 *mutatis mutandis*.
14. A wife.
15. Her husband.
16. I.e., enjoys his advantages but does not suffer his disadvantages.
17. As in the instance dealt with *infra* 61a.
18. Lit., 'go down into'.
19. This is explained *infra*.
20. The case dealt with by R. Huna.
21. This is explained *infra*.
22. *Infra* 107a.
23. From his home to a foreign country.
24. From society. sc. becomes insane.
25. In the former case the man could have left instructions, if he were minded to do so, that his wife and family should be provided for. Since, however, he left no such instructions, it is obvious that he had no intention of providing for them. Hence the ruling that his wife, whom he is under a legal obligation to maintain, (her claim being secured on his estate in accordance with the terms of her *Kethubah*) must be provided for by the *Beth Din* out of his estate; not however, his sons and daughters who have no legal claim upon their father's estate. Where, however, a man becomes insane it may well be assumed that it was his wish that both his wife and family shall be properly provided for out of his estate.
26. Lit., 'this'.
27. Of the Baraita that 'anything else' was not to be provided for.
28. Since the court which has no right to provide from a man's estate for his own wife's personal enjoyments would have much less power to exact from that estate for charity.
29. Lit., 'go down into'.
30. Why should she suffer indignity on account of his lower status?
31. R. Huna.
32. While in a dying condition. The instructions of a dying man have the force of a legally written document.
33. Having survived her husband and collected her *Kethubah* a wife has no further claim upon his estate which is consequently inherited by his sons.
34. Cf. *supra* n. 2.

35. And they, of course, are under no obligation to bury the widow.
36. But at the public cost.
37. Lit., 'all from him'.
38. A Na'arah (v. [Glos.](#)). This Mishnah is a continuation of the previous one, *supra* 46b.
39. [H], lit., 'for ever', 'always'.
40. Even after her betrothal. He is entitled to all his privileges; and, if she is the daughter of an Israelite, although betrothed to a priest, *Terumah* is forbidden to her.

Kethuboth 48b

UNDER THE AUTHORITY OF HER HUSBAND¹ [BY GOING INTO THE BRIDAL CHAMBER]² AT MARRIAGE. IF HER FATHER DELIVERED HER TO THE AGENTS OF THE HUSBAND³ SHE PASSES⁴ UNDER THE AUTHORITY OF HER HUSBAND. IF HER FATHER WENT WITH HER HUSBAND'S AGENTS⁵ OR IF THE FATHER'S AGENTS WENT WITH THE HUSBAND'S AGENTS⁵ SHE REMAINS⁴ UNDER THE AUTHORITY OF HER FATHER. IF HER FATHER'S AGENTS DELIVERED HER TO HER HUSBAND'S AGENTS⁶ SHE PASSES⁴ UNDER THE AUTHORITY OF HER HUSBAND.

GEMARA. What [is the purport of] REMAINS?⁷ — To exclude [the ruling] of an earlier⁸ Mishnah where we learned: If the respective periods⁹ expired¹⁰ and they were not married¹¹ they are entitled to maintenance out of the man's estate¹² and [if he is a priest]¹³ may also eat *Terumah*.¹⁴ Therefore 'REMAINS'¹⁵ was used.¹⁶

IF HER FATHER DELIVERED HER TO THE AGENTS OF THE HUSBAND SHE PASSES UNDER THE AUTHORITY OF HER HUSBAND, etc. Rab ruled: Her delivery [is regarded as entry into the bridal chamber] in all respects¹⁷ except that of *Terumah*;¹⁸ but R. Assi ruled in respect of *Terumah* also.

R. Huna, (or as some Say, Hiyya b. Rab,) raised an objection against R. Assi: She remains¹⁵ under the authority of her father until she enters the bridal chamber.¹⁹ 'Did I not tell you', said Rab to them,²⁰ 'that you

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should not be guided by an ambiguous statement?²¹ He²² can answer you that "her delivery" is regarded as her entry into the bridal chamber'.

Samuel, however, ruled: [Her delivery has the force of entry into the bridal chamber only in respect] of her inheritance.²³ Resh Lakish ruled: [Only in respect] of her *Kethubah*.²⁴ What is meant by 'her *Kethubah*'? [If it means] that should [the woman] die he inherits it,²⁵ [then this ruling is, is it not,] the same as that of Samuel?²⁶ Rabina replied: The meaning is²⁷ that her [statutory] *Kethubah* from a second husband²⁸ is only a *Maneh*.²⁹

Both R. Johanan and R. Hanina ruled: Her delivery [is regarded as entry into the bridal chamber] in all respects. even that of *Terumah*.³⁰

An objection was raised: If the father went with the agents of the husband, or if the agents of the father went with the agents of the husband, or if she had a court-yard on the way, and she entered it with him³¹ to rest there for the night,³² her father inherits from her if she died, although her *Kethubah*³³ is already in the house of her husband. If, however, her father delivered her to her husband's agents, or if her father's agents delivered her to her husband's agents, or he³⁴ had a court-yard on the way, and she entered it with him with an intention to matrimony, her husband is her heir if she died, although her *Kethubah*³⁵ was still in her father's house.³⁵ This ruling³⁶ applies only in respect of her inheritance³⁷ but in respect of *Terumah* [the law is that] no woman is allowed to eat *Terumah* until she enters the bridal chamber.³⁸ [Does not this represent] a refutation of all?³⁹ This is indeed a refutation.

[But] is not this,⁴⁰ however, self-contradictory? You said. 'She entered it with him to rest for the night'. The reason [why such an act is not regarded as entry into the bridal chamber is] because [the entrance was

made specifically for the purpose of] resting for the night. Had it, however, been made with no specified intention [it would be deemed to have been made] with an intention to matrimony. Read, however, the final clause: 'She entered it with him with an intention to matrimony', from which it follows, does it not, that if the entrance was made with no specified intention [it would be deemed to have been made just] in order to rest there for the night? —

R. Ashi replied: Both entrances mentioned⁴¹ are such as were made with no specified intention, but any unspecified [entrance into] a court-yard of hers [is presumed to have been made] in order to rest there for the night while any unspecified [entrance into] a court-yard of his⁴² [is presumed to have been made] with an intention to matrimony.

A Tanna taught: If a father delivered [his daughter]⁴³ to the agents of her husband and she played the harlot⁴⁴ her penalty is that⁴⁵ of strangulation.⁴⁶ Whence is this ruling deduced? — R. Ammi b. Hama replied: Scripture stated,⁴⁷ To play the harlot in her father's house,⁴⁸ thus excluding one whom the father had delivered to the agents of the husband.

Might it not be suggested that this⁴⁸ excludes one who entered her bridal chamber but with whom no cohabitation had taken place?⁴⁹ — Raba replied: Ammi told me [that a woman⁵⁰ who entered her] bridal chamber was explicitly⁵¹ mentioned in Scripture: If there be a damsel that is a virgin betrothed unto a man,⁵² 'a damsel' but not a woman who is adolescent, 'a virgin' 'but not a woman with whom intercourse took place, 'betrothed' but not one married.⁵³ Now what [is meant by] 'one married'? If it be suggested: One actually married, [it can be objected that such a deduction]⁵⁴ would be practically the same as that of 'a virgin but not one with whom intercourse took place'. Consequently it must be concluded⁵⁵ [that by 'married' was meant one] who entered into the bridal

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chamber but with whom no intercourse took place.⁵⁶

1. *Var. lec.* 'to the bridal chamber' (v. Tosaf. 48a, s.v. [H]).
2. Huppah (v. [Glos.](#)); cf. Rashi, a.l. and cf. *supra* n. 10.
3. Who were sent to bring her from her father's house to that of her husband.
4. Lit., 'behold she is'.
5. To her husband's house.
6. Neither they nor her father who sent them accompanying her to the house of her husband.
7. [H], lit., 'for ever', 'always'. The omission of [H] would not in any way alter the actual ruling except the wording which would then read, 'She is under', etc. Why then was an apparently superfluous word inserted?
8. Lit., 'first'.
9. One of twelve months for a virgin and of thirty days for a widow (from the date their intended husbands claimed them) in which to prepare their marriage outfits.
10. Lit., 'the time arrived'.
11. Through their future husbands' delay or neglect.
12. Lit., 'eat of his'.
13. Though they are daughters of Israelites.
14. *Infra* 57a.
15. V. note I.
16. Sc. despite the expiry of the prescribed period a daughter **REMAINS UNDER THE AUTHORITY OF HER FATHER UNTIL**, etc. and is consequently forbidden to eat *Terumah* (cf. *supra* p. 276, n. 9).
17. Sc. the man obtains all the privileges to which a husband is entitled from the moment the bride enters the bridal chamber (e.g., the right to her handiwork, heirship).
18. The woman, if she is the daughter of an Israelite, is forbidden to eat it though the man is a priest (v. *infra* 57b).
19. And until then she is forbidden to eat *Terumah* (cf. *supra* p. 276, n. 9). How then could R. Assi maintain that *Terumah* is permitted to her?
20. His disciple R. Huna and his son Hiyya.
21. [H], lit., 'reverse'.
22. Sc. R. Assi. MS.M., T.
23. I.e., if she died on the way between her father's house and that of her husband, her dowry (given to her by her father) is inherited by her husband although he is not entitled to his other rights until her entrance into the bridal chamber.
24. This is explained anon.
25. Viz., the dowry her father gave her which forms one of the entries in her *Kethubah*.
26. V. p. 277 n. 17
27. Lit., 'to say'.
28. If her first husband died while she was on the way with his agents.
29. V. [Glos.](#) The amount prescribed for a widow. A virgin is entitled to two hundred *Zuz*.
30. Cf. *supra* p. 277, n. 12 *mutatis mutandis*.
31. Her husband.
32. With no matrimonial intention.
33. I.e., the dowry her father gave her.
34. Her husband.
35. I.e., the objects specifically assigned to her as dowry were still in her father's house.
36. That delivery to the husband's agents has the force of a marriage.
37. V. *supra* p. 277, n. 17.
38. Tosef. Keth. IV.
39. Lit., 'all of them', those (with the exception of Samuel) whose rulings differ from this *Baraitha*.
40. The *Baraitha* last mentioned.
41. In the first and second clauses.
42. Her husband.
43. Cf. *supra* p. 276, n. 7.
44. Prior to her entry into the bridal chamber.
45. Lit., 'behold this'.
46. Like that of a married woman; not stoning which is the penalty of one betrothed.
47. In prescribing the penalty of stoning.
48. Deut. XXII, 21.
49. What proof is there that one who had not even entered the bridal chamber is also excluded?
50. Prior to marriage
51. I.e., is deduced from a specific expression.
52. Deut. XXII, 23.
53. V. Sanh. 66b.
54. Betrothed but not actually married'.
55. Lit., 'but not?'
56. Since this text excluded such a case from the penalty of stoning no other text is required for the same purpose. Deut. XXII, 21, is consequently free for the deduction made by R. Ammi.

Kethuboth 49a

But might not one suggest that if she¹ returned² to her parental home she resumes her former status?³ — Raba replied: A Tanna of the school of R. Ishmael has long ago settled this difficulty. For a Tanna of the school of R. Ishmael taught: What need was there for Scripture to state, But the vow of a widow, or of her that is divorced, even everything wherewith she bath bound her soul, shall stand against her?⁴ Is she not free from the authority of her father⁵ and also

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from that of her husband?⁶ [The fact], however, is that where⁷ her father had delivered her to the agents of her husband, or where the agents of her father had delivered her to the agents of her husband and, on the way,⁸ she became a widow or was divorced⁹ [one would not know] whether she was to be described as of¹⁰ the house of her father¹¹ or as of the house of her husband;¹² hence the need for the text¹³ to tell you that as soon as she has left her father's authority,¹⁴ even if only for a short while, he may no longer annul her vows.¹⁵

Said R. Papa: We also learned [a similar ruling]:¹⁶ A man who has intercourse with a betrothed girl incurs no penalties¹⁷ unless she is a Na'arah,¹⁸ a virgin, betrothed, and in her father's house.¹⁹ Now one can well see that 'Na'arah' excludes²⁰ one who is adolescent, 'virgin' excludes²⁰ one with whom a man has had intercourse, and 'betrothed' excludes one who married [by entry into the bridal chamber].²¹ What, [however, could the expression] 'in her father's house' exclude? Obviously this:²² [The case where] her father delivered her to the agents of the husband.²³

R. Nahman b. Isaac said: We also learned [a similar ruling]:²⁴ Should one have intercourse with a 'married woman'²⁵ the latter,²⁶ provided she entered under the authority of her husband,²⁷ although no intercourse had taken place, is to be punished by strangulation.²⁸ 'She entered under the authority of her husband' [implies]²⁹ in any form whatever.³⁰ This is conclusive proof.

MISHNAH. A FATHER³¹ IS UNDER NO OBLIGATION TO MAINTAIN HIS DAUGHTER. THIS EXPOSITION³² WAS MADE BY R. ELEAZAR B. AZARIAH³³ IN THE PRESENCE OF THE SAGES IN THE VINEYARD OF JABNEH:³⁴ [SINCE IT WAS ENACTED THAT] THE SONS SHALL BE HEIRS [TO THEIR MOTHER'S KETHUBAH]³⁵ AND THE DAUGHTERS SHALL BE MAINTAINED [OUT OF THEIR FATHER'S ESTATE,³⁵ THE TWO CASES MAY BE COMPARED:] AS THE SONS CANNOT BE

HEIRS EXCEPT AFTER THE DEATH OF THEIR FATHER, SO THE DAUGHTERS CANNOT CLAIM MAINTENANCE EXCEPT AFTER THE DEATH OF THEIR FATHER.

GEMARA. [Since it has been said that] he is UNDER NO OBLIGATION TO MAINTAIN HIS DAUGHTER Only, it follows³⁶ that he is under an obligation to maintain his son, [and in the case of] his daughter also, since he is only exempt from³⁷ legal OBLIGATION he is, obviously, still subject³⁸ to a moral duty; who, [then, it may be asked, is the author] of our Mishnah? [Is it] neither R. Meir nor R. Judah nor R. Johanan b. Beroka? For it was taught: It is a moral duty³⁹ to feed one's daughters, and much more so ones sons, (since the latter are engaged in the study of the Torah);⁴⁰ so R. Meir. R. Judah ruled: It is a moral duty to feed ones sons, and much more so one's daughters, (in order [to prevent their] degradation).⁴¹ R. Johanan b. Beroka ruled: It is a legal obligation to feed one's daughters⁴² after their father's death; but during the lifetime of their father neither sons nor daughters need be⁴³ fed.⁴⁴ Now who [could be the author of] our Mishnah?

If R. Meir, he, surely, [it may be objected] ruled that [the maintenance of] sons [was only] a moral duty.⁴⁵ If R. Judah, he, surely ruled that also⁴⁶ [the maintenance of] sons [was only] a moral duty.⁴⁵ And if R. Johanan b. Beroka [should be suggested, the objection would be: Is not his opinion that] one is not even subject to⁴⁷ a moral duty?⁴⁵ — If you wish I might say [that the author is] R. Meir; If you wish I might Say: R. Judah; and if you prefer I might Say: R. Johanan b. Beroka. 'If you wish I might say [that the author is] R. Meir', and it is this that he meant:⁴⁸ A FATHER IS UNDER NO OBLIGATION TO MAINTAIN HIS DAUGHTER, and the same law applies to his son. [Maintenance], however, is a moral duty in the case of his daughter and, much more so, in the case of his sons; and the reason why⁴⁹ HIS DAUGHTER was mentioned⁵⁰ was to teach us this:

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1. Whom HER FATHER DELIVERED TO THE AGENTS OF THE HUSBAND.
2. Before she reached her husband's house.
3. Since she is again 'in her father's house' her penalty might again be changed from strangulation (the penalty for a married woman) to stoning (the penalty for one betrothed who is in her father's house, (Deut. XXII, 21). This does not exactly raise a difficulty against our Mishnah, but is an attempt merely at elucidating the law (Rashi).
4. Num. XXX, 10.
5. Since she was once married. A father's control over his daughter ceases with her marriage.
6. Being now a widow or a divorcee. Now since neither father nor husband may annul her vows it is self-evident that her vows 'stand against her'. What need then was there for the text of Num. XXX, 10.
7. Lit., 'behold'.
8. To her husband's house.
9. And so returned to her parental home.
10. Lit., 'how I read about her'.
11. Because, not having reached her husband's house, she has not passed entirely out of her father's control. Her father should consequently be entitled to annul her vows.
12. Who is now dead or divorced. Her vows consequently, like those of any other widow or divorcee, could no longer be annulled.
13. Lit., 'but'.
14. As, for instance, where she was delivered to the husband's agents.
15. Yeb. 87a. As in respect of vows the woman is no longer regarded as being 'in her father's house' so also in respect of her penalties.
16. Sc. a Mishnah which supports the ruling of the Baraita *supra* 48b: 'If a father delivered... her penalty is that of strangulation'.
17. Sc. the penalties prescribed in Deut. XXII, 24ff.
18. V. [Glos.](#)
19. Sanh. 66b.
20. Lit., 'and not'.
21. Before intercourse Lad taken Place (cf. *supra* 48b 3d fit.).
22. Lit., 'not, to exclude?'
23. Cf. *supra* p. 280, notes 4 and 16.
24. V. *supra* p. note 1.
25. Lit., 'the wife of a man'.
26. Sc. the woman. So according to MS.M. (v. *infra* n. 13).
27. So MS.M. Cur. edd. insert 'for marriage'.
28. So MS.M., [H] Cur. edd. [H].
29. Since even 'bridal chamber' was not mentioned.
30. Lit., 'in the world'; even mere delivery to the husband's agents.
31. During his lifetime. V. *infra*.
32. On the formula of the *Kethubah*.
33. On the day when he was appointed president of the College (Rashi, cf. Ber. 27b).
34. Or Jammia. The [H] was either the name of the school, so called because the students 'sat in rows' like 'vines in a vineyard' (Rashi), or an actual vineyard in which the scholars met (Krauss). The school of Jabneh was established by R. Johanan b. Zakkai during the siege of Jerusalem by Vespasian. Cf. B.B. (Sonc. ed.) p. 549, n. 4.
35. A formula to that effect must be entered in a *Kethubah*, v. Mishnah *infra* 52b.
36. As DAUGHTER only was mentioned.
37. Lit., 'there is not'.
38. Lit., 'there is'.
39. Though after a certain age there is no legal obligation.
40. The bracketed words are the Talmudic comment on this teaching. (V. Rashb. s.v. [H] B.B. 141a).
41. In their search for a livelihood, cf. n. 6.
42. In accordance with the terms of their mother's *Kethubah*.
43. Lit., 'these and these are not'
44. Cf. Tosef. Keth. IV and BB. 141a.
45. While our Mishnah implies a legal obligation.
46. [H]. This may be omitted with MS.M.
47. Lit., 'there is not'.
48. In his statement in our Mishnah.
49. Lit., 'and that'.
50. And not 'son'. Cf. *supra* p. 282, n. 2 and text.

Kethuboth 49b

That even in the case of his daughter¹ he is only exempt from a legal obligation but is nevertheless subject to a moral duty.² 'If you wish I might say: R. Judah'; and it is this that he meant: A FATHER is UNDER NO OBLIGATION TO MAINTAIN HIS DAUGHTER, and much more so³ his son.⁴ It is, however, a moral duty [to maintain] one's son and, much more so, ones daughters; and the only reason why HIS DAUGHTER was mentioned Was to teach us this: That even [the maintenance of] one's daughter is no⁵ legal obligation. 'And if you prefer I might say: R. Johanan b. Beroka', and what Was meant is this: HE IS UNDER NO OBLIGATION TO MAINTAIN HIS DAUGHTER, and the same law applies to his son; and this, furthermore, means⁶ that [such maintenance] is not even⁵ a moral duty; only because [the maintenance of daughters] after

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their father's death is a legal obligation, the expression, **HE IS UNDER NO OBLIGATION**, was used here also.⁷

R. Elai stated in the name of Resh Lakish who had it from R. Judah⁸ b. Hanina: At Usha⁹ it was ordained that a man must maintain his sons and daughters while they are young.¹⁰ The question was raised: Is the law in agreement with his statement or not? — Come and hear: When people came before Rab Judah,¹¹ he used to tell them, 'A Yarod¹² bears progeny and¹³ throws them upon [the tender mercies of] the townspeople'.¹⁴

When people came before R. Hisda,¹⁰ he used to tell them, 'Turn a mortar¹⁵ for him upside down,¹⁶ in public and let one¹⁷ stand [on it] and say: The raven cares¹⁸ for its young but that man¹⁹ does not care for his children'.²⁰ But does a raven care¹⁸ for its young? Is it not written in Scripture,²¹ To the young ravens which cry?²² — This is no difficulty. The latter²³ applies to white ravens²⁴ and the former²⁵ to black ones.²⁶

When a man²⁷ came before Raba he used to tell him, 'Will it please you that your children should be maintained from the charity funds?'²⁸

This ruling,²⁹ however, has been laid down only for one who is not a wealthy man, but if the man is wealthy he may be compelled³⁰ even against his wish; as was the case with³¹ Raba who used compulsion against R. Nathan b. Ammi³² and extracted from him four hundred Zuz³³ for charity.³⁴

R. Elai stated in the name of Resh Lakish: It was enacted at Usha³⁵ that if a man assigned all his estate to his sons in writing, he and his wife³⁶ may nevertheless³⁷ be maintained out of it. R. Zera, or as some say, R. Samuel b. Nahmani, demurred: Since the Rabbis went so far as to rule³⁸ that [in the case that follows] a widow is maintained out of her husband's estate, was there any necessity [to state that such maintenance is allowed to] the man himself and his wife? For Rabin had

sent in his letter:³⁹ If a man died and left a widow and a daughter, his widow is to receive her maintenance from his estate?⁴⁰ If the daughter married,⁴¹ his widow is still to receive her maintenance from his estate. If the daughter died?⁴²

Rab⁴³ Judah the son of the sister of R. Jose b. Hanina said: I had such a case, and it was decided⁴⁴ that his widow was to receive her maintenance from his estate.⁴⁵ [In view of this ruling we ask: Was it] necessary [to give a similar ruling⁴⁶ in respect of] the man himself⁴⁷ and his wife? — It might have been assumed [that the law applies only] there,⁴⁸ because there is no one else to provide for her,⁴⁹ but here [it might well be argued:] Let him provide for himself and for her;⁵⁰ hence we were taught [that here also the same ruling applies].

The question was raised: Is the law in agreement with his view⁵¹ or not? — Come and hear: R. Hanina and R. Jonathan were once standing together when a man approached them and bending down kissed R. Jonathan upon his foot. 'What [is the meaning of] this?' said R. Hanina to him.⁵² 'This man', the other⁵² replied, 'assigned his estate to his sons in writing

1. Who is not engaged in the study of the Torah.
2. Had 'son' been mentioned instead of DAUGHTER it might have been assumed that the maintenance of a daughter is not even a moral duty.
3. MS.M., 'and the same law applies to'.
4. Since it is easier for a man to earn his livelihood.
5. Lit., 'there is not'.
6. Lit., 'and that is the law'.
7. In fact, however, there is neither legal obligation nor moral duty.
8. Variant, 'R. Jose' (Alfasi and Rosh).
9. Usha was a town in Galilee, in the vicinity of Sepphoris and Shefar'am, where the Sanhedrin met after it left Jabneh (Jamnia). It was also the place where, after the wars of Bar Cochba, on the cessation of the religious persecutions which characterized the Hadrianic reign in the middle of the second century, an important Rabbinical synod was held. Cf. B.B. (Sonc. ed.) p. 139, n. 1; p. 141, n.

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- 4 and p. 207, n. 3. [On the Synod of Usha v. J.E, XI, 645ff.].
10. Lit., 'small', under age of puberty (Rashi).
 11. With the case of a father who refused to maintain his young children.
 12. [H] (Heb. [H]) 'A bird of solitary habits' (Jast.); 'dragon' or 'jackal' (Rashi). Cf. the rendering of [H] in Jer. IX, 10 by A.V. and R.V. respectively.
 13. Neglecting them.
 14. From which observation it follows that a judge can only censure a heartless father but has no power to compel him to provide for the maintenance of his children.
 15. [H] v. Krauss, TA, I, 447.
 16. An improvised platform.
 17. [H], 'him', sc. the father.
 18. Lit., 'asks'.
 19. [H], sc. the father. According to the second interpretation, (*supra* note 8) the expression, as elsewhere, may refer to the speaker himself.
 20. V. *supra* note 5,
 21. Ps. CXLVII, 9.
 22. Presumably for food; which shows that the parent neglects them.
 23. Lit., 'that', the text implying neglect of the young ravens.
 24. Sc. very young ones. These are disliked by their parents (Rashi).
 25. Rab Judah's statement that ravens do care for their young.
 26. Older birds. For such the parents do care.
 27. Who refused to maintain his young children.
 28. V. *supra* note 5.
 29. That a father cannot legally be compelled to maintain his children.
 30. To maintain his children.
 31. Lit., 'like that of'.
 32. Who was a wealthy man.
 33. V. [Glos.](#)
 34. How much more then may compulsion be used against a wealthy father who refuses to provide for his own children.
 35. Cf. *supra* p. 183, n. 12.
 36. Though the sons are now the legal owners of the estate.
 37. By virtue of the enactment of Usha.
 38. Lit., 'greater than this did they say'.
 39. From Palestine to Babylon.
 40. In accordance with his undertakings in her *Kethubah*.
 41. And the estate was transferred into her husband's ownership.
 42. And her possessions were inherited by her husband who is her heir.
 43. So in the parallel passage. B.B. 193a. Cur. edd 'Rabbi'.
 44. Lit., 'they said'.
 45. B.B. 193a.

46. That despite the assignment, maintenance may be drawn from the estate.
47. Who made the assignment.
48. The case of the widow spoken of in Rabin's letter.
49. Lit., 'who may take the trouble'. Her husband being dead she would have been helpless without the allowance for her maintenance.
50. And consequently should not be allowed to draw upon the estate he assigned to his sons.
51. That of R. Elai.
52. R. Jonathan.

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and I compelled them to maintain him'. Now if it be conceded that this¹ was not [in accordance with the strict] law one can well understand why he had to compel them,² but if it be contended that this³ is the law, would it have been necessary for him [it may be objected] to compel them?⁴

R. Elai stated: It was ordained at Usha⁵ that if a man wishes to spend liberally⁶ he should not spend more than a fifth.⁷ So it was also taught: If a man desires to spend liberally⁶ he should not spend more than a fifth,⁷ [since by spending more] he might himself come to be in need [of the help] of people.⁸ It once happened that a man wished to spend⁶ more than a fifth⁷ but his friend did not allow him. Who was it?⁹ — R. Yeshebab. Others say [that the man who wished to spend was] R. Yeshebab, but his friend did not allow him. And who was it?⁹ R. Akiba. R. Nahman, or as some say, R. Aha b. Jacob, said: What [is the proof from] Scripture?¹⁰ — And of all that Thou shalt give me I will surely give the tenth¹¹ into thee.¹²

But the second tenth,¹³ surely, is not like the first one? — R. Ashi replied: I will ... give a tenth of it¹⁴ [implies 'I will make] the second like the first'.

Said R. Shimi b. Ashi: [The number of those who report] these traditions¹⁵ steadily diminishes,¹⁶ and your mnemonic¹⁷ is 'The young¹⁸ assigned in writing¹⁹ and spend liberally'.²⁰

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R. Isaac stated: It was ordained at Usha²¹ that a man must bear²² with his son until [he is] twelve years [of age]. From that age²³ onwards he may threaten²⁴ his life.²⁵ But could this be correct?²⁶ Did not Rab, in fact, say to R. Samuel b. Shilath,²⁷ 'Do not accept [a pupil] under the age of six; a pupil of the age of six you shall accept and stuff him like an ox'?²⁸ — Yes, 'stuff him like an ox', but he may not 'threaten him'²⁴ until after [he has reached the age of] twelve years. And if you prefer I may say: This²⁹ is no difficulty, since one may have referred³⁰ to Scripture³¹ and the other to Mishnah; for Abaye stated: Nurse³² told me that a child of six [is ripe] for Scripture; one of ten, for Mishnah; one of thirteen,³³ for a full twenty-four hours³⁴ fast,³⁵ and, in the case of a girl,³⁶ [one who is of] the age of twelve.³⁷

Abaye stated, Nurse³² told me: A child of the age of six whom a scorpion has bitten on the day on which he has completed his sixth year does not survive [as a rule].³⁸ What is his remedy? — The gall of a white stork³⁹ in beer. This should be rubbed into the wound [and the patient] be made to drink it. A child of the age of one year whom a bee has stung on the day he has completed his first year does not survive [as a rule].³⁸ What is his remedy? — The creepers of a palm-tree in water. This should be rubbed in and [the patient] be made to drink it.

Said R. Kattina: Whosoever brings his son [to school] under the age of six will run after him but never overtake him.⁴⁰ Others say: His fellows will run after him but will never overtake him.⁴¹ Both statements, however, are correct:⁴² He is feeble but learned. If you prefer I might say: The former⁴³ applies to one⁴⁴ who is emaciated; the latter, to one⁴⁴ who is in good health.

R. Jose b. Hanina stated:⁴⁵ At Usha⁴⁶ it was ordained that if a woman had sold usufruct property⁴⁷ during the lifetime of her husband and then died, the husband⁴⁸ may seize it from the buyers.⁴⁹

R. Isaac b. Joseph found R. Abbahu standing among a crowd of people.⁵⁰ 'Who', he said to him, 'is the author of the traditions of Usha?' — 'R. Jose b. Hanina', the other informed him. He learned this from him forty times and then it appeared to him as if he had it safely in his bag.⁵¹

Happy are they that keep justice, that do righteousness at all times.⁵² Is it possible to do righteousness at all times? — This, explained our Rabbis of Jabneh⁵³ (or, as others say, R. Eliezer), refers to a man who maintains his sons and daughters⁵⁴ while they are young.⁵⁵ R. Samuel b. Nahmani said: This⁵² refers to a man who brings up an orphan boy or orphan girl in his house and enables them to marry.

Wealth and riches are in his house; and his merit endureth for ever.⁵⁶ R. Huna and R. Hisda [expounded the text in different ways]. One said: It applies to a man who studies the Torah⁵⁷ and teaches it to others;⁵⁸ and the other said: It applies to a man who writes the Pentateuch, the Prophets and the Hagiographa and lends them to others.⁵⁹ And see thy children's children,' peace be upon Israel.⁶⁰ R. Joshua b. Levy said: As soon as your children have children there will be peace upon Israel; for they will not be subject to *Halizah*⁶¹ or levirate marriage.⁶² R. Samuel b. Nahmani said: As soon as your children have children⁶³ there will be peace for the judges of Israel, for [doubtful claimants] will not come to quarrels.⁶⁴

THIS EXPOSITION WAS MADE BY R. ELEAZAR B. AZARIAH⁶⁵ IN THE PRESENCE OF THE SAGES, etc.

1. Maintenance of their father by sons to whom he had assigned his estate.
2. He compelled them to obey the enactment of Usha though they pleaded adherence to the strict law'.
3. V *supra* note 2.
4. Naturally not, Since the sons would have had no ground whatsoever on which to base their refusal.
5. V. *Supra* p. 283, n. 12.
6. In charity.

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7. Of his wealth. (The reason is given anon. Cf. *infra* 76b, 'Ar. 282).
8. Lit., 'creatures'.
9. His friend.
10. That no more than a fifth may be spent on charity.
11. [H] שוועער (Infinitive and Imperfect), the repetition of the verb [H] ('to give a tenth') implies two tenths or one fifth.
12. Gen. XXVIII, 22.
13. Which, being taken from the nine tenths that remained after the first tenth had been given away. represents only $(1/10 \times 9/10 =) 9/100$ of the original capital.
14. [H], So lit. imperfect with suffix of 3rd sing. instead of the imperfect [H].
15. The enactments of Usha reported *supra* by R Elai.
16. The first enactment was reported by three Amoraim: R Elai, Resh Lakish and R. Judah (or Jose) b. Hanina (*supra* 40b), the second only by two: R. Elai and Resh Lakish (*supra* l.c.) while the third was reported by R Elai alone.
17. An aid to the recollection of the order in which they were cited and thereby the order of the diminutions.
18. 'A man shall maintain ... while they are young' (*supra* 49b).
19. 'If a man assigned ... in writing' (*supra* l.c.).
20. 'If a man wishes to spend liberally' (the last cited enactment).
21. V. *Supra* p. 183, n. 12.
22. Lit., 'roll', i.e., have patience with him, and employ gentle means to induce him to study.
23. Lit., 'from here'.
24. Lit., 'go down with him into'.
25. Sc. he may adopt drastic measures if his son is neglectful or indifferent.
26. Lit., 'I am not (in agreement)'.
27. A teacher of young children (v. B.B. 8b).
28. B.B. 21a. This seems to show that the age of compulsion is six, contrary to R. Isaac's tradition which puts it at twelve.
29. Cf. *supra* n. 14.
30. Lit., 'that'.
31. Which a child should begin studying at the age of six.
32. His mother died while he was an infant, and his upbringing was entrusted to a nurse from whom he learned many proverbs and maxims, legends and folklore; v. Kid. 31b.
33. [H]. V. n. 23.
34. [H], lit., 'from time to time', from a certain hour of one day to the same hour on the following day.
35. The fast of the Day of Atonement and that of the Ninth of Ab last for a full twenty-four hours, beginning near sunset and terminating at nightfall on the following day.
36. Who matures earlier.
37. Sc. twelve years and one day (Tosaf s.v. [H], a.l., contrary to Rashi who interprets 'twelve' as 'twelfth', viz., from the age of eleven years and a day). [The text is uncertain. MS.M. and Asheri read 'and one of twelve ([H]) for a full twenty four hours' fast and in the case of a little girl'. This may mean; (a) 'and that applies to a little girl', whereas in the case of a boy the age for a full fast begins at thirteen, or (b) 'and the same law applies to a girl'; v. Isaiah Trani. Tosaf. seems to have had a still shorter text with no reference to a boy; v. Tosaf. s.v. [H]].
38. Unless the appropriate remedy is applied (Rashi). Cf., however, Tosaf. s.v. [H] a.l.
39. [H]. The 'white dayyah' is the Talmudic interpretation of [H] (Lev. XI, 19), E.V. stork (cf. Hul. 63a).
40. Sc. all his efforts to restore his child to normal health will be of no avail. His health remains irrevocably ruined.
41. He will always surpass them in knowledge and attainments.
42. Lit., 'they are'.
43. V. *supra* n. 3.
44. Lit., 'that'.
45. *Infra* 78b, B.K. 88b, B.M. 35a, 96b, B.B. 50a. 139b.
46. V. *supra* p. 183, n. 12.
47. *Melog* (v. Glos).
48. Who has the legal status of a buyer.
49. Since he is in the position of the earliest purchaser.
50. [H], so MS.M. Cur. edd. [H] 'of Usha'. *Var. lec.* [H] 'engaged in teaching the laws passed at Usha' (Jast.).
51. Sc. would never forget it.
52. Ps. CVI, 3.
53. V. *supra* p. 181, n. 19.
54. This is a charitable act, since legally they have no claim upon him for maintenance.
55. Children being 'at all times' dependent on their father, the text cited may well be applied to such a man. [H] 'righteousness' may also signify 'charity'.
56. Ps. CXII, 3.
57. Which is compared to 'wealth and riches'.
58. His Torah is not thereby diminished so that 'wealth and riches' (v. *supra* note 7) 'are in his house', and 'his merit' for teaching other people 'endureth for ever'.
59. Cf. *supra* notes 7 and 8 *mutatis mutandis*. The scrolls remain his, while his 'merit endureth for ever' for enabling others to study.
60. Ps. CXXVIII, 6.
61. V. [Glos.](#)
62. Which are frequently the cause of quarrels.
63. Sc. legal heirs.
64. On the disposal of the estate of the deceased.

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65. So MS.M. and our Mishnah *supra* 493. Cur. edd. omit 'b. Azariah' from the quotation.

Kethuboth 50b

R. Joseph sat before R. Hamnuna while R. Hamnuna was sitting and discoursing: As sons may obtain their inheritance only from landed property so may one's daughters obtain their maintenance only from landed property. All shouted at him: 'Is it only from a man who leaves land that sons inherit while from him who leaves no land his sons do not inherit?'¹ Said R. Joseph to him:² Might not the Master have been speaking of the *Kethubah* [that is due to] male children?³ The other² replied: The Master who is a great man understood precisely what I meant.⁴

R. Hiyya b. Joseph stated: Rab allowed maintenance [to daughters]⁵ from wheat⁶ of 'Aliyyah.⁷

The question was raised: Was [Rab's allowance made for] a marriage outfit,⁸ and by 'Aliyyah is meant,⁹ 'in accordance with her father's generans¹⁰ disposition', [his ruling being] in agreement with that of Samuel who laid down that in respect of marriage outfit the assessment¹¹ is determined by [the disposition of] the father;¹² or was it rather for actual maintenance,¹³ and by 'Aliyyah was meant⁹ 'in accordance with the chivalrous¹⁴ enactments made¹⁵ in an upper chamber',¹⁶ for R. Isaac b. Joseph stated: In an upper chamber it was enacted that daughters shall be maintained even out of movable property?¹⁷ —

Come and hear: R. Benai the brother of R. Hiyya b. Abba had in his possession orphans' movable property, and when [he and the daughters of the deceased] came before Samuel, the latter said to him, 'Go and provide maintenance [for them]'. Does not [maintenance refer] to actual maintenance, he being of the same opinion as R. Isaac b. Joseph?¹⁸ — No; there¹⁹ [the claim] was in respect of marriage outfit, and Samuel

[acted] in accordance with his own view, since he laid down that in respect of marriage outfit the assessment²⁰ is determined by [the disposition of] the father.²¹

[Such] a case²² occurred at Nehardea,²³ and the Nehardean judges issued an order²⁴ [in favor of the daughters]. At Pumbeditha also²⁵ R. Hana b. Bizna allowed [daughters] to collect [for their maintenance].²⁶ R. Nahman, however, said to them: Proceed to withdraw [your orders], otherwise²⁷ I shall order the seizure of your mansions.

R. Ammi and R. Assi intended to allow maintenance²⁸ out of movable property.²⁹ Said R. Jacob b. Idi to them: In a matter concerning which R. Johanan and Resh Lakish hesitated to act³⁰ would you [venture to] act?

R. Eleazar intended to allow maintenance²⁸ out of movable property.²⁹ Said R. Simeon b. Eliakim to him: 'Master, I know that in your decision³¹ you are not acting on the line³² of justice but on the line of mercy, but [the possibility ought to be considered that] the students might observe this ruling and fix it as an *Halachah* for future generations'.

A similar case³³ was once submitted to³⁴ R. Joseph. 'Give her', he ordered, 'of the dates that [are spread] on the reed-mat'.³⁵ Said Abaye to him, 'Even if she were a creditor³⁶ would the Master have allowed her [a privilege] of such a nature?'³⁷ — 'What I mean is', the other said to him, '[dates] that are suitable³⁸ for [spreading on] the reed-mat'.³⁹

1. Certainly not. The Torah did not restrict the laws of inheritance to landed estates only.
2. R. Hamnuna.
3. If their mother pre-deceased their father they are entitled to recover her *Kethubah* from his estate over and above the shares to which they like the other sons are entitled.
4. The comparison made between the maintenance of daughters and the inheritance of sons was not, as the others who shouted assumed, the ordinary inheritance of sons, which is a Pentateuchal right, but their

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inheritance of their mother's *Kethubah* (v. *supra* n. 3) which, like the maintenance of daughters, is merely a Rabbinical obligation undertaken by their father in accordance with the terms of the *Kethubah* which he gave to their mother. Cf. *infra* 52b, and 91b.

5. In the absence of real estate.
6. Sc. movable property.
7. [H]. The noun [H] may signify either 'upper chamber' or 'best' 'generous'. The meaning is discussed anon.
8. Which is levied from movables also.
9. Lit., 'and what 'Aliyyah?'
10. Cf. *supra* n. 7.
11. For a daughter, out of her deceased father's estate.
12. *Infra* 68a. A bigger allowance if he was known to be generous, and a smaller one if he was known to be niggardly.
13. Which, forming one of the terms of the *Kethubah*, may legally be recovered like the statutory *Kethubah* itself, from landed property only.
14. Lit., 'good'.
15. In favor of daughters.
16. Cf. 'the upper chamber of Hananiah b. Hezekiah' (Shab. 13b) and v. *supra*
17. [Despite the fact that the lien clause in the Mishnah on which they base their claims to maintenance did not include movables, v. *infra* 56b].
18. Who testified *supra* to the enactment made in favor of daughters.
19. In the case dealt with by Samuel.
20. V. p. 290, n. 11.
21. V. p. 290, n. 12.
22. In which daughters claimed maintenance from their deceased father's movable property.
23. V. *supra* p. 222, n. 8.
24. Lit., 'judged'.
25. Where a similar case (v. *supra* n. 6) occurred.
26. From the movable property of their deceased father.
27. Lit., 'and if not'.
28. Of daughters.
29. V. *supra* n. 10.
30. Lit., 'did not do a deed'.
31. Lit., 'in you'.
32. Lit., 'measure'.
33. Of a daughter who claimed maintenance out of her deceased father's estate.
34. Lit., 'that (case) which came before'.
35. To dry; sc. movable property.
36. Who is entitled to distraint upon sold property, a right to which a daughter is not entitled.
37. The seizure of movable assets. The answer being in the negative, the question arises: How could R. Joseph allow a daughter the privilege to which even a creditor is not entitled?

38. I. e., ripe.

39. But are still attached to the tree. Attached fruit has the status of landed property.

Kethuboth 51a

'After all, however, [it may be objected] is not all that is ripe¹ for cutting² regarded as already cut?'³ — 'I mean [dates] that are still dependent⁴ on the palm-tree'.⁵

A boy orphan and girl orphan⁶ once came before Raba.⁷ 'Grant a bigger [maintenance allowance] to the boy', said Raba, 'for the sake of the girl'.⁸ Said the Rabbis to Raba: Did not the Master himself lay down [that payment may be exacted] from landed property but not from movable property whether in respect of [a daughter's] maintenance, [a wife's] *Kethubah* or [a daughter's] marriage outfit?⁹ — He answered them: Had he desired to have a handmaid to attend on him would we not have granted him [an Increased allowance for the purpose]?¹⁰ How much more then [should the allowance be increased] here¹¹ where it serves¹² two [purposes].¹³

Our Rabbis taught: Both landed property¹⁴ and movable property may be seized¹⁵ for the maintenance of a wife¹⁶ or daughters;¹⁶ so Rabbi.¹⁷ R. Simeon b. Eleazar ruled: Landed property may be seized for daughters¹⁸ from sons, for daughters from daughters,¹⁹ and for sons from Sons;¹⁹ for sons from daughters where the estate is large²⁰ but not where it is small.²¹ Movable property²² may be seized for sons from sons,²³ for daughters from daughters²³ and for sons from daughters, but not for daughters from sons.²⁴ Although we have an established rule that the *Halachah* is in agreement with Rabbi [where he differs] from his colleague, the *Halachah* here is in agreement with R. Simeon b. Eleazar; for Raba stated: The law is [that payment may be exacted] from landed property but not from movable property whether in respect of a *Kethubah*, maintenance or marriage outfit.²⁵

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MISHNAH. [IF A HUSBAND] DID NOT WRITE A *KETHUBAH* FOR HIS WIFE²⁶ SHE MAY RECOVER TWO HUNDRED *ZUZ*²⁷ [IF AT MARRIAGE SHE WAS] A VIRGIN, AND ONE *MANEH*²⁷ [IF SHE WAS THEN] A WIDOW, BECAUSE [THE STATUTORY *KETHUBAH*] IS A CONDITION LAID DOWN BY *BETH DIN*. IF HE ASSIGNED TO HER IN WRITING A FIELD THAT WAS WORTH ONE *MANEH* INSTEAD OF THE TWO HUNDRED *ZUZ*,²⁸ AND DID NOT WRITE IN HER FAVOR,²⁶ 'ALL PROPERTY THAT I POSSESS IS SURETY FOR YOUR *KETHUBAH*',²⁹ HE IS NEVERTHELESS LIABLE [FOR THE FULL AMOUNT]³⁰ BECAUSE [THE CLAUSE MENTIONED] IS A CONDITION LAID DOWN BY *BETH DIN*. IF HE DID NOT WRITE IN HER FAVOR³¹ [THE CLAUSE], IF YOU ARE TAKEN CAPTIVE I WILL RANSOM YOU AND TAKE YOU AGAIN AS MY WIFE,²⁹ OR, IN THE CASE OF A PRIEST'S WIFE,³² '29 WILL RESTORE YOU TO YOUR PARENTAL HOME',³³ HE IS NEVERTHELESS LIABLE [TO CARRY OUT THESE OBLIGATIONS], BECAUSE [THE CLAUSE] IS A CONDITION LAID DOWN BY *BETH DIN*. IF SHE IS TAKEN CAPTIVE IT IS HIS DUTY TO RANSOM HER; AND IF HE SAID, 'HERE³⁴ IS HER LETTER OF DIVORCE AND HER *KETHUBAH* LET HER RANSOM HERSELF', HE IS NOT ALLOWED [TO ACT ACCORDINGLY].³⁵ IF SHE SUSTAINED AN INJURY IT IS HIS DUTY TO PROVIDE FOR HER MEDICAL TREATMENT,³⁶ BUT IF HE SAID, HERE³⁴ IS HER LETTER OF DIVORCE AND HER *KETHUBAH*, LET HER HEAL HERSELF', HE IS ALLOWED [TO ACT IN ACCORDANCE WITH HIS DESIRE].

GEMARA. Whose [view is represented in our Mishnah]? It is [obviously that of] R. Meir who ruled [that the intercourse of] any man who undertakes to give a virgin less than two hundred *Zuz*³⁷ or a widow less than 'a *Maneh*³⁷ is³⁸ an act of prostitution;³⁹ for if [it be suggested that it is the view of] R. Judah, he surely, [it can be objected] ruled, [that if a husband] wished he may write out for a virgin⁴⁰ a deed for two hundred *Zuz* and she writes [a quittance]⁴¹ 'I have received from you a *Maneh*,' and for a widow [he may write

out a deed for] a *Maneh* and she writes [a quittance], 'I received from you fifty *Zuz*'.⁴² Read, however, the final clause: IF HE ASSIGNED TO HER IN WRITING A FIELD THAT WAS WORTH ONE *MANEH* INSTEAD OF THE TWO HUNDRED *ZUZ*, AND DID NOT WRITE IN HER FAVOR, ALL PROPERTY THAT I POSSESS⁴³ IS SURETY FOR YOUR *KETHUBAH*' HE IS NEVERTHELESS LIABLE [FOR THE FULL AMOUNT], BECAUSE [THE CLAUSE MENTIONED] IS A CONDITION LAID DOWN BY *BETH DIN*. Does not this obviously represent the view⁴⁴ of R. Judah who laid down that [the omission from a bond of the clause] pledging property⁴⁵ [is regarded as] the scribe's error?⁴⁶ for if [It be suggested that it represents the view of] R. Meir, he, surely, [it can be objected] ruled that [the omission of the clause] pledging property is not [regarded as] the scribe's error. For we have learned: If a man found notes of indebtedness

1. Lit., 'that stands'.
2. [H], so MS.M., Aruk, Tosaf. B.B. 42b (s.v. [H]). Cur. edd., [H] 'to shear', is also the reading of Tosaf. a.l. (s.v. [H]).
3. [H]. This is the reading of the authorities who adopt [H] (cf. *supra* n. 9). The others read [H].
4. Lit., 'require'.
5. Not being sufficiently ripe they are deemed to be part of the tree (cf. *supra* note 7).
6. Brother and sister whose deceased father's movable property had been entrusted to a guardian.
7. Claiming an allowance out of their father's estate.
8. Sc. an allowance that shall suffice for the two.
9. *Infra* 69b; how then did Raba allow the exaction of maintenance out of movable assets (v. *supra* n. 13)?
10. As heir the boy is entitled to have all his needs supplied from the estate.
11. Where the sister attends on her brother.
12. Lit., 'there is'.
13. Attendance and maintenance.
14. Lit., 'property which has surety', sc. to which a claimant may resort in case of non-payment by the defendant.
15. From orphans.
16. Of their deceased father.
17. *Infra* 68b.
18. For their maintenance or marriage outfit.

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19. Sc. the younger are given equal shares with the elder though the latter had taken earlier possession of their father's estate.
20. V. next note.
21. I. e., if it does not suffice for the maintenance of the sons and the daughters until they reach adolescence (Rashi. Cf. B.B. 139b). In such a case the estate belongs to the daughters while the sons may go begging (B.B. *loc. cit.*).
22. Cf. *supra* n. 1 *mutatis mutandis*.
23. V. *supra* note 6.
24. Movable assets of the deceased in the possession of his sons are regarded, as far as his daughters are concerned, as non-existent.
25. *Supra* p. 292 and *infra* 69b.
26. Lit., 'for her'.
27. V. [Glos.](#)
28. The statutory amount of a virgin's *Kethubah*.
29. This is one of the statutory clauses that a *Kethubah* must contain.
30. V. p. 293. n. 15.
31. Lit., 'for her'.
32. With whom her husband (the priest) may not live again after she had been a captive and in whose favor the clause 'and take you again as wife' cannot be written.
33. Lit., 'country', 'district'.
34. Lit., 'behold'.
35. Since the obligation to ransom her is incurred as soon as she is taken captive.
36. Lit., 'to heal her'.
37. V. [Glos.](#)
38. Lit., 'behold this'.
39. *Infra* 54b.
40. As her *Kethubah*.
41. Though she has received nothing.
42. *Infra* 54b. Now since our Mishnah insists on the payment of the full amount of the *Kethubah*, presumably even if the woman had surrendered her claim (corresponding to a quittance), it can only represent the view of R. Meir who disallows such a surrender and not that of R. Judah who allows it.
43. This is assumed to include even property which he disposed of subsequent to the writing of the *Kethubah*.
44. Lit., 'it comes'.
45. E.g. that of the debtor to the creditor.
46. And not as the considered consent of the creditor. Despite its error the pledging clause is deemed to have been entered.

Kethuboth 51b

he must not restore them¹ if they contain a clause pledging property, because the court would exact payment from such property,² but if they do not contain the clause pledging

property, he must return them, because the court will not exact payment from the property;³ so R. Meir. The Sages,⁴ however, ruled: In either case he must not return them, because the court will exact payment from the property⁵ [in any case].⁶ Would then the first clause [represent the view of] R. Meir and the final clause that of R. Judah? And should you suggest that both clauses⁷ [represent the view of] R. Meir and that he draws a distinction between a *Kethubah* and notes of indebtedness,⁸ [it could be retorted] does he, indeed, draw such a distinction?

Has it not been taught: For five [classes of claims] may distraint be made only on free assets;⁹ they are as follows. [A claim for] produce,¹⁰ for amelioration showing profits,¹¹ for an undertaking¹² to maintain the wife's son or the wife's daughter, for a note of indebtedness wherein no lien on property had been entered, and for a woman's *Kethubah* from which the clause pledging security was omitted.¹³ Now what authority have you heard laying down that [the omission from a deed of a record of] a lien on property is not regarded as the scribe's error?¹⁴ [Obviously it is] R. Meir;¹⁵ and yet it was stated, was it not, 'a woman's *Kethubah*'?¹⁶ — If you wish, I might reply: [Our Mishnah represents the view of] R. Meir; and if you prefer I might reply: [It represents the View of] R. Judah. 'If you prefer I might reply: [It represents the view of] R. Judah', for there¹⁷ she specifically wrote in the man's favor¹⁸ [in a quittance]: 'I received'¹⁹ but here²⁰ she did not write in his favor,¹⁸ 'I received'.²¹ 'If you wish I might reply: [Our Mishnah represents the view of] R. Meir', for by the expression²² 'HE IS NEVERTHELESS LIABLE' [was meant liability to pay] out of his free assets.²³

IF HE DID NOT WRITE IN HER FAVOR, etc. Samuel's father ruled: The wife of an Israelite who had been outraged is forbidden to her husband, since it may be apprehended that the act begun²⁴ under compulsion may have terminated²⁵ with her consent.²⁶

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Rab raised an objection against Samuel's father: [Have we not learned,] IF YOU ARE TAKEN CAPTIVE I WILL RANSOM YOU AND TAKE YOU AGAIN AS MY WIFE?²⁷ The other remained silent. Rab thereupon applied to Samuel's father the Scriptural text, The princes refrained talking and laid their hand on their mouth.²⁸ What, however, could he have replied?²⁹ — [That the law]³⁰ was relaxed in the case of a captive.³¹

According to Samuel's father's ruling how is it possible to conceive a case of outrage which the All-Merciful deemed to be genuine?³² — Where, for instance, witnesses testified that she cried from the commencement to the end.

[This ruling],³³ however, differs from that of Raba; for Raba laid down: Any woman, the outrage against whom began³⁴ under compulsion, though it terminated with her consent, and even if she said, 'Leave him alone', and that if he had not made the attack upon her she would have hired him to do it, is permitted [to her husband]. What is the reason? — He plunged³⁵ her into an uncontrollable passion.³⁶

It was taught in agreement with Raba: And she be not seized³⁷ [only then]³⁸ is she forbidden,³⁹ [from which it follows] that if she was seized⁴⁰ she is permitted.³⁹ But there is another class of woman who is permitted³⁹ even if she was not seized.⁴¹ And who is that? Any woman who began⁴² under compulsion and ended⁴³ with her consent.

Another Baraitha taught: 'And she be not seized' [only then] is she forbidden⁴⁴ [from which it follows] that if she was seized⁴⁵ she is permitted.⁴⁴ But there is another class of woman who is forbidden⁴⁴ even though she was seized. And who is that? The wife of a priest.⁴⁶

Rab Judah stated in the name of Samuel who had it from R. Ishmael: 'And she be not seized', [then only]⁴⁷ is she forbidden,⁴⁴ but if she was seized she is permitted. There is, however, another class of woman who is

permitted even if she was not seized. And who is that? A woman whose betrothal was a mistaken one,⁴⁸ and who may, even if her son sits riding on her shoulder, make a declaration of refusal⁴⁹ [against her husband] and go away.

Rab Judah ruled: Women who are kidnapped⁵⁰ are permitted to their husbands.⁵¹ 'But', said the Rabbis to Rab Judah, 'do they⁵² not bring bread to them?'⁵³ — [They do this] out of fear. 'Do they⁵² not, however, hand them⁵³ their arrows?'⁵⁴ — [They do this also] out of fear. It is certain, however, that they⁵² are forbidden if [the kidnapers] release them, and they go to them of their own free will.

Our Rabbis taught: Royal captives⁵⁵ have the status of ordinary captives⁵⁶ but those that are kidnapped by highwaymen are not regarded as ordinary captives. Was not, the reverse, however, taught? — There is no contradiction between the rulings concerning royal captives⁵⁷ since the former refers⁵⁸ [for example] to the kingdom of Ahasuerus⁵⁹ while the latter refers⁶⁰ to the kingdom of [one like] Ben Nezer.⁶¹ There is also no contradiction between the two rulings concerning captives of highwaymen⁶² since the former refers⁶⁰ to [a highwayman like] Ben Nezer⁶¹ while the latter refers⁶⁰ to an ordinary highwayman.⁶³

As to Ben Nezer, could he be called there⁶⁴ 'king' and here⁶⁵ 'highwayman'? — Yes; in comparison with Ahasuerus he was a highwayman but in comparison with an ordinary robber he was a king.

OR, IN THE CASE OF A PRIEST'S WIFE, 'I WILL RESTORE YOU TO YOUR PARENTAL HOME', etc. Abaye ruled: If a widow was married to a High Priest⁶⁶ it is the latter's duty to ransom⁶⁷ her, since one may apply to her: OR IN THE CASE OF A PRIEST'S WIFE, I WILL RESTORE YOU TO YOUR PARENTAL HOME',⁶⁸

1. Either to the creditor or to the debtor.

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2. Lit., 'from them', sc. the Nekasim (assets). Aliter: 'Exact payment on the strength of them', sc. the notes. Such exaction would be an injustice to the debtor if he has paid his liabilities and it was he who had lost the paid notes. But even where the creditor admits liability collusion with the object of robbing purchasers may be suspected (v. B.M. 12b).
3. Ff. *supra* n. 7, ab. init.
4. One of whom was R. Judah, a contemporary of R. Meir.
5. Ff. *supra* note 7.
6. Mishnah, B.M. 12b.
7. Lit., 'all of it'.
8. While in the case of the latter he does not regard the omission as a scribe's error, he does so in the case of the former since the terms of a *Kethubah* are governed by statutory regulations laid down by *Beth Din*.
9. Of the defendant; but not on his sold or mortgaged property.
10. In the case, for instance, where a field with its produce was taken away from a buyer by the man from whom the seller had robbed it. The buyer who may recover the cost of the field itself from the seller's sold or mortgaged property may not recover the cost of the produce except from his free assets. Cf. Git. 48b, B.M. 14b.
11. Where the buyer (cf. *supra* n. 3) incurred expense in effecting the improvements of the land.
12. Lit., 'and he who undertakes'.
13. B.K. 95a.
14. And that the holder of such a deed may only distrain on free assets.
15. Who most consequently be the author of the last cited Baraitha which states that 'a note of indebtedness wherein no lien on property had been entered' entitles the holder to distrain 'only on free assets'.
16. 'May be distrained only on free assets' if the clause pledging security was omitted from it. The section of our Mishnah, therefore, which states that, despite the omission of such a clause the husband is 'NEVERTHELESS LIABLE' and the *Kethubah* may presumably be distrained on sold and mortgaged property also (v. *supra* p. 295. n. 2). cannot represent the view of R. Meir. How then could it be suggested that both clauses of our Mishnah (cf. *supra* p. 295, n. 12 and text) represent the view of R. Meir?
17. In the Mishnah (*infra* 54b) cited *supra* 51a, according to which the statutory sum of a *Kethubah* may be reduced.
18. Lit., 'for him'.
19. And she has the right to renounce a portion of her claim.
20. In our Mishnah which allows the woman the full amount of her *Kethubah* even if her husband had written none.
21. And the object of our Mishnah is to point out that a woman's consent to dispense with the written document of her *Kethubah* is no evidence that she has surrendered her right to recover the statutory amount to which she is entitled. It is assumed rather that her indifference to the written document is due to her reliance on her statutory rights.
22. Lit., 'what ... that was taught'.
23. His sold or mortgaged property, however, may not be distrained on, in agreement with R. Meir, since no lien on property had been recorded in the *Kethubah*.
24. Lit., 'her beginning'.
25. Lit., 'and her end'.
26. And a wife who willingly played the harlot is forbidden to her husband.
27. Though a woman in captivity is usually assumed to have been outraged.
28. Job XXIX, 9.
29. Lit., 'what has he to say'.
30. Prohibiting an outraged woman to her husband.
31. Since her violation is only a suspicion.
32. Lit., 'permitted', sc. the woman is exempt from punishment. Cf. Deut. XXII, 26.
33. Samuel's father's.
34. Lit., 'her beginning'.
35. Lit., 'clothed'.
36. Being a victim of her passions she is deemed to have acted under compulsion even when she professed acquiescence.
37. Num. V, 13. E.V., neither she be taken in the act.
38. Sc. if she was not seized, i.e., if she did not act under compulsion but willingly.
39. To her husband.
40. Sc. if she acted under compulsion.
41. But acted willingly.
42. Lit., 'her beginning'.
43. Lit., 'and her end'.
44. To her husband.
45. Sc. if she acted under compulsion.
46. Yeb. 56b.
47. V. *supra* note 4.
48. When a condition which remained unfulfilled was attached to it. In such a case the woman may leave her husband without a letter of divorce and she has the status of a feme sole who had never before been married.
49. V. [Glos.](#) s.v. *Mi'un*. [Isaiah Trani: This is not to be taken literally. It means simply that she is permitted to marry another man without a bill of divorce].
50. Lit., 'whom thieves steal'.
51. Any intercourse between the kidnapers and the women is regarded as outrage since the

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latter would not willingly consent to intimate relations with the men they detest.

52. The kidnapped women.
53. The thieves, which shows that they live on amicable terms with the kidnappers.
54. When their camp is attacked.
55. Sc. women forcibly taken into the royal harem (v. Rashi). Aliter. Captives of the government; 'forced by (Roman) officials' (Jast.).
56. And are permitted to their husbands, in agreement with the terms of the *Kethubah* (cf. our Mishnah).
57. Lit., 'kingdom on kingdom'.
58. Lit., 'that'.
59. Sc. one taken captive by a royal personage. Not expecting ever to be married by such a person a captive would strenuously resist intimate relations.
60. Lit., 'that'.
61. [H] who was a robber and self-made ruler (cf. Rashi). A woman might well entertain the hope that such a man would consent to marry her and she might consequently allow intimate relations. Ben Nezer is identified by some authorities with Odenathos of Palmyra, who was first a robber chief and ultimately the founder of a dynasty (v. fast.). [V. Graetz, *Geschichte*, IV p. 453ff.].
62. Lit., 'robbery on robbery'.
63. With whom no decent woman would desire to be associated even in marriage. Intercourse with such a man must, therefore, be regarded as outrage.
64. In the second Baraitha cited.
65. The Baraitha first mentioned.
66. Though such a marriage is forbidden (cf. Lev. XXI, 14).
67. If she is taken captive.
68. The clause in her *Kethubah* as the wife of a priest. Since her ransom would not lead to a re-union with the High Priest but only to her restoration to her parental home, he is obliged to ransom her.

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but if a bastard or a Nethinah¹ was married to an Israelite the latter is under no obligation to ransom her, since one cannot apply to her:² **AND TAKE YOU AGAIN AS MY WIFE.**³ Raba ruled: Wherever the captivity causes the woman to be forbidden⁴ [to her husband] it is his duty to ransom her⁵ but where some other circumstance causes her to be forbidden to him⁶ it is not his duty to ransom her.⁷

Must it be assumed [that they⁸ differ on the same principles] as the following Tannaim? [For it was taught:] If a man forbade his wife by a vow [from deriving any benefit from him] and she was taken captive, he must, said R. Eliezer, ransom her² and give her also her *Kethubah*. R. Joshua said: He must give her her *Kethubah* but need not ransom her. Said R. Nathan: I asked Symmachus, 'When R. Joshua said, "He must give her her *Kethubah* but need not ransom her" [did he refer to a case] where her husband first made his vow against her and she was then taken captive or even to a case where she was first taken captive and he made his vow against her subsequently?'¹⁰

And he told me, 'I did not hear [what he exactly said] but it seems [that he referred to] a case where [the husband] made the vow against her first and the woman was taken captive afterwards; for, should you suggest [that the ruling applied also to a woman who] was taken captive first and the man made his vow against her afterwards [the objection could be raised that in such a case] he might make use of a trick'.¹¹ Do not they¹² then differ¹³ in [the case of one] who made a vow against the wife of a priest,¹⁴ Abaye upholding the view of R. Eliezer¹⁵ while Raba IS maintaining that of R. Joshua?¹⁶ — No;¹⁷ here¹⁸ we are dealing [with the case of a woman] who, for instance, made the vow herself and her husband¹⁹ confirmed it,²⁰ R. Eliezer being of the opinion that it was he²¹ who put his finger between her teeth²² while R. Joshua maintains that it was she herself who put her finger between her teeth.²³

[But] If she herself put her finger between her teeth what claim can she have to her²⁴ *Kethubah*? And, furthermore, [it was stated]: Said R. Nathan: I asked Symmachus, 'When R. Joshua said, "He must give her her *Kethubah* but need not ransom her" [did he refer to a case] where her husband first made his vow against her and she was then taken captive or even to a case where she was first taken captive and he made his vow against her subsequently?' and he told me: 'I did not

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hear [what he exactly said]'. Now if [this is a case] where she herself had made the vow, what difference is there [it may be asked] whether he made the vow first against her²⁵ and she was taken captive afterwards or whether she was first taken captive and he then made the vow?²⁶ —

The fact is that [here²⁷ it is a case where] the husband made the vow against her, but Abaye explains [the dispute]²⁸ on the lines of his view while Raba explains it on the lines of his view. 'Abaye explains the dispute on the lines of his view', thus: If a widow [was married] to a High Priest no one²⁹ disputes [the ruling] that it is the husband's duty to ransom her;³⁰ if a bastard or a Nethinah [was married] to an Israelite no one²⁹ disputes the ruling that it is not his duty to ransom her,³¹ if also one made a vow against the wife of a priest³² no one²⁹ disputes the ruling that it is his duty to ransom her, since [the principle in this case] is identical with that of a widow [who was married] to a High Priest.³³ They³⁴ differ only in [respect of him who] made a vow against the wife of an Israelite,³⁵ R. Eliezer being guided by the woman's original status³⁶ while R. Joshua is guided by her subsequent status.³⁷ 'Raba explains it on the lines of his view', thus: If a widow [was married] to a High Priest, or a bastard or a Nethinah to an Israelite no one³⁸ disputes the ruling that it is not the husband's duty to ransom her.³⁹ They⁴⁰ differ only in [the case where one] made a vow against either the wife of a priest or the wife of an Israelite,⁴¹ R. Eliezer being guided by the woman's original status³⁶ while R. Joshua is guided by her subsequent status.³⁷

IF SHE IS TAKEN CAPTIVE IT IS HIS DUTY TO RANSOM HER, etc. Our Rabbis taught: If she was taken captive during the lifetime of her husband, and he died afterwards, and her husband was aware of her [captivity],⁴² it is the duty of his heirs to ransom her, but if her husband was not aware of her captivity it is not the duty of his heirs to ransom her.

Levi proposed to give a practical decision⁴³ in agreement with this Baraitha. Said Rab to him, Thus said my uncle:⁴⁴ The law is not in agreement with that Baraitha but with the following⁴⁵ wherein it was taught: [If a woman] was taken captive after the death of her husband it is not the duty of his orphans to ransom her, and, furthermore,⁴⁶ even if she was taken captive during the lifetime of her husband, but he died subsequently, the orphans are under no obligation to ransom her, since one cannot apply to her [the clause in her *Kethubah*:] **AND I WILL TAKE YOU AGAIN AS MY WIFE.**⁴⁷

Our Rabbis taught: [If a woman] was taken captive and a demand was made upon her husband for as much as ten times her value, he must ransom her the first time. Subsequently, however, he ransoms her only if he desired to do so but need not ransom her⁴⁸ if he does not wish to do so. R. Simeon b. Gamaliel ruled:

1. Fem. of Nathin (v. [Glos.](#)).
2. As the Israelite is forbidden to live with her.
3. Which is the appropriate clause entered in a *Kethubah* given to the wife of an Israelite, and which cannot apply (v. *supra* n. 5) where she is one forbidden to him.
4. Lit., 'the prohibition of captivity causes her'.
5. Contrary to the opinion of Abaye, the clause entered in a *Kethubah* of a priest's wife obliges the priest to ransom his wife though she becomes forbidden to him through her captivity, only if she was permitted to him before she had been taken captive.
6. As, for instance, a widow to a High Priest.
7. Because, in the case of a forbidden marriage, as the clause 'AND TAKE YOU AGAIN AS WIFE' was originally invalid (cf. *supra* n. 6) the clause 'RESTORE YOU TO YOUR PARENTAL HOME' also has no validity. Thus, contrary to the ruling of Abaye, Raba maintains that a High Priest is under no obligation to ransom a widow whom he married in contravention of the laws of the High Priesthood. In the case of a bastard and a Nethinah Raba is, of course, of the same opinion as Abaye.
8. Abaye and Raba.
9. Although, owing to his vow, he would subsequently be compelled to divorce her.

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10. Though there is good reason to suspect that the object of his vow was to escape his responsibility of ransoming her.
11. Cf. *supra* n. 1.
12. R. Eliezer and R. Joshua.
13. Lit., 'what, not?'
14. I. e., the man who made the vow was himself a priest. It is his duty to ransom his wife, though her being prohibited to him is not due to her captivity, because the clause, 'I WILL RESTORE YOU TO YOUR PARENTAL HOME' may well be applied. Their dispute could not refer to an Israelite who made such a vow, since in that case, the clause 'AND TAKE YOU AGAIN AS MY WIFE' being inapplicable. R. Eliezer could not have imposed upon the man the duty of ransoming his wife.
15. Cf. *supra* n. 5.
16. That the husband is exempt from ransoming his wife because her prohibition to him was not caused by her captivity but by some other circumstance, viz. his vow.
17. R. Eliezer and R. Joshua do not differ on the same principles on which Abaye and Raba differed, both of them agreeing either with Abaye or with Raba.
18. Lit., 'here in what?'
19. An Israelite.
20. Explicitly or implicitly.
21. By his confirmation of the vow.
22. Metaph. It is his fault that the vow remained valid. Had he desired to annul it he had the full power to do so (v. Num. XXX, 7ff). As he is thus the cause of the woman's prohibition to him and of rendering the clause in the *Kethubah* inapplicable, he must pay the penalty by retaining the responsibility of ransoming her.
23. She should not have made her vow. Having made it her prohibition to her husband is her own fault. Cf. *supra* n. 13 *mutatis mutandis*.
24. Lit., 'what is its doing?'
25. I. e., by confirming it.
26. In either case, since it was she who made the vow, no trick on the part of the husband can be suspected.
27. In the dispute between R. Eliezer and R. Joshua.
28. Between R. Eliezer and R. Joshua.
29. Neither R. Eliezer nor R. Joshua. Lit., 'all the world'.
30. Cf. *supra* p. 300. n. 3. The fact that she is forbidden to him for some reason other than that of her captivity being of no consequence.
31. Cf. *supra* p. 300, n. 2, and text.
32. Sc. a Priest against his own wife.
33. In either case the clause, 'I WILL RESTORE YOU TO YOUR PARENTAL HOME' (cf. *supra* p. 300, n. 3) may well be applied after, as well as before, the woman had been taken captive.
34. St. Eliezer and R. Joshua.
35. Cf. *supra* note 9 *mutatis mutandis*. To the wife of an Israelite it was originally possible to apply the clause, 'I WILL TAKE YOU AGAIN AS MY WIFE' but now, owing to the vow, it can no longer be applied.
36. Lit., 'goes after (the status) of the beginning'. When the clause was applicable and therefore the obligation stands.
37. Lit., 'in the end'.
38. V. *supra* p. 302, n. 6.
39. In the case of the widow to a High Priest, as her prohibition is due to a cause other than captivity, neither the clause relating to 'remarriage' nor that of 'restoring her to her parental home' is valid (cf. *supra* p. 300. n. 10); and in the case of the last mentioned because the clause, 'I WILL TAKE YOU AGAIN AS MY WIFE' could not be applied originally and cannot be applied now.
40. R. Eliezer and R. Joshua.
41. To either of whom the relevant clauses of her *Kethubah* that were originally applicable now, on account of the vow which is a cause of prohibition 'other than that of captivity'.
42. And thus incurred the liability to ransom her before he died.
43. Lit., 'to do a deed'.
44. R. Hiyya who was Rab's father's brother.
45. Lit., 'as that'.
46. Lit., 'and no more but'.
47. Since her husband is dead. V. Tosef. Keth. IV.
48. At all. It is his duty to ransom her no more than once (Rashi). Aliter: For an exorbitant price (v. R. Han. Tosaf. s.v. [H] a. l.). If, however, the ransom demanded is not higher than her value he must pay it.

Kethuboth 52b

Captives must not be ransomed for more than their value, in the interests of the public.¹ [This then implies] that they must be ransomed for their actual value even though the cost of a captive's ransom² exceeds the amount of her *Kethubah*. Has not, however, the contrary been taught: [If a woman] was taken captive, and a demand was made upon her husband for as much as ten times the amount of her *Kethubah*³ he must ransom her the first time. Subsequently, however, he ransoms her only if he desires to do so but need not ransom her if he does not wish to do so. R. Simeon b. Gamaliel ruled: If the price

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of her ransom corresponded to the amount of her *Kethubah*, he must ransom her; if not, he⁴ need not ransom her?⁵ —

R. Simeon b. Gamaliel upholds two lenient rules.⁶ IF SHE SUSTAINED AN INJURY IT IS HIS DUTY TO PROVIDE FOR HER MEDICAL TREATMENT. Our Rabbis taught: A widow is to be maintained from [her husband's] orphans' estate; and if she requires medical treatment, it is regarded⁷ as maintenance. R. Simeon b. Gamaliel ruled: Medical treatment of a limited liability may be deducted⁸ from her *Kethubah* but one which has no limited liability⁹ is regarded¹⁰ as maintenance. Said R. Johanan: Blood letting in the Land of Israel¹¹ was regarded as medical treatment of no limited liability.¹² R. Johanan's relatives had [to maintain] their father's wife who required daily medical treatment. When they came to R. Johanan¹³ he told them: Proceed to arrange with a medical man an inclusive fee.¹⁴ [Later, however], R. Johanan remarked: 'We have put ourselves [in the unenviable position] of¹⁵ legal advisers'.¹⁶ What, however, was his opinion at first,¹⁷ and why did he change it in the end!¹⁸ At first he thought [of the Scriptural text,] And that thou hide not thyself from thine own flesh,¹⁹ but ultimately he realized [that the position of] a noted personality is different [from that of the general public].²⁰

MISHNAH. [A HUSBAND WHO] DID NOT GIVE HIS WIFE IN WRITING²¹ [THE FOLLOWING UNDERTAKING:] 'THE MALE CHILDREN THAT WILL BE BORN FROM OUR MARRIAGE²² SHALL INHERIT THE MONEY OF THY *KETHUBAH* IN ADDITION TO THEIR SHARES WITH THEIR BROTHERS',²³ IS NEVERTHELESS LIABLE, BECAUSE [THIS CLAUSE] IS A CONDITION LAID DOWN BY *BETH DIN*. [THOUGH HE DID NOT GIVE HIS WIFE IN WRITING²⁴ THE UNDERTAKING:] 'THE FEMALE CHILDREN THAT WILL BE BORN FROM OUR MARRIAGE²⁵ SHALL DWELL IN MY HOUSE AND BE MAINTAINED OUT OF MY ESTATE UNTIL THEY SHALL BE TAKEN IN

MAKRIAGE'²⁶ HE IS NEVERTHELESS LIABLE, BECAUSE [THIS CLAUSE] IS A CONDITION LAID DOWN BY *BETH DIN*. [SIMILARLY IF HE DID NOT GIVE HIS WIFE THE WRITTEN UNDERTAKING:]²⁷ 'YOU SHALL DWELL IN MY HOUSE AND BE MAINTAINED THEREIN OUT OF MY ESTATE THROUGHOUT THE DURATION OF YOUR WIDOWHOOD', HE IS NEVERTHELESS LIABLE, BECAUSE [THIS CLAUSE ALSO] IS A CONDITION LAID DOWN BY *BETH DIN*. SO DID THE MEN OF JERUSALEM WRITE. THE MEN OF GALILEE WROTE IN THE SAME MANNER AS THE MEN OF JERUSALEM. THE MEN OF JUDAEA, HOWEVER, USED TO WRITE:²⁸ 'UNTIL THE HEIRS MAY CONSENT TO PAY YOU YOUR *KETHUBAH*'. THE HEIRS, CONSEQUENTLY, MAY, IF THEY WISH TO DO IT, PAY HER HER *KETHUBAH* AND DISMISS HER.

GEMARA. R. Johanan stated in the name of R. Simeon b. Yohai: Why was the *Kethubah* for MALE CHILDREN²⁹ instituted?³⁰ In order that any man might thereby³¹ be encouraged³² to give³³ to his daughter as much as to his son. But is such a regulation found anywhere else?³⁴ Seeing that the All-Merciful ordained that a son shall be heir; a daughter shall not',³⁵ would the Rabbis proceed to make a provision³⁶ whereby a daughter shall be the heir? —

This³⁷ also has Scriptural sanction, for it is written, Take ye wives, and beget sons and daughters,' and take wives for your sons, and give your daughters to husbands;³⁸ [now the advice to take wives for one's] sons is quite intelligible [since such marriages are] within a father's power³⁹ but [as to the giving of] one's daughters [the difficulty arises:] Is [such giving] within his power?³⁹ [Consequently⁴⁰ it must be] this that we were taught: That a father must provide for his daughter clothing and covering and must also give her a dowry⁴¹ so that people may be anxious to woo⁴² her and so proceed to marry her. And to what extent?⁴³ Both Abaye and Raba ruled: Up to a tenth of his wealth. But might it not be suggested⁴⁴ [that the sons]

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should inherit [what their mother received] from her father⁴⁵ but not [that which was due to her] from her husband?⁴⁶ —

If that were so, a father also would abstain from assigning⁴⁷ [a liberal dowry for his daughter].⁴⁸ May it then be suggested⁴⁴ that where her father had assigned a dowry⁴⁹ her husband must also enter the clause⁵⁰ but where her father did not assign any dowry⁵¹ her husband also need not enter the clause?⁵² — The Rabbis drew no distinction.⁵³ But should not then⁵⁴ a daughter⁵⁵ among sons⁵⁶ also be heir?⁵⁷ — The Rabbis have treated [the *Kethubah*]⁵⁸ like an inheritance.⁵⁹ But should not then a daughter⁵⁵ among the other daughters⁵⁶ be heir?⁶⁰ — The Rabbis made no distinction.⁶¹ Why then⁶² is not [the *Kethubah*] recoverable⁶³ from movables also?⁶⁴ —

The Rabbis treated it like the [statutory] *Kethubah*.⁶⁵ Why then should not distraint be made on sold or mortgaged property?⁶⁶ — [The expression] we learned [was] SHALL INHERIT.⁶⁷ May it then⁶² be suggested [that It is recoverable] even if there was no surplus⁶⁸ of a *Dinar*?⁶⁹ — The Rabbis have made no enactment where the Pentateuchal law of inheritance would thereby be uprooted. R. Papa was making arrangements for his son to be married into the house of Abba of Sura.⁷⁰ He went there to write the *Kethubah* for the bride.⁷¹ When Judah b. Meremar heard [of his arrival] he went out to welcome him.⁷² When, however, they reached the door [of the bride's father's house] he asked leave to depart, when [R. Papa] said to him, 'Will the Master come in with me?'

1. [H] 'for the sake of the social order' (Jast.), lit., 'for the establishment of the world', that captors should not thereby be encouraged to demand exorbitant prices for the ransom of their captive.
2. Lit., 'her ransom'.
3. Sc. did not exceed R.
4. Since one cannot be expected to be liable for a single clause of a *Kethubah* more than for the total amount of the *Kethubah*. [Isaiah Trani: The amount of the *Kethubah* here denotes the

extra jointure in addition to the statutory two hundred and one hundred *Zuz*].

5. A ruling which contradicts the implication of the first Baraitha that he must ransom her 'even though the cost of a captive's ransom exceeds the amount of her *Kethubah*'.
6. The price of the ransom need not exceed either (a) the actual value of the woman or (b) the amount of her *Kethubah*, whichever is the less.
7. Lit., 'behold it'.
8. Lit., 'she is healed'.
9. If, for instance, the woman is always ailing.
10. Lit., 'behold it'.
11. Palestine.
12. Tosef. Keth. IV.
13. Seeking advice on how to escape the constant drain on their resources.
14. Lit., 'go fix something for him, for a healer'. Since their liability would thereby become limited they would be entitled to deduct it from the woman's *Kethubah*.
15. Lit., 'as'.
16. [H] lit., 'those who arrange (the pleas) before the judges'. It is forbidden for a judge to act, even indirectly, as legal adviser to one of the litigants, v. Aboth (Sonc. ed.) p. 6, n. 1.
17. When he gave his advice to his relatives.
18. Lit., 'and in the end what did he think?'
19. Isa. LVIII, 7, teaching the obligation of assisting one's relatives.
20. A judge must subject himself to greater restrictions in order to be free from all possible suspicion of partiality.
21. As one of the clauses of her *Kethubah*.
22. Lit., 'that you will have from me'.
23. Who may be born from another wife. The effect of such a clause is that, if the woman predeceases her husband, her sons, on the death of their father (her husband), would inherit her *Kethubah*, and they would recover it from their deceased father's estate, irrespective of the amount or size of the shares to which they are entitled like any of the other sons of the deceased. This clause is designated, as '*Kethubath Benin Dikrin*' (*Kethubah* of male children).
24. V. p. 305, n. 13.
25. V. p. 305, n. 14.
26. Lit., 'to men'. This clause is designated as '*Kethubath Benan Nukban*' (*Kethubah* of female children).
27. As one of the clauses of her *Kethubah*.
28. Immediately after the last mentioned clause.
29. Cf. *supra* p. 305, n. 13 and text.
30. Sc. why should not the *Kethubah*, which on the death of his wife is legally inherited by the husband, be regarded as a part of his general estate and so be equally divided between all his sons?

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31. By being assured that whatever dowry he may give to his daughter will remain the property of her own children and will not pass through her husband to the children of his other wives.
32. Lit., 'that a man may leap'.
33. So MS.M. Cur. edd. 'and he will write'.
34. Lit., 'is there a thing?'
35. Cf. Num. XXVII, 8: If a man die, and have no son, then ye shall cause his inheritance to pass unto his daughter, from which it follows that if a man has a son his inheritance shall not pass unto his daughter.
36. Encouraging a father (cf. *supra* p. 306. n. 8) to give his daughter a liberal dowry and thus deprive his sons of property which Pentateuchally should in due course be inherited by them.
37. A father's duty to make liberal provision for his daughter.
38. Jer. XXIX, 6.
39. Lit., 'stand in his hand'. It is the man who approaches the woman, not the woman the man.
40. Since Scripture nevertheless advises fathers to give their daughters to husbands.
41. Lit., 'something'.
42. Lit., 'jump', 'leap'.
43. Must a father go on assigning a dowry for his daughter.
44. Since the *Kethubah* for the male children was instituted in order to encourage a father to provide a liberal dowry for his daughter.
45. Sc. the dowry he gave her, which was included in her *Kethubah*.
46. The statutory *Kethubah* and any additional jointure her husband may have settled upon her.
47. Lit., 'and will not write'.
48. No father would be prepared to give a liberal dowry to a husband of his daughter who does not himself also allow the sons of that daughter to inherit what he had promised their mother.
49. Lit., 'wrote'.
50. Relating to the MALE CHILDREN. Lit., 'should write'.
51. Lit., 'did not write'.
52. Cf. *supra* p. 307, n. 16 *mutatis mutandis*.
53. Between the two kinds of *Kethubahs*, since most *Kethubahs* contain records of dowries (Rashi). All *Kethubahs* must consequently include the MALE CHILDREN clause also.
54. V. *supra* p. 307, n. 10.
55. Of one wife who had no sons'
56. Of another wife.
57. To her mother, as far as her *Kethubah* is concerned. The same reason that applies to male children should equally apply to a daughter in the absence of sons. Why then was a 'male children' and not a similar 'female children' clause instituted?
58. In which the term 'INHERIT' was used (cf. our Mishnah).
59. No daughter may 'inherit' among sons.
60. Though she cannot be heir among sons (v. *supra* n. 8) she is well entitled, in the case of an ordinary inheritance, to be heir among daughters. Why then should she be deprived of her mother's *Kethubah* (cf. *supra* n. 6. final clause)?
61. Cf. *supra* note 2.
62. V. *supra* p. 307, n. 10.
63. By the sons.
64. As stated *supra* 50a.
65. Which cannot be recovered from the movables of a deceased husband.
66. Just as the woman can collect her *Kethubah* from mortgaged or sold property, so should the sons be able to recover it from such property, v. *infra* 55a.
67. And no sold or mortgaged property may be seized for an inheritance.
68. After the two 'male children' *Kethubahs* had been paid (v. Mishnah *infra* 91a).
69. Whereby the Pentateuchal law of inheritance could be carried out. Why then was it stated (l.c.) that the male children *Kethubahs* are not recoverable in such a case?
70. Who was his father-in-law (cf. *supra* 39b and Sanh. 14b). R. Papa's son married the sister of his father's wife.
71. Lit., 'for her'. This would include the fixing of the amount for the dowry she was to receive from her father.
72. Lit., 'he came; showed himself to him'.

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Observing, however, that it was distasteful to him [to enter], he addressed him thus: 'What is it that you have on your mind? [Are you reluctant to enter] because Samuel said to Rab Judah, "Shinena,¹ keep away from² transfers of inheritance³ even though they be from a bad son to a good son, because one never knows what issue will come forth from him,⁴ and much more so [when the transfer is] from a son to a daughter",⁵ this⁶ also [I may point out] is an enactment of the Rabbis; as R. Johanan stated in the name of R. Simeon b. Yohai',⁷ The other replied, 'This enactment applies only [to one who acts] willingly;⁸ does it also imply that one should be compelled so to act?' —

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'Did I tell you' said [R. Papa] to him, 'to come in and coerce him? What I meant was: Come in but exercise no pressure upon him'. 'My entrance', the other replied, 'would amount to compulsion'.⁹ [As R. Papa, however,] urged him, he entered but, having sat down, remained silent.¹⁰ [Abba] thought that he¹¹ was vexed¹² and consequently assigned¹³ [to his daughter as dowry] all that he possessed. Finally, however, he said to him,¹¹ 'Will not the Master speak even now? By the life of the Master, I have left nothing for myself!' — 'As far as I am concerned',¹⁴ the other replied, 'even the amount you have assigned¹⁵ has given me no pleasure'. 'This being the case',¹⁶ the first said, 'I will withdraw'. 'I did not suggest', the other said, 'that you should make a rogue¹⁷ of yourself'.

R. Yemar the Elder enquired of R. Nahman: Does a woman who sold her *Kethubah* to her husband retain the right to the *Kethubah* for her male children¹⁸ or not?¹⁹ — Said Raba to him: Why do you not raise the same question in the case of a woman who surrendered her claim [to her *Kethubah*]?²⁰ 'Now', the other replied, 'that I [found it necessary to] enquire [concerning a woman] who sold [her *Kethubah*],²¹ though [in that case] it might well be assumed [that her need for] money compelled her [to the sale; and, furthermore,] it might be said [that she is] like a person who was struck a hundred blows with a hammer,²² was it then necessary [to raise the same question in respect of] a woman who [voluntarily] surrendered her claim [to her *Kethubah*]?²³

Raba stated: I have no doubt²⁴ that a woman who sells²⁵ her *Kethubah* to strangers²⁶ retains the right to the male children's *Kethubah*.' What is the reason? [It is her need for] money that has compelled her [to sell].²⁷ A woman [on the other hand] who surrenders her claim [to her *Kethubah*] in favor of her husband does not retain the right to the male children's *Kethubah*. What is the reason? She has lightheartedly surrendered her claims.²⁸ [Is, however, a woman,] Raba enquired, who sells her *Kethubah* to her

husband treated as one who sells it to strangers,²⁹ or as one who renounces it in favor of her husband?³⁰ After he raised the question he himself solved it: [The law concerning] a Woman who sells her *Kethubah* to her husband is the same as that of one who sells it to strangers.²⁹

R. Idi b. Abin raised an objection: [We learned]: If she³¹ died, neither the heirs of the one husband nor the heirs of the other are entitled to inherit her *Kethubah*.³² And in considering the difficulty, 'How does the question of a *Kethubah* at all arise?'³³ R. Papa replied, 'The *Kethubah* of the male children [was meant]'.³⁴ But why?³⁵ Could not one³⁶ argue here also:³⁷ 'Her passion has overpowered her'?³⁸ — There³⁹ [the loss of her *Kethubah*] is a penalty that the Rabbis have imposed upon her.⁴⁰

Rabin b. Hanina once sat [at his studies] before R. Hisda and in the course of the session he laid down in the name of R. Eleazar: A woman who surrenders her *Kethubah* to her husband is not entitled to maintenance.⁴¹ The other⁴² said to him: Had you not spoken to me in the name of a great man I would have told you: Whoso rewardeth evil for good, evil shall not depart from his house.⁴³

R. Nahman and 'Ulla and Abimi son of R. Papi once sat at their studies, and R. Hiyya b. Ammi was sitting with them when there came before them a man whose betrothed wife had died.⁴⁴ 'Go and bury her', they said to him, 'or pay her *Kethubah* on her account',⁴⁵ Said R. Hiyya to them, We have a teaching:⁴⁶ In the case of a betrothed wife⁴⁷ [the husband] is subject neither to the laws of Onan,⁴⁸ nor may he defile himself for her;⁴⁹ and she likewise⁵⁰ is not subject to the laws of Onan,⁵¹ nor may she defile herself for him;⁵² if she dies he is not her heir,⁵³ but if he dies she collects her *Kethubah*.⁵⁴ Now the reason [why she collects her *Kethubah* is] because it was he who died; had she, however, died she would not have been entitled to any *Kethubah*.⁵⁵ What is the reason?⁵⁶ — R.

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Hoshaia replied: Because one cannot apply to her: 'If you will be married to another man you will receive what is prescribed for you'.⁵⁷

When Rabin came⁵⁸ he stated in the name of Resh Lakish: If a betrothed woman died, she is not entitled to a *Kethubah*. Said Abaye to them:⁵⁹ Go and tell him:

1. [H] (rt. [H] 'to sharpen'); (i) 'keen witted', (ii) 'man of iron endurance', (iii) 'long toothed' (cf. [H] 'tooth') V. B.B. Sonc. ed. vol. II, p. 561, n. 14.
2. Lit., 'be not among'.
3. From persons who are legally entitled to be heirs.
4. Though the son himself is wicked his children may be righteous.
5. By giving his daughter a dowry he deprives his sons from a portion of their inheritance. (Cf. *supra* p. 307, n. 2).
6. Allowing one's daughter a dowry.
7. *Supra* 52b.
8. Lit., 'from his (own) mind'.
9. The father of the bride would be ashamed to offer a small dowry in the presence of a distinguished guest.
10. While R. Papa was discussing the amount of the dowry with the bride's father.
11. Judah b. Meremar who looked on in silence.
12. At the smallness of the dowry he was offering.
13. Lit., 'wrote it'.
14. Lit., 'if from me'.
15. Lit., 'that also that you wrote'.
16. Lit., 'now also'.
17. [H] (rt. [H] 'to return') a retractor.
18. V. our Mishnah and *supra* p. 305, n. 15.
19. Sc. are her sons still entitled to inherit her *Kethubah* as they are entitled to inherit their share in the estate of their father, or do they lose the former right on account of their mother's sale which had transferred her rights to their father from whose estate they can inherit no bigger shares than those to which his other sons are entitled?
20. Which is a more common occurrence than a sale.
21. Believing that even in such a case it is possible that the woman irrevocably loses her rights.
22. V. Golds. who compares [H] with Syr. [H] 'a hammer', and renders [H], 'hammer blows'. Aliter. They inflicted upon her a hundred strokes with a lash to which a small weight named '*ukla* was attached (Rashi). Aliter: I may adopt the opinion of him who said, they struck (defeated) that opinion with a hundred measures against one (a hundred arguments against, for one in favor of it). '*Ukla* (cf. [H]) is a small measure of capacity and also of a weight (Jast.).
23. Obviously not. If she might lose her rights even when she acted under the stress of circumstances, there can be no question that she loses them when she willingly surrenders them.
24. Lit., 'it is plain to me'.
25. For a mere trifle, since, to the buyers the transaction is of a highly speculative and doubtful value. v. *infra* n. 10.
26. Who recover it only if she is divorced or if she survives her husband, but lose it completely if she predeceases him and he inherits it.
27. Not her indifference to the welfare of her sons. On this account, therefore (v. *infra* n. 1), she does not lose her rights on behalf of her sons.
28. And, having thereby shown her complete indifference to the interests of her sons, her surrender is deemed to be final and irrevocable.
29. Since in both cases she sells it for a mere trifle, the husband's purchase being no less of a speculation than that of strangers (cf. p. 310, nn. 9-10). For should she predecease him, her *Kethubah* would in any case be inherited by him; and the only advantage he might possibly derive from his purchase is the knowledge that his sons would benefit from it if he predeceased his wife. As, in fact, he did not predecease her his purchase fully assumes the same nature as that of strangers, and her male children inherit her *Kethubah*.
30. Since the *Kethubah* is actually in his possession (which is not the case with strangers) and she consented to sell him all her rights.
31. A woman whose husband went to a country beyond the sea and who, on being told by one witness that her husband was dead, contracted a marriage, and her first husband subsequently returned.
32. Yeb. 87b.
33. Lit., 'what is its doing?' How could her children submit any claim to her *Kethubah* when she herself, as stated earlier in the Mishnah cited (Yeb. l.c.), is not entitled to one?
34. Yeb. 91a; sc. if the woman predeceased her two husbands, who in consequence inherited her estate, her children have no claim to her *Kethubah* and receive shares equal to those of their paternal brothers.
35. Should her children be deprived of the *Kethubah* of their mothers?
36. Since it has been said above that the reason why the woman does not lose her right to the *Kethubah* for her male children is because it was her need that compelled her to sell it.

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37. In the case of the woman who married a second husband on the evidence of one witness.
38. And this compelled her to marry again. Now since she acted under compulsion her children should not be deprived of her *Kethubah*.
39. V. p. 311, n. 10.
40. For marrying again on insufficient evidence (that of one witness) before instituting further inquiries to verify his evidence.
41. During her widowhood. As she surrendered her *Kethubah* she surrendered thereby all her rights, including that of maintenance, that are contained therein.
42. R. Hisda.
43. Prov. XVII, 13.
44. Before her marriage.
45. [The reference is to the statutory amount of the *Kethubah*, these Rabbis being of the opinion that the husband has been allowed to retain the *Kethubah* of his deceased wife for the expenses he incurred in the burial.]
46. A Baraitha. Cf. *infra* p. 313, n. 1.
47. Before her marriage.
48. V. [Glos.](#) Unlike an Onan whose married wife died, he may Partake of holy food.
49. If he is a priest (cf. Lev. XXI, 1f).
50. If he died.
51. She also is permitted to partake of holy food.
52. During a festival when not only priests but also Israelites and women are forbidden to attend on the corpses of those who are not their near relatives (v. R.H. 16b). Aliter: Nor is she under an obligation to defile herself for him. (Cf. Rashi a.l. and Yeb. 29b. s.v. [H] and Tosaf. *loc. cit.* s.v. [H]).
53. To the dowry her father gave her.
54. Yeb. 29b, 43b, *infra* 89b. Both the statutory amount and any additional jointure, if he provided her with a *Kethubah* on betrothal (cf. *infra* 89b).
55. Contrary to the ruling *supra* that the man must either bury his betrothed wife or pay to her account the amount of her *Kethubah*.
56. For the man's exemption from the duty of burying his wife despite the statutory amount of her *Kethubah* which he inherits.
57. This is one of the clauses of a *Kethubah* (v. Yeb. 117a). Since this clause can obviously have no effect except when a husband predeceases his wife or when she is divorced by him, the *Kethubah* cannot be regarded as the wife's property whenever she predeceases her husband, and he, consequently, cannot be regarded as inheriting it from her. [As to the teaching *supra* 47b that the husband inherits the *Kethubah* in return for her burial, the reference is to the dowry, v. *supra* p. 272, n. 7 and cf. p. 312, n. 8.
58. From Palestine to Babylon.

59. Those present at the college.

Kethuboth 53b

'You are deprived of your benefaction;¹ it is cast upon the thorns',² for R. Hoshia has already expounded his traditional teachings³ in Babylon.⁴

THE FEMALE CHILDREN THAT WILL BE BORN FROM OUR MARRIAGE, etc. Rab⁵ taught: Until they shall be taken in marriage;⁶ but Levi taught: Until they shall attain adolescence.⁷ [Would daughters then be maintained] according to Rab although they attained adolescence, and according⁸ to Levi even though they married?⁹ — The fact, however, [is that where a daughter] attained adolescence though she was not married or where she was married though she did not attain adolescence no one¹⁰ disputes [the ruling that she is not entitled to maintenance]. They¹¹ differ only on the question of a [daughter who was] betrothed but did not attain adolescence.¹²

So also did Levi teach in his Baraitha:¹³ Until they shall attain adolescence and the time for their marriages arrives. Both?¹⁴ — What was meant is this:¹⁵ Either they shall attain adolescence or¹⁶ the time for their marriage¹⁷ shall arrive.

[They¹⁸ differ on the same principles] as the following Tannaim: How long is a daughter to be maintained? Until she is betrothed. In the name of R. Eleazar it was stated: Until she attains adolescence.

R. Joseph learnt: [Daughters must be maintained] until they become [wives]. The question was raised: Does this¹⁹ mean becoming [wives] at marriage or becoming [wives] at betrothal? — The question must stand unanswered.²⁰

Said R. Hisda to R. Joseph: Did you ever hear from Rab Judah whether a betrothed [orphan] is entitled to maintenance²¹ or not?²² The other replied: I have not actually

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heard it, but it may logically be concluded that she is not entitled, because [her future husband], having betrothed her, would not allow²³ her to be degraded.²⁴ 'If you have not actually heard this', [R. Hisda] retorted 'it may logically be concluded that she is entitled, for [her intended husband], not being sure of her,²⁵ would not throw his money away for nothing'.²⁶

Another reading:²⁷ He²⁸ replied: I have not actually heard it, but it may logically be concluded that she is entitled [to maintenance]; for [her intended husband], not being sure of her, would not throw his money away for nothing. The other²⁹ retorted: If you have not actually heard this it may logically be concluded that she is not entitled to maintenance; because [her future husband], having betrothed her, would not allow her to be degraded.

(Mnemonic of the men:³⁰ *SHaK ZaRaP*.³¹ [Subjects:] She refused and a sister-in-law of the second degree is betrothed and he outraged her.)

R. Shesheth was asked: Is a minor who exercised her right of refusal³² entitled to maintenance³³ or not?³⁴ — You, replied R. Shesheth, have learned this: A widow³⁵ in her father's house, a divorced woman³⁵ in her father's house or a woman³⁵ who was awaiting the decision of a levir³⁶ in her father's house is entitled to maintenance. R. Judah ruled: [Only a woman who] is still in her father's house is entitled to maintenance but [a woman who] is no longer in her father's house is not entitled to maintenance. [Now is not] R. Judah's ruling exactly the same as that of the first Tanna?³⁷ Consequently it may be concluded that³⁸ the difference between them is the case of a minor who had exercised her right of refusal,³⁹ the first Tanna being of the opinion that she is entitled [to maintenance]⁴⁰ while R. Judah upholds the view that she is not entitled to it.⁴¹

Resh Lakish enquired: Is the daughter of a sister-in-law⁴² entitled to maintenance⁴³ or not? Has she no claim to it, since the Master said,⁴⁴ Her *Kethubah* is a charge on the estate of her first husband⁴⁵ or is it possible that she is entitled to it since the Rabbis have enacted that whenever she⁴⁶ is unable to collect her *Kethubah* from [the estate of] the first, she may recover it from that of the second?⁴⁷ — The question must remain unanswered.⁴⁸

R. Eleazar enquired: Is the daughter of a forbidden relative of the second degree of incest⁴⁹ entitled to maintenance⁵⁰ or not?

1. Or 'recognition' (v. Rashi).
2. [H], a proverb. The information whereby he intended to benefit the students was of no use to them. Aliter: Your good-natured information is taken and thrown over the hedge (slight adaptation from fast.). Aliter: Take your favors and throw them in the bush, v. B.M. Sonc. ed. p. 377.
3. Which included the one reported by Rabin.
4. They were in no need, therefore, to wait for the Palestinian report of Rabin.
5. In dealing with this clause in the *Kethubah*.
6. Lit., 'to men'. Cf. our Mishnah which agrees with Rab's ruling.
7. V. *Glos.* s.v. *Bogereth*.
8. So MS.M. Cur. edd., 'and Levi'.
9. Surely not; since either of these conditions liberates a daughter from her father's control and she must in consequence lose her claim to maintenance (cf. *infra* 68b).
10. Lit., 'all the world'. V. *infra* n. 2.
11. Rab and Levi.
12. According to Rab she is maintained only until betrothal though by that time she may still be under age, and according to Levi, either adolescence or marriage deprives her of her rights to maintenance.
13. Levi, like R. Hiyya and R. Oshaia, was the compiler of six orders of Baraitoth corresponding to the six orders of the Mishnah compiled by R. Judah the Patriarch.
14. Cf. p. 313, n. 14.
15. Lit., 'but'.
16. The 'Waw' in [H] may be rendered, 'and' as well as 'or'.
17. A period of twelve months from the time her intended husband had claimed her, in the case of a virgin, and one of thirty days in the case of a widow (v. Mishnah *infra* 57a).
18. Rab and Levi.
19. The expression 'become (wives)' in R. Joseph's statement.

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20. Teku, v. [Glos.](#)
21. By her brothers, out of their deceased father's estate.
22. [He wished to know according to which of the two Tannaim, whose views have just been cited, was the law to be fixed (Tosaf.)]
23. Lit., 'it would not be pleasing to him'.
24. As the maintenance of an orphan daughter by her brothers was ordained in order to prevent her degradation (v. *supra* 49a) it cannot be enforced in this case where no degradation is to be expected.
25. A betrothal does not always lead to marriage.
26. As he would not maintain her, the duty (for the reason stated *supra* p. 314, n. 15) devolves upon her brothers.
27. Reversing the respective views of R. Joseph and R. Hisda.
28. R. Joseph.
29. R. Hisda.
30. Who raised the following questions.
31. SHesheth, LaKish, ElaZar, Raba, Papa.
32. V. [Glos.](#) s.v. *Mi'un*.
33. By her brothers, out of their deceased father's estate.
34. The point of the question is whether (a) the declaration of refusal to live with her husband dissolved her marriage retrospectively and she resumes in consequence the status of one who was never married and is, therefore, entitled to maintenance until she reaches her adolescence; or (b) since her marriage had once removed her from her father's control, in consequence of which she has lost her right to maintenance, her subsequent declaration of refusal cannot again restore to her the right she had once lost.
35. Who had been only betrothed but had never married.
36. Shomereth Yabam. v. [Glos.](#)
37. Who also spoke only of a woman 'in her father's house'. Wherein, then, do they differ?
38. Lit., 'what, not?'
39. V. [Glos.](#) s.v. *Mi'un*.
40. Cf. p. 315, n. 10. By mentioning a 'widow (cf. *supra* n. 11) in her father's house' the first Tanna meant to include also the minor who exercised her right of refusal who is thereby restored to the status of one who had never been married and had always been 'in her father's house'.
41. V. *supra* p. 315. n. 10. He ruled, 'who is still in her father's house', sc. who has never left it to be married, is entitled to maintenance; not, however, one who had once been married though that marriage had taken place during minority.
42. Whom the levir married in fulfillment of the law of the levirate marriage (v. Deut. XXV, 5).

43. By her brothers, out of their deceased father's estate.
44. Yeb. 85a.
45. This refers to the sister-in-law. That is to say the mother of the daughter in question. As her *Kethubah* cannot be made a charge upon the estate of her second husband (her original brother-in-law), so cannot the maintenance of her daughter, which is one of the obligations undertaken in the same document.
46. The sister-in-law.
47. Cf. *supra* n. 8 mutatis mutandis.
48. Teku, v. [Glos.](#)
49. V. Yeb. 20a, 213.
50. Out of the estate of her deceased father.

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Has she no claim to maintenance¹ since [her mother] is not entitled to a *Kethubah*, or is it likely that the Rabbis have imposed a penalty only upon her mother who had committed a transgression but not upon her who had committed no transgression? — This remains unanswered.

Raba asked: Is the daughter of a betrothed wife entitled to maintenance² or not? Is she entitled to maintenance³ since [her mother] is entitled to a *Kethubah*⁴ or is it possible that she is not entitled [to maintenance],³ since the Rabbis have not ordained [the writing of] the *Kethubah* until the time of the marriage?⁵ — The question must stand unanswered.

R. Papa asked: Is the daughter of an outraged woman⁶ entitled to maintenance² or not? According to the ruling of R. Jose the son of R. Judah, who has laid down⁷ that [her mother] is entitled to recover⁸ a *Kethubah* for one *Maneh*,² the question does not arise.¹⁰ It arises only according to the ruling of the Rabbis who have laid down that the fine¹¹ is regarded as a quittance for her *Kethubah*. What, [it may be asked, is the decision]?¹² Has she no claim to maintenance¹³ since [her mother] is not entitled to a *Kethubah*,¹⁴ or might it possibly [be argued thus:] What is the reason why a *Kethubah* [has been instituted for a wife]? In order that the man might not find it easy¹⁵ to divorce her;¹⁶ but [this man],¹⁷ surely,

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cannot¹⁸ divorce her?¹⁹ — This must stand unanswered.

YOU SHALL DWELL IN MY HOUSE, etc. R. Joseph learnt: IN MY HOUSE²⁰ but not in my hovel.²¹ She is entitled, however, to maintenance.²² Mar son of R. Ashi ruled: She is not entitled even to maintenance.²³ The law, however, is not in agreement with Mar son of R. Ashi.

R. Nahman stated in the name of Samuel: If marriage was proposed to her²⁴ and she accepted, she is no longer entitled to maintenance.²⁵ [This is to imply that] if she did not accept,²⁶ she would not be entitled to maintenance! — R. Anan replied: This was explained to me by Mar Samuel: If she said, '[I cannot accept the proposal] out of respect for the memory of²⁷ So-and-so, my husband', she is entitled to maintenance; [but if she said], 'Because the men are not suitable for me,' she is not entitled to maintenance.²⁸

R. Hisda ruled: If she²⁹ played the harlot she is not entitled to maintenance. R. Joseph ruled: If she painted her eyes³⁰ or dyed her hair³¹ she is not entitled to maintenance.³² He who ruled: 'If she played the harlot'³³ would even more so deprive her of maintenance if she paints her eyes or dyes her hair. He, however, who ruled: 'If she painted her eyes or dyed her hair'³³ would allow her maintenance³⁴ if she played the harlot. What is the reason? — Her passions have overpowered her.

The law, however, is not in agreement with any of these reported rulings but with that which Rab Judah laid down in the name of Samuel: She³⁵ who claims her *Kethubah* at court is not entitled to maintenance. But is she not entitled? Surely it was taught: If she sold her *Kethubah*, pledged it, or mortgaged [the land that was pledged³⁶ for] her *Kethubah* to a stranger, she is not entitled to maintenance. [Does not this imply] that only such³⁷ [acts deprive a widow of her maintenance] but not [the act of] claiming [her *Kethubah* at court]? — These [acts³⁸

deprive her of her maintenance] whether she appeared at court or not, but the act of claiming [her *Kethubah* deprives her of maintenance] only if she appeared³⁹ in court but does not [deprive her of it] if she did not appear at court.

SO DID THE MEN OF JERUSALEM, etc. It was stated: Rab ruled, 'The *Halachah* is in agreement with [the practice of] the MEN OF JUDAEA', but Samuel ruled, 'The *Halachah* agrees with [the practice of] the MEN OF GALILEE'.

Babylon⁴⁰ and all its neighboring towns⁴¹ followed a usage in agreement with the ruling of Rab; Nehardea⁴² and all its neighboring towns⁴¹ followed a usage agreeing with the ruling of Samuel.

A woman of Mahuza⁴³ was once married to [a man of] Nehardea. When they came to R. Nahman,⁴⁴ and he observed from her voice that she was a native of Mahuza, he said to them, '[The decision must be in agreement with Rab, for] Babylon and all its neighboring towns have adopted a usage in agreement with the ruling of Rab'. When, however, they pointed out to him, 'But, surely, she is married to [a man of] Nehardea,' he said to them, 'If that is the case, [the decision will be in agreement with Samuel for] Nehardea and all its neighboring towns followed a usage agreeing with the ruling of Samuel. How far does [the usage of] Nehardea extend? — As far afield as the Nehardean *kab*⁴⁵ is in use.⁴⁶

It was stated: [When a *Kethubah* is being paid to] a widow, said Rab, assessment is made of what she wears,⁴⁷ but Samuel said: That which she wears is not assessed. Said R. Hiyya b. Abin: [Their opinions⁴⁸ are] reversed⁴⁹ in the case of a retainer.⁵⁰ R. Kahana taught: And so⁵¹ [are their opinions]⁴⁸ in the case of a retainer;⁵⁰ and [Rab] had laid down this mnemonic, 'Strip the widow and the orphan⁵² and go out'.

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R. Nahman said: Although we have learned in a Mishnah in agreement with the view of Samuel⁵³ the law is in agreement with that of Rab. For we learned: Whether a man has consecrated his estate, or whether he has consecrated the valuation of himself⁵⁴ [the Temple treasurer]⁵⁵ has no claim either upon the clothes of that man's wife,⁵⁶ or upon the clothes of his children, or the colored articles that were dyed for them,⁵⁷ or any new sandals that [their father] may have bought⁵⁷ for them.⁵⁸

Said Raba to R. Nahman: Since, however, we have learned in a Mishnah in agreement with the view of Samuel, why does the law agree with that of Rab? The other replied: At first sight it might appear⁵⁹ to run parallel to the principle of Samuel, but if you examine it carefully [you will find that] the law, in fact, must be in agreement with [the view of] Rab. For this⁶⁰ is the reason:⁶¹ When he⁶² bought⁶³ [the clothes] for her [he did so] on the assumption that she would live with him.⁶⁴ He did not, however, buy⁶³ them for her on the assumption that she should take them⁶⁵ and depart.⁶⁶

A daughter-in-law of the house of Bar Eliashib was claiming her *Kethubah* from orphans. When she summoned them to court and they said, 'It is degrading for us that you should come with us in such [clothes]', she went home and dressed and wrapped herself in all her garments. When they came before Rabina he told them: The law is in agreement with the ruling of Rab who laid down [that when a *Kethubah* is being paid to] a widow, assessment is made of what she wears.

A man⁶⁷ once said, 'Let a bride's outfit⁶⁸ be provided for my daughter', and the price of an outfit was subsequently reduced. 'The benefit',⁶⁹ ruled R. Idi b. Abin, 'belongs to the orphans'.⁷⁰

A man⁶⁷ once said,

1. Which is only one of the obligations a man undertakes in the *Kethubah* he gives to his wife.
2. Out of her deceased father's estate if he had sons from another wife.
3. V. *supra* p. 316, n. 13.
4. If her father had written one for her on betrothal. As he is responsible for the *Kethubah* of his wife so should he be responsible for the maintenance of his daughter (v. *supra* p. 316, n. 13).
5. As the obligation of the *Kethubah* does not begin before marriage, that of maintenance also does not begin earlier.
6. Whom the offender has subsequently married (v. Deut. XXII, 28f).
7. *Supra* 39b.
8. Out of the man's estate, though he had already paid to her father the fine prescribed in Deut. XXII, 29. v. *supra* 39b.
9. V. [Glos.](#)
10. As the *Kethubah* is recoverable from the man's estate so is the daughter's maintenance (v. *supra* p. 316, n. 13).
11. That is paid to her father (Deut. XXII, 29).
12. As regards the daughter's maintenance.
13. V. *supra* p. 316, n. 13).
14. As the *Kethubah* cannot be recovered so cannot the daughter's maintenance.
15. Lit., 'that she shall not be easy in his eyes'.
16. He cannot easily divorce her if his act involves him in the payment of the amount specified in the *Kethubah*.
17. Who committed outrage.
18. V. Deut. XXII, 29.
19. Hence the ruling that the woman is not entitled to a *Kethubah*. As this argument, however, does not apply to her daughter the latter may well be entitled to maintenance.
20. Sc. only if the deceased left a proper house must his sons provide living accommodation for his widow. (Cf. however, fast. *infra* n. 20.)
21. [H], M.S.M [H] = [H] (v. Shab. 77b), 'a house of distress', 'a poor man's house' (Rashi). If the house is too small the orphans may ask her to live elsewhere. *Aliter*. [H] = [H], 'valley', 'group of fields', estate'; the widow 'must be content to live in her late husband's house with his heirs, hut she cannot claim a separate residence' (Jast.).
22. Though she is in residence in her paternal home, she does not forfeit her claim to maintenance from her late husband's estate. Though the first part of the clause of her *Kethubah*, DWELL IN MY HOUSE, is not carried out, the second part, BE MAINTAINED OUT OF MY ESTATE, nevertheless remains valid.
23. As one part of the clause is inapplicable the other part also becomes void.

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24. The widow.
25. Her WIDOWHOOD is deemed to have terminated thereby, and in consequence she loses the rights attached to it.
26. Whatever the reason.
27. Lit., 'on account of'.
28. The heirs cannot be compelled to continue her maintenance once she has had an offer from a man who is willing to provide for her.
29. The widow.
30. Rt. [H], (denom. of [H], stibium, a powder applied to the eyelids), 'to paint the eyelids', cosmetically or medically (v. Jast.).
31. Rt. [H] (denom. of [G] with inserted [H], 'to adorn with paint or dye' (v. Levy). Jast. derives it from [H], 'to rub', 'to rub with paint' (s.v. [H]); 'dyeing the hair' (Jast. s.v. [H]).
32. Since it is apparent that she is not much concerned for the memory of her late husband.
33. 'She is not entitled to maintenance'.
34. Lit., 'she has'.
35. The widow.
36. V. Rashi.
37. Lit., 'these, yes'.
38. Whereby the widow actually recovers her *Kethubah*.
39. Lit., 'yes'.
40. [Stands here for Sura which was in the neighborhood of the old great city of Babylon, v. Git. Sonc. ed. p. 17, n. 3.]
41. So Rashi, 'her dependencies', sc. places following her usages (Jast.); 'seine Nachbarorte' (Golds).
42. V. *supra* p. 222. n. 8.
43. A Jewish trading centre. One of the 'neighboring towns' or 'dependencies' of Babylon.
44. In connection with a dispute concerning the fulfillment of the terms of the *Kethubah* (v. the final clauses of our Mishnah).
45. V. [Glos.](#) Here a term for a dry measure in general, not the specific *Kab* (Obermeyer p. 242).
46. Lit., 'spreads'.
47. Sc. the value of her clothes is deducted from the amount of her *Kethubah*.
48. Those of Rab and Samuel.
49. Samuel ruling that the value of clothes is, and Rab maintaining that it is not to be deducted from the man's wages.
50. Or 'client' (v. Jast.), when he leaves the employ of his master who, during the period of his service, had been supplying him with his clothes. [H] (rt. [H] 'to gather') 'gleaner', 'field laborer'.
51. As in the case of a widow.
52. Sc. the retainer or client.
53. Viz. that a wife's clothes are the property of her husband.
54. V. Lev. XXVII, 1ff.
55. Who comes to collect such offerings.
56. Cf. *supra* note 9.
57. Though they have not yet used them (cf. Rashi). This shows that the raiments are the property of the wife.
58. 'Ar. 24a, B.K. 102b.
59. [H], adv., Lamed and Kaf. prefixed to the noun [H], 'light'.
60. Lit., 'what'.
61. Why the Temple treasurer has no claim upon a wife's clothes though their value is rightly to be deducted from the amount she is paid in settlement of her *Kethubah*.
62. The husband.
63. Or, 'transferred possession'.
64. Consequently, so long as she lives with him, they are her absolute property and no one can take them away from her. Hence the ruling of the Mishnah of 'Ar. that the Temple treasurer cannot claim them.
65. When he died.
66. Hence the ruling of Rab that their value is to be deducted from her *Kethubah*.
67. On his death bed. The instructions of a person in such a condition have the force of a legally written document.
68. The cost of which was well known, all brides being similarly provided for (Rashi).
69. [H] (rt. [H] 'to cut', hence 'to endow') 'endowment', hence 'good luck' (v. fast.); 'surplus' (Colds.).
70. It is their duty to provide the outfit, and since they can obtain it at a reduced price the balance is theirs.