וְאִם אִיתָא – תִּיגְבֵּי מָאתַיִם מִזְּמַן רִאשׁוֹן, וּמֵאָה מִזְּמַן שֵׁנִי!

The Gemara explains the difficulty: **And if it is so,** that Rav Huna maintains that the lien for the basic sum and the addition can be ascribed to different dates, **let her collect two hundred** dinars **from** property sold after **the first** point in **time,** as she was already entitled to the basic sum of her marriage contract from that day, **and** she can collect **the** additional **one hundred** dinars **from** property sold after **the second** point in **time.**

וּלְטַעֲמִיךְ תִּיגְבֵּי חֲמֵשׁ מֵאוֹת כּוּלָּם, מָאתַיִם מִזְּמַן רִאשׁוֹן, תְּלַת מֵאָה מִזְּמַן שֵׁנִי!

The Gemara refutes this argument: **And** even **according to your reasoning, let her collect the entire five hundred** dinars, the sum of both marriage contracts. She should be able to collect **two hundred from** property sold after **the first** point in **time** and **three hundred from** property sold after **the second** stipulated **time.**

אֶלָּא: חֲמֵשׁ מֵאוֹת מַאי טַעֲמָא לָא גָּבְיָא – כֵּיוָן דְּלָא כָּתַב לָהּ ״צָבִיתִי וְאוֹסִיפִית לָךְ תְּלַת מֵאָה אַמָּאתַיִם״ הָכִי קָאָמַר לָהּ: אִי מִזְּמַן רִאשׁוֹן גְּבִיאַת – גָּבְיָא מָאתַיִם, אִי מִזְּמַן שֵׁנִי גְּבִיאַת – גָּבְיָא תְּלַת מֵאָה.

Rather, what is the reason that **she may not collect** the entire sum of **five hundred** dinars? **Since** he did **not write to her** in the second marriage contract: **I chose** to **add to** the payment of **your** marriage contract, and therefore I am writing a contract for **three hundred** dinars in addition **to** the first **two hundred** dinars, it is apparent that **this is what he** meant to **say to her** by writing a second marriage contract: **If you collect from** property sold after **the first** point in **time, you may collect two hundred** dinars; **if you collect from** property sold after **the second** point in **time, you may collect three hundred** dinars.

Perek **IV**
Daf **44** Amud **a**

הָכָא נַמִּי הַיְינוּ טַעֲמָא דְּלָא גָּבְיָא, מִדְּלָא כָּתַב לָהּ ״אוֹסִיפִית לָךְ מֵאָה אַמָּאתַיִם״ – אַחוּלֵי אַחֵילְתֵּיהּ לְשִׁעְבּוּדָא קַמָּא.

Here too, this is the reasoning for the ruling **that she does not collect** the additional one hundred dinars from the second stipulated time, **as he did not write to her** in the second marriage contract: **I added one hundred** dinars **to your** original marriage contract **of two hundred** dinars. Evidently, he did not add to the existing marriage contract. Rather, **she forgave** her rights **to the first** marriage contract, including the **lien** on his property from the date it was written, in order to accept the second marriage document.

אֲמַר מָר: אִי בָּעְיָא בְּהַאי – גָּבְיָא, אִי בָּעְיָא בְּהַאי גָּבְיָא, לֵימָא פְּלִיגָא דְּרַב נַחְמָן, דְּאָמַר רַב נַחְמָן: שְׁנֵי שְׁטָרוֹת הַיּוֹצְאִין בָּזֶה אַחַר זֶה – בִּיטֵּל שֵׁנִי אֶת הָרִאשׁוֹן!

§ After clarifying Rav Huna's opinion, the Gemara turns its attention to a more general issue, connected to his last statement. **The Master,** i.e., Rav Huna, **said,** as indicated in the above discussion, that **if she wishes** she can **collect** the sum specified in **this** marriage contract, and **if she wishes** she can **collect** the sum specified in **that** marriage contract.[H] The Gemara asks: **Shall we say** that this opinion **disagrees** with **that** of **Rav Naḥman? As Rav Naḥman said:** With regard to **two documents**[N] that pertain to the same issue and **that are produced one after the other,**[H] e.g., a pair of documents that ascribe the transfer of ownership over a particular field to different times, the **second,** later document **nullifies the first.** Here too, the second marriage contract should negate the first one entirely.

HALAKHA

She produced two marriage contracts – הוֹצִיאָה שְׁתֵּי כְּתוּבּוֹת: If a woman had two marriage contracts of equal value, the later document cancels the earlier one. She has a lien on her husband's property from the time when the second document was written. If they are not of equal value, she may use whichever one she wishes, and the other is nullified. If the husband wrote in the second document that he was adding an additional sum to that specified in the first document, she has a lien on his property from the time the first document was written vis-à-vis the sum specified in that document, and she has a lien on his property from the time the second document was written vis-à-vis the additional sum specified in that document (Rambam *Sefer Nashim*, *Hilkhot Ishut* 16:29; *Shulḥan Arukh*, *Even HaEzer* 100:14).

Two documents that are produced one after the other – שְׁנֵי שְׁטָרוֹת הַיּוֹצְאִין בָּזֶה אַחַר זֶה: If two identical documents were written about the same transaction, whether a sale or a gift, the second cancels the first. Consequently, if a field is repossessed by creditors of the seller, thereby requiring the seller to compensate the purchaser for his loss, the purchaser may repossess property from the seller only on the basis of the lien created by the second document. If a tax is owed for the field from the period of time between the writing of the two documents, the seller is responsible to pay it. If the purchaser consumed the field's produce during this period of time, he must reimburse the seller. However, some hold that although the purchaser is not entitled to the produce from this period, he does not have to reimburse the owner for anything he took (*Tur*, based on Rosh). The authorities further state that the reputation of the witnesses who signed on the first document is not impaired by this incident, as it is assumed that they acted in good faith (Rambam *Sefer Kinyan*, *Hilkhot Zekhiya* 5:9; *Shulḥan Arukh*, *Ḥoshen Mishpat* 240:2; *Sefer Me'irat Einayim*).

NOTES

Two documents – שְׁנֵי שְׁטָרוֹת: Some state that this *halakha* applies only to documents of sale, a gift, or a marriage contract. However, with regard to documents of loans, even if the two amounts were identical but from different dates, they are assumed to refer to different loans (Rif; *ge'onim*). Other early authorities cite support for this opinion from the Jerusalem Talmud in *Ketubot* 9:10 (Ritva). The Gemara there discusses whether one who lends another for a second time, before the first debt is paid off, is required to specify in the second document that he is lending him again. The Gemara concludes that although this is the advisable course of action, as it prevents error, if one does not do so he may nevertheless collect the loans mentioned in both documents.

לָאו מִי אִיתְּמַר עֲלָהּ, אֲמַר רַב פַּפָּא: וּמוֹדֶה רַב נַחְמָן דְּאִי אוֹסִיף בֵּיהּ דִּיקְלָא לְתוֹסֶפֶת כְּתָבֵיהּ – הָכָא נַמִּי, הָא אוֹסִיף לָהּ מִידֵּי.

The Gemara refutes this suggestion: **Was it not stated with regard to** this *halakha* of Rav Naḥman that **Rav Pappa said: And Rav Naḥman concedes that if he added** so much as **a palm tree in**[H] the second document,[N] this shows that **he wrote it as an addition,** and therefore the second document does not cancel the first, but adds to its sum? **Here too, he added something for her,** as the sum of money specified in the second marriage contract is larger than that specified in the first.

גּוּפָא, אָמַר רַב נַחְמָן: שְׁנֵי שְׁטָרוֹת הַיּוֹצְאִין בְּזֶה אַחַר זֶה – בֵּיטֵל שֵׁנִי אֶת הָרִאשׁוֹן. אֲמַר רַב פַּפָּא: וּמוֹדֶה רַב נַחְמָן דְּאִי אוֹסִיף בֵּיהּ דִּיקְלָא – לְתוֹסֶפֶת כְּתָבֵיהּ. פְּשִׁיטָא רִאשׁוֹן בְּמָכָר וְשֵׁנִי בְּמַתָּנָה – לְיַפּוֹת כֹּחוֹ הוּא דְּכָתַב לֵיהּ, מְשׁוּם דִּינָא דְּבַר מְצָרָא.

§ Since the Gemara has mentioned the statement of Rav Naḥman, it discusses this matter **itself: Rav Naḥman said:** With regard to **two documents that are produced one after the other,** the **second nullifies the first. Rav Pappa said: And Rav Naḥman concedes that if he added a palm tree to it, he wrote it as an addition.** The Gemara analyzes this *halakha* in detail. It **is obvious** that if the **first** document was a document **of a sale,**[H] **and the second** stated that the same field was given **as a gift,** the second document does not negate the first, as **he wrote** the additional document of a gift **to improve the rights** of the recipient **due to the *halakha*** of **one** whose field **borders** the field of his neighbor.[N]

וְכָל שֶׁכֵּן רִאשׁוֹן בְּמַתָּנָה וְשֵׁנִי בְּמָכָר, דְּאָמְרִינַן: מְשׁוּם דִּינָא דְּבַעַל חוֹב הוּא דְּכָתַב כֵּן.

And all the more so, this is the *halakha* if he wrote the **first** document **as a gift and the second** in the form **of a sale, as we say** it was **due to the *halakha*** of **a creditor that he wrote** it in **this way.** Out of concern that his creditor might come and snatch the field from the recipient and leave him without redress, he writes a document of sale for the recipient, so that he can return and collect this sum from him.

HALAKHA

If he added so much as a palm tree – אִי אוֹסִיף בֵּיהּ דִּיקְלָא: If the second document added to the first, the first document remains valid, as the second one was written only for the additional amount (Rambam *Sefer Kinyan*, *Hilkhot Zekhiya* 5:9; *Shulḥan Arukh*, *Ḥoshen Mishpat* 240:2).

If the first document was a document of a sale, etc. – רִאשׁוֹן בְּמָכָר וכו׳: If two documents were written for the same transaction, but one was a sale while the other was a gift, the second document does not negate the first, as it is assumed that the second was given to improve the rights of the recipient, as there are advantages to receiving something by sale rather than as a gift, and vice versa (Rambam *Sefer Kinyan*, *Hilkhot Zekhiya* 5:8; *Shulḥan Arukh*, *Ḥoshen Mishpat* 240:1).

NOTES

If he added so much as a palm tree in the second document – אִי אוֹסִיף בֵּיהּ דִּיקְלָא: Rashi and other commentaries maintain that in a case when the second document adds to the first, the recipient has the following choice: He may collect payment with the first document, in which case he receives the smaller sum, but his lien begins from the date when the first document was written. Or, he may collect payment with the second document, in which case he receives the greater sum, but his lien begins from the date when the second document was written. However, many other commentaries hold that he may collect with both documents (Rosh; *Maggid Mishne*). He has a lien on the seller's property from the date when the first document was written vis-à-vis what he received based upon that document, and he has a lien on the seller's property from the date when the second document was written vis-à-vis what was added in the second document.

The *halakha* of one whose field borders the field of his neighbor – דִּינָא דְּבַר מְצָרָא: There is a *halakha* that when someone sells his field, the owner of a bordering field has the first right of purchase. If the seller sells it to someone else, the owner of the bordering field can demand that the purchaser give it to him, although of course he must reimburse him for his purchase. This *halakha* is based on the command: "You shall do that which is right and good" (Deuteronomy 6:18).

The neighbor has a legitimate reason to want this particular field, as it is certainly easier to work and guard two contiguous plots, and since it makes no difference to the seller who gets his field, it would be unfair not to grant ownership to the one who would benefit most.

This *halakha* applies only to a sale, as in the case of a gift the owner might have his reasons for preferring another individual. Consequently, in this case it is possible that the previous owner wrote a document of a gift to help the recipient circumvent the claims of the owner of the adjacent plot.

Most authorities from Rav Hai Gaon onward maintain that the mere act of writing a document of a gift for the field is not enough to remove the complaint of the neighbor, as the neighbor can protest if he knows that the recipient also possesses a document of sale. According to this opinion, the recipient in this case evidently believes that he can show the neighbor the document of gift without it occurring to him that the transaction was actually a sale. Some add that even according to the ruling of the Rambam, that the neighbor has the right to make the recipient swear that he is not cheating him and that it was in fact a gift, it is possible that the document of a gift was written for the purpose of deceiving the neighbor (Ritva). *Tosafot* explain how the rights of the recipient of the field are augmented when he receives the document stating that he received the land as a gift, even if there are no advantages with regard to the *halakha* of one whose field borders on the field of his neighbor.

אֶלָּא, אִי שְׁנֵיהֶם בְּמֶכֶר, שְׁנֵיהֶם בְּמַתָּנָה – בִּיטֵּל שֵׁנִי אֶת הָרִאשׁוֹן. מַאי טַעְמָא? רַפְרָם אָמַר: אֵימַר אוֹדוּיֵי אוֹדֵי לֵיהּ. רַב אַחָא אָמַר: אֵימַר אַחוּלֵי אַחְלֵיהּ לִשִׁיעְבּוּדֵיהּ.

Rather, Rav Naḥman meant that **if both of them** were documents **of sale** or **both of them** were documents **of gifts,** the **second nullifies the first.** The Gemara asks: **What is the reason** for this *halakha*? *Amora'im* argued over this matter. **Rafram said: Say** that the recipient of the field **admitted to him**[N] that the first document was invalid, e.g., it was forged, and he therefore wrote a second, valid document. **Rav Aḥa said: Say** that the recipient **forgave him his lien**[N] from the date of the first document. Consequently, if the seller's creditors collect this field as payment for the debt owed to them, which necessitates the seller reimbursing the buyer for the purchase price of the field, the buyer has a lien only on property owned by the seller from the time of the second document.

מַאי בֵּינַיְיהוּ? אִיכָּא בֵּינַיְיהוּ אוֹרוּעֵי סָהֲדֵי,

The Gemara asks: **What is** the practical difference **between** these two explanations? The Gemara explains: **The** practical difference **between them** involves several cases. First, there is the issue of whether this serves to **impair** the reliability of the **witnesses:**[N] According to Rafram, who assumes that the first document was of questionable validity, the witnesses who signed on that document are likewise under suspicion, and therefore their testimony and signature in other cases are of questionable value.

וּלְשַׁלּוּמֵי פֵּירֵי, וּלְטַסְקָא.

And there is also a difference with regard **to paying** for the **produce** of the property between the dates specified in the two documents. According to Rafram, the transfer of ownership did not take place at the date specified in the first document. Consequently, the recipient of the field must compensate the original owner for the field's produce that he consumed between the two dates. According to Rav Aḥa, the transfer of ownership took place at the time specified in the first document. **And** finally, there is a difference **with regard to** the payment of **the land tax** [***taska***].[L] If the first document was invalid, the previous owner must pay all taxes due during the period between the two documents.

מַאי הָווּ עֲלָהּ דִּכְתוּבָּה? תָּא שְׁמַע: דְּאָמַר רַב יְהוּדָה אָמַר שְׁמוּאֵל מִשּׁוּם רַבִּי אֶלְעָזָר בְּרַבִּי שִׁמְעוֹן: מָנֶה מָאתַיִם – מִן הָאֵירוּסִין, וְתוֹסֶפֶת – מִן הַנִּישׂוּאִין.

§ The above discussion came in the wake of the dispute between Rav Huna and Rav Asi with regard to whether the lien on a husband's property to ensure payment of his wife's marriage contract applies from the time of betrothal or the time of marriage. The Gemara returns to that issue. **What** halakhic conclusion **was** reached **about** this matter of **a marriage contract?** The Gemara responds: **Come** and **hear** the following ruling, **as Rav Yehuda said** that **Shmuel said in the name of Rabbi Elazar, son of Rabbi Shimon:** The lien on his property with regard to the **one hundred dinars** or **two hundred** dinars that comprise the basic sum of a marriage contract applies **from** the time of **the betrothal, and the** lien with regard to the **additional** sum applies **from** the time of **the marriage.**

וַחֲכָמִים אוֹמְרִים: אֶחָד זֶה וְאֶחָד זֶה מִן הַנִּישׂוּאִין. וְהִלְכְתָא: אֶחָד זֶה וְאֶחָד זֶה מִן הַנִּישׂוּאִין.

And the Rabbis say: The lien with regard to **both this and that** takes effect only **from** the time of **the marriage.** The Gemara concludes: **And the *halakha*** is that with regard to **both this and that,** the lien takes effect **from** the time of **the marriage,**[H] in accordance with the majority opinion of the Rabbis.

LANGUAGE

Land tax [*taska*] – טַסְקָא: Similar to the Arabic طسق, *ṭasaq*, the *taska* mentioned here is a land tax. This tax was supremely important. According to the Persian law of the time, the payment of the *taska* was considered a sign of ownership of a particular property. Failure to pay the *taska* resulted in expropriation of the land.

HALAKHA

With regard to both this and that, the lien takes effect from the time of the marriage – אֶחָד זֶה וְאֶחָד זֶה מִן הַנִּישׂוּאִין: If a man wrote two marriage contracts for his wife, one from the time of betrothal and the other from the time of marriage, she may use only the document written at the time of their marriage (*Shulḥan Arukh*, *Even HaEzer* 100:14).

NOTES

Rafram said: Say that the recipient of the field admitted to him, etc. – רַפְרָם אָמַר אֵימַר אוֹדוּיֵי אוֹדֵי לֵיהּ וכו': The Ramban and later commentaries who were influenced by him suggest that this is not an actual dispute between the *amora'im*. Rafram stated his explanation only in cases where the explanation of Rav Aḥa does not apply. Otherwise, it is not assumed that the document is invalid unless there is evidence to this effect.

Forgave him his lien – אַחוּלֵי אַחְלֵיהּ לִשִׁיעְבּוּדֵיהּ: Some infer from this statement that the recipient merely relinquished his lien from the date of the first document, but he did not relinquish his ownership of the field, as one cannot relinquish ownership over land by simply forgoing rights to it without making a formal transaction (Ramban). Others note that *Tosafot* apparently disagree with this conclusion (Ritva; *Nimmukei Yosef*). They suggest that Rav Aḥa's statement actually means that the recipient renounces his ownership rights to the property as guaranteed by the first document. A practical difference between these interpretations would arise in a case where the second document specifies a smaller plot, e.g., half of a field. According to the opinion of the Ramban, the purchaser has not relinquished his right to the entire field, whereas the Ritva and *Nimmukei Yosef* would maintain that the recipient owns only what is specified in the second document.

To impair the reliability of the witnesses – אוֹרוּעֵי סָהֲדֵי: Some explain that the court is suspicious about the veracity of all other testimonies given by the witnesses who signed the first document (Rashi; Meiri). However, most early authorities maintain that people are not invalidated as witnesses because one individual claimed without proof that they signed a forged document. Rather, this *halakha* applies only to documents that are in the possession of the recipient of the field and that were signed by those witnesses. Since the recipient of the field himself argued that the witnesses signed a forged document, he may not collect other claims on the basis of their testimony (Rid; *Tosafot*; Ramban). The Rid adds that the term impair supports this interpretation, as it indicates that the court does not actually invalidate the witnesses but is merely suspicious with regard to them.

מתני׳ הַגִּיּוֹרֶת – שֶׁנִּתְגַּיְּירָה בְּתָהּ עִמָּהּ וְזִינְּתָה – הֲרֵי זוֹ בְּחֶנֶק. אֵין לָהּ לֹא פֶּתַח בֵּית הָאָב, וְלֹא מֵאָה סֶלַע.

MISHNA

In the case of a female **convert**[N] **whose daughter converted**[N] **with her**[H] **and** later, as a young woman, the daughter **engaged in licentious sexual relations** when she was betrothed, **she is** executed **by strangulation,** not stoning, the method of execution that would be employed had she been born Jewish. **She has neither** the *halakha* of being executed at the **entrance to** her **father's house,**[N] as in the case of a woman who was born Jewish who committed this crime, **nor** does she receive **one hundred *sela*** if her husband defamed her by falsely claiming that she had committed adultery. The reason is that the verses state "Israel" (Deuteronomy 22:19, 21) with regard to these *halakhot*, indicating that these *halakhot* apply only to those born as Jews.

הָיְתָה הוֹרָתָהּ שֶׁלֹּא בִּקְדוּשָּׁה וְלִידָתָהּ בִּקְדוּשָּׁה – הֲרֵי זוֹ בִּסְקִילָה, וְאֵין לָהּ לֹא פֶּתַח בֵּית הָאָב, וְלֹא מֵאָה סֶלַע. הָיְתָה הוֹרָתָהּ וְלִידָתָהּ בִּקְדוּשָּׁה – הֲרֵי הִיא כִּבַּת יִשְׂרָאֵל לְכָל דְּבָרֶיהָ.

However, if the daughter's **conception occurred** when her mother **was not** yet **in** a state of **sanctity,**[H] i.e., when she was still a gentile, **but her birth** took place when her mother was **in** a state of **sanctity,** as her mother converted during her pregnancy, **this** daughter is punishable **by stoning** if she committed adultery as a betrothed young woman. However, **she has neither** the *halakha* of being executed at the **entrance to** her **father's house, nor** the right to **one hundred *sela*** if it turns out that her husband defamed her. If **her conception and birth occurred** when her mother **was in** a state of **sanctity,**[H] i.e., after she converted, **she is like a** regular **Jewish woman in all matters.**

יֵשׁ לָהּ אָב וְאֵין לָהּ פֶּתַח בֵּית הָאָב, יֵשׁ לָהּ פֶּתַח בֵּית הָאָב וְאֵין לָהּ אָב – הֲרֵי זוֹ בִּסְקִילָה, לֹא נֶאֱמַר "פֶּתַח בֵּית אָב" אֶלָּא לְמִצְוָה.

If a young woman who is betrothed commits adultery and **she has a father but does not have an entrance to** her **father's house,** i.e., if her father does not possess a house of his own, or if **she has an entrance to** her **father's house but does not have a father,**[H] as he has passed away, **she is** nevertheless executed **via stoning, as** the requirement that she is to be executed at the **entrance to her father's house is stated only for a mitzva** but it is not an indispensable requirement.

NOTES

A female convert, etc. – הַגִּיּוֹרֶת וכו׳: With regard to the connection between this *halakha* and the previous *mishnayot*, the commentaries explain that the *mishnayot* clarified the *halakhot* of a rapist and a seducer and then incidentally discussed the rights of a father to his daughter's marriage contract, which is related to his rights to her fine. Subsequently, the mishna addresses the *halakha* of a defamer, whose fine is similar in several regards to that of a rapist (*Melekhet Shlomo*).

A female convert whose daughter converted – הַגִּיּוֹרֶת שֶׁנִּתְגַּיְּירָה בְּתָהּ: According to most commentaries, this *halakha* applies to all converts, including those who converted at a very young age. Some add that the *tanna* formulated his statement with regard to the daughter of a convert who is also a convert, rather than just referring to a convert, to indicate that the *halakha* applies even to one who converted under the age of three, when she is unable to convert on her own (*Tosafot*). Others state that this *halakha* is referring only to a convert who does not have a presumption of virginity, as stated several times in previous *mishnayot* (Rambam's Commentary on the Mishna). According to this interpretation, the mishna is referring only to a girl who converted when she was older than three.

She has neither the *halakha* of being executed at the entrance to her father's house, etc. – אֵין לָהּ לֹא פֶּתַח בֵּית הָאָב וכו׳: Some commentaries explain that the court does not have to fulfill the requirement to stone her at the entrance of her father's house, as this *halakha* was stated only with regard to a woman who was born Jewish (Rashi; Ritva). Others maintain that once she has converted she is no longer considered halakhically related to her father, and therefore it is impossible to execute her at the entrance of her father's home, similar to the case of a fatherless young woman (*ge'onim*; Rabbeinu Yehonatan; Rid).

HALAKHA

A convert whose daughter converted with her – הַגִּיּוֹרֶת שֶׁנִּתְגַּיְּירָה בְּתָהּ עִמָּהּ: If a female convert committed adultery as a betrothed young woman, she is executed via strangulation rather than stoning. This applies even if she was younger than three years old when she converted. If her husband defamed her, he is exempt from the fine and from receiving lashes (Rambam *Sefer Kedusha*, *Hilkhot Issurei Bia* 3:7; *Sefer Nashim*, *Hilkhot Na'ara Betula* 3:8).

If the daughter's conception occurred when her mother was not yet in a state of sanctity – הָיְתָה הוֹרָתָהּ שֶׁלֹּא בִּקְדוּשָּׁה: If a woman conceived as a gentile and converted before giving birth to her daughter, and the daughter committed adultery as a betrothed young woman, the daughter is executed via stoning. However, she is not stoned at the entrance to her father's house but at the city gates. If her husband defamed her, he is exempt from the fine and from receiving lashes (Rambam *Sefer Kedusha*, *Hilkhot Issurei Bia* 3:11; *Sefer Nashim*, *Hilkhot Na'ara Betula* 3:8).

If her conception and birth occurred when her mother was in a state of sanctity – הָיְתָה הוֹרָתָהּ וְלִידָתָהּ בִּקְדוּשָּׁה: If a girl was conceived after her mother's conversion, she is considered a regular Jewish woman with regard to the *halakhot* of a defamer (Rambam *Sefer Nashim*, *Hilkhot Na'ara Betula* 3:8).

Does not have a father, etc. – אֵין לָהּ אָב וכו׳: If a betrothed young woman who does not have a father or whose father does not own a house commits adultery, she is stoned in the regular place of stoning (Rambam *Sefer Kedusha*, *Hilkhot Issurei Bia* 3:11).

גמ׳ מְנָא הָנֵי מִילֵּי? אֲמַר רֵישׁ לָקִישׁ: דְּאָמַר קְרָא ״וָמֵתָה״ – לְרַבּוֹת הוֹרָתָהּ שֶׁלֹּא בְּקִדּוּשָּׁהּ וְיֶלְדָתָהּ בְּקִדּוּשָּׁהּ.

GEMARA Since the rulings of the mishna are based on the principle that the special *halakhot* of a betrothed young woman who committed adultery apply only to a woman who was born Jewish, the Gemara questions the *halakha* that a woman who was conceived when her mother was a gentile but born when her mother was Jewish is executed via stoning: **From where are these matters** derived? **Reish Lakish said: As the verse states:** "And the men of her city shall stone her with stones **that she die**" (Deuteronomy 22:21). The phrase "that she die" is superfluous and comes **to include** one **whose conception** occurred when her mother **was not** yet **in** a state of **sanctity but her birth** took place when her mother was **in** a state of **sanctity.**

אִי הָכִי, מְיַלְּקָא נַמִּי נְיַלְּקֵי, וּמֵאָה סָלַע נַמִּי לְשַׁלֵּם! אָמַר קְרָא: ״וָמֵתָה״ – לְמִיתָה נִתְרַבְּתָה, וְלֹא לְקָנָס. וְאֵימָא: לְרַבּוֹת הוֹרָתָהּ וְיֶלְדָתָהּ בְּקִדּוּשָּׁהּ! הַהִיא יִשְׂרְאֵלִית מַעֲלַיְיתָא הִיא.

The Gemara asks: **If so,** if the verse equates her to a regular Jewish woman, **let** her husband **also be flogged** if he defames her, **and let him also pay** the **one hundred *sela*.** The Gemara answers that **the verse states: "That she die"** (Deuteronomy 22:21), which indicates that **she was included with regard to** the **death** penalty **but not with regard to** the **fine.** The Gemara asks another question: **Say** that this verse comes **to include** only a girl **whose conception and birth** both occurred when her mother was **in** a state of **sanctity.** The Gemara responds: **That** girl **is a full-fledged Jewish woman,** and there is no difference between her and any other Jewish woman.

וְאֵימָא לְרַבּוֹת הוֹרָתָהּ וְיֶלְדָתָהּ שֶׁלֹּא בְּקִדּוּשָּׁהּ! אִם כֵּן ״בְּיִשְׂרָאֵל״ מַאי אַהֲנֵי לֵיהּ?

The Gemara asks a question from the opposite perspective: **And say** that the verse comes **to include** even one **whose conception and birth** both occurred when her mother was **not in** a state of **sanctity.** The Gemara answers: **If so,** the phrase **"in Israel"** (Deuteronomy 22:21), **what purpose does it** serve?[N] This expression indicates that this *halakha* applies only to woman who was born Jewish.

אָמַר רַבִּי יוֹסֵי בַּר חֲנִינָא: הַמּוֹצִיא שֵׁם רַע עַל הַיְתוֹמָה – פָּטוּר, שֶׁנֶּאֱמַר ״וְנָתְנוּ לַאֲבִי הַנַּעֲרָה״ – פָּרַט לָזֶה שֶׁאֵין לָהּ אָב.

§ **Rabbi Yosei bar Ḥanina said: The defamer of an orphan**[H] girl **is exempt, as it is stated:** "And they shall fine him a hundred shekels of silver, **and give them to the father of the young woman"** (Deuteronomy 22:19), which **excludes this one who does not have a father.**

מְתִיב רַבִּי יוֹסֵי בַּר אָבִין, וְאִיתֵּימָא רַבִּי יוֹסֵי בַּר זְבִידָא: ״וְאִם מָאֵן יְמָאֵן אָבִיהָ״ – לְרַבּוֹת יְתוֹמָה לְקָנָס, דִּבְרֵי רַבִּי יוֹסֵי הַגְּלִילִי.

Rabbi Yosei bar Avin, and some say it was **Rabbi Yosei bar Zevida, raised an objection to this** from the following *baraita*: The verse states with regard to a seduced young woman: **"If her father utterly refuse** [***ma'en yima'en***] to give her to him, he shall pay money according to the dowry of virgins" (Exodus 22:16). The double phrase "utterly refuse [*ma'en yima'en*]" comes **to include an orphan for** the **fine,**[N] i.e., if she does not have a father and she herself refuses to marry her seducer, he must pay her the fine. This is **the statement of Rabbi Yosei HaGelili.** This proves that the fact that the girl does not have a father does not exempt her seducer from paying the fine.

HALAKHA

The defamer of an orphan – הַמּוֹצִיא שֵׁם רַע עַל יְתוֹמָה: If a husband defames his wife and she is an orphan, the one hundred *sela* fine belongs to her, in accordance with the opinion of Rava (Rambam *Sefer Nashim*, *Hilkhot Na'ara Betula* 3:1, and *Kesef Mishne* there).

NOTES

The phrase "in Israel," what purpose does it serve – בְּיִשְׂרָאֵל, מַאי אַהֲנֵי: The early authorities note that the phrase "in Israel" does not by itself prove that this *halakha* applies only to women born as Jews, as the expression "she has performed a wanton deed in Israel" (Deuteronomy 22:21) can be explained as referring to a convert as well, who has now joined the Jewish people. However, when this verse is combined with the phrase "because he defamed a virgin of Israel" (Deuteronomy 22:19) from the same chapter, in reference to the fine, it is clear that one of the terms is superfluous. It is therefore understood to be teaching that a convert is excluded both from the punishment and the fine.

To include an orphan for the fine – לְרַבּוֹת יְתוֹמָה לְקָנָס: The early authorities question why the seducer would have to pay a fine to the orphan when the *halakha* is that if the fine would be paid to the woman, the seducer is exempt from paying because the woman willingly consented to the act. Some commentaries explain that this verse is referring to a minor who was seduced, as she is considered a victim of a rape due to her age (Ramban in his *Milḥamot Hashem*). One version of the text of the Gemara indicates as much.

The commentaries also question the relevance of the proof from this verse to the discussion at hand. The verse addresses a case of seduction whereas Rabbi Yosei bar Ḥanina's ruling pertains to a case of defamation. Most commentaries accept Rashi's opinion that the *baraita* derives a principle from the verse about seduction. There is a general comparison between the *halakhot* pertaining to a case of seduction and those pertaining to rape. In the case of rape, the Torah says that the fine is paid to the victim's father (Deuteronomy 22:29). The *baraita*, by teaching that if one seduces an orphan he must pay her the fine, indicates that when the Torah says the fine must be paid to the father, that does not mean that no fine is paid in the case of an orphan. Rather, it means simply that if the woman has a father, he has the rights to the fine. The same is true when the Torah states that a defamer must pay a fine to the father of his victim (Deuteronomy 22:19).

הוּא מוֹתִיב לָהּ וְהוּא מְפָרֵק לָהּ: בְּבָא עָלֶיהָ וְאַחַר כָּךְ נִתְיַתְּמָה.

The Gemara states that Rabbi Yosei bar Avin **raised the objection and he resolved it:** Rabbi Yosei HaGelili refers to **one who had intercourse with her and afterward was orphaned.** Since she had a father when the incident occurred, he is obligated to pay her the fine.

רָבָא אָמַר: חַיָּיב. מִמַּאי – מִדְּתָנֵי אַמִּי: ״בְּתוּלַת יִשְׂרָאֵל״ וְלֹא בְּתוּלַת גֵּרִים.

Rava said, in contrast to Rabbi Yosei bar Ḥanina, that one who defames an orphan is **obligated** to pay the fine. **From where** does he learn this? He learns this **from** the fact that **Ami taught** that the fine applies to one who defamed "**a virgin of Israel**" (Deuteronomy 22:19) **and** does **not** apply to one who defamed **a virgin** who is **a convert.**

אִי אָמְרַתְּ בִּשְׁלָמָא כִּי הַאי גַּוְונָא בְּיִשְׂרָאֵל מִיחַיַּיב – הַיְינוּ דְּאִיצְטְרִיךְ קְרָא לְמַעוּטֵי גֵּרִים, אֶלָּא אִי אָמְרַתְּ בְּיִשְׂרָאֵל כְּהַאי גַּוְונָא פָּטוּר, הָשְׁתָּא בְּיִשְׂרָאֵל פָּטוּר – בְּגֵרִים מִיבָּעֵיָא?!

Rava elaborates: **Granted, if you say** that **in a case like this,** where a woman has no father, **with regard to** a woman who was born as **a Jew, he is obligated** to pay, **that is** why **it was necessary** for **the verse to exclude converts.** Every convert is considered like an orphan, as the familial connection with her parents is severed upon her conversion, and therefore it is as though she did not have a father. **However, if you say that in a case like this involving** a woman born as **a Jew he is exempt, now** if in a case **involving** a woman born as **a Jew** he is **exempt, is** it **necessary** to derive from a verse **that converts** are not entitled to the fine? The fact that there is such a derivation in the case of converts indicates that in the case of a Jewish-born orphan, the defamer must pay a fine.

אָמַר רֵישׁ לָקִישׁ: הַמּוֹצִיא שֵׁם רַע עַל הַקְּטַנָּה – פָּטוּר, שֶׁנֶּאֱמַר ״וְנָתְנוּ לַאֲבִי הַנַּעֲרָה״, נַעֲרָה מָלֵא דִּבֵּר הַכָּתוּב.

§ **Reish Lakish said: The defamer** of **a minor**[H] girl **is exempt, as it is stated: "And give them to the father of the young woman** [***na'ara***]" (Deuteronomy 22:19). The word *na'ara* is written in full, with the letter *heh* at the end, whereas elsewhere in the Torah it is written without the *heh*. This indicates that **the verse was speaking** of a female who has **fully** attained the status of **a young woman,** rather than a minor who has not yet reached the state of being a young woman.

מַתְקִיף לָהּ רַב אַחָא בַּר אַבָּא: טַעֲמָא דִּכְתִיב בָּהּ ״הַנַּעֲרָה״ הָא לָאו הָכִי – הֲוָה אָמֵינָא אֲפִילּוּ קְטַנָּה, הָא כְּתִיב ״וְאִם אֱמֶת הָיָה הַדָּבָר הַזֶּה לֹא נִמְצְאוּ בְתוּלִים לַנַּעֲרָה וְהוֹצִיאוּ אֶת הַנַּעֲרָה אֶל פֶּתַח בֵּית אָבִיהָ וּסְקָלוּהָ״ – וּקְטַנָּה לָאו בַּת עוֹנְשִׁין הִיא!

Rav Aḥa bar Abba strongly **objects to this:** Is it correct that **the reason is that it is written** with regard to **her "*na'ara*"** in full, **but if that were not so, I would say** that **even a minor** is included in this *halakha*? **Isn't it written: "But if this matter is true, that the tokens of virginity were not found in this young woman, then they shall bring out the young woman to the entrance to her father's house and** the men of her city shall **stone her"** (Deuteronomy 22:20–21)? **And** since **a minor is not eligible for punishment,** this verse evidently is referring to a young woman, not a minor, and therefore there is no need for the aforementioned exposition.

אֶלָּא, כָּאן – נַעֲרָה, הָא כָּל מָקוֹם שֶׁנֶּאֱמַר ״נַעַר״ – אֲפִילּוּ קְטַנָּה בְּמַשְׁמָע.

Rather, the verse should be understood as follows: **Here,** where it is evident that the Torah is referring to a young woman, it writes ***na'ara*** with a *heh*, from which it may be inferred that **wherever it is stated *na'ara*** without a *heh* at the end, **it indicates** that the verse is referring **even** to **a minor** girl. The term *na'ara* without a *heh* is referring to both a minor and a young woman and excludes only an adult woman.

תָּנֵי שֵׁילָא: שָׁלֹשׁ מִדּוֹת בִּנַּעֲרָה: בָּאוּ לָהּ עֵדִים בְּבֵית חָמִיהָ שֶׁזִּינְּתָה בְּבֵית אָבִיהָ,

Sheila taught in a *baraita*: There are **three** different **circumstances with regard to a young woman** who has been defamed. If **witnesses came** to testify about **her** when she was **in her father-in-law's house,**[HN] i.e., after she was married, and stated **that she committed adultery in her father's house,** when she was betrothed,

HALAKHA

The defamer of a minor – הַמּוֹצִיא שֵׁם רַע עַל הַקְּטַנָּה: If a husband defames his wife and she is a minor, he is exempt from paying the fine and from receiving lashes, as stated by Reish Lakish (Rambam *Sefer Nashim*, *Hilkhot Na'ara Betula* 3:2).

Witnesses came to testify about her when she was in her father-in-law's house – בָּאוּ לָהּ עֵדִים בְּבֵית חָמִיהָ: If a betrothed young woman committed adultery while living in her father's house, she is stoned at the entrance to her father's house, even if the witnesses testified only after she was married, as taught by Sheila (Rambam *Sefer Kedusha*, *Hilkhot Issurei Bia* 3:9).

NOTES

Witnesses came to testify about her when she was in her father-in-law's house – בָּאוּ לָהּ עֵדִים בְּבֵית חָמִיהָ: This *halakha* applies to any young woman accused after her marriage of having committed adultery during her betrothal. It makes no difference whether the witnesses came as a result of the fact that her husband defamed her (Ritva).