

סוקלין אותה על פתח בית אביה, כלאומר: ראו גידולים שגידלתם. באו לה עדים בבית אביה שזינתה בבית אביה – סוקלין אותה על פתח שער העיר. סרחה ולבסוף בגרה – תידון בחנק.

למימרא דכל היכא דאישתני גופא אישתני קטלא? ורמינהי: נערה המאורסה שזינתה, ומשבגרה הוציא עליה שם רע – הוא אינו לוקה ואינו נותן מאה סלע, היא וזוממיה מקדימין לבית הסקילה.

היא וזוממיה סלקא דעתך? אלא: או היא או זוממיה מקדימין לבית הסקילה!

one stones her at the entrance to her father's house, as though to say: See what you have brought up.<sup>N</sup> If witnesses came to testify about her when she was in her father's house,<sup>HN</sup> i.e., when she was betrothed, and testified that she committed adultery in her father's house, one stones her at the entrance to the gate of the city. If she went astray and sinned when she was a young woman and subsequently reached majority,<sup>H</sup> i.e., she became a grown woman, she is sentenced to strangulation, which is the punishment for a grown woman who committed adultery.

The Gemara asks with regard to this *halakha*: Is that to say that in any case where her body has changed after her sin, the manner in which she is put to death changes as well? The Gemara raises a contradiction from the following *baraita*: If there is a betrothed young woman who allegedly committed adultery, and after she reached majority she married and her husband defamed her, accusing her of having committed adultery during the period of betrothal, he is not flogged and does not give the one hundred sela if she is proven innocent, as these punishments are limited to one who defames a young woman (Deuteronomy 22:19). However, if she is guilty, she and her conspiring witnesses<sup>N</sup> are brought early in the morning to the place of stoning.<sup>N</sup> This proves that although her body changed between the time of the sin and the time of her punishment, she is stoned nevertheless.

The Gemara digresses to analyze the last clause of this *baraita*: Can it enter your mind to say that both she and her conspiring witnesses, i.e., witnesses who falsely testified that she committed adultery, are executed? If the witnesses who testified against her were telling the truth and she sinned, only she is liable to be stoned, and if the court discovers that they were false, conspiring witnesses, then they are stoned and she is exempt. Rather, the text of the *baraita* should be emended so that it reads: Either she or her conspiring witnesses are brought early in the morning to the place of stoning.

HALAKHA

Witnesses came to testify about her when she was in her father's house – באו לה עדים בבית אביה – The Rambam had a version of the Gemara text that was different than the text printed in the Vilna Talmud. According to his version, Sheila states that if a young woman who was betrothed committed adultery in her father-in-law's house before she entered the wedding canopy, even if witnesses testified about this after she returned to her father's house, she is stoned at the entrance to the city gates (Rambam *Sefer Kedusha, Hilkhot Issurei Bia* 3:9).

If she went astray and subsequently reached majority – סרחה ולבסוף בגרה: If a betrothed young woman committed adultery in her father's house, even if the witnesses testified after she reached majority or after her husband had intercourse with her, she is liable to be stoned and is executed in the regular place of stoning. This ruling is in accordance with the opinion of Rabbi Yoḥanan (45b), and it is not in accordance with the opinion of Sheila (Rambam *Sefer Kedusha, Hilkhot Issurei Bia* 3:10).

NOTES

ראו גידולים שגידלתם – See what you have brought up – The stoning of a daughter who committed adultery at the entrance to her father's house serves to demonstrate that she did not sin in her father-in-law's house, and he and his family are not responsible for her behavior. Consequently, if the witnesses arrived when she is still in her father's house, it is already evident to all that she sinned there, even if she is not stoned there. Therefore, she is stoned in the most prominent public arena, at the city gates (Ritva, based on Rashi). However, the Rambam rules that even if witnesses came when she was in her father's house, she is stoned at the entrance to his house. Apparently, he maintains that the *tanna* states the clause: Witnesses came when she was in her father-in-law's house, only because it is more likely for matters of this kind to come to light after she has moved out of her father's house (Meiri).

Witnesses came to testify about her when she was in her father's house, etc. – באו לה עדים בבית אביה וכו' – It is clear that some early commentaries had versions of the Gemara text that were different than the version that Rashi had and that is printed in the Vilna Talmud. The Ritva reports that the

Ra'avad's text stated: If witnesses came when she was in her father's house to testify that she committed adultery in her father-in-law's house. He explains that this means that she was visiting her father-in-law's house, not that she was married and returned to her father's house. The Ritva adds that the Gemara text of the Rambam read: If witnesses testified when she was in her father-in-law's house that she committed adultery in her father-in-law's house, which means they attested that she sinned after the wedding canopy but before she had intercourse with her husband.

היא וזוממיה – The answer of the Gemara is simply that in this context the letter *vav* means: Or, rather than: And.

Brought early in the morning to the place of stoning – מקדימין לבית הסקילה: Rashi explains that this phrase serves to emphasize that they have no way of escaping this punishment. Others state that the statement that they are brought early means that stoning is the appropriate punishment, notwithstanding the *halakha* that one who cannot be executed in the prescribed manner must be killed by other means (Ritva, citing *Tosafot on Makkot* 19b).

**A defamer is different, etc.** – שְׂאֵנִי מוֹצִיא שֵׁם רַע וְכוּ: If a husband defames his wife by accusing her of having committed adultery before he had engaged in intercourse with her, and witnesses substantiate his claim, the woman is executed via stoning at the entrance to her father's house. This is true if she committed adultery as a young woman who was betrothed. According to the Rambam and the Rashbam, this is true even if she committed adultery after marriage, as long as she had not yet had intercourse with her husband. However, Rabbeinu Hananel, the Ra'avad, and many other early authorities rule that if she committed adultery after marriage, she is liable to strangulation (Rambam *Sefer Kedusha*, *Hilkhot Issurei Bia* 3:8, and Ra'avad there).

**If they sinned before they were appointed, etc.** – חֲטָאוּ עַד שֶׁלֹּא נִתְּמְנוּ וְכוּ: If an individual committed a transgression for which one is liable to bring a sin-offering and realized that he had done so only after he was appointed to be the High Priest or the king, he nevertheless brings the offering of a commoner (Rambam *Sefer Korbanot*, *Hilkhot Shegagot* 15:10).

אָמַר רַבָּא: מוֹצִיא שֵׁם רַע קְאָמְרַת – שְׂאֵנִי מוֹצִיא שֵׁם רַע דְּחִידוּשׁ הוּא. דְּהָא נִבְנְסָה לְחוּפָה וְלֹא נִבְעֵלָה בְּעֵלְמָא. וְזוּיְנָתָה – בְּחֻנְקָא, וְאֵילּוּ מוֹצִיא שֵׁם רַע – בְּסִקּוּלָה.

אָמַר לִיָּה רַב הוּנָא בְּרִיהַ דְּרַב יְהוֹשֻׁעַ לְרַבָּא: דְּלִמָּא בִּי חֲדִית רַחֲמֵנָא – הֵיכָא דְּלֹא אִישְׁתֵּי גוּפָא, אֲבָל הֵיכָא דְּאִישְׁתֵּי גוּפָא – לָא חֲדִית רַחֲמֵנָא!

אֲלֵא אָמַר רַב נַחֲמָן בַּר יִצְחָק: אִישְׁתֵּי וְלֹא אִישְׁתֵּי תִנְיָא הֵיא, דְּתַנְן: חֲטָאוּ עַד שֶׁלֹּא נִתְּמְנוּ, וְנִתְּמְנוּ – הֲרִי הֵן בְּהַדְיוּטוֹת.

רַבִּי שִׁמּוֹן אָמַר: אִם נוֹדַע לְהֵם עַד שֶׁלֹּא נִתְּמְנוּ – חַיִּיבִים, מִשְׁנֵינִתְּמְנוּ – פְּטוּרִים.

In answer to the contradiction, Rava said: **A defamer, you said? A defamer is different<sup>HN</sup> as it is a novel halakha.** Certain aspects of this case do not apply to other *halakhot* as, generally, if a woman who entered the wedding canopy and did not yet have intercourse with her husband subsequently committed adultery, she is executed by strangulation, which is the punishment for a married woman who committed adultery. However, in the case of a defamer, if the woman is guilty she is executed by stoning, despite the fact that if she would commit the sin in her current state, as a married woman, she would be executed via strangulation. This proves that in the case of defamation, the method of execution is determined by the time when the sin was committed, although her status has since changed.

**Rav Huna, son of Rav Yehoshua, said to Rava: Perhaps when the Merciful One introduced the novelty of the halakha of a defamer, it was applied only to a case where her body has not changed and she is still a young woman. However, in a case where her body has changed and she has become a grown woman, the Merciful One did not introduce the novelty of this halakha,** and she is liable to strangulation just as she would be liable to strangulation if she had committed the sin as a grown woman.

**Rather, Rav Nahman bar Yitzhak said:** This question of whether the method of her execution changes or does not change if her body has changed is a dispute between *tanna'im*, as we learned in a mishna (*Horayot* 10a), with regard to the special offering of a High Priest or a king who sinned unwittingly (see Leviticus 4:3–12, 22–26): **If they sinned before they were appointed,<sup>HN</sup> and they were subsequently appointed,** and they became aware of their transgression only after their appointment, **they are like commoners.** They must bring a female sheep or goat, like any ordinary individual who sinned, rather than the bull brought by a High Priest who has sinned or the male goat brought by a king who has sinned.

**Rabbi Shimon says: If their sin became known to them before they were appointed,** even if they did not bring their offering before they were appointed, **they are liable** to bring the offering of a commoner. However, if their sin became known to them **after they were appointed, they are entirely exempt<sup>N</sup>** from bringing an offering as their change in status necessitates a corresponding change in their offering, and therefore their first obligation is entirely nullified. This shows that according to Rabbi Shimon, a change in status retroactively affects one's liability for a transgression he committed in his previous status. A similar *halakha* should apply in the case of a betrothed young woman who committed adultery and reached majority before her sin became known.

NOTES

**A defamer is different, etc.** – שְׂאֵנִי מוֹצִיא שֵׁם רַע וְכוּ: Rashi's interpretation of the Gemara's discussion, which is accepted by most early authorities, is as follows: Sheila taught that if a young woman who is betrothed commits adultery and then matures before witnesses testify about her sin, she is executed via strangulation, which is the punishment for a mature woman who has committed adultery. She is not executed via stoning, which is the punishment for a young woman who committed adultery. This is due to the principle that if the individual has changed since the time of the sin, he is punished according to his current status and not according to his status at the time of the sin.

The Gemara raises a question from a *baraita* that indicates that in the case of defamation, even if the woman matures before witnesses testify that she committed adultery, she is stoned. Rava answers that according to Sheila, the entire case of defamation is an exception to the rule, as the woman is stoned when witnesses testify about her crime after she is married, despite the fact that a married woman who commits adultery is executed via strangulation. Consequently, it is not

surprising that in the case of defamation, the woman is stoned even if she reached majority between the time of the sin and the time when the witnesses testified about the sin. Rav Huna, son of Rav Yehoshua, questions this logic. He points out that the fact that the method of execution does not change due to the fact that she has married does not mean that it would not change if she had reached majority and thereby underwent a physical change.

The Rashbam, cited in *Tosafot*, suggests an entirely different interpretation of Rava's argument. In his opinion, the novelty of the case of a defamer is that even if the woman committed adultery after marriage, as long as she had not yet had intercourse with her husband, she is liable to be stoned. Conversely, if she committed adultery in a similar circumstance but her husband did not defame her, she is liable to strangulation. The Rambam agrees with this interpretation. Other early authorities disagree. Although this interpretation fits in well with the wording of Rava's statement, it is not reasonable to assume that the woman is liable to be executed more severely, i.e., by stoning, simply because her husband defamed her (see *Tosafot*).

**חֲטָאוּ עַד שֶׁלֹּא נִתְּמְנוּ** – Although this case involves a change of status rather than a physical change, it is possible that Rav Nahman bar Yitzhak holds in accordance with Rava that there is no difference between a change of status and a physical change. Alternatively, although one cannot prove from the opinion of the Rabbis whether they would agree with the ruling of Sheila, it is clear that Rabbi Shimon would agree with Sheila's ruling. If the offering changes because of a change in status, certainly one's punishment should change due to a physical change in the perpetrator (Ritva).

**If their sin became known to them after they were appointed, they are entirely exempt** – מִשְׁנֵינִתְּמְנוּ פְּטוּרִים: Rabbi Shimon maintains that they cannot bring the offering of a commoner because they are now obligated to bring a different offering. However, they cannot bring an offering according to their current status because they were commoners when they sinned.

אימור דשמעין ליה לרבי שמעון דאזיל  
אף בתר ידיעה, דאזיל בתר ידיעה ולא  
אזיל בתר חטאה – מי שמעת ליה? אם  
כן לית קרבן בי דהשתא, משוח – פר,  
ונשיא – שעיר!

האמר ליה רבי יוחנן לתנא: תני "תידון  
בסקילה". ואמאי? נערה המאורסה  
אמר רחמנא, והא בוגרת היא! אמר  
רבי אילעא: אמר קרא "הנערה" הנערה  
שהיתה כבר.

אמר ליה רבי חנניא לרבי אילעא: אי  
הכי – מילקא נמי לילקי, ומאן סלע  
נמי לישלים! אמר ליה: רחמנא ניצלן  
מהאי דעתא. אדרבה, רחמנא ניצלן  
מדעתא דידך.

וטעמא מאי? אמר רבי יצחק בר אבין,  
ואיתומא רבי יצחק בר אבא: זו –  
מעשיה גרמו לה, וזה – עקימת שפתיו  
גרמו לו. זו מעשיה גרמו לה, כשהיא  
זנאי – נערה זנאי. וזה עקימת שפתיו  
גרמו לו, אימת קא מיחייב – ההיא  
שעתא, וההיא שעתא – בוגרת הואי.

תנו רבנן: נערה המאורסה שזינתה –  
סוקלין אותה על פתח בית אביה. אין  
לה פתח בית האב – סוקלין אותה על  
פתח שער העיר ההיא. ובעיר שרובה  
גוים – סוקלין אותה על פתח בית  
דין. כיוצא בדבר אתה אומר: העובד  
עבודה זרה – סוקלין אותו על שער  
שעבר בו. ובעיר שרובה גוים – סוקלין  
אותו על פתח בית דין.

The Gemara questions this comparison: **Say that we heard that Rabbi Shimon follows even the awareness**, i.e., Rabbi Shimon takes into consideration the time when the sin became known to the High Priest or king, and maintains that he cannot bring the offering of a commoner. However, **did you hear him say that he follows the time of the awareness and does not follow the time of the sin? If so, let him bring the offering that befits his current status: One anointed to be the High Priest brings a bullock, and a prince, i.e., a king, offers a goat.** Consequently, there is no proof that, according to Rabbi Shimon, if the sin of a betrothed young woman became known after she reached majority, she is sentenced to strangulation like a grown woman.

The Gemara responds: Nevertheless, this issue is subject to a dispute. **Didn't Rabbi Yoḥanan say to the tanna**, i.e., the Sage who would recite statements of *tanna'im* before him and who recited Sheila's ruling with regard to a betrothed young woman: **Teach that she is sentenced to stoning<sup>n</sup>** rather than strangulation? The Gemara questions Rabbi Yoḥanan's statement: **But why? The Merciful One says: A betrothed young woman, but this one is a grown woman.** **Rabbi Ile'a said: The verse states: The young woman, in reference to the young woman that she already was at the time of her sin,** despite the fact that she now has a different status.

**Rabbi Ḥanina said to Rabbi Ile'a: If so, if her status is determined according to the time of her transgression, let the husband who defames her also be flogged,<sup>n</sup> and let him also pay the one hundred sela** if his claim turns out to have been unfounded. **Rabbi Ile'a said to him: May the Merciful One save us from following this opinion,** as your argument is illogical. **Rabbi Ḥanina replied: On the contrary, may the Merciful One save us from your opinion,** as yours is the baseless opinion.

The Gemara asks: **And what is the reason** that she is considered a young woman with regard to stoning but a grown woman when it comes to the fine? **Rabbi Yitzḥak bar Avin said, and some say this answer was given by Rabbi Yitzḥak bar Abba:** With regard to **this one**, i.e., the woman, who sinned, **her act of adultery caused her punishment, whereas that one**, i.e., the husband who wrongfully defamed his wife, **the twisting of his lips caused his punishment, i.e., he sinned by speaking.** He elaborates: **This one, her action caused her punishment. When she committed adultery, she was a young woman who committed adultery, and she is sentenced accordingly. And that one, the twisting of his lips caused his punishment. When does he become liable? At that time when he defamed her, and at that time his wife was a grown woman.**

**S** The Sages taught in a *baraita*: In the case of a **betrothed young woman who committed adultery, one stones her at the entrance to her father's house.** If she does not have an entrance to her father's house, **one stones her at the entrance to the gate of that city.** And in a city that is mostly populated by gentiles,<sup>h</sup> where she cannot be stoned at the city entrance, **one stones her at the entrance to the court.** In a similar manner, you say: With regard to **one who engaged in idol worship,<sup>h</sup> one stones him at the entrance to the gate where he worshipped,<sup>n</sup> and in a city that is mostly inhabited by gentiles one stones him at the entrance to the court.**

HALAKHA

עיר שרובה גוים – אף שזינתה: נערה המאורסה שזינתה – סוקלין אותה על פתח בית אביה. אין לה פתח בית האב – סוקלין אותה על פתח שער העיר ההיא. ובעיר שרובה גוים – סוקלין אותה על פתח בית דין. כיוצא בדבר אתה אומר: העובד עבודה זרה – סוקלין אותו על שער שעבר בו. ובעיר שרובה גוים – סוקלין אותו על פתח בית דין.

עיר שרובה גוים – אף שזינתה: נערה המאורסה שזינתה – סוקלין אותה על פתח בית אביה. אין לה פתח בית האב – סוקלין אותה על פתח שער העיר ההיא. ובעיר שרובה גוים – סוקלין אותה על פתח בית דין. כיוצא בדבר אתה אומר: העובד עבודה זרה – סוקלין אותו על שער שעבר בו. ובעיר שרובה גוים – סוקלין אותו על פתח בית דין.

NOTES

**תני תידון – טעם תידון** – Some commentaries suggest that it is possible that everyone agrees with this *halakha*, even Rabbi Shimon (Ri HaLavan). Although it can be argued that with regard to an offering, the critical time is when the individual became aware of his sin, with regard to punishments all agree that the critical time is when the sin was committed.

**If so, let the husband who defames her also be flogged, etc.** – **אי הכי מילקא וכו'** – It would seem that this question should not be directed specifically at Rabbi Yoḥanan, as the same question can be raised with regard to the opinion of Sheila. The Ritva explains that according to Sheila, who holds that the case of a defamer is an exception to the general rule, it is possible that the exceptional nature of the case includes the fact that the method through which the woman is executed does not change with her change of status, whereas the husband's punishments do change. By contrast, Rabbi Yoḥanan considers the *halakha* of the defamer to follow the general rules, and therefore it is difficult to understand why some aspects of the case change along with the woman's change of status and others do not.

**The gate where he worshipped – שער שעבר בו** – The early authorities explain that this does not refer to the actual gate where he worshipped idols; rather, it means the entrance of the city where he committed the transgression. In other words, even if he was sentenced in a different city, the court brings him back to the place where he engaged in idol worship and stones him there (Rabbeinu Aharon HaLevi; Rabbi Crescas Vidal; Meiri).

מָנָא הָנִי מִיֵּלִי? דִּתְנִי רַבְנָן: "שְׁעָרֶיךָ" –  
זֶה שַׁעַר שְׁעָבַד בּוֹ. אֵתָּה אוֹמֵר שַׁעַר  
שְׁעָבַד בּוֹ, אוֹ אֵינוֹ אֶלָּא שַׁעַר שְׁנִידוֹן  
בּוֹ?

נֶאֱמַר "שְׁעָרֶיךָ" לְמַטָּה, וְנֶאֱמַר "שְׁעָרֶיךָ"  
לְמַעְלָה, מָה "שְׁעָרֶיךָ" הָאֵמֹר לְמַעְלָה –  
שַׁעַר שְׁעָבַד בּוֹ, אִף "שְׁעָרֶיךָ" הָאֵמֹר  
לְמַטָּה – שַׁעַר שְׁעָבַד בּוֹ.

דְּבַר אַחֵר: "שְׁעָרֶיךָ" וְלֹא שְׁעָרֵי גוֹיִם.  
הֲאִי "שְׁעָרֶיךָ" הָאֵ אֶפִיקֶתִיהָ! אִם כֵּן  
לִימָא קָרָא "שַׁעַר", מָאי "שְׁעָרֶיךָ"?  
שְׁמַע מִינָה תִרְתִּי.

אֲשַׁכַּחַן עֲבוּדָה זָרָה, נַעֲרָה הַמְּאוֹרָסָה  
מָנָא לָן?

אָמַר רַבִּי אֲבָהוּ: גָּמַר "פֶּתַח" מִ"פֶּתַח",  
וְ"פֶתַח" מִ"שַׁעַר", וְ"שַׁעַר" מִ"שְׁעָרֶיךָ".

תְּנִי רַבְנָן: הַמוֹצִיא שֵׁם רַע – לוֹקֵה וְנֹתֵן  
מֵאָה סָלַע. רַבִּי יְהוּדָה אוֹמֵר: לְלִקּוֹת –  
לוֹקֵה מִכָּל מְקוֹם. מֵאָה סָלַע, בְּעַל –  
נֹתֵן, לֹא בְעַל – אֵינוֹ נֹתֵן.

קָא מִפְּלִגִי בְּפִלּוּגָתָא דְרַבִּי אֱלִיעֶזֶר בֶּן  
יַעֲקֹב וְרַבְנָן. וְהִכִּי קֵאָמַר: הַמוֹצִיא שֵׁם  
רַע – לוֹקֵה וְנֹתֵן מֵאָה סָלַע, בֵּין בְּעַל  
בֵּין שְׁלֵא בְעַל, כְּרַבְנָן. רַבִּי יְהוּדָה אוֹמֵר:  
לְלִקּוֹת – לוֹקֵה מִכָּל מְקוֹם. מֵאָה סָלַע,  
בְּעַל – נֹתֵן, לֹא בְעַל – אֵינוֹ נֹתֵן, כְּרַבִּי  
אֱלִיעֶזֶר בֶּן יַעֲקֹב.

The Gemara asks: **From where are these matters derived**, that one stones an idol worshipper in the place where he worshipped? **As the Sages taught:** It states with regard to one who worshipped an idol: "Then you shall bring forth that man or that woman who have done this evil thing, to your gates ... and you shall stone them with stones that they die" (Deuteronomy 17:5). "**Your gates,**" **this is the gate where he worshipped** idolatry. The offender is taken there to be stoned. **Do you say it is the gate where he worshipped, or perhaps it is only the gate where he was sentenced**, i.e., the gate of the court?

The Gemara answers: **It is stated "your gates" below**, in that verse, **and is stated "your gates" above**, in this verse: "If there is found in the midst of you, within any of your gates... a man or woman who does that which is evil in the sight of the Lord your God, in transgressing His covenant" (Deuteronomy 17:2). **Just as "your gates" stated above is referring to the gate where he worshipped, so too the phrase "your gates" stated below**, with regard to execution, means the **gate where he worshipped** idols.

Alternatively, the idol worshipper is executed at "**your gates,**" **and not at the gates of gentiles**. The Gemara asks: **This term, "your gates," you have already used it to indicate that he is stoned at the gate of the city where he worshipped idols**. How, then, can you derive another *halakha* from this expression? The Gemara answers: **If so, if it teaches only one halakha, let the verse say only the word gate**. For **what reason does it state "your gates"?** This indicates that the verse is referring to the gates of cities inhabited by Jews, and therefore one can **conclude two conclusions from it**.

The Gemara asks: **We found a source that indicates that in a case of idolatrous worship, the perpetrator is stoned at the gate of the city where he committed his sin**. **From where do we derive that a betrothed young woman who is not stoned at the entrance to her father's house is stoned at the gate of the city?**

Rabbi Abbahu said: One derives this by verbal analogy, as follows: The meaning of the term "**entrance**" (Deuteronomy 22:21), stated with regard to a betrothed woman who committed adultery, is derived **from** the term "**entrance**" that appears with regard to the Tabernacle, in the verse "The entrance of the gate of the courtyard" (Numbers 4:26); **and** the meaning of this usage of the term **entrance** is derived **from** the term "**gate,**" which appears in the same phrase; **and** the meaning of this usage of the term "**gate**" is derived **from** the term "**your gates**" stated with regard to idolatry. This teaches that a young woman who was betrothed and committed adultery is executed at the gate of the city, similar to one who engaged in idol worship.

§ **The Sages taught in a baraita: One who defames his wife is flogged and gives one hundred sela. Rabbi Yehuda says: As for flogging, he is flogged in any case.** However, with regard to the **one hundred sela**, if he defamed her after **he had intercourse** with her, **he gives the money**. If he did not yet **have intercourse** with her, **he does not give her this sum**.

The Gemara comments: These *tanna'im* **disagree with regard to the dispute between Rabbi Eliezer ben Ya'akov and the Rabbis, and this is what the first tanna is saying: The defamer is flogged and gives one hundred sela, whether he had intercourse with his wife or whether he did not have intercourse with her, in accordance with the opinion of the Rabbis. Rabbi Yehuda says: As for flogging, he is flogged in any case, but with regard to the one hundred sela, if he had intercourse he gives the money, whereas if he did not have intercourse he does not give it to her. This is in accordance with the opinion of Rabbi Eliezer ben Ya'akov, that the halakha of a defamer applies only to a husband who had relations with his wife.**

If he had intercourse with his wife before he defamed her, he is flogged, etc. – **בְּעֵל לֹקֵה וְכוּ**: A defamer is obligated to pay the fine only if he had typical intercourse with his wife and claimed that he found that she had already engaged in intercourse of this kind. If he did not have typical intercourse with her, even if he had anal intercourse with her, he is exempt. However, he receives lashes for rebelliousness by rabbinic law. The *halakha* is in accordance with the opinion of Rabbi Eliezer ben Ya'akov as explained by Rav Nahman bar Yitzhak (Rambam *Sefer Nashim, Hilkhot Na'ara Betula* 3:10; *Tur, Even HaEzer* 177).

NOTES

Lashes for rebelliousness [*pardut*] – **מִכַּת מְרִדוֹת**: Some explain that *pardut* means rebuke, chastisement (Rav Hai Gaon). Accordingly, Onkelos translates the word chastise in the phrase “to chastise [*leyasra*] you” (Leviticus 26:18) as *lemirdei*, which is a form of the word *pardut*. As for the precise nature of this flogging, some hold that the number of lashes one receives does not have to be divisible by three, one does not have to be beaten with a double strap, and there is no need for a doctor's evaluation as to how many lashes one can withstand, all of which are requirements for flogging by Torah law (*ge'onim*). Others differentiate between various types of lashes for rebelliousness. If the lashes are administered for a one-time sin, the court is more lenient than when it inflicts lashes by Torah law. By contrast, if the beating is inflicted to force someone to fulfill a positive mitzva or to refrain from a persistent transgression, the number of lashes is unlimited (Ritva; Ran).

NOTES

Valuations – **עֵרְכִין**: The *halakhot* of valuations appear in Leviticus (27:1–8) and are clarified in tractate *Arakhin*. A valuation is a vow to donate the value of a particular individual to the Temple treasury. The sum to be paid is not determined by the individual's social stature or by his value as a slave. The Torah provides fixed sums based upon age and sex. If one vows to donate the valuation of a particular limb, his vow is of no consequence, as only a whole person has a valuation. By contrast, one can vow to donate the actual monetary value of a limb to the Temple treasury. Notwithstanding the above distinction, if someone vows to donate the valuation of a critical organ or limb, e.g., if he says: I am obligated in the valuation of my head, it is as though he vowed to donate his full valuation because one cannot live without a head.

HALAKHA

One who says: Half my valuation is upon me – **הָאֹמֵר חֲצִי עֵרְכִי עָלַי**: If one says: Half my valuation is upon me, he must give half the amount of his fixed valuation according to his age and sex, as stated by the unattributed opinion in the mishna (Rambam *Sefer Hafla'a, Hilkhot Arakhin* 2:2).

One vowed the valuation of half of himself – **עֵרַךְ חֲצִי**: If one says: The valuation of half of me is upon me, he must give his entire valuation, as he cannot survive the loss of half of his body (Rambam *Sefer Hafla'a, Hilkhot Arakhin* 2:2).

איבא דאמר: כולה כרבי אליעזר בן יעקב, והכי קאמר: המוציא שם רע – לוקה ונותן מאה סלע, והוא שבעל. רבי יהודה אומר: ללקות לוקה מכל מקום.

There are those who say that this entire *baraita* is in accordance with the opinion of Rabbi Eliezer ben Ya'akov, and this is what the *baraita* is saying: The defamer is flogged and gives one hundred *sela*, but this applies only if he previously had intercourse with his wife. Rabbi Yehuda says: As for flogging, he is flogged in any case, as only the fine is dependent on the couple having previously had intercourse.

וסבר רבי יהודה ללקות לוקה מכל מקום? והתניא, רבי יהודה אומר: בעל – לוקה, לא בעל – אינו לוקה! אומר רב נחמן בר יצחק: לוקה מכת מרדות, מדרבנן.

The Gemara asks: **And does Rabbi Yehuda hold that with regard to flogging, he is flogged in any case? But isn't it taught in a baraita that Rabbi Yehuda says: If he had intercourse with his wife before he defamed her, he is flogged;**<sup>h</sup> **but if he did not have intercourse with his wife before he defamed her, he is not flogged?** In answer to this question, Rav Nahman bar Yitzhak said: When Rabbi Yehuda said that he is flogged even if he had not yet had intercourse with his wife, he was referring to lashes for rebelliousness [*pardut*],<sup>n</sup> which apply by rabbinic law. Since he lied, defamed his wife, and endangered her life by accusing her of a sin that carries the death penalty, the court punishes him, but this punishment does not apply by Torah law.

Perek IV  
Daf 46 Amud a

רב פפא אומר: מאי בעל לוקה דקתני התם? ממונ. וקרי ליה לממונ מלקות? אין, והא תנן: האומר חצי ערכי עלי – נותן חצי ערכו, רבי יוסי ברבי יהודה אומר: לוקה ונותן ערך שלם. לוקה אמאי? אומר רב פפא: לוקה בערך שלם.

Rav Pappa said: **What of the statement that is taught there, in the baraita, that it is only if he had intercourse with her that he is flogged?** It is referring to the money of the fine. The Gemara asks: **And does one call monetary payment flogging?** The Gemara answers: **Yes, and we learned in a baraita: One who says: Half my valuation<sup>n</sup> is upon me,<sup>h</sup> he gives half his valuation,** in accordance with the sum fixed by the Torah according to sex and age (see Leviticus 27:2–3). **Rabbi Yosei, son of Rabbi Yehuda, says: He is flogged and gives his full valuation.** The Sages inquired: **Why is he flogged? What transgression did he commit?** Rav Pappa said: **He is flogged by having to pay a full valuation.** This proves that monetary payment can be referred to as flogging.

מאי טעמא – גזירה חצי ערכו אטו ערך חציו, וערך חציו – הוי ליה אבר שהנשמה תלויה בו.

The Gemara clarifies: **What is the reason of Rabbi Yosei, son of Rabbi Yehuda?** It is a rabbinic decree in the case of one who vows to donate half of his valuation, due to a case where one vowed the valuation of half of himself.<sup>h</sup> **And one who vows to donate the valuation of half of himself has effectively vowed to donate the valuation of a limb upon which his life depends,** e.g., his head or heart, in which case it is as though he vowed to donate his entire valuation. Consequently, even one who vows to donate half of his valuation must donate his entire valuation.

תנו רבנן: 'וענשו אותו' – זה ממונ; 'ויסרו' – זה מלקות.

§ The Gemara continues to discuss the *halakhot* of the defamer. The Sages taught the following *baraita*, based upon the following verses: “And the Elders of that city shall take the man and chastise him. And they shall fine him a hundred shekels of silver, and give them to the father of the young woman” (Deuteronomy 22:18–19). **“And they shall fine [*ve'anshu*] him”; this is referring to money. “And chastise him”; this is referring to flogging.**

בשלמא 'וענשו' זה ממונ – דכתיב 'וענשו אותו מאה כסף ונתנו לאבי הנערה' אלא 'ויסרו' זה מלקות מגלו?

The Gemara asks: **Granted,** with regard to the phrase “and they fine [*ve'anshu*] him,” although the word *ve'anshu* can refer to any punishment, in this case it is referring to money, as it is written: **And they shall fine him a hundred shekels of silver, and give them to the father of the young woman. However,** with regard to the statement of the *baraita* that: “And chastise him”; **this is referring to flogging, from where do we derive this?**