

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**: 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? והתנא, רבי יהודה אומר:  
בעל – לוקה, לא בעל – אינו לוקה!  
אמר 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 אמר: מאי בעל לוקה  
דקתני הָתָם? ממון. וקרי ליה לממון  
מלקות? אין, והא תנן: האומר חצי  
ערכי עלי – נותן חצי ערבו, רבי יוסי  
ברבי יהודה אומר: לוקה ונותן ערך  
שלם. לוקה אמאי? אמר 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 ערבו 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 ממון;  
'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 ממון – 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?

The warning for a defamer – אזהרה למוציא שם רע – One who falsely defames a Jewish woman is liable to receive lashes. His warning is in the verse “You shall not go up and down as a talebearer” (Leviticus 19:16; see Rambam *Sefer Nashim, Hilkhot Na’ara Betula* 3:1).

A person should not think impure thoughts – אל ירהר – אדם: It is prohibited to think licentious thoughts. One must be wary of any action or sight that will lead him to reflections of this kind (Rambam *Sefer Kedusha, Hilkhot Issurei Bia* 21:5, 21; *Shulhan Arukh, Even HaEzer* 23:3).

That the court should not be soft to this litigant, etc. – שלא יהא רך לזהו: A judge must treat both litigants equally. He must not be pleasant to one party and speak softly to them while displaying a severe countenance and speaking harshly to the other litigant (see Radbaz; Rambam *Sefer Shofetim, Hilkhot Sanhedrin* 21:1; *Shulhan Arukh, Hoshen Mishpat* 17:1).

They testify for him of their own accord – הן מעידין אותו – מאליהן: If the husband did not bring witnesses to testify that his wife had committed adultery, but they came of their own volition, he is exempt from punishment. This is the case even if they are discovered to have lied (Rambam *Sefer Nashim, Hilkhot Na’ara Betula* 3:11; *Tur, Even HaEzer* 177).

אמר רבי אבהו: למדנו “יסרו” מ“יסרו” – “והיה אם בן הכות הרשע.”

אזהרה למוציא שם רע מנלן? רבי אלעזר אומר: מילא תלך רכיל, רבי נתן אומר: מונשמת מכל דבר רע.

ורבי אלעזר מאי טעמא לא אמר מהאי? ההוא מיבעי ליה לכדרבי פנחס בן יאיר. “ונשמת מכל דבר רע” מכאן אמר רבי פנחס בן יאיר: אל ירהר אדם ביום ויבא לידי טומאה בלילה.

ורבי נתן, מאי טעמא לא אמר מהאי? ההוא אזהרה לבית דין, שלא יהא רך לזה וקשה לזה.

לא אמר לעדים “בואו והעידוני” והן מעידין אותו מאליהן – הוא אינו לוקה ואינו נותן מאה סלעים, היא וזוממיה מקדימין לבית הסקילה.

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

טעמא – דלא אמר להו, הא אמר להו – אף על גב דלא אגרינהו. לאפוקי מדרבי יהודה, דתניא, רבי יהודה אומר: אינו חייב עד שישבור עדים.

Rabbi Abbahu said: We learned the meaning of the word chastise in the case of a defamer by verbal analogy from the word chastise stated in the verse “if a man have a stubborn and rebellious son [ben], that will not listen to the voice of his father or the voice of his mother, and though they chastise him, will not listen to them” (Deuteronomy 21:18). And the implication of the word chastise in that verse is derived from the word son that appears in the same verse. And the implication of the word son [ben] with regard to a rebellious son is derived from the word bin in the verse “Then it shall be if the wicked man deserve [bin] to be flogged” (Deuteronomy 25:2).

The Gemara asks: From where do we derive the warning, i.e., the prohibition that serves as the source for the flogging for a defamer? Rabbi Elazar says that the prohibition is derived from the verse “You shall not go up and down as talebearer” (Leviticus 19:16). Rabbi Natan says that it is derived from: “Then you shall keep yourself from every evil thing [davar ra]” (Deuteronomy 23:10), which is expounded to mean dibbur ra, evil speech.

The Gemara asks: And what is the reason that Rabbi Elazar did not state that it is derived from this verse quoted by Rabbi Natan? The Gemara answers: He requires that verse for the statement of Rabbi Pinehas ben Yair, as it was taught: “Then you shall keep yourself from every evil thing”; from here Rabbi Pinehas ben Yair said: A person should not think impure thoughts<sup>h</sup> by day and thereby come by night to the impurity of an emission.

The Gemara asks the reverse question: And what is the reason that Rabbi Natan did not state that it is derived from that verse cited by Rabbi Elazar? The Gemara answers: Rabbi Natan explains that verse, which includes the term talebearer [rakhil], as a warning to the court that it should not be soft<sup>n</sup> to [rakh la] this litigant<sup>h</sup> and harsh to that one, but it must treat both sides as equals.

§ The Gemara cites another statement that deals with a defamer: If the husband did not say to witnesses: Come and testify for me that my wife committed adultery, but they testify for him of their own accord<sup>h</sup> and are subsequently discovered to be liars, the husband is not flogged and does not give the one hundred sela, as he did not harm her. She and her conspiring witnesses are brought early to the place of stoning.

The Gemara asks: Does it enter your mind to say that she and her conspiring witnesses are stoned? If she is liable to be stoned, they are not conspiring witnesses, and conversely, if they are conspiring witnesses, they are stoned and she is exempt. Rather, this must mean: Either she or her conspiring witnesses are brought early to the place of stoning. If they were telling the truth, she is stoned. If they conspired and offered false testimony, they are liable to be stoned.

The Gemara infers from the baraita that the reason the husband is not flogged or fined is that the husband did not tell them to testify, but if he told them to testify, although he did not hire them but merely persuaded them to testify that his wife had committed adultery as a betrothed woman, he is flogged and must pay the fine. This serves to exclude the opinion of Rabbi Yehuda, as it is taught in a baraita that Rabbi Yehuda says: The husband is liable to the punishments of a defamer only if he hired witnesses.

NOTES

שלא יהא רך וכו': shall not respect the person of the poor, nor favor the person of the mighty, but in righteousness you shall judge your neighbor” (Leviticus 19:15). Since the earlier verse deals with judicial matters, this verse is also expounded to refer to the proper behavior of the judiciary.

If he defamed his wife with regard to their first marriage – הוציא שם רע על הנשואין הראשונים – If a man betrothed a woman, divorced her, betrothed her again, and subsequently defamed her and brought witnesses to testify that she had committed adultery during their first betrothal, and the witnesses were later revealed to have testified falsely, the husband is exempt from punishment. Although the Gemara does not resolve this dilemma, the Rambam rules leniently (Rambam *Sefer Nashim, Hilkhot Na'ara Betula* 3:9).

With regard to his brother's marriage – על נשואי אחיו – If a man performed levirate marriage with his *yevama*, and defamed her by bringing witnesses who testified that she had committed adultery when she was betrothed to his brother, and they were found to have testified falsely, the man is exempt from punishment (Rambam *Sefer Nashim, Hilkhot Na'ara Betula* 3:9).

How does the case of defamation proceed – כיצד הוצאת שם רע: In the case of a defamer, the husband comes to the court with the claim that he had intercourse with his wife for the first time and discovered that she was not a virgin. He then produces witnesses who testify that she committed adultery when she was betrothed to him. If the court examines the matter and finds his claim to be true, she is stoned. If her father brings witnesses who reveal the husband's pair of witnesses to be conspiring witnesses, they are liable to be stoned, and the husband receives lashes and is fined one hundred silver shekels. The Rambam rules in accordance with the opinion of Rabbi Eliezer ben Ya'akov, whose rulings are generally accepted as *halakha*. Additionally, this is the conclusion of the Gemara itself (Rambam *Sefer Nashim, Hilkhot Na'ara Betula* 3:6, and *Kesef Mishne* there).

מאי טעמא דרבי יהודה? אמר רבי אבהו: אתיא "שימה" "שימה"; כתיב הכא "ושם לה עלילות דברים" וכתיב התם "לא תשימון עליו נשך", מה להלן ממון – אף כאן ממון.

The Gemara asks: **What is the reason of Rabbi Yehuda?** Nowhere does the Torah explicitly state that the husband hired false witnesses. The Gemara answers that **Rabbi Abbahu said: It is derived by a verbal analogy between the term placing**, written with regard to a defamer, and the term **placing**, written with regard to the prohibition against charging interest. **It is written here**, with regard to a defamer: **"And he place wanton charges against her"** (Deuteronomy 22:14), **and it is written there: "Neither shall you place upon him interest"** (Exodus 22:24). **Just as below**, with regard to interest, the verse is referring to **money**, so too **here**, in the case of a defamer, it is referring to **money**, thereby indicating that the husband paid money in order to substantiate his false accusation.

אמר רב נחמן בר יצחק: וכן תני רב יוסף צידוני בי רבי שמעון בן יוחאי: אתיא "שימה" "שימה".

Rav Nahman bar Yitzhak said: Rav Yosef Tzidoni likewise taught in the school of Rabbi Shimon ben Yohai: It is derived from the verbal analogy between the term **placing**, written with regard to a defamer, and the term **placing**, written with regard to the prohibition against charging interest.

בעי רבי ירמיה: שכן בקרקע מהו. בפחות משנה פרוטה מהו. שניהם בפרוטה מהו?

Rabbi Yirmeya raised a dilemma: According to the opinion of Rabbi Yehuda, if the husband **hired** the false witnesses **with land** instead of money, **what is the halakha?** If he hired them **with less than the value of a peruta**, **what is the halakha?** If he hired **both witnesses with a peruta**, **what is the halakha?** Since this *halakha* is derived from the case of interest, perhaps, like the prohibition against charging interest, it applies only with regard to money, rather than land, and only with money that is greater than the value of a *peruta*.

בעי רב אשי: הוציא שם רע על הנשואין הראשונים מהו, על נשואי אחיו מהו?

Similarly, Rav Ashi raised a dilemma concerning a defamer: **If he defamed his wife with regard to their first marriage<sup>H</sup>, what is the halakha?** In other words, if a man married a woman, divorced her, remarried her, and subsequently defamed her by claiming that she had committed adultery during the period of betrothal before their first marriage, what is the *halakha*? Similarly, if he performed levirate marriage and then defamed her **with regard to his brother's marriage<sup>H</sup> to her, what is the halakha?**

פשוט מיהא חדא, דתני רבי יונה: "את בתי נתתי לאיש הזה" לזה – ולא ליבם.

The Gemara comments: **Resolve at least one** of these dilemmas, as **Rabbi Yona taught** that the verse "And the father of the young woman shall say to the Elders: **I gave my daughter to this man**" (Deuteronomy 22:16) serves to emphasize: **I gave him to this man and not to the yavam**, i.e., the brother of the original husband. Consequently, if one defames his *yevama* with regard to her original marriage to his brother, the unique *halakhot* of defamation do not apply.

מאי רבנן ומאי רבי אליעזר בן יעקב? דתניא: כיצד הוצאת שם רע? בא לבית דין, ואמר: "פלוגי, לא מצאתי לבתך בתולים". אם יש עדים שזינתה תחתי – יש לה כתובה מנה.

In the course of the previous discussion, the Gemara mentioned a dispute between the Rabbis and Rabbi Eliezer ben Ya'akov. The Gemara asks: **What is the opinion of the Rabbis and what is the opinion of Rabbi Eliezer ben Ya'akov**, referred to above (45b)? **As it is taught in a baraita: How does the case of defamation proceed?**<sup>H</sup> It involves a situation where the husband **came to the court and said to the father: So-and-so, I have not found indications of your daughter's virginity. If there are witnesses who testify that she committed adultery under his authority, i.e., while betrothed to him, she has a marriage contract of one hundred dinars.**

אם יש עדים שזינתה תחתי יש לה כתובה מנה? בת סקילה היא! הכי קאמר: אם יש עדים שזינתה תחתי – בסקילה, וינתה מעיקרא – יש לה כתובה מנה.

The Gemara interrupts its citation of the *baraita*, as this last statement is very surprising: **If there are witnesses who testify that she committed adultery under his authority, does she have a marriage contract of one hundred dinars? She is punished by stoning.** The Gemara explains that **this is what the tanna said: If there are witnesses who testify that she committed adultery under his authority, she is liable to receive the punishment of stoning.** However, **if she engaged in licentious sexual relations at the outset**, before her betrothal, when she was still a single woman, she is merely guilty of deceiving her husband with regard to her virginity, and therefore **she has a marriage contract of one hundred dinars**, which is the standard marriage contract of a non-virgin.



They shall spread that which he placed against her [*sam la*] – פָּרְשׁוּ מֵה שְׂשֵׁם לָהּ: Some commentaries maintain that this is not an exposition of the word garment [*simla*] as though it said *sam la*, but rather a reference to the earlier phrase “placed against her [*sam la*] wanton charges” (Deuteronomy 22:17; see *Tosafot* and *Ritva*). In any case, it is clear that, according to the Rabbis, the term *simla* is not understood to literally refer to a garment. In the Jerusalem Talmud, Rabbi Yishmael is cited as identifying this as one of the three verses in the Torah that cannot be interpreted in a literal manner. Rather, spreading the sheet is to be interpreted allegorically to mean that the case must be investigated thoroughly, as the Rambam says, the witnesses must be interrogated and the case examined in detail. In the Jerusalem Talmud it is indicated that this explanation of the phrase: They shall spread the garment, is accepted by Rabbi Eliezer ben Ya’akov as well the Rabbis.

**דברים – The matters are as they are written** – דְּבָרֵינוּ: In the Jerusalem Talmud, where this issue is discussed at length, it is stated that even Rabbi Eliezer ben Ya’akov agrees that this chapter cannot be understood in an entirely literal manner, as neither the lack of a cloth nor the discovery of blood stains on it affords incontrovertible proof of guilt or innocence, as a cloth can get lost or splattered with other types of blood, such as that of a bird. One cannot sentence the young woman to death or penalize the husband on the basis of such flimsy evidence.

Instead, Rabbi Eliezer ben Ya’akov certainly agrees that all claims must be substantiated by witness testimony. Therefore, the dispute between the *tanna'im* is limited to the question of the extent to which the verses are to be understood in a literal manner. The Rabbis maintain that since the basic proof is necessarily provided by witnesses, the entire chapter can be understood in a non-literal fashion, whereas Rabbi Eliezer ben Ya’akov maintains that one must read the verses in as plain a manner as possible.

Consequently, according to many commentaries, Rabbi Eliezer ben Ya’akov holds that the verse is referring to a cloth in order to indicate that the *halakhot* of a defamer apply only if, in addition to bringing witnesses who testify that his wife committed adultery during betrothal, he also had intercourse with his wife and claims that he found her not to be a virgin.

Alternatively, it is possible that the *halakhot* apply as long as the husband and wife engaged in intercourse, even if the husband does not claim to have found at that time that she was not a virgin (see Ramban; Rabbeinu Aharon HaLevi; Ritva; *Nimmukei Yosef*). Others maintain that the husband is punished only if he is impudent enough to claim that his wife was not a virgin despite the fact that the cloth is full of blood (*Tosafot*; Rosh).

נִמְצָא שְׂשֵׁם רַע אֵינוֹ שֵׁם רַע – הוּא לֹקְחָ וְנוֹתֵן מֵאָה סֵלַע, בֵּין בְּעַל וּבֵין לֹא בְּעַל. רַבִּי אֱלִיעֶזֶר בֶּן יַעֲקֹב אָמַר: לֹא נֶאֱמַרוּ דְּבָרִים הֵלְלוּ אֶלְאָ בְּשִׁבְעַל. בְּשִׁלְמָא לְרַבִּי אֱלִיעֶזֶר בֶּן יַעֲקֹב – הֵינְנוּ דְּכָתִיב “וּבֹא אֵלֶיךָ” וְאֶקְרַב אֵלֶיךָ.

אֶלְאָ לְרַבְּנָן – מֵאֵי “וּבֹא אֵלֶיךָ” וְאֶקְרַב אֵלֶיךָ? “וּבֹא אֵלֶיךָ” – בְּעֵלִילוֹת: “וְאֶקְרַב אֵלֶיךָ” – בְּדַבְּרִים.

בְּשִׁלְמָא לְרַבִּי אֱלִיעֶזֶר בֶּן יַעֲקֹב – הֵינְנוּ דְּכָתִיב “לֹא מִצְאָתִי לְבִתְךָ בְּתוֹלִים.” אֶלְאָ לְרַבְּנָן – מֵאֵי “לֹא מִצְאָתִי לְבִתְךָ בְּתוֹלִים”? לֹא מִצְאָתִי לְבִתְךָ כְּשָׂרִי בְּתוֹלִים.

בְּשִׁלְמָא לְרַבִּי אֱלִיעֶזֶר בֶּן יַעֲקֹב – הֵינְנוּ דְּכָתִיב “וְאֵלֶּה בְּתוֹלֵי בִתִּי,” אֶלְאָ לְרַבְּנָן מֵאֵי “וְאֵלֶּה בְּתוֹלֵי בִתִּי”? וְאֵלֶּה כְּשָׂרִי בְּתוֹלֵי בִתִּי.

בְּשִׁלְמָא לְרַבִּי אֱלִיעֶזֶר בֶּן יַעֲקֹב – הֵינְנוּ דְּכָתִיב “וּפְרָשׁוּ הַשְּׂמֵלָה, אֶלְאָ לְרַבְּנָן מֵאֵי “וּפְרָשׁוּ הַשְּׂמֵלָה”?

אָמַר רַבִּי אֲבָהוּ: פָּרְשׁוּ מֵה שְׂשֵׁם לָהּ. כְּדִתְנַנָּא: “וּפְרָשׁוּ הַשְּׂמֵלָה.” מִלְּמַד שְׂבָאֵן עֲדִים שָׁל זֶה וְעֲדִים שָׁל זֶה, וּבִדְרִין אֶת הַדָּבָר בְּשִׁמְלָה חֲדָשָׁה. רַבִּי אֱלִיעֶזֶר בֶּן יַעֲקֹב אָמַר: דְּבָרִים כְּכַתְּבָן, שְׂמֵלָה מִמֶּשׁ.

The Gemara resumes its quotation of the *baraita*: If it was discovered that the bad name is not a bad name, i.e., the husband’s accusation was false, he is flogged and gives her father one hundred *sela*, whether he had intercourse with her or whether he had not had intercourse with her. Rabbi Eliezer ben Ya’akov says: These matters were stated only in a case where he had intercourse with his wife before defaming her. The Gemara asks: Granted, according to the opinion of Rabbi Eliezer ben Ya’akov, this is as it is written: “If a man take a wife and go in unto her” (Deuteronomy 22:13), and: “And when I came near to her, I did not find in her the tokens of virginity” (Deuteronomy 22:14), as both expressions refer to sexual intercourse.

However, according to the opinion of the Rabbis, what is the meaning of the phrases “and go in unto her,” and “and when I came near to her,” if the couple never engaged in intercourse? The Gemara explains that, according to the Rabbis, “and go in unto her” is referring to the wanton charges the husband leveled against his wife; “and when I came near to her” means that he came near with words, not intercourse.

The Gemara asks: Granted, according to the opinion of Rabbi Eliezer ben Ya’akov, this is as it is written: “I did not find in your daughter the tokens of virginity” (Deuteronomy 22:17), as Rabbi Eliezer ben Ya’akov claims that the husband had relations with her and discovered that she was not a virgin. However, according to the opinion of the Rabbis, what is the meaning of “I did not find in your daughter the tokens of virginity,” if they did not have intercourse? The Gemara answers: The Rabbis explain that he means: I did not find for your daughter the fitness of virginity, i.e., I have discovered that she was unfaithful.

The Gemara asks further: Granted, according to the opinion of Rabbi Eliezer ben Ya’akov, this is as it is written that the father replies: “And these are the tokens of my daughter’s virginity” (Deuteronomy 22:17). He presents a cloth that proves she was a virgin, in opposition to the husband’s claim. However, according to the opinion of the Rabbis, what is the meaning of “And these are the tokens of my daughter’s virginity”? The Rabbis answer that the father means: And these are the proofs of the fitness of my daughter’s virginity, i.e., he either brings witnesses to counter the testimony of the husband’s witnesses or provides some other proof that his daughter was a virgin at the time of her marriage.

The Gemara poses yet another question on the same lines: Granted, according to the opinion of Rabbi Eliezer ben Ya’akov, this is as it is written: “And they shall spread the garment”<sup>H</sup> (Deuteronomy 22:17). The father brings the sheet on which the couple had intercourse and shows that it is stained with blood. However, according to the opinion of the Rabbis, who claim that a husband can defame his wife even if they have not engaged in intercourse, what is the meaning of the phrase “And they shall spread the garment [*hasimla*]”?

Rabbi Abbahu said that the Rabbis interpret this expression as follows: They shall spread, i.e., examine, that which he placed against her [*sam la*].<sup>N</sup> In other words, they cross-examine the witnesses who testified against her, as it is taught in a *baraita*: “And they shall spread the garment”; this teaches that the witnesses of this husband come forward, and likewise the witnesses of that father come forward, and the court clarifies the matter like a new garment. Rabbi Eliezer ben Ya’akov says: The matters are as they are written,<sup>N</sup> i.e., the verse refers to an actual cloth.

## HALAKHA

And they shall spread the garment, etc. – וּפְרָשׁוּ הַשְּׂמֵלָה וְכוּ: The phrases “they shall spread the garment” and “these are the tokens of my daughter’s virginity” are understood to be euphemisms for the court’s investigations into private matters. The commentaries wonder why the Rambam interprets these phrases in accordance with the opinion of the Rabbis, while he accepts Rabbi Eliezer ben

Ya’akov’s ruling as *halakha*. The *Kesef Mishne* states that the Rambam evidently maintains that even Rabbi Eliezer ben Ya’akov agrees that it is not enough merely to spread out a garment or something similar. Rather, he too concedes to the Rabbis that the matter must be clarified by witnesses (Rambam *Sefer Nashim, Hilkhot Na’ara Betula* 3:12).

We have not found...that any verse distinguishes between sexual intercourse in a typical manner and sexual intercourse in an atypical manner, etc. – לֹא מִצִּינוּ... שְׁחַלֵּק הַתְּנוּב בֵּין בִּיאָה בְּדַרְכָּה לְבִיאָה שְׁלֵא בְּדַרְכָּה: One who has intercourse with a woman forbidden to him is liable to his prescribed punishment, either death, *karet*, flogging by Torah law, or lashes for rebelliousness, whether he had relations with her in a typical or atypical manner (Rambam *Sefer Kedusha, Hilkhot Issurei Bia* 1:10; *Shulḥan Arukh, Even HaEzer* 20:1).

NOTES

**הָאָב – A father has authority over his daughter, etc.** – זְכַאי בְּתוּ וְכוּ: The precise meaning of this statement is a matter of dispute. Either it is referring to the father's basic legal right to accept betrothal on behalf of his daughter, or it is referring to his ensuing right to the betrothal money. It appears that the Gemara reads it both ways, depending on whether it is discussing betrothal via money or, alternatively, via a marriage document or intercourse. However, in the Jerusalem Talmud it is stated that it is referring to the monetary rights that accrue to the father. Some commentaries argue that the language of the mishna indicates it is referring to more than just the basic right to accept betrothal (see *Meleket Shlomo*). It should be noted that this mishna applies specifically when the daughter is a minor or a young woman, but not if she is a grown woman.

**Or through intercourse – בְּבִיאָה:** In the Jerusalem Talmud it is asked: In the first two cases, one can explain that a father has rights to his daughter's betrothal money and to use the material on which the marriage document was written as he wishes, but what kind of monetary right does he possess with regard to betrothal via intercourse? The Gemara answers that he has the right to receive pecuniary compensation for allowing the man to betroth her by means of intercourse. The Meiri explains likewise. Apparently the Gemara here does not ask this question because it interprets the mishna as referring to a father's authority to accept betrothal on behalf of his daughter by allowing the man to have intercourse with her, as explained by Rashi.

**A father is entitled to items she has found – זְכַאי:** Some commentaries maintain that the father is entitled to lost items that she finds even after her betrothal, provided that she is still a young woman (Meiri). This accounts for the fact that the *tanna* starts a new sentence here and does not state this *halakha* together with the previous ones. Others explain that this is listed as a separate *halakha* because a father's right to items his daughter finds is a rabbinic enactment. Furthermore, this sentence serves as an introduction to the continuation of the mishna, which addresses the rights of a husband, including the rights to items that his wife finds (*Shita Mekubbetzet*).

שָׁלַח רַבִּי יִצְחָק בַּר רַב יַעֲקֹב בַּר גִּיּוֹרֵי מִשְׁמִיָּה דְרַבִּי יוֹחָנָן: אִף עַל גַּב שְׁלֵא מְצִינוּ בְּכָל הַתּוֹרָה כּוּלָּהּ שְׁחַלֵּק הַתְּנוּב בֵּין בִּיאָה בְּדַרְכָּה לְבִיאָה שְׁלֵא בְּדַרְכָּה לְמַכּוֹת וּלְעוֹנָשִׁין, אֲבָל מוֹצִיא שֵׁם רַע – חֵלֵק: אִינוּ חַיִּיב עַד שְׂבִיעוּל שְׁלֵא בְּדַרְכָּה, וּמוֹצִיא שֵׁם רַע בְּדַרְכָּה.

**S** Rabbi Yitzhak bar Rav Ya'akov bar Giyyorei sent a message from Eretz Yisrael to Babylonia in the name of Rabbi Yoḥanan: Although we have not found in the entire Torah that any verse distinguishes between sexual intercourse in a typical manner and sexual intercourse in an atypical manner,<sup>h</sup> i.e., anal intercourse, with regard to flogging or any other punishment. However, in the case of the defamer, the Torah does distinguish in this manner, as the husband is obligated to pay the fine only if he had intercourse with his wife, even it was in an atypical manner, and he defames her by claiming that she had previously had intercourse in a typical manner with someone else.

בְּמֵאן? אִי בְּרַבָּנָן – אִף עַל גַּב דְּלֵא בְּעַל, אִי כְּרַבִּי אֱלִיעֶזֶר בֶּן יַעֲקֹב.

The Gemara asks: In accordance with whose opinion is this ruling of Rabbi Yoḥanan? If it is in accordance with the opinion of the Rabbis, the husband should be liable even if he did not have intercourse with his wife. If it is in accordance with the opinion of Rabbi Eliezer ben Ya'akov,

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אִידי וְאִידי בְּדַרְכָּה בְּעִינָן! אֲלֵא שְׁלַח רַב כְּהֵנָּא מִשְׁמִיָּה דְרַבִּי יוֹחָנָן: אִינוּ חַיִּיב עַד שְׂבִיעוּל בְּדַרְכָּה, וּמוֹצִיא שֵׁם רַע בְּדַרְכָּה.

we require both this, i.e., the act of intercourse between the husband and wife, and that, i.e., the woman's alleged act of intercourse with another man, to be performed in a typical manner in order for the laws of a defamer to apply, as Rabbi Eliezer ben Ya'akov interprets the verses literally, meaning that the husband had intercourse with her and discovered she was not a virgin. Rather, Rav Kahana sent word in the name of Rabbi Yoḥanan that the statement was as follows: He is obligated to pay the fine only<sup>h</sup> if he had intercourse in a typical manner and defamed her with regard to intercourse performed in a typical manner, in accordance with the opinion of Rabbi Eliezer ben Ya'akov.

מִתְנִי' הָאָב זְכַאי בְּתוּ בְּקִידוּשֵׁיהָ בְּכֶסֶף, בְּשֵׁטֶר וּבְבִיאָה. זְכַאי בְּמִצִּיאָתָהּ וּבְמַעֲשֵׂה יָדֶיהָ, וּבְהַפְרַת נְדָוֶיהָ, וּמִקְבַּל אֶת גִּטָּהּ, וְאִינוּ אוֹכְל פְּרוֹת בְּחַיָּיהָ.

**MISHNA** A father has authority over his daughter<sup>n</sup> with regard to her betrothal<sup>h</sup> through money, through a marriage document, or through intercourse.<sup>n</sup> Likewise, a father is entitled to items she has found,<sup>n</sup> and to her earnings,<sup>h</sup> and to effect the nullification of her vows,<sup>h</sup> i.e., a father may nullify his daughter's vows. And he accepts her bill of divorce<sup>h</sup> on her behalf if she is divorced from betrothal before she becomes a grown woman. And although he inherits her property when she dies, e.g., property she inherited from her mother's family, he does not consume the produce of her property during her lifetime.<sup>h</sup>

HALAKHA

**He is obligated to pay the fine only, etc.** – זְכַאי חַיִּיב עַד וְכוּ: One who defames his wife is liable only if he had intercourse with her in a typical manner and defames her by claiming that she had committed adultery during betrothal by having intercourse with another man in the typical manner (Rambam *Sefer Nashim, Hilkhot Na'ara Betula* 3:10).

**A father has authority over his daughter with regard to her betrothal, etc.** – הָאָב זְכַאי בְּתוּ בְּקִידוּשֵׁיהָ וְכוּ: A father may betroth his daughter to a man of his choice while she is a minor or a young woman. If the betrothal is performed with money, the money belongs to the father (Rambam *Sefer Nashim, Hilkhot Ishut* 3:11; *Shulḥan Arukh, Even HaEzer* 37:1).

**A father is entitled to items she has found and to her earnings** – זְכַאי בְּמִצִּיאָתָהּ וּבְמַעֲשֵׂה יָדֶיהָ: A father is entitled to lost items that his daughter has found and to her earnings, until she becomes a grown woman. This applies even if she is not financially dependent upon him (Rambam *Sefer Nashim, Hilkhot Ishut* 3:11; *Sefer Nezikim, Hilkhot Gezeila VaAveda* 17:13; *Shulḥan Arukh, Even HaEzer* 37:1 and *Hoshen Mishpat* 270:2).

**He is entitled...to effect the nullification of her vows – זְכַאי:** זְכַאי בְּהַפְרַת נְדָוֶיהָ: A father may nullify his daughter's vows when she is a minor or a young woman (Rambam *Sefer Hafla'a, Hilkhot Nedarim* 11:6; *Shulḥan Arukh, Yoreh De'a* 234:1).

**He accepts her bill of divorce – מִקְבַּל אֶת גִּטָּה:** If a father betroths his daughter to a man, and the man then divorces her while she is still a minor, her father accepts her bill of divorce on her behalf, and she is divorced as soon as the document reaches his possession (Rif; Rambam). Others maintain that she, too, can receive her own bill of divorce (*Tosafot*; Razah). Some authorities state that one should be stringent and not allow her to accept her own bill of divorce (Rosh). If he divorces her when she is a young woman, either she or her father can receive the bill of divorce (Rambam *Sefer Nashim, Hilkhot Geirushin* 2:18; *Shulḥan Arukh, Even HaEzer* 141:4).

**He does not consume the produce of her property during her lifetime – אִינוּ אוֹכְל פְּרוֹת בְּחַיָּיהָ:** A father is not entitled to the produce of his daughter's property during her lifetime (see Rambam *Sefer Nezikin, Hilkhot Hovel* 4:19; *Shulḥan Arukh, Hoshen Mishpat* 424:7).



HALAKHA

The husband consumes the produce of her property during her lifetime – הבעל אוכל פירות בחייה: A husband is entitled to consume the produce of his wife's property (Rambam *Sefer Nashim, Hilkhot Ishut* 12:3; 22:7; *Shulhan Arukh, Even HaEzer* 69:3).

He is obligated to provide her sustenance, etc. – תייב: A husband is obligated to support his wife, to redeem her if she is captured, and to tend to her burial (Rambam *Sefer Nashim, Hilkhot Ishut* 12:2; *Shulhan Arukh, Even HaEzer* 69:2).

May not provide fewer than two flutes, etc. – לא יפחות: If a woman dies before her husband, he is obligated to bury her, to pay all the requisite expenses, and to arrange a eulogy for her in accordance with the local practice. If it is the custom to hire people to play the flute and to lament, he must provide at least two flutists, as well as a lamenting woman. As stated by the Gemara (48a), the *halakha* is in accordance with the opinion of Rabbi Yehuda (Rambam *Sefer Nashim, Hilkhot Ishut* 14:23; *Shulhan Arukh, Even HaEzer* 89:1).

BACKGROUND

Flutes – חלילין: It was customary during ancient times, including in Eretz Yisrael during the period of the Mishna, to play flutes at funerals in order to stimulate mourning. It seems this custom was widely practiced, since the Mishna (see *Shabbat* 151a) discusses various *halakhot* that concern flutes used at funerals. Later generations discontinued this practice, as they considered it a gentile custom.



Roman relief of a flute player

נשאת – יתר עליו הבעל שאוכל פירות בחייה, ותייב במזונותיה ובפרקונה וקבורתה. רבי יהודה אומר: אפילו עני שבשרא לא יפחות משני חלילין ומקוננות.

גמ' בכסף מנלן? אומר רב יהודה: אומר קרא ויציאה חנם אין כסף – אין כסף לאדון זה, ויש כסף לאדון אחר, ומנו – אביה.

ואימא לדידה? השתא אביה מקבל קידושיה, דכתיב "את בתי נתתי לאיש הזה", איהי שקלא כספא!

ואימא: הני מילי – קטנה, דלית לה יד, אבל נערה דאית לה יד – איהי תקדש נפשה, ואיהי תשקול כספא! אומר קרא "בנעוריה בית אביה" – כל שבח נעורים לאביה.

ואלא, הא דאמר רב הונא אומר רב: מנן שמעשה הבת לאביה – שנאמר "וכי ימכור איש את בתו לאמה", מה אמה מעשה ידיה לרבה, אף בת מעשה ידיה לאביה – למה לי, תיפוק ליה מ"בנעוריה בית אביה"? אלא, ההוא בהפרת נדרים הוא דכתיב.

If the daughter married, the husband has more rights and obligations than her father had before the marriage, as he consumes the produce of her property during her lifetime,<sup>H</sup> and he is obligated to provide her sustenance,<sup>H</sup> her redemption if she is captured, and her burial upon her death. Rabbi Yehuda says: Even the poorest man of the Jewish people may not provide fewer than two flutes<sup>HB</sup> and a lamenting woman, which it was customary to hire for a funeral, as these too are included in the duties of burial.

**GEMARA** The mishna indicates that a father receives the money of his daughter's betrothal. The Gemara asks: From where do we derive that the father is entitled to the money of her betrothal? Rav Yehuda said that the verse states, with regard to an emancipated Hebrew maidservant: "Then she shall go out for nothing, without money" (Exodus 21:11), from which it is inferred: There is no money for this master, i.e., her master does not receive money when she leaves him, but there is money for a different master, and who is this? Her father, who also had authority over her, like her master. When she leaves her father's jurisdiction via betrothal, he is entitled to the betrothal money.

The Gemara asks: But one can say that the betrothal money should go to her, as one can derive from the verse that there is no money for this master but there is money for the woman herself when she leaves her father's domain. The Gemara refutes this suggestion: Now consider, her father accepts her betrothal,<sup>N</sup> i.e., he can accept the money or document of betrothal from the man of his choice, as it is written: "I gave my daughter to this man" (Deuteronomy 22:16). Can one then say that she takes the money when her father accepts the betrothal on her behalf?

The Gemara raises a difficulty: But one can say that this applies only to a minor, who does not have a hand, i.e., she is not legally competent to carry out transactions on her own behalf. However, in the case of a young woman, who does have a hand, she should betroth herself and she should also take her own betrothal money. The Gemara answers that there is a different exposition in this regard, as the verse states: "Being in her youth, in her father's house" (Numbers 30:17), which teaches that all gains that a daughter accrues in her youth, i.e., when she is a young woman, belong to her father.<sup>N</sup>

The Gemara asks: But consider that which Rav Huna said that Rav said: From where is it derived that the earnings of a daughter belong to her father? It is as it is stated: "And if a man sell his daughter to be a maidservant" (Exodus 21:7); just as with regard to a maidservant, her earnings belong to her master, so too with regard to a daughter, her earnings belong to her father. Why do I need this exposition? Let him derive it from the phrase "being in her youth, in her father's house." Rather, that phrase, "being in her youth, in her father's house," is written with regard to the nullification of vows, but it is not referring to monetary matters.

NOTES

השתא – Now consider, her father accepts her betrothal, etc. – אביה מקבל קידושיה וכו' (Rashi explains as follows in tractate *Kiddushin* 3b): Since the Torah would not grant a father the right to betroth his daughter without recompense, he must be entitled to the money she receives. Others commentaries there explain simply that since a father has complete rights over the choice of his daughter's husband, the betrothal is considered a form of transaction in which the father relinquishes his rights to accept betrothal for her in the future, and therefore he is entitled to the money (Ritva on *Kiddushin* 3b).

All gains a daughter accrues in her youth belong to her father – כל שבח נעורים לאביה: Although this teaches that a father is entitled to the money of his daughter's betrothal, it does not directly prove that he has the right to betroth her to the man of his choice. One possibility is that the Gemara's previous argument can now be reversed: If she chooses her husband, why should her father receive the betrothal money? From the fact that he receives the money, it is clear that he has the right to betroth his daughter to the man of his choice (*Ayyelet Avavim*).

וכי תימא: גילף מינה – ממונא מאיסורא  
לא ילפינן. וכי תימא: גילף מקנסא –  
ממונא מקנסא לא ילפינן.

And if you would say: Let us derive from here that just as she is under her father's authority with regard to vows, the same applies to monetary matters, this is not possible, because there is a principle that **we do not derive monetary matters from ritual matters**, as these are two separate areas of *halakha*. And if you would say: Let us derive this *halakha* from the fine paid by the rapist of a young woman, which the Torah explicitly states goes to her father (Deuteronomy 22:29), there is another principle, that **we do not derive monetary matters from fines**. Each fine imposed by the Torah is a novel law, from which nothing can be learned with regard to other monetary liabilities.

וכי תימא: גילף מבושת ופגם – שאני  
בושת ופגם דאביה נמי שייך ביה.

And if you would say: Let us derive it from the compensation paid by a rapist for his victim's **humiliation and degradation**,<sup>N</sup> which is also paid to her father, the compensation for **humiliation and degradation is different, as her father also has a share in it**,<sup>N</sup> because he too is humiliated and harmed by this unfortunate episode, and therefore one cannot learn the *halakhot* of other monetary matters from here.

אלא, מסתברא דכי ממעט רחמנא –  
יציאה דכוותה קא ממעט.

Rather, the Gemara returns to the previous exposition of the verse: "Then she shall go out for nothing, without money" (Exodus 21:11). As for the question of why she does not receive the money herself, the Gemara explains that **it is reasonable to assume that when the Merciful One excludes a case by means of this verse, He excludes a case where a girl leaves someone's authority in the corresponding situation<sup>N</sup> to the case of the Hebrew maidservant.**

הא לא דמיא הא יציאה להא יציאה,  
התם גבי אדון – נפקא לה מרשותיה  
לגמרי, יציאה דאב – אבתי מחסרא  
מסירה לחופה!

The Gemara raises a difficulty: **But this leaving of her father's authority is not comparable to that leaving of her master's authority: There, with regard to a master, when he frees her she leaves his authority entirely, whereas in the case of a girl who goes out from the jurisdiction of her father, she still lacks the process of being brought to the wedding canopy.** As long as she is not fully married she remains partially under her father's authority, as he is her heir and has rights to her earnings.

מהפרת נדרים מיהא נפקא לה מרשותיה.  
דתנן: נערה המאורסה אביה ובעלה  
מפירין לה נדריה.

The Gemara answers: **From the perspective of her father's right to effect the nullification of her vows, at least,<sup>N</sup> she has left his domain via betrothal, as he no longer maintains exclusive rights to nullify her vows. As we learned in a mishna (Nedarim 66b): With regard to a betrothed young woman, her father and her husband nullify her vows together.** Since her father cannot nullify her vows on his own, the two types of leaving are indeed comparable.

"שטר וביאה". מנא לן? אמר קרא:  
"והיתה לאיש אחר" – איתקוש הויות  
להרדי.

§ The mishna taught that a father is entitled to accept betrothal of his daughter through a marriage **document or through intercourse**. The Gemara asks: **From where do we derive this?** The Gemara answers that **the verse states: "And she becomes another man's wife"** (Deuteronomy 24:2). Since the verse does not specify how she becomes his wife, the different ways of **becoming a wife are compared to each other, i.e., they are considered equal**. Accordingly, the various methods of betrothal are the same with regard to the authority of the father.

"זכאי במציאתה".

The mishna further taught that a father is **entitled to items she has found**.

Let us derive it from humiliation and degradation – **גילף מבושת ופגם** – Rashi explains that this refers to the fact that the compensation for a young woman's humiliation and degradation belong to the father, as stated earlier. It has been pointed out that this interpretation is apparently circular, as the very fact that a father is entitled to the compensation for her humiliation and degradation is derived from his ability to accept betrothal on behalf of his daughter, whereas the Gemara here attempt to derive a father's ability to accept betrothal on his daughter's behalf from the fact that he is entitled to the compensation for her humiliation and degradation. Therefore, others explain that this statement refers to the fact that he can hand her over to a man who is repulsive or stricken with boils, which entails causing her humiliation and degradation (Ramban; see 40b).

**Her father also has a share in it – אביה נמי שייך ביה** – According to Rashi, her father has rights to the compensation for her humiliation and degradation because he has the right to betroth her to someone repulsive, which would cause her humiliation and degradation. Conversely, the Ramban explains that the father shares her shame and loss of value because he also suffers as a result of her ordeal. Although not even a husband, whose wife is considered like his own body, has full rights to compensation for her humiliation and degradation, and certainly other relatives do not, it is possible that due to the special closeness between father and daughter her humiliation and degradation are considered his as well. In support of his interpretation, the Ramban cites a version of the parallel passage in *Kiddushin* (3b) which states explicitly that her father also experiences suffering. Some versions of the text of the Gemara here also included that statement. See the Ritva, however, who cites several reasons for accepting Rashi's explanation.

## NOTES

He excludes a case where a girl leaves someone's authority in the corresponding situation – **יציאה דכוותה קא ממעט** – The verse indicates that a Hebrew maidservant who reaches majority goes free without payment. If there would be payment, it would be made to the master. This occurs in a case where the maidservant or her family members set her free by offering monetary compensation to the master. A Jewish girl sold as a maidservant remains in that station for a maximum of six years. She can be redeemed by reimbursing the master for a percentage of the purchase price corresponding to the

percentage of the six years that she has not yet served. Since the verse indicates that, as opposed to a Hebrew maidservant who goes free because she reached majority, where no money changes hands, in the case of a girl who leaves the jurisdiction of her father via betrothal, money does change hands. The money goes to the father, corresponding to the fact that any money paid in the case of the Hebrew maidservant would have gone to the master.

**From the nullification of vows, at least, etc. – מהפרת נדרים** – **מיהא וכו'**: This answer is difficult, as the Gemara is seeking to

prove that a daughter leaves her father's domain entirely; yet it is clear that with regard to vows he retains a certain right over her, even though he cannot nullify her vows on his own. In fact, Rabbeinu Ḥananel's version of the Gemara did not mention nullification of vows and stated instead: From this matter, at least, she has entirely left his domain. In other words, once the father has accepted betrothal on behalf of his daughter, he no longer has the right to sell her as a Hebrew maidservant. In this sense, she leaves her father's domain in a manner similar to how a Hebrew maidservant leaves her master's domain.