

NOTES

One who vows that his wife may not derive benefit from him – **הַמְדִיר אֶת אִשְׁתּוֹ**: The details of these *halakhot* are clarified in Chapter Seven. For the purposes of this discussion, it is enough to state that this refers to a vow that prevents the couple from living together and that forces them to divorce.

The wife of a priest – אִשְׁתּוֹ כֹהֵן: In the case of a non-priest, since he cannot fulfill the clause: I will restore you to me as my wife, he does not have to redeem her. In the case of a priest, the marriage contract stipulates that he will return her to her native province, which he can fulfill even if he pronounced a vow prohibiting her from deriving benefit from him. Although he helps her when he redeems her from captivity, he does not provide her with direct, physical benefit, which is rendered prohibited by his vow.

ממזרת ונתינה לישראל – אינו חייב לפדותה, שאין אני קורא בה "ואותבינך לי לאנתו". רבא אמר: כל שאיסור שבטיה גורם לה – חייב לפדותה, איסור דבר אחר גורם לה – אינו חייב לפדותה.

לימא כתנאי: המדיר את אשתו ונשבית, רבי אליעזר אומר: פודה ונותן לה כתובתה, רבי יהושע אומר: נותן לה כתובתה, ואינו פודה.

אמר רבי נתן, שאלתי את סומכוס: בשאמר רבי יהושע נותן לה כתובתה ואינו פודה – בשדהדירה ולבסוף נשבית, או בנשבית ולבסוף הדירה?

ואמר לי: לא שמעתי, ונראין דברים שדהדירה ולבסוף נשבית. דאי אמרת נשבית ולבסוף הדירה – אתי לאיערומי.

מאי לאו במדיר אשתו כהן קמיפלגי, ואביי דאמר ברבי אליעזר, ורבא דאמר ברבי יהושע?

In the case of a *mamzeret* or a Gibeonite woman married to an Israelite, who are entitled to a marriage contract despite the fact that the relationship is forbidden and they must get divorced, **he is not obligated to redeem her, as I do not apply to her the clause: And I will restore you to me as a wife, as she is forbidden to him.** Rava said: In any case where the prohibition of her captivity, i.e., the fact that she was taken captive, causes her^h to be forbidden to her husband, as in the case of a priest's wife who was taken captive, **he is obligated to redeem her.** However, if another prohibition causes her to be forbidden to her husband, e.g., the case of a widow who is married to a High Priest, **he is not obligated to redeem her.**

The Gemara suggests: **Let us say that this is parallel to a dispute between *tanna'im*.** As it is taught in a *baraita*: In the case of **one who vows that his wife may not derive benefit from him,ⁿ in which case he must divorce her, and she is then taken captive,^h Rabbi Eliezer says: He redeems her and gives her the payment for her marriage contract. Rabbi Yehoshua says: He gives her the payment for her marriage contract but he does not have to redeem her, as he may not take her back as his wife, due to his vow.**

Rabbi Natan said: I asked Sumakhos: When Rabbi Yehoshua said that he gives her the payment for her marriage contract but he does not have to redeem her, was he referring to a case where he vowed that she may not derive benefit from him and she was subsequently taken captive, or was he speaking of one who was taken captive and he subsequently vowed that she may not derive benefit from him?

And he said to me: I have not heard a tradition on this matter, but it would appear that Rabbi Yehoshua does not obligate the husband to redeem her in a situation where he vowed that she may not derive benefit from him and she was subsequently taken captive. As, if you say that the same *halakha* applies in a case where she was taken captive and he subsequently vowed that she may not derive benefit from him, the husband might come to engage in trickery. If he wants to release himself from the duty to ransom his wife after she is captured, he can simply vow that she may not derive benefit from him, in which case he would be obligated to pay her only the marriage contract.

The Gemara now analyzes the suggested comparison between the opinions cited in this *baraita* and the dispute between Abaye and Rava. **What, is it not the case that the *tanna'im* disagree about a priest who vows that his wife, i.e., the wife of a priest,ⁿ may not derive benefit from him? And Abaye spoke in accordance with the opinion of Rabbi Eliezer when he said that the husband must redeem his wife even if she is forbidden to him due to something other than the fact that she was taken captive, and Rava spoke in accordance with the opinion of Rabbi Yehoshua.**

HALAKHA

Any case where the prohibition of her captivity causes her, etc. – **כל שאיסור שבטיה גורם לה וכו' –** If a woman was forbidden to her husband by a Torah prohibition, and she was taken captive, he is not obligated to redeem her. Rather, he gives her the money of her marriage contract and she must redeem herself. However, in the case of a priest's wife who is forbidden to her husband only due to the fact that she was taken captive, he is obligated to redeem her, as the *halakha* is in accordance with the opinion of Rava (Rambam *Sefer Nashim*, *Hilkhot Ishut* 24:22; *Shulḥan Arukh*, *Even HaEzer* 78:6–7).

One who vows that his wife may not derive benefit from him, and she is then taken captive – **המדיר את אשתו ונשבית**: If a man vows that his wife may not derive benefit from him, he is obligated to divorce her and pay her marriage contract. If she is subsequently taken captive, he is not required to redeem her from captivity. However, if she was taken captive before he took this vow, he is required to redeem her. The *halakha* is in accordance with the opinion of Rabbi Yehoshua, not Rabbi Eliezer, and in accordance with the opinion of Sumakhos (Rambam *Sefer Nashim*, *Hilkhot Ishut* 14:21; *Shulḥan Arukh*, *Even HaEzer* 78:5).

לֹא, הִכָּא בְּמַאי עֲסָקִינָּן – כְּגוֹן שְׁנִדְרָה אִיהִי וְקִיָּים לָהּ הוּא. רַבִּי אֱלִיעֶזֶר סָבַר: הוּא נֹתֵן אֶצְבַּע בֵּין שִׁנְיָהּ, וְרַבִּי יְהוֹשֻׁעַ סָבַר: הִיא נֹתְנָה אֶצְבַּע בֵּין שִׁנְיָהּ.

No, with what are we dealing here, etc. – לֹא הִכָּא – בְּמַאי עֲסָקִינָּן וְכוּ': The early authorities debate the meaning of the Gemara's refutation here. According to Rashi, the Gemara is saying that the opinions of Rabbi Eliezer and Rabbi Yehoshua cannot be aligned with those of Abaye and Rava, as each of them might agree with either opinion. The *tanna'im* argue only with regard to an Israelite, who is not obligated to redeem a woman forbidden to him: In a case where she is forbidden to him due to a vow that she took and he upheld, is she responsible for the prohibition, in which case the husband is exempt from the obligation to redeem her, or is he responsible for the prohibition, in which case he is obligated to redeem her? Other early authorities raise various difficulties with Rashi's interpretation.

An alternative explanation of the Gemara is presented by the Razah, based upon a slightly different version of the Gemara text. He explains that according to Rava, his dispute with Abaye is the subject of the dispute between the *tanna'im*, and he agrees with the opinion of Rabbi Yehoshua, while Abaye accepts the opinion of Rabbi Eliezer. The Gemara here, which claims that the dispute between the *tanna'im* is not the same as the dispute between Abaye and Rava, is stating this claim only according to Abaye, i.e., Abaye can argue that his opinion accords with both of the *tanna'im* cited in the *baraita*.

Rabbi Aharon HaLevi accepts the standard version of the Gemara text but maintains that the Gemara's answer refers both to Israelites and priests. Rava claims that his opinion accords even with that of Rabbi Eliezer, and since the husband is responsible for the fact that his wife is forbidden to him, even an Israelite husband is obligated to redeem his wife. However, in cases where the husband is not responsible for the prohibition, Rabbi Eliezer concedes that not even a priest is obligated to redeem his wife. Conversely, Abaye explains that even Rabbi Yehoshua exempts the husband from redeeming his wife only because he considers her the cause of her forbidden status, and therefore even a priest is exempt from redeeming his wife. However, if she is not the cause of her forbidden status, even Abaye agrees that the husband is obligated to redeem his wife (see Ramban, Ritva, Meiri, and Rabbi Crescas Vidal).

HALAKHA

הוּא נֹתֵן אֶצְבַּע וְכוּ' – לֹא הִכָּא: If a wife vows to refrain from deriving benefit from her husband, and the husband upholds her vow, or even if he merely fails to nullify it, and he subsequently says that he does not wish to remain with a woman who vows, he may divorce her but he must give her the marriage contract, as he had the opportunity to nullify her vow and chose not to do so. There is a tannaitic dispute with regard to this issue on 71a–b. The opinion accepted as *halakha* is that of Rabbi Yosei (Rambam *Sefer Nashim*, *Hilkhot Ishut* 12:24; *Shulhan Arukh*, *Yoreh De'a* 235:3).

לֹא, הִכָּא בְּמַאי עֲסָקִינָּן – כְּגוֹן שְׁנִדְרָה אִיהִי וְקִיָּים לָהּ הוּא. רַבִּי אֱלִיעֶזֶר סָבַר: הוּא נֹתֵן אֶצְבַּע בֵּין שִׁנְיָהּ, וְרַבִּי יְהוֹשֻׁעַ סָבַר: הִיא נֹתְנָה אֶצְבַּע בֵּין שִׁנְיָהּ.

The Gemara refutes this suggestion: No; with what are we dealing here?²⁰ With a case where she vowed not to derive benefit from him, and her husband upheld it for her by neglecting to nullify her vow when he heard it. The Gemara explains: Rabbi Eliezer maintains that he is putting his finger^h between her teeth, i.e., he causes the vow to be in effect, and therefore he must redeem her and return her to her native province. And Rabbi Yehoshua maintains that she put her finger between her own teeth, i.e., she is responsible for the vow, because she is the one who initially pronounced it.

אִי הִיא נֹתְנָה אֶצְבַּע בֵּין שִׁנְיָהּ – כְּתוּבָה מֵאִי עֵבִידְתָּהּ?

The Gemara asks: If Rabbi Yehoshua maintains that she put her finger between her own teeth, what is the payment of the marriage contract doing here? Why must he pay her marriage contract if it is her fault that they cannot remain married?

וְתוֹ, אָמַר רַבִּי נָתַן: שְׁאֵלְתִּי אֶת סוּמְכּוֹס: כְּשֶׁאָמַר רַבִּי יְהוֹשֻׁעַ נֹתֵן לָהּ כְּתוּבָתָהּ וְאֵינוּ פוֹדֶה – כְּשֶׁהִדְרִיחַ וְלִבְסוּף נִשְׁבְּתָהּ, אִם בְּשִׁנְיָתָהּ וְלִבְסוּף הִדְרִיחָהּ? וְאָמַר: לֹא שְׁמַעְתִּי.

And furthermore, it was stated above that Rabbi Natan said: I asked Sumakhos: When Rabbi Yehoshua said that he gives her the payment for her marriage contract but he does not have to redeem her, was he referring to a case where he vowed that she may not derive benefit from him and she was subsequently taken captive, or was he speaking of one who was taken captive and he subsequently vowed that she may not derive benefit from him? And he said to me: I have not heard a tradition on this matter, but it is reasonable to assume that the case is where he took the vow and she was subsequently taken captive, as otherwise there is a concern that the husband will engage in trickery.

וְאִי דְנִדְרָה אִיהִי – מִה לִּי הִדְרִיחַ וְלִבְסוּף נִשְׁבְּתָהּ, מִה לִּי נִשְׁבְּתָהּ וְלִבְסוּף הִדְרִיחָהּ?

But if this is referring to a case where she was the one who vowed not to derive benefit from him, what is the difference to me whether he upheld her vow and she was subsequently taken captive, and what is the difference to me whether she was taken captive and he subsequently upheld her vow? Either way there is no reason to be concerned that he might engage in trickery, since she was the one who took the vow.

אֶלְא לְעוֹלָם דְּאִדְרָה אִיהִי. וְאֵבִי מִתְרַץ לְטַעְמִיָּה, וְרַבָּא מִתְרַץ לְטַעְמִיָּה. אֵבִי מִתְרַץ לְטַעְמִיָּה: אֶלְמַנָּה לְכַהֵן גְּדוּל – כּוּלִי עֲלָמָא לֹא פְּלִיגִי דְּחֵיב לְפִדּוּתָהּ, מִמְּזוּרָת וְנִתְיַנָּה לְיִשְׂרָאֵל – כּוּלִי עֲלָמָא לֹא פְּלִיגִי דְּאֵינוּ חֵיב לְפִדּוּתָהּ, מִדִּיר אִשְׁתָּ בְּהֵן נָמִי – כּוּלִי עֲלָמָא לֹא פְּלִיגִי דְּחֵיב לְפִדּוּתָהּ, דְּהֵינּוּ אֶלְמַנָּה [לְכַהֵן גְּדוּל].

Rather, this is actually referring to a case where he was the one who initially vowed that she may not derive benefit from him. And Abaye explains the *baraita* according to his line of reasoning, and Rava explains the *baraita* according to his line of reasoning. Abaye explains the *baraita* according to his line of reasoning as follows: With regard to a widow who is married to a High Priest, everyone agrees that he is obligated to redeem her. If she was a *mamzeret* or a Gibeonite woman married to an Israelite, everyone agrees that he is not obligated to redeem her. In the case of a priest who takes a vow prohibiting his wife, i.e., the wife of a priest, from deriving benefit from him, likewise everyone agrees that he is obligated to redeem her, as this is the same as the case of a widow who is married to a High Priest, as he can fulfill the requirement to restore her to her native province.

כִּי פְּלִיגִי – בְּמִדִּיר אִשְׁתָּ יִשְׂרָאֵל. רַבִּי אֱלִיעֶזֶר אָוִיל בְּתֵר מַעֲקָרָא, וְרַבִּי יְהוֹשֻׁעַ אָוִיל בְּתֵר בְּסוּף.

When they disagree it is in the case of an Israelite who vows that his wife, i.e., the wife of an Israelite, may not derive benefit from him. Rabbi Eliezer follows the status of the woman at the outset, i.e., when the marriage contract was written. Since at that time he could restore her to be his wife, the obligation he took upon himself to redeem her from captivity remains in effect, despite the fact that he can no longer do so due to the vow. And Rabbi Yehoshua follows the status of the woman at the end, and holds that since, in practice, the husband cannot take her back as a wife because of the vow, he is no longer obligated to ransom her.

רַבָּא מִתְרַץ לְטַעְמִיָּה: אֶלְמַנָּה לְכַהֵן גְּדוּל, מִמְּזוּרָת וְנִתְיַנָּה לְיִשְׂרָאֵל – כּוּלִי עֲלָמָא לֹא פְּלִיגִי דְּאֵינוּ חֵיב לְפִדּוּתָהּ, כִּי פְּלִיגִי – בְּמִדִּיר בֵּין אִשְׁתָּ בְּהֵן וּבֵין אִשְׁתָּ יִשְׂרָאֵל.

Similarly, Rava explains the *baraita* according to his line of reasoning: In the case of a widow married to a High Priest, and a *mamzeret* or a Gibeonite woman married to an Israelite, everyone agrees that he is not obligated to redeem her, as the prohibition against her remaining married to him results from a cause other than her captivity. When they disagree it is with regard to one who vows that his wife may not derive benefit from him, whether she is the wife of a priest or the wife of an Israelite.

רבי אליעזר אָזיל בַּתּוּר מֵעִקְרָא. וְרַבִּי יְהוֹשֻׁעַ אָזיל בַּתּוּר בְּסוֹף.

Rabbi Eliezer follows her status at the outset and holds that since he obligated himself to ransom her when he wrote the marriage contract he must act accordingly. And Rabbi Yehoshua follows her status at the end, and holds that since he cannot fulfill his obligation to restore her as his wife due to a factor other than her captivity, he is entirely exempt from redeeming her.

נְשֻׁבִית חַיִּב לְפִדּוֹתָהּ וְכוּ'. תֵּנוּ רַבָּנִן: נְשֻׁבִית בְּחַיֵּי בַּעֲלָהּ וְאַחַר כֵּךְ מֵת בַּעֲלָהּ, הַכִּיר בָּהּ בַּעֲלָהּ – יוֹרְשֵׁינָה חַיִּבִּין לְפִדּוֹתָהּ, לֹא הַכִּיר בָּהּ בַּעֲלָהּ – אִין יוֹרְשֵׁינָה חַיִּבִּין לְפִדּוֹתָהּ.

§ The mishna taught that if she was taken captive, her husband is obligated to redeem her. The Sages taught in a *baraita*: In the case of a wife who was taken captive in her husband's lifetime and afterward her husband died before he could redeem her, if her husband was aware of her captivity,ⁿ the heirs are obligated to redeem her, but if her husband was not aware of her captivity, his heirs are not obligatedⁿ to redeem her.

לִּי סָבַר לְמַעַבְד עוֹבְדָא כִּי הָא מִתְנַתָּא. אָמַר לִיה רַב: הֲכִי אָמַר חֲבִיבִי: לִית הַלְכָתָא כִּי הָא מִתְנַתָּא, אֶלָּא כִּי הָא דְתַנְיָא: נְשֻׁבִית לְאַחַר מֵיתַת בַּעֲלָהּ – אִין הִיתוּמִין חַיִּבִּין לְפִדּוֹתָהּ. וְלֹא עוֹד, אֶלָּא אֶפִּילוּ נְשֻׁבִית בְּחַיֵּי בַּעֲלָהּ וְאַחַר כֵּךְ מֵת בַּעֲלָהּ – אִין הִיתוּמִין חַיִּבִּין לְפִדּוֹתָהּ, שְׂאִין אֲנִי קוֹרָא בָּהּ "וְאוֹתְבִינְךָ לְאִינְתוֹ".

The Gemara relates: Levi thought to act in accordance with this *baraita*. Rav said to him: My uncle [*havivi*],ⁿ Rabbi Hiyya, said as follows: The *halakha* is not in accordance with this *baraita*. Rather, it is in accordance with that which is taught in a different *baraita*: If she was taken captive after the death of her husband, the orphans are not obligated to redeem her. And moreover, even if she was taken captive in her husband's lifetime and he heard about it, and afterward her husband died, the orphans are not obligated to redeem her,ⁿ as I cannot apply to her the clause in the marriage contract: And I will restore you to me as a wife. Since this stipulation cannot be fulfilled, the obligation to redeem her does not apply.

תֵּנוּ רַבָּנִן: נְשֻׁבִית וְהִי מְבַקְשִׁין מִמֶּנּוּ עַד עֶשְׂרֵה בְדַמְיָהּ, פַּעַם רִאשׁוֹנָה – פּוֹדָה, מִכָּאן וְאֵילָךְ, רִצָּה – פּוֹדָה, רִצָּה – אִינוּ פּוֹדָה. רַבִּן שִׁמְעוֹן בֶּן גַּמְלִיאֵל אָמַר:

§ The Sages taught: If she was taken captive and they were seeking ransom from her husband of up to ten times her value,ⁿ i.e., far more than the usual ransom for a captive of this kind, on the first occasion she is taken captive he must redeem her. From this point forward, i.e., if she was taken captive a second time, if he wants to, he redeems her,ⁿ but if he does not want to redeem her, he does not have to redeem her, as the Sages obligated him to redeem her only once. Rabban Shimon ben Gamliel says:

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If her husband was aware of her captivity – הַכִּיר בָּהּ בַּעֲלָהּ: Since he knew what happened to her, his property is mortgaged toward the obligation to redeem her (Rivan).

Rabbi Hiyya was Rav's uncle both from his father's and his mother's side. In *Pesahim* 4a there is an explanation of this unusual relationship. He was also Rav's primary teacher. It may be for this reason that Rav would refer to Rabbi Hiyya with a term that expressed both his familial connection to and his affection for his uncle.

His heirs are not obligated – אִין יוֹרְשֵׁינָה חַיִּבִּין: The Rivan and others had a version of the text that states: Brothers-in-law, instead of: Heirs. According to this version, the point is that even the brothers-in-law, with whom the woman has a levirate bond after the death of her husband, are not obligated to redeem her, and certainly other heirs are not obligated (*Talmidei Rabbeinu Yona*).

From this point forward if he wants he redeems her – מִכָּאן וְאֵילָךְ רִצָּה פּוֹדָה: Some explain that this means that on the second occasion he does not have to redeem her for more than her value, but he would still be obligated to redeem her for the normal value of a captive similar to her (Rabbeinu Hananel, cited by *Tosafot*). Rashi, however, maintains that a husband is obligated to redeem his wife only once. After that, he is not obligated to redeem her at all.

My uncle [*havivi*] – חֲבִיבִי: This is the meaning in Aramaic. Some understand it as a contraction of the words *ahī avi*, meaning: My father's brother. Apparently, there is a connection between this use of the term and its other meaning of affection [*hibba*].

HALAKHA

The orphans are not obligated to redeem her – אִין הִיתוּמִין חַיִּבִּין: The obligation to redeem a wife lapses after her husband's death. There is no duty for the husband's heirs to redeem his widow with the money of his estate, even if she was taken captive during his lifetime and he passed away before he could redeem her (Rambam *Sefer Nashim, Hilkhot Ishut* 18:5; *Shulḥan Arukh, Even HaEzer* 78:8).

is taken captive and the captors demand a sum that is larger than the value of her marriage contract, even if it is ten times the value of her marriage contract, her husband is obligated to pay it. However, if she is captured a second time and he wants to divorce her, he may do so and she must redeem herself, as he is obligated to redeem her only once. Some claim that according to the ruling of the Rambam, if the husband does not wish to divorce her he must ransom her even on the second occasion (*Beit Shmuel*, citing *Kesef Mishne; Bah; Derisha*; Rambam *Sefer Nashim, Hilkhot Ishut* 14:19; *Shulḥan Arukh, Even HaEzer* 78:3).

They were seeking ransom from her husband of up to ten times her value – הִי מְבַקְשִׁין מִמֶּנּוּ עַד עֶשְׂרֵה בְדַמְיָהּ: If a woman

אין פודין את השבויין יותר על כדו דמיהם, מפני תקון העולם. הא בכדי דמיהן - פודין, אף על גב דפרקונה יותר על כתובתה.

ורמיה: נשביית, והיו מבקשין ממנו עד עשרה בכתובתה, פעם ראשונה - פודה, מכאן ואילך רצה - פודה, רצה - אינו פודה. רבי שמעון בן גמליאל אומר: אם היה פרקונה כנגד כתובתה - פודה, אם לא - אינו פודה!

רבן שמעון בן גמליאל תרי קולי אית ליה.

"לקתה חייב לרפאותה". תנו רבנן: אלמנה ניונת מנכסי יתומין, וצריכה רפואה - הרי היא כמזונות. רבן שמעון בן גמליאל אומר: רפואה שיש לה קצבה - נתרפאת מכתובתה, שאין לה קצבה - הרי היא כמזונות.

One does not redeem captives at more than their value.^H This policy is for the betterment of the world,^N because if captives are ransomed at exorbitant prices, this will encourage their captors to kidnap more people. The Gemara notes: This implies that if the captors seek a ransom in accordance with their actual value one does redeem captives,^H even though this includes a case where a woman's redemption is more than her marriage contract.

And the Gemara raises a contradiction from a different *baraita*, which states: If she was taken captive and the captors were seeking from her husband a ransom of up to ten times the value of her marriage contract, on the first occasion he must redeem her. From this point forward, if he wants to he redeems her, but if he does not want to redeem her, he does not have to redeem her. Rabban Shimon ben Gamliel says: If the price of her ransom was equal to her marriage contract he redeems her. If not, i.e., the price of her ransom was greater than the sum of money guaranteed to her in her marriage contract upon divorce or the death of her husband, he does not have to redeem her. He can suffice with paying her marriage contract.

The Gemara answers: Rabban Shimon ben Gamliel is of the opinion that there are two leniencies with regard to the *halakhot* of redemption. First, he maintains that one does not pay more than the general ransom given for such a captive, and second, a husband does not have to pay more than the sum of his wife's marriage contract.

§ The mishna taught (51a) that if a woman was struck with illness, her husband is obligated to heal her, i.e., to pay for her medical expenses. The Sages taught in a *baraita*: In the case of a widow who is sustained from the property of the orphans and who requires medical treatment,^H her medical needs are like her sustenance, and the orphans must bear the costs. Rabban Shimon ben Gamliel disagrees and says: With regard to treatment that has a fixed cost, she is healed from her marriage contract, i.e., the amount is subtracted from her marriage contract. If it is a treatment that does not have a fixed cost, it is considered like sustenance.

HALAKHA

One does not redeem captives at more than their value – אין פודין את השבויין יותר על כדו דמיהם: One may not ransom captives at more than their face value, so as not to encourage enemies to capture more Jews, as stated by Rabban Shimon ben Gamliel. However, it is permitted for one to ransom himself at any price. Similarly, one redeems great Sages, including young scholars who have the potential to become important leaders, even for a hefty sum (see *Tosafot* and *Rosh*). Some write that it is permitted to ransom one's relatives at a high price, or in fact anyone, if one chooses to do so. The court does not object to this behavior as long as the money does not come from the public purse. This is the accepted practice (Rambam *Sefer Zera'im, Hilkhot Mattenot Aniyyim* 8:12; *Shulhan Arukh, Yoreh De'a* 252:4).

For their value one does redeem captives – בכדי דמיהם: A husband is obligated to redeem his wife not for more than her value, but only in accordance with the price of similar captives. Some authorities (*Tur* and *Rosh*, citing *Ramah; Bah*) maintain that as his wife is considered like his own body he can spend as much as he wants on her redemption (Rambam *Sefer Nashim, Hilkhot Ishut* 14:19; *Shulhan Arukh, Even HaEzer* 78:2).

A widow who requires medical treatment – אלמנה: In the case of a widow sustained from the orphans' property who took ill, if her medical expenses are not fixed, they are categorized as sustenance and the heirs must cover the costs. If her treatment comes at a fixed price, she must pay for it from her marriage contract. There is a general principle that the *halakha* is in accordance with the opinion of Rabban Shimon ben Gamliel in his disputes with other Sages; this is certainly the case here, where the Gemara apparently supports his ruling (Rambam *Sefer Nashim, Hilkhot Ishut* 18:5 and *Maggid Mishne* there; *Shulhan Arukh, Even HaEzer* 79:1).

NOTES

For the betterment of the world – מפני תקון העולם: The Gemara in *Gittin* (45a), which is the source of this *halakha*, inquires as to why exactly it is for the betterment of the world that one does not redeem captives for more than their value. The Gemara there offers two possibilities: It means either that the public will not be able to handle the heavy financial burden of exorbitant ransoms, or that exorbitant ransoms will only encourage criminals to carry out more abductions. The Gemara there does not come to a conclusion as to which reason is correct. Some commentaries suggest that this issue is the subject of dispute in the *baraita* cited here: The first *tanna* maintains that a husband is required to ransom his wife even for a price that is higher than the normal value for such a ransom. Apparently, he holds that the reason captives are generally not ransomed for more than their value is because of the financial burden on the community. Consequently, in this case, where the burden is upon one individual, the captive must be ransomed even for an exorbitant price. Rabban Shimon ben Gamliel, who holds that even a husband does not ransom his wife for an exorbitant fee, must hold that the "betterment of

the world" is so as not to encourage criminals from carrying out more kidnappings (Ramban and Rashba on *Gittin* 45a; Rabbi Aharon HaLevi).

Others argue that this discussion provides no proof one way or another. It is possible that even the first *tanna* is generally concerned about giving encouragement to potential kidnappers. However, he holds that there is no limit to the amount one can pay to ransom himself and likewise to ransom his wife, in accordance with the general dictum that one's wife is like oneself (Ritva, citing Rabbeinu Tam; see *Tosafot*). Conversely, it is possible to explain Rabban Shimon ben Gamliel's opinion even according to the reasoning that the concern is for the public purse, as he might be saying that they did not obligate a husband to ransom his wife due to the indirect effect his actions would have on public coffers in future kidnappings, or because the entire community typically shared the costs of the redemption of captives even when the husband was obligated to do so (*Talmidei Rabbeinu Yona*).

Go and fix a lump sum with the doctor – איזילו קוצו ליה – מדי לופא: If a man's heirs wish to settle with the doctor a fixed price for the widow's medical expenses, so that she should have to pay for it herself out of her marriage contract, they have the right to do so, in accordance with the ruling of Rabbi Yoḥanan (*Shulḥan Arukh, Even HaEzer 79:2*).

If the husband did not write for her: Any male children, etc. – לא כתב לה בגין דכרין וכו' – One of the stipulations of a marriage contract is that any male children born to this woman will inherit from their father the sum stipulated in their mother's marriage contract in addition to their share of his inheritance. Even if the husband neglected to include this clause in the marriage contract it is in effect, as this is a stipulation of the court (*Rambam Sefer Nashim, Hilkhot Ishut 12:2; Shulḥan Arukh, Even HaEzer 69:2*).

Female children, etc. – בגין נקבין וכו' – Any female children a man's wife bears to him are entitled to their sustenance from his property until their betrothal, even if this was not stated in the marriage contract, as it is a stipulation of the court (*Rambam Sefer Nashim, Hilkhot Ishut 12:2; Shulḥan Arukh, Even HaEzer 69:2*).

A widow is sustained from his property and may live in his house – אלמנה ניונת מנכסיו וגרה בביתו – One of the stipulations of a marriage contract, which applies even if it is omitted, is that if the woman is widowed she has the right to receive her sustenance from her late husband's property and to reside in his house throughout her widowhood (*Rambam Sefer Nashim, Hilkhot Ishut 12:2; Shulḥan Arukh, Even HaEzer 69:2*).

NOTES

An important person is different – אדם חשוב שאני: This is just one example of several instances where the Gemara states that prominent individuals must be more careful than others in their conduct, because others observe him and learn from him. Certain actions that are usually permitted are considered improper for one of stature. Furthermore, improper conduct on the part of prominent individuals may cause a desecration of God's name.

אמר רבי יוחנן: עשו הקות דם בארץ ישראל ברפואה שאין לה קצבה. קריביה דרבי יוחנן הוה להו איתת אבא דהות צריכה רפואה כל יומא. אתו לקמיה דרבי יוחנן, אמר להו: איזילו קוצו ליה מדי לופא.

אמר רבי יוחנן: עשינו עצמינו כעורכי הדין. מעיקרא מאי סבר ולבסוף מאי סבר? מעיקרא סבר "ומבשרך לא תתעלם" ולבסוף סבר: אדם חשוב שאני.

מתני' לא כתב לה "בגין דכרין דיהווי ליכי מינאי אינון ירתון כסף כתובתיך יתר על חולקהון דעם אחוהון" – חייב, שהוא תנאי בית דין. בגין נקבין דיהווי ליכי מינאי יהוין יתבן בבית ומיתוונן מנכסיו עד דתלקחון לגוברין" – חייב, שהוא תנאי בית דין.

"אתה יהא יתבא בביתי ומיתוונא מנכסי כל ימי מגר אלמנותיך בביתי" – חייב, שהוא תנאי בית דין. כך היו אנשי ירושלים בותבין. אנשי גליל היו בותבין כאנשי ירושלים. אנשי יהודה היו בותבין: עד שירצו היורשין ליתן לך כתובתיך. לפיכך, אם רצו יורשין – נותנן לה כתובתה, ופוטרין אותה.

גמ' אמר רבי יוחנן משום רבי שמעון בן יוחאי: מפני מה התקינו כתובת בגין דכרין – כדי שיקפוץ אדם ויכתוב לבתו כבנו.

ומי איבא מידי דרחמנא אמר ברא – לירות, ברתא – לא תירות, ואתו רבנן ומתקני דתירות ברתא?

Rabbi Yoḥanan said: The Sages established that in Eretz Yisrael, bloodletting is considered like a treatment that does not have a fixed cost, and therefore the heirs must pay for that treatment. The Gemara relates: The relatives of Rabbi Yoḥanan had to take care of the wife of their father, who required treatment every day, and therefore her medical expenses were high. They came before Rabbi Yoḥanan to ask him what to do. He said to them: Go and fix a lump sum with the doctor^H for his services. The treatment would then be considered as having a fixed cost, which is deducted from the marriage contract.

Later Rabbi Yoḥanan said in regret: We have made ourselves like legal advisors, who help people with their legal claims. The Gemara asks: At the outset, what did he hold and ultimately, what did he hold? The Gemara explains: At the outset he held that one should act in accordance with the verse "and that you do not hide yourself from your own flesh" (Isaiah 58:7), which indicates that one must help his relatives. And ultimately he held that an important person is different.^N If a man of stature offers assistance to his family in a manner that causes a loss to another individual, it appears as though he were unfairly favoring his relatives.

MISHNA If the husband did not write for her in her marriage contract: Any male children^H you will have from me will inherit the money of your marriage contract in addition to their portion of the inheritance that they receive together with their brothers, he is nevertheless obligated as though he had written it, as it is a stipulation of the court and therefore takes effect even if it is not explicitly stated. Likewise, if he omitted from the marriage contract the sentence: Any female children^H you will have from me will sit in my house and be sustained from my property until they are taken by men, i.e., until they are married, he is nevertheless obligated as though he had written it, as it too is a stipulation of the court.

Similarly, if he omitted from the marriage contract the clause: You will sit in my house and be sustained from my property^H all the days you live as a widow in my house, he is nevertheless obligated as though he had written it, as it is a stipulation of the court. The mishna comments: The residents of Jerusalem would write in this manner, that a widow may remain in her husband's house throughout her widowhood, and the residents of the Galilee would write in this manner as well, like the inhabitants of Jerusalem. In contrast, the residents of Judea would write: Until the heirs want to give you your marriage contract. Consequently, if the heirs wish, they may give her marriage contract to her and release her, and she must find her own living arrangements and provide for herself.

GEMARA Rabbi Yoḥanan said in the name of Rabbi Shimon ben Yoḥai: For what reason did the Sages enact the marriage document concerning male children? It was enacted so that a man will be willing to take the initiative and write an agreement to give his daughter a dowry as large as the portion of his possessions that his son will receive as an inheritance. The marriage document concerning male children ensures that even if one's daughter dies and her husband inherits her possessions, the dowry will eventually be inherited by her sons when her husband dies. Since the father of the bride knows that his grandchildren will inherit the dowry, he will give a larger dowry.

The Gemara asks: And is there anything that justifies a situation where the Merciful One says that the son inherits and the daughter does not inherit, and yet the Sages came and enacted that the daughter should inherit? The practical effect of their decree is that daughters receive a significant portion of their father's estate, just like sons.

This also applies by Torah law – **הָאָהָרָא נְמִי דְאִוְרִיתָא הוּא** – In other words, there is an allusion in the Bible to the idea that a father should do all he can to help his daughters get married, although it is not derived from here that he is duty bound in this regard (Ritva).

עַד לְעִשׂוֹר נֶכְסֵי – Up to one-tenth of one's property – Rashi and most commentaries maintain that this is the usual size of a dowry. Some state that one should not give more than this, as it takes away the inheritance from his sons (Rabbeinu Hananel). Others add that if one is unable to find a suitable match for his daughter by means of a smaller dowry he should be willing to provide up to this amount (*Talmidei Rabbeinu Yona*).

הָאָהָרָא נְמִי דְאִוְרִיתָא הוּא, דְכָתִיב "קָחוּ נָשִׁים וְהוֹלִדוּ בָנִים וּבָנוֹת וְקָחוּ לְבָנֵיכֶם נָשִׁים וְאֶת בָּנוֹתֵיכֶם תִּנּוּ לְאִנְשֵׁים." בְּשִׁלְמָא בָנִים – בִּידְיָהּ קִיַּיְמִי, אֲלָא בְּנִתְיָהּ מִי קִיַּיְמֵן בִּידְיָהּ?

הָאָהָרָא קָא מְשַׁמֵּעַ לֵן: דְנִלְבְּשָׁהּ, וְנִכְסָהּ, וְנִתְיָב לָהּ מִיָּדֵי, בִּי הֵיכִי דְקָפְצִי עָלֶיהָ וְאִתּוֹ נִסְבִּי לָהּ. וְעַד כְּמָה? אִיַּי וְרַבָּא דְאִמְרֵי תְרוּוִיָּהּ: עַד לְעִשׂוֹר נֶכְסֵי.

וְאִימָא, דְאָב – לִירוֹת, דְבַעַל – לָא לִירוֹת! אִם כֵּן אָב נְמִי מִיִּמְנַע וְלָא כְּתַב.

וְאִימָא הֵיכָא דְכָתַב אָב – לְכָתוּב בַּעַל, הֵיכָא דְלָא כָתַב אָב – לָא לְכָתוּב בַּעַל! לָא פְלוּג רַבְנֵן.

בַּת בֵּין הַבָּנִים נְמִי תִירוֹת! כְּנִחְלָה שְׂוִיָּהּ רַבְנֵן.

בַּת בֵּין הַבָּנוֹת תִירוֹת! לָא פְלוּג רַבְנֵן. וְתִנְיָבִי מִמְשִׁלְטֵלִי! כְּכַתוּבָה שְׂוִיָּהּ רַבְנֵן.

The Gemara answers: **This also applies by Torah law,^N as it is written: "Take wives for yourselves and bear sons and daughters, and take wives for your sons, and give your daughters to husbands"** (Jeremiah 29:6). This verse requires clarification. **Granted, sons are in his hands, i.e., a father can select wives for them, but daughters, are they in his power that he can select husbands for them?** It is not the manner of a woman or her family to court a man.

Rather, the verse **teaches us this, that the father should dress her and cover her^H and give her something, i.e., property, so that men will take the initiative with her and come to marry her.** When the verse instructs fathers to marry off their daughters, it means that they must make efforts to ensure this outcome, including bestowing a dowry. The Gemara asks: **And up to how much** must a father give his daughters? **Abaye and Rava both say: Up to one-tenth of one's property^{NH}** should be handed over to his daughter for her dowry.

The Gemara asks: **But if this is the reason for the institution of the marriage document concerning male children, say that it is only the portion the bride's father gave as a dowry that her sons should inherit, but the money the husband guarantees to pay his wife, they should not inherit.** The Gemara answers: **If so, the bride's father will also refrain from writing a large dowry.** If his daughter's sons will not inherit the husband's portion of the marriage contract, her father will be reluctant to give generously himself.

The Gemara continues to ask: **But if the concern is that the father will not give, say that in a case where the father wrote a large dowry for his daughter, let the husband also write the stipulation in the marriage document concerning male children, and when the father did not write a large dowry, let the husband not write this stipulation.** The Gemara replies: **The Sages did not distinguish** between these cases. Although the main purpose of their enactment was to encourage fathers to provide their daughters with generous dowries, the Sages applied their decree equally to all women, even when the father failed to do so.

The Gemara poses another question: If the aim is to ensure that the money of the marriage contract will remain with the woman's descendants, in a case when one has **a daughter** from one woman **among his sons** from another woman, the daughter should **likewise inherit** her mother's dowry. Why do only male children inherit their mother's dowry? The Gemara responds: **The Sages established** this enactment as **similar to the halakha of inheritance:** Just as a regular inheritance belongs to sons and not daughters, the same applies to the marriage document concerning male children.

The Gemara continues to inquire: Why shouldn't one at least say that **a daughter among daughters should inherit?** If he had a daughter from this wife, and his other children are also daughters, in which case all the daughters divide the inheritance, the daughters of each wife should receive the portion her maternal grandfather gave to her mother. The Gemara again answers: **The Sages did not distinguish** between these cases when establishing their decree. The Gemara further asks: **And let** the marriage document concerning male children **be collected even from movable property, if that is all the father possesses.** The Gemara replies: **The Sages established** this enactment as **similar to a regular marriage contract, which can be collected only from land.**

HALAKHA

נִלְבְּשָׁהּ וְנִכְסָהּ – The father should dress her and cover her, etc. – **וכו'**: The Sages commanded every man to give part of his property to his daughter so as to encourage the attention of suitors. This is known as livelihood [*parnasa*], an obligation derived from the Bible (Rambam *Sefer Nashim, Hilkhot Ishut* 20:1, and *Maggid Mishne* there; *Shulhan Arukh, Even HaEzer* 58:1).

עַד עִשׂוֹר נֶכְסֵי – Up to one-tenth of one's property – If a man dies and leaves a daughter, the court estimates how much he would have wanted to give her as a dowry. In the *Ba'al HaTurim* it says that if the court has no means of knowing his intention they give her one-tenth of his property, after deducting the costs of his burial (Rambam *Sefer Nashim, Hilkhot Ishut* 12:3; *Shulhan Arukh, Even HaEzer* 113:1).

HALAKHA

In a case where their decree would entirely uproot the halakha of inheritance, etc. – במקום דקא מיעקרא נחלה וכו' – A wife's sons inherit the sum stipulated in her marriage contract only if the estate of the deceased was worth at least a dinar more than the sum stipulated in the marriage contract. If, however, there would be less than a dinar left if they received the sum stipulated in the marriage contract, the entire estate is divided equally, so as not to uproot from the Torah laws of inheritance (Rambam Sefer Nashim, Hilkhot Ishut 19:3; Shulhan Arukh, Even HaEzer 111:2).

PERSONALITIES

Abba of Sura – אבא סורא: Abba of Sura was Rav Pappa's father-in-law. Later, Abba Mari, Rav Pappa's son from another wife, married a different daughter of Abba of Sura. This double familial connection somewhat explains Abba of Sura's acceptance of the marriage arrangement described here.

Yehuda bar Mareimar – יהודה בר מרימר: Yehuda bar Mareimar is mentioned in several places in the Talmud as a Torah scholar who studied under Rava. Accordingly, he was approximately the same age and was a colleague of Rav Pappa's. He is sometimes referred to as Yehuda Mar bar Mareimar (see 80b), and some versions of the Gemara text refer to him by that name here. The title Mar generally signifies a member of the Exilarch's family. Due to his status as a Sage and as an Exilarch family member, as well as a colleague of Rav Pappa, it was clear that his very entrance into the house of Abba of Sura would pressure his host into offering Rav Pappa more generous terms.

Perek IV

Daf 53 Amud a

BACKGROUND

Shinnana – שיננא: According to Rashi and others, shinnana means sharp or witty. Shmuel used this term to show the degree to which he respected his most prominent student, Rav Yehuda. However, the ge'onim explain that according to oral tradition, shinnana means big toothed, which was a nickname for Rav Yehuda based on his appearance.

HALAKHA

Do not be a partner in the transfer of an inheritance – לא תהיו בבעבוי אחסנתא: If a man gives his property to people other than his heirs, the recipients acquire full ownership but the Sages are displeased with him, even if his sons were unworthy. It is the custom of pious men not to testify with regard to wills that transfer an estate from the heirs, even from an unfit son to a worthy one, as stated by Shmuel. Some (Rema, citing Mordekhai) add that if a man gave instructions that his property be treated in the best possible manner, it is given to his heirs (Rambam Sefer Mishpatim, Hilkhot Nahalot 6:11; Shulhan Arukh, Hoshen Mishpat 282:1).

This applies only if the man gives of his own free will – הני – מילי מדעתיה: The court does not force a father to marry off his daughters. Even though it is a mitzva for a father to provide a dowry for his daughter, the court does not impose a particular amount. Rather, he gives the sum of his choice (Shulhan Arukh, Even HaEzer 71:1, and in the comment of Rema).

NOTES

This too is an ordinance of the Sages – האי נמי תקנתא דרבנן: Some commentaries are puzzled by this statement, as the Gemara just said (52b) that this is a Torah law (Maharsha). He explains that it is not a full-fledged Torah law, but a rabbinical institution for which they found support in the Torah.

תרוף ממשעבדי! "ורתון" תנן. ואימא אף על גב דליכא מותר דינר! במקום דקא מיעקרא נחלה דאורייתא – לא תקינו רבנן.

רב פפא איסק ליה לבריה בי אבא סורא, אויל למיכתב לה בתובתה. שמע יהודה בר מרימר, נפק אתא איתחוי ליה. בי מטו לפיתחא הוה קא מפטר מיניה. אמר ליה: נעול מר בהדאי!

The Gemara poses yet another question: **Let it be collected even from liened property, i.e., property the father sold after he wrote the marriage contract.** The Gemara answers that **we learned in the mishna: Will inherit, and one's heirs do not inherit property that he has sold.** The Gemara asks: **But if this is the reason for this enactment, say that it should apply even though there is no more than a dinar beyond the value of the marriage contract that the father left over in his estate.** The Sages stated that if no property is left for the inheritance, all the sons share the inheritance equally, in accordance with Torah law. The Gemara answers: **In a case where their decree would entirely uproot the halakha of inheritance^h by Torah law, the Sages did not enact the marriage document concerning male children.**

The Gemara relates: **Rav Pappa, having arranged for his son to marry into the family of Abba of Sura,^p went to supervise the writing of the bride's marriage contract. Yehuda bar Mareimar^p heard that Rav Pappa was coming, and came out to present himself before him, in honor of his arrival. When they came to the entrance of Abba of Sura's house, Yehuda bar Mareimar took his leave of him, as he did not wish to enter. Rav Pappa said to him: Let the Master enter inside with me.**

חזייה דלא הוה נחא ליה. אמר ליה: מאי דעתך – משום דאמר ליה שמואל לרב יהודה: שיננא, לא תהיו בעבוי אחסנתא אפילו מברא בישא לברא טבא. דלא ידיעא מאי זרעא נפיק מיניה, וכל שכן מברא לברתא.

Rav Pappa saw that Yehuda bar Mareimar was not amenable to the idea of entering the house. **He said to him: What is on your mind? Do you not wish to enter due to that which Shmuel said to Rav Yehuda: Shinnana,^b do not be a partner in the transfer of an inheritance^h even from a bad son to a good son, as it is not known what seed will come from him? Perhaps the bad son will father worthy children. And all the more so, one should not be a partner in the transfer of an inheritance from a son to a daughter.**

האי נמי – תקנתא דרבנן היא, דאמר רבי יוחנן משום רבי שמעון בן יוחי. אמר ליה: הני מילי – מדעתיה, לעשויה נמי? אמר ליה: אטו מי קאמינא לך דעול ועשויה? עול ולא תעשויה קאמינא. אמר ליה: מעלאי דידי הינו עשויה.

Rav Pappa continued: **Are you worried that your arrival will pressure Abba of Sura to give his daughter a more substantial dowry? But this too is an ordinance of the Sages,ⁿ that a father must provide a dowry for his daughter. This is as Rabbi Yoḥanan said in the name of Rabbi Shimon ben Yoḥai, as quoted above, that the Sages enacted this matter so that a man should take the initiative and write an agreement to give his daughter a dowry as large as the portion of his possessions that his son will receive as an inheritance. Yehuda bar Mareimar said to him: This applies only if the man gives of his own free will,^h but should one force him as well? Rav Pappa said to him: Did I say to you that you should enter and force him? I merely said that you should enter, but do not force him. He said to him: My very entrance is an act that will effectively force him, as he will increase her dowry in my honor.**

אכפיה ועול. אישתיק ותיב. סבר ההוא – מירתת רתח, כתביה לכל מאי דהוה ליה. לסוף אמר ליה: השתא נמי לא מישתעי מר? חיי דמר, לא שביקי מידי לנפשי.

Eventually, **Rav Pappa forced Yehuda bar Mareimar and he entered. He was silent, and sat without uttering a word. Abba of Sura thought that Yehuda bar Mareimar was angry with him for his failure to grant his daughter a suitable dowry. He therefore wrote down in the marriage contract all that he had as her dowry, to appease him. Ultimately, when he observed that Yehuda was still silent, Abba of Sura said to him: Even now the Master will not talk? By the Master's life, I have left nothing for myself.**