

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 אהסנתא בעבוי אהסנתא: 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 6:1; 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.

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

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<sup>h</sup> by Torah law, the Sages did not enact the marriage document concerning male children.

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

The Gemara relates: Rav Pappa, having arranged for his son to marry into the family of Abba of Sura,<sup>p</sup> went to supervise the writing of the bride's marriage contract. Yehuda bar Mareimar<sup>p</sup> 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 אהסנתא 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,<sup>b</sup> do not be a partner in the transfer of an inheritance<sup>h</sup> 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,<sup>n</sup> 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,<sup>h</sup> 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.

If a wife sold her marriage contract, etc. – **מְכָרָה** – **כְּתוּבָתָהּ וְכוּ'**: The early authorities raise a fundamental issue here: What about the third party involved, the sons who stand to gain from the marriage document concerning male children? How can she sell or relinquish their rights? Some maintain that in a case of this kind, when the sons are entitled to the marriage contract not directly but only through their mother, she can forfeit these rights (Rid; see Rashi). Alternatively, when a wife sells or forgoes her marriage contract it is considered as though the document had already been paid, and therefore there is simply nothing left for her to bequeath to her sons (Ritva).

## LANGUAGE

Strikes [ukelei] – **עוּקְלִי**: In Aramaic *ukelei* means strikes, while *ukela* means a hammer. Consequently, the expression: One hundred *ukelei be'ukela* means one hundred strikes of a hammer (see Rashi).

## HALAKHA

One who sells or forgoes her marriage contract – **מוֹכֵרֶת וְנוֹחֵלֶת כְּתוּבָתָהּ**: If a wife sells her marriage contract, whether to her husband or to someone else, she has not forfeited the marriage document concerning male children. However, if she forgoes the right to collect her marriage contract, i.e., she cancels the husband's debt rather than transferring rights to collect it, her sons lose the marriage document concerning male children, in accordance with the opinion of Rava (Rambam *Sefer Nashim*, *Hilkhot Ishut* 17:19; *Shulhan Arukh*, *Even HaEzer* 111:15).

Neither the heirs of this one, etc. – **אִין יוֹרְשֵׁין שְׁלַ זְהוּ וְכוּ'**: If a woman wed someone when she was still married to another man, either because she received a bill of divorce that had actually been canceled or because her husband returned after she had heard that he was dead, she must leave both men, and she requires a divorce from each of them. She is not entitled to a marriage contract, nor to any of the stipulations of a marriage contract from either of them (Rambam *Sefer Nashim*, *Hilkhot Geirushin* 10:7; *Shulhan Arukh*, *Even HaEzer* 17:56).

אָמַר לִיה: אִי מִינְאֵי דִידִי – אֶפְיֵלוּ הָאִי נְמִי  
דְּכַתְּבַתָּ לָא נִחָא לִי. אָמַר לִיה: הֲשֵׁתָא נְמִי  
אֶהְדֵּר בֵּינִי אָמַר לִיה: שְׁוִינָה נְפִשְׁךָ הֲדַרְנָא –  
לָא קְאָמִינָא.

Yehuda bar Mareimar said to him: If you are acting for my sake, that which you wrote is also not amenable to me. Finally understanding his wishes, Abba of Sura said to Yehuda bar Mareimar: Now too, I will retract, as I acted in error. Yehuda bar Mareimar said to him: I did not speak so that you should turn yourself into the kind of person who retracts once he gives his word. You should uphold your agreement, but the agreement was not to my liking.

בְּעָא מִינְיָה רַב יֵימָר סָבָא מֵרַב נַחְמָן: מְכָרָה  
כְּתוּבָתָהּ לְבַעְלָהּ, יֵשׁ לָהּ כְּתוּבַת בְּנֵי דְכָרִין  
אוֹ אִין לָהּ כְּתוּבַת בְּנֵי דְכָרִין? אָמַר לִיה  
רַבָּא: וְתַבְּעֵי לָךְ מוֹחֵלֶת!

§ Rav Yeimar the Elder raised a dilemma before Rav Nahman: If a wife sold her marriage contract<sup>n</sup> to her husband, i.e., she sold him the right not to have to pay her the marriage contract if they divorce or if she is widowed, does she have the marriage document concerning male children, or does she not have the marriage document concerning male children? Rava said to him: And you can raise the same dilemma with regard to a wife who forgoes her right to her marriage contract. Does she retain the marriage document concerning male children in this case?

אָמַר לִיה הֲשֵׁתָא מוֹכֵרֶת קְמִיבְעָא לִי, דְּאָף  
עַל גַּב דְּאִיכָא לְמִימֵר זְוִי אָנְסוּהּ, דְּאָמִינָא  
כְּמָאן דְּקָא מְחוּ לָהּ מְאָה עוֹבְלֵי בְּעוֹבְלָא,  
מוֹחֵלֶת מִיבְעָא!?

Rav Yeimar said to him: Now, the *halakha* of one who sells her marriage contract is a dilemma for me. As, although there is room to say that the money forced her, and that I say that she is like one who is struck with a hundred strikes [*ukelei*]<sup>l</sup> of a hammer [*ukela*], i.e., she needed liquid assets at the time and therefore she sold her marriage contract unwillingly, even so, I am still willing to entertain the possibility that she has sold the marriage document concerning male children. Then, with regard to one who forgoes her marriage contract, is it necessary to raise the dilemma?

אָמַר רַבָּא: פְּשִׁיטָא לִי: מוֹכֵרֶת כְּתוּבָתָהּ  
לְאַחֵרִים – יֵשׁ לָהּ כְּתוּבַת בְּנֵי דְכָרִין, מֵאִי  
טַעְמָא – זְוִי אָנְסוּהּ. מוֹחֵלֶת כְּתוּבָתָהּ  
לְבַעְלָהּ – אִין לָהּ כְּתוּבַת בְּנֵי דְכָרִין, מֵאִי  
טַעְמָא – אַחֻלֵי אַחֻלָּתָא.

Rava said: It is obvious to me that if a wife sells her marriage contract to others, not to her husband but to someone else who is willing to pay at the present time for the chance to collect the money stated in her marriage contract if she is later divorced or widowed, she still has the marriage document concerning male children. What is the reason? The money forced her to sell, and she did not mean to renounce all her rights. It is likewise clear to me that one who forgoes the right to collect her marriage contract<sup>h</sup> from her husband does not have the marriage document concerning male children. What is the reason? She has forgiven it all and has no intention of claiming anything from her husband.

בְּעֵי רַבָּא: מוֹכֵרֶת כְּתוּבָתָהּ לְבַעְלָהּ כְּמוֹכֵרֶת  
לְאַחֵרִים דְּמִי, אוֹ כְּמוֹחֵלֶת לְבַעְלָהּ דְּמִי?  
בְּתַר דְּבְעָא הֲדַר פְּשִׁטָא: מוֹכֵרֶת כְּתוּבָתָהּ  
לְבַעְלָהּ כְּמוֹכֵרֶת לְאַחֵרִים דְּמִי.

However, Rava raised a dilemma about the following case: With regard to one who sells her marriage contract to her husband, is she considered like one who sells to others, i.e., she has not relinquished the marriage document concerning male children, or is she considered like one who forgoes her right to collect her marriage contract from her husband, i.e., she has forfeited everything? After he raised the dilemma he subsequently resolved it: One who sells her marriage contract to her husband is considered like one who sells to others, as she is assumed to have done so due to financial constraints.

מְתִיב רַב אִידִי בַר אֲבִין: מֵתָה – אִין יוֹרְשֵׁין  
שְׁלַ זְהוּ וְאִין יוֹרְשֵׁין שְׁלַ זְהוּ יוֹרְשֵׁין כְּתוּבָתָהּ.  
וְהוּינָן בְּהָ: כְּתוּבָתָהּ מֵאִי עֵבִידְתָּהּ?

Rav Idi bar Avin raised an objection: We learned in a mishna (*Yevamot* 87b) that if a woman's husband went overseas, and after hearing the testimony of one witness that he was dead the woman married again, and then her first husband returned, both husbands must divorce her, and she does not receive payment of her marriage contract from either man. That mishna proceeds to state that if she died, neither the heirs of this one,<sup>h</sup> the first husband, nor the heirs of that one, the second husband, inherit the sum stipulated in her marriage contract. And we discussed the following question: With regard to a marriage contract, what is its purpose? In other words, the mishna just said that she is not entitled to a marriage contract, so how can it even be suggested that the heirs might inherit it?

One who forgoes her marriage contract... does not receive sustenance – אין לה מוֹחֶלֶת כְּתוּבָתָהּ... אין לה מוֹחֶלֶת: According to most early authorities, this does not mean that she has waived her right to sustenance from her husband during his lifetime. This is not necessarily due to Rav Hisda's claim that the *halakha* is unjust, although some do cite his opinion in support. Rather, it is because a husband is always responsible for his wife's sustenance, either by Torah law or at least by rabbinic ordinance, in exchange for his rights to her earnings. Yet not only does the Rambam rule in accordance with the opinion of Rabbi Elazar, but he maintains that she is not entitled to sustenance even when her husband is alive. Other early authorities discuss the ruling of the Jerusalem Talmud, where it is stated explicitly that even a wife who forgoes her right to collect her marriage contract from her husband is entitled to sustenance from his heirs.

**Bury her or give her her marriage contract – קבר או הב לה כתובתה:** The Rambam and the early authorities influenced by him basically accept Rashi's explanation that these Sages, Rav Nahman, Ulla, and Avimeï bar Rav Pappi, initially thought that a husband's obligation to bury his wife is in exchange for the fact that he does not have to pay her marriage contract when she predeceases him. Consequently, if the man had already written his betrothed a marriage contract, he had to either pay it or attend to her burial. Eventually, these Sages conceded that the obligation of burial is in fact in exchange for the husband's right to inherit his wife's dowry. Since a husband inherits his wife's dowry only if they were married and not if they were merely betrothed, then if they were not married he is not required to bury her.

**One's betrothed wife – אשתו ארוסה:** The main reason for this *halakha* is that with regard to both the ritual impurity of the dead and inheritance the Torah uses the term "his kin" (see Leviticus 21:2 and Numbers 27:11). This term does not apply to a betrothed woman, as there have not been intimate relations between them (*Ba'al Halakhot Gedolot*; see Rashi).

**Nor becomes ritually impure for him – ולא מיטמאה לו:** Even if she is the daughter of a priest, the prohibition with regard to ritual impurity of the dead does not apply to females. Why, then, may she not defile herself for him? The *ge'onim* and most early authorities explain that this simply means she is not obligated to become ritually impure for him, but she may do so if she wishes. Others state that this refers to the three pilgrimage Festivals, when it is a mitzva for everyone to remain ritually pure. On those days it is prohibited for her to become impure for him (*Tosefot Rabbi Shimshon of Saens*; Rosh; Rashi and *Tosafot on Yevamot* 29b).

**When you marry, etc. – לכתשתאי וכו':** It is true that this condition is also not fulfilled if she dies after marriage, but in that case he is obligated to bury her in exchange for the fact that he inherits from her. In the case of a betrothed woman, since he does not inherit from her, one can infer from the language of the marriage contract that he is exempt from paying for her burial (*Shita Mekubbetzet*; see Rashi). The commentaries explain at length that one can infer the parameters of an obligation based upon the standard terminology used in contracts that document the obligation. This is certainly true in the case of a marriage contract, which was instituted by the Sages and whose wording is precise (*Tosafot*).

ואמר רב פפא: כתובת בנין דכרין. ואמאי? הכא נמי לימא: יצר אנסה!

התם קנסא הוא דקנסיה רבנן.

ייתב רבין בר חנינא קמיה דרב חסדא, וייתב וקאמר משמיה דרבי אלעזר: מוחלת כתובתה לבעלה – אין לה מזונות. אמר ליה: אי לאו דקאמרתי לי משמיה דגברא רבא – הוה אמינא לך "מישיב רעה תחת טובה לא תמוש רעה מביתו".

ייתב רב נחמן ועולא ואבימי בר רב פפי, וייתב רב חייא בר אמי גבייהו. אתא ההוא גברא דשכיבא ארוסתו, אמרי ליה: זיל קבר, או הב לה כתובתה. אמר להו רב חייא, תנינא: אשתו ארוסה – לא אונן ולא מיטמא לה, וכן היא – לא אוננת ולא מיטמאה לו, מתה – אינו יורשה, מת הוא – גובה כתובתה.

טעמא – דמת הוא, הא מתה היא – אין לה כתובה. מאי טעמא? אמר רב הושעיא: שאין אני קורא בה "לכתשתאי לאחר תטלי מה שכתוב ליכי".

And Rav Pappa said: This is referring to the marriage document concerning male children. Not only does she forfeit her marriage contract, but she also loses the right to the marriage document concerning male children, as her sons do not inherit from her at all. Rav Idi bar Avin explains his objection. But if, according to the above statement, a wife who sells her marriage contract has not relinquished the marriage document concerning male children, why does the mishna in *Yevamot* state that none of the woman's heirs inherit the proceeds of her marriage contract? Here too, in that mishna, let us say that her desire to marry another man forced her to marry her second husband. Why should she forfeit the marriage document concerning male children?

The Gemara answers: There it is a penalty with which the Sages penalized her. In other words, the reason is not that she automatically forfeits the marriage document concerning male children, along with the marriage contract itself. Rather, her loss of the marriage document concerning male children is one of several penalties the Sages imposed upon her for remarrying on the basis of the testimony of a single witness without conducting her own thorough investigation into her husband's fate. Therefore, one cannot learn from that *halakha* with regard to the issue at hand.

Ravin bar Hanina sat before Rav Hisda, and he sat and said the following *halakha* in the name of Rabbi Elazar: One who forgoes her right to collect her marriage contract from her husband does not receive her sustenance<sup>n</sup> from him.<sup>h</sup> Rav Hisda said to him: Had you not said this *halakha* to me in the name of a great man, I would have said to you that this is an injustice, in accordance with the verse "who rewards evil for good, evil shall not depart from his house" (Proverbs 17:13). After she relinquishes to her husband her right to her marriage contract, which was a favor to her husband, she loses her sustenance as well.

The Gemara relates: Rav Nahman was sitting, and Ulla and Avimeï bar Rav Pappi were sitting as well, and Rav Hiyya bar Ami was sitting with them, when a certain man came before them whose betrothed wife had died. They said to him: Go and bury her, or give her heirs the sum stipulated in her marriage contract.<sup>n</sup> Rav Hiyya said to them, in surprise at their response: But we learned that with regard to one's betrothed wife<sup>n</sup> he neither assumes the status of an acute mourner nor becomes ritually impure for her<sup>h</sup> if he is a priest, and similarly, she neither assumes the status of an acute mourner nor becomes ritually impure for him.<sup>n</sup> If she died he does not inherit from her,<sup>h</sup> and if he died she collects payment of her marriage contract.<sup>h</sup>

Rav Hiyya infers the following from this statement: The reason for this *halakha* is that he died, from which it may be inferred that if she died she does not have a marriage contract, nor any of the stipulations of a marriage contract. The Gemara asks: What is the reason that her marriage contract is canceled upon her death? Rav Hoshaya said: The reason is that I do not read with regard to her the condition stated in the marriage contract: When you marry<sup>n</sup> another he may take what is written for you, as she cannot marry another.

#### HALAKHA

**Sustenance for one who forgoes the right to collect her marriage contract from her husband – מוֹחֶלֶת כְּתוּבָתָהּ לְבַעְלָהּ:** A wife who forgoes her marriage contract has forfeited her rights to sustenance after her husband's death. However, she is entitled to sustenance during his lifetime. The Rambam rules that she is not sustained from his property even while he is alive (see Rambam *Sefer Nashim, Hilkhot Ishut* 12:8; *Shulhan Arukh, Even HaEzer* 93:9).

**He does not become ritually impure for a betrothed woman – אין מיטמא לארוסה:** If a man's betrothed dies he does not mourn for her or become ritually impure on her account if he is a priest. Likewise, she does not mourn for him and is not obligated to become ritually impure for him (Rambam *Sefer Shofetim, Hilkhot Evel* 2:7; *Shulhan Arukh, Yoreh De'a* 373:4).

**מתה אינו יורשה – מיתה אינו יורשה:** A man does not inherit from his betrothed upon her death (Rambam *Sefer Nashim, Hilkhot Ishut* 22:2; *Shulhan Arukh, Even HaEzer* 55:5).

**מתה היא גובה כתובתה – מיתה היא גובה כתובתה:** A man betrothed a woman and wrote a marriage contract for her, despite the fact that he is not obligated to do so until their marriage. If he subsequently divorced her or died, she may claim the basic amount of her marriage contract, i.e., the sum automatically included in the contract by rabbinic decree, from property that has not been sold. However, she may not collect any additional sum that the husband voluntarily included in the marriage contract (Rambam *Sefer Nashim, Hilkhot Ishut* 10:11; *Shulhan Arukh, Even HaEzer* 55:6).

כי אתא רבין אמר ריש לקיש: ארוסה שמתה – אין לה כתובה. אמר להו אביי: זילו אמרי ליה:

The Gemara relates another incident: **When Ravin came from Eretz Yisrael to Babylonia he said that Reish Lakish said: A betrothed woman who died does not have a marriage contract. Abaye said to the scholars who recited this halakha in Ravin's name: Go, and say to Ravin:**

Perek IV  
Daf 53 Amud b

שקילא טיבותך שדיא אחיוזי, כבר תרגמא רב הושעיא לשמעתיה בבבלי.

**Your good is taken and cast on thorns, i.e., we do not owe you a debt of gratitude for informing us of this statement, as Rav Hoshaya himself already interpreted and ruled this halakha of yours in Babylonia.**

”בנן נוקבן דיהוין ליכי מינאי” וכו’. רב תני: עד דתלקחן לגוברין, ולוי תני: עד דתבגרון. לרב – אף על גב דבגרו, ולוי – אף על גב דאינסיב?

**S** The mishna taught that one of the stipulations of the marriage contract is the clause: **Any female children you will have from me will be sustained from my property.** The Gemara notes that **Rav would teach that the daughters are entitled to sustenance until they are taken as wives by men, and Levi would teach that they are entitled to sustenance until they become grown women.**<sup>H</sup> The Gemara asks: **According to the opinion of Rav, are daughters entitled to sustenance even though they have become grown women, if they are still unmarried? Yet how can this be correct? After all, adult daughters are no longer under their father’s jurisdiction even in his lifetime. And can Levi possibly maintain that even though they are married they still receive sustenance from their father’s estate until they become grown women?**

אלא, בגר ולא אינסיב, אינסיב ולא בגר – דכולי עלמא לא פליגי. כי פליגי – בארוסה ולא בגר. וכן תני לוי במתניתיה: עד דתבגרון וימטי זמניהון דאינסיבן. תרתי? אלא: או תבגרון, או ימטי זמניהון לאיתנסבא.

**Rather, in a case where they became grown women and were not married,<sup>N</sup> or were married and had not become grown women, everyone agrees that they are not entitled to sustenance. When they disagree it is with regard to a daughter who was betrothed<sup>N</sup> and had not become a grown woman.** Levi maintains that as she is still unmarried she remains under her father’s jurisdiction. **And Levi likewise taught the following version of this stipulation in his baraita: Until they become grown women and the time arrives for their marriage.** The Gemara asks: **Are these two conditions both necessary? She leaves her father’s domain when one of these conditions is fulfilled. Rather, Levi means that they can continue to receive sustenance either until they become grown women or their time arrives for marriage.**

כתנאי: עד מתי הבת נזומית – עד שתארס. משום רבי אלעזר אמרו: עד שתבגר. תני רב יוסף: עד דיהוין. איבעיא להו: הויה דאירוסין, או הויה דנישואין? תיקו.

The Gemara observes: **The dispute between Rav and Levi is like a dispute between tanna'im.** As we have learned: **Until when is a daughter sustained from her father’s property? Until she is betrothed. In the name of Rabbi Elazar they said: Until she becomes a grown woman. Rav Yosef taught the version: Until they become married.** The meaning of the expression: **Until they become married, is unclear, and therefore a dilemma was raised before the scholars: Does this refer to becoming betrothed or to becoming married?** No answer was found, and the Gemara states that the dilemma shall stand unresolved.

NOTES

They became grown women and were not married, etc. – בגר ולא אינסיב וכו’: The commentaries explain that there are two opinions with regard to this issue (*Birkat Avraham*). One interpretation is that the key issue is the jurisdiction over the daughter. Once she has left the domain of her father or brothers, whether due to maturity or marriage, they are no longer obligated to give her sustenance (Rashi; *Tosafot*). Alternatively, whether she is entitled to receive sustenance from them depends on whether or not she has another source of sustenance. If she is a grown woman she can support herself by working, and if she is married her husband can provide for her.

When they disagree it is with regard to a daughter who was betrothed, etc. – כי פליגי בארוסה וכו’: Some commentaries explain that this *halakha* applies only to a young woman, but if she was betrothed when she was a minor she does not forfeit her sustenance (Rabbeinu Hananel; *Ba’al Hattur*). According to this opinion, the dispute between Rabbi Yehuda and the Rabbis in the Gemara below with regard to a daughter who refuses her husband is easy to understand. However, those who claim that no betrothed women are entitled to sustenance from their fathers are forced to explain that the ensuing dispute applies only according to one of the opinions here. As for the justification for this difference between a minor and a young woman, the given reason is that the betrothal of a minor is performed with the consent of her brothers or mother, who do not have the power to deprive her of her right to sustenance. Furthermore, as she can refuse this match, it cannot be considered a regular betrothal in all respects.

HALAKHA

עד – Until they are taken...until they become grown women – עד דתבגרון: One of the stipulations of a marriage contract is that the wife’s daughters are entitled to sustenance from their father’s property after his death until they are betrothed or reach the age of maturity. If a daughter matured, even if she was not betrothed, or if she was betrothed before she became an adult, she does not receive sustenance from her father’s estate, in accordance with the opinion of Rav and the unattributed

statement in the *baraita*. Some authorities maintain that a betrothed daughter loses her right to sustenance only if she was betrothed as a young woman; however, while she is a minor she is sustained from her father’s property (Rema, citing Rabbeinu Hananel and Rashba). Alternatively, this *halakha* applies only if the betrothal was her decision, but if her brothers betrothed her she has not forfeited her sustenance (*Tur*; Ramah; Rambam *Sefer Nashim, Hilkhot Ishut* 19:10; *Shulhan Arukh, Even HaEzer* 112:1, 3).

Does a betrothed orphan have sustenance – אָרוּסָה יֵשׁ לָהּ מִזִּוּנוֹת? There are three interpretations of this dilemma, which depend, among other factors, on variant readings of the Gemara. Rashi maintains that the issue is whether a betrothed orphan is entitled to sustenance from her brothers, i.e., from their late father's estate. If so, this is similar to the previous dispute between Rav and Levi, except that Rav Yosef adds a new consideration, the possibility that her husband might take care of her needs. The other early authorities question Rashi's interpretation for two reasons. First, they say that most versions of the talmudic text do not accord with Rashi's reading. In addition, they explain that on the basis of logical analysis, it is hard to see why a woman should not have the right to sustenance due to the support she receives from her betrothed, when her betrothed is not actually required to support her until they are married or the time for marriage has arrived, i.e., twelve months after the betrothal (see Ramban).

Alternatively, the Gemara is discussing the sustenance of a betrothed woman from her husband's property after his death. The case is where the date for marriage arrived, at which point her husband passed away. Since he is already obligated to sustain her from his property, the question is whether she is considered like a married woman who receives her sustenance from his estate after he has passed away (Rif; see *Talmidei Rabbeinu Yona* and Meiri). Several difficulties have been raised with regard to this interpretation as well. First, the expression: It is not satisfactory for him that she be demeaned, is explained in a far-fetched manner. Second, the context is puzzling, for if this is the dilemma it does not belong here. Rather, it should have been raised in the context of the discussion concerning the obligation of a betrothed man to feed his wife after the time for marriage has arrived.

Yet another interpretation is that the Gemara here in fact refers to the obligation of a betrothed man to provide for his betrothed when she is an orphan receiving her sustenance from her father's property. Admittedly, a man is generally not obligated to feed his betrothed before the prearranged date for marriage, but it is reasonable that he should have to provide for her, as his betrothal caused her to forfeit her sustenance, in accordance with the opinion of Rav (Rabbi Shmuel HaNagid). Many early authorities accept this interpretation, and the Rambam apparently agrees.

**One who refused** – מְמַאֲפֵת: The basic case of refusal concerns a fatherless minor girl. Although her brothers or mother can marry her off, this marriage is not valid by Torah law, but merely by rabbinic decree. Consequently, the Sages ruled that she can annul the marriage entirely by refusing to remain with her husband, which she achieves simply by saying that she does not want to remain with him. In this scenario she is not considered a divorcée. Rather, it is as though the marriage never took place. Apparently, all the commentaries agree that the *halakha* of refusal applies even after marriage, not only after betrothal.

**A widow in her father's house, etc.** – אֵלְמָנָה בְּבֵית אָבֶיהָ: There are several explanations of this statement. Rashi and others maintain that it refers only to a widow from the time of betrothal. Others claim that it refers to someone who was widowed or divorced from betrothal and had returned to her father's house during his lifetime (Rabbeinu Hananel; Rosh; Ran). Since she was neither a grown woman nor betrothed when her father died, she is entitled to sustenance by virtue of the stipulation in the marriage contract ensuring sustenance for the wife's daughters. Yet others contend that this *halakha* includes a daughter who was widowed or divorced from marriage. If this woman had returned to her father's house by the time he passed away, his heirs are duty bound to provide her sustenance after his death (*Tosafot*, citing Rabbeinu Tam). The Rambam is also of the opinion that the *halakha* refers to a married woman. However, he claims that even if she was widowed after her father's death the heirs are obligated to grant her a livelihood, as she returns to her father's house and is not yet a grown woman.

אָמַר לֵיהּ רַב חֲסֵדָא לְרַב יוֹסֵף: מִי שְׁמִיעַ לָךְ מִיָּמֵיהּ דְּרַב יְהוּדָה, אָרוּסָה יֵשׁ לָהּ מִזִּוּנוֹת אוֹ אֵין לָהּ מִזִּוּנוֹת? אָמַר לֵיהּ: מִשְׁמַע לָא שְׁמִיעַ לִי, אֶלָּא מִסְבָּרָא לֵית לָהּ. בֵּין דְּאִירָסָה – לָא נִחָא לֵיהּ דְּתִתְּוִיל.

אָמַר לֵיהּ: אִם מִשְׁמַע לָא שְׁמִיעַ לָךְ – מִסְבָּרָא אֵית לָהּ, בֵּין דְּלָא קִים לֵיהּ בְּגוּהָ – לָא שְׂדִי זְוִי בְּכַדִּי.

וְאִיבָא דְאָמְרִי, אָמַר לֵיהּ: מִשְׁמַע לָא שְׁמִיעַ לִי, מִסְבָּרָא אֵית לָהּ, בֵּין דְּלָא קִים לֵיהּ בְּגוּהָ – לָא שְׂדִי זְוִי בְּכַדִּי. אָמַר לֵיהּ: אִי מִשְׁמַע לָא שְׁמִיעַ לָךְ – מִסְבָּרָא לֵית לָהּ. בֵּין דְּאִירָסָה – לָא נִחָא לֵיהּ דְּתִתְּוִיל.

סִימָן דְּגַבְרִי: ש"ק זר"ה, מְאָנָה וּיְבָמָה שְׁנֵיהּ אָרוּסָה וְאִנְסָה.

בְּעוּ מִיָּמֵיהּ מִרַב שִׁשֶׁת: מְמַאֲפֵת יֵשׁ לָהּ מִזִּוּנוֹת אוֹ אֵין לָהּ מִזִּוּנוֹת?

אָמַר לָהּ רַב שִׁשֶׁת, תְּנִיתִיהּ: אֵלְמָנָה בְּבֵית אָבֶיהָ, וְגִרוּשָׁה בְּבֵית אָבֶיהָ, וְשׂוֹמֶרֶת יָבֵם בְּבֵית אָבֶיהָ – יֵשׁ לָהּ מִזִּוּנוֹת. רַבִּי יְהוּדָה אוֹמַר: עוֹדָה בְּבֵית אָבֶיהָ – יֵשׁ לָהּ מִזִּוּנוֹת, אִינָה בְּבֵית אָבֶיהָ – אֵין לָהּ מִזִּוּנוֹת.

Rav Hisda said to Rav Yosef: Have you heard anything from Rav Yehuda with regard to whether a betrothed orphan has sustenance<sup>11</sup> from the brothers' inheritance of their father's estate, or whether she does not have sustenance? Rav Yosef said to him: As for hearing, I have not heard anything, but by logical reasoning I can conclude that she does not have sustenance from the inheritance. The reason is that since her husband has betrothed her it is not satisfactory for him that she be demeaned by having to request her sustenance from the inheritance, when he himself can provide for her.

Rav Hisda said to Rav Yosef: If you have not heard this *halakha*, by logical reasoning she should have sustenance from the brothers. The reason is that since her husband is not sure that he will marry her, he will not throw away money for nothing.

And some say a different version of this discussion. Rav Yosef said to Rav Hisda: As for hearing, I have not heard anything, but by logical reasoning I would say that she does have sustenance from the brothers: Since he is not sure that he will marry her, he will not throw away money for nothing. In response, Rav Hisda said to him: If you have not heard this *halakha*, by logical reasoning she should not have sustenance from the inheritance: Since he has betrothed her it is not satisfactory for him that she be demeaned by having to ask the brothers for food, and he would rather provide for her himself.

§ The Gemara states a mnemonic device for the men, i.e., the Sages, who appear in the following discussion: *Shin, kuf, zayin, reish, peh*. This refers to Rav Sheshet, Reish Lakish, Rabbi Elazar, Rava, and Rav Pappa. The dilemmas themselves are listed in the following mnemonic: *She refused, and a yevama, a secondary forbidden relationship, a betrothed woman, and woman who was raped*.

The Gemara analyzes these cases one by one: The Sages raised a dilemma before Rav Sheshet: With regard to one who refused,<sup>12</sup> i.e., a minor orphan girl who was married off by her brothers or mother and then refused her husband, thereby nullifying the marriage, does she have sustenance from her father's inheritance or does she not have sustenance? Is she considered to have been married, and therefore her right to sustenance has lapsed, or does her refusal nullify the marriage to the extent that it is as though she were never married at all, and therefore she is still entitled to sustenance?

Rav Sheshet said to them: You learned it in the following *baraita*: In the case of a widow in her father's house,<sup>13</sup> or a divorcée in her father's house, or a widow awaiting her *yavam* in her father's house, she has sustenance.<sup>14</sup> Rabbi Yehuda says: If she is still in her father's house she has sustenance; if she is not in her father's house she does not have sustenance.

## HALAKHA

**The sustenance of a betrothed woman** – מִזִּוּנוֹת אָרוּסָה: If a man betroths a girl who is receiving her sustenance from her father's estate, she loses her right to sustenance from that property, and therefore the betrothed man is obligated to support her from the moment of their betrothal. Some say she loses her right to sustenance only if she became betrothed as a young woman, or if she did so without the consent of her brothers (Rambam *Sefer Nashim, Hilkhot Ishut* 19:15; *Shulḥan Arukh, Even HaEzer* 112:3, and in the comment of Rema).

**One who refused, a widow, a divorcée, etc.** – מְמַאֲפֵת, אֵלְמָנָה, וְכו': If a girl was married off by her mother or brothers and subsequently refused to remain with her husband, or if she was divorced or widowed, even if she was a woman waiting

for her *yavam*, then, provided that she returned to her father's house before becoming a grown woman, she is sustained from her father's property until she becomes a grown woman or is betrothed. This is in accordance with the ruling of the *baraita* and the opinion of the first *tanna*, as stated by Rav Sheshet. Some contend that this *halakha* applies only if she was not married but was widowed or divorced from a state of betrothal. The Rema, citing Rashi, *Tosafot*, the Ran, and the *Tur*, says that once she has been married, she is no longer entitled to sustenance. Additionally, the Rema rules that she is entitled to sustenance only if she returned to her father's house while her father was still alive (Rambam *Sefer Nashim, Hilkhot Ishut* 19:16; *Shulḥan Arukh, Even HaEzer* 112:4).

The daughter of a *yevama* – בת יבמה: The question can also be asked with regard to the *yevama* herself: Upon the death of the *yavam*, is the *yevama* entitled to sustenance from his estate, despite the fact that he did not have to write her a marriage contract? If the estate of her first husband can support her, she receives her sustenance from there. If not, most early authorities understood that the *yavam* assumes responsibility to pay her marriage contract, and therefore she would be sustained from his estate (*Tosafot*; Rabbi Aharon HaLevi; Rosh; Ritva). However, some hold that even in this circumstance, she would not have a right to be sustained from the estate of the *yavam* (Rivan; *Shita Mekubbetzet*, citing Rashi).

רבי יהודה היינו תנא קמא! אלא לאו – ממאנת איבא ביניהו, דתנא קמא סבר: אית לה, ורבי יהודה סבר: לית לה.

Rav Sheshet analyzes this *baraita*: The opinion of Rabbi Yehuda is to all appearances the same as that of the first *tanna*. What is their dispute? Rather, is it not the case that there is a practical difference between them concerning a girl who refused her husband, as the first *tanna* maintains that she has sustenance, as her marriage has been annulled and it is as though it never occurred, and Rabbi Yehuda maintains that she does not have sustenance, as she permanently forfeited this right when she left her father's house in marriage.

בעי ריש לקיש: בת יבמה יש לה מזונות או אין לה מזונות?

Reish Lakish raised a dilemma: With regard to the daughter of a *yevama*,<sup>NH</sup> i.e., a woman who married her *yavam* in levirate marriage and gave birth to a daughter before he passed away, does she have sustenance from the property of the *yavam*, i.e., the girl's father, or does she not have sustenance?

בין דאמר מר: בתובתה על נכסי בעלה הראשון – לית לה, או דלמא בין דאי לית לה מראשון – תקינו לה רבנן משני, אית לה? תיקו.

The Gemara clarifies the sides of the dilemma: Since the Master said that the payment of the marriage contract of a *yevama* is taken from the property of her first husband, not that of the *yavam*, her daughter should therefore not have rights to sustenance from the property of the *yavam*. Her sustenance is a stipulation of the marriage contract, which does not apply to the *yavam*. Or perhaps, since if she does not have enough to cover the amount of her marriage contract from the property of the first husband, the Sages enacted for her a marriage contract from the second one, i.e., the *yavam*. Therefore, her daughter should have sustenance from his property. No answer was found, and the Gemara states that the dilemma shall stand unresolved.

בעי רבי אלעזר: בת שניה יש לה מזונות, או אין לה מזונות?

Rabbi Elazar raised a dilemma: With regard to the daughter of a secondary forbidden relationship, i.e., a girl born to a man and women forbidden to each other by rabbinic law, whose mother is penalized by being deprived of a marriage contract, does her daughter have sustenance or does she not have sustenance?

#### HALAKHA

The daughter of a *yevama* – בת יבמה: In the case of a man who had a daughter with his *yevama* and then passed away, if the woman's first husband left property, the daughter is not entitled to sustenance from either man's estate. The reason for this is that the payment specified in her mother's marriage contract is collected from the estate of the first husband, but the daughter does not receive sustenance by virtue of that marriage contract, as she is not that man's daughter. She is also not entitled to be sustained from her father's property, as

the payment specified in her mother's marriage contract is not collected from his estate. However, if the woman's first husband did not leave property, the woman collects the payment specified in her marriage contract from the property of the second husband. Others (*Tur*; Rosh; Ran) explain that this includes all the stipulations of a marriage contract, which means the girl is entitled to sustenance from his estate (Rambam *Sefer Nashim, Hilkhot Ishut* 19:14; *Shulhan Arukh, Even HaEzer* 112:5).

#### Perek IV

#### Daf 54 Amud a

בין דלית לה כתובה – לית לה מזונות, או דלמא: אמה דעבדא איסורא – קנסוה רבנן, איהי דלא עבדא איסורא – לא קנסוה רבנן? תיקו.

Once again the Gemara explains the sides of the dilemma: Since the Sages penalized the mother and declared that she does not have a marriage contract, the daughter does not have sustenance either, as her sustenance is guaranteed by her mother's marriage contract. Or perhaps, with regard to her mother, who violated a prohibition, the Sages penalized her by depriving her of her marriage contract, whereas in the case of the daughter, who did not violate a prohibition, the Sages did not penalize her. Once again the Gemara states that the dilemma shall stand unresolved.