

Due to a vow he may not remarry her, etc. – משום נדר – The Gemara in tractate *Nedarim* suggests two reasons for this law. One possibility is that there is concern that the vow will be dissolved or the rumor will be proven baseless, which will lead the husband to undermine the bill of divorce by saying that had he known he would not have divorced her. The Rosh and *Tosafot* say that according to this opinion it is prohibited for them to remarry only if his stipulation was formulated as a double condition. Alternatively, it is possible that the Sages enacted this measure to prevent Jewish women from behaving improperly and vowing indiscriminately. They therefore barred them from remarrying their husbands if they were divorced because they engaged in such behavior. The dispute between the *tanna'im* mentioned here is connected to the reason for this ban.

HALAKHA

A man who divorces his wife... due to a bad reputation, etc. – המוציא את אשתו... משום שם רע וכו' – If a man divorces his wife due to her bad reputation or because of vows, he may never remarry her. The Rosh states that this law applies only if he informed her that this was the reason for the divorce and formulated a double condition by adding that were this not the case he would not divorce her. If, however, he did not state a double condition, he is permitted to remarry her. The Ramban, the Rashba, and others maintain that he may not remarry her if he told her why he was giving her a bill of divorce, even without a double condition. The Rambam rules that even if he did not specify the reason for the divorce, he may not remarry her. The basic *halakha* follows the unattributed view in the mishna, not the dissenting opinions (Rambam *Sefer Nashim, Hilkhot Geirushin* 10:12; *Shulhan Arukh, Even HaEzer* 10:3).

HALAKHA

How many people are considered many – כמה רבים – With regard to a vow, three are considered many, in accordance with the opinion of Rav Nahman bar Yitzhak (*Shulhan Arukh, Yoreh De'a* 228:21).

מאי היא? דתנן: המוציא את אשתו משום נדר – לא יחזיר, משום שם רע – לא יחזיר.

The Gemara poses a question: **What is this fundamental dispute between Rabbi Meir and Rabbi Elazar?** The Gemara answers: **As we learned in a mishna (Gittin 45b): If a man who divorces his wife due to a vow that she took subsequently regrets his decision and wants to take her back, he may not remarry her.^N Similarly, if he divorces her due to a bad reputation^H she has acquired, he may not remarry her.** This is because if he were allowed to take her back if the vow is dissolved by a halakhic authority or after discovering that the rumors about her were false, he might say that had he known this he never would have divorced her. Such a statement would retroactively cast doubt on the validity of the bill of divorce and could potentially cause her children from a second marriage to have the status of *mamzerim*. He is therefore informed that if he divorces her due to a vow or a bad reputation he can never remarry her.

רבי יהודה אומר: כל נדר שידעו בו רבים – לא יחזיר, לא ידעו בו רבים – יחזיר. רבי מאיר אומר: כל נדר שצריך תקיפת חכם – לא יחזיר, ושאינו צריך תקיפת חכם – יחזיר.

Rabbi Yehuda says: With regard to any vow that is known by many people and therefore cannot be nullified, **he may not remarry her.** If it is not known by many people, but rather is a private matter between them, **he may remarry her.** Rabbi Meir says: **Any vow that requires investigation by a halakhic authority, that is, the husband cannot nullify it himself and she needs a halakhic authority to analyze the vow carefully to find an opening that will permit its dissolution, he may not remarry her, for he can claim that had he known the vow could be dissolved he would never have divorced her, thereby undermining the bill of divorce.** And with regard to a vow that does not require the investigation by a halakhic authority, which he knows he can nullify himself, **he may remarry her.** There is no concern that he might impair the bill of divorce, as he knew he could dissolve the vow and yet he chose to divorce her regardless.

רבי אלעזר אומר: אחד צריך ואחד אינו צריך – לא יחזיר. אמר רבי אלעזר: לא אסרו צריך אלא מפני שאינו צריך. מאי טעמא דרבי יהודה? דכתביב

Rabbi Elazar says: **Both in the case of a vow that requires investigation by a halakhic authority and one that does not require it, he may not remarry her.** Rabbi Elazar said in explanation of his view: **They prohibited remarrying a woman who was bound by a vow that requires investigation by a halakhic authority only due to a vow that does not require such investigation.** The Gemara explains the respective opinions: **What is the reason for Rabbi Yehuda's statement? As it is written:**

Perek VII

Daf 75 Amud a

“ולא הבוס בני ישראל כי נשבועו להם נשיאי העדה.” וכמה רבים? רב נחמן בר יצחק אומר: שלושה. “ימים” – שנים. “רבים” – שלושה. רבי יצחק אומר: עשרה: “עדה” כתיב בהו.

“And the children of Israel did not smite them, for the princes of the assembly had sworn to them” (Joshua 9:18), and since this oath was uttered in the presence of many people, it could not be rescinded, although it was undertaken in error because the Gibeonites had deceived the people of Israel. The Gemara poses a question: **And how many people are considered many^H for the purposes of this law?** Rav Nahman bar Yitzhak said: **Three**, as can be learned from the laws of a woman who experiences a discharge of uterine blood after her menstrual period [*zava*]: “Days” indicates **two**, which is the minimal number justifying use of the plural noun. The term “many days” (Leviticus 15:25) therefore indicates a total of **three**. Rabbi Yitzhak said: **Ten**, as the term “assembly” is written in relation to the Gibeonites, and it is taught elsewhere that an assembly is comprised of at least ten members.

רבי מאיר אומר: כל גדר שצריך חקירת חכם לא יחזיר. רבי אלעזר אומר: לא אסרו צריך אלא מפני שאינו צריך. במאי קמיפלגי? רבי מאיר סבר: אדם רוצה שתתבזה אשתו בבית דין, רבי אלעזר סבר: אין אדם רוצה שתתבזה אשתו בבית דין.

רבא אמר: הכא באשה חשובה עסקינן, דאמר: לא ניחא לי דאיתסר בקרובותיה.

אי הכי, סיפא דקתני: אבל הוא שהלך אצל חכם והתירו, אצל רופא ורופא אותו – מקודשת. ליתני אינה מקודשת, ולימא הכא באדם חשוב עסקינן: דאמרה לא ניחא לי דאיתסר בקרוביה!

איהי בכל דהו ניחא לה, כדריש לקיש. דאמר ריש לקיש: טוב למיתב טן דו מלמיתב ארמלו. אביי אמר: דשומשמנא גברא – בורסיה בי חראתא רמי לה.

רב פפא אמר: דנפסא גברא – תיקרייה בסיפי בבא, ותיתוב. רב אשי אמר: דקלסא גברא – לא בעי טלפחי לקידרא. תנא: וכולן מזונות ותולות בבבליהן.

The mishna teaches: **Rabbi Meir says: In the case of any vow that requires investigation by a halakhic authority, he may not remarry her.** Rabbi Elazar says: **They prohibited** remarrying a woman who was bound by a vow that **requires investigation by a halakhic authority only due to a vow that does not require such investigation.** The Gemara asks: **With regard to what principle do they disagree?** **Rabbi Meir holds that a man is willing for his wife to be degraded in court,** by going to have her vow dissolved. There is concern that the husband might say that had he known the vow could be dissolved he would not have divorced his wife. Such a claim would cast doubt on the validity of the bill of divorce. **Rabbi Elazar maintains that a man is not willing for his wife to be degraded in court** at all. Therefore, he cannot undermine the bill of divorce. The Sages prohibited him from remarrying her only due to a case that does not need investigation, as the husband can claim he did not know the vow could be dissolved.

Returning to the earlier discussion, **Rava said** a different explanation of the *baraita* that rules that if she went to a halakhic authority who dissolved her vow she is nevertheless not betrothed: **Here we are dealing with an important woman, i.e., a woman from an important family.** The husband does not want her due to her habit of vowing, but since she is from an important family he is reluctant to give her a bill of divorce, **as he says: It is not amenable to me to be forbidden to all her relatives.** He wants to retain ties of marriage with this family, and once he has married this woman, even if he divorces her, he will be forbidden to her mother or sisters. He therefore prefers that the betrothal be entirely dissolved.

The Gemara raises a difficulty: **If so, consider the latter clause of the baraita, which teaches: But if he betroths her on condition that there are no vows incumbent upon him or that he has no blemishes, and he does have vows or blemishes, but then he goes to a halakhic authority and he dissolves his vows, or to a doctor and he heals him, she is betrothed.** Yet according to Rava, in that case too **let the tanna teach that she is not betrothed, and let us likewise say that here we are dealing with an important person, from an important family, as she says: It is not amenable to me to be forbidden to his relatives.**

The Gemara answers: There is a difference between a man and a woman in this regard, **for it is amenable to her to be with any man, flawed though he may be, as taught by Reish Lakish: As Reish Lakish said that women say: It is better to dwell together as two [tan du]¹ than to dwell alone as if a widow.** Women will prefer any marriage to remaining single. Similarly, **Abaye said that women say: One whose husband is small as an ant, nevertheless places her seat among the noblewomen, as she considers herself important by virtue of the mere fact that she is married.**

Rav Pappa said a different maxim expressing a similar idea: **One whose husband is a wool comber [nafsa]¹, a lowly occupation, calls him to sit with her at the entrance to the house, as she is proud of him and happy to be married.** Similarly, **Rav Ashi said: Even one whose husband is lowly [kalsa]¹ does not require lentils for her pot.** She is so happy with the simple fact that she is married that she does not mind even if he does not provide her with food. The Gemara comments that it is **taught: And all of these women who have lowly husbands yet appear so satisfied with their marriage commit adultery and attribute the birth of the children to their husbands.** This is another reason why they are so keen to be married.

LANGUAGE

As two [tan du] – טן דו: The source of this expression is the Middle Persian tan dō, literally two bodies, meaning together. The same meaning is attested to in Zoroastrian ritual texts in the term tan ēw, one body, and means alone.

Wool comber [nafsa] – נפסא: The Arukh cites several explanations of this term, including a comber of wool. Another possibility is that it is from the Latin napus, a kind of turnip, called nafus by the Sages, in

which case the Gemara here would be referring to a watchman over vegetables. Rabbeinu Hananel associates it with the Greek νήπιος, nepios, meaning childish or ignorant.

Lowly [kalsa] – קלסא: From the Greek καυλός, kaulos, meaning the stalk of a plant, in particular the thick stalk of cabbage. The Arukh cites an alternate interpretation of a man whose job it is to guard cabbage plants, who certainly lacks any skills or abilities.

To these they added, etc. – הוסיפו עליהן וכי – All blemishes that disqualify priests from the Temple service, as detailed in tractate *Bekhorot*, are also considered blemishes for women. The Sages also listed several additional blemishes of women that do not apply to priests. These include unusual sweat, a mole, and bad breath. Some add also foul odor from the nose, and other blemishes listed in the Gemara. There are also additional blemishes that are not stated in the Gemara. With regard to the more serious of these, such as a leprous woman or one who wets her bed, some maintain that these are full-fledged blemishes (*Beit Yosef*), while others remain uncertain (*Darkhei Moshe*). According to the *Taz*, quoted in *Beit Shmuel*, due to this uncertainty women with these problems are entitled to payment of their marriage contracts, but their husbands can nevertheless divorce them against their will. This is the *halakha* even in the present, when divorcing a woman against her will is ordinarily banned by the excommunication of Rabbeinu Gershom (Rambam *Sefer Nashim, Hilkhot Ishut 7:7; Shulhan Arukh, Even HaEzer 39:4*).

Permanent and temporary blemishes – מומים קבועים וְעוֹבְרִים: Any priest who has a blemish, whether permanent or temporary, is prohibited from entering the area of the Temple beyond the altar, and he may not perform the service. If he entered or served in the blemished state, he is flogged (Rambam *Sefer Avoda, Hilkhot Biat HaMikdash 6:1*).

Render people disqualified – פְּסוּלֵי בְּאָדָם: A priest so old that he shakes when he stands and an invalid who trembles due to his illness are considered blemished, and they are disqualified from the Temple service. With regard to a priest who sweats heavily, if he can remove the foul odor by washing his body with perfumed water or the like, he is permitted to perform the service. Similarly, if one who suffers from halitosis chews on pepper or something similar to rid himself of his bad breath, he may perform the Temple service. If, however, he served while he is still repulsive, his service is disqualified, like that of any other blemished priest, as stated in the mishna cited here and in accordance with Rav Ashi (Rambam *Sefer Avoda, Hilkhot Biat HaMikdash 7:12–13*).

Mole – שׂוּמָא: A mole with hair growing in it is a blemish for a woman anywhere on her body. If it is on her forehead, even if it is small and even if it does not contain hairs, it is still a blemish. This applies only to a mole positioned high on her forehead, which is sometimes covered by a kerchief and sometimes visible. If the mole is always visible, he must have seen and accepted it, as concluded by the Gemara (Rambam *Sefer Nashim, Hilkhot Ishut 7:7; Shulhan Arukh, Even HaEzer 39:4; see Be'er HaGola*).

BACKGROUND

Sweaty and filthy – זְיֵעָה וּמְזוּזָה: A foul odor emitted by a person's body could be the result of excessive sweat and a lack of personal hygiene. However, in certain cases the odor is caused by an illness, such as some types of kidney dysfunction. The Gemara makes a distinction between transitory sweat that can be ameliorated and a fixed condition of sweat and odor.

”כָּל מוּמֵינָא שְׂפוּסָלִין” וכו'. תנא: הוסיפו עליהן זיעה ושומא וריח הפה. והני בבבב לא פסלי? והתנן: הוֹקֵן וְהַחֹלָה וְהַמְזוּזָה. ויתנן: מוּמֵינָא אֵלּוּ, בֵּין קְבוּעֵינָא בֵּין עוֹבְרֵינָא, פְּסוּלֵינָא בְּאָדָם!

The mishna teaches that all blemishes that disqualify priests disqualify women's betrothal as well. The Sage taught in the *Tosefta* (*Ketubot 87:9*): **To these, they added**^H several additional blemishes applying only to women: **Sweat, a mole, and a foul odor from the mouth.** The Gemara poses a question: **And do these blemishes not also disqualify priests? Didn't we learn in a mishna with regard to blemishes of animals (*Bekhorot 41a*): The old, the sick, and the filthy? And it was taught in a different mishna (*Bekhorot 43a*): These blemishes stated concerning animals, whether they are permanent or whether they are temporary,^H render people, i.e., priests, disqualified^H as well.** This shows that filth and sweat disqualify priests too.

אמר רבי יוסי ברבי חנינא: לא קשיא: כאן – בויעה עוברת. כאן – בויעה שאינה עוברת.

Rabbi Yosei, son of Rabbi Hanina, said: This is not difficult. Here, where the *baraita* states that these blemishes do not disqualify priests, it is referring to **removable sweat**,^N which can be washed off. There, the mishna that considers it is a disqualifying blemish for priests, it is speaking of sweat that is not removable.^B

רב אשי אמר: זיעה אמורה קא רמית? התם גבי פהנים – אפשר לעברה בקייהא דחמרא. ומריח הפה נמי, אפשר דנקט פילפלא בפומיה ועביד עבודה. אבל גבי אשה לא אפשר.

Rav Ashi said that the entire question is unsubstantiated. **Have you raised a contradiction between a ruling concerning sweat and a ruling concerning filth?** The term filthy indicates that there is a permanently foul odor, which disqualifies both animals and priests. But there, with regard to priests who suffer from foul odors due to sweat, it is possible to remove it in the short term by use of wine vinegar. And the priest can also temporarily cure himself from a foul odor of the mouth, as it is possible to hold pepper in his mouth to alleviate the odor and proceed to perform the service. But with regard to a woman it is not possible for her to utilize these remedies on a constant basis. Consequently, this blemish disqualifies women and not priests.

האי שומא היכי דמניא? אי דאית בה שער – הקא והקא פסלה, אי דלא אית בה שער – אי שומא גדולה היא – הקא והקא פסלה, אי שומא קטנה היא – הקא והקא לא פסלה. דתנניא: שומא שיש בה שער – הרי זה מום, אין בה שער: גדולה – הרי זה מום, קטנה – אין זה מום. ואיזוהי גדולה? פירש רבן שמעון בן גמליאל: עד כאיסר האיטלקי!

The *baraita* stated that a mole is a blemish for a woman but not for a priest. The Gemara poses a question: **What are the circumstances with regard to this mole?**^{HN} If it has hair growing in it, both here and there, with regard to both women and priests, it is disqualifying. If it does not have hair in it, the following distinction applies: **If it is a large mole, both here and there it is disqualifying. If it is a small mole, both here and there it is not disqualifying, as it is taught in a baraita: A mole that has hair in it, this is a blemish.** With regard to one that does not have a hair in it, if it is large, this is a blemish. If it is small, this is not a blemish. The *tanna* proceeds to ask: **And what is considered large?** Rabban Shimon ben Gamliel explained: **As large as the size of an Italian issar, a small coin.**

אמר רבי יוסי ברבי חנינא: בעומדת על פדחתה, פדחתה? ראה ונפיים הוא! אמר רב פפא: בעומדת לה תחת כפה של ראשה, וזימנין דמתחויא, וזימנין דלא מתחויא.

The Gemara answers: **Rabbi Yosei, son of Rabbi Hanina, said:** The case in the *baraita* discusses a mole that is positioned on her forehead. Despite the mole's small size, its prominent location makes her appear very ugly. The Gemara asks: **If it is on her forehead, it is something that he has seen and accepted.** Since it is visible, he knew about it before agreeing to marry her. Therefore, he cannot later divorce her due to a blemish of this kind. **Rav Pappa said:** The *baraita* is referring to a mole that is positioned under the cap that is on top of her head. Sometimes it is visible and sometimes it is not visible, and he may not have seen it in advance. It is necessary to teach us that a mole of this kind is considered a blemish.

NOTES

Removable sweat – זיעה עוברת: *Tosafot* cite several possible interpretations of this expression. The Rivan explains that it is referring to a person who experiences only periodic episodes of sweat. Similarly, the Meiri states that this is referring to episodes of sweat that occur due to an external cause, e.g., strenuous labor. Although such a person might have an unusually foul odor, it is not a permanent condition. A third explanation in

Tosafot, also found in the Ritva, is that it refers to sweat that can easily be washed away in water.

Mole – שׂוּמָא: In the Jerusalem Talmud it is stated that a mole without hair disqualifies a woman only if it is on her face, but not anywhere else on her body.

Scar – צלקת: If a woman has a scar where she was bitten by a dog, this is a blemish, as stated by Rabbi Sheila (Rambam *Sefer Nashim, Hilkhot Ishut* 7:7; *Shulhan Arukh, Even HaEzer* 39:4).

A deep voice – קול עבה: A deep voice is a blemish in a woman, as stated by Rav H̄isda (Rambam *Sefer Nashim, Hilkhot Ishut* 7:7; *Shulhan Arukh, Even HaEzer* 39:4).

A woman's breasts – ידי אשה: If a woman's breasts are a handbreadth larger than the norm, or if they are separated by a gap of a handbreadth, this is a blemish, as stated by Rabbi Natan (Rambam *Sefer Nashim, Hilkhot Ishut* 7:7; *Shulhan Arukh, Even HaEzer* 39:4).

If she had blemishes, etc. – הייבָה מומין וכו': If a woman has blemishes that might have developed after her betrothal, and they are discovered only after the husband takes her as his wife, he must bring proof that these blemishes were present before their betrothal, and then the betrothal is nullified as a mistaken transaction.

If the blemishes are discovered when she is still in her father's house, the father must provide proof that they developed after her betrothal and therefore it was not a mistaken transaction. The Rema writes that according to the *Mishne LaMelekh*, citing the Rashba, if the father makes a definite claim, the burden of proof is upon the husband even if the blemishes appeared when she was in her father's house. Rabbeinu Yeruham maintains that if the appointed time for the marriage arrived, even if she is still living in her father's house she is considered in her husband's domain with regard to blemishes (Rambam *Sefer Nashim, Hilkhot Ishut* 25:4; *Shulhan Arukh, Even HaEzer* 17:8).

NOTES

One of them is superior – חד מיניהו עדיף: Rashi explains that the inhabitants of Eretz Yisrael are superior in wisdom. The Rivan adds that they also possess greater knowledge. As for the reason for this, the Ritva and others explain that there are two factors at work: In addition to the idea that the very air of Eretz Yisrael makes one wise, their superiority is also a reward for fulfilling the mitzva of settling Eretz Yisrael.

And one of us, etc. – וחד מינן וכו': The Ritva explains that such a person has great merit for having ascended from the impurity of gentile lands to the purity of Eretz Yisrael. Furthermore, he has left his home to learn Torah, and he certainly dedicates himself exceedingly to his studies. The Rivash maintains that the scholarship in Babylonia was more intellectually advanced than that of Eretz Yisrael, and therefore those who were trained in Babylonia and then immigrated to Eretz Yisrael had an advantage that enabled them to grow even wiser upon their arrival.

Called us foolish Babylonians – קרי לן בבליאי: The proof that a Babylonian that moves to Eretz Yisrael is superior to one born and raised there is that only Rabbi Yirmeya, who moved to Eretz Yisrael, referred to those in Babylonia as foolish people, as only he was wise enough to perceive their so-called foolishness (Ritva). The Maharam Schiff says the proof from Rabbi Yirmeya is that if one who was not a great Torah scholar in Babylonia became as wise as the local Sages when he immigrated to Eretz Yisrael, certainly one who is already a scholar of note in Babylonia would be equal to two Sages of Eretz Yisrael if he went there. When Rava said: One of us, he meant one who was regarded as a great sage even in Babylonia.

אמר רב חסדא: הא מילתא מגברא רבא שמייע לוי ומנו? רבי שילא: נשכה כלב ונעשה מקומו צלקת – הרי זה מום. אמר רב חסדא: קול עבה באשה הרי זה מום, שנאמר "כי קולך ערב ומראך נאוה". תני רבי נתן ביראה: בין ידי אשה טפח. סבר רב אחא בריה דרבא קמייהו דרב אשי למימר: טפח – למעליותא. אמר ליה רב אשי: גבי מומין תניא. וכמה? אמר אביי: שלש אצבעות.

תניא: רבי נתן אומר: כל אשה שדדיה גסין משל חברותיה – הרי זה מום. וכמה? אמר רבי מיישא בר בריה דרבי יהושע בן לוי משמיה דרבי יהושע בן לוי: טפח. ומי איכא כי האי גוונא? אין. דאמר רבא בר בר חנה: אני ראיתי ערבא אחת שהפשילה ידיה לאחוריה, והניקה את בנה.

"ולציון יאמר איש ואיש יולד בה והוא יכוננה עליון". אמר רבי מיישא בר בריה דרבי יהושע בן לוי: אחד הגולד בה ואחד המצפה לראותה. אמר אביי: וחד מיניהו עדיף בתרי מינן. אמר רבא: וחד מינן, כי סליק להתם – עדיף בתרי מיניהו. דהא רבי ירמיה, דכי הוה קבא – לא הוה ידע מאי קאמרי רבנן, כי סליק להתם – קרי לן בבליאי טפשיאי.

מתני': היו בה מומין ועודה בבית אביה – האב צריך להביא ראיה שמשנתארסה היו בה מומין הללו, ונסתתפה שדהו. בנסתפה לרשות הבעל – הבעל צריך להביא ראיה שעד שלא נתארסה היו בה מומין אלו, והיה מקחו מקח טעות. דברי רבי מאיר. וחכמים אומרים: במה דברים אמורים – במומין שבתור.

Rav H̄isda said: I heard this matter from a great man, and who was this great man? Rabbi Sheila was the great man. He said: If a dog bit a woman, and the place of the wound developed into a scar,^h this is a blemish. Rav H̄isda further said: A deep voice^h in a woman, this is a blemish, as it is stated: "For your voice is sweet and your appearance pleasant" (Song of Songs 2:14). Rabbi Natan Bira'a taught: A handbreadth between a woman's breasts.^h The *amora'im* have a dispute concerning the meaning of Rabbi Natan Bira'a's statement: Rav Aha, son of Rava, thought to say before Rav Ashi that this means a handbreadth between a woman's breasts is perfection and considered beautiful. Rav Ashi said to him: This *baraita* is taught with regard to blemishes, and it means that if her breasts are separated by a gap this wide, it is a blemish. The Gemara asks: And how much of a gap is considered normal? Abaye said: The width of three fingers.

It is taught in a *baraita*: Rabbi Natan says: Any woman whose breasts are larger than those of other women, this is a blemish. The Gemara poses a question: And how much larger must they be to be considered a blemish? Rabbi Meyasha, son of the son of Rabbi Yehoshua ben Levi, said in the name of Rabbi Yehoshua ben Levi: If they are a handbreadth larger than the norm. The Gemara inquires: And is there a case like this? Is it possible for a woman to have such large breasts? The Gemara answers: Yes, as Rabba bar bar H̄anna said: I once saw a certain Arab woman who flung her breasts behind her and nursed her child.

Since the Gemara quoted a statement of Rabbi Yehoshua ben Levi's grandson, the Gemara cites another exposition in his name. The verse states: "And of Zion it shall be said, this man and this man were born in her, and the Most High shall establish her" (Psalms 87:5). Rabbi Meyasha, son of the son of Rabbi Yehoshua ben Levi, said: Both the man who was actually born in Zion and the one who looks forward to seeing her are equally considered sons of Zion. Abaye said: And one of the inhabitants of Eretz Yisrael is superiorⁿ to two of us, Babylonians. Rava said: And one of usⁿ Babylonians, when he ascends to Eretz Yisrael, is superior to two people born and raised in Eretz Yisrael. The Gemara cites a proof for Rava's claim: As Rabbi Yirmeya,^p when he was here, in Babylonia, did not even know what the Sages say. He was not considered an important scholar. But when he ascended there he called us foolish Babylonians.ⁿ He evidently grew wiser after he immigrated to Eretz Yisrael.

MISHNA If she has blemishes^h and she is still in her father's house, as she has not yet gotten married, the father must bring proof that these blemishes appeared on her after she became betrothed, and therefore his field was flooded, i.e., it is the husband's misfortune, since she developed the problem after the betrothal. But if she has already gotten married and entered the husband's domain when her blemishes are discovered, the husband must bring proof that she had these blemishes before she was betrothed, and consequently the transaction of betrothal was a mistaken transaction. This is the statement of Rabbi Meir. But the Rabbis say: In what case is this statement, that a husband can claim to have found blemishes in his wife, on account of which he wants to void the betrothal, said? With regard to hidden blemishes.

PERSONALITIES

Rabbi Yirmeya – רבי ירמיה: A Babylonian-born *amora* of Eretz Yisrael, Rabbi Yirmeya studied in Babylonia in his youth but did not gain a reputation there as a scholar. After moving to Eretz Yisrael, he studied under the outstanding Sages of his generation, such as Rabbi Zeira, Rabbi Abbahu, and other students of Rabbi Yohanan.

Rabbi Yirmeya had a unique method of understanding the law and was known for his exceedingly sharp intellect, as he questioned the opinions of many other Sages. He was even penalized for such

disputes by being banned from the yeshiva for a period of time. His outspoken language caused him several times to use the harsh expression foolish Babylonians, and yet it seems the Sages of Babylonia humbly accepted his criticism.

As one of the outstanding Sages of Eretz Yisrael, Rabbi Yirmeya's opinions and teachings are quoted liberally throughout both the Babylonian Talmud and the Jerusalem Talmud. His influence was such that when the Babylonian Talmud simply says: They say in Eretz Yisrael, it generally refers to the opinion of Rabbi Yirmeya.

אבל במומין שפגלו – אינו יכול לטעון. ואם יש מרחץ באותה העיר – אף מומין שפסדו אינו יכול לטעון, מפני שהוא בודקה בקרובותיו.

גמ' טעמא – דמייתי האב ראיה, הא לא מייתי האב ראיה – הבעל מהימן. מני – רבי יהושע היא, דאמר: לא מפיה אנו חייני.

אימא סיפא: נכנסה לרשות הבעל – הבעל צריך להביא ראיה. טעמא – דמייתי הבעל ראיה, הא לא מייתי הבעל ראיה – האב מהימן, אתאן לרבן גמליאל, דאמר: נאמנת! אמר רבי אלעזר: תברא, מי ששנה זו לא שנה זו.

אמר רבא: לא תימא רבי יהושע לא אזיל בתר חזקה דגופא בלל, אלא כי לא אזיל רבי יהושע בתר חזקה דגופא – היכא דאיכא חזקה דממונא.

אבל היכא דליכא חזקה דממונא – אזיל רבי יהושע בתר חזקה דגופא. דתניא: אם בהרת קודם לשער לבן – טמא, אם שער לבן קודם לבהרת – טהור, ספק – טמא. ורבי יהושע אומר: כהה? מאי כהה? אמר רבה: כהה טהור.

But with regard to visible blemishes,^h he cannot claim that the betrothal was in error, as he presumably saw and accepted them before the betrothal. **And if there is a bathhouse in the city, where all the women go to bathe, even with regard to hidden blemishes he cannot make this claim, because he examines her through the agency of his female relatives.** He would have asked one of his relatives to look over the woman he is about to marry.

GEMARA The mishna states that if the woman had blemishes while she was in her father's house, the father must bring proof that they developed after the betrothal. The Gemara infers: **The reason the father's claim is accepted is due to the fact that the father brings proof, but if the father does not bring proof^h then the husband is deemed credible** when he claims the betrothal was a mistaken transaction because the blemishes predated it. The Gemara asks: In accordance with whose opinion is this mishna? **It is the opinion of Rabbi Yehoshua, who said in a mishna (12a) with regard to a case when the wife claims that she was raped after her betrothal while her husband says it happened beforehand, that we don't live from, i.e., we don't rely on the words of her mouth, but rather she must substantiate her claim.**

The Gemara continues: Now say the latter clause of the mishna: **If she had entered the husband's domain, the husband must bring proof.** Again the Gemara infers: **The reason his claim is accepted is due to the fact that the husband brings proof, but if the husband does not bring proof then the father is deemed credible.** We arrive at the opinion of Rabban Gamliel, who said that the woman is **deemed credible** when she says that the incident occurred after the betrothal. Consequently, the first and last clauses of the mishna appear to contradict one another. **Rabbi Elazar said:** This mishna is **disjointed**, and does not follow a single opinion; the *tanna* who taught this *halakha* did not teach that *halakha*.

Rava said: **Do not say that Rabbi Yehoshua does not follow the presumptive status of the body at all, that is, it should not be assumed that Rabbi Yehoshua fundamentally rejects the idea that one's body is presumed to remain in its initial, intact state until proven otherwise. Rather, say that Rabbi Yehoshua does not follow the presumptive status of the body only when there is an opposing claim of monetary possession.** An example of this is the case in the mishna where the woman seeks to extract money from her husband for payment of her marriage contract by claiming that she was raped after the betrothal. Since acceptance of her claim would mean her husband has to pay, Rabbi Yehoshua maintains that the presumptive status of her body alone is not sufficient.

But when there is no possession of money, as in the mishna, **Rabbi Yehoshua does in fact follow the presumptive status of the body. As it is taught in a baraita with regard to the halakhot of leprosy: If the bright white leprous spot precededⁿ the white hair then the one afflicted is ritually impure; if the white hair preceded the bright white spot he is pure.** If it is uncertain which came first, he is impure.^h **And Rabbi Yehoshua says: Dull.** They asked: **What is the meaning of dull? Rabba said that dull means it is ritually pure, as though the plague was of a dull shade, which is not impure.** This shows that in an uncertain case where there is no issue of monetary possession, Rabbi Yehoshua accepts the presumptive status of the body, and therefore, the one afflicted is ritually pure.

HALAKHA

אבל – במומין שפגלו וכי: If the town contains a bathhouse, the husband cannot claim to have been unaware of the woman's blemishes, even hidden ones, as he can examine her through the agency of his female relatives, and therefore he is presumed to have known about and accepted her flaws. If there is no bathhouse, or if he has no relatives in the city, he can claim ignorance of hidden blemishes but not of visible ones. The *Tur* contends that even if he has no relatives in the city he nevertheless undoubtedly has acquaintances and can make inquiries via their wives. This *halakha* applies only if it is the practice of the local women to go out to the market with their faces showing. However, if they do not venture out to the market, and those who go to the bathhouse disguise themselves on their way, or if they go only at night or furtively, the husband can make his claim even with regard to visible blemishes (Rambam *Sefer Nashim, Hilkhot Ishut* 25:2; *Shulhan Arukh, Even HaEzer* 117:5–6 and *Even HaEzer* 39:4 in the comment of the Rema).

לא מייתי האב ראיה – If the woman had permanent, congenital blemishes, such as an extra toe, the father must provide proof that the husband knew about and accepted these blemishes. If he is unable to offer a proof of this kind, she may be divorced without payment of her marriage contract (Rambam *Sefer Nashim, Hilkhot Ishut* 25:4; *Shulhan Arukh, Even HaEzer* 117:7).

בהרת ושער לבן – The presence of white hair is a sign of leprous impurity if it turned white after the appearance of a bright white spot. But if the white hair was present first, this is not a sign of impurity. Instead, it is treated as a regular bright white spot that must be quarantined for a week. If there is uncertainty as to whether the white hair came before the bright white spot or vice versa, the one afflicted is impure. The Rambam writes that he is inclined to think that this is merely an uncertain impurity, even according to the first *tanna* (Rambam *Sefer Tahara, Hilkhot Tumat Tzara'at* 2:6, 9 and *Kesef Mishne* there).

NOTES

אם בהרת קודם וכי: The *halakhot* of leprosy appear in the Torah in Leviticus (chapter 13) and in the Mishna in tractate *Nega'im*. In short, one who develops a bright white spot on his body must be examined by a priest, who will quarantine him for seven days, after which the priest will reexamine the afflicted spot to see if it has spread. If the hair on the spot has turned white there is no need to quarantine the individual, as he is immediately pronounced a confirmed leper.

The particular *halakha* referred to here, that one is impure only if the bright white spot preceded the white hair, is not stated explicitly in the Torah. According to Rashi, it is derived from the verse "The hair in the bright white spot has turned white" (Leviticus 13:25), whereas the Rivan maintains that the source is "And it has turned the hair white" (Leviticus 13:10). This would indicate that it is the spot that made the hair turn white because the spot preceded the white hair. The Rambam interprets this in a similar fashion.

רַבָּא אָמַר: רִישָׁא – כָּאן נִמְצְאוּ וְכָאן הָיוּ, סִיפָא נִמְי – כָּאן נִמְצְאוּ וְכָאן הָיוּ.

Rava said a different answer to the contradiction in the mishna: In the first clause of the mishna, where the blemishes were discovered while she was still in her father's house, the assumption is that since they were discovered here, they were also created here. In other words, since the blemishes were found while she was still in her father's house, there is a presumption that they were also present at the earlier stage, prior to the betrothal. Consequently, the burden of proof is on the father who claims the blemishes developed at a later stage. In the latter clause of the mishna as well, since the blemishes were discovered when she was in the husband's house, it is assumed that since they were discovered here, in the husband's domain, they were also created here, after the marriage.

אֵיתִיבִיהָ אַבְיֵי: נִכְנְסָה לְרִשׁוֹת הַבַּעַל – הַבַּעַל צָרִיךְ לְהֵבִיא רְאִיָּה, שְׁעַד שְׁלֵא תִתְאַרֵס הָיוּ בָּהּ מוּמִין אֵלּוּ, וְהָיָה מִקְחוֹ מִקְח טְעוּת. עַד שְׁלֵא תִתְאַרֵס – אֵין. מִשְׁתַּתְאַרֵס – לָא. וְאַמַּאי? לִימָא: כָּאן נִמְצְאוּ וְכָאן הָיוּ!

Abaye raised an objection to Rava's opinion from the mishna: If she had entered the husband's domain when the blemishes were discovered, the husband must bring proof that she had these blemishes before she was betrothed, and therefore his transaction of betrothal was a mistaken transaction. The Gemara infers: If he brought proof that these blemishes were there before she was betrothed then yes, his claim is accepted, but if he proved that the blemishes were present from a point in time after she was betrothed, even if she was still in her father's house, his claim is not accepted. But why? Even if his proof concerns the period after the betrothal, let us say that since they were discovered here, they were also created here, and she presumably had these blemishes before the betrothal.

אָמַר לִיה: מִשְׁנַתְאַרְסָה – מִשׁוּם דְּאִיכָּא לְמִימַר: חֻזְקָה אֵין אָדָם שׁוֹתָה בְּכוּס אֶלָּא אִם בֵּן בּוֹדְקוֹ. וְהָאִי – רָאָה וְנִפְיִים הוּא.

Rava said to him: With regard to a case where the blemishes were found to have been present from a point in time after she was betrothed, there is a reason why one does not assume that they were there beforehand: Because it can be said that there is a presumption that a person does not drink from a cup^h unless he first examines it. In other words, one does not betroth a woman unless he first investigates her to determine if she is acceptable to him. And consequently this man has undoubtedly seen her blemishes and been appeased about them. Therefore, in the event that the blemishes did exist at the time of betrothal, it can be assumed that the husband knew about them and accepted the situation.

אֵי הָבֵי, עַד שְׁלֵא תִתְאַרֵס נִמְי! אֶלָּא: אָמְרִינן חֻזְקָה אֵין אָדָם מִיפְיִים בְּמוּמִין. הָכָא נִמְי, חֻזְקָה אֵין אָדָם מִיפְיִים בְּמוּמִין!

The Gemara raises a difficulty: If that is so, then even if he brought proof that the blemishes existed before she was betrothed, we should also rely on the above presumption and say that he must have been aware of them and betrothed her regardless. But this is not the halakha. Rather, it must be that we say there is an opposing presumption that a person does not become appeased with regard to blemishes. Therefore, it must be proven that he saw these blemishes and did not object. Here too, we should say there is a presumption that a person does not become appeased with regard to blemishes.

אֶלָּא: מִשְׁנַתְאַרְסָה – מִשׁוּם דְּאִיכָּא תְרִינֵי חֻזְקָה, הַעֲמִד הַגּוֹף עַל חֻזְקָתוֹ, וְחֻזְקָה אֵין אָדָם שׁוֹתָה בְּכוּס אֶלָּא אִם בֵּן בּוֹדְקוֹ. וְהָאִי רָאָה וְנִפְיִים הוּא. מֵאִי אָמְרַת – חֻזְקָה אֵין אָדָם מִיפְיִים בְּמוּמִין – הָוִי

Rather, the mishna must be explained differently: If he brought proof that she had these blemishes from a point in time after she was betrothed, his claim of a mistaken betrothal is not accepted because there are two presumptions opposing it. There is a presumption of: Establish the state of the woman's body according to its presumptive, unblemished status and consequently assume that the blemishes were not present at the time of betrothal, and additionally there is the presumption that a person does not drink from a cup unless he first examines it, and this man has undoubtedly seen her blemishes and been appeased. What do you say in opposition to this argument, that there is a presumption that a man does not become appeased with regard to blemishes? Even so, it is

HALAKHA

A presumption that a person does not drink from a cup, etc. – חֻזְקָה אֵין אָדָם שׁוֹתָה בְּכוּס וְכוּ: If a man has relations with his wife and after being with her for a few days claims that he wants to annul the marriage on the basis of a blemish by arguing that he had not previously seen it, even if the blemish was on a concealed part of her body, his claim is disregarded, as there is a presumption

that one does not drink from a cup unless he first examines it. The Rema adds, based on the Responsa of the Maharik, that one who has been with his wife for thirty days is no longer deemed credible if he claims that they have not yet engaged in marital relations, as stated by the Gemara elsewhere (Rambam *Sefer Nashim*, *Hilkhot Ishut* 25:6; *Shulḥan Arukh*, *Even HaEzer* 117:10).