

AUTHOR William Elliott Blank

TITLE "Onah: An Analysis of the Principle Rabbinic Texts Dealing
with Commandment of Marital Sex"

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ONAH:

AN ANALYSIS OF THE PRINCIPLE RABBINIC TEXTS DEALING WITH COMMANDMENT OF
MARITAL SEX

WILLIAM ELLIOTT BLANK

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requirements for the degree of Master of Arts
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Referee, Professor Ben Zion Wacholder

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DICEST OF CONTENTS AND AIMS

This thesis attempts to study the concept of Onah in Rabbinic literature. Onah signifies the requirement that marital sexual intercourse be an intrinsic part of the normative Rabbinic Jewish concept of marriage.

The First chapter discusses the sources that predate the composition of the Talmud Bavli. From the Bible through the Talmud Yerusalni, an analysis is made of those texts from which the concept of Onah developed. Chapter Two analyzes the locus classicus about Onah, the Talmud Bavli, Tractate Ketubot 61b-63a. Chapter Three provides a translation and analysis of the commentary of Rashi and the Tosafot which are printed in our Talmud editions. Chapter Four translates and analyzes the compendia of Alfasi and Rabbeinu Asher, as well as the commentary of Rabbeinu Nissim to Alfasi. Chapter Five analyzes and discusses the major codifiers: Maimondes, Moses de Coucy, Jacob ben Asher, and Josef Karo.

By following this type of outline, this thesis serves a dual purpose. Not only does it provide a thorough treatment of the concept of Onah, but it also shows how a concept in Jewish law grew and developed over the course of centuries. All aspects of Jewish law develop, from the Bible to the Talmud, and from the Talmud through the later literature. This development is epitomized through the concept of Onah as seen through this paper.

In addition, this paper has taught me to use and recognize the significance of the post-Talmudic legal literature. In this alone lies no small importance.

W.E.B.

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INTRODUCTION

According to normative Rabbinic Jewish law, the performance of sexual intercourse between husband and wife is regarded as having been divinely commanded. Like numerous other prescriptions of this legal system, this commandment has had a very long historical development.

The usual method of treating aspects of Jewish law is either by giving the legal principle in the form into which it has evolved, noting various particulars and special cases as they have accrued over the ages, or by viewing their development through a very few sources of preeminent importance. However, the former method does not adequately stress the developmental aspect of the Halacha, and the latter does not usually treat the subject with sufficient depth to demonstrate the wide range of authorities who make up that development. Furthermore, neither method is capable of demonstrating to the individual who is less than a serious student of Rabbinic Literature, a sufficient appreciation of the depth of the process of continuous development that Jewish law has had.

This paper, therefore, shall attempt to treat this development, as seen through this one legal principle, by citing in full the earliest sources upon which it is founded, the Talmudic sugya in which it receives its classical formulation, and a number of the principle commentaries upon it. In addition to citing the texts,

this paper shall provide a few introductory notes on their authors, and analyze the texts carefully. A more complete understanding of the development of Rabbinic law than has heretofore been generally available can thus be gained.

The particular example chosen, that of marital sexual obligations is selected for a number of reasons. In the first place, its origins in the earliest sources are unclear. In the second place, its texts are relatively brief and easily accessible. In the third place, it is not an overly complex problem in that the authorities, at least since the compilation of the Talmud, develop the fine details of the problem, but are in general agreement over the basic requirements of the fulfillment of the commandment. And finally, the Rabbinic concept of marital sexual obligations holds a high degree of interest to contemporary individuals concerned with the whole gamut of aspects of the Rabbinic view of sexuality and male-female relationships.

The methodology to be employed in this paper, therefore, shall be to analyze the sources in the development of this legal principle which preceded its classic formulation in the Talmud Bavli (Chapter I), and to carefully analyze that classic formulation (Chapter II). Following the completion of the Talmud Bavli, the Talmudic commentaries (Chapters III and IV) and the codifications of the law (Chapter V) shall be considered. Each of these materials shall include brief notes about its author(s) or authorities cited and a translation and analysis of the relevant text. It is hoped that in this way, the dialectic of Rabbinic law¹ can be presented in a rather

complete fashion, as this dialectic can be epitomized through this
one principle.

1. THE SOURCES PRECEDING THE TALMUD BAVLI

The Rabbinic concept of marital sexuality as a divine commandment has its classic formulation, of which all later writings are elucidations, in the Babylonian Talmud, Tractate Ketubot, folios 61b-63a. There the outline of the rules governing the frequency of the requirement are laid down quite succinctly. However, before the composition of this sugya received its form, a number of far less explicit sources predated it.

There are six sources which predate this sugya: the Bible, the Mishna, the Tosefta, the Talmud Yerusalmi, the Mechilta,² and another passage in the Babylonian Talmud, Ketubot 47b-48a. These sources are quite limited both in number and length, as well as in the complexity of their treatment of the problem.

The Rabbinic notion that marital sexual intercourse is a divine commandment rests upon an interpretation of Exodus 21:10:

אם-אחרת יקח-לו שארה כסותה ועונתה לא יגרע. This verse is interpreted by the Rabbinic tradition, at least since the time of the Bavli as meaning, "If he take for himself another woman, he shall not diminish her food, clothing, and conjugal rights." That is to say, food, clothing, and conjugal rights are three obligations that a man must provide for his wife. The last of these three then becomes proof-text for the Rabbinic belief that marital intercourse is a divine command. But to properly understand those sources which antedate the Bavli (i.e. Ketubot 61b-63a) this Biblical passage must be understood

in its original meaning and context.

This verse mentions these three categories as the sine qua non through which a woman is maintained as a wife. Exodus 21:10 does not apodictically state, "A man must give his wife...", but rather, it casuistically mentions that in a case where a second wife is taken, the first having been purchased as a maid-servant with privileges of concubinage, the first wife may not have these three commodities diminished.

More specifically, this is the case described in verses 7-11: A woman is sold as a maidservant, and after an unspecified time, her master does not any longer want her as his wife. He must let her be bought back; by whom, that is, her family who sold her or another Israelite, is not stated. She may not be sold to a foreign clan. Or, if the purchaser decides he himself does not want her as a concubine, he may betroth her for his son; but in such a case, he must deal with her as one of the daughters (כמשפט הבנות). This appears to imply a type of treatment which certain women enjoy, and which she does not lose by virtue of having been a purchased servant. If the purchaser keeps her and then takes another wife, her threefold rights (שארית כסותה) gauranteed as his concubine remain in force.

The final verse of this passage has two possible meanings: "If he does not do these three things for her, she shall go out free, without the payment of money." Either a) if he does not provide for her these rights, she may go free, or b) if he does not exercise one of the three options (keeping her as a concubine, allowing her to be

bought back, or betrothing her to his son) she may go free.³ In either case, she goes free without having to have payment made to her master.

From this context, it is clear that שארה כסותה וענתה were rights which a married woman or legal concubine enjoyed. If a) is the case, then withholding them violates the laws of concubinage, which allows the concubine to go free. It follows, then, that these are basic rights to which a woman is entitled. Although the phrase כמשפט הַבְּנוֹת appears nowhere else in the Bible, the context makes clear that these three categories are due to a woman under a certain rubric in the system of jurisprudence. Even if b) above is the correct interpretation of the Biblical passage, these three categories make up that to which a woman is entitled; the nature of the insertion of the phrase appears to be the legal formula of her due which may not be withheld or even diminished.

In either case, it remains to be asked, "Within the original Biblical context, what do these three words mean?" There is little reason to doubt that the first two suggest food and clothing as some of the Talmudic authorities claim. שארה is in all probability food, as evidenced by Psalm 78:20 where the parallel is לחם, food: הֵן לֶחֶם; "Can he give food (לחם), also; can he provide food (שאר) for his people?" כסותה is in all certainty clothing or covering, having a large number of Biblical uses.⁴ But ענתה is a hapax legomenon whose meaning is uncertain. Like שארה and כסותה, the early rabbis debated its meaning, but unlike שארה and כסותה, it is not so clear that they had the correct meaning among

their suggestions. Although Biblical translations from the Targum and Septuagint through the New English Bible and New Jewish Publication Society Torah have maintained this rendering, some modern scholars have questioned it by suggesting "her oil" or "her cakes," or "her quarters."⁵

Whether or not *onah* originally denoted a minimal frequency of sexual intercourse, by the time of the compilation of the sugya of the Talmud Bavli which discusses it, this meaning is assumed. This was something which the rabbis of the Talmud added to the concept of marriage which finds no known parallel in its day. However, the manner in which this principle is derived from Exodus 21:10 is not accepted unanimously.

The Mishna, Ketubot 5:6, makes the equation of *onah* with minimal frequency of intercourse. This Mishna contains three elements: the length of the period of sexual abstinence to which a man may vow, the length of time that students and laborers may absent themselves from their wives for work or study, and the specific time periods that constitute the obligation of Onah.

If a man forbade himself by vow from having intercourse with his wife, Bet Shammai ruled (she has no redress in the courts for) two weeks. Bet Hillel ruled, (only for) one week.

Students may go away to study the Torah without the permission (of their wives for a period of) thirty days. Laborers (only for) one week.

The Onah prescribed in the Torah is, for Tayyalim, every day; for laborers, twice a week; for ass-drivers, once a week; for camel-drivers, once in thirty days; for sailors, once in six months; These are the rulings of Rabbi Eliezar.

Before the dissection of this Mishna is discussed, the logical order of these elements within the Mishna itself will be noted.

This Mishna lies within a discussion of the respective rights of husband and wife, vis a vis each other. The Mishna discusses (5:4) whether a man can donate all of his wife's handiwork to the Temple, or if only the surplus above the level required for her maintenance can be so donated. Both possibilities are adhered to by different authorities. Secondly, the Mishna questions the amount of work a wife is required to do, including exemptions based upon her hired help. The Mishna then continues to state that a man may not forbid his wife from doing any work at all (5:5). This then, in turn, raises the first question of our Mishna: "Can a man forbid intercourse with his wife?" which then raises the question of "How long a man's job may keep him absent from her?"; followed by; "What are the minimum required frequencies of intercourse?" The Mishna then continues to state the penalties for a woman who rebels against her husband's physical desires, and for a husband who rebels against those of his wife.

This logical order of the Mishna makes clear that within its own context, Onah is one of a series of reciprocal obligations, implicit in the concept of marriage. A man's rights over his wife's production of goods is limited, just as is his right to abstain from intercourse with her. Furthermore, both husband and wife incur monetary penalties by refusing to fulfill the sexual needs of the other. Although the later Rabbinic Literature (as shall be discussed) stressed that Onah is an obligation incumbent upon only the male, being a basic right of the woman, the Mishna prescribes penalties for both males and females who do not fulfill the needs of the other.

The Mishna is generally dated c. 220 C.E., but the Talmud

Yerusalmi, 150-300 years later, does not assume its equation the Onah means a minimum frequency of intercourse. Its discussion of this Mishna clearly shows that at the time of the edition of the Yerusalmi, the identification of Onah with intercourse is still an open question. This text is now presented and analyzed.

Palestinian Talmud, Ketubot, Chapter 5, Halacha 7:⁷

(I. The debate of Bet Hillel and Bet Shammai:)

Bet Shammai ruled (that a vow of abstinence is in force for) two weeks, corresponding to the days of (impurity following) the birth of a female child; and Bet Hillel ruled (that it is in force for) one week, corresponding to the days of (impurity following) the birth of a male, or corresponding to the days of (impurity following) menstruation.

In this section, the Gemara answers the question of the Biblical parallels for the respective periods of sexual abstinence permitted by the Schools of Hillel and Shammai, as stated in the Mishna. Relying upon Leviticus 12:1-5, which stipulates that a woman is unclean and forbidden to have sexual intercourse for two weeks, after the birth of a female child, and one week after the birth of a male child, the schools conclude that one may be allowed sexual abstinence for at least that long. Bet Hillel also brings the added weight of Leviticus 15:19, which declares a woman unclean for seven days after her menstrual period. Although these reasonings are made more explicit in the parallel passage in the Talmud Bavli, the reasoning here is that if one or two weeks of sexual abstinence are commanded in one circumstance, then that period of abstinence should serve as a paradigm for a permissible period of abstinence at will.

(II. The law concerning the maximum absence of students from their wives:)

(The Mishna has said that) students may go abroad to study Torah without the permission of their house (i.e. their wives) for thirty days. With the permission of their house (i.e. their wives) for how long (may they be gone?) As long as is necessary.

This section elaborates on one of the Mishna's ordinances. Again, this receives a fuller treatment later in the Bavli. Nevertheless, it is significant that students were required to obtain the permission of their spouses, in order to absent themselves for more than a month, even in order to study Torah, the most laudable of acts in Rabbinic thinking.

(III. A Midrash on the absence that was allowed to the workmen who built the Temple from their wives:)

Rabbi Shmuel Bar Nachman in the name of Rabbi Yonatan said: "And he (Solomon) sent them (the laborers) to Lebanon, 10,000 a month" (I Kings 5:28). Said Rabbi Avin: Procreation is dearer to the Holy One, Praised be He than (the building of the Temple. What is the proof? Scripture says: "One month in Lebanon and two months at home" (Ibid.) Rav said: "They (the officers of the king) came in and went out month by month, all of the year" (I Chron 27:1).

This in another section which is expanded to a more complete form in the Bavli. In its present context the passage is introduced to underscore the importance of procreation in Rabbinic thought. Even when the building of the Temple or the study of the Torah is an issue, procreation must not be neglected. Shmuel Bar Nachman was a third generation Palestinian Amora (c. 290-320 C.E.),⁸ and Rabbi Yonatan lived a generation earlier. Avin (better known as Ravin) taught in both Palestine and Babylon about 300-340 C.E., and Rav is the earliest of the authorities given here, c. 220-250 C.E. Thus, this brief text represents an accretion of about fifty years. The first of the two Biblical verses comes from the description of the levy of the laborers

for the building of Solomon's Temple. The text says that the workers spent one month at labor, followed by two months at home. The rabbis interpret this to mean that they were allowed to return home for the purpose of procreation. The second of the verses describes a rotation among the officers of King David's court, so as to prevent undue absence, the rabbis reason, of any man from his procreative duties.

(IV. Bar Kappara's explanation of the Mishna's words, "Workers, once a week":)

Here (the Mishna) says, "one week" (is the allowable absence for laborers), and it also says, "Twice a week" (is their requirement for Onah.) Bar Kappara said, "Workers may go abroad to work without permission for one week."

There is an implied contradiction in the Mishna's text. It states that workers may go abroad to work for one week, but that their Onah is twice a week. How can they fulfill the obligation of their Onah, asks the Gemara, if they may be absent for a period which exceeds it? Bar Kappara (c. 210-230 C.E.) reasoned that the difficulty is solved if we understand that the "one week" clause is the longest time that a laborer may be absent from his wife without her permission. However, if he remains at home, his Onah remains at twice per week.

(V. Anonymous opinion that שֹׂאֵר is intercourse and עֹנָה is food:)

There are those who teach that שֹׂאֵר is intercourse and עֹנָה is food, and there are those who teach that עֹנָה is intercourse and שֹׂאֵר is food. Those who say שֹׂאֵר is intercourse (rely on the verse, "None of you shall approach any of his kin (שֹׂאֵר) to uncover their nakedness (Lev 18:6). And (those who say that) עֹנָה is food (rely on the verse), "And he starved (וַיַּעֲרֶב) you and made you hungry" (Deut 8:3).

The text notes that an anonymous Tannaitic opinion, as indicated by the phrase אֵינָהּ חַיִּי חַיִּי, does not deny that a woman is entitled

to food and intercourse from her husband, and that these obligations have their Scriptural basis in Exodus 21:10. The authority cites Scriptural basis for the interpretations of שאר and עונה to be the reverse of their interpretations. Although there is no practical difference within this argument as to the fact that sexual intercourse is required within marriage, the meaning of these respective words is questioned. The first of the verses cited as proof-texts here is quite farfetched.⁹ The Biblical term שאר נשרו, "close kin" is used to denote those relationships which are considered incestuous. The word שאר is then taken by this authority to denote intercourse whenever it is used. The second verse is less improbable, although the original meaning of יעני is more likely "he made you humble," and its next parallel word, ירעב denotes hunger.

(IV. Anonymous opinion that שאר is food, and עונה is intercourse:)

Those who say that שאר is food (rely on the verse,) "He caused flesh (שאר) to rain on them like dust" (Psalm 78:27), and עונה is intercourse (from the verse,) "If you afflict (תענה) my daughters (Gen 31:50) - this is intercourse.

This sentence is an answer to V. above. Citing other proof-texts, it gives the reverse meanings of שאר and עונה which are the interpretations which later Rabbinic literature accepts. In the former proof-text, שאר is interpreted to mean edible flesh, and thereby food. In the latter, the afflictions of daughters referred to in Laban's compact with Jacob are assumed to mean sexual relations.

(VII. L'ezar Ben Yaacov's opinion that שאר and עונה mean the proper clothing for its season:)

R. L'ezar Ben Yaacov explained the verse, "Her שָׂאָה and her הַיָּלֵדָה," (to mean that) her garments be her age; he may not give her a girl's clothes in her old age, or an old woman's clothes in her youth. And "her בְּיָמֶיהָ and her בְּיָמֶיהָ," (means) that according to the season (of the year). That is, he may not give her summer clothes in the rainy season or rainy season clothes in the summer.

(If this opinion is correct), where does one learn that one must feed (his wife)? If things which are not vital to sustaining life (i.e. clothing) may not be withheld, then certainly thing which are vital to sustaining life (i.e. food) may not be withheld.

(Furthermore), where does one learn one is responsible for Onah? If there are things for which a man does not get married at the very beginning (i.e. clothing) which he cannot withhold from his wife, then certainly he cannot withhold from her those things for which he did get married at the very beginning (i.e. intercourse).

L'ezar Ben Yaacov (the name of two separate Tannaim of the first and second centuries) utilized a much different form of interpretation to derive these things which a woman is due from her husband. First, he defines the requirement of "clothing," to mean appropriate clothing for the age of the woman and the season of the year. Secondly, he uses קל וחומר type of arguments in order to deduce sexual obligations and the obligation of food. In doing so he has done two things. First he has uses Exodus 21:10 to refer only to clothing, not clothing, food, and sexual obligations, but not thereby denying that a woman is entitled to the other two. Secondly, he has extended these requirements to include a degree of luxury; food and sex are taken for granted, and the clothing he provides has additional stipulations of appropriateness.

(VIII. A Midrash of Jacob and Esau:)

Concerning the gifts that Jacob, our Father, sent to Esau, his bother (Gen 32:15), Rabbi Eliezar taught that he sent it to him in accordance with sexual advantage: "200 she-goats and 20 he-goats; a he-goat for every ten she-goats; "And 200 ewes and 20 rams;" one to ten; "Thirty milch camels and their colts," Rabbi Berchia said, "Because it

is modest about intercourse, Scripture does not publish (how many clots there were); "Forty cows and ten bulls; Four to one, for they (the bulls) must work (and therefore have less time and strength for procreation); "Twenty she-asses and ten foals; Two to one for they must work.

This Midrash takes the Scriptural verse which describes the peace offering that Jacob sent to Esau, and it shows that Jacob sent the proper proportions of the animals' sexes, so as to maximize the value of the gift. One male for ten females is correct for rams and goats, but cattle and asses require lower proportions.

(IX. Two concluding comments:)

R. Yermiah inquired, "Are not students considered as idlers?" Said R. Manah, "They are not so considered, nor are they like harvesters, for they (students) work harder."

Said Rav, "'She eats with him each Erev Shabat,' is euphemistic language."

R. Mana, in answer to R. Yermiah's question, says that you can infer from the fact that the Onah of students is a separate category that students are neither idlers nor laborers. Rather, the study of Torah is a very difficult occupation; the degree to which it weakens an individual should not be underestimated. Rav's comment refers to Mishna #11 of this chapter in the Yerusalmi's text. There it is stated that sharing the Erev Shabat meal with one's wife is incumbent upon a husband. Rav says that this must be understood to mean that it is incumbent upon him to have intercourse with her on Erev Shabat.

Numbers V. through VII. above are our chief concern. The anonymous opinion and the opinion of L'ezar Ben Yaacov do not assume as does the Mishna (as well as the Bavli, Ketubot 47b-48a) that Onah means 'a woman's right to sexual intercourse.' L'ezar Ben Yaacov (or

Eliezar Ben Yaacov) was the name of two separate Tannaim of the first and second centuries. His opinion predated the compilation of the Mishna in the early third century. It is therefore, safe to conclude, that the identification of *onah* of Exodus 21:10 to mean mandatory sexual intercourse was not unanimously accepted 100 years before the Mishna's editing. Nevertheless, the mandatory nature of sexual intercourse was formulated earlier, and given Scriptural basis through this very same verse.

This conclusion is buttressed by an examination of the parallel Rabbinic texts to this Yerusalmi passage. These parallels are the Bavli, Tractate Ketubot 47b-48a; the Mechilta, Parshat Mishpatim; and the Tosefta, Ketubot 5:4,5. The Tosefta's parallel to our Mishna reads:

One who forbade himself by vow from having intercourse with his wife, Bet Shammai ruled (she has no redress in the courts) for two weeks, as in the (suspension of marital relations following) the birth of a female child; and Bet Hillel says one week, as in the case of the birth of a male child or in the case of a menstruant (where intercourse stops for one week). (If he vows for) more than this time, he divorces her and pays her Ketubah.

Workers, twice a week; If they work in another city, once a week; Ass-drivers, once in two weeks; camel-drivers, once in thirty days; sailors, once in six months.

The first section of this passage bears no substantive difference from the Yerusalmi passage. However, the second part of this passage must rely upon the Mishna, as the omission of the words, "The Onah specified in the Torah," makes it incomprehensible taken by itself. It must have been an alternate formulation which existed side-by-side with the Mishna, until by the time of the Mishna's edition one became

the accepted opinion. The differing time intervals probably reflect different commercial situations, in which men engaged in commerce were apt to be away for longer periods of time, as in the Mishna, or shorter periods of time, as in the Tosefta.¹⁰

The Bavli parallel to the Yerusalmi passage is Ketubot 47b-48a:

(I. Raba's opinion: שארה = food, ענתה = sex:)

Said Raba: "The preceeding Tanna is of the opinion that providing food (for a wife by a husband) is a Pentateuchal duty, for it was taught, 'שארה' refers to board, as it is stated in Scripture, 'Who also eat the flesh (שאר) of my people' (Micah 3:3)." כסותה (is to be understood) according to its plain meaning (i.e. her clothing). ענתה refers to the time of conjugal duty prescribed in the Torah, for it is said in Scripture, 'If you afflict (חענה) my daughters' (Gen 31:50)."

(II. R. Eliezar's opinion: שארה = sex, ענתה = food:)

R. Eliezar said: " שארה refers to the prescribed time for conjugal duty, for so it says in Scripture, 'None of you shall approach to any of his near of kin (שאר) to uncover their nakedness' (Lev 18:6). כסותה (is to be understood) according to its plain meaning (i.e. her clothing). ענתה refers to board, for so Scripture says, 'And he starved you (ויענך) and made you hungry' (Deut 8:3)."

(III. R. Eliezar Ben Yaacov's opinion: שארה כסותה = clothing proper for age, and ענתה כסותה = clothing proper for the season:)

R. Eliezar Ben Yaacove interpreted שארה כסותה to mean 'provide her with clothing according to her age.' That is, a man shall not provide his old wife with (the clothing of) a younger one, or his young wife with that of an old one. כסותה וענתה (means), 'provide her with clothing according to the season of the year.' That is, he shall not give her new clothing in summer or old clothing in the rainy season.

(IV. R. Yosef's opinion: שארה refers to sexual manners:)

R. Yosef taught: שארה implies close bodily contact; he must not treat her in the manner of the Persians who perform their conjugal duties in their clothes. This provides support (for a ruling of) R. Huna who said that a husband who said, "I

will not (perform conjugal duties) unless she wears her clothes and I mine," must divorce her and pay her her Ketubah.

Another parallel text is to be found in the Mechilta,¹¹ Parshat Mishpatim:

(I. R. Yoshiah's opinion: ... שארה = food, עונה = sex:)

שארה means 'her food,' and thus it is written in Scripture, "Who eat the flesh (שאר) of my people" (Michah 3:3). And it is (also) written, "He caused flesh (שאר) to rain on them like dust" (Psalm 78:27). כסותה has its plain meaning (i.e. her garments.) Her עונה - this is intercourse, as it is written, "And he laid with her and he humbled her (ויענה)" (Gen 34:3); These are the words of Rabbi Yoshiah.

(II. Rabbi Yonatan's opinion: שארה כסותה = clothing according to age, כסותה ועונה = clothing according to season, food and intercourse are deduced by קל וחומר:)

Rabbi Yonata said, שארה כסותה: her flesh is covered so that it is according to her age. If she is a girl she is not given (the clothes of) an old woman, and an old woman is not given (the clothes of) a young girl. Her עונה: in its season - that she not be given summer clothes in the rainy season or those of rainy season in summer. Rather (she must receive) each in its season.

Her food: How do we know that she is entitled to it? It can be deduced by קל וחומר: As things which are not necessary for sustaining life (i.e. clothing) cannot be withheld from her, so things which are necessary for sustaining life (i.e. food), it can be inferred, cannot be withheld from her.

Sexual intercourse: How do we know she is entitled to it? It can be deduced by קל וחומר: As things for which one does not get married at the very beginning (i.e. clothing may not be withheld, so things for which he does get married from the beginning (i.e. intercourse), it may be inferred, cannot be withheld from her.

(III. Rabbi's opinion: שארה = intercourse, עונה = food:)

Rabbi said: " שארה is intercourse, as it is written in Scripture, 'None of you shall approach any of his kin (שאר) to uncover their nakedness' (Levit 18:6), and furthermore, the text continues, 'The nakedness (שאר) of his father... the nakedness (שאר) of his mother' (v.13,14). כסותה has its plain meaning (i.e. clothing). עונה is food,

as it is written, "And he starved you (ויענה) and made you hungry" (Deut 8:3)."

These three parallel texts might be compared as indicated in the following diagram: (The authority in whose name the opinion appears is given.)

<u>opinion</u>	<u>Yerusalmi</u>	<u>Bavli</u>	<u>Mechilta</u>
1. שארה כסוטה = garments in age	Eliezar b. Yaacov	Eliezar b. Yaacov	R. Yonatan
2. כסוטה ועונה = garments in season	"	"	"
3a. שארה = food עונה = sex	Anonymous Tanna (איה תנייחה)	Raba	R. Yoshiah
3b. שארה = sex עונה = food	"	Rabbi Eliezar	Rabbi
4. food and sex derived from קל וחומר	Eliezar b. Yaacov	(lacking)	R. Yoshiah
5. שארה = sex with bodily contact	(lacking)	R. Yoséf	(lacking)

If we allow the authenticity of the attribution of the Bavli and the Yerusalmi of 1. and 2. to Eliezar ben Yaacov,¹² then we are dealing with a Tanna of either the second (c. 100 C.E.) or fourth (c. 150 C.E.) generation. This is reinforced by the Yerusalmi's noting that the meaning of Exodus 21:10 was, indeed, a source of Tannaitic dispute. The Mechilta attributes this opinion in slightly different form to Rabbi Yonatan, a second generation Amora (c. 250-290 C.E.). The Yerusalmi continues with 3. and 4., which are simply attributed to unspecified

Tanaitic sources (pre 220 C.E.) and concludes with 5., the deduction of the obligations of food and sexual intercourse from a קל וחומר argument. The Bavli attributes 3. and 4. to Raba and Rabbi Eliezar, the former a fourth generation Amora (c. 335 C.E.), and the latter a second generation Tanna (c. 100 C.E.)¹³ The Bavli, then concludes with an opinion of R. Yosef, a third generation Amora (c. 310 C.E.), that rather than עונה indicates a sexual principle, שארה

The most logical means of composition of these three texts, then, is that the Yerusalmi is the earliest. Both the Bavli and the Yerusalmi contain virtually identical section 1. and 2; 3a. and 3b. are equivalent, but the Bavli attributes 3a. to a later authority and 3b. to a specific Tannaitic authority, which might be correct. The Bavli dropped 4., but added a relatively late comment of R. Yosef. Therefore, the Bavli relies upon the Yerusalmi. The Mechilta relies on the Yerusalmi as well, rather than on the Bavli. 1. and 2. are attributed to a later authority, 3a. is attributed to Rabbi Yoshiah, a fourth generation Tanna (c. 150 C.E.). This is in counterdistinction to the Yerusalmi's anonymous Tanaitic source. 3b. is attributed by the Mechilta to Rabbi, the compiler of the Mishna (220 C.E.), a later authority than the Yerusalmi or Bavli claim for this view. Rabbi's maintenance of this view is dubious, because of the fact that he edited the Mishna which assumes that Onah means intercourse. The Mechilta includes 4. and lacks 5. as does the Yerusalmi, in counterdistinction to the Bavli. Therefore, the Mechilta also derives from the Yerusalmi, and the Yerusalmi is most probably the oldest text and the basis for both parallels.

But in all three of these texts we find that Tanaitic authorities were not agreed as to the meaning of Onah. And if the Mechilta's authorities and 5. of the Bavli are authentic, even into the Amoraic period there was some disagreement as to the meaning of this term. But the Mishna makes clear from its context what is meant when it says, "The Onah mentioned in the Torah is, for Tayyalim, once a day..." Furthermore, the succeeding Mishna prescribes penalties for an individual's refusal to abide by this requirement:

If a woman rebels (i.e. does not consent to her husband's desire for intercourse) he may reduce her Ketubah by seven denars for every week. R. Yehuda says, seven tropaics. How long does he reduce it? (For a time) corresponding to the sum of her Ketubah. R. Yose says: He may go on reducing it continually, so that if an inheritance falls to her from elsewhere, he may claim it from her. So too, if a husband will not consent to his wife's desire for intercourse, her Ketubah is increased by three denars a week. R. Yehuda says, three tropaics.

(Mishna Ketubot 5:7)

Therefore, the acceptance of the association of Onah with mandatory sexual intercourse was not at all unanimous through the Tanaitic period, and might even have been a subject of doubt among some of the Amoraim. But these three texts make clear that even though Onah did not necessarily mean minimum required intercourse, a concept that intercourse was mandatory was in existence by the second century C.E. The rabbis' debate centers upon how the concept is derived, and they agree that its source is Exodus 21:10. They only disagree on whether the concept derives from the word *עונה*, or from hermeneutic principles applied to the meaning of those words. Therefore the differences of opinion are mostly academic and intellectual. The requirement of marital sexual intercourse stands regardless of the opinion

cited.

The authorities and compilers of the Talmud Bavli's exegesis of our Mishna have no doubt in their minds that Onah refers to a minimal sexual requirement incumbent upon married males to which their wives are entitled and vice versa. This exegesis as the locus classicus, and the commentaries upon it shall be the principle subject for the remainder of this study.

II. THE TALMUD BAVLI

The Babylonian Talmud uses the word "Onah" to designate a time period, usually having some connection to sexual activity. With regard to menstruation laws, Onah refers to a period of twenty-four hours during which intercourse is forbidden,¹⁴ or the thirty day menstrual cycle.¹⁵ It also indicates the maximum period of time between successive acts of sexual intercourse.

According to the Talmudic literature, it is a man's responsibility to initiate sexual activity,¹⁶ even when it is not yet the time required by the obligation of Onah.¹⁷ Nevertheless, he is not permitted to force his will upon her when she is not willing.¹⁸ Furthermore, Friday evening is especially noted as a time for sexual activity.¹⁹ It is within this context of the general attitude to sexual behavior that the sugya of our primary concern, Ketubot 61b-63a, must be seen.

Furthermore, this sugya has a definite place within the framework of the chapter of Tractate Ketubot in which it is found. This order is dictated by the Mishna, in which the logical place of the Mishna on which the sugya is based has already been noted.²⁰ Each of the components of the Mishnayot which precede and follow the Mishna of our sugya are subjected to a careful analysis. In this manner, the reciprocal rights and responsibilities of husband and wife to each other are expanded upon. The Gemara discusses whether or not a woman may be compelled by her husband to nurse her child (59b), which is

followed by a discussion of the laws of nursing children. A woman's work is then specified in a variety of situations in which she has hired help (61a). With each additional servant, the conditions of her responsibilities in the home change. Following this discussion, our sugya is introduced with a discussion of the opening clause of our Mishna:

If a man forbade himself by vow from having intercourse with his wife, Bet Shammai ruled (she has no redress in the courts for) two weeks. Bet Hillel ruled, (only for) one week.

The Gemara to our sugya now begins, (61b, lines 35-38)

(I. The respective reasoning of Bet Shammai and Bet Hillel:)

What is the Biblical support for Bet Shammai ('s opinion)? They derive their ruling from (the law relating to) a woman who bears a female child. And (what is the Biblical support for the opinion of) Bet Hillel? They derive their ruling from (the law relating to) one who bears a male child.

Why does not Bet Hillel also derive their ruling from the (the law relating to) a woman who bears a female child? If (in fact) they had derived their ruling from (the law relating to) a woman who bears a child, they should have ruled thus; but (in fact) Bet Hillel derive their ruling from (the law of) the menstruant. On what principle do (their rulings) differ? One master (Bet Hillel) is of the opinion that the usual (i.e. a quarrel provoking the vow) is to be deduced from the usual (i.e. menstruation); and the other (Bet Shammai) is of the opinion that what a husband has caused (i.e. abstention) should be derived from that which he has caused (i.e. birth of a child).

It is characteristic of the Gemara to a number of differences of opinion between two authorities to question the reasons for the respective opinions. This often follows this format: the reasoning behind the first opinion is given, (in this case, Leviticus 12:5, which prohibits intercourse for two weeks with a woman who has given birth to a female

child,) and then the reasoning of the authority of the second opinion is given, (in this case, Leviticus 12:2, which prohibits intercourse for one week with a woman who has given birth to a male child.) A question is then raised to one of those opinions, (in this case, "Why does not Bet Hillel base its opinion upon the longer period of abstinence dictated by the birth of a child?") In this manner, either one of the two opinions can be shown to be correct, or the originally stated reasoning of one of the opinions is then shown to be inaccurate and an amended reasoning is given. Here, the second procedure is followed, and the amended reasoning of Bet Hillel is that the maximum period of sexual abstinence is dictated by the law of menstruation; during menstruation, intercourse is forbidden for seven days.

The text then asks if there is an operative principle upon which both reasonings are based, so as to preclude either school from adopting the other's opinion. The answer is, "yes:" Bet Shammai rules from the birth of a child, because birth, like a vow of abstinence, is caused by the husband. "What the husband has caused is inferred from what the husband has caused." Bet Hillel reason that both menstruation and vows of abstinence are "usual events," that is, occurring at regular intervals, and one may infer a usual event from another usual event.

It would be difficult to assign a dating to this passage with any assurity. The schools of Hillel and Shammai flourished in the early or even pre-tanaitic period. However, the fact that the reasoning for these opinions is found in the Yerushalmi in a less

developed form of argumentation²¹ indicates that this form of precise dissection of the opinions of the schools was probably a Babylonian creation.

(II. Rav and Shmuel disagree over the interpretations of the Schools' rulings; 61b lines 38-43)

Rav stated: (Bet Hillel and Bet Shammai) differ only in the case of one who specified the (period of abstention); but where he did not specify the period (of abstention), it is the opinion of both that he must divorce her immediately and pay her ketubah.

Shmuel, however, said: Even where the period had not been specified, the husband delays (the divorce) since it might be possible for him to discover some reason for the remission of his vow.

But surely, they (Rav and Shmuel) once disputed this question (already), For have we not learned (in the Mishna:)

If a man forbade his wife by vow not to have any benefit from him, he may appoint a steward (to supply his wife's needs) for thirty days, but if (he forbade his wife not to receive any benefit from him) for a longer period, he must divorce her and pay her ketubah.²²

And (in connection with this) Rav stated (in the Gemara:)

This Mishna applies only where he specified (the period), but where he did not specify it, he must divorce her forthwith and give her the ketubah.

While Shmuel stated: Even where the period had not been specified, the husband may postpone (the divorce) since it might be possible for him to discover some grounds (for the annulment of the vow.)²³

Rav states that both schools' maximum period of abstention from intercourse by vow applies only when the length of that period of abstention has not been specified by the husband. He may vow abstention for one or two weeks; but if he simply vows abstinence without specifying its length, he must divorce her immediately and pay her the money that is

due her upon divorce, as stipulated in her ketubah. Shmuel, Rav's contemporary, differs with Rav's opinion. He claims that if the period of abstinence had not been specified, the divorce is delayed until after the permissible period of abstention (one or two weeks.) This is due to the principle which the Talmud discusses in Nedarim 21, which says that in certain cases, scholars may permit the release of a vow.

The principle of stewardship mentioned in this passage refers to the eighth Mishna of this same chapter (Ketubot 70a), which says that a man may forbid his wife, through a vow, from receiving from him the benefits of food and clothing; but in order to do so, he must appoint a steward who will see to it that her basic needs are not neglected. As in the forbidding her of intercourse in our Mishna, there is a thirty day maximum time for which this type of vow is permitted. In Ketubot 71a the Gemara to this Mishna presents an almost identical disagreement between Rav and Shmuel, over whether or not a man who makes such a vow for more than thirty days must divorce his wife immediately or wait until the thirty days have passed, in order to allow an opportunity to be found to nullify the vow. This passage even quotes our passage dealing with vows of sexual abstinence to repeat the feeling that the views of these two authorities in these two situations are analogous.

There is an oft-repeated principle implied in many of the discussions of the Gemara that the opinions of the Mishna and even of the later sages are never redundant. It shall remain for the next

section of our sugya to discuss the important distinction between these two pairs of rulings of Rav and Shmuel.

The manner in which a sugya of the Talmud is put together is an entire study in itself. However, it is worth continuing to note the approximate dates of the authorities cited, so as to grasp the composite nature of the Talmud's discussion, which spans several centuries. The previous section of the text was seen to have opinions from the early Tanaitic period, but placed into a rigorous framework of argumentation which was somewhat later. This passage gives opinions of the two great Babylonian authorities of the first generation of Amoraim (220-250 C.E.) These opinions further refine the principle established in the previous section of the text. However, once again, the literary device into which the opinions have been fit is, in all probability, somewhat later than the dates of the opinions themselves.

(III. The necessity of stating both sets of opinions by Rav and Shmuel; 61b lines 43-45)

(Both disputes are) required. For if (their views) had been stated only in the former case (i.e. the vows of sexual abstinence) it might have been assumed that only in that case did Rav maintain his view (that immediate divorce is required), since (the appointment of) a steward is not possible. But in the second case (concerning vows forbidding other benefits) where (the appointment) of a steward is possible, he agrees with Shmuel (that divorce is delayed.)

And if the second case only (i.e. vows forbidding other benefits) had been stated, it might have been assumed that only in that case did Shmuel maintain his view (that divorce is delayed); and that in the former case (i.e. vows of sexual abstinence) he agrees with Rav (that divorce is immediate.) (Therefore, both disputes are) required.

The importance of each of these two sets of opinions is assured

by pointing out that there is something in each of them that makes them unique, and one cannot be logically inferred from the other. Rav maintains that divorce is not delayed whether a steward can lessen the severity of the vow or not. Shmuel maintains that divorce is delayed, even where no steward can be appointed to lessen the hardships that the vow creates. A similar statement follows in the Gemara's text which gives Rav's and Shmuel's opinions in the second ruling about vows forbidding any material benefits with only the order of the two sets of views reversed.²⁴ Otherwise the language is virtually identical. As in the previous passage, it is assumed that no word attributed to previous authorities can be redundant. Therefore, the individual import of each set of rulings must be established. Also as in the previous passage, the very scrupulous investigation of the opinions of these third century authorities and the literary form into which they are placed indicates that a later hand put these views into the argumentative format in which we have them.

This ends the discussion of the first part of our Mishna. The general significance of this section of the Gemara is that vows of sexual abstinence, when permitted, may only be in force for a very short period of time. The right of the woman to her Onah is a factor implicit in the concept of marriage, no less than her right to food and clothing. This right cannot be taken from her by her husband for more than a very brief period of time. So integral was this right of the woman, that if her husband should wish to vow sexual abstinence for a longer period of for any reason, he must divorce her. He has violated an

agreement which is implicit in the notion of marriage.²⁵

Even though it has already been argued that the word "Onah" was not unanimously accepted as meaning a woman's sexual rights in the Tanaitic period, already in the early Tanaitic period, the schools of Hillel and Shammai held this right to be inviolate. At most, they allowed one or two weeks of abstinence as a result of a vow. The word "Onah" might not yet have been accepted, but its significance was. Furthermore, the authorities of the rest of this section of the sugya, Rav and Shmuel, were Babylonian Amoraim of the first generation (220-250 C.E.) By their time, the minutiae of the dynamics of such a vow and its causing of divorce were subjects for debate. That it made divorce mandatory was not even questioned. The only question raised is whether or not the husband is given the opportunity to find a legal loophole for the release of his vow before the maximum of a week or two had lapsed.

This search for a legal loophole is in itself significant. In the discussion beginning on Nedarim 20b, Shmuel, who permitted this waiting period before requiring divorce, is shown to be lenient in the matter of the invalidation of vows. He is attributed there to have upheld the Mishna's principle that certain types of vows are null and void before they are made:

Mishna: Four types of vows have the sages invalidated: vows of incentive, vows of exaggeration, vows in error, and vows (broken) under pressure....

Gemara:....R. Yehuda said in R. Assi's name: For these four vows, (formal) absolution must be sought from a Sage. When I stated this before Shmuel, he observed: The Tanna (of the Mishna) teaches, 'Four vows have the sages invalidated,' yet

you say that absolution must be sought from a Sage!

Furthermore, Shmuel says in a dictum which the Gemara's authorities reject: "Even when one fulfills his vow (of certain types) he is called wicked." That is to say, it is better to seek annulment than to fulfill certain types of vows. Therefore, Shmuel was one who tried to be lenient in the binding power of vows. Yet even he only permitted a brief waiting period when a vow of sexual abstinence was made, if that vow made divorce necessary. Thus, even though Shmuel was lenient in the matter of vows, he, like Rav, still considered a woman's right to marital intercourse so strong that withholding it violates the institution of marriage.

The Gemara now continues to discuss the second part of the Mishna, concerning the maximum length of time which students and laborers may be out of the town in which they live:

Students may go away to study the Torah without the permission (of their wives for a period of) thirty days.
Laborers, (only for) one week.

We proceed now to the Gemara to this part of the Mishna.

(IV. The opinions of Rav and Rabbi Yohanan of the maximum absence for students; 61b line 45 - 62a line 9)

(The Mishna has said that) students may go away to study (without the permission of their wives for thirty days); For how long (may they go away) with the permission of their wives? For as long as they desire.

(But) what is the customary period (for such an absence)? Rav said: One month here (at study) and one month at home, for it is said in Scripture: "In any matter of their courses which came in and went out month by month throughout all the months of the year" (I Chron 27:1). Rabbi Yohanan, however, said: One month here (at study) and two months at home. For it is said in Scripture: "A month they were in Lebanon and two months at home" (I Kings 5:28).

Why does not Rav also derive his opinion from this text (i.e. I Kings 5:28 used by R. Yohanan)? (He reasons that) the building of the Holy Temple (to which this verse refers) is different from (the study of the Torah) since it could be carried on by others. Then why does not R. Yohanan derive his opinion from the former text (used by Rav)? There (the conditions described were) different because every man received a stipend.

The Mishna has already prescribed the maximum length of time that a student may be away from home without his wife's permission in order to pursue his studies. The Gemara now raises the question, "What is the maximum absence with her permission?" As is usually the case, the Gemara pits two authorities, each with an opinion, against each other. In this case, they are Rav, who has appeared in the previous section of the Gemara's text, and Rabbi Yohanan, his younger contemporary (second generation, Amora, 250-290 C.E.) It is likely that this section of our text was edited by later authorities who put these two opinions together into its present argumentative framework.

The Gemara first states that with a woman's permission, her husband may be away at the academy for as long as he so desires. But, it continues, this should not be the usual custom. Rav says one month alternate periods at home and at school is perfectly all right. However, this would make the law in a case where a woman gave her permission the same as if she did not. Rabbi Yohanan disagrees and says that one month at school must be followed by two months at home. Each derives his ruling from a Scriptural verse which concerns men's absence from their homes. Rav relies upon a statement about King David's army which implies that the army's officers only had to serve one month, followed by a one month furlough. Rabbi Yohanan, on the other hand, relies upon Scripture's statement that the men whom Solomon sent to Lebanon to

forest the cedars required for the building of the Temple were abroad for a month, followed by two months' leave to return home. The inherent reasoning in both of these opinions is that if these duties permitted their respective absences of husbands from their wives, then certainly, similar absences for the purpose of study of the Torah would not be considered an undue hardship upon them and their wives.

The Gemara then asks the same type of question that it asked in section I. above: "Why does each authority maintain his own opinion and not accept the reasoning of the other authority?" Or in other words, "What does each authority see as making the study of the Torah a special case which precludes the reasoning of the other authority?" The answer given is that Rav maintains that the building of the Temple could be carried on by practically anyone. Therefore, the periods of absence could be more infrequent. The study of the Torah is a more difficult and specialized work, it is implied, and therefore, scholars must be free to take leave to study a greater percentage of the time. Rabbi Yohanan reason that in the time of King David there was greater prosperity among the Jews, and it was possible for the King's officers to devote half of their lives to his service. However, it is implied, no such prosperity exists now. Scholars must work in addition to studying. Therefore, King David's army cannot serve as a paradigm for scholars' absence. Only one month in three is recommended for study. The Talmud itself does not resolve which of these two opinions is authoritative.

The significance of this passage becomes apparent when it is realized that an absence of this type is equivalent to the laying

aside of scholars' duty to provide their wives' allotted Onah. The amount of time which students may be away is limited, because if it were not, the duty to engage in marital sexual intercourse would be neglected. The context of this discussion makes clear that this and no other reason is given for these maximum times away from home. Furthermore, study of the Torah is one of the most noble and laudible acts, according to the rabbis of the Talmud. Even in order to pursue the study of the Torah, one may not become overly negligent in fulfilling his requirement to sexually satisfy his wife.

(V. Two Anecdotes; 62b lines 9-28)

Rav said: A sigh breaks down half of the human body, for it is said in Scripture, "Sigh, therefore, son of man; with the breaking of your loins and with bitterness will be your sighs" (Ezek 21:11). Rabbi Yohanan, however, said: Rather, all of the human body, for it is written in Scripture, "And it will be when they say to you, 'Why do you sigh?' that you will answer, 'Because of the news that comes; and every heart shall melt, and all knees shall drip with water!'" (Ezek 21:12). Does not R. Yohanan's (verse) also say, "With the breaking of you loins"? (i.e. they are arguing from the same passage.) (The meaning of) this is that when (the breaking of the body) begins, it begins with the loins. And similarly (as regards) Rav, is it not also written, "And every heart shall melt and all hands shall be weak and every spirit shall faint"? The report of the (destruction of) the Holy Temple is a special case since (the calamity) was very severe.

An Israelite and an idolator were once walking together on the same road, and the idolator could not keep pace with the Israelite. Reminding him of the destruction of the Holy Temple, (the Israelite) grew faint and sighed. But the idolator was unable to keep pace with him. "Do you not say," the idolator asked him, "that a sigh breaks down half of the human body?" "This applies," the other responded, "to a recent calamity, but not to this one with which we are accustomed. As people say, 'A thousand bereavements, no bewilderment.'"

These two anecdotes have nothing whatever to do with the thread of the argument of our sugya which is the question of Onah. They are included

in this discussion only for the sake of completeness. It is often the Talmud's practice to introduce anecdotes at the slightest provocation from something else included in, but tangential to, the argument itself. Apparently, before the Talmud was committed to writing, these "provocations" aided in the oral transmission of the text. The previous difference of opinion between Rav and Rabbi Yohanan is the provocation for introducing the first of these anecdotes; like the previous section it involves a disagreement between these two authorities. After each uses the same passage from Ezekiel to prove the part of a person's body which is broken down by a sigh, each argues from the others' proof-texts to show that the opponent is wrong. This argument is repeated in Berakot 58b, within the context of two rabbis seeing a destroyed house and one of them sighs. Thereupon, the other warns him of excessive sighing by quoting this text.

The rather humorous introduction of this anecdote then, in turn, introduces the second anecdote, which continues this theme of the danger inherent in a sigh. It notes that only those sighs brought on by recent calamities have the power to break down a person.²⁶ This concludes the Gemara's discussion of the second part of the Mishna.

Having discussed the two major questions of abstention from sexual intercourse due to a vow, and the permissible absence of students and laborers from their homes, our sugya in the Gemara then asks about the specific minimal terms that the requirement of Onah demands. Apparently, beyond this minimum no problem exists as there is no law to govern maximum. The Mishna has set down a list of minimal frequencies of sexual intercourse:

The Onah prescribed in the Torah is, for Tayyalim, every day; for laborers, twice a week; for ass-drivers, once a week; for camel-drivers, once in thirty days; for sailors, once in six months; These are the rulings of Rabbi Eliezar.

The Gemara now offers more precise definitions for the various occupations.

(IV Discussion of the meaning of the Mishna's word "Tayyalim;" 62a lines 28-46)

(The Mishna has said that the Onah requirement for) Tayyalim is every day. What is meant by Tayyalim? Raba replied: Day students. Abaye said to him: These (day students are the ones) to whom Scripture refers (when it says:) "It is in vain that you get up early and stay up late to earn your daily bread; He (God) gives (rewards) to those who chase their sleep away." (Psalm 127:2). "Those (who chase their sleep away)," R. Isaac explained, "are the wives of scholars who chase the sleep from their eyes in this world and, thereby, achieve the world to come." And yet you say, 'Day students, (are these Tayyalim with a required Onah of once a day! Rather, the explanation of Tayyalim), said Abaye, follows (a statement of) Rav, who said, "(A Tayyal is one), like R. Shmuel ben Shilath, for instance, who eats his own, drinks his own, and sleeps in the shadow of his mansion, and kings' soldiers never pass his door (to collect taxes or levy soldiers.)"

When Ravin came (from Palestine to Babylon) he said: (A Tayyal is one) like the pampered men of the West (i.e. Palestine). R. Abbahu (one of this type) was once standing in a bath house with two slaves supporting him when (the floor) of the building opened up beneath him. He happened to be near a column, so he climbed it, carrying the slaves up with him. R. Yohanan (another of these pampered men of Palestine) was once ascending a staircase with R. Ammi and R. Assi supporting him. The staircase collapsed under him, but he himself climbed up and carried them up with him. The Rabbis said to him, "Since (your strength is) so (great), why did you need their support (in the first place?)" "If I did not," he replied, "what will I have left (of my strength) in my old age?"

This section seeks to explain to whom the Mishna refers when it mentions Tayyalim for whom sexual intercourse is a daily requirement. Several answers to this question are proposed and discussed.

The first of these suggestions is "day students," or in

other words, those students who live in a city in which an academy for the study of Torah is located. Therefore, these students live at home. To this suggestion, however, it is retorted that there is a Scriptural quotation which refers to such students, and it implies that students are exceedingly tired when they return home to their wives. "How then," it is asked, "can these students have a required Onah of every day?" This Scriptural verse, Psalm 127:2, is interpreted to be an admonition to anyone who works too hard at an occupation and neglects the study of Torah. Divine reward will be granted to those who give up sleep for scholarship.²⁷

Abaye, who has argued against this first suggestion that Tayyalim are day students, now suggest a second possible meaning for this term. He says that Tayyalim are like those men of Palestine who are self-sustaining and are not afraid of interference of any kind from the ruling powers. Thus, to paraphrase the text, they eat and drink their own food and live in their own house, and a king's soldiers²⁸ never disturb him. Presumably, a man so wealthy and undisturbed would have the physical and emotional strength to maintain an Onah of once a day.

Ravin, then, proposes a third meaning for the word "Tayyalim." He says that it refers to those Palestinians who are so physically strong that daily intercourse would be no strain at all for them. He gives us two short anecdotes about great rabbis who were also men of exceptional strength, which if not true were, perhaps, well invented. The second of the two has an ending that is, no doubt, intended to be humorous. As is usually the case, the Talmud gives us no conclusions as to what it accepts as the true meaning of Tayyalim. It has merely

given us a catalog of the most important opinions on the matter.

The first of these opinions is ascribed to Raba, a fourth generation Babylonian Amora (320-350 C.E.), and it is refuted by the opinion of Abaye who was his contemporary. This refutation relies upon an interpretation of a Scriptural verse which is ascribed to R. Isaac, a fourth generation Tanna (135-170 C.E.) It proceeds to give the example of Shmuel ben Shilath, a second generation Amora (250-290 C.E.). He was self-supporting, due to his renown as a teacher of young children. The following opinion, that of Ravin, can be ascribed to about half a generation later, and the migration attributed to its author is typical of a fair number of scholars at this time. The first of the rabbis to whom Ravin ascribes great physical prowess, Abbahu, was Ravin's older contemporary. The second, R. Yohanan, was a second generation Amora, thus preceding Ravin by a generation and a half. Presumably then, the younger men mentioned in these stories as being saved by their aged rabbis could have "related" these tales to Ravin. What is significant about the dates of these authorities, however, is that this section of our sugya comes from a period of a generation or two later than the previous material ascribed to Rav and Shmuel. Furthermore, the ascription of leisure by the Babylonians to the Palestinians indicates a certain amount of sarcasm. Day students are called Tayyalim in a not totally complimentary fashion. The strength of the Palestinian teachers may also reflect a certain amount of ambivalence toward the wealth of the Palestinian.

Prior to the fourth century C.E., the meaning of these

Tayyalim, of whom daily intercourse was required, was not understood. A literal rendering of the word might be "leisure class," or "man of means." But by this time, the rabbis no longer so construed the word.

The three opinions given are day students, self-employed and independent men, and those of remarkable strength.

(VII. The Onah of Laborers; 62a lines 46-52)

(The Mishna has said that the Onah requirement for) Laborers is twice a week. But is there not another Tanaitic statement which says (the Onah of) laborers is once a week? Rabbi Yosi ben Rabbi Hanina replied: This represents no difficulty; the former (refers to laborers) who do their work in their own town, while the latter (refers to those) who work in another town. So it was also taught in a Tanaitic statement: Laborers (have an Onah requirement of) twice a week; but this applies only (to those) who do their work in their own town; but for those who do their work in another town (the Onah is only) once a week.

This passage seeks to make clear an apparent contradiction between the Mishna and another Tanaitic text. The conflict is solved by citing a third text contemporaneous with the other two that explains the difficulty. The first text is our Mishna which says that the Onah of laborers is twice a week. The second text is reported to be Tanaitic as well, since it is introduced by the word *אמר ר' יוסי*. It claims that the Onah of laborers demands intercourse only once a week. However, this text appears not to have been preserved, except in this one use of it; it is neither in the Mishna nor Tosefta, nor is it quoted elsewhere in the Talmud. But the contradiction between these two texts was not such a difficult one to solve because the Tosefta passage quoted previously,²⁹ which parallels our Mishna, speaks to exactly this same problem. It differentiates between laborers who work at home and those who work abroad. Therefore, R. Yosi ben Hanina (second generation Amora, 250-290 C.E.) quotes this

Tosefta text (with minor textual variant from the text as we have it), and thereby, he can impose a differentiation upon the first two texts. The first refers to those who work at home; they must have intercourse at least twice a week. The second refers to those laborers who work in another town and do not return home every night; they must have intercourse at least once a week.

It might be significant to note that the fact that such a question is raised most probably indicates that there was interexistence at the time when this passage was composed a commercial structure that created such absences. It must not have been uncommon for an individual laborer to accept work in another town. Therefore, the question is posed in terms of, "How long may he continue to be absent and have his marriage still be considered a marriage?" The requirement of Onah is one of the Sine qua non's of marriage. When labor or any other reason interferes with a man's ability to fulfill this requirement, he neglects an essential part of marriage.

(VII. The Onah of caravaneers; 62a line 52 - 62b line 5)

(The Mishna has stated that the Onah for Ass-drivers is once a week. Rabbah bar R. Hanan said to Abaye: "Did the Tanna (who wrote the Mishna's law about vows of abstinence) go to all that trouble to teach us (a law which only applies to) Tayyalim and laborers (for only they have an Onah more frequently than once a week, the least period for which one might vow abstinence)?" He replied, "No, (the short maximum periods of abstention by vow) apply to all." But was it not stated, "Sailors, once in six months"? (I.e. why can sailors only vow abstinence for a week when their Onah is only once in six months?) They are not similar; one who has bread in his basket is not like one who has no bread in his basket.

In this section of the Gemara, the authorities cited, who are fourth

generation Amoraim (320-350 C.E.),³⁰ ask, "Cannot one whose Onah is less than once a week make a vow of abstinence for longer than the short periods allotted at the beginning of our sugya?" That is to say, a sailor could vow abstinence for one month, and he would stay within his prescribed Onah of once in six months. The answer is, "No." A sailor's wife may not be deprived of her constant hope that her husband may return at any time. If he were permitted to make such a vow, even such hope would be in vain. Therefore, sailors and others with infrequent Onahs are bound by the principles set up in the first sections of this sugya concerning the permissible length of vows of sexual abstinence.

(VIII. The law of changing occupations; 62b lines 3-5)

Said Rabbah bar R. Hanan to Abaye: "What is (the law when) an ass-driver becomes a camel-driver (and his Onah is thereby reduced?)" The other replied, "A woman prefers one Kav with frivolity to ten Kavs with abstinence!"

The question raised in this section regards a man who changes his occupation, thereby changing the frequency with which he must perform intercourse. The third generation Amora cited here says that this is not permitted, presumably because a woman would prefer a more normal married life than the added income which might result from, say, an ass-driver becoming a camel-driver. Apparently, the camel-caravans traveled to more distant lands and were more commercially profitable than the ass-caravans with a more limited circle of operations. The Rabbis place such a high value upon the performance of regular sexual activity that increased commercial opportunities could not take preference over them.

This section of the Talmud, like the preceding one, is concluded by a proverb which sums up an attitude. Each of these proverbs are repeated elsewhere in the Talmud, and so presumably were the type of bon mot which required no explanation to the original ears which heard them. The first of these proverbs, "One who has bread in his basket is not like one who has no bread in his basket," is used to make the point that one who is deprived in some way cannot be equated with one who is not. Thus, the sailor (who's wife has no bread in her basket) cannot be likened to the laborer's wife who is more sexually fulfilled. The sailor's wife hopes that her husband will return at any moment, and this hope must not be taken away from her, just because a laborer's wife may not be allowed intercourse when her husband returns from a short absense due to a vow that he had made. This proverb also appears elsewhere in the Talmud,³¹ where it refers to deprivations of either sex or food.

The second of these two proverbs appears in the Mishna of Sotah 20a, where it is attributed to R. Yehoshua. In the Gemara's discussion of this passage of the Mishna, it states that it means that a woman prefers less material comforts if their price is less sexuality to be shared with her husband absent. The importance of the application of this proverb to our text cannot be overestimated: the Rabbis depict the woman as being the member of the marriage who is sexually more demanding and aggressive. She is willing to pay a high material price to keep her husband present more often and remain sexually satisfied. However, the following passage places a limit upon the degree to which

a woman's sexual need may limit her husband's activity.

(IX. The Onah of students of the Torah; 62b lines 5-18)

(The Mishna has said that) the Onah of sailors is once in six months, according to the opinion of Rabbi Eliezar. R. Beruna stated in the name of Rav that the law (about the length of time students may be abroad to study) follows (the opinion stated earlier in the name of) Rabbi Eleizar. R. Adda ben Ahavah, however, stated in the name of Rav that this is the view of R. Eliezar only, but the Sages concluded that students may go away to study Torah without the permission (of their wives even) for two or three years.

Raba stated: "The Rabbis relied on (on the words of) R. Adda ben Ahavah (that students may be away studying for two or three years) and do so at the risk of their lives (i.e. at the risk of Divine retribution incurred for ignoring Onah)." Thus, R. Rehum who was visiting (the school of) Raba at Mahuza³² used to return home on the eve of every Day of Atonement. On one occasion he was so engrossed in his subject (that he forgot to return home.) His wife was expecting him (at any moment, saying,) "He is coming in a moment, he is coming in a moment!" As he did not arrive, she became so depressed that tears began to flow from her eyes. He was (at that moment) sitting on a roof. The roof collapsed under him, and he was killed.

As we have seen earlier, ³³ the third century Amoraim, Rav and R. Yohanan, limited to one month out of two or three, the time a student should normally be absent from his wife to pursue his studies. Nevertheless, a student could be absent thirty days without his wife's permission, and longer with her permission. However, one month out of two or three was the maximum recommended time abroad. Now we find the Gemara arguing that the time limits of maximum absence are according to the opinion of R. Eliezar, a Tanna of the second generation (80-110 C.E.) This implies that they may not have been accepted by all of the rabbis. According to our text, Rav (220-250 C.E.) either supported or differed with R. Eliezar's opinion. Both Beruna and Adda ben Ahavah were Rav's students, and the former claimed that Rav agreed with R. Eleizar, and

the latter claimed he allowed far greater absences. It is possible that Beruna's attribution to Rav refers only to the last clause of the Mishna. That is to say, the last third of the Mishna is what is antecedent to "These are the words of Rabbi Eleizar," and it is this to which Beruna refers, when he says in the name of Rav that Eleizar's words are law. This would still allow for R. Adda ben Ahava's statement to also be correct. Another possibility is that Rav did hold both opinions at various times in his career. As he taught in Babylon he may have originally supported R. Eleizar's view until he realized that trips of such short duration between Babylon and Palestine were not practical. Therefore, he changed his mind. Or possibly, the opinion attributed to the Sages (that is, the majority opinion) in counter-distinction to Rabbi Eleizar's opinion, might have come to his attention later.

But in any case, it is clear that the thirty day limit on students' absence from their wives was at least partially ignored by the late third century. By the time of Raba in the fourth century, it was not a binding prohibition. But lest one should think that this laxity could give students free reign to forget about their wives altogether, we are given a story about the tragic circumstances that occurred to one student who did so. Therefore, there seems to be a certain ambivalence about the length of time that students may be away from home to study Torah and can thus neglect one of the Torah's precepts, that of Onah. In the following sections, this ambivalence continues to be present.

(X: The Onah of students, continued; 62b lines 18-22)

When are students of Torah supposed to perform their marital duties? Rav Yehudah replied in the name of Shmuel: Every Friday night. (Scripture's words,) "That bring forth fruit in its season" (Psalm 1:3), according to Rav Yehudah - though some attribute these words to R. Huna and others attribute them to R. Nachman - refer (to those) who perform their marital duties every Friday night.

This section raises the question, "When is the proper time for scholars to perform the requirements of their Onah?" The answer given is "On the eve of every Sabbath." Midrashic support is then given to support this opinion. Rav Yehudah was one of the first and second generation of Amoraim (235-270 C.E.), and he attributes this opinion to Shmuel (220-250 C.E.) which makes it contemporaneous with the previous section of this sugya. The inference of the quote from Scripture is that the proper time for conception is on Friday evening. Therefore, one who fulfills his Onah on Erev Shabbat "brings forth fruit in its season." The context of the verse compares a man who is diligent in the study of the Torah to a tree "that brings forth fruit in its season." It is this context that makes "every Erev Shabbat" refer to scholars, instead of everyone. Fruit is thus taken literally to mean children.

This use of this verse of Psalms is repeated in Baba Kamma 82b, again with reference to fulfilling Onah every Friday night. It states that garlic should be eaten on Friday evening because it increases semen. These two passages taken together give us the only inference in our sugya that states that the purpose of Onah is to have children. The Biblical commandment to "Be fruitful and multiply" (Gen 1:28) is taken by the Talmud to be a positive duty to all men to sire children.³⁶ However, in the Talmud, Onah is a separate, independent principle, whose

only connection to the commandment to bear children is that the recommended time for intercourse for scholars is at time conducive to conception.

Our sugya of the Gemara now concludes with a long series of anecdotes held together by the general theme of the Onah of scholars.

(XI. Anecdotes about the Onah of Scholars; 62b line 22 - 63a line 23)

1. (62b lines 22-27)

R. Yehudah the son of R. Hiyya and son-in-law of R. Yannai used to remain in the school house, but every Sabbath eve³⁷ at twilight he came home. Whenever he arrived, the people saw a pillar of light moving before him. Once he was so engrossed by his subject of study (he forgot to return home.) Not seeing that sign, R. Yannai said to those (with him,) "Bend his bed (i.e. as a sign of mourning for the dead) for if R. Yehudah were alive he would not have neglected his Onah." This (remark) was "like an error that proceeds from the ruler" (Qohel 10:5), because (as a result) he (R. Yehudah) died.

2. (62b lines 27-29)

Rabbi was making the arrangements for the marriage of his son into the family of R. Hiyya, but when the ketubah was about to be written, the bride died. "Is there, God forbid," said Rabbi, "any taint (to the union which caused her untimely death)?" An enquiry was made into (the geneology of the two) families (and it was found that) Rabbi was descended from Shephatiah (King David's son) the son of Abital (David's wife; II Sam 3:4), while R. Hiyya was Descended from Shimel, a brother of David (and therefore not a descendent of David's royal line, and thus, he was unfit to marry one who was.)

3. (62b lines 29-36)

Later, he (Rabbi) was engaged in the preparations for the marriage of his son into the family of R. Yosi ben Zimra. They prescribed that he (Rabbi's son) should spend twelve years at the academy (before the marriage.) When the girl was brought before him he said to them, "Let it be (only) six years." When they made her pass before him (a second time), he said, "I would rather marry (her first) and then proceed (to the academy)." He felt ashamed before his father, but he (his father) said to him, "My son; you have the mind of your Creator; for in Scripture it is written first, "You bring them in and plant them" (Exod 15:17, referring to Israel), and later it is written, "And let them make me a sanctuary, so that I may live among them (Exod 25:8; i.e. while they are

still in the wilderness; This implies that God, like Rabbi's son, could not wait until his bride, Israel, was 'planted' in the land, so he ordered a sanctuary built in the desert.) (After the marriage) he departed and spent twelve years at the academy. By the time he returned, his wife had lost the power of procreation. "What shall we do?" said Rabbi. "Should we order him to divorce her, it will be said, 'This poor soul waited in vain!' Were he to marry another woman, it would be said, 'The latter is his wife and the other is his mistress.'" He prayed for mercy and, she recovered.

4. (62b lines 36-42)

R. Haninia ben Hakinai was about to go away to the academy towards the end of R. Shimon ben Yohai's wedding. "Wait for me," the latter said to him, "until I am able to join you." However, he did not wait for him, but went away alone and spent twelve years at the academy. By the time he returned, the streets of the town were altered, and he was unable to find the way to his home. Going down to the river bank and sitting down there, he heard a girl being addressed: "Daughter of Hakinai, daughter of Hakinai, fill up your pitcher and let us go!" "I infer from this," he thought, "that the girl is ours." So he followed her. (When they reached the house) his wife was sitting and sifting flour. He attracted her attention and seeing him, she was so overcome with joy that she fainted. "O Lord of the Universe," (he prayed,) "this poor soul, is this her reward?" And he prayed for mercy, and she revived.

5. (62b lines 42-49)

R. Hama ben Bisa went away (from home) and spent twelve years at the academy. When he returned he said, "I will not act as did ben Hakina." Therefore, he entered the (local) house of study and sent word to his house (that he had returned.) Meanwhile, his son (whom he had not seen for twelve years), R. Oshaia entered, sat down before him and addressed to him a question on (one of) the subjects of study. (R. Hama), seeing how well versed he was in his studies became very depressed. "Had I been here," he said, "I could also have had such a son." (When) he entered his house his son came in, whereupon (Hama) rose before him, believing he wished to ask him some (more) legal questions. "What father," laughed his wife, "stands up before a son!" Rami ben Hama applied to him (Scripture's words:) "And a threefold cord is not quickly broken" (Qohel 4:12) as reference to R. Oshaia, son of R. Hama, son of Bisa (all three of whom were scholars).

6. (62b line 49 - 63a line 16)

R. Akiba was a shepherd of Ben Kalba Savua. When his (i.e. Kalba Savua's) daughter saw how modest and exceptional he (Akiba) was, she said, "Were I to be betrothed to you,

would you go away to an academy?" "Yes," he replied. She was then secretly betrothed to him and sent him away. When her father heard (what she had done), he drove her from his house and forbade her by a vow from having any benefit from his estate. (Akiba) departed, and spent twelve years at the academy. When he returned home, he brought with him twelve thousand disciples. (While in his home town) he heard an old man saying to her, "How long will you live the life of a living widowhood?" "If he would listen to me," she replied, "he would spend another twelve years (at the academy.)" Said he, (i.e. Akiba), "It is then with her consent that I am acting," and he departed again and spent another twelve years at the academy. When he finally returned, he brought with him twenty-four thousand disciples. His wife heard (of his arrival) and went out to meet him, when her neighbors said to her, "Borrow some respectable clothes and put them on;" but she replied, "A righteous man knows the truth about a living thing" (Prov 12:10). On approaching him, she fell upon her face and kissed his feet. His attendants were about to thrust her aside, when (Akiba) cried to them, "Leave her alone! all that is mine and yours is hers!" Her father, on hearing that a great man had come to the town said, "I shall go to him; perhaps he will invalidate my vow (forbidding his daughter the benefits of his estate.)" When he came to him, (Akiba) asked, "Would you have made your vow if you had known that he was a great man?" "(Had he known,) he replied, "even one chapter of even one single halacha (I would not have so vowed.)" He said to him, "I am the man." The other fell upon his face and kissed his feet and gave him half his wealth as well.

7. (63a Lines 16-18)

The daughter of R. Akiba acted in a similar way towards Ben Azzai. This is indeed an illustration of the proverb: Ewe follows ewe; a daughter's acts are like those of her mother.

8. (63a lines 18-23)

R. Yosef the son of Raba (was) sent by his father to the academy of R. Yosef, and they arranged for him (to stay there) for six years. Having been there three years and with the eve of the Day of Atonement approaching, he said, "I will go and see my family." When his father heard (of his premature arrival) he took a weapon and went out to meet him. "You have remembered your harlot!" he said to him. Another version (of the story): He said to him, "You have remembered your dove!" They got involved in a quarrel, and neither one nor the other ate the last meal before the fast.³⁸

Taken together, along with the story of R. Rehumi above,³⁹ these anecdotes

are typical of a certain genre of Talmudic material: the group of short stories which are related to one another with a basic thematic similarity and which are used to underscore an halachic point under consideration. The thematic similarity of these stories is that each one revolves around the prolonged absence of a scholar from his wife.

Thus, they underscore the halachic point that although the Onah of scholars is once a week on Friday evening, a number of great scholars were absent from their wives for much longer periods of time.

The first of these anecdotes tells of a first generation Amora (220-250 C.E.) who broke his habit of fulfilling his Onah on Friday night. That he should do so was so surprising that his father-in-law concluded that he was dead. His father-in-law's conclusion had enough magical power in it that it was actually able to serve as the death sentence for the forgetful young man.

The second anecdote is related to the first in three ways. Both concern the family of R. Hiyya (200-240 C.E.); both relate untimely deaths of young people, and in both cases the death is related by the words, "וַיָּמָוּ חָיִים." Any one of these three associations is usually enough to relate one anecdote in the Talmud to a second, but here, all three are present. However, the untimely death in this second story results from Divine intervention, rather than from the power of a rabbi's word. The marriage was fated not to take place because only one of the couple belonged to the House of David. Therefore, it was not suitable. Furthermore, although the first anecdote does relate to the central topic of this sugya, that is Onah, this second anecdote

does not.

This second anecdote also serves to introduce all of the remaining six anecdotes, for they all deal with famous rabbis and their sons who spend, or are supposed to spend, twelve years at one of the academies for the study of Torah. The first of these, anecdote 3, deals with Rabbi's preparations for his son's marriage and his son's term at the academy. However, this is introduced by anecdote 2, which deals with another set of wedding arrangements that Rabbi had to make. Therefore, it serves as a useful transition between the first story and the rest of them.

All of the remaining anecdotes, dealing with long absences of scholars from their wives in order to pursue Torah, are inserted in order to soften the decrees made earlier in the sugya about the proper lengths of such absences. It was argued⁴⁰ that without one's wife's permission, a scholar may be absent for a maximum of thirty days. With her permission, he may be absent for as long as he desires, but the usual periods should only be one month out of two or three. Nevertheless, by the time of the Amoraic period, scholars and their academies lay at such great distances that far longer periods of absence and abstinence had to become more common. Therefore, a twelve year leave by a scholar might even become common.

The third anecdote relates that Rabbi's son was less than enthusiastic about such a long absence from his betrothed. Rabbi likens his son to the Deity who changed his mind about when He would make Israel his bride. God had originally planned the "wedding" to take

place when Israel became settled in Palestine. But upon reflection, God had Israel build a sanctuary to him in the wilderness, thus moving up the wedding date by a number of years. In a similar way, Rabbi's son did not wish to wait so long for his own wedding to take place. After having spent twelve years at the academy, the young man's wife, for whom he had waited so long was found to have become barren as a result of this twelve year absence. As in the first anecdote, the words of the rabbis are shown to have a great deal of power, for Rabbi's prayers had the power to cure his daughter-in-law of her barrenness.

The fourth anecdote, like the preceeding one, begins with a reference to a marriage, following which a scholar is absent from his wife for twelve years. The rabbis mentioned in this story, however, predate those of the previous three stories by about one hundred years, being Tanaim of the fourth generation (c. 135-170 C.E.) R. Hanania ben Hakinai was absent from home for so long that when he returned to his village he could not find his house. Furthermore, when he saw his wife, the shock of his return was so great that, once again, the power of a rabbi's prayers was necessary for her revival.

The dangerous shock of the return of Hanania ben Hakinai served as a warning to Hama ben Bisa, one of the last of the Tanaim (c. 220 C.E.) fifty years later. In order to prevent a repetition of such an event, he first entered a local school after his twelve year absence. There, by chance, he argued the law with his own son whom he did not know. He became depressed, thinking that he would like to have had such a son, but he was soon revived when the young man's

identity is made known to him by his wife. This fifth anecdote has picked up the theme of the fourth and developed it a bit further. Thus, each anecdote tends to have some thematic connection with its successor and/or predecessor. In the final sentence of this story we are reminded that not only were Hama ben Bisa and his son scholars, but Hama's father Bisa had also been learned in the Torah. Thus, the proverb, "A threefold cord is not easily broken" is applied to their family.

The next anecdote, #6, again picks up the theme of the scholar's long absence, but it also draws on its immediate predecessor for the motif of the dramatic return. Furthermore, it picks up the chronologic sequence from its predecessor, being contemporaneous with it. Akiba returns to find that his absence is with his wife's permission, so he absents himself from her for an additional twelve years. Upon his return, his father-in-law seeks him out to be absolved from the vow which he had made, forbidding his daughter (Akiba's wife) any benefit from his wealth. He does not know that Akiba himself was the cause of the vow. Akiba absolves the vow, which scholars have the power to do,⁴¹ and his father-in-law makes him a rich man. Furthermore, additional dramatic elements are included in Akiba's wife's refusal to borrow clothes to look presentable to her husband after a twenty-four year absence, as well as Akiba's admonishing his disciples that all of their Torah could not have been learned had it not been for his dissheveled looking wife.

There is another telling of this particular story, found in Nedarim 50a. The characters and themes of the story are intact, but

certain differences can also be seen:

The daughter of Kalba Savua betrothed herself to R. Akiba. When her father heard of it, he vowed that she was not to benefit from his property. Then she went and married him in winter. They slept on straw, and he had to pick out the straw from her hair. He said to her, "If I could afford it, I would present you with a Golden Jerusalem" (i.e. an ornament for her hair.) (Later) Elijah came to them in the guise of a mortal and cried out at the door, "Give me some straw, for my wife is in confinement, and I have nothing for her to lie upon." "See!" R. Akiba said to his wife, "there is a man who does not even have straw. (Subsequently,) she counselled him, "Go, and become a scholar." So he left her, and spent twelve years (at the academy) under R. Eliezar and R. Yehoshua. At the end of this period, he was returning home, when from the back of the house he heard a wicked man mocking his wife: "Your father did will to you. First, he (Akiba) is your inferior, and second, he has abandoned you to living widowhood all these years!" She replied, "If he were to hear my desires, he would be absent for another twelve years." He (Akiba) thought, "Seeing that she has thus given me permission, I will go back." So he went back and was absent for another twelve years. (At the end of which), he returned with twenty-four thousand pairs of disciples. Everyone flocked to welcome him, including (his wife) too. But that wicked man said to her, "And where are you going?" (i.e. she was not dressed for the occasion) She replied, "A righteous man knows the truth of a living thing" (Prov 12:10). So she went to see him, but the disciples wished to push her away. "Make way for her!" he (Akiba) told them, "For my (Torah) and yours are hers." When Kalba Savua heard of this, he came before him (Akiba), and asked for the remission of his vow, and he annuled it for him.

The major differences are the appearance of Elijah and the character of the wicked neighbor. But both stories include the dramatic confrontation of Kalba Savua to seek annulment of his vow from its principle cause, as well as Akiba's return after twelve years, only to overhear his wife give him permission for him to leave for twelve more years; both have her taunted by neighbors for her appearance, and Akiba's admonition to his students that their Torah could not have been possible without the long-suffering of his wife.

The next anecdote in our sugya simply reports that Akiba's daughter acted in a similar manner to Ben Azzai. The meaning of this statement is obscure. Ben Azzai was a bachelor all of his life, so he could not have been married to her over a long absence. Nevertheless, the statement has a logical inclusion here, as it alludes to a similar set of circumstances which occurred to Akiba's daughter.

The final anecdote which concludes this sugya relates the story of R. Yosef the son of Raba, a fifth generation Amora (350-375 C.E.), who was unable to wait out his mandatory twelve year absence. His father was incensed at his return and berated his son for leaving the academy to be with his wife. Apparently, the argument was not quickly resolved, for both father and son missed their dinner which precedes the fast of the Day of Atonement.

This concludes the analysis of the sugya which makes up the locus classicus for the problem of Onah in Rabbinic literature. All that follows it are commentaries, compendia, supercommentaries, codifications, and discussion of all manner of special cases that might arise. But before viewing some of these texts, a summary of the sugya itself and the material that follows it in Tractate Ketubot is in order.

The sources contained in the sugya range in date from the early Tanaitic period through the late Amoraic period. However, a number of early sources are fitted into their present form by later editors. The style of composition of this sugya is not at all atypical of a large number of sugyot. The Mishna's statements are broken down

and further explained, with various tangents and anecdotes inserted. The three central problems of the Mishna: vows of sexual abstinence, absence of students and workers from their wives, and the maximum length of time between acts of intercourse which will fulfill the requirements of Onah are discussed. The Gemara actually adds very little to the Mishna, concentrating instead on carefully explaining what the Mishna means. The major ideas added, such as the explication of the absence of scholars and laborers, were already present in the Talmud Yerusalmi. However, in the Bavli, these ideas become finely honed into a tightly argued literary creation. It speaks its mind in no uncertain terms, making up in explicitness and careful argumentation what it lacks in innovation. In this sense, this sugya is typical of a number of others. And it is this literary creation which became the starting point for scholars of later ages upon which to draw.

The next sections of Tractate Ketubot discuss the laws that apply for the penalties which result when a man or woman rebels against their spouse's sexual desires.⁴⁴ Following that, the minimum requirements are stated for the food and clothing that a man must provide for his wife, if he provides for her through a steward.⁴⁵ Therefore, this sugya's investigation of Onah is one component in the Talmud's conception of the mutual rights and obligations that both husband and wife have toward each other.

III. RASHI AND THE TOSAFOT

Following the edition of the Talmud Bavli, several different genres of literature became predominant within the developing normative Jewish legal corpus. Although they developed more or less simultaneously, each sought to explicate, summarize, or apply the norms which the Talmud had begun to formalize. The approach to be followed, therefore, will be to examine the writings of preeminent authorities of the centuries that followed the Bavli's completion. However, this shall be done by examining texts of a common genre chronologically, rather than by examining the straight linear historic sequence of their composition. These genres might be delineated as follows: 1) those writings which sought to explain the Talmud's words and language, and/or which sought to solve problems implicit in them, 2) those writings which sought to develop new insights into the meaning and application of the Talmud's text, 3) those writing which sought to summarize the Talmud's contents, either in the form of compendia or codification, and their commentaries, and 4) those writings which addressed themselves to specific situations which were not explicitly covered in the Talmud. To be sure, these genres often overlap within a single treatise. However, this division shall be useful for the organization of the remainder of this paper.

Of the first two of these genres, two works stand out as particularly preeminent: the commentary of Rashi and the Tosafot. Each of them seeks to explain the text and solve its problems, but Rashi does more of the former and the Tosafot do more of the latter. In addition, the

Tosafot seek to find new insights, not present, except for the most oblique references, within the text. Although the beginnings of the tradition of writing compendia and codes predates Rashi and the Tosafists, the problems which they raise and the explanations which they give provide a great deal of data necessary for a fuller understanding of the sugya itself. Thus, they are presented first.

Rashi (Rabbi Solomon ben Isaac) was born at Troyes, France. In addition to his illustrious Biblical commentary, his magnum opus was his commentary upon the Talmud, which is complete and extant, except for a few tractates. It is included on the printed page of every major edition of the Talmud, thereby superceding and consigning to oblivion all preceeding commentaries of this type, and stamping his interpretations upon the text for all time.

In his laconic comments he is often colorful and full of explicit examples of the problem at hand. He provides logical basis for halachot and statements by Talmudic authorities. He defines words, usually quite accurately. He often fills in the missing words in the Talmud's terse style, particularly by repeating earlier phrases which a later sentence has dropped. He also points out obstructions in the language and methodology of the text. Relying primarily upon the principle that the correct explanation of the Mishna is to be found in the Gemara, he rarely deviates from the conclusions to which the text itself points. Furthermore, although his commentary was intended to explicate the text, his words often were accepted by later authorities, not only as correct, but as having a halachic authority in their own

right, and thereby, he spawned a whole school of subsequent authorities,
particularly the Tosafists.⁴⁶

(A Translation of Rashi's Commentary, Ketubot 61b)

ONE WHO FORBAD HIMSELF BY VOW FROM HAVING INTERCOURSE WITH HIS WIFE:
For example, one who said, "May the enjoyment of your intercourse be forbidden me," but (if he said), "The enjoyment of my intercourse on you," it is not forbidden (i.e. the vow is of no account), for it is written, "Her conjugal rights, he shall not diminish" (Exod 21:10), and thus we have anticipated in Nidarim, Chapter "These are the vows" (81b).

Nidarim 81b shows that only an explicit use of language can make a vow of sexual abstinence valid:

The Master said..."or cohabit;" He should annul it (the vow) because it is a matter affecting their mutual relationship. How so? If she vows, "The pleasure of cohabitation with me (be forbidden) to you," why annul (the vow), seeing that she is bound (by law) to afford it to him? (i.e. the vow need not be annulled for it was invalid from the beginning.) But it means that if she vowed, "The pleasure of cohabitation with you be forbidden me," and it is in accord with R. Kahana's dictum that (if she vows,) "The pleasure of cohabitation with me (is forbidden) to you," she is compelled to grant it; but if she vows, "The pleasure of cohabitation with you (is forbidden) to me," he may annul it, because no person may be fed with what is forbidden to him.

That is to say, applying this passage to the case in our Mishna, the husband can say, "I will not allow myself the enjoyment of intercourse," but he may not say, "I will withhold the enjoyment of intercourse from you," since the Torah quotation, as interpreted by Nidarim 81b, makes the former permissible and the latter forbidden. Rashi notes that our Gemara has anticipated this objection of Exodus 21:10, and is carefully worded to agree with the acceptable formula that Nidarim 81b has worked out.

BET SHAMMAI SAYS, TWO WEEKS: If he so vows, she must wait two weeks, and if it is longer, she is divorced, and he must pay her ketubah.

Rashi anticipates what is explained in the Gemara in this

comment upon the Mishna.

TAYYALIM: This is explained in the Gemara.

ASS-DRIVERS: Those who go out to the towns to bring produce to sell in the market.

CAMEL-DRIVERS: Merchants of goods, which they bring upon camels from distant places.

Rashi is aware of the fact that camel-caravans have a larger circle of operations than do ass-caravans.

SEAMEN: They travel the Great Sea to the far ends of the earth.

The "Great Sea" is the Mediterranean.

FROM THE BIRTH OF A FEMALE: After which there is an abstention of two weeks from intercourse.

LET THEM INFER IT FROM THE BIRTH OF A FEMALE: Since we find menstruation's occurrence interrupts (intercourse) this long, we should not force divorce (for an interruption this long caused by a vow.)

Rashi points out that Bet Shammai allows for two weeks of sexual abstinence by a vow, based on the principle that birth restricts intercourse for up to two weeks. Bet Hillel allows for one week, based upon the time of a woman's impurity after the birth of a male child. Bet Shammai allows for two weeks (as per the period of a woman's impurity after the birth of a female child) because the maximum period of abstinence through a vow can exceed the period of abstinence resulting from menstruation. If abstinence from menstruation is over a week, the Gemara asks Bet Hillel, "Why not infer 'two weeks' from the birth of a female child in the case of a vow?"

THUS WE READ: from birth this is concluded.

This is a questionable text. The words to which it refers are not to be found in the manuscript upon which our printed text is based. Rashi is pointing to variant readings of the Gemara. Apparently, it has fallen out of our text.

THE USUAL: One who became angry at his wife and vowed abstention.

FROM THE USUAL: Menstruation, unlike childbirth, which does not occur so regularly.

FROM WHAT HE HAS CAUSED: The man vows, causing abstention, and similarly, childbirth results from his action, unlike menstruation which (occurs) by itself. And we need to infer from the more similar case [even if it (a vow) is not as frequent as menstruation.]

The first two of these comments are simple explanations of the Gemara which have become the text's standard interpretations. The third, however, answers a more difficult problem: "How can a vow be 'usual' like menstruation?" The answer is that even though a vow is not as frequent as menstruation, it is more of a usual event than childbirth.

EVEN IF HE DOES NOT SPECIFY (THE PERIOD OF ABSTINENCE, THE HUSBAND) MAY DELAY: according to Bet Shammai, two weeks, and according to Bet Hillel, one week.

LEST PERHAPS: During the time (of abstinence) he will earn a way to find an opportunity of regret (over the vow), such that he will say, "If I had known, I would not have vowed," and a scholar can cancel his vow.

FROM HAVING BENEFIT OF HIM FOR THIRTY DAYS: He says, "You are Konam from enjoyment of me for thirty days," and does not vow to abstain from intercourse. (The vow) has no power (to prohibit intercourse), but it (i.e. abstention) is a result of it (i.e. the vow). And considering food, also, we explain this further on (71a): "When he (the husband) says to her, 'Deduct (the proceeds of) your handiwork from your maintenance.' If so, (that her handiwork is not taken away from her) why does she need a steward? (She needs one if) the handiwork is not sufficient." But there

are those who interpret this case to be like camel-drivers or seamen that he cannot be forced (to divorce her) for the sake of intercourse (which is neglected.) But this interpretation is not correct. The above statement in the Mishna teaches "to feed her." In the matter of vows (of sexual abstinence, the rule is) one week.

Rashi here anticipates a faulty argument that might result from a consideration of something that follows in Tractate Ketubot. There it is stated that if a man vows that his wife may receive no food and clothing from him, he must couch the vow in carefully chosen words for it to take effect. He must say, "Deduct the proceeds of ~~your~~ your handiwork from your maintenance," and he can appoint a steward to see to it that she does not starve if he says, "Whoever will maintain my wife will not suffer any loss." A camel-driver or seaman who will be gone for a long period of time need not employ this formula to engage a steward for his wife. Therefore, one might imply that vows of sexual abstinence are the same as a case of a camel-driver or sailor in that prolonged abstinence does not necessitate divorce. But, says Rashi, this interpretation is not correct. Stewards may be appointed by seamen and camel-drivers to feed their wives, but not so with those who make vows not to sustain their wives. Therefore, the prolonged absences of camel-drivers and sailors are special cases, and if one vows sexual abstinence for more than one week (Rashi following the ruling of Bet Hillel) divorce is mandatory.

Rashi's use of the word "Konam" in this passage also bears explanation. Konam is a word that seals a vow and makes it binding. A translation of "You are Konam from enjoyment of me," might be, "Damn! if you'll get any enjoyment of me."

HE MAY APPOINT A STEWARD: that he (the steward) will feed her. And there (70b) an objection is raised: "Does not the steward act in his behalf?"

This comment refers to the laws of stewardship and the laws of ones messenger. Anything which ones designated messenger does in his behalf is considered as if the individual himself did it. Therefore, stewards, who are appointed to feed ones wife as a result of ones vow not to do it himself, must be designated with the formula, "Whoever will maintain my wife will not suffer any loss."

INTERCOURSE: It is not possible for a steward.

IF (THEIR VIEWS) HAD BEEN (ONLY) STATED IN THE FORMER (CASE): (Concerning her having marital) benefit from him.

IN THAT CASE SHMUEL (MAINTAINS): Because it is possible (to appoint a steward.

(folio 62a)

THE USUAL PERIODS: (of abstention from) sexual intercourse, that no sin falls upon him, and (that this applies) even if he is able to persuade her to give him permission (to abstain for longer periods.)

"TO EVERY MATTER OF THE COURSES WHICH CAME IN AND WENT OUT MONTH BY MONTH (THROUGHOUT ALL THE MONTHS OF THE YEAR)" (I Chron 27:1): In Chronicles, the "courses" used to serve David, each course for one month; and even though the significance of the passage intends that (each course only separated from its home one month per year, one can only infer from this (that students may) only (stay) one month here (at school), and eleven months at home. (Nevertheless), Rav interprets additional (months) from "Which came in and went out" at the beginning of (this) Scriptural quote: "There were servants of the king, presiding over every matter concerning (these twelve) courses, who came in and went out month by month, all the months of the year." This signifies that there were two courses stationed and serving, with one part serving six alternate months: as one went in, the other went out, month by month. Look! One month in the king's house and one month at home. And thus here, (in our case), one month at the house of his teacher and one month at home.

Rashi here finds a problem in Rav's exegesis of I Chronicles 27:1. The verse describes the twelve divisions or "courses" of the king's

servants, each one of which served him one month of the year. This would imply, used as a legal paradigm for the case of a student who studies away from home, that the maximum amount of time one can be away from home is one month per year. Rashi solves Rav's problematic use of this text (to mean the maximum is every other month) through an exegesis of his own. He derives from the text an implication that there were two groups of servants of the king who presided over the affairs of the service of the twelve divisions of servants. These two groups alternated a month's service, changing each time a new group from the twelve would serve the king. It is from these two groups, not the twelve groups, Rashi says, that form the basis of Rav's conclusion.

AND TWO MONTHS AT HOME: The man (stays) at home (two months); for look! the levy (that Solomon sent to Tyre [I Kings 5:28]) was thirty thousand men, and he sent ten thousand men a month to Lebanon so that they could be rotated. These (first) ten thousand went (home) and another ten thousand (were sent), and in the third month, a third ten thousand followed, so that the first group were at home two months. And thus, all of them were rotated.

Rashi gives an accurate reading of I Kings 5:28, which then serves to justify the opinion that only one month in three may students be absent from their wives.

IT CAN BE CARRIED ON BY OTHERS: By rotating groups, thus they used to go up (to Jerusalem).

IT WAS DIFFERENT THERE, FOR THERE WAS EASE: They used to benefit from the king's household, and there was ease in (the king's house). Therefore, it was acceptable (to them) that they be in the king's house one month in two; when one was (so engaged) he had food, ease, and jewelry. But study of the Torah is not her commandment (but the man's).

Rashi here explains a bit further why the arguments of Rav and Rabbi Yohanan for the maximum absences of students might not be

considered valid paradigms. The building of the Temple might not be an example from which students should copy because there was a large available work force in those days, whereas now there are not so many Torah scholars. The service of the king might not be a valid example because due to the wealth of the king's palace, everyone enjoyed being there for so long. Furthermore, it was the soldiers who enjoyed the king's wealth. The wives of students are not commanded to study the Torah and, therefore, do not get to participate in its treasures.

A SIGH BREAKS DOWN, ETC.: By way of the disagreement of Rav and Rabbi Yohanan in the interpretation of the verse, this (dispute) is also introduced.

Rashi notes that this second dispute between Rav and Rabbi Yohanan has no logical connection with the previous section of the Gemara, but that it is a similar type of discussion of the meaning of a verse between these two men. The Gemara often introduces tangents in this way, and Rashi is here aware of this method of the text's composition.

LOINS: in the middle of the body.

Rashi makes explicit Rav's exegesis of the verse by noting that the loins are in the middle of the body; thus, if a sigh-breaks one at the loins, then it breaks half of his body.

WITH WHICH WE ARE FAMILIAR: We have become accustomed to it. As, for example, (Gitin 56b), "Being used (to the hammering) the gnat did not heed it."

Rashi's reference is to a fanciful story whose point is that even an annoying gnat can become accustomed to a hammering noise

enlisted to distract him. The gnat lived for seven years in Pharaoh's brain and busied constantly, until he found that the sound of a hammer quieted the gnat. Pharaoh then hired people to hammer at him every day. After a month the gnat "grew accustomed to the hammering," and it lost its effect. The parallel with Israel's loss of the Temple is perhaps apt. Israel's loss of the Temple was as great as Pharaoh's relief when the gnat stopped buzzing. But the mourning for the Temple becomes less over the years, as the gnat ceased to be distracted by the hammering.

TAUGHT BEREAVEMENTS, NO BEWILDERMENT: A woman who becomes accustomed to the bereavement of her sons through their destruction has no trepidation or fear when one of them dies, for she is already accustomed (to it).

Rashi here draws upon the interpretation of this proverb found in the Aruch HaShalam, an eleventh century Talmudic lexicon by R. Ratan ben Yehiel, of Rome.⁴⁸

DAY STUDENTS (Literally, 'sons of the lessons'): Students who have an accessible teacher in their city, and who study their lesson and sleep at home.

CONCERNING WHOM IT IS WRITTEN (IN SCRIPTURE): For their (day students') sake it is addressed to men of trades.

That is to say, this Biblical quote (Psalm 127:2) speaks on behalf of day students, praising what they do, while chiding those of worldly occupations for working so hard at their jobs that they neglect the rewards of study in the after life.

"IT IS VAIN THAT YOU RISE EARLY AND SIT UP LATE" (PSALM 127:2): For optional work, (in order to) "eat the bread of toil." For the Holy One, Praised be He will support those "who shake off sleep," (that is,) those who shake off sleep for his glory and commandments.

Rashi elucidates Abaye's use of the proof text: it is meaningless to work hard and forsake the Torah. Those who shake off sleep (Rashi interprets לִדְיוֹ , "to his beloved," as coming from the מְנוּדָה , "to shake off") for God's glory will receive much more than those who work hard at worldly occupations.

THAT SHAKE OFF SLEEP: They wait for their husbands who are at their teacher's house, studying the lessons, and consequently, at bed time they are still in their teacher's house. And you say, "They have to fulfill a marital obligation every night!"?

Rashi is explaining Abaye's refutation of Raba; it is impossible that Tayyalim with an Onah of once a day could refer to day students, since they study so late that daily intercourse is an impossibility for them.

RAV SHMUEL BAR SHELAT: He was a teacher of small children and earned his living in this way, as was explained in Chapter "If a girl is seduced" (Ketubot 50a).

That is to say, this was explained earlier in Ketubot, Chapter 4, folio 50a. Chapter four is entitled, "If a girl is seduced."

THE KING'S OFFICER NEVER PASSES HIS DOOR: No messenger of the King of Persia passes his door to ask his service for the king, for the king takes no notice of him as he does not regard him as wealthy.

THE PAMPERED MEN OF THE WEST: Men of the Land of Israel who celebrate with food and drink; therefore, they are healthy and have the strength for intercourse (every day).

THE BUILDING OPENED: Under the baths there is an empty space where the water flows.

AND CARRIED THEM: He raised up the slaves in one hand, and with the other, he grasped and climbed up the pillar.

SINCE IT IS SO: That you are so strong.

IF SO: I will diminish my strength if they don't support me.

WHAT WILL I RESERVE: Of my strength with which to have intercourse in my old age.

IN THEIR CITIES: Twice a week.

All of the above are brief explanatory comments to the text whose meaning has already been incorporated into the translation of the Gemara in Chapter II above.

DID THE TANNA FOLD HIMSELF OVER TO TEACH US ABOUT TAYYALIM AND LABORERS?: The unnamed Tanna above (who said,) "Concerning the one who vows (to abstain from intercourse with) his wife, Bet Hillel says, 'One week...,'" had no need to specify that this does not apply to sailors, camel-drivers, ass-drivers, and students. For look! Even ass-drivers have a marital obligation of once a week, and for the sake of one day (more), he must divorce her and pay her Ketubah. Look! His obligation is once every seven days; and certainly, the camel-driver and the sailor do not fall into this category (of marital obligations of once a week), but rather the Tayyal and the worker who does his work in his own city, and his custom is to have intercourse twice a week.

The Gemara tells us that the Mishna's statement, "Ass-drivers, once a week," applies to all men as the minimum time between marital relations (unless otherwise specified). Rashi here clarifies this point. It was not necessary, he says, that the Gemara spell out that one week of abstinence through a vow is indeed the maximum period of abstinence for all but sailors, camel-drivers, etc. Ass-drivers have a marital obligation of once a week, and Tayyalim and laborers in their own city have more frequent obligations. The Gemara only specifies those few professions with less frequent obligations. Every one else's obligation is once a week. Those with less frequent obligations may not vow to abstain for more than the one or two week period specified. Tayyalim and workers and everyone else (whose obligation is once a

week) may lengthen their time between intercourses by such a vow, but even then, it is only a matter of a few days.

(folio 62b)

UPON ALL: Likewise he says, concerning a vow, more than one week (of abstinence) is not permitted.

AND WAS IT NOT: Without a vow, six months (of abstinence), it allows to sailors.

Rashi points out that the Gemara is asking, "How can one week be the rule for all, concerning vows of abstinence?" when seamen are permitted abstinence for six months without a vow.

THEY ARE NOT SIMILAR: In the matter of a fast, one who has, etc. So here also, without a vow, whose time limit puts the woman at ease, for he might come within the time limit; but in the case of a vow, it is as one who cannot look forward to intercourse.

Rashi answers the question which his previous comment has noted that the Gemara raises: "How can vows of abstinence be limited to one week, when seamen can be allowed to have no intercourse for six months. The Gemara says, simply, that the cases are not similar. Rashi elucidates this by noting that the short time limit of a vow puts the woman's mind at ease; even if a seaman were to vow to abstain for six months, he might return from his voyage before the duration of the time limit. At least his wife can always look forward to his unexpected, immanent return, as long as such a vow has not been made. Therefore, even seamen who can be absent for six months may not vow abstinence for more than one or two weeks.

The reference to "the matter of a fast" is an indication to look at the next page (63a) where this same proverb is applied to a menstruant who vowed to abstain from intercourse. When she is

restored to cleanliness, her husband, like the wife of a sailor who has returned unexpectedly, might still be forbidden intercourse by the vow. Therefore, such vows cannot be made.

WHAT IS (THE LAW) WHEN AN ASS-DRIVER BECOMES A CAMEL-DRIVER?: She married him when he was an ass-driver. What is she to do when he becomes a camel-driver without (her) permission. Does she prefer (material) ease, that he might become wealthy, or does she prefer (shorter periods between) her Onah?

Rashi notes that the Gemara is asking, "If an ass-driver (with an Onah of once a week) became a camel-driver (with an Onah of once a month,) what is his marital obligation? And would his wife prefer more frequent intercourse or the added monetary rewards that longer distance commerce would bring?" The fact that this question reflects an economic situation was already noted by an earlier Gaonic explanation of this question,⁴⁹ upon which Rashi apparently relies.

ONE KAV WITH FRIVOLITY: That her husband be with her.

TEN KAVS: To become rich.

THESE ARE RABBI ELIEZAR'S WORDS: This refers to this phrase, (and all) the end part of the Mishna is attributed (to him).

That is, all these periods of marital obligation stated in the third part of the Mishna are attributed to Rabbi Eliezar, not just the last listed Onah of sailors. In the text itself, the antecedent of the phrase, "These are Rabbi Eliezar's words" is ambiguous.

THESE ARE RABBI ELIEZAR'S WORDS: These are the (time periods of) the marital obligations and the absences when the permission of the wife is not given, as it is taught in the Mishna, "Students who absent themselves to study Torah without (their wives') permission may do so for thirty days."

Rashi informs us that even though his previous comment has attributed all of the specified Onahs to Rabbi Eliezar's opinion, the maximum period of absence for students and workers also reflects his opinion.

THE RABBIS RELIED: Students in our generation rely on his words and leave without permission.

Rashi notes that the law is not determined by the Gemara, in the question of whether students may absent themselves from their wives for thirty days, as R. Eliezar said, or for two or three years as R. Adda allowed. Rashi says that R. Adda's ruling is the one practiced in his time.

AND DO ACCORDINGLY: They follow his words, (rather than the words of the majority.)

WITH THEIR LIVES: And he comes to them to remove their souls from them, for they were punished and they died.

By following Rav Adda's opinion, the Gemara says, one risks incurring Divine punishment. Rashi notes that this means that the neglect of Onah by students can even bring about their death by this Divine punishment.

LOOKING FORWARD TO: The translation (of the Aramaic is) "Looking forward to."

FROM EREV SHABBAT, ETC.: For it is a night of happiness and rest and joy for the body.

This is Rashi's explanation for why Erev Shabbat was selected as the proper time for fulfilling ones Onah.

INVERT HIS BED: As is the custom of mourners, that they are obliged to invert the bed (of the deceased).

WAS PREOCCUPIED WITH HIS SON: (who was about) to marry R. Hiyya's daughter.

IS THERE A TAINT: That they were not worthy to become a (married) couple.

That is, one of them was not good enough for the other, such that they might become a couple. Divine intervention is implied here.

SHEFTIAH BEN AVITAL: Avital was a son of David, Avital being David's wife, and R. Hiyya was descended from Shimei (David's cousin), and this is a taint, for Tabbi was from the House of David, and a descendent of Shimei was not worthy of his son for she was not a descendent of royalty.

THEY PRESCRIBED FOR HIM TWELVE YEARS: Before he would be brought under (the marriage canopy).

SHE WAS BROUGHT BEFORE HIM: They brought the girl before the groom.

YOU HAVE THE MIND OF YOUR CREATOR: Who said He would make distant the time of his marriage (to Israel), and he changed his mind and made it soon because of his great affection for his bride.

IT IS WRITTEN IN SCRIPTURE, "YOU BRING THEM IN AND PLANT THEM AT THE MOUNTAIN OF YOUR INHERITANCE, THE PLACE OF YOUR DWELLING" (Exod 15:17): (He had planned) that he would bring them into the land, and only afterwards would they build him a sanctuary.

AND AFTERWARD, HE SAID, "BUILD ME A SANCTUARY" (Exod 25:8): (This was said) in the desert.

SHE BECAME BARREN: She became barren; this is what happens to those who wait ten years without a husband.

Rashi refers here to a principle laid down in Yebamot 34b, which says,

When Rabin came he stated in the name of R. Yohanan: A woman who waited ten years after (separation from) her husband, and then remarried, would bear no children. Said R. Nachman: This was stated only in respect to one who had no intention of remarrying; if, however, she intended to remarry, she may conceive.

THE END OF THE PASSAGEWAY OF RABBI SHIMON: The last days of his nuptial celebration.

Rashi explains a rather unusual figure of speech.

WAIT FOR ME: Wait for me until the days of my nuptial celebration are over, and I will go with you to the House of Rav (to study.)

THE STREETS OF THE TOWN WERE ALTERED: New buildings were built in the city, and the openings (of the streets) were closed up.

A GIRL: a girl

This is a translation of an unusual Aramaic word.

SHE WAS OVERCOME WITH JOY: Her heart said; that is to say, it seemed as if her heart suddenly (knew) that this was her husband.

I WILL NOT ACT AS DID BAR HAKINA: Who entered his house suddenly (and so frightened his wife).

SAT DOWN BEFORE HIM: His father did not recognize him.

HE SAW: That his son was well versed in his studies.

Apparently, this comment of Rashi has found its way into the text itself, in slightly emended form.⁵⁰

HAD I BEEN HERE: If I had been here, when I left my young son and went (abroad), had I taught him Torah, he would be as learned as this (young man).

KALBA SAVUA: The name of one of the rich men in Jerusalem. (He was so-called) because all who entered his house as hungry as a dog (kelev) went out satiated (savua).

(folio 63a)

WILL YOU SPEAK: Will you act.

Rashi explains the colloquial use of מַבִּיר to mean, "to lead a life," or "to behave."⁵¹

HER NEIGHBORS: Her neighbors.

MINE AND YOURS ARE HERS: The Torah that I have studied and you have studied, she has made possible.

TOOK UP A WEAPON: An instrument of war, as if he came to fight.

THEY QUARRELED: Over this same argument.

NEITHER ONE NOR THE OTHER ATE THE MEAL BEFORE THE FAST: They did not eat the meal of Yom Kippur which breaks off the (time of eating) from the fast. The last meal of Erev Tisha B'Av and Yom Kippur is called the "breaking meal" for they end with it, (as explained) in Tractate Ta'anit (30a).

Ta'anit 30a discusses this meal preceeding the fast days, and refers to it as the "breaking meal," as does our sugya.

Conclusion:

In this particular sugya of the Talmud, Rashi provides a great deal of exegesis which is essential to an understanding of the Talmud's text. However, there is very little of his own innovations implicit in his comments, from which something might be said about his attitude to and/or development of the Talmud's conception of Onah.

The Tosafot

The Tosafot printed in our Talmud editions represent a sampling of a literary tradition which extends from the grandchildren of Rashi for several centuries. Originating with scholars of Germany and France in the twelfth through fourteenth centuries, these comments undertake to expand, elaborate, and develop the meaning of the Talmud's text, as well as the comments of Rashi upon it. By raising questions to Rashi's statements on the basis of the Talmud's topic under discussion or its principles mentioned elsewhere, the Tosafists point out distinctions, often minute, between various cases or sources. Furthermore, the discussions of each Tosafist became subjects for similar analysis for succeeding Tosafists. In addition, questions are also introduced by them from additional authorities, such as Alfasi or the Yerusalmi.

The major Tosafists of the twelfth and thirteenth centuries in Germany and Provence were Rashi's grandchildren and the members of their schools. Particularly, the names of Shmuel ben Meir, Isaac ben Meir, and Yaacov Tam stand out. The latter's nephew, Isaac ben Shmuel of Dampierre was also noteworthy. Although the greatest part of the literary activity of these men and their followers is not extant, a great deal has survived through "Shitot," notes of students taken upon their masters' teachings. For example, "Sefer HaYashar" contains the teachings of Rabbenu Yaacov Tam. Although some of the original works

did not survive, much of their contents became incorporated into later collections. Among the greatest of these collections is the "Shita Mekubetzet," edited by Bezalel ben Avraham Ashkenazi (c. 1520-1594).

"Our Tosafot," those tosafot which appear in the printed editions of the Talmud, are largely attributed to the school of Eliezar of Touques. Following the flourishing of the schools of Rashi's grandchildren, the Tosafist tradition passed to Sampson of Sens, who in turn was the major influence upon the Evreux brothers, Shmuel, Moses, and Isaac. From them, the school of Eliezar of Touques, along which Meir of Rothenburg and Preez ben Elijah, continued the tradition. Thus, "our Tosafot" contains a sampling of the combined literary creations of about two hundred years, which have been affixed to the printed Talmud page since 1484.⁵²

(A Translation of "Our Tosafot," Ketubot 61b)

STUDENTS MAY ABSENT THEMSELVES WITHOUT (THEIR WIVES') PERMISSION FOR THIRTY DAYS AND LABORERS FOR ONE WEEK: Rabbi Isaac ben Shmuel⁵³ explains that it (i.e. this statement of the Mishna) comes to teach us that even though their custom was to study and to work in their own cities, and the marital obligation mentioned in the Torah for students is every Erev Shabbat, as the Gemara states, and for laborers (it is) twice a week as is taught at the end of the Mishna, they are allowed to change from their custom. Students may go abroad for thirty days and laborers for a week.

The Tosafist asks the question, "How can the marital obligations of students be once a week, if they may absent themselves to study without permission for one month?" Similarly, workers may absent themselves for a week, but their Onah is twice a week. The answer is that the normal situation is for students and laborers to observe the requirements of their Onah. However, they are allowed to change this custom. Students may go abroad to study for thirty days and laborers to work for seven.

(folio 62a)

BUT WHAT SHOULD BE THE USUAL PERIODS?: The Notebook (i.e. Rashi) says, "(Only so long) that no sin falls upon him, and (this applies) even if he is able to persuade her (to give him permission to be absent longer)." You may raise an objection: How could Rabbi Akiba and all those mentioned below (be absent longer)? The answer is: In that case there was no persuasion, for they (the wives) were happy that their husbands went to learn Torah and to become scholars; and on the contrary, they married on the assumption that they go to learn Torah.

And it appears to Rabbi Isaac ben Shmuel, it is workers, and not students, that the question of (the one month limit for absences) stands. For even if it is without permission, they (students) may always go abroad for thirty days and return to their homes for one day (to fulfill their Onah). And thus Scripture says, "A month at home," or "two months," for the one who holds this opinion, you can only conclude that it (this thirty day limit) concerns workers. Scripture also includes it (permission) in its treatment of workers.

And how could it (the Gemara) say there, "It is different there for there is a stipend for workers (in the case of workers on the Holy Temple)." In our Mishna also there is a stipend for workers, (so how can it be different)? It might be replied that stipends there are great for doing the work of the King.

This passage asks three questions. The first is posed to Rashi's statement that one should only absent himself from his wife for the purpose of study with permission for short periods of time. Literally, Rashi says, "Only so long that no sin falls upon him, and (this applies) even if he is able to persuade her (to give permission to be absent longer)." "How then," the Tosafist asks, "could Rabbi Akiba, and the others mentioned in the anecdotes of this sugya, be away for so many years. The answer is found in the word "permission." The Tosafist implies that this word indicates that one must ask permission to be away for longer periods, implying that the wife consents but is not enthusiastic about the idea. But, in the case of Akiba and the others, it was not even necessary for him to ask if he might leave. His wife, and the wives of the others, would only marry on the condition that he leave to become a scholar, seeing as how it was a great privilege for women to be wives of scholars.

The second question asks, "To whom does the Gemara refer when it says the period of absence may be one month "here," followed by one or two months "at home." According to Rashi, this refers to students. But the answer given by the Tosafist, attributed to Rabbi Isaac ben Shmuel, is that it applies to workers only, and that workers may absent themselves for one month with permission. It cannot refer to students, for the Mishna already gives students permission to be abroad for thirty days. Therefore, says R. Isaac, the Gemara's words, "What should be the usual periods (of absence from one's wife)?"⁵⁴ refers to laborers

and not to students.

The third question answers an objection that might be deduced from the second. If the building of the Temple cannot be used as the paradigm from which to deduce the standard absences spoken of, due to the stipends involved, according to the Gemara's text. But if these are the usual absences of workers, and not students, that are spoken about, what makes the work upon the Temple different? Don't all laborers receive financial remuneration for their work? The answer is that the building of the Temple in the service of the King provided a much greater financial remuneration. Therefore, it is still a special case.

The conclusion to be drawn out of all of this is that in the first question the Tosafist has laid the groundwork for a greater flexibility for scholars to be absent from home. But at the same time, this is a very limited flexibility. Furthermore, the second and third questions allow for greater freedom for laborers to be abroad in order to practice their trades.

THE NEWS OF THE TEMPLE IS DIFFERENT FOR IT IS VERY SEVERE: You may raise an objection: How can the verse, "Sigh, O Son of Man, with the breaking of loins," be written concerning the Holy Place (i.e. the Temple), seeing as how it is written immediately after: "And it will be that they will say to you, 'For what reason do you sigh?' and you will say to them, 'On the news that has come and every heart melts.'"? The answer is that the verse was (written) before the destruction of the Temple, and here the prophet was saying to Israel that he was sighing about the Holy Place that in the future will be destroyed, and then every heart will melt amid the sighing that will be after the destruction of the Temple.

The problem here is that the Gemara uses Biblical verses slightly out of their context, and the Tosafist points this out. The Gemara infers that the great sighing that accompanied the destruction

was a special case, and that Rabbi Yohanan is still able to maintain that a sigh only breaks down half the human constitution. But these Biblical verses speak of a prophesy about the future destruction of the Temple. If so, how do we know that the sighing that accompanied the destruction was still a special case? The Tosafist answers that even though this is a prophesy of the future, the sighing that will destroy every individual will occur when the prophesy comes true, and the Temple is destroyed. This event will be the special case, from which, the Tosafist implies, we may not draw a general rule as to the relationship between sighing and the cumulative damage that it does to the human constitution.

TAYYALIM: Upon the noun form, that it is their custom to be idle in their villas.

The Tosafist asks why these Tayyalim are so called. He answers that they are rich men and live in villas, so they are called by a word that suggests idleness. They do not work, but only sit idly by. Thus they are not day students, self-employed men, or the pampered men of Palestine as the Gemara has suggested. Rather, they are the rich idlers who have the time and strength to fulfill a daily marital obligation.

WHO CHASE SLEEP FROM THEIR EYES: This refers (to the wives of) students who study in their own cities, for if it is in another city, why chase off sleep? It is not the custom to enter a city at night.

The Tosafist points out, seeing as how (in their day, at least) people do not enter cities at night, the only wives who can wait up late "chasing sleep from their eyes," awaiting their student-husbands' return are those whose husbands study in the city in which they live.

If their husbands study away, they will not enter the city at night, and there would be no point in waiting up late for them to return.

Therefore, the Gemara's argument is made more clear; Abaye tells Raba that it is only the wives of day students to whom R. Isaac's Midrash could apply.

WAS IT NOT TAUGHT, "WORKERS, ONCE PER WEEK?": To the first clause of the Mishna where it teaches that workers may leave home for one week, you cannot raise a challenge. For this first clause of the Mishna does not fall under the laws of Onah, but rather on the contrary, the Mishna informs us. For it is permissible (for us) to change and annul their original customs concerning Onah, but it is well that from the Baraita, it is definitely refuted that (workers, one week of abstinence) is treated according to the law of Onah of which the Torah speaks, but not going abroad without (the wife's) permission (i.e. going abroad is not a part of the law of Onah). As it is taught in the Mishna, "Once per week," (is the Onah), and not as is taught, "One week" (which refers only to absence). And from the teaching concerning Onah, working in another town is treated (in the Baraita), as was their way, and this was their custom.

You may raise an objection: Why does it teach in regard to their custom that it is so? They are even able to change "One week" (for a longer period of maximum absence), as is explained in the Mishna. The answer is according to the Baraita (that their Onah is one week). Thus it comes to teach that even though their custom was to do work in another city, if they wish to change (the Onah) and to interrupt (intercourse) for longer, the power is not in their hands.

And R. Isaac ben R. Baruch used to say that there are three types of workers: those who work in their own city (have an Onah of) twice a week as is taught in the Mishna; and the Baraita refers to those who work in another city and return every day. (They have an Onah of) Once a week, as they are troubled by their journey. But those who do not return home, whether or not it was their custom, as taught in the first clause of the Mishna, "They may be abroad one week," to teach that they are abroad all seven days and return on the eighth day. But R. Isaac only mentions two types here: those of "twice a week," and those of "once a week," as we explained.

This passage begins by making a differentiation between two statements which are in the Mishna concerning the Onah of workers. The Mishna says that workers may be abroad at their jobs for one week,

and that the Onah of workers is twice a week. The Gemara has raised a question to the latter of these two by mentioning a Baraita which says that the Onah of workers is once a week. The Tosafist wishes to argue that this Baraita could not have been pitted against the former of the Mishna's statements concerning laborers. The maximum time of a worker's absence from his wife, without her permission, is not a part of the Torah's laws concerning Onah. Without the Baraita, in fact, we would not even know what the Onah for men who work in distant cities is. The one week maximum absence stated in the Mishna is only a custom which was observed locally, and which can be changed, seeing as how it has no basis as a commandment in the Torah. However, the Baraita would forbid changing this custom because it specifies that the Onah of those who work abroad is once a week. Therefore, the Baraita could only have been pitted against the second of the Mishna's two statements about workers, but it bears an implication to the first of them.

Thus, the Tosafist continues, there is a difference of opinion whether there are three types of laborers or two types. Those who work at home have an Onah of twice a week. Those who work abroad, but return home every night, have an Onah of once a week. But some say that those who work abroad and do not return home each night have a maximum absence of seven days and an Onah of once every eight days.

(folio 62b)

A WOMAN PREFERS ONE KAV WITH PRIVOLITY: Is it astonishing that we say above (concerning the King's service), "It is different for there is a stipend"? Perhaps in the King's employ the stipend is greater.

The Tosafist asks, "How can it be said that one cannot

change to a job with a less frequent Onah and greater financial rewards due to the wife's preference, when earlier it was said that the financial rewards in the service of the King were enough to warrant prolonged absence by the servants from their wives?" The answer given is that it is a question of degrees. The stipend in the King's service was greater than the increased wages of an ass-driver who becomes a camel-driver. Although this statement is not developed any further, in principle it asserts that one can change to a more lucrative job with a less frequent Onah if the increased financial benefits are sufficiently great.

THAN NINE KAVS WITH ABSTINENCE: We read (with a textual variant).⁵⁵ If a man maintains his wife by a steward, as is taught below (64a), that he must give her two kavs (of wheat each week), and does not abstain from intercourse; and one who vows abstinence adds to her Ketubah, three dinars (63a). And according to the rate of four seahs per sela and three dinars make eighteen kavs. This the Aruch (HaShalem) explains.

The Tosafist explains that if we read the proverb with a textual variant substituting "nine kavs" for "ten kavs," then "A woman prefers one kav with frivolity to nine kavs with abstinence," has a mathematical basis in fact to it. According to Ketubot 64b, one who appoints a steward to feed his wife, although he continues to fulfill his Onah, must make certain that she receives two kavs of wheat per week. One who vows to abstain from intercourse must add three dinars (the equivalent of eighteen kavs of wheat to her ketubah (63a). Thus, one kav with intercourse is the equivalent of nine kavs with abstinence, in so far as these are the exchange rates that the man must pay.

THE THREEFOLD CORD IS NOT EASILY CUT: Seeing as how the three generations (actually) saw one another (at the same time; i.e. they were all alive at once), as is mentioned elsewhere (Baba Batra 59a), as it says that R. Oshaiah spoke (his opinion), and (then) they came and asked R. Bisha. Upon this (his teaching) they said of him, "The threefold cord is not easily cut;" as is said elsewhere (Baba Metziah 85a): If he and his son and his grandson are scholars, from then on the Torah returns to his abode, and this is supported by the proof-text: "And as for me, this is my covenant (...which...shall not depart from your mouth nor from the mouth of your children, nor from the mouth of your children's children, says the Lord, from now and forever" (Isaiah 49:21).

The Tosafist explains that the reason the aphorism of the threefold cord is applied to Bisha, Hama, and Oshaiah is that all three generations were great scholars and alive at once together. Baba Batra 59a tells of another instance when in a debate over a legal problem, the grandson and the grandfather took issue with the father. The same verse is applied to the family there, and the Tosafist explains in that context that three generations of scholars are not rare, but that they were all alive and mature at once was unique. Baba Metziah 85a notes that Isaiah 49:21 can be construed as a proof-text: if three generations are scholars, then the Torah will never leave that line.⁵⁷

THAT HE WAS MODEST AND NOBLE: Look! It says in (Chapter) "These Transgress" (Pesachim 49b): Rabbi Akiba said, "When I was an ignorant person, I used to say, 'Who will give me a scholar that I may maul him like an ass?'" This implies that he was not so noble; it might be said that this (was said) because he used to hate scholars. But rather, (he said this) because he used to think that they (scholars) were haughty with the ignoramuses because of the Torah they had learned, and the scholars despised them. And also, because they (scholars) did not use to allow them (the ignoramuses) to touch them, as is mentioned (Hagigah 18b): "The clothes of the ignoramuses have madris-uncleanliness for the Pharisees," but in any case, he (Akiba) observed the commandments, says Rabbeni Tam.

The Gemara says that Kalba Savua's daughter fell in love with

Rabbi Akiba because, even though he was ignorant, he was modest and noble. However, the Gemara contains other traditions which would indicate that Akiba was very resentful of the scholars of his day. The Tosafist suggests that either the scholars of his day were haughty and deserving of this treatment, or else, Akiba possessed a type of Levitical impurity which disallowed the scholars from coming in contact with him. Presumably, Akiba did not understand this and, thus, hated scholars. This Levitical impurity was due to the ignoramuses' lack of knowledge of purities and impurities, so they might often be impure and then impart that impurity to anyone else whom they touched.

(folio 63a)

WOULD YOU HAVE MADE YOUR VOW IF YOU HAD KNOWN THAT HE WAS A GREAT MAN?: If you should say, "Is it not forbidden to give an opening (for the release from a vow) with a future even, as we say in Nidarim, Chapter 'Rabbi Eliezar' (64a)?" As, if one says, "Konam, that I do not benefit from So-and-So!" and he (this So-and-So) became a scribe (then the release of the vow is forbidden as this is a future event.) One might respond that in this case one does not find a future event. When he (Akiba) went to the presence of the Master (to study), it was a natural consequence (for a student to become a scholar). While attending there, he became a great man. So indeed, if he had suspended his vow on an explicitly stated stipulation at the time that he vowed, "On the condition that he does not become a scribe, (Konam that I do not benefit from So-and-So,)" In this manner, it is not a future condition, as is taught in Chapter 'Rabbi Eliezar' (Nidarim 65a): "Konam that I do not marry So-and-So for her father is wicked," and he is told that he died or repented, (this vow is released). But the Gemara disagrees (with this view) that death is a new circumstance. And this is its conclusion: According to the teaching of R. Huna such a vow is contingent on the man's repentance. According to the teaching there of R. Yohanan in another context, it is not (contingent). They disagree on conditions of vows on a fact; but a condition does not exist in his (Kalba Savua's) vow.

The Tosafist wants to know, "How can Rabbi Akiba annul Kalba Savua's vow that Akiba and his wife never receive any benefit from

Kalba Savua's wealth?" Vows may be nullified by a sage, but only under certain circumstances. One reason for which a vow may not be suspended is if new facts have entered into the picture which change the status of one of the individuals involved. For example, if one vowed not to receive any benefits from Mr. X, and Mr X later became a great man, the vow may not be suspended because of this change in status. But, this is precisely what happened to Rabbi Akiba. The answer is that Akiba had already begun his studies, and it is a well known fact that anyone who studies long enough will become a scholar. Therefore, Akiba's becoming a scholar was not a change in status. Presumably, this is the intention of Akiba's question to Kalba Savua in the Gemara: "Would you have so vowed if you had known he was a great man?" If Kalba Savua had known that he knew that he knew even one precept, he says, he would not have so vowed. Anyone who knows one precept and continues his study will become a great man. Therefore, there are no such changes in status here. The Tosafist notes a parallel situation discussed in Nidarim 65a, in which there is a disagreement over what situations do, in fact, introduce new conditions. But, concludes the Tosafist, there are no new conditions in Kalba Savua's vow. Therefore, it can be annulled.

RABBI AKIBA'S DAUGHTER ACTED IN A SIMILAR WAY TOWARD BEN AZZAI: If you say, "Look! in the first chapter of Tractate Sotah (4b) an objection is raised, in that there (it says) that ben Azzai did not marry," And of this statement they explain that he married and lawfully separated. And one may say that even though it says there that she so acted towards ben Azzai, in any case, he was not married but engaged.

There is a Rabbinic tradition concerning ben Azzai's bachelorhood, a status upon which the Rabbis frowned. Our Gemara reports that

Akiba's daughter acted toward him as Kalba Savua's daughter acted toward Akiba. This is resolved by both a reference to Sotah 4b, which suggests that Ben Azzai was married but then separated from his wife and never remarried, and also by the suggestion that he and Akiba's daughter were engaged, but never married.

Conclusion

Thus, the Tosafot adds a number of new insights into the Talmud's text. It raises objections, solves difficulties, and explains the text in new and novel ways. However, like Rashi's commentary, beyond a few minor refinements of the Gemara, it does not change the Talmud's basic conception of Onah.

IV. ALFASI, RABBENU ASHER, AND RABBENU NISSIM

The third genre of Talmudic commentaries are made up of those writings which sought to summarize the Talmud's contents, either in the form of compendia or codification, and their commentaries. The long, discursive, and only semi-organized character of the Talmud made this type of literature inevitable and indispensable for the Talmud to remain the basis of a living religion. In addition, a large percentage of the questions under consideration within the Talmud are left open. That is to say, no final answer to the disagreement in question is recorded within the Talmud's text. Therefore, it became necessary that compendia or codifications of the text and/or lists of the legal decisions as can be concluded from it be produced.

The first great compendium of the Talmud was the Halachot of Isaac ben Yaacov of Fez, or simply Alfasi, or by his initials, the Rif. Alfasi's magnum opus, the Halachot contains the essence of the Talmud's discussion in greatly abridged form. All non-legal material is eliminated. He condenses the legal discussion, sometimes criticizing views of authorities and including decisions of later, post-Talmudic authorities. Most importantly, Alfasi concluded most of the discussions with a statement informing us as to what the final decision of the law is. Furthermore, he omits all sections of the Talmud which deal with the Temple cult and laws which are operative only within the land of Israel. Therefore, a large number of tractates of the Talmud are not included. Although Alfasi drew his opinions from his predecessors,

primarily the Halachot Gedolot of Gaon Shimon Kahira, the Halachot Pesukot of Yehudai Gaon, and the Shealtot of Ahai Gaon, his work superseded them all as the major Talmudic compendia up to his day.⁵⁸

Alfasi's Halachot, however, was later superseded as the preeminent compendia of the Talmud by the Halachot of Asher ben Yehiel (c. 1250-1328), also known as Rabbeinu Asher and by his initials, the Rosh. Following the plan of Alfasi, Rabbeinu Asher omitted all non-legal sections of the Talmud and those sections having no applicability without the Temple and the Land of Israel. He made a practical abstract of the law, omitting discussions and briefly stating decisions. In reaching his decisions, he relies upon Alfasi, as well as Maimonides' Mishne Torah and the comments of the Tosafists.⁵⁹

Both the Halachot of Alfasi and Rabbeinu Asher, like the Talmud itself, became subjects for later commentaries. The compendium of Alfasi, particularly, became the subject of a lengthy commentary by Nissim ben Reuven Gerudi (or by his initials, the Ran). Flourishing between 1340-1380, Rabbeinu Nissim tried to establish decisions that related to the common practice of his day, through an explication and defense of Alfasi's work. He is very lengthy and detailed in subjects of practical importance. However, theoretical matters are briefly dispensed with. His commentary extends to only thirteen of the Talmud's tractates.⁶⁰

The translations and analyses of these three commentaries to our sugya shall now be presented, following which, the major codifications of the law shall be examined.

(The Halachot of Alfasi)

Mishna: If a man forbade himself by vow from having intercourse with his wife, Bet Shammai ruled: two weeks; Bet Hillel ruled: one week. Students may go away to study Torah without permission for thirty days and laborers for one week. The Onah prescribed in the Torah is Tayyalim, every day; laborers, twice a week; ass-drivers, once a week; camel-drivers, once in thirty days; sailors, once in six months; these are the words of Rabbi Eliezar.

Alfasi's citation of the Mishna is identical with that of our sugya, with one minor textual variant.⁶¹

Gemara: Bet Shammai infers this from the birth of a female child, and Bet Hillel infers it from menstruation. On what principle do they differ? One is of the opinion that the usual is inferred from the usual, and the other is of the opinion that what a man has caused should be inferred from what a man has caused.

This argument is abridged considerably. Bet Hillel's reason for "one week" is attributed to menstruation, rather than the birth of a male child in the first place. In the Gemara, Bet Hillel switches the principle of its reasoning from birth to menstruation after being challenged. But the principles upon which both schools' final decisions are based, remain intact.

Rav stated: They differ only in the case of one who specified (the period of abstention), but where he did not specify the period, it is the opinion of both that he divorce her and pay her ketubah. And Shmuel stated: Even where the period had not been specified, the husband delays (the divorce), since it might be possible for him to discover some reason for (the remission of) his vow. The law follows Shmuel.

Our Gemara adds the word, "immediately," in Rav's opinion that he must divorce her if the duration of his vow was not specified.

Alfasi omits the lengthy elaboration on this difference of opinion

by Rav and Shmuel which our Gemara provides. He adds, significantly, that the law follows Shmuel. Our Gemara generally omits such conclusions.⁶² He also omits the discussion of the students and workers abroad and the question of their permission. Apparently, he relies upon the simple meaning of the Mishna in this matter. He also omits all of the Midrasim about sighs which break down the human body, found in our Gemara.

Tayyalim, every day: What is meant by Tayyalim? Rav said, "For instance, R. Shmuel bar Shilath, who eats his own, and drinks his own, and a king's officer never passes his door."

Again, Alfasi gives only one interpretation of the meaning of Tayyalim. He quotes this opinion from the Gemara and accepts it as the law. He omits Midrashim and the question of workers, which he treats later.

Ass-drivers, once a week: Rabbah bar Hanan said to Abaye: Did the Tanna (of the Mishna) go to all this trouble to teach, as the Mishna says, "If one forbade his wife by vow not to have intercourse, if for more than [one week] he divorces her and pays her ketubah?" For look! Only Tayyalim and workers have an obligation to have intercourse within a week (i.e. more than once a week). So for Tayyalim and workers (only, this one week limit on vows must apply). (Abaye replied:) No. (It applies) for all! This teaches (if he vows for more) he divorces her and pays her ketubah. But look! (replied Rabbah bar Hanan) it says, "Six months (for sailors)"; Does this mean for one week (of abstinence) he must divorce her and pay her Ketubah? He (Abaye) said to him, (The rulings) are not similar; One who has bread in his basket is not like one who has no bread in his basket. For the latter's heart yearns, and the former's heart does not yearn; and thus, when she is forbidden by vow (from intercourse) she is like one who has no bread in her basket. So he must divorce her and pay her ketubah, even if (the vow is only) for one week.

Alfasi restates this argument from the Gemara with many slightly differing phrases. He also explains the proverb in the same manner as Rashi. In doing so, this whole interchange between Rabbah

bar Hanan and Abaye and its solution is made more clear.

Rabbah bar Rav Hanan said to Abaye: What (is the law when) an ass-driver becomes a camel-driver? The other replied: A woman prefers one kav with frivolity to nine kavs with abstinence.

Here Alfasi only gives the Gemara's proverbial answer without explaining its meaning further. Presumably, this is because this proverb is more obviously apt to its context, and further explanation would be superfluous.

(These are the) words of Rabbi Eliezar: Rav Matna said that Rav said: The law follows Rabbi Eleizar. When should scholars fulfill their marital obligation? Rav Yehudah said: Every Erev Shabbat; "That give its fruit in its season" (Psalm 1:3). Rav Yehudah said that this (refers to) intercourse every Erev Shabbat.

Our Gemara gives Beruna in place of Rav Matna. It also adds other authorities who attribute this saying to Rav. Alfasi not only omits all of the Midrashim about renowned scholars who were absent for long periods of time, but he also omits the phrases about the majority of sages saying that a scholar may absent himself for two or three years in order to study Torah. By concluding with Rav Yehudah's statement which appears much earlier in the context of the original sugya, it may be assumed that Alfasi was very stringent about the observance of Onah. He at least ignored references to their prolonged absence in order that scholars not make it their habit to leave their wives for extended periods of study. As already noted, these two principles, the study of Torah and the observance of Onah, are sometimes mutually exclusive, due to the great distances of the academies from scholars' homes. Alfasi decides, at least by the implication of omission, in

favor of Onah.

It should also be noted that Alfasi does not discuss the special problems of laborers, as do the Tosafot. He must intend, therefore, that the Mishna's words apply: laborers may leave home without their wives' permission for one week, but their Onah is twice a week. The details of this apparent conflict, he does not discuss.

(The Halachot of Rabbenu Asher)

Mishna: [The Mishna is quoted without any changes from our Gemara text.]
Gemara: Bet Shammai infers from the birth of a female (child), and Bet Hillel (infers) from a menstruant. In what regard do they differ? One deduces the usual from the usual, and the other deduces what a man causes from what a man causes.

Said Rav: They differ when the time limit (of the vow) is explicit, but when it is not explicit, he must divorce her and pay her ketubah immediately. And Shmuel said: Even if it is not explicit, we wait, for he might find a reason to annul his vow. And the halacha follows Shmuel.

Up to this point, Rabbenu Asher follows Alfasi's treatment of the Gemara virtually verbatim.

Students may go out to study Torah, etc.: Why must it say "with permission" (when regulating the maximum absences)? (To teach that they may absent themselves for) as long as she (the wife) gives her permission. But what should be the usual periods? (Only so long) that he does not ask of her something that will sadden her, lest she gives her permission, even though he must persuade her, or she is ashamed in her heart to refuse. And these rabbis that did not follow this (principle, concerning them) the Rabad (Abraham ben David of Posquieres, 1125-1198) correctly wrote that since they made the Torah their trade, they paid no attention to these normal periods.

Here, Rabbenu Asher is more specific than his predecessors.

Apparently, he feels that when Onah and the study of the Torah conflict, it is better if the Torah's study should not cause undue hardship to the scholar's wife. He makes clear that a wife's "permission," should not be secured against her will. If she must be persuaded, but the prolonged separation will be unduly painful to her, then the period of absence may not be overextended. Her permission must constitute real agreement.

Rabbenu Asher quotes the Rabad in support of this decision. This reference is ambiguous as it stands. It could either mean that

those who are engaged in full time study may be absent for long periods, or it may be interpreted so as to set the rabbis of old into a special category, so as to warn others not to follow their example.

Said Rav: A month here (at the academy) and a month at home (should be the usual periods,) as it is written, "Every month, the courses went out and came in, all the months of the year" (I Chron 27:1). And Rabbi Yohanan said: A month here and two months at home, as it is written, "One month in Lebanon and two months at home" (I Kings 5:28). And Ramah (Meir ben Todros HaLevi Abulafia, 1180-1244), may his memory be a blessing, wrote that it is reasonable to follow Rabbi Yohanan, who concludes from the building of the Temple, but it appears to me that when there is nothing but the usual periods, and she gives permission, we have the authority to follow Rav's lenient decision.

Continuing this same discussion, Rabbenu Asher quotes the Gemara's reasoning for usual period of absence to study. He then quotes another post-Talmudic authority, who concluded that we follow the law as stated by Rabbi Yohanan: Only one month in three may a student be away from his wife to pursue his studies. Nevertheless, the Rosh is not quite content with that decision, and he concludes that if the wife has given permission willingly (i.e. without coercion or bad feelings), and there are no prolonged absences other than the usual period, then Rav's ruling of one month in two at the academy may be followed. It is also worth noting that Rabbenu Asher characterizes Rav's opinion as the more lenient. That is to say, given the choice, scholars would rather be home for a smaller percentage of the time, but the law was necessary to keep their wives' right to Onah intact.

Tayyalim, every day: What are Tayyalim? Rav said people like Rav Shmuel bar Shilath who eats and drinks his own, and sleeps in the shadow of his (own) mansion, and a king's soldier never passes his door.

Again, Rabbenu Asher follows Alfasi, accepting this definition of Tayyalim.

Laborers, twice a week: It has already been taught in a Baraita, "(Laborers), once a week." There is no difficulty. The former applies to those who work abroad and come home each night and sleep at home. By virtue of the trouble of traveling, they diminish one Onah, and thus our Mishna teaches, "Laborers, (may be abroad), one week;" that is to say, they go abroad for seven days and on the eighth day they come home. This refers to workers that do not spend their nights at home.

Here the Rosh relies upon one of the statements of the Tosafot⁶³ that makes this same distinction. There are three possible types of laborers, and their Onahs and maximum times away from home are determined accordingly. However, the Rosh's discussion is much simplified from the Tosafist's, as given above.

Ass-drivers, once a week; Rabbah bar Hanin said to Abaye: Did the Tanna (of the Mishna) go to all this trouble to teach (only) about Tayyalim and workers, with respect to vows of abstinence? For there is no one obliged for Onah within a week except for these. He said to him: It applies to all, for it even says, "Sailors, once in six months," for this teaches that they are not similar. One who has bread in his basket is not like one who has no bread in his basket.

Rabbah bar Hanin said to Abaye: If an ass-driver became a camel-driver, what is the law? He replied: A woman prefers one kav and frivolity to nine kavs and separation. And thus in all cases. Only a Tayyal, who became a student of Torah, when he is likely to be near her always in the city, and he studies, and she does not mind, (is excluded).

The first of these two interactions between Rabbah bar Hanin and Abaye are virtually the same as its original in the Gemara and its restatement in Alfasi. However, this second conversation has a new element added. Rabbenu Asher notes that not only may an ass-driver not reduce his Onah for the added income of a camel-driver, but even if one wishes to become a student of the Torah, it may not be at the

expense of his Onah. A Tayyal, whose Onah is every day, may become a scholar, with an Onah of once a week, only if his wife does not object and/or he may pursue his studies while living at home.

These are the words of Rabbi Eliezar; Rabbah said: The law follows Rabbi Eliezar. Rav Adda bar Ahava said: These are the words of Rabbi Eliezar, but the majority say, 'A man may go abroad to study Torah two or three years without permission.' Rabbah said: The rabbis rely on Rav Adda bar Ahava and follow his words at the risk of their lives. Alfasi does not mention the words of Rav Adda bar Ahava because he reasons that the law follows Rabbi Eleizar. And the Ramah⁶⁴ ruled with Rav Adda bar Ahava, as it says, 'The rabbis rely on Rav Adda Bar Ahava and follow his words at the risk of their lives.' For even though this is the law, it (the law) does not necessitate that he make her a forsaken woman all of the time. This is due to the fact that while she cries, her enjoyment is not far off. In this case we say, above, 'The usual periods, how long?' For even though she gives her permission, it is good advice (to stick to the usual periods). Thus, we were taught that he shall not forsake her, even though it is with (her) permission.

Rabbenu Asher has already ruled that a man may not request his wife's "permission" against her will, that the usual period of absence may be one month in two (without permission), and that one may not change any occupation - even to become a scholar - when it will result in a decreased Onah. He now deals with the problem of greatly prolonged absences that come with one's wife's permission. After quoting the Gemara and two later authorities, with opposing opinions, Rabbenu Asher, apparently, attempts to steer a middle course. He is markedly opposed to prolonged absences. He says that the "usual periods," that is, one month in two, constitute good advice, and that even with the wife's permission, longer absences are to be avoided.

The Onah of students is when? R. Yehudah said, "Every Erev Shabbat, as it is written, 'It will give its fruit in its season' (Psalm 1:3)." Said R. Yehudah, "This refers to intercourse every Erev Shabbat."

Rabbenu Asher concludes with R. Yehudah's dictum, as does Alfasi. The set time for the Onah of scholars is every Friday evening.

(The Commentary of Rabbenu Nissim to Alfasi)

MISHNA: ONE WHO FORBADE HIMSELF BY VOW FROM HAVING INTERCOURSE, ETC.: For example, one who says, "Enjoyment of you intercourse (is forbidden) me," but (not) one who says, "My intercourse (is forbidden you)." For this cannot be forbidden as she is entitled to it, as it is written, "Her conjugal rights, he shall not diminish" (Exod 21:10). Thus, we anticipate (what is written) in Nidarim 15b, in Chapter "These are permitted."

This comment has already been noted by Rashi. The language by which a vow of sexual abstinence is made is crucial to the vow's taking effect. A man may not swear to withhold his wife's Onah, but he may swear that he himself will not receive the enjoyment of intercourse with her.

BET SHAMMAI SAYS, TWO WEEKS: If he vows, we wait two weeks, but if it is longer, she is divorced and receives her ketubah.

This is also found in Rashi, and is a simple explanation of what is found in the Gemara.

STUDENTS WHO GO OUT TO STUDY TORAH WITHOUT PERMISSION, THIRTY DAYS: The Tosafot explain that for thirty days they may remain outside their city, if they must study in another city. On the thirty-first day they must be in their own city, even if that same day they return abroad for thirty days. And likewise, workers for their work, seven days, and on the eighth, they must return home. And this is the Onah mentioned in the Torah concerning students and laborers that must study and work in another city. But students who stay in their own city have a marital obligation every Erev Shabbat, as the Gemara states (82b). And workers, also, that work in their own city have an Onah of twice a week, as is taught next to this in the Mishna.

Nissim holds to the opinion that following the maximum periods of abstinence without permission, a worker or student need only return home long enough to fulfill his marital obligation, and then he may return abroad. Thus, students need not be home one month in

two or three as stated in the Gemara and some of the commentators.

Furthermore, this is an exemption granted students and laborers who study and work abroad from their normal Onah given in the Mishna. The Tosafot upon which Nissim bases his opinion is not one of Our Tosafot.

ONAH MENTIONED...TAYYALIM: This is explained in the Gemara.

ASS-DRIVERS: that go out to farms to bring produce to sell in the market.

CAMEL-DRIVERS: Sellers of goods, and they bring them on camel from distant places.

SAILORS: They spread out on the Mediterranean Sea to the end of the Earth, and according to what I wrote, it is the law as stated above. Likewise, the Onah mentioned in the Torah is, "Students, thirty days, and workers, seven days." And the reason that it (the Mishna) does not teach in the first clause, "The Onah mentioned in the Torah is, Students, thirty days; laborers, seven days)" is that it is not possible to teach that the Onah mentioned is "Students thirty days; and laborers, seven days," because if it had taught in an unspecified manner for all these as it does: "Tayyalim, every day, etc." it might be inferred that it applies also to students and laborers that do their jobs in their own city. But ass-drivers, camel-drivers are clearly implied to be outside their city for that is their custom. And if Tayyalim and laborers are simply stated, it is (their custom to live) in their own cities. Because, here it teaches, "Laborers and students," before "Onah mentioned in the Torah," to indicate that in all cases it is not so. And in the Gemara (62b) there is a disagreement upon it, for the Mishna here teaches, "laborers, twice a week," and then teaches, "laborers, once a week." Said Rabbi Yosi bar Hanina, "There is no difficulty; the former applies to laborers that do their work in their own city, and the latter to laborers that do their work in another city." Was it not taught in a Baraita, "Laborers, twice a week. To what do these words apply? To those who work in their own city, but those who work in another city, (have an Onah of) once a week."

Nissim explains the reason that workers and students are mentioned twice in the Mishna, where as everyone else is only mentioned once, and the reason why the Mishna's words, "The Onah mentioned in the Torah," do not precede its words, "Students may go abroad"

to study, etc." Although Nissim gives the actual Onahs of students and laborers as once in thirty and seven days, respectively, it would have been impossible, he says, for the Mishna to have been so worded. There are two types of workers and students, each with their own Onah. Therefore, the Onah mentioned for students and laborers in the last part of the Mishna applies only to those who work and study at home. The maximum time limits for them to be away from home constitute the Onahs of those that work and study abroad. And, as already noted, Nissim says that they need only return home long enough to fulfill their Onah before they may leave again.

One might inquire upon the answer that the Baraita gives to the body of the Mishna, whose first clause says, "(Laborers), one week." One might say that you cannot find a rebuttal to the first clause of the Mishna, for it (the first clause) simply refers to "those who work in another city," seeing as it teaches, "that go out." But the Baraita does not imply this, for if it did, it would teach here, "Once a week." This means that their Onah is on the seventh day. The Mishna teaches "workers, one week," and that means that their Onah is on the eighth day. And we teach that the Baraita refers to those that work in another city and return home every day, for they are pained on the way, so their Onah is only every seven days. But the latter clause of the Mishna refers to those who work in their own city and have no pains on the way. This means that their Onah is twice a week, and the first clause of the Mishna teaches that their Onah is once in eight days, which refers to those who work in another city and do not return home until the eighth day. According to this, they found three classes of workers, and this system is not clearly indicated to my eyes; for if so, let it teach, "that go out without permission when their Onah is such." And in the Gemara also we say (62b), "These are the words of Rabbi Eliezar, but the majority says, 'A man may go out to study Torah two or three years without permission.'" Consequently, this is not a set Onah, but rather two or three years is according to the (time) needed to become numb. Therefore, it appears more likely that the first clause of the Mishna says that "Students and workers, since their custom is that they must go outside their city, and are able to annul their Onah: Students for thirty days and workers for one week." And the Gemara means that one cannot find an objection to the Mishna and object that the Baraita teaches without qualification "once a week," and that it means they

have a set Onah which is once a week. We teach that this does not include those who work in another city, and accordingly, this is also possible. That is to say, there are three types of laborers: those that work in their own city, twice a week; and if they must go outside of their own city, once in eight days; and if their custom is fixed to spend the day in another city, their fixed Onah is once a week; but if work necessitates, they are able to postpone one day until the eighth, so that they are not prevented from working in their city. And Alfasi does not write of this sugya of the Gemara at all. It appears that he reasons. "Laborers, one week," as is taught in the Mishna, means that their Onah is once in seven days. Therefore, this sugya is expurgated from the Gemara, that if they work in their city they may go abroad without permission for one week.

Rabbenu Nissim has, up to this point, spent a great deal of detail elaborating the classification scheme that the Tosafot suggested⁶⁵ concerning workers. He concludes, as the Tosafist suggests, that the Onah of workers is once a week, twice a week, or once in eight days. But he also extends this type of reasoning to include scholars: Scholars have an Onah of once a week if they live at home; once in thirty days if they study abroad; and if they elect to remain abroad for a much greater period of study, two or three years is not to be regarded as an Onah. Nissim takes Alfasi to task for his omission of all these details. Nissim presumes that this is because Alfasi ignored all these details and simply held that the Onah of laborers is one week, if they work abroad.

Certainly, those who work in another city have this Onah (one week), but I am amazed that Maimonides recalls the sugya of the Gemara and does not write that those who work in their own city are allowed to go without permission for one week, and I am amazed that the Onah of scholars is once a week. Why was our Mishna not mentioned? It appears to me that scholars have no set Onah, for when we teach that scholars may absent themselves without permission, according to R. Eleazar [thirty days, and according to the majority] two or three years, as the Gemara brings to indicate that the Onah of scholars who live in

their own cities is also changed according to what they (i.e. their wives) need to shake off sleep from their eyes with their (wives') consent and preparation for it. And the matter is well known that all times are not the same for them in this regard, and the Gemara says that their Onah is once a week, but it does not intrude upon them in their studies. It is known that this is not always an exact measure with them. There Onah is not taught as in our Mishna.

After criticizing Maimonides for omitting the details of the Onah for scholars, Rabbenu Nissim adds what might be considered an original addition to this discussion. He says that the students of the Torah have not required Onah at all. The Onah of students who study at home is once a week. But they may go abroad to study without permission for thirty days. However, if they desire to go abroad to study for several years, even the majority view of the sages which allows them to be absent for two or three years cannot be considered a mandatory Onah. The Mishna's statement, "Students, once a week," cannot be considered binding upon students who wish to ignore it. Thus, Rabbenu Nissim espouses a view that when study of the Torah conflicts with normal relations between man and woman, the study of the Torah takes precedence.

V. MAIMONEDES, MOSES DE COUCY, JACOB BEN ASHER, AND JOSEF KARO

The third genre of literature which developed from the Talmud consists in codifications of the Law, in addition to the compendia of Alfasi and Rabbenu Asher. Both the compendia and the codifications sought to make the principles which derive from the Talmud's discussion more accessible and more simplified. However, the compendia follow the Talmud's own quasi-thematic order and organization. The codifiers attempt to reorganize the material into a different thematic and logical order. The four preeminent commentators shall now be examined for their analysis of the matter of Onah.

The first of the great codifiers of the Talmud was Maimonides (1135-1204). Departing from the format of the compendia that preceded him, Maimonides succeeded in reworking the entire organizational structure of Jewish law. Each of the Talmud's discussions is reduced to a few laconically stated principles which are divided into fourteen categories encompassing the entire scope of the legal corpus. These categories include, not only the ceremonial and civil law, but also the laws pertaining to the ancient Temple cult, and the ethical and philosophic foundations of Judaism. Calling his work the Mishna Torah, or Second Torah, he attempted to provide a complete handbook of Jewish law which had previously been nonexistent.

The second code to be discussed here is the Sefer Mitzvot HaGadol of Moses ben Jacob de Coucy, written in the mid-thirteenth century. This work is based upon a book of Maimonides which predated

the Mishna Torah, the Sefer HaMitzvot. In this work, Maimonides had enumerated his list of the 613 commandments of the Torah and had commented upon each. Moses de Coucy presents an enlargement and modification of this work by adding to the Biblical foundations that Maimonides presents, the Talmudic and post-Talmudic discussions on the various commandments. With the publication of the Mishna Torah, a schism had developed in the Jewish scholarly world between the Franco-German school, represented by the Tosafists, and the Spanish school, represented by the adherents of Maimonides. De Coucy bridges the gap between these schools somewhat, by defending the Tosafists against the rising popularity of Maimonides, yet at the same time, presenting Maimonides' opinions to the Franco-German world.

The third codifier to be considered here is Jacob ben Asher, (d. 1340), author of the Tur, and the son of Rabbenu Asher. Following Maimonides, the Tur gives laconic legal statements of the law, without their Biblical or Talmudic sources; yet he often gives post-Talmudic opinions in their authors' names. Furthermore, in presenting contrasting opinions, he frequently leaves the legal decisions ambiguous. However, this was due to the rapid development of Talmudic study during the two hundred years since Maimonides. As the author notes in his introduction, there was hardly a point of law which in his day was not a subject of difference of opinion. The Tur also presents a new organizational format, restricting itself to legal practices still observed, and subdivided into four parts; hence its full name is derived, Arbah Turim, the Four Rows.

By the middle of the sixteenth century, such a wide variety

of practices, based upon divergent authorities and variant local customs had arisen that there was no one code of law which could be regarded as authoritative. This situation was remedied by the Shulhan Aruch of Josef ben Ephraim Karo. After writing an exhaustive commentary upon the Tur, called Bet Yosef, Karo produced what has been the normative code of Jewish law since, the Shulhan Aruch. Karo follows the organizational framework of the Tur, but he omits the Tur's variant authorities on most issues. Karo used as his central authorities, Alfasi, Maimonides, and Rabbenu Asher, taking their majority as binding when they disagreed. The ultimate authority that the Shulhan Aruch received was due in no small part to the fact that soon after its publication, Moses Isserles added to its text a series of glosses which noted the variant practices of the Ashkenazi (European) Jews, whereas Karo restricts himself to the Sephardic (Oriental) variants. Thus, with Isserles' glosses included, the Shulhan Aruch received universal recognition within a century.

We proceed now to examine those sections of these four codes which deal with the subject of Onah.

(The Mishna Torah of Maimonides; Sefer Nashim, Hilchot Ishut)

Chapter 12

1. When a man marries a woman, whether she is a virgin or not, whether she is young or old, whether she was born an Israelitess or was converted or was a freed slave, he is obliged to give her ten things and receives four things from her.

2. Of the ten things, three are from the Torah, and these are **שֶׂאֱרָה**, **כֶּסֶת**, **וְעֹנֶתָהּ**. **שֶׂאֱרָה** is her food. **כֶּסֶת** has its plain meaning (i.e. clothing). **וְעֹנֶתָהּ** - to have intercourse with her in the normal manner....

As was implied by the juxtaposition of our sugya in the Mishna and Gemara, the concept of Onah for Maimonides is a part of a general theory of reciprocal rights, privileges, and obligations implicit in the concept of marriage. Maimonides begins his discussion of these mutual obligations and rights, by stating that they apply in every single type of marriage imaginable. He enumerates ten obligations upon the male, and four things he receives from her. The threefold obligation upon the male of Exodus 21:10, makes up the first three of these ten things which a man owes his wife. Furthermore, Maimonides goes on to say, these three are the only ones sanctioned by the Torah. The other seven, as well as the four he receives from her, are Rabbinical enactments.

Chapter 13

1. What constitutes (fulfillment of) the obligation of clothing that he must provide for her? Clothing worth 50 zuz every year, of the coinage of the days in which the 50 (zuz amounted to) six and one-quarter silver dinars. And he gives her new clothes in the rainy season, and she dresses in their remnants in the summer months.....

Maimonides here spells out the minimum requirements of the obligation of a man to clothe his wife. In addition to stating the minimum monetary value and seasonal requirements, he goes on to stipulate that כסותה includes furniture and furnishings for the house. He also notes that the wealthy are obliged to provide even additional luxuries, such as jewelry, and that the clothing requirement extends to ones children as well. Maimonides thus goes beyond the Talmud and the commentators heretofore discussed as far as laying down the specifics implied in the meaning of Exodus 21:10.⁶⁶

Chapter 14

1. The Onah mentioned in the Torah applies to each man according to his strength and occupation. What does this mean? Men who are healthy and live a soft and pleasurable life, who have no work which weakens them, but rather who eat and drink and stay in their (own) homes have a marital obligation every night. Workers, such as tailors and weavers and builders and the like, if they work in (their own) city, have a marital obligation of twice a week. If they work in another city, their Onah is once a week. Ass-drivers, once a week; camel-drivers, once in thirty days; and sailors, once in six months. Scholars have an Onah of once a week, for the study of the Torah weakens them, and it is the custom of scholars to have intercourse every Erev Shabbat.

In this paragraph, Maimonides gives a definition of Tayyalim which departs from other definitions slightly. Those who have an Onah of once a day are not just the self supporting men, as Rashi claimed, or just independently wealthy, idle men, as the Tosafist claimed, but rather healthy, physically fit men, who are wealthy enough to enjoy a soft and pleasurable life. Furthermore, Maimonides notes the distinction between workers who work abroad and those who work at home, and he gives the Onah of scholars whose longer absences are discussed in the next

paragraph.

2. A woman has the right to prevent her husband from going out to practice business - except to a nearby place - so that her conjugal rights are not diminished, and he may not go without her permission. And so she may prevent his changing from a trade with frequent conjugal obligations to a work with infrequent conjugal obligations. For example, an ass-driver that wished to become a camel-driver, or a camel-driver (that wished) to become a seaman. Scholars may go out to study Torah without the permission of their wives of two or three years. But one who lives a soft and pleasurable life may become a scholar without his wife being able to prevent him.

Here Maimonides again restates the Talmud's argument, and sides with those of the opinion that students may absent themselves for several years. Furthermore, he links this principle with the principle concerning changing occupations, so as to decrease Onah. Although the latter is prohibited, Maimonides regards study of the Torah as an exception to the prohibition on changing Onahs.

3. A man may marry several women or even a hundred, whether (he marries them all) at once or one after another, and his wife is not permitted to prevent him (from doing so). (And this refers to) one who will be able to give food, clothing, and Onah, as is proper, to each one. And he is not permitted to force them (i.e. his wives) to dwell in one courtyard; rather, each one (must live) privately.

Maimonides relies upon the Talmud, Tractate Yevamot 44a, for this extension of Onah to limit the extent of polygamy. Polygamy does not change the fact that a man is responsible to provide for the sexual and material needs of all of his wives. This is further explained in the next paragraph.

4 And what are their Onahs? (It is) according to the number (of wives). How so? A worker who has two wives, each one has an Onah of one a week. If he has four wives, the result is that each of them has an Onah of once

every two weeks. And so if a sailor has four wives, each of them has an Onah of once in two years. Therefore, the sages commanded that a man not marry more than four wives, even if he is very wealthy, in order that each have an Onah of (at least) once a month.

Maimonides' principle regarding polygamy and Onah is that the Onah determined by a man's occupation is divided equally among all of his wives. Therefore, Maimonides regards Onah as a minimum frequency of sexual intercourse with each of his wives which is incumbent upon a male. Nevertheless, there is also a minimum frequency of intercourse to which any woman is entitled, and this is "not less than once a month." Interestingly enough, it is this requirement and none other which serves to limit the number of wives that a man can acquire.

6. Concerning one who forbade himself by vow from having intercourse with his wife, one week (is permitted). They wait for him (to fulfill his vow). More than this (i.e. one week) he must divorce her and pay her ketubah, or he must annul his vow. Even if he is a sailor and his Onah is once in six months, when he so vows, she becomes sorrowful and despairs, (therefore, more than one week is forbidden). How does he so vow? If he says to her, "My intercourse is forbidden you," or if he swears that he will not have intercourse, the vow is null and void. If he so swears, he swears in vain, because he is obligated to her. If he says, "Enjoyment of your intercourse by me is forbidden to me," this is a (valid) vow, and he is forbidden to have intercourse for one does not feed a man what is forbidden him.

Here, Maimonides restates what has already been said in the Gemara.

7. A man may not withhold his wife's Onah from her. If he transgressed and withholds it in order to cause her pain, he has transgressed a negative commandment of the Torah, as it is written, "Her food, clothing, and Onah, he shall not diminish." If he is sick or his strength is weak, and he is not able to have intercourse, we wait six months, for perhaps he will become well, and no Onah is longer than this. And afterward, she must give her permission (to thus remain married) or he must divorce her and pay her Ketubah.

Seeing as how Maimonides was a physician, it is not surprising that he discusses the possibility that an individual might become ill and be unable to fulfill the requirements of Onah. He reasons that six months, the longest Onah provided for in the Mishna, is the maximum that one may abstain from sexual intercourse due to illness. However, with his wife's permission, divorce is not forced after the six month wait.

Chapter 15

1. It is permitted for a woman to give her permission to her husband after marriage to withhold her marital rights. To whom does this apply? To one who has already had children to fulfill the commandment, "Be fruitful and multiply;" but if it is not fulfilled, he (the husband) is obligated to have intercourse every time of her Onah until he had children. For it is a positive commandment of the Torah, as it is written, "Be fruitful and multiply" (Gen 1:28).

Sexual intercourse may be eliminated from a marriage, according to Maimonides, only by mutual consent of both husband and wife, and only if they have already had children. The commandment to procreate is independent of the commandment to provide one's wife with her sexual rights, is incumbent only upon males, and is fulfilled when one has sired a male and a female child. Maimonides has separated the principles of Onah and the commandment to procreate into distinct laws. Onah, thereby, is incumbent upon anyone, whether or not they have fulfilled the commandment to have children, as a separate and distinct law. But, Maimonides does say, that by mutual consent, a husband and wife can refrain from fulfilling their Onah, if and only if, he has fulfilled the commandment to procreate. This may be regarded as an innovative ruling, as it seems to have no foundation, except by the most oblique inference, in the earlier literature.

(Sefer Mitzvot HaGadol of Moses de Coucy)

Negative Commandment 91

"Her food, her clothing and her sexual rights, he shall not diminish" (Exod 21:10). The Holy One, Praised be He, commanded that one who marries a woman shall not withhold from her **שאר כסות ועונה**. And in the explanation of Scripture, our rabbis disagreed. In Ketubot (47) **שאר** refers to food, **כסותה** according to its usual meaning, and **עונה** refers to intercourse. And R. Eliezar ben Ya'acov said that **כסותה ועונה** (means) according to the season one provides clothing, and that one not provide new clothes in the warm months, or thin garments in the rainy season. **שאר** (means) according to one's age one must provide clothing: that one not give a girl's clothing to an old woman, or an old woman's clothing to a girl. And Rabbi Eliezar ben Ya'acov interprets food and sexual intercourse rabbinically, and it is taught in the Tosefta that Eliezar ben Ya'acov says, "How do we know (a husband is obliged to provide) food? Just as things which do not sustain the body, like clothing, cannot be withheld from her, so things which do sustain the body (cannot be withheld). How do we know sexual intercourse (may not be withheld)? Just as things which do not effect marriage when done cannot be withheld from her (like clothing), things which do effect marriage when done (cannot be withheld). Rav Yosef taught (Ketubot 48a) that **שאר** refers to physical contact, that one may not follow the practice of the Persians that have sexual intercourse while clothed. This supports R. Huna who said, "One who says I do not want sexual intercourse except with me in my clothes and she in her clothes," must divorce her and pay her ketubah. And the frequency of sexual intercourse and the amount of food and clothing (that he must provide) are explained in Chapter "Even Though" (Ketubot 61), that teaches in the Mishna: The Onah mentioned in the Torah is, for Tayyalim, who are men who are free and do not work, every day; workers, if they work abroad, once a week; if they work in their own city, twice a week; ass-drivers, once a week; camel-drivers, once in thirty days; sailors, once in six months; these are the words of R. Eliezar. And the reason that after the Onah which is unspecified in the Torah becomes specified is that it appears that all (Onahs) are according to the trouble of one's occupation, and thus one should conduct himself.

Moses de Coucy adds very little to the discussion of Onah that has not already been mentioned. However, he does omit mention of the prolonged absences of scholars, and the laws about changing one's occupation. He uses Ketubot 45 as his primary text of halachic import in determining the meaning of Exodus 21:10. He relies on R. Eliezar

ben Ya'acov to determine the specifics that it requires. Although he derived the periods of Onah from the Mishna, as do all the other authorities, in addition he believed that this verse indicated that there are laws regulating the nature of the clothing that must be provided to ones wife, as well as the manner in which sexual intercourse must be practiced. In this particular section, the influence of Maimonides is apparent, although de Coucy does not link the fulfillment of Onah to the commandment to procreate. Furthermore, he does not deal with the problem of the permissability of prolonged absences for scholars.

(The Tur of Jakob ben Asher)

Yoreh Deah

Chapter 235

One who forbade his wife by vow from sexual intercourse, who says, "Konam, that your intercourse is forbidden me," must fulfill the vow for seven days, whether it was specified for seven days or more, or its time was not specified. And after seven days (if a vow is still in force) he must divorce her and pay her ketubah. One who vows "That she not receive enjoyment (of his intercourse)," his vow has no power, but it (abstention) is a result of it (i.e. the vow, in the former formula).

In this section, the Tur restates the first clause of the Mishna of our sugya, and it interprets its demands for the precise legal formula to circumvent the language of Exodus 21:10. This is further specified in Even HaEzer, Chapter 72 and 74, in which specific situations of how and why such a vow may be made are given. It also specifies which types of these vows may be abrogated:

....If she says, "Enjoyment of your intercourse (is forbidden me) if you eat that," even if it is bad and he does not taste it, she is always immediately divorced and receives her ketubah. And if he makes the vow and says to her, "Enjoyment of your intercourse (is forbidden) me if you taste that type (of food)," he fulfills (the vow) seven days, and then divorces her and pays her Ketubah...

...(A vow concerning) intercourse: If she says, "Konam, your intercourse is forbidden me if I go to my father's house:" if she had not laid the condition of intercourse upon it, but rather said, "Konam, my father's house to me," she is not allowed to annul it, but when she suspends it on the condition of intercourse, she can annul it, since she knew whether her father was in the city and did not annul it...If he says, "Konam your intercourse to me if you go..." he divorces her after seven days....⁶⁸

Even HaEzer

Chapter 73

כסוה. How so? He is obliged to clothe her according to her station. And the Sages say that a poor man in Israel must not give to his

wife clothing worth (less than) fifty zuz of the silver (coinage) of the state. And (he does not give her) new clothes in summer, but rather new clothes in the rainy season....

Like Maimonides, the Tur specifies rather exactly the requirements which כסוּתָה demands. The amount of clothing a man must provide is determined by his ability to provide, with a minimum set for the poor.

Chapter 76

One is obliged to provide her (i.e. one's wife's) Onah. How so? Each individual (fulfills it) according to his strength and his occupation. Idle men who have no work and that are healthy and live a pleasurable life and pay no taxes, but eat and drink and live in their own homes, have a marital obligation of every night. And those who have occupations such as tailors or weavers or builders, etc., and labor in their own city have an Onah of twice a week. If they work abroad and return home every night, it is sufficient that they fulfill an Onah of once a week, due to their troubles on the road. And workers that do not return home may be abroad for seven days, and on the eighth day they must return home; and thus, they must always return home once every eight days. And ass-drivers, once every week; camel-drivers, once every thirty days; and sailors, every six months; and scholars, once every week, because their study is their occupation, and it weakens their strength. And the custom among scholars is to have intercourse every Erev Shabbat. And Rabbi Meir HaLevi (Abulafia) wrote, "These words apply to one whose body is healthy and is able to fulfill the Onah that is designated for him, but one who is not healthy is not obligated; rather (his Onah is fixed) according to what they approximate that he is able to fulfill.

In this section, Jacob ben Asher restates the major principles found in the Gemara. He utilizes the designation of the Tosafot and Rabbeinu Asher concerning the three types of workers, and he makes mention of the fact that the general requirements of Onah are contingent upon one's good health. This principle was found in Maimonides, and the Tur attributes it to Rabbi Meir HaLevi.⁶⁹ The author also cites the Rabad's dictum⁷⁰ that the Onah for scholars is as infrequent as it is, due to the fact that the study of the Torah is considered a taxing trade. Furthermore, Tayyalim has been replaced by בטלים, "idle

men," or "unemployed." The definition for this group, however, is an amalgam of Maimonides' definition and the Gemara's example of Shmuel bar Shilath. They must be both independent of economic worries and of good health.

A man is not permitted to go abroad to engage in commerce or for any material need that would disrupt the Onah that is incumbent upon him, unless he has his wife's permission. Even if he has her permission, it is not proper for him to be detained more than a month abroad (followed by) a month at home; for even though she gives her permission, it is through persuasion, or else, due to her embarrassment of preventing him, she is sorrowful (at his leaving). And Rabbi Meir Halevi ruled that (one should not be abroad more than) one month, (followed by) two months at home. And my father, Rabbenu Asher, may his memory be a blessing, ruled a month abroad, (followed by) one month at home. And Abraham ben David of Posquierre wrote that one whose occupation is the study of the Torah may go abroad for as long as she (his wife) will give permission. But Meir Halevi ruled that even if it is without permission, he may go abroad to study, for Rav Ahava said, "These are the words of Rabbi Eliezer that say that students may go abroad without permission for thirty days, but the Sages said that a man may go abroad to study Torah for three or four years without permission"; Raba said, "The rabbis relied on the words of Adda bar Ahava, and do accordingly at the risk of their lives." That is to say, they went abroad (to study) without permission and were culpable for punishment for it. And my father, Rabbenu Asher, wrote that Alfasi did not mention the words of Rav Adda bar Ahava because the halacha follows Rabbi Eliezer. And Rabbi Meir Halevi ruled with Rav Adda bar Ahava, for it says, "The rabbis relied on the words of R. Adda bar Ahava." Perhaps all these rabbis reasoned as did R. Adda bar Ahava, and did accordingly at the risk of their lives; even though the halacha follows R. Adda, he (Alfasi) does not mention it (so as not to encourage) the leaving of their (i.e. scholars') wives for such long time periods, for because of this, their tears are likely, and their depression increases. Maimonides wrote that scholars may go abroad without their wives' permission for three or four years.

In this paragraph, the Tur gives the whole history of the debate on whether or not scholars may absent themselves from their wives for long periods. After citing the various rulings about how long one may be away for business purposes, and whether or not one needs his

wife's permission, ben Asher lists the authorities who have ruled about scholars' absences. He also defends Alfasi against his father, by providing a reason for Alfasi's failure to mention the prolonged absences approved by the Sages. That is to say, Alfasi did not wish to encourage long absences due to the pain they cause wives. Therefore, he did not mention them, even though they are permitted. Jacob ben Asher notes that his own opinions are that a man may only be absent for commerce one month in two, and although he does not say so, it is apparent from his discussion that he approves of long absences for scholars.

Maimonides wrote in Chapter 15 of laws of Marriage, "It is permissible for a woman to give her husband permission after they are married to withhold her Onah. To what does this apply? To those who have fulfilled the commandment to procreate. But if one had not fulfilled the commandment to procreate, he is obliged to have intercourse for each and every Onah until he has children, for this is a positive commandment of the Torah, as it is written, "Be fruitful and multiply" (Gen 1:28)." And Maimonides wrote in Chapter 17, "A man may marry several women or even a hundred, either at one time or one after another, and his wife is not able to prevent him, as long as he can provide food, clothing, and Onah to each one as is proper. And he may not force them (all) to live within one courtyard, but rather each one must live alone. What are their Onahs? Each one is according to the reckoning. How so? A worker that has two wives, each one has an Onah of once a week. If he has four wives, each one has an Onah of once in two weeks. And if a sailor has four wives, the Onah of each one is once in two years. Therefore, the Sages commanded that a man not marry more than four women, even if he is very rich, in order that each have an Onah of not less than once a month.

Here, the Tur repeats the argument of Maimonides, linking the laws of Onah to the laws of polygamy and the laws of the commandment to procreate.

One that forbade his wife by vow from having intercourse with him, whether he vows for an unspecified time period or for seven days, or more, ful-

fills the vow for seven days, (and if he vowed it for more), he must divorce her and pay her ketubah. Even if he is a sailor and her Onah is once in six months. How does he so vow? He says, "Enjoyment of your intercourse is forbidden men," for then it is forbidden, as one cannot be fed with what is forbidden him. But if he says, "Enjoyment of my intercourse is forbidden you," or if he vows not to have intercourse with her, the vow has no weight.

This passage not only adds nothing new to this law, it repeats what the Tur itself has already said.

Maimonides wrote, "A man is forbidden to withhold his wife's Onah from her, and if he withholds it to cause her pain, he has transgressed a negative commandment of the Torah, for it is written, "Her food, clothing, and Onah, he shall not diminish." If he is sick or his strength has diminished, and he is not able to have intercourse, we wait for him for six months, that he may get well, for there is no Onah greater than this. And afterward, he either gets her permission (to continue to refrain from intercourse), or he must divorce her and pay her ketubah."

Here again, the Tur presents the views of Maimonides, adding little to what the Mishna Torah has already said.

(The Shulhan Aruch of Josef Karo)

Yoreh Deah

Chapter 235

One who forbade intercourse with his wife, that he said, "Konam, that your intercourse is forbidden me," must fulfill the vow for seven days, whether the vow was specified for seven days, or more, or its time was not specified. And after seven days (if a vow is still in force), he must divorce her and pay her ketubah. One who vows, "That she shall not receive enjoyment (of his intercourse)," his vow has no power, but it (abstention) is a result of it (i.e. the vow, in the former formula).

This paragraph repeats, virtually verbatim, the law as it was set down in the Tur. Similarly, chapters 73-74 of Even HaEzer rely upon the Tur's formulation.

Even HaEzer

Chapter 73

כסותה : How so? A man is obliged to give her (his wife) the proper clothing for her in the rainy season and the summer.....

In this chapter, Karo restates the principles of Maimonides and the Tur that there are definite guidelines to the amount and type of clothing that a man is obliged to give his wife, based upon the Biblical injunction of Exodus 21:10. However, Karo's requirements depart from those that were laid down by his predecessors.

Chapter 74

3....If he says to her, "Konam, is your intercourse to me, if you lend or borrow those vessels," and it is impossible for her not to lend or borrow them, certainly she is forbidden (to him) immediately, and she is divorced after seven days and receives her ketubah....

4. If she swears not to go to her father's house and suspends it (the vow) upon intercourse, that she said, "Konam is your intercourse to me, if

"I go to my father's house," - if she had not suspended it upon intercourse, but rather said, "Konam is my father's house to me," she may not annul (the vow) - but when she suspends it with intercourse she may annul it....

6. And if he vows by saying, "Konam, is the enjoyment of your intercourse to me if you go," he must divorce her after seven days and pay her ketubah....

In this chapter Karo makes explicit the nature and wording of vows of abstinence. He gives examples, as did the Tur, of various types of vows, and he states whether or not they are binding or may be annulled. All of these are individual cases which may be subsumed under Chapter 235 of Yoreh Deah, above.

Chapter 76

1. What are the laws of Onah? Every man is obligated to periodic intercourse according to his strength and occupation, and this period for Tayyalim is every night.

Karo give no definition at all for Tayyalim.

2. Laborers, if they work in the city (in which they live, have an Onah of) twice a week, and if they work in another city, once a week [and there are some who say that if they do not return home to sleep each night, their Onah is every eighth day; This is from the Tur and the Tosafot in the name of R. Isaac bar Baruch⁷; Ass-drivers, once a week; camel-drivers, once in thirty days; sailors, once in six months; Scholars have an Onah of once a week, and the custom of scholars is to have intercourse each Erev Shabbat.

This section repeats what has already been said many times.

The section in brackets is not by Karo, but a later editor. He footnotes his words to the Tur and attributes the passage of the Tosafot to R. Isaac bar Baruch.⁷²

3. To what do these words apply? To one who is of healthy body and is able to fulfill the Onah designated to him, but one who is not healthy

is not obligated; rather (his Onah is) according to what they approximate that he is able to fulfill.

4. Every man is obligated to visit his wife on the night of her ritual immersion and in the hour that he goes abroad.

This last passage adds another dimension to all of the earlier discussion about absences for study and commerce. Karo rules that one must have intercourse prior to departure, and he subsume this under the rules of Onah.

5. A woman may prevent her husband from going out to do commerce, except to a nearby place, that he not neglect her conjugal rights; and he may only leave with her permission. And even if she gives him permission, he may not be absent more than one month abroad and a month at home - Tur and Rabbenu Asher⁷. And so she may prevent his changing from work whose Onah is frequent to work whose Onah is infrequent. For example, an ass-driver who wished to become a camel-driver or a camel-driver (who wished) to become a sailor; and scholars may go out to study Torah without permission of their wives for two or three years. But a Tayyal who becomes a scholar, his wife is not able to prevent him. And if she gives him permission, a scholar is able to absent himself for as long as she gives him permission - Tur in the name of Abraham ben David of Posquierre⁷.

As has been noted in the analysis of the Tur, the Tur does indeed cite this opinion of Abraham ben David, but only as part of a long list of opinions, not necessarily one which the author holds.

6. A woman who gives her husband permission after they are married to withhold her Onah, this is permitted. To what does this apply? To one who has fulfilled the commandment to procreate, but if he has not fulfilled it, intercourse is obligatory on each Onah until it (i.e. procreation) is fulfilled.

Karo adopts Maimonides' principle that Onah and procreation are two separate comments, and that only if procreation has been fulfilled can Onah be abrogated by mutual consent.

7. A man may marry several women or even a hundred, either all at once or one after another, and a man's wife may not prevent him. This applies to one who can provide food, clothing, and Onah to each one. And he cannot force them to live in one courtyard, but each one (must live) alone. And the Onah of each one is according to the reckoning: A worker who has two wives must provide each with an Onah of once every week. If he has four wives, the Onah of each one is once every two weeks. And thus, a seaman who has four wives, each one has an Onah of once every two years. Therefore the Sages commanded that no man marry more than four wives, even if he is very wealthy, in order that each have an Onah (of at least once a month.)

8. To what do these words apply? In a place where it is the custom to marry 2 or 3 wives. But in a place where it is the custom to only marry one woman, he is not permitted to take a second wife without her permission, and certainly if he agreed in her ketubah that he would not marry another.

By Karo's time, Jews in Europe had adopted monogamy, even though in the Orient they still occasionally practiced polygamy. Therefore, he stipulates that these laws of Onah should not be construed as authorizing polygamy in places where it is no longer practiced.

9. One who forbade his wife by vow from having intercourse, whether he vows for an unspecified time period, or for seven days, or for more, fulfills the vow for seven days, and afterward he must divorce her and pay her ketubah, even if he is a sailor and has an Onah of once every six months.

10. How does he so vow? He says, "The enjoyment of your intercourse is forbidden me." But if he says, "Enjoyment of my intercourse is forbidden you," or he swears not to have intercourse with her, (the vow) has no power. But if he swears with her consent, the vow does have power, and he is permitted to be alone with her, even though he is forbidden to have intercourse with her - Glosses to Maimonides, Chapter 4 of Laws of Marriage⁷.

The editor comments on this passage by noting an exception to all of the other comments about the man's vow of abstinence. If his wife agrees to his vow, he may use the formulae which heretofore have been said to be of no consequence.

11. A man is forbidden to withhold his wife's Onah from her. If he withholds it to cause her pain, he has transgressed a negative commandment (of the Torah, for it says,) "Her Onah, he shall not diminish." If he is sick or weak of strength and is not able to have intercourse, we wait six months until he becomes healthy, for there is no Onah greater than this. And afterward he either secures her permission (to continue marriage without intercourse), or he divorces her and pays her ketubah.

13. One who says, "It is impossible for me (to have intercourse) except I in my clothes and she in her clothes," must divorce her and pay her ketubah. And certainly (he must divorce her) if he is not coupled to her at all. [And so if she says, "It is impossible (for me to have intercourse) except I in my clothes and he in his clothes," she is divorced and does not receive her ketubah].

Karo, like Moses de Coucy and Maimonides, gives halachic import to the passage from Ketubot 47 which parallels the sugya of the Talmud Yerusalmi. In the Bavli (but not the Yerusalmi) of this passage, this principle is laid down, that intercourse cannot be engaged in while clothed. An editor points out that if it is the woman who makes this demand, not only is she divorced but she loses her ketubah.

FOOTNOTES

¹A more complete study ought to include the responsa literature and the commentaries on the codifications as well. However, as authorities often include references to the significant contributions of their predecessors, important additions by those not discussed will be included in the writings of those that follow them.

²This paper shall assume a Tanaitic date of the Mechilta. A later date, however, is argued by Ben Zion Wacholder, "The Date of the Mekilta de Rabbi Ishmael" (Hebrew Union College Annual XXXIX:117). Cincinnati 1968.

³J. Edgar Park, "Exposition: the Book of Exodus," Interpreter's Bible Vol. I, p.996. New York, Abingdon-Cokesbury Press, 1952.

⁴Brown, Driver, and Briggs, Hebrew and English Lexicon of the Old Testament, Oxford, Clarendon Press, 1966, p. 491.

⁵The Septuagint reads, ἡ ἀλλοτρίωσις "intercourse," from the root meaning, "to be in company with," or "grouping." The Targum gives וְעִזְוָתָהּ, which is identical with the Hebrew. NEB and New JPS give "conjugal rights." "Her oil" is suggested by אֵלֶּי שֵׁיב אֵרֶן 'לענין שארה כסותה וענתה' 33:317, 1968-69 and by Shalom Paul, "Exod 21:10, a Threefold Maintenance Clause," Journal of Near Eastern Studies 28:48, 1969. "Her cakes," is suggested by נ.ה.סור-סוני, פשוטו של מקרא, 1967, 1:115: קרית ספר, ירושלים. 'ענתה, עלינו לגרום, כנראה, עִזְוָתָהּ, והכוונה לאותן עוגות לחם, שהיו נשים אופות להג.' U. Casuto, A Commentary on the Book of Exodus, Jerusalem, Magnus Press, 1967, gives "her quarters," referring to her living quarters. (p.269).

⁶This sentence is repeated in the Mishna, Eduyot 4:10 in the context of a list of differences between Bet Hillel and Bet Shammai. It is also quoted on Ketubot 71a in the context of a discussion of vows a man may make which deal with his wife. The laws of this vow are also discussed on Nidarim 15b.

⁷Danby's Mishna numbers this 6. In the Yerusalmi edition it appears as 7.

⁸All dates of Tanaim and Amoraim are according to Margoliot, אנציקלופדיה לחכמי התלמוד, Tel-Aviv, Joshua Chachlik Publishing House Ltd. 1970.

⁹The Mechilta's parallel sharpens up the plausibility of this argument. See below, p.17.

¹⁰Lieberman, תוספתא כפשוטה: יבמות וכתובות, New York, 1967, p.265f.
בית מדרש להבנים שבאמיקה

¹¹Friedman Edition, אום, New York, 1948, p.88b. Weiss and Horowitz-Rabin editions do not differ.

¹²Methodologically, this is not the soundest procedure imaginable. However, there is virtually no other evidence from which to argue when so few texts are analyzed.

¹³This attribution to R. Eliezar is doubtful, as in our Mishna, R. Eliezar assumes that Onah means intercourse.

¹⁴B. Niddah 4b, 63b

¹⁵B. Niddah 7b, 9b

¹⁶B. Yebamot 62b

¹⁷B. Pesachim 72b

¹⁸B. Eruvin 100b

¹⁹B. Baba Kamma 82a

²⁰P. 8 above

²¹P. 9 above

²²Mishna Ketubot 7:1

²³B. Ketubot 71a

²⁴Ibid.

²⁵In addition, B. Ketubot 63a specifies monetary penalties if either spouse "rebels," or refuses the sexual rights of the other.

²⁶A marginal note on this text notes that the proverb which ends this section is quoted in the Aruk HaShalem, under the entry חכל. However, this quotation contains a minor textual variant: דמלפא חכלא לא בהחה, and there it is translated, "One who learns to be bereaved has no shame."

²⁷The proof-text of the section ascribed to R. Isaac also appears in B. Yoma 77a and in the Ein Yaacov (Yoma 10). There the same verse is utilized and the same interpretation is ascribed to R. Isaac. However, it is introduced as an aside within the context of using this verse to prove a very different point.

²⁸The "king's soldiers" referred to in this passage is פריסחא in Aramaic. The marginal note refers to the Aruk HaShalem which quotes this same passage, but gives the word דריקא (under which the quotation is found) in place of פריסחא. Similarly, the question to R. Yohanan at the end of this passage from the text is found with minor textual variants in the Aruk under the heading, מל, where the phrase is translated.

²⁹P. 15 above

³⁰The reading of some manuscripts which substitute Hanin b. Papa for Rabbah bar Hanan is probably correct. Margoliot lists no Rabbah bar Hanan, but Raba bar R. Hanan was a younger contemporary of Abaye. This is how Rabbenu Asher reads section VIII. of the Gemara.

³¹B. Yoma 18b, 67a, 47b, B. Berachot 37b, Ketubot 63b

³²B. Eruvin 63a, Rashi tells us that Mahuza was Raba's hometown.

³³P. 29-30 above

³⁴According to Alfasi, Beruna is read Mattena, and according to Rabbenu Asher, Rav is read Raba, however.

³⁵There, however, the alternate authorities to Rav Yehudah are R. Nachman, R. Kahana, and R. Yohanan. All of these four authorities are contemporaneous with R. Yehudah (assuming Rav Kahana is the first or second of the four authorities who bore that name).

³⁶B. Yevamot 61b f.

³⁷There is a marginal comment to the words בי שמש which appear in this text. The note refers us to Rashi to Ketubot 103a, which says, "בי שמש: Erev Shabbat; and it appears to me that it is at twilight, that it makes everyone speak quickly, and everyone becomes excited, so they finish their work before dark; they call it (i.e. this time) בי שמש."

³⁸ A play on words between "zonah, harlot," and "yonah, dove."

³⁹ p. 41 above

⁴⁰ p. 29f. above

⁴¹ B. Baba Batra 59a tells of an incident in which all three generations debated a point in the law. See also p.82 below.

⁴² p. 28f above

⁴³ This problem is discussed below in the Tosafot, p. 84.

⁴⁴ B. Ketubot 63a-64b; for the preceding material, see above p. 21-22.

⁴⁵ B. Ketubot 64b-65b

⁴⁶ Jona Fraenkel, "Rashi," Encyclopedia Judaica, 1972, 13:1564f..

⁴⁷ The printed text is in error. Rashi's cross-reference should read 70b.

⁴⁸ See note 26 above

⁴⁹ מַסַּכָּה כְּתוּבָה חֶלֶק שְׁנִי, אוֹצֵר הַגְּאוֹנִים, מ.ב. לויין, p. 34, quoting שִׁטָּה מְקוּבָּצָה: The Gaon, may his memory be for a blessing, explained that an ass-driver's wages are not great, and he has no prosperity; even if he became a camel-driver, who has great prosperity, his Onah remains as it originally was, for "a woman prefers one kav, etc."

⁵⁰ p. 45 above

⁵¹ cf. Jastrow, A Dictionary of the Trugmim, the Talmud Babli, etc., p. 278. 1967.

⁵² Israel Tashma, "Tosafot," Encyclopedia Judaica, 15:1278f. also, E.E. Urbach, "Tosafot," In Essays Presented to I. Brodie, 1967.

⁵³ Isaac ben Shmuel of Dampierre; See p. 73.

⁵⁴ The complete discussion is on p. 29f.

⁵⁵ Nine kavs instead of ten.

⁵⁶The text notes that this argument comes from the Aruk HaShalem, under the listing, "קב." There the mathematical exchange rates are given to prove that this rate of one to nine is not merely proverbial, but a legal ordinance. 3 dinars = 18 kavs is derived from:

4 dinars = 1 sela (given)
 4 seahs = 1 sela (given)
 therefore, 1 dinar = 1 seah
 3 dinars = 3 seahs
 3 seahs = 18 kavs (given)
 3 dinars = 18 kavs Q.E.D.

A marginal comment to this comment also notes that these equivalents are derived from statements found in Mishna Peah 8:7.

⁵⁷The Tosafist to the Baba Batra reference refers us to Eruvin 53a, which notes that R. Osaiah was so great a scholar that he could be compared to Rabbi Meir.

⁵⁸Michael Friedlander, "Alfasi," Jewish Encyclopedia, 1901, 1:376.

⁵⁹Gotthard Deutsch, "Asher ben Jehiel," Jewish Encyclopedia, 1902, 2:182.

⁶⁰J.Z. Lauterbach, "Nissim ben Reuven Gerundi," Jewish Encyclopedia, 1905, 9:317.

⁶¹Students may go abroad to study Torah: Alfasi reads where our text reads

⁶²This discussion is agreed to by the codifiers. See chapter V.

⁶³P. 79 above

⁶⁴Meir ben Todros HaLevi Abulafia, 1108-1244.

⁶⁵P. 79 above

⁶⁶The Talmud, B.Ketubot 64a ff. states at length the requirements of שומר and כסותה, if they are provided by a steward.

⁶⁷Tur, Even HaEzer, Chapter 72.

⁶⁸Tur, Even HaEzer, Chapter 74.

⁶⁹As does Rabbenu Asher; see above p. 93.

⁷⁰As does Rabbenu Asher; see above p. 92.

⁷¹The correct citation should be Chapter 14. Either ben Asher had a different text of Maimonides, or this is a mistake in our text of the Tur. Similarly, he attributes to Maimonides that students may be abroad for three or four years. Our text says, "Two or three years."

⁷²p. 79 and p. 113 above.

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