

HEBREW UNION COLLEGE - JEWISH INSTITUTE OF RELIGION

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MARRIAGE LAW IN ANTIQUITY:

A CONTEMPORARY TRANSLATION AND COMMENTARY FOR

BT KETUBOTH 46B-63A

SUBMITTED IN PARTIAL FULFILLMENT OF REQUIREMENTS FOR TEXT
IMMERSION

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Reader's Guide

We have created a brief guide to inform the reader, including some tips for the best reading experience. We hope that we have provided a resource that can aid the rabbi, the academic, and the layperson.

We have divided this translation by Mishnah. Whenever a new Mishnah appears, the reader will discover a new page, with new footnotes, endnotes, and commentary.

1. This translation uses both footnotes and endnotes. Footnotes refer to external references made by the Talmud, including references to Biblical, *Tannaitic*, and *Amoraic* sources. Endnotes refer to additional commentary, including outside sources that we used in order to assist our translation and commentary.
2. This translation contains references to many obscure *halakhic* concepts, likely familiar to the academic or the rabbi, but less so to the lay person. In each case, we attempted to provide an endnote with sufficient background to enable the novice to understand the Talmud's meaning.
3. Although this document may be available in print, it is probably far more useful to read the original electronic copy, prepared using Microsoft Word. Doing so will enable the reader to consult the endnotes and footnotes in their entirety without turning the page. Just position your cursor over the endnote or footnote while reading, and the note will appear.
4. The primary text used to prepare the translation is: Adin Steinsaltz, *Masechet Ketuboth, Talmud Bavli, 47* (Jerusalem: Israel Institute for Talmudic Publications, 1988). References in the translation to Steinsaltz (unless a page number is listed, indicating a reference to Steinsaltz's *The Talmud – A Reference Guide*) or Rashi come from the commentaries included in this text.

Thank you for using our research. We hope it proves as meaningful for you as it did for us.

Sincerely,

Joshua D. Knobel

Adam M. Wright

Mishnah

A father possesses authority over his daughter regarding her *kiddushin*ⁱ [enacted] through the exchange of money,ⁱⁱ through a document, and through intercourse. He also possesses authority over her findings, the works of her hands, the annulment of her vows, as well as the receipt of her divorce decree. However, he may not eat of her byproductsⁱⁱⁱ during her lifetime.

When she marries, her husband ascends to a higher level of entitlement than him [the father], in that he [the husband] may eat of her byproducts while she is still alive.

In addition, he possesses an obligation towards her sustenance, her ransom, and her burial. R. Judah says: Even the poor that are in Israel may not [provide] less than two flutes and a wailing woman [for a burial].

Gemara

1. 'Through the exchange of money...' From where [do we derive this statement]?
 - 1.1. R. Judah said: The Torah states, "She shall go free without payment"¹ – there is no money for this master [her husband], but there is money for another master. Who is he? Her father.
 - 1.2. Can't one say that it [the compensation] should be hers [and not her father's]?
 - 1.3. [Now, we know that] her father receives her *kiddushin*,^{iv} as it is written, "I gave my daughter to this man."² [How, then] can she take the money?
 - 1.4. Can't one say that these words apply only to a minor, who has no legal recourse?^v And, [therefore] if [we're dealing with] a young woman, who has legal recourse, may she then arrange her own *kiddushin*, and, therefore, take the money?
 - 1.5. The Torah states, "While in her father's house, in her youth..."³ – every profit of her youth belongs to her father.^{vi}
 - 1.6. However, this is what R. Huna said in Rav's name: From where [do we derive] that the works of a daughter [belong to] her father? As it is said, "When a man sells his daughter as a maidservant..."⁴ Just as the works of a maidservant's hands [belong] to her master, so, too, the works of a daughter's hands [belong] to her father.^{vii}
 - 1.7. Why do I need [this explanation]? Can't you derive it from, "While in her father's house, in her youth..." (Num 30:17)⁵?
 - 1.8. No. That verse [Num 30:17] is written in regard to the annulment of vows.^{viii}
 - 1.8.1. Furthermore, should you say that we learn [that the works of a daughter belong to the father] from here [Num 30:17], [I will remind you that] we don't learn [laws regarding] money from [laws regarding] prohibitions.
 - 1.8.2. Furthermore, should you say that we learn it from [laws regarding] fines,^{ix} [I will remind you that] we don't learn [laws regarding] money from [laws regarding] fines.

¹ Exodus 21:11. If a slave owner fails to provide his maid with food, clothing, and intercourse, she goes free without compensation.

² Deuteronomy 22:16. This is the beginning of an oath that a father decrees in court if the husband publicly denies her virginity. The husband loses any right to divorce.

³ Numbers 30:17. This statement concludes the Biblical laws regarding vows, which state that a father or husband may annul a woman's vows.

⁴ Exodus 21:7.

⁵ Numbers 30:17. See 1.5.

- 1.8.3. Furthermore, should you say that we learn it from [laws regarding] humiliation and damages [namely, Deut 22:16], [I'll remind you that laws for] humiliation and damages are different in that her father also is implicated therein.^x
- 1.9. Rather, it seems more reasonable to conclude that when the Merciful One limits one act of "going out", God limits a "going out" like it [i.e. The Torah tells us in Ex 21:11 that a slave goes forth without compensation, specifically because a daughter, in the same case, goes forth with compensation].
- 1.10. However, this act of going forth [the slave] is not similar to that act of going forth [the daughter]. There, in the case of the master, she goes forth from his authority completely. When going forth from a father, she still awaits delivery to the *huppah*.^{xi}
- 1.11. However, [as for] the invalidation of her vows, from this she goes forth from his authority, for it was taught [in the *Mishnah*], '[As for] a betrothed young lady, her father and her husband may invalidate her vows.'
2. 'Through a promissory note, and through intercourse...' From where [do we derive this statement]? The Torah states, "She will [marry] another man."⁶ The [different] modes [of entering into marriage] are analogous to one another.
3. 'He retains authority over her findings...' On account of loathing.^{xii}
4. 'The works of her hands...' From where [do we derive this statement]?
 - 4.1. For, R. Huna said Rav said: From where [do we derive] that the works of the daughter [belong] to the father? As it is said, "Whosoever sells his daughter as a maidservant..."⁷ Just as the works of a maidservant's hands [belong] to her master, so, too, the works of a daughter's hands [belong] to her father.
 - 4.2. Might you say that these words apply [only] to a minor, because he [the father] is permitted to sell her, but, as regards a young woman, since her father is not permitted to sell her, the works of her hands are her own!
 - 4.3. It seems more reasonable to conclude that they belong to her father, for if you are of the mind that the works of her hands do not belong to her father, the right that the Merciful One [has provided] to the father – that of delivering her to the *huppah* – how can he deliver her? This would prevent her from [enjoying] the works of her hands!
 - 4.4. R. Ahai objects: One might say that he should give her compensation for her lost time [at work]. Or, similarly, [one might say that] he should deliver her [to the *huppah*] at night. Or, similarly, [one might say that] he should deliver her [to the *huppah*] on Sabbaths or festival days!
 - 4.5. Rather, [with regard to] a minor, a scriptural is unnecessary.^{xiii} Now, [since] he certainly has the right to sell her, [does one really need proof that] the works of her hands are [his]? Rather, if scriptural proof is necessary [for something], it is [only] for the young woman.^{xiv}
5. 'Over the annulment of her vows...' From where [do we derive this statement]? As it is written, "While in her father's house, in her youth..."⁸
6. 'And receipt of her divorce decree...' From where [do we derive this statement]? As it is written, "She will go forth and she will be..."⁹ – Exiting [a marriage] is analogous [to entering it].

⁶ Deuteronomy 24:2. This refers to the proscription against remarrying a divorced wife who, in the meantime, married and divorced another man.

⁷ Exodus 21:7.

⁸ Numbers 30:17.

7. 'However, he may not eat of her byproducts during her lifetime...'
 - 7.1. Our rabbis taught: The father cannot eat of the byproducts during the lifetime of his daughter.
 - 7.2. R. Jose, son of R. Judah says: The father may eat of the byproducts during the lifetime of his daughter.
 - 7.3. About what do they disagree?
 - 7.4. The *tana qama* holds the [following] opinion: Granted that for the husband, the rabbis decreed the use of these fruits, for, if [it were not] so, they [husbands] might refrain from ransoming [wives who were held captive]. However, with regard to the father, what [purpose] is there to say [that he may eat of the byproducts in his lifetime]? In case he might refrain from ransoming her? Without this, he would certainly still ransom her.
 - 7.5. Meanwhile, R. Jose b. R. Judah holds the [following] opinion: A father, likewise, might refrain from ransoming her, suggesting that, "She has a purse on her. Let her go and ransom herself!"
8. 'When she marries, the husband ascends to a higher level of entitlement than him [the father] in that he may eat of her byproducts during her lifetime.'
 - 8.1. Our rabbis taught: A father authors [a marriage contract that guarantees his daughter] produce, garments, and utensils [moveable property] that would come with her [the bride] from her father's house to the house of her husband. [If] she dies, than the husband does not merit these articles.
 - 8.2. However, R. Nathan said: The husband merits these articles.
 - 8.2.1. Should we say that this disagreement is similar to the disagreement between R. Elazar b. Azariah and the rabbis? As [the Mishnah] taught: If a woman is widowed or divorced, whether after betrothal or after marriage, she collects all [of the money promised within her *ketubah*]. R. Elazar b. Azariah said: After marriage, she collects it all, but after betrothal – a virgin collects 200 *zuzim*^{xv} and a widow – one *maneh*,^{xvi} for he only wrote an additional amount [in the marriage contract] for [the purpose] of entry [into a shared domicile].^{xvii}
 - 8.2.2. Whosoever says that the husband does not merit [the articles laid out in the contract] is like R. Elazar b. Azariah, and whosoever says that the husband merits [the articles laid out in the contract] is like the rabbis.
 - 8.2.3. No, everyone shares the opinion of R. Elazar b. Azariah. Whosoever says that the husband does not merit [the articles laid out in the contract] is like R. Elazar b. Azariah, and whosoever says that the husband merits [the articles laid out in the contract], would say that R. Elazar b. Azariah only spoke about what was going from husband to wife, since he only wrote about the intention of entry [into a shared domicile]. But, what was going from her to him – even R. Elazar b. Azariah admits that it's for the sake of making the match [which was completed].^{xviii}
9. 'He possesses an obligation towards her sustenance...'
 - 9.1. Our rabbis taught: They decreed 'her sustenance' in exchange for the work of her hands and her burial in exchange for her *ketubah*. Therefore, the husband may eat of the byproducts.

⁹ Deuteronomy 24:2. This again refers to the proscription against remarrying a divorced wife who, in the meantime, married and divorced another man.

- 9.2. Byproducts – who mentioned them?^{xix}
- 9.3. This *baraita* is certainly missing a clause, which should read as follows: They decreed her sustenance in exchange for the work of her hands, her ransom in exchange for byproducts, and her burial in exchange for her *ketubah*. Therefore, the husband may eat of the byproducts.
- 9.4. Why, then [does the *baraita* use the word] ‘therefore’?
- 9.5. Lest one say: The husband should not eat [of the byproducts]. Rather, he should leave them alone, for if he, indeed, consumes them, he may be unwilling to ransom [her] – therefore, the *baraita* informs us this decree is preferable, as sometimes, they [the fruits] will not suffice and he should realize that he must redeem her from his own funds.
- 9.6. Might I not turn this around [in other words – sustenance in return for fruits and ransom in return for the work of her hands]?
- 9.7. Abaye said: They [the rabbis] decreed that which is likely [in return for] that which is likely and that which is unlikely [in return for] that which is unlikely.
- 9.8. Raba said: This *tana* holds the opinion that [the husband’s obligation to provide] sustenance comes from the Torah...
 - 9.8.1 As it was taught:
 - 9.8.1.1. ‘*She’erah*,’ this refers to sustenance, as [the Torah] says, “Those that ate the remainder [*she’er*] of my people.”¹⁰
 - 9.8.1.2. ‘*Kesutah*,’ as its meaning implies [i.e. the husband’s responsibility to clothe his wife].
 - 9.8.1.3. ‘*Onatah*,’ this refers to the suffering spoken of in Torah,^{xx} and thus it [the Torah] says, “If you mistreat my daughters...”¹¹
 - 9.8.2. R. Elazar says:
 - 9.8.2.1. ‘*She’erah*,’ this refers to sexual intercourse, and thus it [the Scripture] says, “None of you shall come towards anyone [*she’er*] of his own flesh to uncover his nakedness.”¹²
 - 9.8.2.2. ‘*Kesutah*,’ as its meaning implies.
 - 9.8.2.3. ‘*Onatah*,’ this refers to sustenance, and thus it [the Scripture] says, “He made you suffer and he made you hunger.”¹³
 - 9.8.3. R. Eliezer b. Jacob says:
 - 9.8.3.1. ‘*She’erah Kesutah*,’ According to her remaining years, give her clothing. He should not give her that which is appropriate for a girl to an elderly woman, and that which is appropriate for an elderly woman, he should not give to a girl.
 - 9.8.3.2. ‘*Kesutah v’Onatah*,’ According to the season, he should give her clothing. He should not give her new clothing in the days of heat [summer], nor should he give her [worn out clothing] during the days of rain [winter].
 - 9.8.4. R. Joseph taught: ‘*She’erah*,’ this refers to bodily contact, in that he should not follow the custom of the Persians, who fornicated in their clothes.^{xxi}

¹⁰ Exodus 21:10.

¹¹ Genesis 31:50. Laban makes Jacob swear not to mistreat his daughters.

¹² Leviticus 18:6.

¹³ Deuteronomy 8:3.

- 9.8.5. This supports R. Huna, for R. Huna said: One who says, “I do not want to [have sexual intercourse] unless I am clothed and she is clothed” – he must divorce her and pay her *ketubah*, or marriage settlement.
10. ‘R. Judah says: Even the poor in Israel...’
- 10.1. From this, [we know that] the *tana qama* holds the opinion that these are unnecessary.
- 10.1.1. What is it like? If this was her [family’s] custom – what is the rationale behind the *tana qama* saying no [that these funeral accoutrements were not required]? And, if it was not her [family’s] custom – what is the rationale for R. Judah [who stated that these are necessary]?
- 10.1.2. It’s only necessary if it was his custom and not her custom.
- 10.1.3. The *tana qama* holds the opinion that, when we say that she ascends with him^{xxii} but does not descend with him – these words apply in life, but after death, they no longer apply.
- 10.1.4. R. Judah holds the opinion: Even after death.
- 10.1.5. R. Hisda said Mar Ukbah said: The *halakhah* is in accord with R. Judah.
- 10.2. R. Hisda also said Mar Ukbah said:
- 10.2.1. Whosoever goes insane – the court descends upon his estate [taking control of his estate] and feeds and supports his wife, his sons, his daughters, and *another thing*.
- 10.2.2. Rabina said to R. Ashi: Why is this different from this [similar] teaching: If a man travels to a state [beyond] the sea, and his wife lodges a claim for sustenance – the court descends upon his estate [taking control of his estate] and feeds and supports his wife, but not his sons, nor his daughters, nor another thing!
- 10.2.3. He [Ashi] said to him [Rabina]: Is there no difference to you between one who goes forth intentionally and one who goes forth unintentionally?
- 10.3. What is ‘*another thing*’?
- 10.3.1. R. Hisda said: This is ornaments.
- 10.3.2. R. Joseph said: charity.
- 10.3.3. For those who said ornaments – how much the more so charity.
- 10.3.4. For those who said charity – but we give her ornaments anyway, for he would not be pleased were she to grow ugly.
- 10.4. R. Hiyya b. Abin said R. Huna said:
- 10.4.1. If a man travels to a state [beyond] the sea, and his wife dies, the court descends upon his estate [taking control of his estate] and buries her in a manner befitting his honor.
- 10.4.2. Befitting his honor and not befitting her honor?
- 10.4.3. Say: Even according to his honor. This is what he [R. Huna] informs us: She ascends with him but does not descend with him [to a lower status] even after death.
- 10.5. R. Matana said:
- 10.5.1. Whosoever says that if his wife dies, she shall not be buried from his estate – they must listen to him.
- 10.5.2. Why is it any different just because he makes a statement?
- 10.5.3. It’s different when his estate falls to the orphans.
- 10.5.4. But, had he not said so, his estate would still fall to the orphans!^{xxiii}

10.5.5. Rather [we should read R. Matana's statement as follows]: whosoever says that if he dies, he shall not be buried from his estate – they do not listen to him, for it is not in his authority to enrich his sons and to drop himself unto the care of the public.

Summary

As we can observe from this Mishnah and subsequent Gemara, Tannaitic marriage law focuses primarily on property transactions.^{xxiv} The betrothal, *kiddushin*, serves as a legal act of acquisition in which the husband appropriates his wife.^{xxv} During betrothal, the father betroths his daughter and grants rights in her to her husband in consideration for remuneration.^{xxvi} This commencement effects more than financial change, however, as the change in financial authority accompanies change in responsibility for vows promised by the bride.

However, our Mishnah contains some ambiguity. The Mishnah clearly states that her husband's full rights commence with marriage [*nisuin*]. So what happens in between?

The *amoraim* endeavor to answer this question and more by determining the rationale behind the Mishnaic rulings, and, hence, clarify their scope. The chief method for this inquiry rests with the question, "From where do we derive this statement?" By determining the Biblical precedent, the rabbis can justify broadening or limiting the scope of the Mishnah's authority.

For instance, in Section 4.2, the *tana qama* observes that if Exodus 21:7, which allows a master to sell his maidservant without compensation, represents the scriptural basis for the Mishnah's insistence that a father is entitled to the proceeds of his daughters' work, then a woman who no longer is a minor should be exempt, since the father is not permitted to sell her as a maidservant [He, apparently, can still sell his daughter as long as she's a minor].

Thus, attempting to assign Biblical precedent to the Mishnah proves an illuminating and useful exercise. In some cases, such precedent receives little fanfare but may prove useful after the fact.

In other cases, Biblical precedent may remain unavailable or even unnecessary. When examining why a father retains possession of any lost property discovered by the daughter, for example, the *tana qama* suggests that such a law is necessary to prevent the daughter from incurring her father's wrath.

The Talmud also refrains from consulting scripture during its exploration of the requirements imposed upon a husband for his wife's burial by R. Judah. However, the Talmud does consider the basis for the ruling and uses the resulting discussion to determine the applicability of the Mishnah to other cases, specifically, the case of a crazy husband, a travelling husband, and a dead husband who swore not to devote any of his estate to his wife's burial.

Through their exploration of entitlements and how they change when marital status changes, the Mishnah and the accompanying Gemara unequivocally demonstrate an enduring maxim – Marriage, in Jewish tradition, creates financial obligations for both husband and wife. In 21st Century America, when couples frequently marry later in adulthood and divorce more than ever, couples frequently consider minimizing financial commitments by maintaining separate finances.

To eschew financial commitment may be convenient, but, according to our Mishnah and Gemara, it is not Jewish.

ⁱ Betrothal.

ⁱⁱ In antiquity, marriage represents a sacred union in order to create and bolster kinship. Yet, marriage – even as a sacred union – contributes to the economic system for each kinship and community. Michael Satlow, Professor of Religious Studies and Judaic Studies at Brown University and a leading authority in the field of Jewish marriage in antiquity, writes about the economics of marriage. For Satlow, the act of marriage in antiquity created a three-way economic relationship between the families of the spouses and the new spouses. Satlow writes, “The formation of marriage in antiquity, as in many societies today, also created an immediate three-way economic relationship between the families of the spouses and the spouses themselves. Because one of the most important functions of marriage was (is?) to assure the orderly and desired devolution of family property, the economic relationship between a family, their children, their children’s spouses, and their grandchildren, is intimately linked to strategies of property succession. Marriage payments marked the beginning of these economic relationships.” See Michael Satlow, *Jewish Marriage in Antiquity* (Princeton: Princeton University Press, 2001), 199ff. *Ketuboth* 48Bff will discuss the economics of marriage. For mobility, marriage and economics in the Middle Ages, see Judith R. Baskin, “Mobility and Marriage in Two Medieval Societies,” *Jewish History* 22:1/2 (2008): 223-243.

ⁱⁱⁱ The fruits refer to income generated from property owned by the woman, such as a direct inheritance from the mother, typically referred to as usufruct, or byproducts. Before the daughter’s death, the father is not entitled to this income, or fruits, but the husband is entitled to it. See Adin Steinsaltz, *The Talmud – A Reference Guide* (Eugene: Wipf & Stock, 2006), 198.

^{iv} In this case, the *kiddushin* refers to the means used to effect *kiddushin*, such as the exchange of money or a written document. Hence, according to the argument, the father is entitled to whatever means is used to effect *kiddushin*, save intercourse, which would be ludicrous.

^v Literally, ‘a hand,’ which refers to the legal status conferred to an adult. A minor, however, does not possess the legal authority to win a verdict in her own right because she lacks the requisite wisdom to represent herself. See A. Steinsaltz, 199.

^{vi} Since the Mishnah speaks of money and vows in the same breadth, this statement attempts to make conclusions regarding the daughter’s money from Biblical law addressing vows.

^{vii} This reference to the laws regarding daughters sold into slavery implies that fathers possess total authority over any proceeds generated by their daughters.

^{viii} And not, the exchange of money.

^{ix} That the father is paid when his daughter is raped.

^x Thus, the scriptural law detailing a husband’s claim against a father if his bride proves not to be a virgin (Deut 22:16) proves an insufficient basis for the Mishnah’s ruling.

^{xi} Thus, she remains under the authority of her father until properly wed.

^{xii} We wouldn’t want her father to withhold her sustenance as punishment for her withholding from him something she found, now would we?

^{xiii} As proof that the father maintains his right to her wages.

^{xiv} Thus, our proof text, suggesting that a maidservant’s wages belong to her master, applies to the young woman, and not to a minor.

^{xv} A silver coin – same currency rate as a *dinar*. See A. Steinsaltz, 291.

^{xvi} 100 *mannot* = 1 *dinar*. See A. Steinsaltz, 291ff.

^{xvii} The virgin collects 200 *zuzim*, and the widow collects one *maneh*, the worth of their respective statutory marriage contracts.

^{xviii} Thus, the father owes the husband, even as the husband does not owe the wife, as the father wants to marry off his daughter and create a connection to her husband, while the husband wants to bring a wife home.

^{xix} The mention of byproducts appears out of place here, and the author wishes to understand why the *baraita* mentions it.

^{xx} Experienced through the denial of coitus.

^{xxi} For more on Persian marriage law, see Thos W. Kingsmill, “The Marriage and Burial Ceremonies of the Old Persians.” *The Athenaeum* 38399 (July 1902): 95-96.

^{xxii} i.e. She ascends to the upper class lifestyle that her husband enjoys.

^{xxiii} Thus, we learn that the children are not responsible for burying their mother. How rude!

^{xxiv} See Peretz Segal, "Jewish Law During the Tannaitic Period," *An Introduction to the History and Sources of Jewish Law*, N.S. Hecht, B.S. Jackson, S.M. Passamanek, D. Piattelli, A.M. Rabello, eds. (Oxford: Clarendon Press, 1996), 136ff.

^{xxv} Ibid.

^{xxvi} Ibid. Dr. Peretz Segal, Head of Legal Counsel Department at the Israel Ministry of Justice, notes that "The transfer of the woman from her father's house to her husband's for the purpose of marriage, then, completes the betrothal, or the transaction (136)." With regard to the daughter's legal status during betrothal, Segal writes, "Betrothal may be regarded as a form of inchoate marriage: though relations between the parties are not yet those of full marriage, relations, between the woman and other men are strictly forbidden (136)."

Ketuboth 48A-49A: Forever, she remains under the authority of the father...

Mishnah

Forever,ⁱ she remains under the authority of the father until she enters into the authority of the husband in marriage.

1. If the father delivers [her] to the emissaries of the husband – behold, she is under the authority of the husband.
2. If the father goes with the emissaries of the husband, or if the emissaries of the father go with the emissaries of the husband – behold, she remains under the authority of the father.
3. However, if the emissaries of the father deliver [her] to the emissaries of the husband – behold, she is under the authority of the husband.

Gemara

1. What is meant by ‘Forever’? To cast doubt upon an earlier Mishnah, in which it was taught: If the time arrived, and they had not wed, [these women] may eat of his [the husband’s estate] and may eat *terumah*. Therefore, it [the Mishnah] tells us ‘Forever.’
2. ‘If the father delivers [her] to the emissaries of the husband – behold, she is under the authority of the husband...’
 - 2.1. Rav said: Her delivery [is complete with regard] to everything, except for *terumah*.
 - 2.2. R. Asi said: Even *terumah*.
 - 2.2.1. R. Huna objected to R. Asi, and there are some that say, Hiyya b. Rav [objected] to R. Asi: Forever, she remains under the authority of the father, until she enters the *huppah*!
 - 2.2.2. Rav said to them: Did I not tell you – don’t challenge a principle using a verse that can be read in two ways. One will be able to answer you: Her delivery *is* the same as her entry into the *huppah*.
 - 2.3. Samuel said: With regard to her inheritance [the husband has access to her inheritance].ⁱⁱ
 - 2.4. Reish Lakish said: With regard to her *ketubah*.
 - 2.4.1. Her *ketubah* – what does it mean? If she dies, he will inherit it, [meaning that] these words are [the same as] those of Samuel!
 - 2.4.2. Rabina said: That is to say that her *ketubah* [if the husband dies and she remarries] for another [subsequent] marriage will [now] be that of a widow.
 - 2.5. R. Yohanan and R. Chanina both said: Her delivery [is complete with regard] to everything, even *terumah*.
 - 2.6. They objected: If the father goes with the emissaries of the husband, or if the emissaries of the father go with the emissaries of the husband, or if there was courtyard on the way, and she enters it with him [the husband] in order to sleep – even though the *ketubah* may be in the house of her husband, if she dies, her father still inherits from her. If the father delivers [her] to the emissaries of the husband or if the emissaries of the father deliver [her] to the emissaries of the husband, or if there was courtyard on the way, and she enters it with him [the husband] for the purpose of marriage – even though her *ketubah* may be in her father’s house, if she dies, her husband inherits from her. When are these things said? To be her heir. But, with regard to *terumah*, no woman may eat of *terumah* until she enters the *huppah*. [Does this represent] a conclusive refutation to everyone’s opinion? [Indeed], it is a conclusive refutation.

Ketuboth 48A-49A: Forever, she remains under the authority of the father...

- 2.6.1. But isn't this, on its own, contradictory? You said, 'She enters with him in order to sleep.' The rationale [for the ruling] is because she entered to sleep. If she was *just* to enter – then we assume that she entered for the sake of marriage.
- 2.6.2. But the end says: 'She enters with him for the sake of marriage, therefore, if she was *just* to enter – then we assume that she entered in order to sleep.
- 2.6.3. R. Ashi said: She *just* entered in both cases. Was she to *just* enter her courtyard, [we would assume that it was with the intention] to sleep. Was she to *just* enter his courtyard, [we would assume that it was with the intention] to marry.
- 3. It was taught: If the father delivers [her] to the emissaries of the husband, and she turns a trick [before marriage] – behold this [is punishable by] strangulation. From where [do we derive] these words?
 - 3.1. R. Ami b. Hamah said: The Torah said, "For having illicit sex in her father's house,"¹ which excludes one whose father delivered her to the emissaries of the husband.
 - 3.2. Couldn't it be said that this would also exclude one who entered the *huppah* but did not receive her husband's sexual advances?ⁱⁱⁱ
 - 3.3. Raba said: Ami said to me: The situation of a woman who entered the *huppah* but did not receive her *ketubah* is explicitly described, "In the case of a virgin lass who is engaged to a man,"²
 - 3.3.1. Lass: Not an adult.
 - 3.3.2. Virgin: Not a woman who has had sex.
 - 3.3.3. Engaged: Not married.
 - 3.3.4. What, then, is 'married'? If one says actually married – that's already covered by, "be a virgin and not one who has had sex." Instead, we're referring to one who entered the *huppah* but did not receive her husband's sexual advances.
 - 3.4. Better to say: When she returns to her father's house, she returns to her previous status!
 - 3.4.1. Raba said: Already this matter was settled by the school of R. Ismael. It was taught in the school of Ismael: "The vow of a widow or a divorced woman, all that she has bound upon herself, she shall fulfil."³ What does the verse teach [what does it add to our knowledge]? Has she not gone forth from her father or gone forth from her husband? Rather, behold, when the father delivers [her] to the emissaries of the husband or the emissaries of the father deliver [her] to the emissaries of the husband, and she was widowed on the way or divorced, how would I know if she belongs to 'her father's house' or 'her husband's house'?
 - 3.4.2. Rather, this tells you: When she has left her father's authority for one hour – he can never again annul her vows.
 - 3.4.3. R. Papa said: Also, we learned similarly: One who has intercourse with a betrothed lass, he is not culpable unless she is a betrothed virgin lass, and she remains in her father's house.
 - 3.4.4. It's granted that:
 - 3.4.4.1. Lass: Not an adult.
 - 3.4.4.2. Virgin: Not a woman who has had sex.

¹ Deuteronomy 22:21. Referring to punishment by stoning that a girl receives for premarital sex.

² Deuteronomy 22:23. Referring to punishment for adultery.

³ Numbers 30:10.

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3.4.4.3. Engaged: Not married.

3.4.4.4. 'In her father's house' – what does this exclude? Does it not exclude [the situation in which] a father has delivered her to the emissaries of the husband?

3.5. R. Nahman b. Isaac said: Also, we learned similarly: One who has intercourse with a married woman, because she has entered the authority of her husband in marriage, even if she had not yet accepted his sexual advances, this warrants strangulation. She has entered the authority of her husband – in any fashion. Learn from this.

Summary

Our chapter addresses *Tannaitic* and *Amoraic* case law concerning the legal transfer of a woman from her father to her husband through marriage. When does rabbinic law no longer require a father to provide and to sustain his daughter? When does rabbinic law require the husband to provide and to sustain for his wife during the transferal?

Tannaitic law decrees: (1) As long as a daughter remains in her father's domain (unwed), her father must provide and must sustain for his daughter. Additionally, as long as the daughter remains in her father's domain, law grants her father complete authority over his daughter [especially with regard to marriage]. (2) Once the father delivers his daughter to the delegates of the husband, law no longer requires the father to support or to sustain his daughter; once the father transfers the daughters to such delegates, law requires the husband to provide and to sustain the daughter [even though the husband and bride have yet to undergo *nisuin*]. (3) If the father remains in the presence of the husband's delegates, law requires the father to provide and to sustain his daughter; as long as the daughter remains with her father and her husband's delegates, law decrees that her father serves as her legal guardian. (4) If the husband's representatives deliver his daughter to the husband's delegates, therefore, law requires the husband to provide and to sustain the daughter before *nisuin*.

First, our Gemara questions why *Tannaitic* law decrees that a father must sustain and provide for his daughter "forever." *Amoraic* case law enforces *Tannaitic* law; as long as a daughter remains under her father's domicile, the father must sustain and must provide for her until he finds a suitable match.

Second, our Gemara questions the legal transfer achieved through marriage. *Amoraic* law instructs that once a father delivers his daughter to the husband's delegates, the husband now holds authority; this transfer is the same as her entry into the *huppah*.

However, our Gemara requires additional inquiry with regard to the issue of inheritance and the legal transfer of marriage. *Amoraic* law promulgates the following:

- If the father goes with the delegates of the husband, or if the representatives of the father go with the delegates of the husband, or if there was courtyard on the way, and the daughter sleeps with the husband – even though the father obtains possession of her *ketubah*, and if she dies, her father receives her inheritance.

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- If the father delivers his daughter to the husband's delegates or if the representatives of the father deliver his daughter to the husband's delegates or if there was courtyard on the way, and the daughter enters the courtyard with the husband for the purpose of marriage – even though her father obtains the *ketubah* in his domain, if she dies, her husband receives her inheritance.

Finally, our Gemara questions the following *baraita*:

- If the husband transfers his daughter to the husband's delegates, and she engages in an inappropriate sexual act, *Tannaitic* law sentences her to strangulation. [The Gemara will reference Deut. 22:21-23, which discusses improper fornications and its punishment for such egregious acts.

In this specific inquiry, the Gemara still lacks the understanding of when the legal transfer of marriage concludes. To answer, the Gemara creates four categories of a woman's status regarding her marriage process:

1. Lass: Not an adult
2. Virgin: Not a woman who has had intercourse
3. Engaged: Not "lifted."
4. Married

However, the Gemara still does not seem to know when law deems a woman married, providing two potential solutions:

1. When the daughter leaves her father's domicile after one hour. If she engages in illicit sexual act after one hour, she faces execution.
2. When the daughter enters into her husband's authority through transfer to an appropriate delegate. If she engages in illicit sexual act afterwards, she faces execution.

In contemporary Jewish marriage, *kiddushin* and *nisuin* occur at the same time. The dire consequences associated with the betrothal period, coupled with the lack of need for them, given the many changes in modern marriages, has, more or less, rendered betrothal obsolete. Many couples [non-Orthodox] observe a civil engagement period that mimics the ancient betrothal period. However, this civil engagement period carries no Jewish legal consequences, and, hence, remains independent of Jewish law.

ⁱ Even after betrothal.

ⁱⁱ Rabbinic law did not permit women inherit property from their fathers. However, as Satlow explains, certain *ketuboth* entailed property transfers [not as a dowry]; a father would want to transfer his property to his daughter by deed of gift rather than as dowry. Satlow writes, "The reason that parents would want to transfer their property to their daughters by deed of gift rather than as dowry is obvious: it kept the property out of the hands of their son-in-law. About the last thing that a wife or her family wanted to see was their family estate go to her husband's children

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by another women.” See Satlow, 204ff. On Roman law and inheritance, see Mathew Kuefler, “The Marriage Revolution in Late Antiquity: The Theodosian Code and Later Roman Marriage Law,” *Journal of Family History* 32:343 (2007): 343-370.

ⁱⁱⁱ In other words, if this verse, Deuteronomy 22:21, is the basis for strangling a woman who does the deed with another man after her father gives her away to the emissaries of the husband-to-be, then such a punishment would not apply to a woman who actually married her husband but failed to consummate her marriage, as Deuteronomy 22:21 refers to an unmarried woman.

Mishnah

A father is not obligated to sustain his daughter. R. Elazar b. Azariah explained this interpretation before the sages in the vineyard of Yavneh. The sons shall inherit, and the daughters shall receive sustenance: Just as the sons only inherit following the death of the father, so, too, the daughters only receive sustenance [from their father's estate] following the death of the father.

Gemara

1. 'To sustain his daughter...' he is not obligated, but – towards the sustenance of his son – he is obligated. [Towards] His daughter, likewise, he has no [legal] obligation, but, behold, this is a *mitzvah*.
2. [So] who is teaching [this Mishnah]?
 - 2.1. Is it not R. Meir, R. Judah, or R. Jonathan b. Brokaw?
 - 2.1.1. For it was taught: It is a *mitzvah* to sustain one's daughters. How much the more so – one's sons, who are engaged in Torah. These are the words of R. Meir.
 - 2.1.2. R. Judah says: It is a *mitzvah* to sustain one's sons. How much the more so – one's daughters, in order to [prevent] their degradation.
 - 2.1.3. R. Jonathan b. Brokaw says: It is an obligation to sustain daughters after the death of their father, but during the fathers' lifetime – neither these nor these [sons nor daughters] need be supported.
 - 2.2. [So] who is teaching [this Mishnah]?
 - 2.2.1. If it's R. Meir – well, he said that [sustaining] sons is a *mitzvah*.ⁱ
 - 2.2.2. If it's R. Judah – well, he said that [sustaining] sons is similarly a *mitzvah*.
 - 2.2.3. If it's R. Jonathan b. Brokaw – even [sustaining sons] is not a *mitzvah*!
 - 2.3. If you like, one may say that it's R. Meir. If you like, say that it's R. Judah. If you like, say that it's R. Jonathan b. Brokaw.
 - 2.3.1. If you like, say that it's R. Meir, for he said thus: 'The father is not obligated towards the sustenance of his daughter,' and the same is the law concerning his son. It is a *mitzvah* regarding his daughter, and, how much the more so, regarding his son. And the Mishnah teaches 'his daughter' because this teaches us: Even regarding his daughter, there is no legal obligation, but there is a *mitzvah*.
 - 2.3.2. If you like, say that it's R. Judah, for he said thus: 'The father is not obligated towards the sustenance of his daughter,' and how much the more so, his son. It is a *mitzvah* regarding his son, and, how much the more so, regarding his daughter. And the Mishnah teaches 'his daughter' because this teaches us: Even regarding his daughter, there is no legal obligation.
 - 2.3.3. If you like, say that it's R. Jonathan b. Brokaw, and he said thus: 'The father is not obligated towards the sustenance of his daughter,' and the same is true concerning his son. Likewise, it is not even a *mitzvah* because [sustenance] remains a legal obligation for daughters only after the death of their fathers. [The Mishnah] similarly teaches that there is no legal obligation.
3. R. Elai said Reish Lakish said in the name of R. Judah b. Chanina: In Usha,ⁱⁱ they decreed that a man should sustain his sons and his daughters while they are minors.
 - 3.1. It was asked of them: Does the *halakhah* follow him or not?

- 3.2. Come and hear!
 - 3.2.1. When they [people] came before R. Judah, he said to them: Only a jackal¹ sires offspring and leaves their sustenance in the hands of the townspeople.
 - 3.2.2. When they [people] came before R. Hisda, he said to them: Turn over for him a crate in public, and let him stand [upon it] and proclaim – Even a crow yearns [to feed] her children, yet this man [me] does not yearn [to feed] his children!
 - 3.2.2.1. A crow yearns [to feed] her children? Is it not written, “To the young ravens who cry...”²?
 - 3.2.2.2. There is no difficulty. Here [in our *baraita*], [we’re dealing with] infant [white] ravens, and here [in the Psalm], with young [black] ravens.
 - 3.2.3. When a case came before Raba, he said to him: Does it please you to sustain your children from [public] charity?
 - 3.2.4. We only say this to those who are not rich, but the rich – we may coerce him against his wishes [to feed his children]. So did Raba coerce R. Nathan b. Ami and extracted from him 400 *zuzim* for the public charity.
4. R. Elai said Reish Lakish said: In Usha, they decreed that: One who consigned all of his estate to his children – he and his wife may derive sustenance from them.
 - 4.1. R. Zera, or, as some say, R. Samuel b. Nahmani, protested: A stronger statement has already been made: His widow derives sustenance from his estate. Need we mention him along with his wife?
 - 4.2. Rabin sent in his letter [to Babylon]: Whosoever dies and leaves behind a widow and a daughter – his widow derives sustenance from his estate. [When] the daughter marries – his widow [still] derives sustenance from his estate. [When] the daughter dies? R. Judah, the son of R. Jose b. Chanina’s sister, said: I had such a case, and they [the sages] said – his widow derives sustenance from his estate. [Again], need we mention him along with his wife?
 - 4.3. Lest one should say: There [in the case of a widow], there is no one to toil for her, but here [in the case of a father who consigns his estate to his children], [he lives] and can toil for himself and for her. Therefore, we are taught [this *baraita*].
 - 4.4. It was asked of them: Does the *halakhah* follow him or not?
 - 4.5. Come and hear! R. Chanina and R. Jonathan were standing. A man came to them, bent down and kissed R. Jonathan’s feet. R. Chanina said to him: What’s this? He [R. Jonathan] responded: He consigned his estate to his children, and I made them sustain him. Now, this story is fine if you say that this did not follow the law, [then you would believe that] because of this, the man was grateful for R. Jonathan’s intercession. However, if you say that this is the law, why did he have to force them?
5. R. Elai said: In Usha, they decreed – One who wishes to squanderⁱⁱⁱ [his wealth] should not squander more than one fifth [of his estate].
 - 5.1. It was taught similarly [in a *baraita*]: Do not squander more than one-fifth, lest he become dependent upon others.
 - 5.2. And there is a tale of a man who requested to squander [more than one-fifth] but his friend did not permit him.

¹ Translation from Rashi.

² Psalm 147:9. The psalm indicates that Adonai is responsible for feeding beasts, including ravens.

- 5.2.1. Who was it? R. Yeshebab [forbade the spending].
- 5.2.2. Others say: R. Yeshebab [tried to spend], but his friend did not permit him, and who was that? R. Akiba.
- 5.3. R. Nahman, or, some say, R. Aha b. Jacob: Where is the scriptural proof? “Of all that You give me, I will tithe a tenth to You.”³
 - 5.3.1. But this last tenth is not the same as the first tenth!^{iv}
 - 5.3.2. R. Ashi said: “I will tithe” a second time implies [the same amount] as the first.
 - 5.3.3. R. Simi b. Ashi said: These reports [from Usha] are steadily diminishing, and your mnemonic [to remember them] is: Young ones write and squander.^v
- 6. R. Isaac said: In Usha, they decreed that a man must roll with [be patient] his son until he is twelve years old. From here on, he should help him ply his trade.^{vi}
 - 6.1. Is that so! Didn’t Rav say to R. Samuel b. Shelat: Less than age six – do not accept [as a student]? Once six, accept him and stuff him like an ox [with knowledge of the Mosaic tradition]!
 - 6.2. Yes, accept him and stuff him like an ox, but, in any event, one cannot ‘descend with him to life’ until after twelve years.
 - 6.3. If you prefer, say there is no problem. One refers to the Bible, the other – to Mishnah. For Abaye said: My nursemaid told me that a child of six is ready for Bible, a child of ten is ready for Mishnah, and a child of thirteen is ready for a fast from period to period (a full day), and, regarding a girl, twelve.
 - 6.4. Abaye said: My nursemaid told me that a six year old boy who is bitten by a scorpion on the day that he completes his sixth year does not live. What is his remedy? An herb mixed in beer. Rub it in and make him drink it. A one year old boy who is stung by a bee on the day that he completes his first year does not live. What’s his remedy? Palm in water. Rub it in and make him drink it.
 - 6.5. R. Ketinah said: Anyone who makes a son younger than six enter [school] shall [always] run after him and never reach him [because of poor health]. However, there are those who say that his friends shall run after him and never reach him [because of great learning]. Both, however, are correct, as he [the son] will be sickly and learned. If you prefer, however, one can say that the first refers to learning and the second to health.
- 7. R. Jose b. Chanina said: In Usha, they decreed that if a woman who sells her byproducts while her husband lives and dies, the husband may seize [the property] from the possession of the buyers.
- 8. R. Isaac b. Joseph found R. Abahu standing in the community of Usha and said to him: Who is the author of reports [sayings] from Usha? He replied: R. Jose b. Chanina. He [R. Isaac] learned them from him [R. Jose] forty times, until they were [as easy] for him as that which rested in his bag [i.e. he was very familiar with these teachings].
- 9. ...
 - 9.1. “Happy are those who guard justice and perform righteousness in every age.”⁴ Is it possible to perform righteousness in every age?

³ Genesis 28:22.

⁴ Psalm 106:3.

- 9.1.1. Our rabbis in the Academy at Yavneh explicated, or as some say, R. Eliezer: This is one who sustains his sons and his daughters while they are children.
- 9.1.2. R. Samuel b. Nahmani said: This is one who raises an orphan boy or girl in his home and marries them off.
- 9.2. “Wealth and riches are in his house, and his righteousness endures forever.”⁵ R. Huna and R. Hisda, one of them said: This one who learns Torah and teaches it. The other said: This is one who writes Torah, Prophets, and the Writings, and lends them to others.
- 9.3. “And live to see your children’s children, peace upon Israel.”⁶ R. Joshua b. Levi said: When your children have children, peace will be upon Israel, for they will not come under *halizah* or *yeboom*.^{vii} R. Samuel b. Nahmani said: When your children have children, peace will be upon the judges of Israel, for quarrels will not come to them.
10. “Thus explicated R. Elazar before the sages...
- 10.1. R. Joseph sat before R. Hamnuna, while R. Hamnuna sat and said: Just as sons only inherit from real estate, so, too, daughters may only be sustained from real estate.
- 10.2. No one agrees with this. [After all, would you say that] One who owns real estate bequeaths an inheritance to his sons, but one who does not own real estate does not bequeath an inheritance to his sons?
- 10.3. R. Joseph said to him: Perhaps the master refers to the *ketubah* [due] to the male children?^{viii}
- 10.4. He [R. Hamnuna] said to him [R. Joseph]: The master, who was great man, knew exactly what I meant.
- 10.5. R. Hiyya b. Joseph said: Rav sustained [daughters] from the highest wheat [i.e. not real estate].
- 10.6. It was asked of them: Wasn’t this a dowry? Then, what is meant by ‘the highest’ is simply the virtue of the father, in accordance with Samuel. For Samuel said: The dowry is assessed by the father.
- 10.7. Or perhaps: This was, in fact, sustenance, and what is meant by ‘the highest’ are the good things stated in a high place. Or, R. Isaac b. Joseph stated: In a high place, they decreed that daughters must be sustained [even with] moveable property.
- 10.8. Come and hear: In the hands of R. Banai, brother of R. Hiyya b. Abba sat the moveable property of orphans, and when they [the orphans] came before Samuel, he said to him [Banai]: Go and sustain them. Is this not sustenance, as in the words opined by R. Isaac b. Joseph?
- 10.9. No, there, there it was [referred to] a dowry, and Samuel’s methodology was in accordance with Samuel: The dowry is assessed by the father.
- 10.10. Such a case occurred in Nehardea^{ix}, and the judges of Nehardea judged [in favor of the daughters]. In Pumbeditha,^x R. Hana b. Beezna lifted [judgment in favor of the daughters]. R. Nahman, however, said to them: Go and withdraw [your suit], and if not, I will collect your estates from you.

⁵ Psalm 112:3.

⁶ Psalm 128:6.

- 10.11. R. Ami and R. Asi opined to [permit] sustenance from moveable property. R. Jacob b. Idi said to them: In matter in which R. Johanan and Reish Lakish declined to act, you act?
- 10.12. R. Elazar opined to [permit] sustenance from moveable property, and R. Simeon b. Elkayim said before him: I understand that you are not acting out of judgment. Rather, you act out of mercy. However, perhaps your students saw [this] and will affix [it as] *halakhah* for generations.
- 10.13. This matter came before R. Joseph, who said to them [the plaintiffs]:
 - 10.13.1. Bring to her [sustenance] from the dates upon the mat.
 - 10.13.2. Abaye said to him: Even if she was the creditor, in a case like this, do you think the master would give it to her?
 - 10.13.3. He [R. Joseph] replied: I am referring to ones fit for spreading [i.e. still growing on the tree, meaning real estate, and not moveable property].
 - 10.13.4. [Abaye replied:] Stop, stop! All that stands [ready] to cut is as if it's been cut!
 - 10.13.5. [R. Joseph replied:] I'm referring to ones that must remain on the tree to ripen.
- 10.14. A male and female orphan came to stand before Rabba...
 - 10.14.1. And Rabba said to them: Raise [the allowance] for the male orphan for the sake of the female orphan.
 - 10.14.2. The Rabbis replied to Rabba: Didn't the Master (you) say: [We only take] from real estate and not moveable property, whether for sustenance, for the payment of a *ketubah*, or *parnasah* [when paid to a woman]?
 - 10.14.3. He [Rabba] said to them: Had he wanted a maidservant to attend him, would we not have given him [an increased allowance]? How much the more so here, when there are two [to benefit from the increased allowance].
- 11. Our rabbis taught:
 - 11.1. Both real estate and moveable property may be taken in order to sustain a wife and daughters, according to the words of Rabbi.
 - 11.2. R. Simeon b. Elazar says: Real estate may be taken for daughters from sons, for daughters from daughters, and for sons from sons. And for sons from daughters, in cases where the estate is large, but not for sons from daughters in cases when the estate is diminutive. Moveable property – may be taken for sons from sons, for daughters from daughters, and for sons from daughters, but not for daughters from sons.
 - 11.3. Even though there is a standing rule that the *halakhah* follows Rabbi, rather than his colleague, here, the *halakhah* is in accord with R. Simeon b. Elazar.
 - 11.4. As Raba said: The *halakhah* is – [We only take] from real estate and not moveable property, whether for sustenance, for the payment of a *ketubah*, or *parnasah* [when paid to a woman]?

Summary

Our Mishnah focuses upon the obligations that fathers have to sustain their dependents, specifically their daughters. The Gemara, meanwhile, appears ready and willing to veer away from the Mishnah's decision that a father owes no sustenance to his daughters until his death. In fact, the Gemara's initial reaction is to suggest that sustaining one's daughters is obviously laudable. It follows by questioning the Mishnah's authorship, enabling the Gemara to exhibit the

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ideas of R. Meir and R. Judah, who clearly believe that a father ought to sustain his own daughters.

While the Mishnah's decision appears ridiculous upon first examination, the implied notion that a parent owes even his male children sustenance from his estate while still alive makes the Mishnah remarkably progressive when compared to Roman law, which grants a father complete authority over his children, including the, "right to life or death over his children."^{xi} Of course, R. Jonathan b. Brokaw would challenge the implication that a father owes sustenance to his children in Section 2, but, once again, the statements of R. Meir and R. Judah, which suggest that a father should sustain *all* his children, seem dismissive of R. Jonathan's claims. Meanwhile, the decrees from Usha compellingly assert that a father is, indeed, responsible for such sustenance (Section 3).

What follows is an intriguing record of the remaining decrees from Usha, a center of learning in the Galilee taken up by the rabbis c. 140 CE, apparently after they abandoned Yavneh (See Note ii). The decrees from Usha appear primarily concerned with helping the underprivileged and underrepresented, perhaps due to the poverty that most certainly dominated Palestine following the Bar Kokhba revolt. The decrees from Usha make it clear that:

- Parents ought to sustain their children as minors or be publicly shamed, while the rabbis may compel wealthy parents to sustain their children.
- Parents who give their estate to children, may, nevertheless, derive sustenance from it.
- People should be conservative with their money.
- Parents should educate and prepare their children for commercial success.
- Husbands are entitled to their wives' byproducts after their wives' death, even if their wives sold their byproducts.

These decrees paint a picture of legislation designed to prevent indigence and limit the numbers of people calling for public aid. They also give the rabbis certain powers to act on behalf of the public in order to ensure the public good. The ability to compel parents to sustain their children seems a particularly powerful responsibility, but, in context, makes sense, even in a Roman world that gave fathers ultimate authority over their children. Because of the Jewish community's commitment to the poor and the absence of the resources necessary to care for them, the ability to compel the wealthy to care for their children seems essential to communal survival.

The progressive tenor of the decrees, coupled with the earlier insistence by R. Judah and R. Meir that parents should sustain their daughters, portrays the importance of family responsibilities. Despite the various legal situations that may arise, the parent-child relationship, in Jewish tradition, incurs obligations, even financial obligations.

In addition, the decrees of Usha demonstrate a practical aspect of the rabbinate that often appears silent in BT *Ketuboth*. The rabbis did not simply see themselves as stewards of Judaism but as stewards of Jews, and the decrees of Usha make that plainly evident. When traditions must change in order benefit the needs [not simply the wants] of society, the rabbis oblige, fashioning a compelling progressive tradition.

ⁱ Which contradicts the Mishnah.

ⁱⁱ Michael Avi-Yonah and Efraim Orni, "Usha," *Encyclopedia Judaica*, ed. Michael Berenbaum and Fred Skolnik, 2nd ed., Vol. 20 (Detroit: Macmillan Reference, 2007), 431. Usha was a Galilean town near Tzipori where the Sanhedrin met after abandoning Yavneh c. 140 CE. Cf. Shabbat 15B.

ⁱⁱⁱ Perhaps on charity. See Rashi.

^{iv} Because it is a tenth of what remains after a tenth has already been set aside, and hence, it is actually 9% the principal.

^v The three words that begin each recorded treasure from Usha.

^{vi} Literally, "descend with him into life."

^{vii} Cf. Deut. 25:5-10. The ceremony that frees a widow of a husband who died without offspring the obligation to wed one of the deceased husband's brothers. In a rabbinical court, the widow removes a special sandal from the foot of one of her deceased husband's brothers. See Steinsaltz, 192. Cf. Tractate Yebamoth. Also see Dvora E. Weisberg, *Levirate Marriage and the Family in Ancient Judaism* (Waltham: Brandeis University Press, 2009).

^{viii} If a son's mother dies before his father, he is owed, in addition to his inheritance, the value of his dead mother's *ketubah*. See Steinsaltz.

^{ix} According to legend, Rabbi Akiva ventured to Nehardea to announce the Hebrew leap year. Tradition also states that R. Akiva's travels in Nehardea are the first time that a Palestinian sage visits the Babylonian diaspora. See Eli Barnavi, ed. *A Historical Atlas of the Jewish People: From the Time of the Patriarchs to the Present* (New York: Schocken Books, 1992) 64-65.

^x One of the rabbinic academies in Persia and later Baghdad (During the centralization of Muslim Power in Baghdad). See Raymond P. Scheindlin, *A Short History of the Jewish People: From Legendary Times to Modern Statehood* (Oxford: Oxford University Press, 1998), 77ff.

^{xi} Laws of the Twelve Tables, 4.1.

Ketuboth 51A-52B: If he [the husband] did not write for her [his wife] a *ketubah*...

Mishnah

If he [the husband] did not write for her [his wife] a *ketubah* – a virgin collects 200 [*zuzim*], and widow – 1 *maneh* [100 denars], as this was stipulated by the *beit din*.

If he guaranteed to her a field equivalent to 1 *maneh* in lieu of 200 [*zuzim*], and did not write, ‘All property that I have is under lien for your *ketubah*,’ [nevertheless], he is obligated, as this was stipulated by the *beit din*.

If he did not write, ‘If you are taken captive, I will ransom you and I will return you to me as my wife,’ or, in the case of a priest’s wife, ‘I will return you to your country,’ [nevertheless], he is obligated, as, this was stipulated by the *beit din*.

If she is taken captive, he is required to ransom her. And if he said, ‘Here is her *get*ⁱ and her *ketubah*. Let her redeem herself,’ – this is not permitted.

If she falls ill, he is required to obtain medical treatment for her. And if he said, ‘Here is her *get* and her *ketubah*. Let her find herself treatment,’ – this is permitted.

Gemara

1. Whose view is this?

1.1. It is that of R. Meir, who said: All who [pay] less to a virgin than two hundred *zuzim* or to a widow, one portion – behold this is akin to having sex with a prostitute.

1.2. For if it is R. Judah, he said: If he [the husband] wanted, he may write for a virgin a deed to two hundred *zuzim*, while she writes, ‘I received from you a *maneh*,’ and for a widow, a *maneh*, while she writes, ‘I received from you 50 *zuzim*.’

1.3. However, look at the last clause [of the Mishnah]: “If he guaranteed to her a field equivalent to a *maneh* in lieu of 200 [*zuzim*], and did not write, ‘All property that I have will pay for your *ketubah*,’ [nevertheless], he is obligated, as this was stipulated by the *beit din*.” Does this not point to R. Judah, who said: [The omission of this clause of] guarantee -- this is a scribal error?

1.4. For if it is R. Meir, who said: [The omission of this clause of] guarantee is not a scribal error...

1.4.1. Well, then, it was taught: If one finds promissory notes, if they contain a guarantee of property, he should not return them, for the *beit din* must honor their guarantee. If they contain no guarantee of property, he should return them, for the *beit din* need not redeem payment because of them, according to the words of R. Meir.

1.4.2. The sages, however, say: He should not return either, for the *beit din* must redeem payment because of them.

1.5. The first clause [of the Mishnah], then concurs with R. Meir, and the second with R. Judah!

1.6. If you should say that all of it [our Mishnah] belongs to R. Meir, and that R. Meir distinguishes between [laws governing] *ketuboth* and promissory notes, can you [prove] that he, in fact, draws such a distinction?

1.7. Was it not taught [in a *baraita*]: There may be five types of collections from free assets, and they are: Produce, improvement upon produce, one who accepts [the responsibility] to provide for a wife’s son or daughter, a writ of obligation without any guarantee, and a *ketubah* without any guarantee. Who ever heard one say that [the omission of a clause of] guarantee was not a scribal error? Why, R. Meir, who taught: The *ketubah* of a wife.

- 1.8. If you wish, we can say that [this Mishnah] belongs to R. Meir, and, if you wish, we can say that this [Mishnah] belongs to R. Judah.
- 1.9. If you wish, we can say that this [Mishnah] belongs to R. Judah, for thereⁱⁱ, she wrote for him [his benefit], 'I received.' Here, however, she does not write for him [i.e. for his benefit], 'I received.'
- 1.10. If you prefer, we can say that this [Mishnah] belongs to R. Meir by suggesting that what is taught by 'He is obligated' is that [he remains obligated to pay only] from his free assets.
2. 'He did not write for her...'
 - 2.1. Samuel's father said: The wife of an Israelite who was raped -- she is forbidden to her husband, for we may worry that perhaps what began in coercion ended in desire.
 - 2.2. Rav objected to Samuel's father: 'If you are taken [as a captive], I will ransom you and I will return you to me as my wife!'ⁱⁱⁱ
 - 2.3. [Samuel's father] remained silent.
 - 2.4. Rav then enjoined upon Samuel's father: "Nobles held back their words and clapped their hands against their mouths."¹
 - 2.5. What could he have said? In cases of captivity, [we] relax [the law].
 - 2.6. And, as for Samuel's father, what constitutes a situation where the Torah permits a woman who is raped [to her husband]? For instance, when witnesses testify that she resisted from beginning to end.
 - 2.7. This ruling differs from that of Raba, who said: All that began in coercion and ended in desire, even if she states, 'Leave him alone,' that perhaps, were it not for circumstances, she would have paid him. Nevertheless, she is permitted [to her husband].
 - 2.8. What's the reason? She was surrounded on all sides by desire.^{iv}
 - 2.9. It was taught according to Rabba: "If she was not seized,"² then she is forbidden [to her husband]. If there was coercion, she is permitted. And you have another case in which, if she is not seized, she is still permitted [to her husband]. Which is that? All that began in coercion and ended in desire.
 - 2.10. Another *baraita* taught: "If she was not seized,"³ then she is forbidden [to her husband]. If there was coercion, she is permitted. And you have another case in which, even if she is seized, she is not permitted. Which is that? The wife of a priest.
 - 2.11. R. Judah said in the name of Samuel who quoted R. Ismael: "If she was not seized,"⁴ then she is forbidden [to her husband]. If there was coercion, she is permitted. And there is another case in which, if she is not seized, she is still permitted [to her husband]. Which is that? One whose *kiddushin* was erroneous, who, even if her son rides atop her shoulder, may refuse [her husband] and leave.
 - 2.12. R. Judah said: Wives who are kidnapped are permitted to their husbands.
 - 2.12.1. The rabbis said to R. Judah: But do they [the kidnapped wives] not deliver bread to them [their captors]?
 - 2.12.2. [Only] due to fear.
 - 2.12.3. But do they [the kidnapped wives] not deliver to them [their captors] their arrows?

¹ Job 29:9.

² Numbers 5:13.

³ *Ibid.*

⁴ *Ibid.*

- 2.12.4. [Only] due to fear.
- 2.12.5. For certain, if [their captors] release them [the captives] and they go to them [their captors] of their own free will, then they are forbidden [to their husbands].
- 2.13. Our rabbis taught: Captives of the kingdom^v, they are permitted [to their husbands], but, captives of highwaymen or pirates are not permitted [to their husbands].
 - 2.13.1. Was it not taught the other way around?
 - 2.13.2. There is no difficulty regarding [the contradictory teachings regarding captives of] the kingdom. The former refers to the kingdom of Ahaseurus, while the latter refers to the kingdom of ben Nezer.^{vi}
 - 2.13.3. There is no difficulty regarding [the contradictory teachings regarding captives of] the highwaymen or pirates. The former refers to ben Nezer, while the latter refers to everyday highwaymen and pirates.
 - 2.13.4. But, regarding ben Nezer, one explanation refers to him as a king, and the other as a pirate! Yes, when compared to Ahaseurus, he was nothing but a pirate, while, compared to an everyday highwayman or pirate, he was a pirate king.
- 3. 'In the case of a priest's wife, 'I will return you to your country...'
 3.1. Abaye said: If a widow marries the High Priest,⁵ he is obligated to redeem her, for I apply to her, "And the wife of a priest" - 'I will return you to your country.'
 3.2. However, if a child born out of adultery or a Gibeonite marries an Israelite, he [the Israelite] is not obligated to redeem her, for I do not apply to her, 'I will return her to me as my wife.'
 3.3. Raba said: Whenever captivity may cause a wife to be forbidden [from her husband], he is obligated to redeem her. However, if something else causes a wife to be forbidden [from her husband], he is not obligated to redeem her.
- 4. Shall we say this follows a *Tannaitic* disagreement?
 4.1. If a man vows [against] his wife^{vii}, and, [in the meantime] she is taken captive, he must, said R. Eliezer, redeem her and give her *ketubah* to her.
 4.2. R. Joshua, however, says that he gives her *ketubah* to her and does not redeem her.
 4.3. R. Nathan said: I asked Sumachos, when R. Joshua said he gives her *ketubah* to her but does not redeem her, [does he refer to a case] where the husband vows against her, and, then, later, she is captured? Or, [does he refer to a case] where she is captured, and, then, later, he vows against her? And he [Sumachos] said to me: I did not hear [his exact words], but it seems that the words [referred to a case] where the husband vows against her, and, then, later, she is captured.
 4.4. If you say that [R. Joshua refers to a case] where she was captured, and, then, later, he vows against her, this may lead to acts of deception.
 4.5. Is this not [different] from the case of one who vows against the wife of a priest, with Abaye in accord with R. Eliezer and Raba in accord with R. Joshua?^{viii}
 4.6. No, here, what are we addressing? The instance when a wife vows against her husband,^{ix} and he confirms her vow [with a vow of his own]. R. Eliezer opines that he put the finger between her teeth, while R. Joshua opines that she put her finger between her own teeth.^x
 4.7. If she put her finger between her own teeth, what should she get her *ketubah*?
 4.8. Moreover, said R. Nathan: I asked Sumachos, when R. Joshua said he gives her *ketubah* to her but does not redeem her, [does he refer to a case] where the husband vows against

⁵ A forbidden marriage, according to Torah. The author is emphasizing the need to redeem wives from captivity.

her, and, then, later, she is captured? Or, [does he refer to a case] where she is captured, and, then, later, he vows against her? And he [Sumachos] said to me: I did not hear [his exact words]. But if she had made the vow, what do I care if he vowed against her and, then, later, she was captured, or if she was captured, and then, later, he vowed against her.

- 4.9. Rather, as far as the world is concerned, [this is a case] where he vows against her, but Abaye resolves [the case] using his system, while Raba resolves [the case] using his system.
 - 4.9.1. If a widow marries the High Priest, no one would dispute that he is obligated to redeem her. If a child born out of adultery or a Gibeonite marries an Israelite, no one would dispute that he is not obligated to redeem her. Similarly, if one [a husband, a priest] vows against the wife of a priest, no one would dispute that he is obligated to redeem her, for it is the same as [the case when] a widow marries the High Priest. Where [we find] disagreement is with regard to the matter of one who vows against the wife of an Israelite. R. Eliezer proceeds according to the initial part of the command, while R. Joshua proceeds according to the final part of the command.
 - 4.9.2. Raba resolves [the case] using his system: If a widow marries the High Priest, or if a child born out of adultery or a Gibeonite marries an Israelite, no one would dispute that he is not obligated to redeem her. Where [we find] disagreement is with regard to the matter of one [a husband] vows against the wife of a priest or an Israelite. R. Eliezer proceeds according to her initial status, while R. Joshua proceeds according to her final status.
5. 'If she is taken captive, he is required to ransom her...'
 - 5.1. Our rabbis taught: If she is taken captive during the lifetime of her husband, and, afterwards, her husband dies, if her husband knew of the matter, his inheritors are obligated to redeem her. If he did not know of the matter, his inheritors are not obligated to redeem her. Levi opined that one should act in accordance with this teaching.
 - 5.2. Rav said to him: Thus said my friend – The law does not follow this teaching, but rather this teaching: If a woman is taken captive following the death of her husband, the orphans are not obligated to redeem her. Not only that, but even if she is captured during the lifetime of her husband, and afterwards, her husband dies, the orphans are not obligated to redeem her, for I cannot find evidence [to suggest such a requirement] by reading, 'And I will take you back as a wife.'
 - 5.3. Our rabbis taught: If a wife is taken captive and they [her captors] demand from him [her husband] up to ten times her value, the first time, he must redeem her. From then on, if he wishes, he may redeem her, but if he wishes, he need not redeem her.
 - 5.3.1. R. Simeon b. Gamliel says: It is not necessary to redeem captives at more than their value, on account of social order. Therefore, if [the ransom is] of equal value, they must redeem them, even if the ransom exceeds the cost of her *ketubah*.
 - 5.3.2. Was it not taught, however, that: If a wife is taken captive and they [her captors] demand from him [her husband] up to ten times her value, the first time, he must redeem her? From then on, if he wishes, he may redeem her, but if he wishes, he need not redeem her?

Ketuboth 51A-52B: If he [the husband] did not write for her [his wife] a *ketubah*...

- 5.3.3. R. Simeon b. Gamliel says: If the ransom price corresponds to [the value of] her *ketubah*, he must redeem her. If not, he need not redeem her. R. Simeon b. Gamliel, therefore, [provides] two lenient rulings.
6. 'If she falls ill, he is required to obtain medical treatment for her...'
- 6.1. Our rabbis taught: A widow may be sustained from the property of orphans, and if she requires medical treatment, behold, this is a form of sustenance.
- 6.2. R. Simeon b. Gamliel says: If the medical treatment has a fixed cost, she may be healed from her *ketubah*. If the treatment has no fixed cost, behold, this is a form of sustenance [and the funds may come from the orphans].
- 6.3. R. Yohanan said: In the Land of Israel, they performed bloodletting as a treatment that had no fixed cost. Relatives of R. Yohanan were required [to sustain] his wife who required daily medical care. They came before R. Yohanan and he said to them: Go and budget a fixed sum for the doctor. R. Yohanan subsequently said: We have made ourselves legal advisors. At the start, how did he opine, and, at the end, how did he opine? At the start, he opined, "Do not ignore your own kin,"⁶ and, at the end, he opined that an important person is different.^{xi}

Summary

Our chapter addresses exigent circumstances and marital obligations. Specifically, the chapter asks the following questions: What exactly does a husband owe his bride? Under what circumstances may he not retrieve her? When must he? If pirates or thieves kidnap his wife, does law require the husband to ransom her? If a wife falls ill, does law require the husband to provide for medical expenses? How does a *ketubah* or any other document address these legal questions?

If husband's wife either becomes captive and or ill and a *ketubah* does not specify that a husband must provide in these cases, *Tannaitic* case law mandates that a husband must provide remuneration. If a husband divorces his wife, the *get* nullifies his responsibility to provide for her medical care; however, the husband must pay her ransom despite their estrangement. With regard to dowry, *Tannaitic* case law rules that if a *ketubah* lacks the specific amount for the dowry, the husband must pay 200 *zuzim* for a virgin and 1 *maneh* [100 *denars*] for a widow. If a husband promises to use his entire estate for his wife's dowry, *Tannaitic* case law once again requires the husband to compensate all of his property.

Our Gemara first discusses *Tannaitic* case law regarding the set amount a husband must pay for his bride. The Gemara continues to expound on a husband's obligation to redeem his captured wife, whether married or estranged. However, the Gemara specifies when a husband does not need to redeem his captive wife. For example, if a Jew weds a Gibeonite, the Jewish husband does not need to redeem his foreign wife, seeing as the marriage was not valid.

It seems that *Tannaitic* and *Amoraic* law strongly advocate the husband's financial and emotional commitment in marriage. A husband must ensure that his wife receives a set amount for her dowry, in addition to medical care and pay her ransom if held captive. The Gemara reinforces a sense of commitment among the participants in the family. A Jewish husband must redeem his Jewish wife, whether married or estranged. A husband must pay medical personal to

⁶ Isaiah 58:7.

Ketuboth 51A-52B: If he [the husband] did not write for her [his wife] a *ketubah*...

treat his sick wife. Again, the Gemara shows that a Jewish marriage cannot simply be one of convenience, but must create sincere commitments.

ⁱ A writ of divorce.

ⁱⁱ In a later Mishnah.

ⁱⁱⁱ Quoting our Mishnah.

^{iv} i.e. 'She was clothed in her inclination,' suggesting that a woman cannot control her passions, ultimately leading to coitus.

^v i.e. Wives taken captive by the household of a foreign power.

^{vi} A robber and self-proclaimed ruler in the 3rd Century who successfully carved out his own little kingdom in between the Persians and the Romans. See Steinsaltz.

^{vii} The vow in question precludes her from deriving any benefit from him, a vow that the Torah stipulates must lead to divorce.

^{viii} Rabba suggested above that a wife forbidden to a husband by any other matter than captivity need not be redeemed.

^{ix} Again, a vow not to derive benefit from her husband.

^x This metaphor of putting a finger between her teeth serves to delineate responsibility for her vow, which now looks fairly stupid, since she is a captive, and could really benefit by deriving benefit from her husband.

^{xi} And therefore, an important person, such as Yohanan must adopt restrictive measures, different from those of the general public.

Ketuboth 52B-54B: If he [the husband] did not write for her [the wife], “Your sons”...

Mishnah

If he [the husband] did not write for her [the wife]:

1. “Male children that you shall have from me will inherit the money from your *ketubah*, above and beyond their portion [that they have] with their brothers,” [nevertheless], he is obligated, as this was stipulated by the *beit din*.
2. “Female children that you shall have from me will remain in my house and will be sustained from my estate until they marry their husbands,” [nevertheless], he is obligated, as this was stipulated by the *beit din*.
3. “You will remain in my house and will be sustained from my estate all the days of your widowhood in my house,” [nevertheless], he is obligated, as this was stipulated by the *beit din*.

Thus wrote the great men of Jerusalem. The men of the Galilee concurred with the men of Jerusalem. The men of Judah wrote, “Until the inheritors desire to give you your *ketubah*.” Therefore, if the inheritors desired, they could give her *ketubah* to her or dismiss her.

Gemara

1. R. Yohanan said in the name of R. Simeon b. Yochai: Why did they [the rabbis] ordain that the *ketubah* [becomes the inheritance] of the male children (See Mishnah 1)?
 - 1.1. In order that a man may leap [forward] to assign to his daughters a dowry as substantial as [he assigned] to his sons.
 - 1.2. Is it possible that the Torah stated that sons inherit, but daughters do not inherit and [nonetheless] the rabbis come and ordain that daughters inherit?
 - 1.3. Behold, this is similar to a matter in the Bible, which states, “Take wives and beget sons and daughters and take wives for your sons and give your daughters to men...”¹
 - 1.4. It’s granted [that one must take a wife for his] sons, as the matter rests within his hands. However, regarding his daughters, does [procuring their husbands] rest within his hands?
 - 1.5. Behold, this source tells us that he [the father] must clothe her, must cover her [with a veil], and must give her something [for dowry], so that [a groom] might jump at her, and come [forward] to wed her.
 - 1.6. Up to how much? Abaye and Rabba both said: Up to a tenth of his estate.
 - 1.7. One might say, however, that from [the mother’s] father, [sons] inherit [any dowry due to their mother’s *ketubah*], but from a husband, [sons] do not inherit [any statutory allotment from the husband to their mother’s *ketubah*].
 - 1.8. If so (if the husband will not give), a father would similarly abstain from assigning [an allotment].
 - 1.9. If one says that as the father assigns [a dowry], so, too, the husband assigns [a corresponding inheritance], then [he must also admit that] as the father does not assign, so, too, the husband need not assign.
 - 1.10. The rabbis did not distinguish between these cases [i.e. they focused upon the father].
 - 1.11. Shouldn’t a daughter, among sons, also inherit? The rabbis equated [the dowry] it to an inheritance.
 - 1.12. Shouldn’t a daughter, among daughters, also inherit? The rabbis drew no distinction between daughters and daughters.

¹ Jeremiah 29:6. This instruction is included in the letter given to Jeremiah to provide to the intelligentsia of exiled Judah.

- 1.13. Why can't [the sons, then] collect [the *ketubah*] from moveable property? The rabbis equated it to a *ketubah* [which cannot be recovered from moveable property].
- 1.14. Why can't the sons collect from property with a lien?
- 1.15. When there's no inheritance from the Torah, it has to be split.
- 1.16. R. Papa got busy [with arranging a marriage] for his son to the house of Abba of Sura. He went to arrange [the wife's] *ketubah*. Judah b. Miramar heard [of his arrival] and went to greet him. When they arrived to open [the door], he [Judah] took leave from him [Papa]. He [Papa] said to him: Will the master not enter with me? Seeing that this was not pleasant to him, Papa said to him: What's on your mind? Is it because Samuel said to R. Judah: Toothy, don't hang out during the transfer of inheritance, even from an evil son to a good son, as no one knows what seed shall come forth from him, and how much the more so a transfer from a son to a daughter? Don't worry, for thus [allowing a dowry to a daughter] also did the rabbis decree, for R. Yohanan said so in the name of R. Simeon b. Yochai. He [Judah] replied: These things apply to [one who gives according to] his opinion. Should they also coerce him? Papa replied: Did I tell you to enter and to coerce him? [No, I said] enter and do not coerce him. Judah replied: My entrance constitutes compulsion. [Papa, however] forced him, and he entered, but he remained silent and sat. [Abba] was of the opinion that [Judah] was angry, and, therefore, assigned, in writing, all that he had [as a dowry]. Finally, however, he [Abba] said to him [Judah]: Even now, you will not speak to me, sir? As you live, sir, I did not leave anything for myself! Judah replied: Even this that you assigned does not please me [for it was too much]. Abba replied: Now, then, I shall take it back. Judah replied: That would make you one who reneges, and I did not suggest that.
2. R. Yaymar, the elder, asked of R. Nahman:
 - 2.1. If a woman sells her *ketubah* to her husband, does the *ketubah* remain for male children or not?
 - 2.2. Rabba said to him: You should ask [this] with regard to a woman who relinquishes [her *ketubah* without compensation].
 - 2.3. Yaymar replied: Now, the matter of a woman who sells [her *ketubah*] is what I need to ask about, for even though there may be one who says that [the need for] money compelled her, I say that she is like one who has been hit one hundred times with a weight (i.e. she made a terrible mistake). Do we need to talk about one relinquishes [her *ketubah*]?
 - 2.4. Rabba replied: It seems simple to me. If one sells her *ketubah* to others, the *ketubah* remains for male children. What's the reason? Money compelled her. If she relinquishes her *ketubah* to her husband, she has no *ketubah* for her male children. What is the reason? She relinquished it [of free will].
 - 2.5. Rabba asked: One who sells her *ketubah* to her husband – is she considered like one who sells her *ketubah* to others or like one who relinquishes her *ketubah* to her husband? Having raised the question, he then solved it: One who sells her *ketubah* to her husband is considered like one who sells her *ketubah* to others.
 - 2.6. R. Idi b. Abin objected: If she died, neither the inheritors of one nor the inheritors of another inherit the *ketubah*.
 - 2.7. We discussed it [elsewhere]: What is the *ketubah* doing [in this argument, as she no longer has one (Rashi)]?

- 2.8. R. Papa said: There remains a *ketubah* for the male children. Why? Here (where she sold it to someone), too, we say that her own [evil] inclination compelled her. There (where she gave it away), it is a penalty that the rabbis imposed upon her.
- 2.9. Rabin b. Chanina sat before R. Hisda, and said in the name of R. Elazar: One who relinquishes her *ketubah* to her husband is not entitled to sustenance [from his estate after his death]. The other replied: If what you have told me had not come from the mouth of a great sage, then I would have said to you, “As to one who answers good with evil, evil shall not depart from his home.”²
3. R. Nahman, Ulla, and Abimi, son of R. Papi, sat, and R. Hiyya b. Ami sat alongside them. A gentleman whose betrothed had died came before them, and they said to him: Go bury her or give her *ketubah* to her.
 - 3.1. R. Hiyya said to them: It was taught [in a *baraita*]: A betrothed woman – one does not mourn her,ⁱ nor does he incur ritual impurity for her,ⁱⁱ and, likewise for her: She does not mourn him or incur ritual impurity on his account.ⁱⁱⁱ If she dies, he [the groom] does not inherit [her dowry], and if he dies, she collects her *ketubah*.
 - 3.1.1. The reason? He died. If she had died, she would not have her *ketubah* [to pay for her burial].
 - 3.1.2. What is the reason? R. Hosha’aya said: I do not find it within the statement, ‘If you wed another, you shall receive what was promised [in writing] to you.’³
 - 3.2. When Rabin came, he stated in the name of Reish Lakish: A betrothed woman who dies – she receives no *ketubah*. Abaye said to them [his students]: Go and say to him [Rabin] – Your good [reputation] remains lacking and has been thrown upon the thorns, for R. Hosha’aya already taught this learning in Babylon.
4. ‘The female children that you shall have from me...’
 - 4.1. Rav taught: Until they are taken by a man.⁴ [However,] Levi taught: Until she matures [reaches adolescence].
 - 4.1.1. For Rav – would [she still receive sustenance] even if an adult?
 - 4.1.2. For Levi – would [she still receive sustenance] even if married?
 - 4.1.3. Rather, if she matures but is not yet married, or she marries, but has not matured. No one would dispute [that she does not receive sustenance].
 - 4.1.4. Where they differ is in the case of one who is betrothed but not yet mature.
 - 4.1.5. Thus, taught Levi in his *baraita*: Until she matures and arrives at the time for marriage.
 - 4.1.6. Both? Rather, either she matures or she reaches the age for marriage.
 - 4.1.7. This controversy among the *amoraim* is like that of the *tannaim*: Until what time is a daughter sustained?
 - 4.1.8. Until she is betrothed [by a suitor].
 - 4.1.9. [However,] they said in the name of R. Elazar: Until she matures.
 - 4.1.10. R. Joseph taught: Until they become...
 - 4.1.11. It was asked of them: Does this “becoming” refer to marriage or betrothal? There is no answer.
 - 4.2. R. Hisda said to R. Joseph: Did you hear from R. Judah if a betrothed woman [who has not yet married] is entitled to sustenance or not [from her father’s estate]?

² Proverbs 17:13.

³ BT *Yebamoth*, 117A.

⁴ In marriage (Rashi).

- 4.2.1. The other replied: I did not receive a tradition, but common sense [suggests that] she is not entitled, because once she is betrothed, the groom would not be pleased to have her degraded in such a fashion.
- 4.2.2. The other replied: If you did not actually hear this teaching, common sense could [suggest that] she is entitled, because he may not be sure of her [because the marriage has not yet taken place], and he would not throw away money for nothing.
- 4.2.3. There are those who say that he [R. Joseph] said to him: I did not hear this teaching, but common sense [suggests that] she is entitled, because he may not be sure of her, and he would not throw away money for nothing. The other replied: If you did not actually hear this teaching, common sense could [suggest that] she is not entitled, because once she is betrothed, the groom would not be pleased to have her degraded in such a fashion.
- 4.3. A mnemonic of the sages: SHaK ZaRaP (r. SHeshet, reish laKish, r. elaZar, Rabba, rav Papa) who discussed – The minor who refuses betrothal, the childless widow, an incestuous wife [lit. a secondary relation],^{iv} a betrothed wife, and a wife who was raped before marriage.
 - 4.3.1. They demanded of R. Sheshet: The minor who refuses betrothal – is she entitled to sustenance or not? R. Sheshet replied: It was already taught – A widow in the house of her father, a divorcee in the house of her father, and a childless widow awaiting levirate marriage in the house of her father – they all receive sustenance.
 - 4.3.2. R. Judah says: If she is still in her father’s house, she receives sustenance. If she is not in her father’s house, she does not.
 - 4.3.2.1. R. Judah’s [opinion] is equivalent to that of our First Tana!
 - 4.3.2.2. But is there not a disagreement between them with regard to the minor who refuses betrothal?
 - 4.3.2.2.1. Our First Tana opines: She is entitled.
 - 4.3.2.2.2. R. Judah opines: She is not entitled.
 - 4.3.3. Reish Lakish inquired: Is the daughter of a childless widow [who then married her brother-in-law] entitled to sustenance or not?
 - 4.3.3.1. Since a sage said: Her [the childless widow who remarried] *ketubah* is the responsibility of the estate of her first husband, so she [the daughter] is not [entitled to sustenance from the new husband].
 - 4.3.3.2. Or, perhaps, because, if she [the childless widow who remarried] does not have hers [i.e. her *ketubah*] from the first husband, the rabbis decreed that she receives it from the second, then is she [the daughter entitled]?
 - 4.3.3.3. There is no answer.
 - 4.3.4. R. Elazar inquired: Does the daughter of an incestuous wife^v get sustenance?
 - 4.3.4.1. Because she [an incestuous wife] does not receive a *ketubah*, does she [the daughter] receives no sustenance,
 - 4.3.4.2. Or, perhaps, because her mother committed a forbidden act, she was penalized by the sages, but she [the daughter] who did not commit a forbidden act, was not penalized by the sages?
 - 4.3.4.3. There is no answer.

Ketuboth 52B-54B: If he [the husband] did not write for her [the wife], “Your sons”...

- 4.3.5. Raba asked: Is the daughter of a betrothed wife entitled to sustenance or not?
 - 4.3.5.1. Because she has a *ketubah*, she [the daughter] receives sustenance.
 - 4.3.5.2. Or, perhaps, because our rabbis decreed that she [the wife] does not receive a *ketubah* until *nisuin* – she [the daughter] receives no sustenance?
 - 4.3.5.3. There is no answer.
- 4.3.6. R. Papa asked: Is the daughter of a wife who was raped before marriage entitled to sustenance or not?
 - 4.3.6.1. According to R. Jose b. R. Judah: Do not ask yourself, as it is said – ‘She possesses a *ketubah* worth one *maneh*.’ If you must ask yourself the question, then it is according to our rabbis who say: The fine^{vi} she receives [from the rapist] is her *ketubah*.
 - 4.3.6.2. What [then, is the decision]?
 - 4.3.6.3. Since she [the wife] has no *ketubah*, she [the daughter] receives no sustenance.
 - 4.3.6.4. Or, perhaps, what is the purpose of a *ketubah*? So that it does not appear easy in the eyes [of a husband] to send forth his wife [in divorce], and here [in the case of a previously raped woman whom he married], he cannot send her forth [and, therefore, the daughter should receive sustenance]
 - 4.3.6.5. There is no answer.
- 5. ‘You shall dwell in my house...’
 - 5.1. R. Joseph taught: In my house, but not in my shack. But, she will still receive sustenance.
 - 5.2. Mar, son of R. Ashi said: Even sustenance she shall not receive.
 - 5.3. But the *halakhah* does not follow Mar, son of R. Ashi.
 - 5.4. R. Nahman said in the name of R. Samuel: If she was asked to marry, and she agrees, she receives no sustenance. But, if she refuses, she still receives sustenance?
 - 5.5. R. Anan said: The matter was explained to me by Master Samuel. If she [declines a marriage offer] saying, “Because of my husband, so-and-so [who is now dead]”, she receives sustenance. [However, if she says] “Because these men are not pleasing to me,” she receives no sustenance.
 - 5.6. R. Hisda said: If she is too slutty, then she receives no sustenance.
 - 5.7. R. Joseph said: If she applied eye shadow or hair dye, she receives no sustenance.
 - 5.8. As for whoever says: If she is too slutty... how much the more so than one who merely applies eye shadow or hair dye?
 - 5.9. As for whoever says: If she applied eye shadow or hair dye [she receives no sustenance], but if she is too slutty, she receives sustenance, what would be the reason? Her [evil] inclination compelled her.
 - 5.10. However, the *halakhah* does not follow any of these teachings. Rather, it is in accordance with that which R. Judah said in the name of Samuel: One who asks for her *ketubah* in the *beit din* is not entitled to sustenance [from that time forward].
 - 5.11. No? But wasn’t it taught in a *baraita* that if she sold her *ketubah*, used her *ketubah* as collateral, or used her *ketubah* as a bill of pledge to another, then, she is not entitled to sustenance.

Ketuboth 52B-54B: If he [the husband] did not write for her [the wife], “Your sons”...

- 5.12. These [cases], yes [she loses her right to sustenance], but if she asks [for her *ketubah*], no [she keeps it]!
- 5.12.1 [No. Rather,] in these [cases], [if she sells, mortgages, or uses her *ketubah* as a note, she loses her sustenance] whether she goes to the *beit din* or not.
- 5.12.2. If she asks [for her *ketubah*], if she comes to court, yes [she loses her sustenance], but if she does not come to court, then no [she keeps her sustenance].
6. ‘Thus did the men of Jerusalem...’
- 6.1. It was said: Rav said that the *halakhah* is in accordance with [the traditions of] the men of Judah, while Samuel said that the *halakhah* is in accordance with [the traditions of] the men of the Galilee. Babylon and its surroundings followed the custom of Rav, while Nehardea and its surroundings followed the custom of Samuel. A woman from Mimosa was marrying a man from Nehardea, and the pair came before R. Nahman, and he heard from her voice that she was from Mehoza. He [then] said to them: Babylon and all its surroundings follow the custom of Rav. They replied: But she married a man from Nehardea! He said to them: If so, then Nehardea and its surroundings follow the custom of Samuel. Until where does Nehardea [extend]? As far as the liquid measure of Nehardea is used.
- 6.2. It was said: [When a *ketubah* was paid to] a widow, Rav said that one must assess that which is upon her^{vii} while Samuel said that one does not assess that which is upon her.
- 6.2.3. R. Hiyya b. Abin said that [their opinions] are reversed in the case of a field hand.^{viii}
- 6.2.4. R. Kahana taught: [Rather], thus are [their opinions] in the case of a field hand.^{ix}
- 6.2.5. [Rav] laid down the following mnemonic: An orphan and a widow, strip ‘em and send ‘em out.
- 6.2.6. R. Nahman said: Even though the Mishnah teaches according to Samuel, the *halakhah* follows Rav. For it was taught: When one consigns his estate to the Holy Temple or one values himself^x, [the Temple officials] do not appropriate the clothing of the wife, the clothing of the children, or the colored articles that were dyed for them, or the new sandals that he may have bought for them.
- 6.2.7. Raba said to R. Nahman: Since we learned the teaching in accordance with Samuel, why does the *halakhah* follow Rav?
- 6.2.8. He replied: At first glance, [the Mishnah appears to] follow Samuel, but if you examine it, the *halakhah* follows Rav.
- 6.2.9. What’s the reason? When he [the husband] purchased [the clothes] for her, his assumption was that she would stand before him [in those clothes]; the assumption that she would take them and leave – that’s not why he bought them.
- 6.2.10. A daughter-in-law in the house of R. Elyashib was claiming her *ketubah* from the orphans {i.e. from her husband’s children, his heirs}. He brought them to court, and they said: It’s insulting to us that you came like this [in those clothes]. She left, dressed, and wrapped herself in all her garments. They came before Rabina, who said: The *halakhah* follows Rav, who stated: One must count that which is upon her.
- 6.3. A man once said: ‘A trousseau for my daughter!’ The price of a trousseau subsequently decreased. R. Idi b. Abin said: The remainder [can go] to the orphans.

Ketuboth 52B-54B: If he [the husband] did not write for her [the wife], “Your sons”...

- 6.4. A man once said: ‘Let my daughter have 400 *zuzim* worth of this wine!’^{xi} The price of the wine rose. R. Joseph said: The surplus [can go] to the orphans.
- 6.5. Relatives of R. Yohanan sustained the wife of their father, who wasted a lot of food.
 - 6.5.1. [In distress,] They came before R. Yohanan, and he said to them: Go tell your father to set aside a piece of land for her sustenance.
 - 6.5.2. They [next] came before Reish Lakish, and he said to them: All the more reason to increase her level of sustenance!
 - 6.5.3. They replied to him: But that’s not what R. Yohanan said!
 - 6.5.4. He replied to them: Go and give it to her, and, if not, I’ll pull out R. Yohanan from between your ears!
 - 6.5.5. They [then] came and stood before R. Yohanan, and he said to them: What can I do? One as distinguished as I disagrees with me.
 - 6.5.6. R. Abahu said: This matter involving R. Yohanan was explained to me, thusly – If one says [in the *ketubah*] ‘towards sustenance,’ we increase her sustenance, and if he states ‘in sustenance,’ we decrease her sustenance.

Summary

Our Mishnah ensures that, regardless of the husband’s legal language, his wife and her descendants remain entitled to certain benefits. Namely, the sons receive the contents of her *ketubah*, while she and her daughters receive sustenance from the estate until marriage.

Rabbinic law did not permit women to inherit property from their fathers [if there were surviving sons]. However, as Michael Satlow explains, certain *ketuboth* entailed property transfers [not as a dowry]; a father would want to transfer his property to his daughter by deed of gift rather than as dowry. A transfer by deed of gift [in his daughter’s *ketubah*] would guarantee that a father’s property would remain in the possession of his kin after his death. His daughter’s *ketubah* would legally prevent his son-in-law from inheriting his property. Satlow writes, “The reason that parents would want to transfer their property to their daughters by deed of gift rather than as dowry is obvious: it kept the property out of the hands of their son-in-law. About the last thing that a wife or her family wanted to see was their family estate go to her husband’s children by other women.”^{xii} Though rabbinic law prevents daughters from inheriting when boys were in the family, provisions in such *ketuboth* would ensure that a father’s property would remain in his family.

Ketuboth 52Bff discusses the issue of inheritance, especially with regard to sons and daughters. Our Gemara here enforces rabbinic law that daughters cannot inherit when there are brothers.^{xiii} Thus, the provisions in a daughter’s *ketubah* discuss how her husband will provide and sustain her. The jurisprudence concerning rabbinic inheritance law complements biblical inheritance law.

Moses brought their case before Adonai. And Adonai spoke to Moses saying: The daughters of Zelophehad are right in what they are saying; you shall indeed let them possess an inheritance among their father’s brothers and pass the inheritance on to them. You shall also say to the Israelites, “If a man dies, and has no son, then you shall pass his inheritance on to his daughter. If has no daughter, then you shall give his inheritance to his father’s brothers. And if his father has no brothers, then you shall give his inheritance

Ketuboth 52B-54B: If he [the husband] did not write for her [the wife], “Your sons”...

to the nearest kinsman of his clan, and he shall possess it. It shall be for the Israelites a statute and ordinance, as Adonai commanded Moses.”⁵

As Numbers 27:5-11 clearly states, a daughter can inherit from her father’s estate [when she does not have male kin in the family]. Ancient Near Eastern laws, such as the laws of Lipit-Ishtar [Old Babylonian Law], permit women to inherit – again, only when the woman does not have brothers.^{xiv}

However, rabbinic law seems somewhat cautious when women inherit. Biblical Studies Professor Etan Levine suggests that rabbinic Judaism marginalized women and their rights. Levine writes,

According to the Bible’s notion that men and women are equally created in God’s image, female empowerment was a religious *right*, but women had been both marginalized and idealized. Their personal and domestic dignity were inviolate, yet, this very respectability mandates seclusion and isolation from public roles. Yet Judaism extended women’s inferior religious status to all spheres: communal, domestic and personal. This marginalizing process accounts for the statistics of anonymous and named authorities in Rabbinic texts as compared to Bible texts: not a single woman is numbers among the over 2,000 named *Tannaitic* and *Amoraic* sages, and the anonymous dicta reveal an approximately fifty-to-one ratio of men to women.^{xv}

Moreover, *Tannaitic* and *Amoraic* inheritance law also fails to mimic inheritance law from its legal contemporaries. In Roman inheritance law, if a Roman father died without a will, his daughter(s) would receive part of his inheritance. Even though Roman law prevented women from voting or from holding public office, Roman women had citizenship and could reap the benefits from inheriting land or moveable property. Roman women could own property and engage in business endeavors. Additionally, even a slave owner could name his/her slave a “heres.”^{xvi}

Perhaps rabbinic inheritance law is *sui generis*. Satlow contends that when women receive sustenance, this transaction appears as a dowry, rather than an inheritance. “A dowry is, or should be, used as the primary vehicle of transmission of patrimony to women.”^{xvii} In other words, a woman receives sustenance from her dowry, while property as a deed by gift.

ⁱ i.e. He/she is not forbidden from *kodashim*.

ⁱⁱ Only applicable in the case of a priest.

ⁱⁱⁱ Only applicable during a festival.

^{iv} The Torah lists many incestuous relationships known as *arayot*, but the sages expanded the list of forbidden relationships. Such relationships, considered *shniyot*, are incestuous *only* according to rabbinic decree, not Biblical decree: Marriages to a grandmother, a great-grandmother, a grandfather’s wife, an uncle’s wife, the daughter-in-law of a child, a great-granddaughter, a wife’s great-granddaughter, and a wife’s great-grandmother. Violation of these prohibited marriages is punishable by lashing. For a complete list, see A. Steinsaltz, 268.

^v *Ibid.*

^{vi} This refers to the fifty shekel fine paid to a woman’s father should a man have intercourse with her before scheduling a proper matrimony. See Deut 22:29.

⁵ Numbers 27:5-11.

^{vii} i.e. When estimating the value of the *ketubah* paid to the widow, one subtracts the value of the clothing that she wore to court.

^{viii} In other words, a laborer who receives clothing from his employer.

^{ix} i.e. the same as their opinions regarding a widow.

^x As part of a freewill offering to the Temple. See Leviticus 27:1.

^{xi} See Rashi.

^{xii} See Satlow, 204ff. Satlow discusses archives found in Elephantine that speaks to inheritance law. Satlow writes, “All four archives are dealing with the same problem: how a family can pass on its property when the sole (surviving) child is a woman. All the archives give a similar answer. The daughter would receive the patrimony as a gift, which she would hold as independent property until she could pass it on to her children,” Satlow, 206ff.

^{xiii} See Etan Levine, *Marital Relations in Ancient Judaism* (Wiesbaden: Harrassowitz Verlag, 2009), 85ff. Cf. Mathew Kuefler, “The Marriage Revolution in Late Antiquity: The Theodosian Code and Later Roman Marriage Law,” *Journal of Family History* 32:343 (2007): 343-370

^{xiv} See Martha T. Roth, *Law Collections from Mesopotamia and Asia Minor* (Atlanta: Society of Biblical Literature, 1995), 25.

^{xv} See Levine,.

^{xvi} See William Smith, *A Dictionary of Greek and Roman Antiquities* (London: John Murray, 1875).

^{xvii} Satlow, 207.

Mishnah

1. Even though [the sages] said that a virgin collects 200 *zuzim* and a widow collects one *maneh*, if a husband wishes to augment [the amount promised in the *ketubah*], even by one hundred *maneh*, then he may augment.
 - 1.1. If she is widowed or divorced whether during her betrothal and her marriage, she collects the entirety.
 - 1.2. R. Elazar b. Azariah says: From marriage onward, she collects the entirety, but from betrothal [until marriage], a virgin collects 200 *zuzim* and a widow collects one *maneh*, for he only prescribes [additional monies] for her in the expectation that she will enter with him [into a shared domicile].
2. R. Judah says: If he wants, he [a future husband] may assign for the virgin a bill of 200 *zuzim*, but she may write, "I received from you a *maneh*." Or, [he may assign] for the widow a *maneh*, but she may write, "I received from you 50 *zuzim*."
3. R. Meir says: Anyone who gives less to a virgin than 200 *zuzim* or less than a *maneh* to a widow, his intercourse is like an act of prostitution.

Gemara

1. This [the ability to augment the amount promised in the *ketubah*] seems obvious! However, the text informs us of this, lest you should say that our rabbis set a limit to safeguard those without means from embarrassment.
2. 'If he wants to augment...' The text does not teach, 'If he wishes to assign for her...' but, rather, 'If he wants to augment...' This supports [the statement] that R. Ayvu quoted from R. Yanai. According to R. Ayvu, R. Yanai said: The [supplementary] terms of a *ketubah* are similar to the *ketubah* [in regulation]...
3. This includes the following: sales [of a *ketubah* or a portion thereof], relinquishments, rebellions [against the husband], damages [through admission that she has received a portion of her *ketubah*], claims [of payment of the *ketubah*], transgressions of the law; improvements, oaths, the Sabbatical year [which remits all debts save the *ketubah*], consignment of a husband's estate to his male heirs, recovery from real estate or from inferior land, time spent [as a widow] in her father's house, and the *ketubah* [settlement] for the male children.
4. It was stated that,
 - 4.1. Regarding the *ketubah* for the male children,
 - 4.1.1. [The Academy of] Pumbedithaⁱ stated: It may not be collected from mortgaged real estate, for we learned, "They shall inherit it."³⁴
 - 4.1.2. The scholars of Matta Mechasyaⁱⁱ said: It may be collected from mortgaged real estate, for we learned, "They shall take it."³⁵
 - 4.1.3. The *halakhah* is: It may not be collected from mortgaged real estate, for we learned, "They shall inherit it."ⁱⁱⁱ
 - 4.2. Moveable properties, if available to be seen, [may be taken] without an oath. However, if they are not available to be seen,
 - 4.2.1. [The Academy of] Pumbeditha stated: [they may be taken] without an oath.
 - 4.2.2. The scholars of Matta Mechasya said: [they may be taken only] with an oath.
 - 4.2.3. The *halakhah* is: [they may be taken] without an oath.

³⁴ BT *Berakhot* 51B.

³⁵ BT *Ketuboth* 52B.

- 4.3. If the husband sets aside a piece of land for her with four [recognizable] borders, it [may be taken] without an oath. If only one border [is defined],
 - 4.3.1. [The Academy of] Pumbeditha stated: [it may be taken] without an oath.
 - 4.3.2. The scholars of Matta Mechasya said: [it may be taken only] with an oath.
 - 4.3.3. The *halakhah* is: [it may be taken] without an oath.
- 4.4. If one says to witnesses, 'Write [a deed], sign it, and bring it to so-and-so,' and they [ritually] take possession of [the deed] from him, they do not need to consult him.^{iv} If they did not [ritually] take possession of [the deed] from him,
 - 4.4.1. [The Academy of] Pumbeditha stated: They do not need to consult him.
 - 4.4.2. The scholars of Matta Mechasya said: They need to consult him.
 - 4.4.3. The *halakhah* is: They need to consult him.
5. 'R. Elazar b. Azaryah...'
 - 5.1. It was said: Rav and R. Nathan [disagreed]. One said: The *halakhah* follows R. Elazar b. Azaryah, while the other said that it didn't.
 - 5.1.1. You can conclude that R. Nathan said that *halakhah* follows R. Elazar b. Azaryah, since it was taught of R. Nathan that he employed the method of induction,^v having stated that the *halakhah* is in accord with R. Simeon Shezuri in the case of a dangerously ill man³⁶ and in the case of *terumah* from the tithe of *demai*.^{37, vi}
 - 5.1.2. Didn't Rav, however, [also] employ induction? It was stated elsewhere that, regarding a gift from a dying man, [upon whose deed] was written a record of symbolic acquisition,^{vii} scholars from the house of Rav, in Rav's name, stated: *He has saddled two horses* [he has doubly verified his intent].
 - 5.1.3. Samuel said: I do not know how to solve this.
 - 5.1.4. Scholars from the house of Rav, in Rav's name, stated: *He has saddled two horses*, for his gift is like the gift of a healthy man, and it is also like the gift of a dying man. His gift is like the gift of a healthy man in that, if he recovers, he cannot take it back, and his gift is like that of a dying man in that, if he said, 'Give it to Ploni,' then we give it Ploni.
 - 5.1.5. Samuel said: I do not know how to solve this, since perhaps, he only wished to complete the transaction via deed, and there can be no [legal transaction via] deed after death!
 - 5.1.6. Rather, both [Rav and R. Nathan] employ inductive methods, and whoever stated that the *halakhah* [follows Elazar b. Azaryah] judged reasonably, while whoever stated that the *halakhah* does not [follow Elazar b. Azaryah] may say that, here, too, the decision could be based upon induction: [For, when a man promises his bride an additional sum, perhaps] he does so with [merely] the intent of creating an attachment [to her family, rather than sex], and the attachment has [already] been formed!^{viii}
 - 5.2. R. Chanina sat before R. Yannai, and said: The *halakhah* is in accord with R. Elazar b. Azariah.
 - 5.3. The other replied: Go read your Bible outside! The *halakhah* doesn't follow R. Elazar b. Azariah.

³⁶ BT *Gittin* 65B. According to R. Simeon Shezuri, a dying man may legally hand an enforceable writ of divorce to emissaries.

³⁷ M. *Demai* 4:1. According to R. Simeon Shezuri, one can take a vendor's word regarding the uncertain status of tithing for foods.

- 5.4. R. Isaac b. Abdmimi quoted our Rabbi:^{ix} The *halakhah* is in accord with R. Elazar b. Azariah.
- 5.5. R. Nahman said Samuel said: The *halakhah* is in accord with R. Elazar b. Azariah.
- 5.6. But R. Nahman, himself, said: The *halakhah* does not follow R. Elazar b. Azariah.
- 5.7. The Nehardeans, quoting R. Nahman, say: The *halakhah* is in accord with R. Elazar b. Azariah.
- 5.8. Even though R. Nahman used to curse, saying, ‘Anyone who judges in accord with R. Elazar b. Azariah, may such-and-such happen to him,’ even so, the *halakhah* is in accord with R. Elazar b. Azariah.
6. Rabin asked: What happens if the bride enters the *huppah* but does not have intercourse?
 - 6.1. Does the emotional attachment of the *huppah*^x create acquisition [and thus, entitle the bride to full payment of her *ketubah*], or does only the emotional attachment of intercourse create acquisition?
 - 6.1.1. Come and hear what R. Joseph taught: He [the husband] only assigned [money] for her because of the attachment created by *their first night* together.
 - 6.1.2. Now, it’s fine if you say that the attachment created by the *huppah* enacts acquisition – then it was proper to say, ‘*their first night*’ but, if you say that the attachment created by intercourse enacts acquisition – [Are you suggesting that] There’s intercourse on the first night, and, from there on, there’s none?
 - 6.1.3. Rather, what is meant by “the *huppah*?” Are we only permitted to come to the *huppah* at night, and not during the daytime?
 - 6.1.4. But, regarding your claim, does intercourse only happen at night? Doesn’t it happen during the day, too? [After all,] Raba did say: If you were in a dark house, [sex] was permitted!
 - 6.1.5. There’s no problem with that. [R. Joseph was just trying to tell us that] the normal practice was to get it on^{xi} at night.
 - 6.1.6. But, if we regard the *huppah* [as effecting acquisition], there’s still an issue [with R. Joseph’s reference to nighttime as the right time]!
 - 6.1.7. No, there’s also no issue with the *huppah*. Since the *huppah* stands for [the purpose of introducing] intercourse, therefore, to remain in accord with the customs of the land, he taught us to [enter the *huppah*] at night.
 - 6.2. R. Ashi asked: What happens when [a bride] enters the *huppah* and then experiences her period of menstruation? If you find [a reason] to say that the attachment created by the *huppah* effects acquisition, [does this refer to] only a *huppah* suitable for [introducing] intercourse, and not a *huppah* unsuitable for [introducing] intercourse? Or perhaps, there’s no difference? There is no solution.
7. ‘R. Judah says: If he wants, he [a future husband] may assign for the virgin...’ Does R. Judah hold the opinion that one may write a receipt for a paid debt?^{xii}
 - 7.1. Didn’t we teach: As for someone who paid back a part of his obligation, R. Judah said: He must exchange [the lender must receive his original promissory note and issue a new one for the correct amount]!
 - 7.2. R. Yosi said: Let the [creditor] write a receipt for him!
 - 7.3. R. Jeremiah said: In this case, let the [creditor record] the receipt [for repaid monies] within it [the *ketubah*, acting as the original promissory note].
 - 7.4. Abaye said: Even if you say that the receipt is not integrated within it, granted, there [in the case of a partial repayment], the borrower certainly repaid the lender, and we are

- concerned that, perhaps, [the borrower] may lose the receipt, and the lender may then produce the promissory note, and ask for the money once again! Here [in the case of a *ketubah*], did he actually transfer any money to her? It's just a verbal statement. If he kept the receipt, he kept it. If he didn't keep it, he himself is [the cause] of his own loss [let her collect the two hundred *zuz*].
- 7.5. Granted Abaye wouldn't use the same explanation as R. Jeremiah, because he [Abaye] was not dealing with a receipt written within it [the *ketubah*], but, as for R. Jeremiah, why didn't he use the same explanation as Abaye?
- 7.6. He believes that the ruling [proscription] regarding the receipt here [can serve as a precedent] for such receipts elsewhere.
8. The reason [that the husband may remain exempt from answering the wife's claim (that he underpaid her)] is that she wrote [a receipt] for him, but if she simply [surrenders a portion of her *ketubah*] by word of mouth, then no [he is not exempt].
- 8.1. Why? This is a monetary matter, and we learned that R. Judah used to say: In a monetary matter – his claim stands!
- 8.2. For it was taught: If one says to his wife, 'Behold, you are betrothed to me on the condition that you cannot claim from me food, clothing, or sex,' she is indeed betrothed, but his claim [not to provide her food, clothing or sex] is invalid, according to R. Meir.
- 8.3. But R. Judah said that in a monetary matter [food and clothing] – his claim stands!
- 8.4. Judah must, therefore, opine that the *ketubah* is [an enactment] of the rabbis, and the sages gave their words greater enforcement than the words of Torah.
- 8.5. However, the laws of byproducts are also Rabbinic, and the sages made no enforcement for them, as we have learned: R. Judah said: He may eat the byproducts of the byproducts, unless he writes for her, 'I no longer have [any claim] to your estate, or its byproducts, or the byproducts of its byproducts, without end.'
- 8.6. We maintain: That which is 'written' is actually 'said.'
- 8.7. Abaye said: Every wife has a *ketubah*, but not every wife has byproducts. Regarding a commonplace matter, the rabbis enacted restrictions, but regarding infrequent matters, the rabbis did not enact restrictions.
- 8.8. But ass-drivers are common, but the rabbis did not enact any restrictions regarding them, for we have learned:
- 8.8.1. If the ass-drivers enter a city, and one of them says, "My produce is new^{xiii} and my friend's is old. Mine is not fit for use, but my friend's is fit for use," we do not believe them.
- 8.8.2. R. Judah said: We do believe them.
- 8.9. Abaye said: [When the rabbis were] certain of their words, they enacted restrictions, but when [they remained] uncertain of their words, they did not enact restrictions.
- 8.10. Raba said: Regarding dubious tithes,^{xiv} [the rabbis] remained lenient.
9. 'R. Meir said: Anyone who pays less...' Anyone who pays less, even if it is simply a deferred payment.^{xv}
- 9.1. Consequently, he opined that such a deferred payment was unacceptable, and [the wife] must receive [the full amount].
- 9.2. Furthermore, since the man said to her,^{xvi} 'You will only receive a *maneh*,' she feels insecure, and if he copulates with her, it is as if he had hired a prostitute.

- 9.3. However, we have heard R. Meir say: Anyone who makes a stipulation contrary to what is written in Torah, his stipulation is worthless, but contrary to the words of the Rabbis, his stipulation endures!
- 9.4. R. Meir is of the opinion that the *ketubah* [was commanded] by Torah.
10. It was taught that R. Meir said: Anyone who pays less out to a virgin than 200 *zuzim* or less than a *maneh* to a widow, his marriage is like the hiring a prostitute.
 - 10.1. R. Yosi said: It's permitted.
 - 10.2. 'R. Judah said: If he wants, he [a future husband] may assign for the virgin a bill for 200 *zuzim*, but she may write, "I received from you a *maneh*." Or, [he may assign] for the widow a *maneh*, but she may write, "I received from you only 50 *zuzim*." And R. Yosi believes that this is permitted?
 - 10.3. An objection was raised: One cannot create a *ketubah* from moveable assets on account of repairing the world.
 - 10.4. R. Yosi said: What matter of repairing the world is involved in this?
 - 10.5. Their [price] is not fixed, and it decreases over time.^{xvii} Doesn't the *tana qama* similarly hold that, "One cannot create a *ketubah* from moveable assets on account of the public good"?
 - 10.6. Rather, is not [the *tana qama*] saying, When is this the case? When [the groom] does not accept responsibility [to make up the difference in value]. But, when he accepts responsibility [to make up the difference to his wife in the event of depreciation], he may [use moveable assets for a *ketubah*].
 - 10.7. And R. Yosi comes to say: Even when he accepts responsibility [for depreciation], how could he make [a *ketubah* using moveable assets]? Their price is not fixed and it depreciates.
 - 10.8. Now, just as there [in the case of making a *ketubah* from moveable assets], where only the possibility of depreciation exists, R. Yosi forbids it, but here [in the case where the groom swindles the wife in writing], where depreciation is certain, is it not even more important?
 - 10.9. Is this truly so? There, [in the case of making a *ketubah* from moveable assets], she does not know [that it will necessarily deteriorate in value], but here [in the case where the groom swindles the wife in writing], she knows and still consents.
 - 10.10. The sister of Rami b. Hamah was married to R. Avya, and she lost her *ketubah*.
 - 10.10.1. They came before R. Joseph and he said to them: R. Judah said Samuel said: That is the opinion of R. Meir, but the sages say: A man may live with his wife without a *ketubah* for two to three years.
 - 10.10.2. Abaye said to him: But R. Nahman said Samuel said: The *halakhah* is in accordance with R. Meir regarding his edicts!
 - 10.10.3. If so, then go write for her [another *ketubah*].
 - 10.11. When R. Dimi came, he said that R. Simeon b. Pazi said that R. Joshua b. Levi quoted Bar Kapara, saying: The dispute^{xviii} [between R. Judah and R. Yosi] is regarding the 'beginning,' but, in the 'end', according to everyone, she cannot consent.
 - 10.11.1. R. Yohanan said: They dispute both this ['the beginning'] and this ['the end'].
 - 10.11.2. R. Abahu said: R. Yohanan explained the following to me: I and R. Joshua b. Levi do not dispute with one another. What is 'the beginning' for R. Joshua b. Levi? It is the start underneath the *huppah*. And what is 'the end'? The conclusion of intercourse. When I said that I [believe the dispute extended] to both cases, I was

referring to the start underneath the *huppah* and the conclusion underneath the *huppah*, which is only the beginning of intercourse.

10.12. When Rabin came, he said that R. Simeon b. Pazi said that R. Joshua b. Levi quoted Bar Kapara, saying: The dispute refers to ‘the end,’ but, regarding ‘the beginning,’ according to everyone, she may consent.

10.12.1. R. Yohanan said: They dispute both this [‘the beginning’] and this [‘the end’].

10.12.2. R. Abahu said: R. Yohanan explained the following to me: I and R. Joshua b. Levi do not dispute with one another. What is ‘the end’ for R. Joshua b. Levi? It is the end underneath the *huppah*. And what is ‘the beginning’? The start underneath the *huppah*. When I said that I [believe the dispute extended] to both cases, I was referring to the start of intercourse and the conclusion of intercourse.

10.12.3. R. Papa said: Had not R. Abahu stated, ‘R. Yohanan explained the following to me: I and R. Joshua b. Levi do not dispute with one another...’ I would have believed that R. Yohanan and R. Joshua b. Levi were arguing, while R. Dimi and Rabin were not arguing. After all, ‘the end’ that Rabin spoke of may have been the conclusion underneath the *huppah*, and ‘the beginning’ that R. Dimi spoke of may have been the start of intercourse. What does this teach us? This teaches us that [it’s better] for two *amoraim* to disagree with one another than for two *amoraim*, regarding the reasoning of a third *amora*.

Summary

Our Mishnah begins with what appears to be an obvious premise – a husband may promise his bride more money in her *ketubah* than the rabbis decree necessary. The Gemara immediately questions the need to make such a statement before determining the disposition of additional monies. Ultimately, the Gemara appears to agree with R. Elazar b. Azaryah, who suggests that additional guarantees fall under a special category, and thus, do not become guaranteed until consummation of the marriage [either through *huppah* or intercourse, depending on which source we consult]. Such an arrangement remains at odds with Roman law, which imbues any contract or verbal agreement with the force and effect of law immediately upon conclusion of the accord.^{xix}

The Gemara next turns to a secondary issue introduced by the Mishnah – partial payments. The Mishnah allows for a husband to pay a portion of the *ketubah* up front, but the Gemara wants to know how to properly record partial payments and how to settle disputes regarding partial payments. The latter query, in particular, brings a whole host of rabbinic tradition to the surface, including:

- The preeminence of the husband in any monetary claim (Sections 8.1, 8.3).
- Invalid vows (Section 8.2).
- The difference between enforcing Torah and Biblical law (Section 8.4-8.5).
- The difference between enforcing law regarding common and uncommon practices (Section 8.7-8.8).
- Potential for error within rabbinic law (Section 8.9).

Despite the detail, the discussion mounts no serious challenge to the Gemara’s initial premise that a receipt is necessary in order for a husband (or his estate) to withhold payment of the

Ketuboth 54B-57A: Even though [the sages] said...

guaranteed *ketubah* in full. The discussion, which at first appears unnecessarily convoluted, relates directly to contemporary Roman law.

First, written receipts did not serve as qualified records for partial payments of debts within the Empire. Even when armed with a receipt, a debtor still had to prove partial payment of a debt. Rather, a record of forgiveness (*acceptilation*), issued by the creditor, proved preferable.^{xx} The Talmud's conclusion, again, strays from Roman edicts by placing value upon a receipt and considering it a valid evidence of payment.

Meanwhile, R. Meir's asserts in the Mishnah that a pledge of less than the minimum value prescribed by the rabbis places a man in a special category of un-gentleman-like status. The Gemara, taking this statement as a cue, discusses valid payments and assets used to fulfill the *ketubah* payment.

The Mishnah and Gemara thereby examine the nature of guarantees within the context of marriage. In a world where men dominated monetary matters, the Gemara provides women with certain means for advocacy and discusses the nature of debts and guarantees between husband and bride. More importantly, perhaps, the Gemara charges both the wife and husband with certain individual responsibilities – preservation of receipts and financial records, basic knowledge of the law, and a practical understanding of assets.^{xxi} Despite the shared commitments that marriage creates, the Talmud urges both husband and wife to prepare to advocate for themselves in the event of divorce or death. Such advice seems especially poignant in a 21st Century riddled with divorces and problematic estate settlements [often made more problematic through successive marriages and uncertain heirship].

ⁱ Pumbeditha was the third Rabbinic Academy in Babylon, founded in the 3rd Century CE, which succeeded the Academy at Nehardea.

ⁱⁱ Matta Mechasya was located in Babylon, just next to Sura on the Euphrates River. In gaonic responsa, Sura is often identified as the same town as Matta Mechasya, although the two, apparently, were distinct entities. Moshe Beer, "Mata Mechasya," *Encyclopedia Judaica*, ed. Michael Berenbaum and Fred Skolnik, 2nd ed. Vol. 13 (Detroit: Macmillan Reference, 2007), 670. For more on the rabbinic academies in Babylon, see B. Eshel, *Jewish Settlements in Babylonia during Talmudic Times* (1919).

ⁱⁱⁱ Meaning that it is not subject to the laws of inheritance.

^{iv} To see if he changed his mind. See Rashi.

^v In other words, he will endeavor to determine the intent of the principal in a case.

^{vi} *Damai* refers produce purchased from a person who may or may not have properly tithed.

^{vii} And the words of a dying man are typically binding.

^{viii} And thus, she should collect the money. See Marcus Jastrow, *A Dictionary of the Targumim, the Talmud Babli and Yerushalmi, and the Midrashic Literature* (Brooklyn: P. Shalom Publications, 1967), 1411A.

^{ix} R. Judah HaNasi.

^x Here, *huppah* refers simply to the marriage ceremony, not the marriage canopy itself.

^{xi} c.f. Marvin Gaye, *Let's Get It On* (Detroit: Tamla Records, 1973).

^{xii} The rabbis were often preoccupied by the question: If a creditor loses a promissory note, can the creditor collect the debt and simply issue a receipt?

^{xiii} And still prohibited prior to the initial tithing.

^{xiv} Again, *damai* refers produce purchased from a person who may or may not have properly tithed.

^{xv} And the woman will receive the full amount later.

^{xvi} The virgin who should receive 200 *zuzim*.

^{xvii} A *ketubah* must have permanent value.

^{xviii} Between R. Yosi and R. Judah regarding whether a verbal renouncement is valid.

Ketuboth 54B-57A: Even though [the sages] said...

^{xix} Laws of the Twelve Tables, 6.1.

^{xx} William Burdick, *The Principles of Roman Law and Their Relation to Modern Law* (Clark: The Lawbook Exchange, 2004), 523.

^{xxi} In Section 10.9, the rabbis charge a woman with understanding that moveable assets depreciate in value over time. Thus, it remains her responsibility to reject an agreement that specifies them for payment.

Mishnah

1. They give a virgin twelve months to provide for herself from the time that her husband betroths her, and just as they give [time] to the woman, so, too, do they give time to the man to provide for himself. To a widow they give 30 days.
2. If the time arrives, and they have not yet wed, she may eat from his [estate] and from his *terumah*.ⁱ
 - 2.1. R. Tarfon says: They give her all [of her food from] *terumah*.
 - 2.2. R. Akiba says: [They give her] half from *hulin* and half from *terumah*.
 - 2.3. A *yavam* does not enable [his sister-in-law] to eat from *terumah*. If she spent six months with her husband and six months as a *yebamah*, or even all of her days with her husband save one as a *yebamah*, or all her days as a *yebamah* save one spent with her husband, she still does not eat from his *terumah*.
 - 2.4. This is the first Mishnah. A court that followed said: A woman does not eat from *terumah* until she enters the *huppah*.

Gemara

1. Where do these words come from?
 - 1.1. R. Hisda said: The Bible teaches, “But her brother and her mother said: Let the girl remain with us for some days, at least ten...”³⁸
 - 1.2. What are “days”? Should I say ‘two days’? Would people really say it that way? Should they say to him, ‘two days,’ and he replied, no, would they then say to him ‘ten days’? Rather, what is meant by ‘days’ is a year, as it is written, “Days shall be its [period for] redemption.”³⁹
 - 1.3. Well then, I might say ‘a month,’ for it is written, “Up to a month of days”⁴⁰!
 - 1.4. No, for we can determine [the meaning of] ‘days’ alone from [another example of] ‘days’ alone, but we cannot do so when ‘days’ are referred to alongside a month.
2. R. Zera said that it is taught: In the case of a female minor, either she or her father may postpone [her marriage].
 - 2.1. Granted that she may postpone, but her father? If she is satisfied with it [the marriage], why should the father interfere?
 - 2.2. He [the father] may opine: Now, she’s too young to understand, but tomorrow, she may rebel and leave him, only to come back and fall upon me [as a financial burden].
 - 2.3. R. Aba b. Levi said: They do not arrange for minor to marry while she remains a minor, but rather, they arrange for her to marry once she becomes mature.
 - 2.4. This is obvious! Lest you should say that we may worry about whether or not fear may overtake her, making her ill, thus the statement teaches us.
3. R. Huna said: If a woman is betrothed even one day after she reaches puberty, they give her thirty days, like a widow [to prepare].
 - 3.1. An objection was raised: If she has reached puberty, then she is like one who has a suitor. Does this not mean that she has a suitor like a virgin [and should, hence receive the same amount of time to prepare as a virgin]?
 - 3.2. No, she has a suitor like a widow.

³⁸ Genesis 24:55.

³⁹ Leviticus 25:29. Earlier in the verse, the verse specifies that a house may be redeemed for up to a year.

⁴⁰ Numbers 11:20.

- 3.3. Come and hear: There was a pubescent girl who waited twelve months. R. Eliezer said: Since her husband is obligated to sustain her, [he is also entitled to cancel her] vows.
- 3.4. I should say [that the situation actually reads]: There was a pubescent girl *or* a girl who waited twelve months. R. Eliezer said: Since her husband is obligated to sustain her, [he is also entitled to cancel her] vows.
- 3.5. Come and hear: One who betroths a virgin – whether the husband urges her [to marry] and she [nevertheless] decides to delay, or whether she urges him [to marry] and he delays – they give them twelve months from the moment of pursuit, but not from the moment of betrothal. Should she reach puberty, it is as if she has been pursued. How? If a girl reaches puberty for one day and is betrothed, they give her twelve months, and from betrothal – thirty days.
- 3.6. This contradicts [the words of] R. Huna!
- 3.7. Yes, it does.
- 3.8. What does ‘from betrothal – thirty days’ mean here?
- 3.9. R. Papa said: It states thus: If a pubescent girl spends twelve months in adolescence, and is then sanctified [for her husband], they give her [only] thirty days [to prepare], like a widow.
4. ‘If the time arrives, and they have not yet wed...’ Ulla said: According to the Torah, a betrothed Israelite woman may eat of *terumah*, as it is said, “A person who is the property of a priest through purchase may eat of them...”⁴¹ and [marriage] too is acquisition through purchase. So, what’s the reason that they say she cannot eat [of the *terumah*]?
- 4.1. Perhaps they will pour for her a cup [of wine] in her father’s house, and she will give it to her brother or sister.
 - 4.1.1. If so, when the time arrives and they had not yet wed, it should be the same!
 - 4.1.2. [No.] There, [the husband] should designate an abode for her.
 - 4.1.3. [If that’s the case, then] a harvest gleaner from the priestly caste [who works the field] of an Israelite should not be allowed to eat *terumah*, lest they [his fellow workers] end up eating it! Now, they would feed him from their [foodstuffs]. Would they eat from his [foodstuffs]?
- 4.2. R. Samuel b. R. Judah said: Due to bodily defect.ⁱⁱ
 - 4.2.1. If so, [should this not apply] also to a woman who enters the *huppah* but has not yet had sexual intercourse [with her husband]?
 - 4.2.2. There, he [has the opportunity] to examine her, and afterwards, to enter [to the *huppah*].
 - 4.2.3. [If that’s the case, then] the servant of a priest he purchased from an Israelite cannot eat *terumah* due to [the possibility of] bodily defect!
 - 4.2.4. [No] bodily defects does not apply to servants. If [a defect] is external, then he [the priest] has already seen it [prior to purchase], and if it is internal, then he [the priest likely] requires him [the servant] for his skills, and [therefore] does not care about [the slave’s] secret [defects]. If it is discovered that he [the slave] had stolen or had gambled,⁴² he has arrived [and the purchase cannot be cancelled]. What is there [that can cancel the purchase]? Armed robbery or a death sentence, but these [qualities] are typically self-evident.

⁴¹ Leviticus 22:11.

⁴² Rashi suggests that this means ‘kidnapping.’

- 4.3. Thus, both the one [R. Ulla] and the other [R. Samuel b. Judah] suggest that she [a betrothed Israelite woman] cannot eat the *terumah*. So, where's their disagreement? They disagree upon [cases in which] he [a husband] accepts [the defects after examination], he [a father] transfers [the bride to the husband's agents], or [the husband] goes [with the agents].ⁱⁱⁱ
5. 'R. Tarfon says: They give her all [her food] as *terumah*...'
 - 5.1. Abaye said: There is a disagreement regarding the daughter of a priest who marries a priest, but, regarding the daughter of an Israelite who marries a priest – all agree that she receives half as *hulin* and half as *terumah*.^{iv}
 - 5.2. Abaye continued: There is a disagreement regarding betrothal, but regarding marriage – all agree that she receives half as *hulin* and half as *terumah*.^v
 - 5.3. It was similarly taught by a *Tannaitic* authority that:
 - 5.3.1. R. Tarfon says: They give her all as *terumah*, but R. Akiba says: [They give her] half as *hulin* and half as *terumah*.
 - 5.3.1.1. To what do these words [of disagreement] refer? To the daughter of a priest who marries a priest, but the daughter of an Israelite who marries a priest – all agree that she receives half as *hulin* and half as *terumah*.
 - 5.3.1.2. To what do these words [of disagreement] refer? To betrothal, but regarding marriage – all agree that she receives half as *hulin* and half as *terumah*.
 - 5.4. R. Judah b. Beteirah says: They give her two parts *terumah* and one part *hulin*.
 - 5.5. R. Judah says: They give her all of it as *terumah*, and she may sell it and buy in its stead *hulin*.
 - 5.6. R. Simeon b. Gamliel: Any time that *terumah* is mentioned [in the contract] – they give her twice the amount in *hulin*.
 - 5.7. What's the actual disagreement? The disagreement concerns the trouble [of selling the *terumah* in order to buy food].
6. 'A *yavam* does not entitle his sister-in-law to eat from *terumah*...' Why not? "That he has acquired through purchase..."⁴³ said the Merciful One [in Torah], and she was acquired by his brother.
7. 'If she spent six months with her husband...'
 - 7.1. Now that you've said 'with her husband,' no [she cannot eat *terumah*] 'as a *yebamah*,' so what's the question [i.e. why must we even mention this]?
 - 7.2. [This is an example of] "This [is the case] and [the other] goes without saying.
8. 'This is the first Mishnah...' What's the reason? Ulla, or as some say, R. Samuel b. Judah said: Due to bodily defect.
 - 8.1. Granted for Ulla, the first lest they pour for her a cup of wine in the house of her father, and the second because of bodily defect.
 - 8.2. But for R. Samuel b. Judah, both the first and the second are because of bodily defect.
 - 8.3. What's the difference between them?
 - 8.4. Their disagreement rests in the matter of an external [third party] examination. One opines that an external examination counts as an examination, and the other disagrees.

⁴³ Leviticus 22:11.

Summary

Our chapter addresses *Tannaitic* and *Amoraic* case law concerning the length of time in which a father provides for his daughter during betrothal. *Tannaitic* case law decrees the following:

1. During betrothal, a father must provide for his virgin daughter for twelve months from the time of her betrothal. After twelve months, law requires the husband to provide for his wife [assuming the husband and bride entered *huppah*].
2. During betrothal, a father must provide for his widowed daughter for thirty days. After thirty days, law requires the husband to provide for his wife [assuming the husband and bride entered *huppah*].
3. If twelve months expires for a virgin daughter and she has not yet entered *huppah*, law permits the virgin daughter to eat from her husband's domain.
4. Law does not permit a virgin daughter and a *yebamah* to eat from a husband's heave offering [*terumah*] until *huppah*.

Tannaitic case law mandates that the father must sustain his daughter (either a virgin or widow) during the betrothal period. *Tannaitic* law wants to ensure that the daughter remains under the authority of her father [for her protection and well-being] during betrothal. However, if the betrothal period expires after year without *huppah* for a virgin and one month for a widow, law no longer requires the father to provide and to support for his daughter; law now rules that the husband, despite not marrying his betrothed, is responsible for her needs.

Amoraic jurisprudence with regard to the father's obligation to provide sustenance for his daughter during betrothal first addresses the issue of the genesis of the dictums. R. Hisda identifies that Torah supports the enforceability of such laws [Gen. 24:55, Lev. 25-29, and Num. 11:20].

The Gemara continues to explore the woman's maturity, and, hence, readiness for betrothal. It seems that the *Amoraim* opine that for a successful marriage [especially with regard to the benefits of marriage economically], a father arranges a dowry for his daughter once she reaches the age of maturity [for the rabbis, a woman reaches maturity when she has her first period]; a father cannot agree to a dowry for his minor daughter. The *Amoraim*, here, want to prevent a minor daughter from rebelling against an arranged betrothal. However, if a father accepts terms for a dowry for his minor daughter and then his daughter becomes mature during the yearlong betrothal, law permits the daughter thirty days to consummate the marriage after *kiddushin*.

The final inquiry in our Gemara focuses on the issue of the husband's heave offering. The rabbis challenge whether an Israelite woman or a *bat cohen* may eat of her husband's *hulin* and or heave offering after the *betrothal* periods end for a virgin or widowed daughter [either without entering *huppah* or consummation].

In contemporary Jewish marriage, a couple's finances represent a critical aspect of their marriage. During marriage, should couples combine income and expenses? When couples combine finances, does this act represent a tangible commitment in some capacity? Marriage, in Jewish tradition and in the secular world, creates financial obligations for both husband and wife. As couples frequently marry later in adulthood and divorce more than ever, couples frequently consider minimizing financial commitments by maintaining separate finances. To eschew

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financial commitment may be convenient, but, according to *Tannaitic* and *Amoraic* case law, it is not Jewish.

ⁱ Heave Offering. The *terumah* refers to the offering of first fruits, which was eaten by the priest. However, since the offering was considered holy, it could *only* be eaten by the priest and his direct family. See A. Steinsaltz, 275.

ⁱⁱ In case the woman has a defect that is only discoverable through the loss of her virginity.

ⁱⁱⁱ In any of these cases, Ulla's argument is rendered invalid.

^{iv} As specified by R. Akiba in our Mishnah.

^v *Ibid.*

Mishnah

If he [a husband] sets aside the works of his wife's hands [for the Temple], she may work and continue to eat [from her proceeds]. The excess, R. Meir says, is sanctified. R. Yohanan the shoemaker says that it is unconsecrated.

Gemara

1. R. Huna said Rav said: A woman may say to her husband, 'I need neither sustenance [from you] nor need I [give you the profits of] my labors.'
 - 1.1. He opines that, when our rabbis decreed [the laws of] sustenance, [sustenance of the wife] was the essential point. Meanwhile, [the allocation of] the works of her hands [to her husband] [existed] due to [the potential for] loathing [so that he would not hate her]. Thus, when she says, 'I need neither sustenance [from you] nor need I [give you the profits of] my labors,' she has the authority [to do so].
 - 1.2. An objection was raised: They [the rabbis] decreed [the laws] of sustenance in exchange for the works of her hands!
 - 1.3. Say: they [the rabbis] decreed [the laws] regarding [the husband's rights to] the works of her hands in exchange for [her rights to] sustenance.
 - 1.4. Is it even possible to say that it [the Mishnah] supports him [R. Huna's opinion]? 'If he [a husband] sets aside the works of his wife's hands [for the Temple], she may work and continue to eat.' Doesn't this refer to one who is sustained [by her husband]?ⁱ
 - 1.4.1. No, it [the Mishnah] refers to a woman whose husband does not provide sustenance.
 - 1.4.2. If the Mishnah refers to a woman whose husband does not provide sustenance, then what is there to say?ⁱⁱ
 - 1.4.3. Even according to one who suggests that a master may say to his slave, 'Work for me but I need not sustain you,' behold, such words are only fitting for a Canaanite slave, for whom it is not written, 'with you,'⁴⁴ not for a Hebrew servant, of whom it is written, 'with you.' Let alone a wife!
 - 1.4.4. Itⁱⁱⁱ is necessary in order to introduce the final statement [of our Mishnah]: 'The excess, R. Meir says, is sanctified. However, R. Yohanan the shoemaker says that it is unconsecrated.'
2. And it does not accord with Reish Lakish, as Reish Lakish said: You shouldn't say that the reasoning for R. Meir's opinion is because he holds the opinion that a man may set aside a thing that has not yet come into the world. Rather, R. Meir's rationale is as follows: Since he [the husband] is able to compel her to work, it's as if [by consecrating her handiworks] he says to her, 'Sanctify your hands to the One who created them.'
 - 2.1.1. But, he [the husband] didn't actually say that!
 - 2.1.2. Since we have learned that R. Meir said: A man does not utter useless words, it's as if [by consecrating her handiworks] he [the husband] says to her, 'Sanctify your hands to the One who created them.'
 - 2.1.3. But does R. Meir truly believe that a man can sanctify a thing that has not yet come into the world?
 - 2.1.4. Was it not taught [in a *baraita*]: "If one says to a woman, 'You are sanctified to me after I convert to Judaism,' or 'after you convert,' or 'after I am freed,' or 'after you freed,' or 'after your husband dies,' or 'after your sister dies,' or 'after your

⁴⁴ Deuteronomy 15:16. This quotation refers to the process for making a Hebrew servant a permanent servant.

levir releases you,' she is not betrothed." R. Meir says that such a woman is betrothed.

- 2.1.5. From here [this *baraita*] – yes.^{iv} From there [the Mishnah], it is impossible to discern.^v
3. 'The excess, R. Meir says, is sanctified.' When is it consecrated?
- 3.1. Rav and Samuel both said: The surplus becomes consecrated after her death.
- 3.2. R. Ada b. Ahava said: The surplus becomes consecrated while she lives.
- 3.3. R. Papa looked at it [the matter]: In what [circumstances could the two opinions be justifiable]?
- 3.3.1. If one should say that [we're referring to a case wherein] a husband gives his wife sustenance and gives her pocket change for her other needs – what's the rationale behind one who states that it [the surplus] is only consecrated after her death?
- 3.3.2. And if [one should say that we're referring to a case wherein] a husband does not give his wife sustenance and withholds pocket change for her other needs, what's the rationale behind one who states that it [the surplus] is consecrated while she lives?
- 3.3.3. In fact, [we're referring to a case wherein] a husband gives his wife sustenance but withholds pocket change for her other needs.
- 3.3.3.1. Rav and Samuel held the opinion that they [the rabbis] decreed the laws of sustenance in exchange for the works of her [the wife's] hands, and pocket change in exchange for the surplus. Since the husband didn't bring her pocket change, the surplus remains hers.
- 3.3.3.2. However, R. Ada b. Ahava held the opinion that they [the rabbis] decreed the laws of sustenance in exchange for the surplus and the pocket change in exchange for the works of her hands. Since the husband brought her sustenance, the surplus becomes his.
- 3.3.4. About what [principles] do they [Rav and Samuel v. Ada b. Ahava] disagree? One pair of sages holds that we exchange one ordinary thing for another ordinary thing,^{vi} but the other sage holds that we exchange a fixed quantity for a fixed quantity.^{vii}
- 3.3.4.1. An objection was raised: They [the rabbis] decreed the laws of sustenance in exchange for the works of her [the wife's] hands.^{viii}
- 3.3.4.2. One can say: In exchange for the surplus of the works of her [the wife's] hands.
- 3.3.4.3. Come and hear [another objection]: If he withholds pocket change for her other needs, the works of her hands remain with her!
- 3.3.4.4. One can say: The surplus of the works of her hands remain with her.
- 3.3.4.5. However, regarding this, we have a *Tannaitic* teaching: What must she do for him [in terms of work]? The weight of 5 *sela*,^{ix} in the measurement of Judea. That is to say, how much constitutes the work of her hands, so that we may know how much surplus she makes? The weight of 5 *sela*, in the measurement of Judea. Which is the weight 10 *sela* in the Galilee.
4. Samuel said: The *halakhah* is in accord with R. Yohanan the shoemaker.
- 4.1. Did Samuel actually say this? It was taught [in a *baraita*]: If a wife states, 'Pigs will fly^x before I work to feed you,' he [the husband] need not annul her vow.^{xi}

- 4.2. R. Akiba says: He must annul [the vow], for, perhaps, she may earn more for him than is appropriate.^{xii}
- 4.3. R. Yohanan b. Nuri said: He must annul [the vow], for, perhaps, he may divorce her, and she would then be forbidden to return.
- 4.4. Samuel said: The *halakhah* is in accord with R. Yohanan b. Nuri.
- 4.5. When Samuel said that the *halakhah* is in accord with R. Yohanan b. Nuri – this is only with regard to surplus.
- 4.6. [If that is so, why didn't he simply] say that, 'the *halakhah* is in accord with R. Yohanan b. Nuri only with regard to surplus,' or, similarly, 'the *halakhah* is in accord with the *tana qama*,' or, similarly, 'the *halakhah* is in accord with R. Akiba!'
- 4.7. Rather, R. Joseph said: Were you talking about the 'Pigs will fly' oaths? We learned that 'Pigs will fly' oaths [are treated differently] because, when a man forbids himself from the fruits of his friend, he sanctifies something that has not yet come into the world.
- 4.8. Abaye said to him: It makes sense that a man can forbid himself from the fruits of his friend, in as much as he can forbid his friend access to his fruits. However, can he forbid a thing from his friend that has not yet come into the world, in as much as he cannot forbid for his friend the fruits of his friend?
- 4.9. Rather, R. Huna b. R. Joshua said, [this really refers to a case] when a wife says 'My hands are consecrated to the One who made them,' [which is valid], since her hands, in fact, are hers.
- 4.10. And if she says this, are [her handiworks] indeed sanctified? Those hands are enslaved to him [the husband]!
- 4.11. She may state, "When he divorces me."
- 4.12. Can there be a case wherein it is now not sanctified, but later on, it will be sanctified?
- 4.13. R. Elai said: Why not? There are those who say to their friends, 'This field that I will sell you, when I buy it back from you, it will be consecrated,' is it not sanctified?
- 4.14. R. Jeremiah objected: Is this matter truly similar? There [in the case of the field], the item is in his possession to sanctify. Here, it is not in her authority to divorce herself. Our case would only be similar to a case in which one says to his friend, 'This field that I already sold you, when I buy it back from you, it will be consecrated,' and, in such a case, it is not sanctified!
- 4.15. R. Papa objected: Is this matter truly similar? There [in the case of the field], both the body and its fruits belong to the buyer. Here, only the body belongs to her! This is only similar to a case in which one says to his friend, 'This field that I mortgaged to you, when I redeem it from you, it will be sanctified,' and, in such a case, it is sanctified.
- 4.16. R. Shesha b. R. Idi objected: Is this matter truly similar? There [in the case of the field], he has the power to redeem [the field], but here, it is not in her authority to divorce herself. This is only similar to a case in which one says to his friend, 'This field that I mortgaged to you for ten years, when I redeem it from you, it will be sanctified,' and, in such a case, it is sanctified.
- 4.17. R. Ashi objected: Is this matter truly similar? There [in the case of the field], after ten years, he has the power to redeem [the field], but here, it will never be in her authority to divorce herself. Rather, said R. Ashi, were you talking about the 'I'll be damned' oaths? We learned that 'I'll be damned' oaths [are treated differently] because they sanctify the body, according to Rabba, for Rabba said: Consecrated cattle^{xiii} or leaven,^{xiv} and a slave's liberty all take precedence over a mortgage.^{xv}

Ketuboth 58B-59B: If he [a husband] sets aside the works of his wife's hands...

4.17.1. In that case, they [the wife's hands] must be sanctified immediately! [Returning to the question in Section 2].

4.17.2. No, our rabbis reinforced the rights of the husband to consign in order to avoid immediate sanctification.

Commentary

This Mishnah introduces a very specific question. If a man sanctifies his wife's proceeds, she may continue to sustain herself, but what exactly happens to the proceeds? The Gemara only begins to answer this question in Section 2, after addressing a quote from R. Huna (who quotes Rav), who suggests that a woman's profits actually belong to her. Such a statement enjoys a quaint relationship [as we will discover] to the beginning of the Mishnah, which provides a woman the right to sustain herself, regardless of her husband's attempt to sanctify her works. Thus, R. Huna's words require addressing.

The subsequent discussion introduces a logical question that proves important throughout *Amoraic* law. What exchange, exactly, gives the husband the right to his wife's handiworks? Since the rabbis propose that she must receive sustenance [in exchange], the *Tannaitic* opening to the Mishnah becomes nonsense. If she does not receive sustenance from him, he cannot consecrate her works at all. However, the Gemara insists that the beginning of the Mishnah remains necessary in order to introduce the primary dispute between R. Meir and R. Yohanan over the excess.

That dispute returns to the notion that husbands must give up something in exchange for rights to their wives' handiworks, either sustenance or spending money. The rabbis introduce the argument in order to determine whether such a consecration would be enforced during the wife's lifetime or afterwards, and they appear to settle upon the latter.

Although Roman law enjoys no direct correlation to sanctification, Roman law provides a husband with absolute authority over his wife's property, save his obligation to sustain her.^{xvi} Thus, a husband certainly possessed authority to donate his wife's proceeds however he deemed fit. Of course, such disposition only applied when the marriage accorded with the principles of guardianship, or *manus*. By the 2nd Century CE, the practice of marriage without *manus*, or free marriage, had become prevalent. Such a practice enabled women to marry without transferring guardianship from father to husband, leaving women in control of their own property and inheritance.^{xvii}

Contemporary American society does not appear to possess an equivalent issue, as modern American men and women enjoy equal property rights in marriage, except where legally voided through an appropriate prenuptial agreement. Nevertheless, this Talmudic selection probes into the arena of spending and the legality of expenses specified by only one party in marriage. The Talmud also reinforces the preeminent responsibility for husband and wife to sustain one another, regardless of charitable or idealistic leanings. Therefore, risking a family's solvency on charitable or ideological ventures [if only these were the primary difficulties facing American Judaism] remains impermissible.

ⁱ And, since he still cannot consecrate her wages completely, then she must have the authority to refuse his support and keep her own proceeds.

ⁱⁱ The husband obviously does not possess the authority to sanctify her profits if he does not sustain her.

ⁱⁱⁱ The beginning of our Mishnah.

^{iv} We can infer that R. Meir believes that a man can sanctify something that has not come into the world, but only using this *baraita*.

^v Meaning that perhaps, Reish Lakish is correct.

^{vi} Sustenance in exchange for her handiworks.

^{vii} Pocket change [fixed by the rabbis] in exchange for her handiworks [also a fixed sum].

^{viii} Therefore, how can R. Ada b. Love purport otherwise?!

^{ix} Of spun-wool.

^x This is our translation of the *qonam* oath, which basically suggests that what follows isn't going to happen.

^{xi} As the vow was null and void even as it was uttered.

^{xii} And her vow would be considered valid in regard to the surplus.

^{xiii} For sacrifice.

^{xiv} Pledged to a non-Jew that resides with a Jew when Passover arrives.

^{xv} Thus, the wife's consecration should take precedence over the husband's claim to the works of her hands.

^{xvi} Burdick, 225.

^{xvii} *Ibid*, 229.

Ketuboth 59B-61B: These are the handiworks that a wife performs for her husband...

Mishnah

These are the handiworks that a wife performs for her husband: She grinds flour, bakes bread, launders, cooks, nurses her child, makes the bed, and works with wool. If she brought him one maidservant – she need not grind flour, bake bread, or do laundry. If two – she need not cook or nurse her child. If three – she need not make the bed or work with wool. If four – she may relax in the lazy boy. R. Eliezer says: Even if she brings him 100 maids, he compels her to work with wool, for idleness brings lust. R. Simeon b. Gamliel says: Also, if a man prohibits [via vow] his wife from performing her works – she goes forth and he must give her a *ketubah*, for idleness brings insanity.

Gemara

1. 'Grinding flour' – what were you thinking? Rather, I should say: Supervising the grinding. And if you prefer, I can say: with a hand grinder.ⁱ
2. The Mishnah does not agree with R. Hiyya. R. Hiyya taught: A wife's sole purpose is to look pretty and have children. R. Hiyya further taught: A wife's sole purpose is to wear fine clothes and jewelry. R. Hiyya also taught: If a man wishes to make his wife attractive, he should dress her in linen. If he wishes to whiten [the skin of] his children, he should feed his wife young chicken and milk as she approaches her first period.
3. 'Nurses her child...'
 - 3.1. May we say that this Mishnah does not follow the house of Shammai?
 - 3.1.1. After all, it was taught [in a *baraita*]: When a woman vowed not to nurse her son, the house of Shammai stated, 'Let her pull her breast from the child's mouth.'
 - 3.1.2. Meanwhile, the House of Hillel stated, 'Force her and she will nurse him. If he divorces her, however, he cannot compel her. However, if [the baby] recognizes her [as his mother, even after she is divorced], he gives her a stipend and compels her to nurse, because of the danger [to the baby].'ⁱⁱ
 - 3.1.3. Even if one says that [our Mishnah agrees with] the house of Shammai, here, in the matter in which we concern ourselves [in this *baraita*], the example is of a woman who vows and the husband confirms it. The house of Shammai opines that he put his finger between her teeth [i.e. the responsibility for the vow is his], while the house of Hillel opines that she put her finger between her own teeth [i.e. the responsibility lay with her].
 - 3.1.4. Well, if that's the case, then they should disagree about *ketuboth* in general! Furthermore, we learned that the house of Shammai stated that she need not nurse [the baby]. Rather, it seems clear that the Mishnah does not agree with the house of Shammai.
 - 3.2. 'If [the baby] recognizes her [as his mother]...' until when?
 - 3.2.1. Rabba said R. Jeremiah b. Abba said in the name of Rav: 3 months.
 - 3.2.2. Samuel said: 30 days.
 - 3.2.3. R. Isaac said R. Jonathan said: 50 days.
 - 3.2.4. R. Shimi b. Abaye said that the *halakhah* is on accord with R. Isaac, who quoted R. Jonathan.
 - 3.2.5. [The opinion of] Rav and R. Jonathan seems understandable, [as they evaluate] each child according to the sharpness [of his perceptions], but, as for Samuel, can we even find such an example [of a child smart enough to know his mother after 30 days]?

- 3.2.6. When Rami b. Ezekielⁱⁱⁱ came, he said, 'Don't pay any attention to those rules that my brother Judah set forth in Samuel's name, for thus Samuel said: Once [the baby] recognizes her [as his mother].'
- 3.2.7. A woman [a divorcee who refused to nurse her son] came before Samuel, and he told R. Dimi b. Joseph, 'Go and examine [the case].' He [R. Dimi] went, sat her down in a line of women, took her son, and passed the boy between the women. When he [the baby] arrived at her [his mother], he looked upon her face, but she withheld her eyes from him. He [R. Dimi] said to her, 'Raise your eyes, and take your son.'
- 3.2.8. How, then, would a blind child know [his mother]?
- 3.2.9. R. Ashi stated: Through smell and taste.
- 3.3. Our rabbis taught: We nurse a baby and continue to do so until he reaches 24 months. *From here on [if he continues to suckle], he is a naughty child*, according to R. Eliezer.
 - 3.3.1. R. Joshua says: Even 4 or 5 years, but if the child stops [suckling] after 24 months and tries to come back, he is a naughty child.
 - 3.3.2. A renowned sage agreed with R. Joshua.
 - 3.3.3. Some dissented: Is it possible that milk from two legged animals [humans] is ritually unclean? The reasoning is thus: In the case of an unclean animal, they ruled leniently about touching it but strictly ruled against using its milk. As for a human, they ruled strictly against touching it, should they not rule even more strictly against using her milk, as well?
 - 3.3.4. The Torah states: "The camel, because it chews its cud, [but its hoof is not split]"⁴⁵ is ritually unclean. Therefore, [human] milk, must be clean.
 - 3.3.5. Then, may one remove milk, which is not equal to anything else, and not remove blood, which is equivalent [in being forbidden] for all?
 - 3.3.6. [No], the Torah says, "It,"^{iv} [in order to teach us] for it [the camel] is ritually unclean, not that the blood of humans is unclean. Therefore, [the blood of humans] remains clean.
 - 3.3.7. R. Sheshet said: Even the *mitzvah* of abstinence^v does not apply here [to human blood].
 - 3.3.8. There is no contradiction here [between the cleanliness of milk and the rabbinic edict preventing a child over two from suckling]. Here [cleanliness of milk], [we're dealing with milk that] has separated [from the breast], while here [the edict], [we're dealing with milk that] has not yet separated [from the breast].
 - 3.3.9. The opposite applies to blood, as it was taught: When there's blood on a loaf of bread, one must scrape it off before eating the bread. When there's blood between your teeth, you can swallow it without delay.
- 3.4. According to a teacher, R. Joshua said: [An infant may continue to suckle] even until 4 or 5 years old.
 - 3.4.1. Wasn't it taught that R. Joshua said: [An infant may continue to suckle] even until [such an age as] he may carry a load on his shoulders?
 - 3.4.2. Both speak to the same period.
 - 3.4.3. R. Joseph said: The *halakhah* is in accord with R. Joshua.
- 3.5. It was taught that R. Marinus said: One who groans^{vi} may suckle on *Shabbat*.

⁴⁵ Leviticus 11:4.

- 3.5.1. What is the reason? Suckling represents a special category of unloading,^{vii} and in the case of pain, the rabbis did not forbid it.
- 3.5.2. R. Joseph said: The *halakhah* is in accord with R. Marinus.
- 3.6. It was taught that Nahum the Galatian says: If a gutter is filled with trash, one may quietly mash it with his foot on *Shabbat* and need not delay.
 - 3.6.1. What is the reason? This represents a special category of repair,^{viii} and in the case of waste, the rabbis did not forbid it.
 - 3.6.2. R. Joseph said: The *halakhah* is in accord with Nahum the Galatian.
- 3.7. ‘If the child stops [suckling] after 24 months and tries to come back, he is a naughty child.’ How long [must this stoppage last before it constitutes a break]?
 - 3.7.1. R. Judah b. Havivah said Samuel said: 30 days.
 - 3.7.2. There are those who say: R. Judah b. Havivah taught before Samuel: 30 days.
- 3.8. Our rabbis taught: A nursing mother whose husband dies before [the baby reaches] 24 months cannot betroth or marry until 24 months, according to R. Meir.^{ix}
 - 3.8.1. R. Judah permitted it after 18 months.
 - 3.8.2. R. Nathan b. Joseph said: These are the words of the house of Shammai, while these are the words of the house of Hillel, for the house of Shammai states 24 months, while the house of Hillel states 18 months.
 - 3.8.3. R. Simeon b. Gamliel said: Let me explain. According to those who suggest that 24 months, she is permitted to marry after 21 months. Meanwhile, according to those who suggest 18 months, she is permitted to marry after 15 months. [This is] because milk does not turn sour for three months.^x
 - 3.8.4. Ulla said: The *halakhah* is in accord with R. Judah.
 - 3.8.5. [In addition,] Mr. Ukbah said: R. Chanina permitted me to marry [a woman] after fifteen months [of nursing a newborn].
 - 3.8.6. One of Abaye’s tenants came before him to ask: What is [the law regarding] betrothing a woman after fifteen months [of nursing]?
 - 3.8.6.1. He [Abaye] replied: First, [when a disagreement exists] between R. Meir and R. Judah, the *halakhah* follows R. Judah. Furthermore, [when a disagreement exists] between the house of Shammai and the house of Hillel, the *halakhah* follows the house of Hillel, and Ulla already said that the *halakhah* is in accord with R. Judah, while Mr. Ukbah said: R. Chanina permitted me to marry [a woman] after fifteen months [of nursing a newborn].^{xi}
 - 3.8.6.2. When he [Abaye] came before R. Joseph, he [R. Joseph] said: Rav and Samuel both concur that it is necessary to wait 24 months, save the day of birth [of the suckling child] and the day of betrothal. [Then], he [Abaye] ran 3 leagues after him [his tenant], although there are those who say one league in sandy terrain, but he could not catch him.^{xii}
 - 3.8.6.3. Abaye [later] said: The maxim that our rabbis stated, ‘Even as easy a case as that of an egg that falls into *kuthah*, one should not resolve in the presence of his teacher,’^{xiii} does not exist to prevent the appearance of arrogance, but, rather, because a [student] is not really of assistance. After all, I had learned [this teaching] of Rav and Samuel, but I never applied it [since I forgot it].
- 3.9. Our Rabbis taught: If she [a mother] gives her child to wet-nurse, or she weans it, or it dies, then she is permitted to marry immediately.

Ketuboth 59B-61B: These are the handiworks that a wife performs for her husband...

- 3.9.1. R. Papa and R. Huna b. R. Joshua considered rendering a case decision in accord with this *baraita*, but an elderly woman said to them: The same thing happened to me, and R. Nahman forbade it.
- 3.9.2. Really? R. Nahman permitted the household of exilarch to do so!
- 3.9.3. The household of the exilarch is a special case, for no one would refuse them.^{xiv}
- 3.9.4. R. Papi said to them: Ok, but couldn't you have made the same consideration using the following *baraita*?
 - 3.9.4.1. If a woman yearned to go to her father's house, or she met with [unconstrained] ire in her husband's house, or her husband is imprisoned in the penitentiary, or her husband is abroad, or he is elderly or sick, or if she is barren, or elderly, or masculine, or a minor, or if she aborted following the death of her husband, or if she cannot bear children – all of these must wait for three months [to wed], according to R. Meir.
 - 3.9.4.2. R. Joseph permitted them to betroth and marry immediately.
 - 3.9.4.3. R. Nahman said Samuel said: The *halakhah* is in accord with R. Meir in his decrees!
- 3.9.5. [R. Papa and R. Huna, in reply to R. Papi] That didn't occur to us.
- 3.9.6. And the *halakhah* is as follows: If the baby died, [marriage] is permitted, if the baby is weaned, [marriage] is forbidden.^{xv}
- 3.9.7. Mr. b. R. Ashi said: Even if [the baby] died, it is still forbidden. [After all], perhaps, she might kill him and then go and remarry. There was a case wherein the mother strangled her child.
- 3.9.8. This [case] is irrelevant, for this mother was crazy. Women [generally] do not strangle their children.
- 3.10. Our rabbis taught: If a woman is given a child to nurse, she should not nurse him alongside her own child or the child of a friend. [Even if she agreed to] a small food stipend, she must eat heartily, and she must not eat food that is bad for the milk.
 - 3.10.1. Having said that she cannot nurse her own child, need we mention that she cannot nurse a friend's child?
 - 3.10.1.1. What do you think?
 - 3.10.1.2. She may show more compassion upon her own child, and give it more [milk], but as for the friend's child, unless she had surplus, she would not give it more [milk]. Thus, the text teaches us.^{xvi}
 - 3.10.2. '[Even if she agreed to] a small food stipend, she must eat heartily.' Where [will she get the food] from? R. Sheshet said: Her own.
 - 3.10.3. 'She must not eat food that is bad for the milk.' What [foods] are these?
 - 3.10.3.1. R. Kahana said: For instance, *keshuth*, lichen, little fish, and dirt.
 - 3.10.3.2. Abaye said: Even pumpkins and quinces.
 - 3.10.3.3. R. Papa said: Even hearts of palm, date branches [unripe dates].^{xvii}
 - 3.10.3.4. R. Ashi said: Even milk-sauce and fish stew.
 - 3.10.3.5. Some of these stop the flow of milk, while some of these sour the milk.
- 3.11. If a woman...
 - 3.11.1. Has intercourse in a mill, she will bear epileptic children.
 - 3.11.2. If she has intercourse on the ground, she will bear children with long necks.
 - 3.11.3. [During her pregnancy,] If she traipses through donkey dung, she will bear bald children.

Ketuboth 59B-61B: These are the handiworks that a wife performs for her husband...

- 3.11.4. If she eats mustard, she will bear gluttons.
- 3.11.5. If she eats water-cress, she will bear teary-eyed children.
- 3.11.6. If she eats fish-brine, she will bear cross-eyed children.^{xviii}
- 3.11.7. If she eats clay, she will bear ugly children.
- 3.11.8. If she drinks liquor, she will bear black children.
- 3.11.9. If she eats meat and drinks wine, she will bear healthy children.
- 3.11.10. If she eats eggs, she will bear children with big eyes.
- 3.11.11. If she eats fish, she will bear pleasant children.
- 3.11.12. If she eats greens, she will bear pretty children.
- 3.11.13. If she eats coriander, she will bear beefy children.
- 3.11.14. If she eats *etrogim*, she will have sweet-smelling children.
- 3.11.15. King Shabur's^{xix} daughter, whose mother ate *etrogim*, was placed before her father as the chief scent [of the kingdom].
- 3.12. R. Huna said: R. Huna b. Chanina asked us [the following]: If she [a mother] wishes to nurse her child but the father does not wish her to nurse the child, they listen to her, for the pains are hers.^{xx} However, if he insists that the child be nursed and she insists not to nurse, what do we do then?
 - 3.12.1. In an instance where there is no tradition [of nursing in the household], we listen to her.
 - 3.12.2. What if there is a tradition [in her household] but not in his? Do we follow the practice of his household or hers?
 - 3.12.3. We solved [the problem] with this: She rises with him but she does not descend with him.^{xxi}
 - 3.12.4. R. Huna said: What is the Torah [that supports this ruling]? "She is the wife of the husband,"⁴⁶ which may be read the master of the master, suggesting that she does not participate in the husband's descent.
 - 3.12.5. R. Elazar said: [We learn it] from here: "For she is a mother to all the living."⁴⁷ She was given for life, not for pain.
- 4. "If she brought him one maidservant..."
 - 4.1. However, the remainder [of her duties], she must perform.
 - 4.2. Can't she say, 'I brought you a woman in my stead!'
 - 4.3. [No,] because he would say, 'She works for me and for her. Who works for you?'
- 5. "If two – she need not cook or nurse her child..."
 - 5.1. However, the remainder [of her duties], she must perform.
 - 5.2. Can't she say, 'I brought you another woman in my stead, and she works for me and her, while the first [works] for you and for her!'
 - 5.3. [No,] because he would say, 'Who will serve our guests and visitors?'
- 6. "If three – she need not make the bed..."
 - 6.1. However, the remainder [of her duties], she must perform.
 - 6.2. Can't she say, 'I brought you another to serve the guests and visitors!'
 - 6.3. [No,] because he would say, 'When the household increases in size, so do the number of guests and visitors.'
 - 6.4. If so, then the same should apply with four maids!

⁴⁶ Genesis 20:3.

⁴⁷ Genesis 3:20.

- 6.5. [In the case of] four, they [the maidservants] are so plentiful that they can help out one another.
- 6.6. R. Hana, and some say, R. Samuel b. Nahmani, said: [This ruling applies] not necessarily if she brings [the maidservants], rather, if she is in a position to bring them, even if she doesn't actually bring them in.
- 6.7. It was taught [in a *baraita*]: [These rules apply to] a wife who brings in [a maidservant] or a wife who decreases her [estate] for him [to purchase a maidservant].
7. "If four – she may relax in the lazy boy..."
 - 7.1. R. Isaac b. Hananya said R. Huna said: Even though the text says that she gets to relax in the lazy boy, she must still pour his cup, spread out his bed, and wash his face, hands, and feet.
 - 7.2. R. Isaac b. Hananya said R. Huna said: All of the handiworks that a wife performs for her husband, a menstruating wife must do, except for pouring his cup, spreading out his bed, and washing his face, hands, and feet.
 - 7.2.1. As for making the bed, Raba said: We only apply this ruling if he [the husband] is present. If he is not present, it does not apply.
 - 7.2.2. As for pouring his cup, Samuel's wife would switch her hands and use her left.^{xxii} Meanwhile, Abaye's wife would place it on the mouth of the barrel. Raba's wife would place it near the head of the bench, and R. Papa's wife would place it on his footstool.
 - 7.3. R. Isaac b. Hananya said R. Huna said: Everything is kept from a waiter [while he serves], except for meat and wine.
 - 7.3.1. R. Hisda said: [The waiter only gets] fatty meat and old wine.
 - 7.3.2. Raba said: Fatty meat all year long, but old wine [only] during the dry season.
 - 7.3.3. R. Anan b. Tachalifa said: I was standing before [waiting on] Mr. Samuel, and they brought him a bowl of mushrooms, and had he not given me some, I would have been in danger [of starving].
 - 7.3.4. R. Ashi said: I was standing before [waiting on] R. Kahana, and they brought him a plate of turnips in vinegar, and had he not given me some, I would have been in danger [of starving].
 - 7.3.5. R. Papa said: Even a sweet smelling date [should be given to a waiter].
 - 7.3.6. The general rule is as follows: All [foods] that have a strong smell or a strong taste [should be shared with those present].
 - 7.3.7. [Regarding] Avuh b. Ihi and Minjamin b. Ihi: one of them used to give [his waiter] a piece of each dish [while he ate], while the other used to give [his waiter] a piece of one dish [while he ate]. Elijah the Prophet spoke with the one and not the other.
 - 7.3.8. There were two pious men, some say R. Mari and R. Pinhas, the sons of R. Hisda: One used to give [food to his waiter] before [his meal], while one used to give [food to his waiter] after [his meal]. Elijah the Prophet spoke with the first, but not the one who used to give [food to his waiter] after [his meal].
 - 7.3.9. Amemar, Mr. Zutra, and R. Ashi sat near the gate of King Yezdegerd's home,^{xxiii} and the king's chief waiter passed by. R. Ashi watched as Mr. Zutra's face turned white [from the taste of the food], and he took his fingers [some of the food] and put in his mouth.
 - 7.3.9.1. The waiter said, "You ruined the king's meal."

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- 7.3.9.2. They [the king's staff] added, "Yeah, what's up wit dat?"
- 7.3.9.3. He [Ashi] replied, "Who worked on this [dish] ruined the king's food."
- 7.3.9.4. "How so?"
- 7.3.9.5. He [Ashi] stated, "I saw something nasty in there."
- 7.3.9.6. They checked it and found nothing, and he took his fingers and pointed at the dish, saying "What about this right here?"
- 7.3.9.7. They checked it and found it.
- 7.3.9.8. Our rabbis said to him, "What's the reason that you relied upon a miracle?"
- 7.3.9.9. He said to them, "I saw the spirit of leprosy spreading over him."^{xxiv}
- 7.3.10. A Roman proposed to a [Jewish] woman, "Will you marry me?"
 - 7.3.10.1. She replied, "Thanks, but no thanks."
 - 7.3.10.2. He went and brought pomegranates, peeled them, and ate them before her [without offering her a bite]. She salivated [over the pomegranate], and swallowed her saliva, but he refused to give her [pomegranate] until [her hunger] cut through her.
 - 7.3.10.3. Finally, he said to her, "If I heal you, will you marry me?"
 - 7.3.10.4. She replied, "Yes."
 - 7.3.10.5. He went and brought pomegranates, peeled them, and ate them before her. He said to her, "All the water [saliva] that burdens you, spit it out!" She spit out her saliva until all that came forth from her was green [spittle], and she recovered.
- 8. "...Work with wool..." With wool, yes, but with flax, absolutely not. Who taught this teaching? R. Judah, as it was taught [in a *baraita*]:
 - 8.1.1. One cannot force her [his wife] to serve his father or his son, nor may he force her to give his livestock straw. However, he may force her to give his cattle straw.
 - 8.1.2. R. Judah added: Also, he cannot force her to work in flax, for flax makes the mouth smell and causes the lips to protrude. And these words certainly apply to Roman flax, which is more severe.
- 9. "R. Eliezer says: Even if she brings him 100 maids..."
 - 9.1. R. Malkiyu said R. Ada b. Love said: The *halakhah* is in accord with R. Eliezer.
 - 9.2. R. Chanina b. R. Eeka said: Skewers, maidservants, and dimples [are the purview of] R. Malkiyu. [Meanwhile,] Forelocks, burnt ashes, and cheese [are the purview of] R. Malkiya.
 - 9.3. R. Papa said: *Mishnayot* and *baraitot* [come from] R. Malkiya, while Amoraic statements [come from] R. Malkiyu, and the way to remember this is: '*Matnita Malkata*,' or, '*baraitot* are king!'
 - 9.4. What's the difference?
 - 9.5. The difference lies with [who gets credit for the statement regarding] maidservants.^{xxv}
- 10. "R. Simeon b. Gamliel says..."
 - 10.1. [We already learned] this from the *tana qama*!^{xxvi}
 - 10.2. The difference lies with the woman who plays games, like chess or checkers.^{xxvii}

Summary

Our chapter addresses *Tannaitic* and *Amoraic* case law concerning the wife's responsibilities in her husband's domicile. The rabbis want to ensure the wife remains active in the home front, as "idleness brings lust." Though this section articulates the specific tasks a wife must

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accomplish within her husband's domain, [as these tasks are essential for a successful home, according to the rabbis] the rabbis also focus on breastfeeding and its benefits [and the possible limitations of nursing for too long]. In this summary, we will answer the following questions:

- Why do the rabbis believe that there are certain things essential in the home? What are the wife's responsibilities therein?
- Are the rabbis being doctors? If so, why are they so interested in breastfeeding?
- How long do you nurse a baby?
- Does nursing create a bond between mother and child with milk as an apparatus?

Tannaitic law regarding a wife's tasks in her husband's home promulgate the following:

- A wife grinds flour.
- A wife bakes bread.
- A wife launders.
- A wife cooks.
- A wife nurses.
- A wife makes the bed.
- A wife works with wool.

However, *Tannaitic* law permits the wife to hire maidservants to assist in the daily tasks. If a wife hired one maidservant, law exempts her from grinding flour, baking bread or doing laundry. If a wife hired two maidservants, law exempts her from cooking or breastfeeding. If a wife hired three maidservants, law exempts her from making the bed or working with wool. If a wife hired four maidservants, law exempts her from all household responsibilities. However, the *Tannaim* remain cautious if a wife does not do some responsibilities, regardless of the amount of maidservants. In other words, the *Tannaim* believe that a wife working in the home will create a *better home*; a wife who does not assist in the home will lead to insanity, improper sexual inclinations, or even sexual misconduct.

For the most part, our Gemara speaks briefly to the specific tasks a wife does in her husband's domain; the *Amoriam* mainly focus on nursing for this chapter. The *Amoriam* consult many opinions regarding the nursing process. For example, the house of Shammai rules that a mother does not need to nurse; yet, the *Amoriam* argue that *Tannaitic* case law disagrees with Shammai's ruling.

After much debate and discourse, *Amoraic* case law decrees that a mother will nurse her child for twenty-four months; any nursing after two years can only result in a "naughty child." Then, the *Amoraim* articulate what a mother should and should not eat during the nursing process. For example, some *Amoraim*, who appear to fashion themselves medical experts, believe that if a wife eats clay, she will produce ugly offspring. Yet, if a mother eats fish, she will bear pretty children. Of course, the Gemara does not provide any evidence to support such claims. However, the *Amoriam* certainly believe in this "science." In sum, the *Amoriam* view nursing as a way to booster the mother-child relationship. Perhaps they see certain foods and beverages that would cause harm to a future Jewish baby.

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In contemporary Jewish marriage, couples should consider articulating household responsibilities. Only through an equitable and open discussion can a couple reach consensus regarding maintaining the household. With a growing rate of marriages later in life, individuals may have developed habits that do not easily lend themselves to compromise. Therefore, it seems prudent to discuss household management in pre-marital counseling.

However, a couple should also consider discussing nursing – assuming the couple wishes to produce offspring. In contemporary medicine, a woman does not need to nurse; she can use baby formula. Rabbis in contemporary society should not limit their advice to Talmudic insights with regard to this topic. Rather, they should encourage couples to speak to their primary care provider and learn about the differences in nursing and baby formula with regard to the emotional and physical well-being of both mother and baby.

ⁱ It seems clear that here, the culture of the Mishnah already appears outdated for the Talmudic redactors. By this period, the matriarch of the household no longer ground the household's flour, as it was likely done commercially.

ⁱⁱ The baby may not wish to nurse from another woman.

ⁱⁱⁱ From Palestine.

^{iv} Lev 11:4 says "It" twice when referencing the uncleanness of the camel.

^v A rabbinic ordinance that applies in other cases, such as marital connections (BT *Yoma* 74B), and separation of the priesthood from other peoples (BT *Yoma* 8B).

^{vi} i.e. One who cries out in pain due to an affliction of the chest. See Rashi.

^{vii} Unloading is a category of work forbidden on the Sabbath. Suckling the milk of an animal constitutes unloading, and therefore, violates the Sabbath. See Steinsaltz, 248.

^{viii} Also forbidden on the Sabbath.

^{ix} The proscription is designed to ensure that nursing cannot interfere with conceiving a new child for her groom.

^x This text assumes that the first priority of the new bride will be to carry another child. According to R. Simeon b. Gamliel, the bride's milk will remain viable for the existing child throughout the first trimester.

^{xi} So, the betrothal sounds acceptable.

^{xii} Abaye ran after the tenant in order to correct the decision that he had rendered before consulting R. Joseph.

^{xiii} The egg is considered a simple case, which is why it is chosen for this example (BT *Eruvin* 62B).

^{xiv} The exilarch's household commanded sufficient respect such that no wet-nurse would renege on a contract with them. Therefore, there was no reason to deny a mother from that household the right to remarry.

^{xv} Lest the wet-nurse renege on her contract.

^{xvi} In this case, the proscription against nursing a friend's child is to specifically teach that all the milk must be set aside for the child nursed by contract.

^{xvii} See Rashi.

^{xviii} The Aramaic here refers to moving-eyes, which could indicate several problems.

^{xix} King of Persia.

^{xx} i.e. She's the one with the milk.

^{xxi} A wife accrues advantages from marriage, not disadvantages. Therefore, she cannot be forced to suckle simply because that was the tradition of his household.

^{xxii} During her menstruation.

^{xxiii} Yezdegerd, 'made by God,' was the last King of the Sasanian Empire of Iran, which the Jews considered Persia. He reigned from 399-420.

^{xxiv} In early and middle antiquity, the rabbis believed in demons, spirits that engaged in human affairs, bringing fortune or misfortune to individuals. These demons could also solicit human minions, from Roman centurions to Persian waiters, to conduct their terrestrial affairs.

^{xxv} According to R. Hanina, such statements are attributed to R. Malkiyu, while R. Papa attributes them to R. Malkiya.

^{xxvi} After all, what's the practical difference if she receives her *ketubah* to prevent boredom or insanity?

^{xxvii} The rabbis felt that such a woman would not go insane, since she had something to occupy her. However, since she had no *real* work to keep her occupied, her thoughts would still turn to lust.

Mishnah

Regarding anyone who vows against using his wife's bed... the House of Shammai says: [This may continue for] two Sabbaths, while the House of Hillel says: One Sabbath. Students may go forth to teach Torah without permission [from the wife] for thirty days, while workers may be absent for one Sabbath.

The sexual duty spoken of in the Torah is as follows:

- Men of Means: Every day.
- Workers: Twice weekly.
- Ass drivers: Once weekly.
- Camel drivers: Once every thirty days.
- Sailors: Once every six months, in the words of R. Eliezer.

Gemara

1. What is the rationale behind the House of Shammai's decision? They liken it to a woman who bears a female child.ⁱ And the House of Hillel? They liken it to a woman who bears a male child.ⁱⁱ
 - 1.1. So, why doesn't Hillel's House also learn from a woman who bears a female child?
 - 1.2. Had the House of Hillel, in fact, likened it to childbirth, then the question has merit. However, the House of Hillel, in fact, likened it to the uncleanness that accompanies menstruation.
 - 1.3. So, what's the difference?
 - 1.3.1. A teacher opined: [Hillel feels that] commonplace circumstances [marital arguments] should be [comparable to other] commonplace circumstances [menstruation], while [Shammai feels that] circumstances caused by the husband [marital arguments] should be [compared to other] circumstances caused by the husband [childbirth].
 - 1.3.2. Rav said: It's a disagreement regarding a separation of specified duration [i.e. the husband separates himself from his wife], but, in the plain case [of a man vowing not to share a bed with his wife, without specifying the end date], everyone acknowledges that the pair must go to court and he must give her *ketubah* to her.
 - 1.3.3. Samuel said: Even regarding a plain, unspecified [separation], they wait [the specified period instructed by Hillel or Shammai], for, perhaps, he may find a way to escape his vow.
 - 1.3.4. However, the pair already disagreed on this subject once before, as we learned [in the Mishnah]: 'If a man vows that wife cannot derive benefit from him, up to thirty days, he must provide her with a wage [via an agent]. However, if more [than thirty days], he must send her forth and give her *ketubah* to her.'
 - 1.3.4.1. However, Rav said: This is only taught regarding a case where a man specifies the duration [of her punishment]. If he simply vows, the pair must go to court and he must give her *ketubah* to her.
 - 1.3.4.2. Meanwhile, Samuel said: Even regarding a plain, unspecified [separation], they wait [the thirty days], for, perhaps, he may find a way to escape his vow.
 - 1.3.5. Nevertheless, this [new explanation] was necessary, for if it was only said here [regarding a vow against sex], one might suggest that Rav's ruling stems from the inability to appoint an appropriate agent [to provide for the wife's needs]. However, in the other case, where one may appoint an agent to sustain [the wife], one might

suggest that he [Rav] would agree with Samuel. Meanwhile, if it was only said there [regarding a vow against sustenance], Samuel would maintain his position [to wait], but, one might think that in so doing, he was, in fact, agreeing with Rav. Therefore, [both explanations] are necessary.

2. "Students may go forth to teach Torah..."

2.1. How long may they leave *with* permission? As long as they like.

2.2. How long is customary?

2.2.1. Rav said: One month here, and one month at home, as it is said: "In all matters of the divisions, they worked in monthly shifts all the months of the year."⁴⁸

2.2.2. R. Yohanan said: One month here, and two months at home, as it is said: "They spent one month in Lebanon and two months at home."⁴⁹

2.2.3. And Rav, also, why did he not use this [R. Yohanan's] verse? The construction of the Holy Temple is different, for it could be accomplished through others [i.e. non-Jews].

2.2.4. And R. Yohanan, why did he not use this [Rav's] verse? That [situation] was different, for [the soldiers] received breaks [during their monthly service to visit their families].

2.3. Rav said:ⁱⁱⁱ

2.3.1. A groan breaks half of the human body, as it is said: "You, mortal, groan! With broken limbs and bitter grief. Groan!"⁵⁰

2.3.2. R. Yohanan said: Rather, [a groan breaks] all of the human body, as it is said: "When they ask you, 'Why do you groan?' answer, 'Because of the tidings that have come.' Every heart shall sink and hands hang nervously. Every spirit shall grow faint and all knees shall turn to water..."⁵¹

2.3.3. But, is not written, from R. Yohanan: The breaking of the hips?!

2.3.4. Only to suggest that [the breaking of the entire body] begins at the hips.

2.3.5. But, is not also written, from Rav: "Every heart shall sink and hands hang nervously. Every spirit shall grow faint..."⁵²

2.3.6. Rumors regarding the Holy Temple were different, for the calamity was more severe.

2.3.7. An Israelite and an idolater were walking along the road together, but the idolater could not keep pace with the Israelite. He [the idolater] reminded [the Israelite] about the destruction of the Holy Temple, and he [the Israelite] moaned and groaned. Even so, the idolater could not keep pace with the Israelite. He [the idolater] said to him: Don't you folks say, 'a groan breaks half of the human body'? [The Israelite] He replied: These words refer to something new, not something old, as the men used to say: 'A woman accustomed to grief is not alarmed.'^{iv}

3. "Men of means – Every day..." Who are the men of means?

3.1. Raba said: Those who study chapters daily.

3.2. Abaye said to him: These are the ones regarding which it is written, "It is vain for you to rise up early, to sit late, or to eat the bread of toil, for He gives sleep to his beloved."⁵³

⁴⁸ 1 Chronicles 27:1.

⁴⁹ 1 Kings 5:28.

⁵⁰ Ezekiel 21:11.

⁵¹ Ezekiel 21:12.

⁵² *Ibid.*

- 3.3. R. Isaac said: These are the wives of the wise students who disturb sleep from their eyes in this world, and enter into life in the world to come. And, yet, you say, those who study chapters daily?
- 3.4. Rather, Abaye said: It is in accord with Rav, as Rav said: For instance, R. Samuel b. Shelat, who eats his own food, drinks his own wine, and sleeps his own crib, with nary a state trooper to come by and pester him.
- 3.5. When Rabin came, he said: For instance, the spoiled rich kids from the West [Palestine].
- 3.6. R. Abahu^v was standing at near the bath house, with two manservants supporting him. The floor fell out from under him, but he happened to land near a column. He then climbed out, and took them with him.
- 3.7. R. Yohanan was once climbing the steps, with R. Ami and R. Asi supporting him. The staircase collapsed underneath him. He then climbed out, and took them with him. Our rabbis said to him: If you're capable of this, why do you lean upon them? He replied: If so [If I rely upon my own strength now] what will I have when I get old?
4. "Workers: Twice weekly..."
 - 4.1. But it was taught [in a *baraita*]: Workers – once weekly!
 - 4.2. R. Jose b. Chanina said: It's all good. Here [twice weekly] refers to those who labor in their cities, and here [once weekly] refers to those who labor in another city.
 - 4.3. [This idea] It was also taught like this: Workers – twice weekly. To which workers does this refer? To those who labor in their city, but for those who labor in another city – once weekly.
5. "Ass drivers: Once weekly..."
 - 5.1. Raba b. R. Hanan said to Abaye: Did the *tana*^{vi} go to all this trouble just to tell us the difference between a man of means and a worker?^{vii}
 - 5.1.1. Abaye responded: No, not at all.^{viii}
 - 5.1.2. But it [the second part of the Mishnah] says six months [regarding sailors]!
 - 5.1.3. There is nothing similar about one that has bread in his basket and one that has none.^{ix}
 - 5.2. Raba b. R. Hanan said to Abaye: What about an ass driver who becomes a camel driver?
 - 5.3. The other responded: A woman would prefer one measure [of grain] and some lovin' to ten measures of grain and celibacy.
6. "Sailors: Once every six months, in the words of R. Eliezer..."
 - 6.1. R. Berona said Rav said: The *halakhah* is in accord with R. Eliezer.
 - 6.1.1. R. Ada b. Love said Rav said: These are the words of R. Eliezer, but our sages say that students may travel to study Torah without permission [from their wives] for two to three years.
 - 6.1.2. Raba said: Our rabbis may rely upon [the advice] R. Ada b. Love, but they do so at their own risk.
 - 6.1.3. For instance, R. Rehummi would frequent the school of Raba in Mehoza. It was customary to return home whenever Yom Kippur arose. One day, he was so engrossed in his teachings [that he forgot to return home], and his wife wait for him, saying, 'He's coming soon, he's coming soon...' But he did not come. Her mood darkened, and tears flowed from her eyes. [At that moment] he was sitting atop the roof. The roof collapsed underneath him, and he died.
 - 6.2. The sexual duty of scholars occurs how often?

⁵³ Psalm 127:2.

- 6.2.1. R. Judah said Samuel said: From *Erev Shabbat* to *Erev Shabbat*.
- 6.2.2. "That which ripens gives [fruit] in its season..."⁵⁴ said R. Judah, or, as some say, R. Huna, or, as some say, R. Nahman. This speaks of one who uses his bed from *Erev Shabbat* to *Erev Shabbat*.
- 6.3. Judah, son of R. Hiyya and son-in-law of R. Jannai, would go and sit in Rav's house [to study], and every twilight before *Erev Shabbat*, he returned home. And when he came, people would notice a pillar of fire [moving] before him. One day, he was so engrossed in his teachings [that he forgot to return home]. Since they did not see the sign [the pillar of fire], R. Jannai said to them: Turn over his bed, for if Judah were alive, he would not forfeit his sexual duties. It was "an error that came from the ruler,"⁵⁵ and his [Judah's] soul came to rest.
- 6.4. Rabbi was attempting to marry off his son into the house of R. Hiyya. When he arrived to sign the *ketubah*, the daughter [of R. Hiyya] died. Rabbi said: Good grief, was this [marriage] invalid? They [scholars] sat and inquired into [the lineage] of the families. [Ultimately, they discovered that] Rabbi came from Shefatya, the son of Avital, and R. Hiyya came from Shimi, the brother of David. He {Rabbi} then proceeded to marry off his son into the house of R. Jose b. Zimra. They ruled that the boy could study for twelve years in Rav's house. They brought the young lady before the boy, and he said to them: 'Better make it six years.' They brought the young lady before the boy again, and he said to them: 'Actually, let's do this now, and I'll go [study] later,' but he was embarrassed in front of his father. His father said, 'My boy, you have the mind of the One who owns you [God], for it was written from the start, "You bring them and plant them,"⁵⁶ and, at the end, "Let them make me a sanctuary that I may dwell among them."⁵⁷ He went and sat for twelve years at the house of Rav, but by the time he came home, his wife was barren. Rabbi said: What should be done? Should he divorce her? [If so] they will say, 'This miserable woman waited for him.' Should he marry another woman? [If so] they will say, 'This is his wife, and this is his whore.' He asked for mercy for her, and she was healed.
- 6.5. R. Hananya b. Hakhinai headed to Rav's house [to study] at the end of R. Simeon b. Yochai's wedding. He [Simeon] said to him, 'Wait for me so I may come with you,' but he did not wait. He went and remained at Rav's house for twelve years. By the time he returned home, the streets of his hometown had changed, and he didn't know how to get home. So, he went and sat at the river bank, and he heard a girl whom they called, 'Daughter of Hakhinai, daughter of Hakhinai, fill up your jug and let's go!' He thought, 'It must follow that this is our daughter.' He followed her home, where his wife sat, sifting flour. She lifted her eyes, saw him, recognized him, and died. He said, 'Master of the Universe, this burden, is this her reward?' He requested mercy upon her, and she lived.
- 6.6. R. Hama b. Bisa went to study for twelve years at the house of study. When he came [home], he said, 'I will not do that which b. Hakhinai did.' He went to the [local] house of study and sent a message home. [At the same time], his son, R. Oshaya came before him. He asked him about a teaching, and noticed that the boy was sharp, and he became

⁵⁴ Psalm 1:3.

⁵⁵ Ecclesiastes 10:5.

⁵⁶ Exodus 15:17.

⁵⁷ Exodus 25:8.

- depressed, stating, 'If I had remained here, I could have spread seed like this.' He then went home, and his son went in [thereafter], and he [the father] stood before him, thinking to ask him questions. His wife said, 'Where does a father stand before his son?'
- 6.7. Rami b. Hama stated, "A three stranded rope doesn't break easily,"⁵⁸ referring to R. Oshaya, the son of R Hama b. Bisa.
- 6.8. R. Akiba was the shepherd of b. Kalba Sabua. His [the landowner's] daughter saw that he was humble and high-minded, and said, 'If I marry you, will you go to the House of Rav [to study]?' He replied, 'Yes.' She betrothed him in secret and sent him off. Her father learned of this and drove her from the house, vowing that she could no longer benefit from his estate. Akiba spent twelve years at Rav's house, and when he returned, he brought twelve thousand students with him. He heard someone suggest to her, 'How long will you remain in a widow's life?' She replied, 'If he had listened to me, he would remain another twelve years for study!' He replied, 'With your permission, I will do so.' He went off and spent an additional twelve years at Rav's house. When he returned, he brought 24 thousand students with him. His wife heard and went out to meet him. Her neighbors said to her, 'Ask someone to borrow some nice clothes and put them on.' She replied to them, "A pious man knows the life of his livestock."⁵⁹ x When she arrived, she fell on her face and kissed his feet. They [his students] went to push her away from him, but he said to them, 'Leave her alone! What is mine, and what is yours, really belongs to her.' Her father heard that a great man had come to town, and he said to himself, 'I will go to him, and, perhaps, he will annul my vow.'^{xi} He came to him, and Akiba said to him, 'If you knew that your son-in-law would become great, would you have still made that vow?' He replied, '[Had I known] one chapter or one *halakhah*, [I would have refrained].' He [Akiba] replied, 'I am he.' He [the father] fell on his face and kissed his feet, before giving him half his estate.
- 6.9. The daughter of R. Akiba did the same thing with b. Azzai, which follows what the men used to say, 'Sheep follow sheep, and a daughter follows her mother.'
- 6.10. R. Joseph b. Raba: His father sent him to the house of Rav to study from R. Joseph. They agreed that he should study for six years. After three years, when the eve of Yom Kippur arrived, he said, 'I will go and visit the men of my household.' His father heard, took out his shiv, and went out to meet him, saying to him, 'Do you remember your prostitute?' Some say that he actually said, 'Do you remember your dove?' They scrapped, and neither one stopped [to eat before Yom Kippur].

Summary

Our chapter addresses *Tannaitic* and *Amoraic* case law concerning sexual intercourse. The chapter begins with a disagreement between House of Shammai and the House of Hillel regarding the possible duration for exemption from intercourse. How long does law grant a student time between performing his marital obligations in the bedroom? Our analysis in this chapter will speak as to why rabbinic law strongly endorses coitus in marriage, regardless of occupation.

⁵⁸ Ecclesiastes 4:12.

⁵⁹ Proverbs 12:10

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Such discussion would prove short lived in contemporaneous Roman society because Roman law, as early as the 2nd Century lawmaker Ulpian, suggests that the absence of sexual intercourse does not invalidate a Roman marriage.^{xii}

According to Jewish law, however, it does, so frequency of intercourse becomes a legal matter. In the Mishnah, the House of Shammai rules that a student can abstain from coitus with his wife for two weeks. On the other hand, the House of Hillel rules that a student can abstain from coitus with his wife for only one week. However, it appears *Tannaitic* law decrees that law exempts a student from coitus with his wife for up to thirty days as long as he teaches during that period. The Mishnah then cites coitus exemptions and obligations for specific occupations; the Mishnah's stipulations serve to delineate the Biblical prescription for sex among couples. The Mishnah cites the Torah as case law therein.

- Men of means: every day.
- Workers: twice weekly.
- Ass drivers: once weekly.
- Camel drivers: once every thirty days.
- Sailors: one every six months [in the words of R. Eliezer].

Our Gemara first analyzes the different ruling between the House of Shammai and the House of Hillel. According to the *Amoraim*, they contend that the House of Shammai made their ruling with regard to a woman who bears a female child [According to Lev. 12:5, a woman is *tameh* for producing a female child for two weeks]. The issue at hand expresses commonplace circumstances: menstruation and marital arguments. Why does a husband abstain from coitus with his wife? In addition, if he abstains from sex for thirty days, does law require him to give her a get?

The House of Hillel made their ruling with regard to a woman who bears a male child [According to Lev. 12:5, a woman is *tameh* for producing a male child for one week]. Rav and Samuel then debate the two *Tannaitic* dictums. After a lofty debate, the Gemara upholds Rav and Samuel's opinions. For Rav, if the husband vows to abstain from coitus, he must go to court and give her *ketubah* to her. For Samuel, if the husband vows to abstain from coitus, he must first wait the prescribed amount [specified by the schools of Hillel or Shammai] before going to court, just in case the husband can find a way out of his vow. Both take similar approaches to a husband who vows that his wife cannot derive benefit from him. Samuel appears determined to preserve the family, if possible, while Rav appears determined to honor the wife's rights immediately.

The Gemara next moves to analyze *Tannaitic* law concerning coitus exemptions and obligations for specific occupations. With regard to:

- Students: *Amoraic* law decrees that a student can abstain from coitus as long as they want; However, law recommends that if a student taught for a month away, he should spend two months at home (in which he takes care of his marital obligations in the bedroom). The Gemara cites the Tanakh to support these rulings.

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- Men of means: *Amoraic* law upholds the *Tannaitic* rulings – an unemployed husband with independent means does the deed with his wife daily. The Gemara then expounds on the qualifications of an independent husband.
- Workers: *Amoraic* law decrees the following: a worker who works in his community has coitus with his wife twice weekly. A worker who works outside his community gets busy once per week.
- Ass drivers: *Amoraic* law upholds *Tannaitic* rulings, even for an ass driver who becomes a camel driver. The question creates an inquiry into the relationship between the first and second components of our Mishnah (see Notes viii, ix, and x).
- Camel drivers: *Amoraic* law makes no change to *Tannaitic* rulings.
- Sailors: *Amoraic* law upholds the *Tannaitic* rulings; a sailor must please his wife once every six months.

In contemporary Jewish marriage [and in monogamous relationships in general], sex represents a critical engagement that brings couples closer. In Jewish marriage, in particular, our *Tannaim* and *Amoraim* both argue that sex is a truly important and invigorating component of marriage. If not treated as an opportunity, then it becomes a responsibility.

ⁱ A woman who bears a female child is considered *tameh* for two weeks, according to Leviticus 12:5.

ⁱⁱ A woman who bears a male child is considered *tameh* for one week, also according to Leviticus 12:5.

ⁱⁱⁱ We continue with another disagreement between Rav and R. Yohanan, even though it may not necessarily be applicable to our Mishnah.

^{iv} Over dead children.

^v A westerner from Palestine

^{vi} The author of the first clause of the Mishnah, which specifically addresses vows.

^{vii} Israel Slotki and Samuel Daiches, *Ketuboth*, vol. 1 (London: Soncino Press, 1936), 374. Since the first part of our Mishnah stipulates that a laborer may be absent for one Sabbath, via vow, the Gemara asks if this section only serves to distinguish between men of means and laborers, since the second part of the Mishnah already grants ass-drivers, camel drivers, and sailors a week or more between sexual visits.

^{viii} *Ibid.* Even men in the professions of ass drivers, camel drivers, and sailors cannot *vow* against bedding his wife for more than one Sabbath.

^{ix} *Ibid.* The *Amoraim* decide that it is better to leave the wife with hope of an early return, rather than allow the soldier to extinguish all hope, via vow.

^x Indicating that her husband already knows that she lives in poverty in order to support his study.

^{xi} So that he may feed his daughter.

^{xii} Judith Grubbs, *Women and the Law in the Roman Empire: A Sourcebook on Marriage, Divorce, and Widowhood* (New York: Routledge, 2002), 82.

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