

NOTES

A woman who violates the precepts of *halakha* or Jewish custom – עֹבְרַת עַל דֵּת – The mishna in tractate *Ketubot* (72a) discusses two types of women who may be divorced without payment of their marriage contracts: A woman who violates the precepts of Moses, and a woman who violates the precepts of Jewish women, i.e., custom. A woman who violates the precepts of Moses is one who violates Torah law. The early commentaries explain that this applies specifically to a woman who violates Torah law in a manner that causes her husband to transgress as well, e.g., a woman who serves him untithed food or engages in sexual intercourse with him without immersing in a ritual bath after menstruating (see Meiri). A woman who violates the precepts of Jewish women is one who conducts herself immodestly, in a manner unbefitting a Jewish woman.

HALAKHA

One can issue a warning to a betrothed woman to have her drink when she is married – מְקַנֵּן לְאֲרוּסָה לְהִשְׁקוּתָהּ – In the case of one who issues a warning to his betrothed or to his *yevama* while she is awaiting levirate marriage, and she secludes herself with the other man after they are married, the woman drinks the bitter water (Rambam *Sefer Nashim, Hilkhot Sota* 2:5).

וּשְׁמוּאֵל אָמַר: אֲנִי דְאָמְרִי אֶפְיָלוּ לְרַבִּי יֵאֱשִׁיָּהּ. מִדְּאִיצְטְרִיךְ קָרָא לְרַבּוּיָהּ, מִכְּלָל דְּלֹא אִשְׁתּוּ הִיא כָּלֵל.

אִיבְעֵי לְהוֹ: עֹבְרַת עַל דֵּת, צְרִיכָה הִתְרָאָה לְהַפְסִידָהּ כְּתוּבָתָהּ אוֹ אִינֵי צְרִיכָה? מִי אֲמַרִינָּהּ, בִּינּוֹ דְעֹבְרַת עַל דֵּת הִיא לֹא בְעֵינָא הִתְרָאָה? אוֹ דְלִמָּא תִּיבְעֵי הִתְרָאָה, דְּאִי הִדְרָה בֵּהּ תִּיהִדֵּר בֵּהּ?

תָּא שְׁמַע: אֲרוּסָה וְשׁוֹמֵרֵת יָבִים לֹא שׁוֹתוֹת וְלֹא נוֹטְלוֹת כְּתוּבָהּ; מִיִּשְׁתָּא הוּא דְלֹא שְׁתִּיָּא. הָא קְנֻיֵי מְקַנֵּי לָהּ. לְמַאי? לֹא לְהַפְסִידָהּ כְּתוּבָתָהּ?

אָמַר אַבְיִי: לֹא, לְאֲרוּסָה עָלְיוּ. רַב פַּפָּא אָמַר: לְהִשְׁקוּתָהּ בְּשֶׁהִיא נְשׂוּאָה, כְּדִתְנִיָּא: אִין מְקַנֵּן לְאֲרוּסָה לְהִשְׁקוּתָהּ בְּשֶׁהִיא אֲרוּסָה, אֲבָל מְקַנֵּן לְאֲרוּסָה לְהִשְׁקוּתָהּ בְּשֶׁהִיא נְשׂוּאָה.

אָמַר רַבָּא, תָּא שְׁמַע: אֶלְמָנָה לְכֹהֵן גָּדוֹל, גְּרוּשָׁה וְחַלּוּצָה לְכֹהֵן הַדְּיוּט, מְמֹרֵת וְנִתְיַנָּה לְיִשְׂרָאֵל, בֵּת יִשְׂרָאֵל לְמִמּוֹר וּלְנִתְיָן – לֹא שׁוֹתוֹת וְלֹא נוֹטְלוֹת כְּתוּבָהּ;

מִיִּשְׁתָּא הוּא דְלֹא שְׁתִּיָּא, הָא קְנֻיֵי מְקַנֵּי לָהּ, וְלִמָּאי? אִי לְאֲרוּסָה עָלְיוּ – הָא אֲסִירָן וְקִיּוּמָן! אֶלָּא לֹא לְהַפְסִידָן כְּתוּבָתָן?

אָמַר רַב יְהוּדָה מְדִיִּסְקָרְתָא: לֹא, לְאֲרוּסָה לְבֹעֵל כְּבַעַל, דְּתַנּוּ: כְּשֶׁם שְׁאֲסוּרָה לְבַעַל כֵּךְ אֲסוּרָה לְבֹעֵל.

And Shmuel could have said: I state my opinion even according to the opinion of Rabbi Yoshiya. Since it was necessary for the verse to specifically include in the *sota* ritual a *yevama* who engaged in sexual intercourse with her *yavam*, by inference one may conclude that she is not his wife at all with regard to any matters other than those explicit in the verse.

§ A dilemma was raised before the Sages: With regard to a woman who violates the precepts of *halakha* or Jewish custom^N with regard to modesty, who may be divorced without payment of her marriage contract, is forewarning from her husband required in order to cause her to forfeit her right to collect payment of her marriage contract or is forewarning not required? Do we say that since she is a woman who violates the precepts, forewarning is not required, as she is aware that her actions are prohibited? Or perhaps forewarning is required, so that if she desires to repent, she will be reminded to repent?

The Gemara suggests: Come and hear a proof from the mishna: A betrothed woman and a widow awaiting her *yavam* neither drink the bitter water nor collect payment of their marriage contracts. It is possible to infer that she does not drink, but the husband or *yavam* can warn her against secluding herself with another man. For what *halakha* is his warning relevant? Is it not relevant to cause her to forfeit her right to collect payment of her marriage contract? Accordingly, a woman forfeits payment of her marriage contract due to immodest behavior only if she is warned.

Abaye said: No, the relevance of the warning of the husband or *yavam* is to render her forbidden to him in the event that she secludes herself with another man. Rav Pappa said: The relevance of the warning is to have her drink if she secludes herself with another man when she is married, as it is taught in a *baraita*: One does not issue a warning to a betrothed woman in order to have her drink while she is betrothed. However, one can issue a warning to a betrothed woman in order to have her drink when she is married.^H

Rava said: Come and hear a proof from the continuation of the mishna: A widow who was married to a High Priest, or a *halutza* who was married to a common priest, or a *mamzeret* or Gibeonite woman who was married to a Jew of unflawed lineage, or a Jewish woman of unflawed lineage who was married to a *mamzer* or a Gibeonite; all of these women neither drink the bitter water nor collect payment of their marriage contracts.

The Gemara infers: She does not drink, but the husband or *yavam* can warn her against secluding herself with another man. But for what *halakha* is his warning relevant? If it is in order to prohibit these women to him, aren't they currently prohibited to him? Rather, is it not relevant to cause them to forfeit their rights to collect payment of their marriage contracts? This indicates that only when a woman is warned in advance does her immodest behavior cause her to forfeit her right to collect payment of her marriage contract.

Rav Yehuda of Diskarta said: No, the relevance of the warning is to render her permanently forbidden to her paramour, should she seclude herself with him, just as she would become forbidden to her husband, as we learned in a mishna (27b): Just as she is forbidden to her husband, so is she forbidden to her paramour.

Learn from the mishna that a woman who violates the precepts requires forewarning – **שָׁמַע מִיָּנָה בְּעֵי הַתְּרָאָה**: A woman who violates the precepts of Moses, i.e., Torah law, or the precepts of Jewish women, i.e., custom, must be warned in the presence of witnesses in order to cause her to forfeit her right to collect payment of her marriage contract. Some authorities (Maharam of Rothenberg) hold that the husband must explicitly state that if she does not repent she will forfeit payment of her marriage contract, whereas others hold that it is unnecessary to state this explicitly (see *Beit Shmuel*). If there are no witnesses and she claims that she did not violate the precepts, she may collect payment of her marriage contract only after taking an oath to that effect (Rambam *Sefer Nashim, Hilkhot Ishut* 24:16; *Shulḥan Arukh, Even HaEzer* 115:4).

A woman violates the precepts and her husband desires to maintain her – **עוֹבְרֹת עַל דֵּת וְרָצָה בְּעַל לְקַיְמָה**: In the case of a woman who violates the precepts of Moses or the precepts of Jewish women, her husband is not forced to divorce her. If he wishes to maintain her as his wife, he may do so, although it is a mitzva for him to divorce her. However, even if he does not divorce her, she still forfeits her right to collect payment of her marriage contract. The *Helkat Mehokek* holds that if her husband did not divorce her and she then repented, he must write her a new marriage contract, as the old one lost its validity (Rambam *Sefer Nashim, Hilkhot Sota* 2:16; *Shulḥan Arukh, Even HaEzer* 115:4).

NOTES

The Merciful One made acquiring the status of a *sota* dependent on the husband's warning – **בְּקִינּוֹ דְּבַעַל**: An alternate version of the text renders this phrase: The Merciful One made acquiring the status of a *sota* dependent on the husband's objection (*She'iltot deRav Aḥai Gaon*). This clarifies the rationale for the possibility that a husband can retract his warning: Since he issued a warning only because he objected to his wife's behavior, he can claim that he no longer objects.

Rav Hanina of Sura said: Come and hear a proof from the continuation of the mishna: **And these are the women to whom the court issues a warning in place of their husbands: One whose husband became a deaf-mute or became an imbecile, or was incarcerated in prison. And the Sages said that the court warns her not in order to have her drink the bitter water if she disobeys the warning; rather in order to disqualify her from receiving payment of her marriage contract.** Since the sole purpose of the warning issued by the court is to disqualify her from receiving payment of her marriage contract in the event she secludes herself with the man, one can learn from the mishna that similarly, a woman who violates the precepts **requires forewarning**.^h The Gemara concludes: Indeed, one can learn from the mishna that a warning is required.

The Gemara asks: With regard to all of the other Sages, who proposed inconclusive proofs from other clauses of the mishna, **what is the reason they did not say that proof can be adduced from this explicit statement?** The Gemara answers: They reasoned that **perhaps it is different there, as the wife has no fear of her husband at all**, since he is either incapacitated or incarcerated, and therefore she must be warned first. In other cases, an explicit warning is unnecessary.

A dilemma was raised before the Sages: If a woman violates the precepts and her husband desires to maintain her^h as his wife, may he maintain her as his wife or may he not maintain her as his wife? Do we say that the Merciful One made the requirement to divorce her dependent on the husband's objection to her behavior, and as this husband does not raise an objection he may maintain her as his wife? Or perhaps, since the Torah objects to this behavior, it is considered as though he objected, as the requirement to divorce her is due to the Torah's objection to this behavior, irrespective of the husband's wishes.

The Gemara cites poof: **Come and hear the mishna: And these are the women to whom the court issues a warning in place of their husbands: One whose husband became a deaf-mute or became an imbecile, or was incarcerated in prison. And if you say that should the husband desire to maintain her as his wife he may maintain her as his wife, perhaps he may not want the court to warn her. Would the court perform a matter that is perhaps not amenable to the husband?** The Gemara replies: **The ordinary situation is that since she is violating the precepts, it is amenable to the husband to divorce her, and the court acts under this assumption.**

§ A dilemma was raised before the Sages: With regard to a husband who issued a warning to his wife and later retracted his warning, as he did not wish his wife to acquire the status of a *sota*, is his warning retracted, or is it not retracted? Do we say that the Merciful One made acquiring the status of a *sota* dependent on the husband's warning,ⁿ and the husband retracted his warning? Or perhaps, since he warned her at the outset, he can no longer retract his warning?

The Gemara cites proof that the husband cannot retract his warning: **Come and hear the mishna: And these are the women to whom the court issues a warning in place of their husbands: One whose husband became a deaf-mute or became an imbecile, or was incarcerated in prison. And if you say that in the case of a husband who retracted his warning, his warning is retracted, would we, i.e., the court, do something that the husband can come and retract?** This would cause a diminution of the esteem of the court. The Gemara replies: **The ordinary situation is that a person concurs with the opinion of the court and would not retract a warning issued by the court, so this is not a concern.** Therefore, no proof can be brought from the mishna.

אָמַר רַב חֲנִינָא מְסוּרָא: תָּא שְׁמַע – וְאִלּוּ שְׁבִיַּת דִּין מְקַנֵּין לָהּ: מִי שְׁנַתְּחַרְשׁ בְּעֵלָהּ, אוּ נְשִׁתְּטָה, אוּ שְׁהִיָּה חֲבוּשׁ בְּבֵית הָאֲסוּרִין, וְלֹא לְהַשְׁקוּתָהּ אָמְרוּ אֲלָא לְפֻסְלָהּ מִכְתוּבָתָהּ; שְׁמַע מִיָּנָה בְּעֵי הַתְּרָאָה. שְׁמַע מִיָּנָה.

וְכֹלֵהוּ מֵאֵי טַעְמָא לֹא אָמְרוּ מֵהָאָדָּם דְּלִמָּא שְׂאֵי הָתָם, דְּלִית לָהּ אִימְתָּא דְּבַעַל כְּלָל.

אִיבְעִינָא לָהּ: עוֹבְרֹת עַל דֵּת וְרָצָה בְּעַל לְקַיְמָה, מְקַיְמָה אוּ אִינוּ מְקַיְמָה? מִי אָמְרִין בְּקִפְדָּה דְּבַעַל תְּלָא רַחֲמֵנָא, וְהָא לֹא קִפְדִּי, אוּ דְלִמָּא בִּין דְּקִפְדִּי – קִפְדִּי?

תָּא שְׁמַע, וְאִלּוּ שְׁבִיַּת דִּין מְקַנֵּין לָהּ: מִי שְׁנַתְּחַרְשׁ בְּעֵלָהּ, אוּ נְשִׁתְּטָה, אוּ שְׁהִיָּה חֲבוּשׁ בְּבֵית הָאֲסוּרִין, וְאִי אָמַרְתָּ רָצָה בְּעַל לְקַיְמָה מְקַיְמָה, עֲבַדִּי בֵּית דִּין מִיַּדִּי דְּדִלְמָא לֹא נִיחָא לִיָּה לְבַעַל? סְתָמָא דְּמִילְתָּא בִּין דְּעוֹבְרֹת עַל דֵּת הִיא, מִינְחָ נִיחָא לִיָּה.

אִיבְעִינָא לָהּ: בְּעַל שְׁמַחַל עַל קִינּוּיוֹ, קִינּוּיוֹ מְחוּל אוּ אִינוּ מְחוּל? מִי אָמְרִין בְּקִינּוּיוֹ דְּבַעַל תְּלָא רַחֲמֵנָא, וְבַעַל הָא מְחִיל לִיָּה לְקִינּוּיוֹ? אוּ דְלִמָּא בִּין דְּקִנֵּי לִיָּה מְעִיקְרָא – לֹא מְצִי מְחִיל לִיָּה?

תָּא שְׁמַע, וְאִלּוּ שְׁבִיַּת דִּין מְקַנֵּין לָהּ: מִי שְׁנַתְּחַרְשׁ בְּעֵלָהּ, אוּ נְשִׁתְּטָה, אוּ שְׁהִיָּה חֲבוּשׁ בְּבֵית הָאֲסוּרִין, וְאִי אָמַרְתָּ בְּעַל שְׁמַחַל עַל קִינּוּיוֹ מְחוּל, עֲבַדִּינִי מִיַּדִּי דְּאָתֵי בְּעַל מְחִיל לִיָּה? סְתָמָא דְּמִלְתָּא אָדָם מְסַכֵּים עַל דְּעַת בֵּית דִּין.

Ze'eira, of the men of Jerusalem – זַעִירָא מֵאַנְשֵׁי יְרוּשָׁלַם – This scholar is mentioned in a few sources, and it appears from the names of his colleagues that he lived toward the end of the tannaic period. He cites statements of the people of Jerusalem, referring to a small community that devotedly remained in the holy city of Jerusalem even after the destruction of the city and the subsequent period of persecution.

BACKGROUND

A rebellious Elder – זָקֵן מְמָרָא – Whenever there was a major dispute among the Sages as to how a halakhic practice should be performed, the matter was brought before the Great Sanhedrin for clarification and resolution. If the Sanhedrin did not reach a unanimous conclusion, the matter was decided according to the majority, and the decision was binding upon the entire nation. A Sage could disagree with that decision, but he was obliged to follow the opinion of the majority and to instruct others to do so. If a Sage who was ordained and fit to serve in the Great Sanhedrin instructed others to follow his opinion in contradiction of the opinion of the majority, he was deemed a rebellious Elder and liable to be executed by strangulation, provided that the question in dispute was of a significant degree of importance.

A stubborn and rebellious son – בֶּן סוֹרֵר וּמוֹרֵד – The Torah (Deuteronomy 21:18–21) states that a stubborn and rebellious son, who does not obey his parents, is liable to receive the death penalty. The Sages explain that this refers to a child between the ages of thirteen and thirteen and three months who steals money from his parents in order to eat a gluttonous meal of meat and wine in the company of worthless men. If his parents bring him to court because of this act, he is exhorted to desist and is liable to receive lashes. If he repeats the same misdeed and is again brought to court within this three-month period, he is liable to receive the death penalty. The Gemara (*Sanhedrin* 72a) explains that the severe punishment in this case stems from the fact that this individual will inevitably continue down a path of moral deterioration, eventually becoming a robber and a murderer. Therefore, it is better that he should die innocent rather than guilty. The halakhic details limiting the application of this case are so restrictive that according to some of the Sages, this *halakha* was never put into practice. The details of this *halakha* are discussed in the eighth chapter of tractate *Sanhedrin*.

HALAKHA

And a stubborn and rebellious son, etc. – וּבֶן סוֹרֵר – **זָמַרְהוּ וְכוּ**: A stubborn and rebellious son whose parents forgave him before the court issued a verdict is exempt from being punished (Rambam *Sefer Shofetim*, *Hilkhot Mamrim* 7:8).

But with regard to forgiving a rebellious Elder they did not agree with me – יָעַל זָקֵן מְמָרָא לֹא הוֹדוּ לִי – The court may not relinquish its honor and forgive a rebellious Elder. This is so that discord will not proliferate among the Jewish people (Rambam *Sefer Shofetim*, *Hilkhot Mamrim* 3:4).

A husband who retracted his warning, etc. – בָּעַל – שָׁמַח עַל קִינוּיו וְכוּ: The husband can retract his warning before his wife secludes herself with the other man; however, once the seclusion occurs, he cannot retract his warning. If one divorces his wife, the divorce effects a retraction of the warning; in a case where a husband issues a warning and later divorces his wife and subsequently remarries her, then if he wants to warn her he must issue a new warning (Rambam *Sefer Nashim*, *Hilkhot Sota* 1:7; *Shulhan Arukh*, *Even HaEzer* 178:12).

תָּא שָׁמַע: וּמוֹסְרִין לוֹ שְׁנֵי תַלְמִידֵי חֲכָמִים, שְׂמָא יָבֵא עֲלֶיהָ בְּדֶרֶךְ; וְאִי אָמַרְתָּ בְּעַל שָׁמַח עַל קִינוּיו מְחוּל, לְחַלְיָה לְקִינוּיָהּ וּלְבַעוּל!

מֵאִי שָׂנְאָה תַלְמִידֵי חֲכָמִים? דְּגַמְרִי, דְּאִי בָּעִי לְמַבְעַל, אָמְרִי לֵיהּ: אַחֲלִיָּה לְקִינוּיָךְ וּבְעַלָּהּ.

תָּא שָׁמַע: דְּאָמַר רַבִּי יֹאשִׁיָּה, שְׁלִשָּׁה דְּבָרִים סָח לִי זַעִירָא מֵאַנְשֵׁי יְרוּשָׁלַם: בָּעַל שָׁמַח עַל קִינוּיו – קִינוּיו מְחוּל; וְזָקֵן מְמָרָא שְׂרָצוּ בֵּית דִּין לְמַחוּל לוֹ – מוֹחֲלִין לוֹ; וּבֶן סוֹרֵר וּמוֹרֵד שְׂרָצוּ אָבִיו וְאִמּוֹ לְמַחוּל לוֹ – מוֹחֲלִין לוֹ.

וּכְשָׁבַאתִי אֶצֶל חֲבֵרֵי שְׁבָדְרוֹם, עַל שְׁנַיִם הוֹדוּ לִי, וְעַל זָקֵן מְמָרָא לֹא הוֹדוּ לִי, שְׁלֹא יָרְבוּ מַחֲלוּקֹת בִּישְׂרָאֵל; שָׁמַע מִיָּנָה: בְּעַל שָׁמַח עַל קִינוּיו – קִינוּיו מְחוּל. שָׁמַע מִיָּנָה.

פְּלִיגֵי בֵּה רַב אַחָא וְרַבִּינָא – חַד אָמַר: קוֹדֵם סְתִיפָה מְחוּל, לְאַחַר סְתִיפָה אִינוּ מְחוּל. וְחַד אָמַר: לְאַחַר סְתִיפָה נִמְי מְחוּל. וּמִסְתַּבְּרָא כְּמֵאן דְּאָמַר אִינוּ מְחוּל.

מִמַּאי? מִדְּקָא מְהַדְרִי רַבְנָן לְרַבִּי יוֹסִי: דְּתַנְיָא, רַבִּי יוֹסִי אָמַר: בְּעַלָּה נְאֻמָּן עֲלֶיהָ, מִקָּל וְחוּמָר; וּמָה נִדָּה שְׁהִיא בְּכַרְת – בְּעַלָּה נְאֻמָּן עֲלֶיהָ, סוֹטָה שְׁהִיא בְּלָאוּ – לֹא כָּל שְׂבָנִי!

אָמְרוּ לוֹ: לֹא, אִם אָמַרְתָּ בְּנֵדָה שְׂבָנִי יֵשׁ לָהּ הֵיתֵר, תֵּאמַר בְּסוֹטָה שְׂאִין לָהּ הֵיתֵר?

The Gemara cites proof: **Come and hear another mishna (7a):** When the husband takes the *sota* to the Temple, he first takes her to the local court, **and the court provides him with two Torah scholars who accompany them, lest he engage in sexual intercourse with her on the way to the Temple, which is prohibited due to her status as a *sota*. And if you say that with regard to a husband who retracted his warning, his warning is retracted, let him retract his warning and engage in sexual intercourse with her.**

The Gemara replies that perhaps the husband can retract his warning: **What is different about Torah scholars that they are chosen to accompany the husband? They differ from other people as they are learned, and if they see that the husband desires to engage in sexual intercourse with his wife, they say to him: Retract your warning and then you may engage in sexual intercourse with her in a permitted manner.**

The Gemara cites proof: **Come and hear that which Rabbi Yoshiya says: Ze'eira, who was one of the men of Jerusalem,^p told me three matters: A husband who retracted his warning, his warning is retracted; and in the case of a rebellious Elder^b whom the court wishes to forgive, the court may forgive him; and in the case of a stubborn and rebellious son^{bh} whose father and mother wish to forgive him for his sins, they may forgive him.**

And when I came to my colleagues in the South and told them these rulings, they agreed with me with regard to two of them, but with regard to forgiving a rebellious Elder they did not agree with me.^h They held that a rebellious Elder cannot be forgiven, in order that discord not proliferate among the Jewish people. The Gemara comments: **One can conclude from Rabbi Yoshiya's statement that with regard to a husband who retracted his warning,^h his warning is retracted.** The Gemara concludes: **Indeed, one can conclude from Rabbi Yoshiya's statement that the husband can retract his warning.**

Rav Aha and Ravina disagree with regard to the limits of this halakha permitting a husband to retract his warning. **One says** that if he retracts his warning **before her seclusion** with another man, his warning is retracted, but if he retracts his warning **after her seclusion** with another man, it is **not retracted**. **And one says** that if he retracts his warning **after her seclusion** with another man, it is **also retracted**. **And it is reasonable to hold according to the one who says that the husband's warning is not retracted after her seclusion with another man.**

The Gemara asks: **From where** can one derive that after the wife's seclusion with another man, the warning cannot be retracted? It can be derived **from the answer that the Rabbis gave in reply to Rabbi Yosei, as it is taught in a baraita: Rabbi Yosei says:** It is unnecessary to provide an escort to accompany the *sota* and her husband, as the **husband of a *sota* is trusted not to engage in sexual intercourse with her, on the basis of an *a fortiori* inference: And just as in the case of a menstruating woman, who is prohibited from engaging in sexual intercourse with her husband by penalty of *karet*, her husband is nevertheless trusted with regard to her, as he is permitted to seclude himself with her, so too, with regard to a *sota*, who is prohibited from engaging in sexual intercourse with her husband only by an ordinary prohibition, is it not all the more so that he should be trusted?**

The Rabbis said to Rabbi Yosei: **No, if you say that he is trusted with regard to a menstruating woman, the reason is not due to the severity of the prohibition. Rather, he is trusted because she has the ability to become permitted to her husband after her menstrual flow has ceased and she has immersed in a ritual bath. Shall you also say that he is trusted with regard to a *sota*, who potentially does not have the ability to become permitted to her husband, due to her suspected adultery?**

The Gemara explains the proof: **And if you say that after her seclusion with another man the warning can be retracted for her, you therefore find an instance in which the *sota* has the ability to become permitted to her husband, as, if the husband desires he can retract his warning and engage in sexual intercourse with her. Rather, conclude from the Rabbis' statement that if he retracts his warning after her seclusion with another man, the warning is not retracted.** The Gemara concludes: Indeed, one can conclude from the Rabbis' statement that the warning cannot be retracted.

§ The mishna states: **If the husbands of the *sota* women died before their wives drank the bitter water, Beit Shammai say: They collect payment of their marriage contracts and they do not drink the bitter water. And Beit Hillel say: They either drink the bitter water or they do not collect payment of their marriage contracts.** The Gemara asks: **With regard to what do Beit Shammai and Beit Hillel disagree?** The Gemara answers: **Beit Shammai hold that a promissory note that stands to be collected is considered to be as though it was already collected, and since the woman possesses the marriage contract, the payment of the marriage contract is considered as though it is already in her possession.** Since the burden of proof rests upon the claimant, she does not lose her rights to the money unless the inheritors prove that she committed adultery.

ואי אִמְרַתָּ לְאַחַר סְתִירָה מְחוּלָּהּ לָהּ, מִשְׁבַּחַתָּ לָהּ דִּישׁ לָהּ הִיתָּר, דְּאִי בְּעִי מְחוּלָּהּ לִיָּה לְקִינוּיָהּ וּבְעִילָהּ! אֲלֵא שְׁמַע מִיָּנָה: לְאַחַר סְתִירָה אֵינּוּ מְחוּלָּהּ. שְׁמַע מִיָּנָה.

”מִתּוֹ בְּעִלְיָהֶן עַד שֶׁלֹּא שָׁתוּ – בֵּית שַׁמַּאי” כו'. בְּמֵאֵי קָמִיפְלִיגִי? בֵּית שַׁמַּאי סָבְרִי: שְׁטֵר הָעוֹמֵד לְגִבּוֹת כְּגִבּוֹי דָּמִי,

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And Beit Hillel hold that a promissory note that stands to be collected is not considered as though it was already collected. Therefore, the payment of the marriage contract is not considered to be in the wife's possession, and as this means that she is the claimant, she is not entitled to the money unless she proves that she did not commit adultery.

§ The mishna states (24a): **A woman who was pregnant with the child of another man at the time of her marriage... A sexually underdeveloped woman, who is incapable of bearing children [ailonit], and an elderly woman, and a woman who is incapable of giving birth for other reasons, neither collect payment of their marriage contracts nor drink the bitter water.** Rabbi Elazar says: He can marry another woman and procreate through her; therefore these are considered permitted marriages, and the women can drink the bitter water. **Rav Nahman says that Rabba bar Avuh says: The dispute between the first *tanna* and Rabbi Elazar is only in the case of a barren woman and an elderly woman.**

However, with regard to a sexually underdeveloped woman, all agree that she neither drinks the bitter water nor collects payment of her marriage contract. This is as it is stated with regard to a *sota* who is found to be innocent of adultery: **“And she shall be cleared, and shall conceive seed”** (Numbers 5:28), indicating that the *sota* ritual pertains only to **one whose way is to bear seed and give birth, excluding this sexually underdeveloped woman, whose way is not to bear seed.**ⁿ

The Gemara raises an objection to Rav Nahman's statement from a *baraita* in the *Tosefta* (5:4): **With regard to one who issues a warning to his betrothed, or to his *yevama* while she is a widow awaiting her *yavam*,**^h **if she secluded herself with the other man before her husband consummated the marriage, she neither drinks the bitter water nor collects payment of her marriage contract.**

”מְעוֹבְרַת חֲבִירוֹ” כו'. אָמַר רַב נַחְמָן אָמַר רַבָּה בַּר אַבּוּה: מִחֲלוּקָת – בְּעִקְרָהּ וְזָקִינָה,

אָבֵל אֵיילוֹנִית – דְּבָרֵי הַכֹּל לֹא שׁוֹתָה וְלֹא נוֹטֶלֶת בְּתוֹבָתָהּ, שְׁנֵאמַר: ”וְנִקְתָּה וְנִזְרַעָה זֶרַע”, מִי שְׁדַרְכָּה לְהַזְרִיעַ, יִצְאָה וְזָקִינָה דְרָכָה לְהַזְרִיעַ.

מִתִּיבֵי: הַמְקַנָּא לְאַרוּסָתוֹ וְלִשְׁוֹמְרַת יָבָם שְׁלוֹ, אִם עַד שֶׁלֹּא כָּנְסָה נִסְתַּרָּה – לֹא שׁוֹתָה וְלֹא נוֹטֶלֶת בְּתוֹבָתָהּ;

NOTES

שָׂאִין דְרָכָה לְהַזְרִיעַ – Whose way is not to bear seed – According to Rav Nahman, it is necessary to differentiate between a sexually underdeveloped woman, who is essentially unable to bear children, and barren or elderly women, who do not usually give birth but are not essentially unable to do so (*Mishne LaMelekh*).

HALAKHA

One who issues a warning to his betrothed, or to his *yevama* while she is a widow awaiting her *yavam*, etc. – **הַמְקַנָּא לְאַרוּסָתוֹ וְלִשְׁוֹמְרַת יָבָם שְׁלוֹ וְכוּ'** If one issues a warning to his betrothed or to his *yevama* while she is awaiting levirate marriage and she secludes herself with the other man before the marriage is consummated, she neither drinks the bitter water nor collects payment of her marriage contract (*Rambam Sefer Nashim, Hilkhhot Sota* 2:2).