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Medieval Sourcebook: Barcelona Jewish Court Documents: A Daughter's Inheritance, 1293

A: Bonadona

The following document was produced in 1293 by the Jewish court in Barcelona at the request of Bonadona, daughter of Samuel [Astrug] Ascandrani. The document is simply an official copy of a document produced by a different court a year earlier (the embedded copy of the earlier text is indented for clarity).

We the undersigned court [state]: the Lady Bonadona, the wife of R. Judah b. R. Jucifia Saporta came before us and said to us, "please make a official copy of this record of a legal decision for Estevan deSpelugis, monk of Santa Anna, since he bought from me a vineyard which is mentioned in the record, since the purchaser did not want to give me the money until I hand over to him the official copy of this decision which was handed down about this vineyard, along with the rest of my property." We saw her words [to be reasonable] and heard her request [lit: voice] and we made an official copy of it for the aforementioned monk and this is the copy, letter for letter and word for word, without addition or subtraction:

We the undersigned court [state]: it happened that Lady Bonadona, the wife of R. Judah b. R. Jucifia Saporta came before us and said to us, "since my father, R. Samuel b. R. Abraham Ascandrani made a will concerning his possessions at the time of his death and he had no heir but me and he gave me as his heir the houses which I live in today in the Jewish quarter, and a vineyard at the edge of this city [Barcelona] near Mogoria, and a seat in the synagogue in the courtyard of the Israelites [i.e. in the men's section of the synagogue] in this city and he said at that time that if (heaven forbid) I should die without children then the aforementioned property should revert to a charitable trust; now I need to sell [the property] in order to support myself and I am afraid that I will not find a buyer since everyone knows that this property is mortgaged to the charitable trust because of my father's will. Please consider the laws and examine my father's will and determine for me whether my father's words giving the possessions after my death, are valid or not. We looked in her eyes (?) and heard her voice [request] and we took the will of her father from her and went over it in detail and discussed what was written in it, and all three of us were of one mind after we went over it about the law, and with the agreement and advice of our teacher and rabbi, R. Solomon b. R. Abraham ben Adret we made a judgment about the law that the charitable trust has no right to any of the aforementioned possessions, even if the Lady Bonadona should die without children, since her father ordered that she should have title to the possessions as an heir all the days of her life, and even though he ordered that they should return to the charitable trust after her death if she should die without children, he did not have the power to make such a condition since inheritance has no interruption [i.e., an heir's possession of his inheritance cannot be interrupted by the wishes of the person who bequeathed the property]. In order for Lady Bonadona to have it as a proof, we signed our names here in the month of Elul, in the year 5052 since the creation of the world (August 15-Sept 12, 1292), as we reckon it here in Barcelona, and it is valid and binding: Judah b.R. Solomon (may God protect him); Samuel b.R. Joseph (may his Rock and Redeemer protect him); Judah b.R. Yeshua (may he rest in peace).

This is the record of the legal decision and the court which signed it which we copied for the aforementioned monk on the orders of the Lady Bonadona; we examined the signatures of the court and we know that these are their signatures and we have written and signed and given it to the

aforementioned monk to be evidence of his purchase and it is valid and binding: Hosea b.R. Joseph (may he be remembered for the life of the world to come); Hiyya b.R. Solomon (may his Rock and Redeemer protect him); Solomon b. R. Samuel Saporta [not apparently a close relation to Bonadona's husband].

Source: "Documents des Juifs Catalans," document no. 36, *Revue des Etudes Juives*, 68 (1914).

A facsimile of the original is found in Joaquim Miret y Sans and Moise Schwab, "Documents des Juifs Catalans," *Revue des Etudes Juives*, 68 (1914), document no. 36.

B: Letter

The following is an abridgement of the letter from Adret to the Barcelona court about Bonadona's problem. It is found in Adret's responsa, vol. 1, no. 704.

Question: You asked [about] a person on his deathbed who made his will in gentile script (i.e. Latin), namely he ordered that his words be written as a will by X and Y in [both] Hebrew and Latin so that it would be effective. Does it matter that they wrote them as a will after his death? Do we say that these people are the agents of the dying man, given that an agent cannot act after death [of the one who empowered him] or shall we say that he is only like one who conveys his intentions to them, to carry them out as long as they wish, even after his death? If you say that they can write them, tell us about his instruction that it should be effective in Hebrew and Latin: should [we take it] literally so that if their language is sufficient in Hebrew (for complete fulfillment of what he said), would they be forbidden from writing it in Latin; or perhaps he meant only that it should be effective, even if it is not effective in Latin?

Moreover, your brother also asked in your name about the substance of the will which the dying man made: he bequeathed what he had to his daughter and he even went so far as to specify that if she should die with no surviving child that some of the property should revert to his brother(s) and some to a charitable trust and moreover, even if the daughter gave [her bequest] as a gift [he stipulated] that none of it should come to her husband, nor income from it, nor income from its income -- is this provision valid or not?

Answer: First of all, I will discuss general principles and afterwards, I will deal with the particulars. Even though [the sages] said that "the words of a dying man are as if they were written and conveyed," (Baba Batra 151a, 175a; Gittin 13a, 15a) they only intended this to apply to the words which he said, not to add to his words or take away from them in order to put them into effect, even though he revealed his intentions [i.e. if what he ordered could have legal effect, we do it, but we do not modify his requests even when it is clear what he wanted to achieve by them]. . . . Now I will explain the specifics which emerge from these principles. Consider that since the dying man intended for his daughter to inherit all the property from him, it immediately became hers by biblical law as it says in scripture, "and on the day that he wills to his sons" (Dt 21:16). So long as he does not recover and revoke the gift, it is entirely the property of the heir and if he makes any conditions about it afterwards, he is making conditions about the property of the heir [over which he has no control]. . . Thus the reservation which he made in the daughter's bequest that the husband would have no share in the property is meaningless, as we learn in the Talmud, "if she only receives what she consumes [her husband gets nothing]" but here he did not say so. Moreover, I already said that we never reduce his gift, so that she only gets some small part of the property in order to fulfill his purpose and his orders; especially since the daughter alone inherits all the property left by the father, anything left her as a [mere] gift comes to her with the force of inheritance, . . . therefore there is no vestige of support for what he ordered and bequeathed, including all of those reservations and conditions which he made. . . . It is clear that after his death no one can add to or subtract from [what he said], and every thing [else] he said would be of no effect, even if he were still alive, [since] he insisted on this exact language and ordered thus, even though this is a deathbed bequest. Especially since if he said, "write and seal and give it" [i.e. he gave specific instructions about the writing] we worry lest the acquisition can only be completed in a document, and one cannot issue a document after death, as it says in Baba Batra ch. 8 and ch. 9. Especially in the case of this man who commanded that his words be put in an effective document perhaps it was the document which he wanted.

Source.

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Events at Trier

After [many killings in Trier], the enemy saw those remaining in the [bishop's] palace – that they were as firm in their faith as at the outset and that their hands had not been weakened by what had been done to these first [martyrs]. They said to one another: “All this the women do – they incite their husbands, strengthening their hands to rebel. ...” Then all the ministers came and each grasped forcefully the hands of the women, smiting and wounding them, and led them to the church in order to baptize them. Afterward they sent and took forcefully children from the bosoms of their mothers and took them with them, to fulfill what is said: *Your sons and daughters shall be delivered to another people*. The women raised their voices and wept. Three days prior to informing them of this forced conversion, the ministers came to the palace and closed the pit in which water was held in the palace, for they feared lest they throw their children there to kill them. They did not permit them to ascend the wall, so that they not throw themselves from the wall. All night they guarded them that they not kill one another, until dawn. All this they planned because they did not wish to kill them – rather they labored to seize them and to forcibly convert them.

There was a young woman in front of the gateway of the palace. She stretched her neck outside and said: “Anyone who wishes to cut off my head for the fear of my Rock [that is, my God] let him come and do so.” The uncircumcised did not wish to touch her, because the young lady was comely and charming. But many times they wished to take her and carry her off with them. They intended [to do so] but could not, for she threw herself to the ground and made herself dead weight. Thus she remained in the palace. Then her aunt came and said to her: “Do you wish to die with me for the fear of our Rock?” She answered and said to her: “Yes, gladly.” They went and bribed the guard of the gate. They left and went to the bridge and threw themselves into the water out of fear of the eternal King. Thus also did two young girls from Cologne. ... Praise to the Lord that they were accorded burial. May the Avenger avenge in our days and before our eyes the blood of his servants that has been spilled. May their virtue and saintliness serve for our merit and protect us on a day of evil.

Questions: What roles did women play during this crisis? What traditional and non-traditional female virtues are praised in the depictions of women in these texts? How does the use of biblical language and imagery affect the depictions of women? How is religious prejudice on both sides revealed?

77. MAIMONIDES: THE BOOK OF WOMEN (12TH C.)

The rabbi Maimonides (1135–1204), one of the greatest Jewish philosophers of medieval Europe, lived in Spain, in a region ruled by Muslims. He collected in this book the traditions of Jewish law concerning the family, from ancient times to his own. Much of the excerpt below concerns the ketubbah, the written document containing the terms of the Jewish marriage contract; by extension, “ketubbah” could mean the share of the husband’s property assigned to the wife in the document.

Source: Isaac Klein, tr., *The Code of Maimonides, Book Four: The Book of Women*, Yale University Press, copyright 1972. Used by permission.

Elements of the marriage contract

Chapter XII. 1. When a man marries a woman, whether virgin or non-virgin, whether adult or minor, whether a daughter of Israel, a proselyte, or an emancipated bondswoman, he

obligates himself to her for ten things, and is in turn entitled to four things from her.

2. Of the ten, three are found in the Torah: *her food, her raiment, and her conjugal rights* (Exod. 21:10). *Her food* signifies her maintenance; *her raiment*, what the term implies; *her conjugal rights*, sexual intercourse with her, according to the way of the world.

The other seven are of Scribal origin, and all of them are conditions laid down by the court. The first of them is the statutory ketubbah; the rest are called "conditions contained in the ketubbah." They are the following: to treat her if she falls ill; to ransom her if she is captured; to bury her if she dies; to provide for her maintenance out of his estate; to let her dwell in his house after his death for the duration of her widowhood; to let her daughters sired by him receive their maintenance out of his estate after his death, until they become espoused; to let her male children sired by him inherit her ketubbah, in addition to their share with their half-brothers in his estate.

3. And the four things he is entitled to are all of Scribal origin, namely the following: he is entitled to her earnings, to anything she finds, and to the usufruct of her estate during her lifetime. And should she die in his lifetime, he is her heir, with precedence over anyone else as to her estate.

Raiment and Housing

Chapter XIII. 1. How much raiment is the husband obligated to provide for his wife?

Clothes to the amount of fifty zuz per annum, in the coin current at that time, when fifty zuz equaled six and a quarter silver denar.

The new garments should be given to her in the rainy season, so that they would be well worn when she wears them in the dry season; as for worn-out garments, meaning what remains of the original clothes, they are hers to cover herself therewith during her menstrual period. She is also to be given a girdle for her loins, a cap for her head, and shoes from one festival to the other.

2. When does this apply? In those days and in the Land of Israel. At other times, however, and in other places, the specified value is not the determinant. There are places where clothing may be very expensive or very cheap. The principle to be observed is that the husband is obligated to give her garments suitable for the rainy season and for the dry season, worth not less than what any housewife in that country would require for her wearing apparel.
3. Included with the garments that he is obligated to give her are the house furnishings and the dwelling itself in which she resides.

What are the house furnishings? A spread couch, and a mattress or mat to sit on; and eating and drinking utensils such as a pot, a platter, a cup, a bottle, and the like. As for the dwelling, he must lease for her a house at least four cubits by four, with a yard outside for her use. It should also have a separate lavatory.

4. He is likewise obligated to give her toilet articles, such as colored fabrics to wind around her head and forehead, eye-paint, rouge, and the like, so that she might not seem unattractive to him.
5. To whom does this apply? To the poor in Israel. As for the wealthy, everything should be commensurate with his wealth. Even if he can afford to buy her silken and embroidered garments and gold jewelry, he should be compelled to do so.

The same applies to the dwelling, which should likewise be commensurate with his wealth; and so should the toilet articles and the house furnishings – everything should be according to his wealth. ...

14. If a man says to his wife, "I do not wish to have your father, your mother, your brothers, or your sisters come to my house," his wish is to be honored, and she should visit them instead when anything happens to them. She should also visit her father's house once a month, and on each pilgrimage festival. They, however, should not visit her, unless something has happened to her, such as illness or a delivery, for no man may be compelled to let others enter his premises.

Thus, also, if she says, "I do not wish to have your mother or your sisters visit me, nor do I wish to reside in the same courtyard with them, because they cause me harm and annoyance," her wish is to be honored.

Marital relations

Chapter XIV. 2. A wife may restrict her husband in his business journeys to nearby places only, so that he would not otherwise deprive her of her conjugal rights. Hence he may not set out except with her permission.

8. The wife who prevents her husband from having intercourse with her is called "a rebellious wife," and should be questioned as to the reason for her rebelliousness. If she says, "I have come to loathe him, and I cannot willingly submit to his intercourse," he must be compelled to divorce her immediately, for she is not like a captive woman who must submit to a man that is hateful to her. She must, however, leave with forfeiture of all of her ketubbah. ...
9. If she rebels against her husband merely in order to torment him, and says, "I am going to make him suffer in this way, because he has done thus-and-so to me," or "because he has cursed me," or "because he quarrels with me," or anything similar, the court should send her a message stating as follows: "Be it known unto you that if you persist in your rebellion, your ketubbah ... will stand forfeited." After that an announcement should be made about her in the synagogues and the houses of study, every day for four consecutive weeks, to the effect that "So-and-so has rebelled against her husband."
10. After the announcement the court should send her a second message, saying, "If you persist in your rebellion, you will forfeit your ketubbah." If she persists in her rebellion and does not repent, a consultation should be held with her. Whereupon she is to forfeit her ketubbah and lose her title to any ketubbah at all.

A wife's work

Chapter XXI. 1. Anything a woman may find and her handiwork belong to her husband. And what is she required to do for him? It all depends on the custom of the country. Where the custom is for wives to weave, she must weave; to embroider, she must embroider; to spin wool or flax, she must spin. If it is not the custom of the women of that town to do all these kinds of work, he cannot compel her to do any of them, except spinning wool only – because flax injures the mouth and lips – for spinning is a kind of work that is characteristic of women, as it is said, *And all women that were wise-hearted did spin with their hands* (Exod. 35:25).

2. If she exerts herself to perform more work than is proper for her, the surplus belongs to her husband.

If he has a great deal of money, and even if she herself has many maidservants, she should not sit idle, without work, because idleness leads to immorality. She should not, however, be compelled to work all day long, but may reduce her work in proportion to their wealth.

3. ... Every wife must likewise wash her husband's face, hands, and feet, pour his cup for him, spread his couch, and wait on him, for example, by handing him water or a vessel, or removing these from before him, and the like. She is not obligated, however, to wait on his father or his son.
5. There are other kinds of work that a wife must perform for her husband when they are poor. These are the following: She must bake bread in the oven – Ezra ordained that a wife should rise early to do her baking, so that bread might be available for the poor – cook food, wash clothes, nurse her child, put fodder before her husband's mount – but not before his cattle – and attend to the grinding of corn. How should she attend to the grinding? By sitting at the flour mill and watching the flour, not by doing the grinding herself; or by driving the beast, so that the mill would not stand idle. If, however, the local custom is for wives to do their grinding with a hand mill, she must do the grinding herself.
11. As long as the wife is nursing her child, the amount of her work should be reduced, while her maintenance should be augmented with wine and other things that are beneficial for lactation.

Dowry

Chapter XXIII. 11. There are many customs regarding the dowry. ...

13. If a man and a woman are negotiating with a view to matrimony, he saying to her, "How much will you bring me?," to which she replies, "So-and-so much. And how much will you give me," or "write for me?," to which he replies, "So-and-so much"; and similarly, if the two fathers are negotiating in behalf of the son and the daughter, respectively, the one asking, "How much are you giving in behalf of your son?," and the other replying, "So-and-so much. And how much are you giving in behalf of your daughter?," "So-and-so much" – once the two parties perform the betrothal, each is entitled to the property stipulated in the negotiation, even if no symbolic act of barter had taken place between them.

Misbehavior

Chapter XXIV. 11. The following acts, if committed by a woman, render her guilty of transgressing the law of Moses: going out into the street with the hair of her head uncovered, making vows or swearing oaths and not fulfilling them, indulging in sexual intercourse during menstruation, failing to set aside her dough offering, or serving her husband prohibited food, that is, not only such food as swarming and creeping creatures or carrion, but also untithed food. ...

15. How is a woman to be dismissed on the ground of ill repute? For example, if witnesses testify that she has done something exceedingly unseemly, indicating that a transgression has been committed, even though there is no clear evidence of harlotry.

How so? If, for example, she is alone in the courtyard, and people seeing a spicepeddler come out, immediately at the moment of his exit enter and find her rising from the couch and putting on her trousers or tying her belt, or find moist saliva above the canopy; or if both of them come out of a dark place, or help one another to ascend from a pit, or the like; or if they see him kiss her at the opening of her chemise, or see them kiss or hug each other, or if the two of them enter a place one after the other and shut the doors, or act in a similar manner. In any case such as these, if the husband wishes to dismiss her, she may be dismissed without her ketubbah, and no warning is required.

Questions: What seem to be the principles underlying these laws? What is the status of women here in comparison with men? How realistic are the details of the laws? How do the Jewish laws compare with the Christian ones in Chapter II?

78. JUDAH ASHERI: FAMILY HISTORY (13TH-14TH C.)

Judah Asheri (d. 1349) was a German Jew who migrated to Spain early in his life. In his will he recounts episodes of family history which remind us of the precarious conditions under which Jews lived in medieval Europe. The first paragraph below is included for its description of a female medical practitioner.

Source: *Hebrew Ethical Wills*, tr. Israel Abrahams (Philadelphia: The Jewish Publication Society of America, 1926).

When I was an infant about three months old, my eyes were affected, and were never completely restored. A certain woman tried to cure me when I was about three years of age, but she added to my blindness, to the extent that I remained for a year unable to see the road on which to walk. Then a Jewess, a skilled oculist, appeared on the scene; she treated me for about two months, and then died. Had she lived another month, I might have received my sight fully. As it was, but for the two months' attention from her, I might never have been able to see at all. ...

One of the good methods which I desired for maintaining the family record was the marriage of my sons to members of my father's house. I had many reasons for this. First, it is a fair and fit thing to join fruit of vine to fruit of vine. It is indeed an important duty, for as our Sages said: He who loves his relatives, he who marries his sister's daughter, and he who lends to the poor in the hour of his distress – to him applies the text: "Then shalt thou call, and the Lord will answer; thou shalt cry and He will say, Here I am." Furthermore, the women of our family have grown accustomed to the ways of students, and the love of the Torah has entered their hearts, so that they are a help to their husbands in their scholarly pursuits. Moreover, they are not used to extravagant expenditure; they do not demand luxuries, the provision of which disturbs a man from his study. Then again, children for the most part resemble the mother's family. Finally, if with changing times a man see fit to seek his livelihood in another city, there will be none to place obstacles in the way of the wife accompanying her husband.

The second plan is for me to write something of the history of my saintly progenitors, for the edification of those that come after us. ... As I left Germany when about thirteen years of age, I did not acquire exact information as to our fathers' righteous lives, except the little which I heard from my lord, my father of blessed memory, and from his sister and my grandmother, who related to me some of the family history. ...

Six months after [my grandfather's] death, at midnight on the Sabbath night, he appeared to his wife and said to her: "Haste and rise, take thy sons and thy daughters, and remove them hence, for tomorrow all the Jews of this place will be slain. So it was decreed against the whole neighborhood, but we prayed and our petition was successful except as regards this place." She rose and obeyed, but returning to save her belongings, she was killed with the congregation. She had previously rescued my lord, my father, R. Asher of blessed memory, and his brother, R. Hayyim. ... They had another brother ... [and] six sisters, the whole family saintly – all bearing deservedly high reputations among their contemporaries. The nine of them escaped on the day and under the circumstances narrated above. All of them had large families of sons and daughters, and I have heard

77.1 *Marriage, Sex, and Family Life*

A man who arranges a marriage for his daughter should instruct her that she should not let the time pass that is appropriate for her ritual bath and then say to her husband, "I will not take the ritual bath until you give me a certain amount of money, or until you give me a certain object," for when the two of them [have sexual relations] with pious intentions, their children will be righteous. (1152)

A certain woman was fully righteous, but her husband was miserly, for he never wanted to purchase a book or to give money to charity. When he went with her to the *mikveh*, she did not want to immerse herself in the ritual bath. When he asked her why she did not take the bath, she responded, "I will not take the ritual bath until you buy books and give money to charity." He did not want to do this, and she refused to take the ritual bath until he fulfilled her conditions. He complained about her to a scholar, who said, "She will be blessed for pressuring you to perform good deeds; she obviously did not know any other way of pressuring you except in this manner." The scholar then said to the man's wife, "If you are able to bring about good behavior on the part of your husband, it is fine, but regarding sexual relations between the two of you, do not delay what he wants, lest he begin to think sinful thoughts, and you delay becoming pregnant, and increase his anger." (670)

In a place where there are adulterers in the *mikveh* building, a man should not allow his wife to go there unless he accompanies her. It is best that she go [not at night but] on the eighth day [following the termination of her menstruation], as the rabbis said, "because of thieves."¹ (1180)

Everything is at the discretion of the husband, except that on the night following the wife's ritual bath, he must be above and she beneath, for the woman has no sexual pleasure unless she is beneath,² and then she will conceive, for it is close to her period, and the man has special desire on the night of her ritual bath; therefore it is good that she derive pleasure from him, for then if she conceives the child will be like him, sharp-witted, and she will come to a climax first, and give birth to a son.³ However, on the other nights, he may act in accordance with what is pleasurable to him, so that he will not think about other women, provided that it is with the consent of his wife.⁴ (1185)

¹ Who might accost her if she went on the previous night: b. Niddah 67b.

² This would appear to be an original formulation in *Sefer Hasidim*.

³ Cf. b. Niddah 31a, Rashi on Gen. 46:15.

⁴ Alluding to the rabbinic statement, "A man is forbidden to compel his wife. . ." (b. Eruvin 100b).

Sefer Hasidim on Women

Ca. 1200

Sefer Hasidim, "The Book of the Pious," is one of the treasures of medieval Jewish literature, perhaps the most important medieval work that is still not available in a full translation. Unlike contemporary works of philosophy, it does not purport to be a systematic presentation of a coherent philosophical or theological system. It is rather a somewhat random collection of relatively brief vignettes expressing the values of German Pietism, including ethical teachings (through dilemmas often expressing a conflict in values), homiletical explanations of verses from the Bible and applications of statements from the Talmud, and illustrative stories and parables. It is also filled with what we would call superstition: demons, witches, magic, and the dead, alongside material of great religious power. It is therefore an unusual historical source, reflecting not the realm of the most profound thinkers of the age, but rather the day-to-day life and thoughts of ordinary Jews as presented by several great leaders – foremost among them Rabbi Judah ben Samuel the Hasid – during a very difficult time.

Selected here are passages (numbered in accordance with the Wistinetzki edition based on the Parma de Rossi Manuscript) dealing with women and family life. Far less is known about individual medieval Jewish women than about their Christian neighbors, some of whom wrote texts that express their own distinctive ideas and outlooks. Most of the material used to reconstruct the experiences of Jewish women is taken from the responsa literature, where rabbis record cases that raise unusual legal problems, to which they provide answers. *Sefer Hasidim*, though also reflecting the male perspective, is an unusually rich source for material about love and sexuality, marriage and motherhood, about pious and independent women, and the dangers of molestation and rape.

Reuben said to Simeon, "I love a certain woman, and I have investigated and found that she loves me." But her relatives did not give her to Reuben, and eventually Simeon married her. [Under these circumstances] Reuben must not live together with Simeon in the same house where his wife lives. (1191)

Even though one must not be closely together with a woman, if one is walking and sees a woman together with rowdy Jews or with gentiles, it is then a *mitzva* to be together with her, lest they touch her. This is like the story about Joshua ben Hananiah.⁵ (1191)

The biblical verse says, "Now my husband will love me" (Gen. 29:32). If love depends upon the heart, even if the wife gives birth to several sons he will not love her.⁶ But he should make it seem as if he loves her even if this is not in his heart, because his wife has borne children; he should show love for her for the sake of the children. (1155)

The biblical verse says, "After weaning Lo-Ruhamah [she conceived and bore a son]" (Hos. 1:8). [There was a woman] who weaned the son and daughter she had borne to her husband, so she was entitled to a period of waiting. However, after her first son was born, she did not have a period of waiting, as her husband had not yet fulfilled the commandment of "being fruitful and multiplying" [cf. Gen. 1:28].⁷ If a man has one son or one daughter and his wife is nursing that son or that daughter, she will be unable to conceive so long as she is nursing. In this case, the wife was too poor to be able to hire a wet-nurse, and she was afraid that the infant would not nurse from a wet-nurse as he already recognized his mother. [Under these circumstances] she should not refrain from nursing the infant because of the danger [that she will not conceive], for we do not defer attention to an existing life because of a potential life if she should become pregnant.⁸

But if the mother of the boy is nursing him and another woman comes to nurse the same infant, since the other wet-nurse who is not the infant's

5 An account of Joshua going alone to the house of a noblewoman, known for her loose morality, because of something needed by the community (b. Shabbat 127b).

6 As was the case with Jacob and Leah, despite her hopes expressed in the verse following the birth of Reuben.

7 This commandment, incumbent upon Jewish males, is traditionally understood to be fulfilled when the man has a son and a daughter.

8 An allusion to a famous passage in the Mishnah (Ohalot 7:6), the basis of Jewish law regarding abortion; it asserts that until the greater part of the fetus protrudes from the mother's body, it is NOT considered to be a human being and it may be destroyed in order to save the mother's life. This interpretation of the passage differs from that of Baumgarten [Bibliography], 146.

mother provides enough milk, the mother may withdraw from nursing in order to conceive. Since she is poor, the sages said, "The Holy One, Praised be He, says, 'Borrow on My account, and I will repay the loan.'⁹ This applies all the more since the mother's only intention was to be able to conceive again, and she is unable to conceive so long as she is nursing. But it must be ensured that the wet-nurse has sufficient milk. (1188)

There was a man who had a wife that was not respectable. She was actually suspected of [extra-marital] fornication. The husband knew this, and he also knew that she was not careful about the days of her menstrual period. He went to a scholar and asked, "What shall I do, for she is suspected of fornication and she is not careful about the days of her menstrual period. She acts the same if I come to her during the period of her menstrual impurity as she does in the period when she is ritually pure. Yet I cannot be without a wife. I wanted to give her a *get* [document of divorce], but her relatives will not allow me to do this. I have complained publicly to the community, but this does not help me, for they don't believe me, and they pay no attention to my words.

The scholar said, "Go to another country, far away, and send her the *get*. There you may take a wife, and explain the entire matter to the scholars of that city, so that they will not say, 'If you have another wife, you are forbidden to take a wife here,' following the statement of R. Eliezer ben Jacob.¹⁰ If she accepts the *get*, that's fine; if she does not accept it, you will not be a sinner, as you know that she is sinning with regard to fornication and menstrual impurity. If she *does* accept the *get*, then you must send her the money to which she is entitled by her *ketubah*." (1158)

Three men came before the scholars in order to confess before them and receive guidance from them about the good and proper way, but the scholar they consulted was uncertain as to what he should say to them. . . .¹¹

The third man said, "I love a woman who is married, and my love for her

9 b. Betzah 15b: this is apparently cited to justify the mother hiring a wet nurse even if she does not have sufficient funds to pay her.

10 b. Yevamot 37b: "A man shall not marry a wife in one country and then proceed to marry one in another country, since [their children] might marry one another and the result might be that a brother would marry his sister."

11 The common theme is intentionally arousing temptation to sin in order to attain the merit of overcoming that temptation. German Pietists taught that the reward for overcoming temptation was greater than the reward for those who never felt such temptation. The first man aroused the temptation to steal from a wealthy man, the second the temptation to kill a person who frequently humiliated him.

is as strong as death.¹² I have taken walks with her when her husband was on a journey far away. She loves me deeply too. I have hugged her and kissed her and fondled her entire body, but have I have not had sexual intercourse with her. I regarded all those kisses and caresses as if they were between two men or between two women,¹³ for I had no temptation for this; rather, what I intended was to allow my temptation to grow powerful within me. I burned with desire as strong as a fire in chaff to have sexual intercourse with her, but my temptation did not grow powerful within me except while I was embracing and fondling her."

"I did this for many days, indeed for years, and I could have done anything I wanted with her, for the two of us were living in the same house, while her husband travelled to a distant land and could not prevent me from doing whatever I wished, even to the point of sexual intercourse. Yet I refrained from this because of God. But I did not refrain from embraces and kisses, although I got no pleasure from them, as my only desire was to have sexual intercourse. I acted in this way for several years, in order to receive the reward [for overcoming the temptation]. My father also acted in this way, except that the woman in his case was both married and a minor, and my father did this with his wife's mother, or with his wife's sister while his wife was still alive."

About this, the young man said, "I am asking you whether I need repentance and atonement for this behavior, and also my father, who had pure motivations, or whether we will receive a reward, being pure from any transgression?"

The scholar said, "Go to the Head of the Academy and ask him." He sent them to the Head of the Academy, to whom they said, "So-and-so the scholar sent us to you to ask you the following (as we have written above). They did not reveal to the Academy Head that they were confessing [about their own situation]; rather they spoke as if they were discussing other people. The Head of the Diaspora Academy said to them, 'You are the ones who need atonement for your sins that you have committed, for we are commanded to eradicate those who do evil. You are very close to those who sin intentionally. Any reward there may be [for overcoming temptation] is dependent upon God.' ... So he pronounced a punishment for each of them and commanded them never again to act in that evil way. (52, 53)

12. Echoing Song 8:6.

13. I.e., the speaker denies deriving any pleasure from the hugs and kisses; they served only to arouse the temptation for sexual intercourse.

"Not reckoned among the nations" (Num. 23:9), "All who see them shall recognize that they are a stock that God has blessed" (Isa. 61:9). How does this apply? If soldiers are approaching, Jews may not put a cross upon their clothing, they may not make themselves look like priests, they may not put a cross upon their house, they may not shave the top of their heads as priests and monks do, so that the gentiles will think that they are also gentiles like them.... But if a [Jewish] woman is travelling and hears that the gentiles might molest her, and she is afraid that they will sleep with her, she may dress herself like a nun so that they will think that she is a nun and will not sleep with her. If she hears that there are rowdy Jews who may molest her, it is also permissible for her to dress like a Christian woman and say that she is a gentile, and that she will yell and condemn them. She may yell beforehand, so that the gentiles will come to her aid, even if they might kill the rowdy Jews. (260, 261).

When a city is besieged and conquered with unmarried women inside, and the women are raped and become pregnant, if one of them has a righteous father or brother, and the sage sees that they are looking for a man to marry her so as to attribute the child to the husband, then the sage should say to them, "Do not sin against this husband; inform him first," for they would then be among the heirs of the husband. Therefore they should wait until she gives birth, or even until the pregnancy is noticeable.

If the ravaged woman is married, and she was in a state of ritual impurity when the husband was separated from her, or he had not had sexual relations with her for some time, and therefore knows that she could not be pregnant by him but only as a result of rape, the husband should then not have relations with her until he knows whether or not she is indeed pregnant. If he knows that she is pregnant by the rapist, he should inform the righteous leaders of the truth, so that they will not think that the baby is his son and eligible for a Jewish marriage. (1164)

If a certain man knows that a woman has been forced against her will, and after many days have passed she is not pregnant, and no one else knows about this, only he alone knows that she is not a virgin, he should not tell anyone, for she has not sinned. But if she has sinned, and the man asks a scholar for advice, then the scholar should say that the man should keep secret what he knows, so that he will not humiliate the woman's family. (1165)

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