**Introduction to Ketubot**

לזכות לרפואה שלמה לרחל בת גולדה מרים וגיטל פאשע בת מאשה רחל בתוך שאר חולי ישראל

This *masechet* describes the mutual obligations between the husband and wife during marriage as well as after its termination by death or divorce. The *ketuba* (which gives the *masechet* its name) is the legal document – the marriage contract – which details the obligations and commitments of both parties in the marriage.

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| *In a general sense [Ketubot] addresses the entirety of marital life*  Rav Adin Steinsaltz |

Marriage is seen as a sacred bond, which is why the term for the initial stage is *kiddushin* (sanctification). Marriage can only end by death of one of the parties or the issuance of a *get.* Adultery – violation of this sacred relationship – incurs severe penalties: execution (by stoning or strangulation), *karet*, fines and monetary penalties. The mutual obligations inherent in the marriage relationship are specified in the *ketuba*. Although a *ketuba* represents much more than just a legal contract, it is still subject to the same conditions of any contract in Jewish law.

**The *Ketuba***

**A picture containing text, decorated, colorful, painting

Description automatically generated**The word “*ketuba*” literally means “document.” In the context of the Gemara, it is used to refer to the obligations inherent in the marriage contract. While we are accustomed to seeing a written document[[1]](#footnote-1), and (in Ashkenazic communities) hearing the *ketuba* read during the wedding ceremony, the agreement is binding even if it is not put into writing.

The primary feature of the *ketuba* is the description of the portion of the husband’s property that devolves to the wife at the end of the marriage (divorce or death of the husband). It also describes the husband’s obligations to his wife (in brief). Most of these provisions are universally accepted; there is a dispute in the Gemara over which are mandatory and which may be amended.

There are specific minimum sums established as the *ketuba* settlement, although the husband may choose add to those numbers, a practice known as *tosefet ketuba* (additional *ketuba*). Specifically, a woman who is a virgin is entitled to 200 *zuz* and a widow or divorcee is entitled to 100. There is a debate as to the *ketuba* sum for a woman who lost her virginity through injury. Note that contemporary *ketubot* use a standard sum of 200 *zekukim*, which is a much larger amount – The *Igrot Moshe*  calculates this at the value of 100 pounds of silver.[[2]](#footnote-2)

***diOrayta* or *diRabbanan?***

There is a debate whether the *ketuba* obligation is a Torah law or a Rabbinic enactment. Providing the bride with details of a marriage settlement is indeed an ancient custom, both in Jewish and non-Jewish societies. The Torah basis for *ketuba* comes from the description of the *mifateh* (seducer) and his penalty in Shemot 22:15-16:

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| וְכִי־יְפַתֶּה אִישׁ בְּתוּלָה אֲשֶׁר לֹא־אֹרָשָׂה וְשָׁכַב עִמָּהּ מָהֹר יִמְהָרֶנָּה לּוֹ לְאִשָּׁה׃ אִם־מָאֵן יְמָאֵן אָבִיהָ לְתִתָּהּ לוֹ כֶּסֶף יִשְׁקֹל כְּמֹהַר הַבְּתוּלֹת׃ |
| If a man seduces a virgin for whom the bride-price has not been paid, and lies with her, he must make her his wife by payment of a bride-price. If her father refuses to give her to him, he must still weigh out silver in accordance with the bride-price for virgins. |

What is the *mohar habetulot* (bride price for virgins)? The Yerushalmi explains that this is the *ketuba* settlement. In Devarim 22:28-29, we find that if a man rapes a virgin, he needs to pay 50 shekel:

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| כִּי־יִמְצָא אִישׁ נַעֲרָ בְתוּלָה אֲשֶׁר לֹא־אֹרָשָׂה וּתְפָשָׂהּ וְשָׁכַב עִמָּהּ וְנִמְצָאוּ׃ וְנָתַן הָאִישׁ הַשֹּׁכֵב עִמָּהּ לַאֲבִי הַנַּעֲרָ חֲמִשִּׁים כָּסֶף וְלוֹ־תִהְיֶה לְאִשָּׁה תַּחַת אֲשֶׁר עִנָּהּ לֹא־יוּכַל שַׁלְּחָהּ כׇּל־יָמָיו׃ |
| If a man comes upon a virgin who is not engaged and he seizes her and lies with her, and they are discovered, the party who lay with her shall pay the girl’s father fifty [shekels of] silver, and she shall be his wife. Because he has violated her, he can never have the right to divorce her. |

This would imply that the *chamishim kesef* (50 pieces of silver) is what a virgin is entitled to. That amount is equivalent to 200 *dinars* or *zuz.*

Those who regard the *ketuba* as a Rabbinic ordinance say that the reason for that decree is to protect the wife from arbitrary and capricious actions by her husband. If the husband knows that he will need to pay a significant amount to his wife if he divorces her, he may hesitate to initiate the divorce. The accepted view[[3]](#footnote-3) is that the *ketuba* for non-virgins is Rabbinic, and most likely the *ketuba*  of the virgin is as well. It’s possible that the statement that *ketuba* is Torah-mandated means that there are verses which support this decree. Another possibility is that while the actual *ketuba*-entity is mandated by Torah law, the amount is Rabbinic.

The husband can always add as much as he wants to the *ketuba* agreement. However, even with his wife’s consent, he cannot decrease the amount mandated by the Rabbis.

**Other Issues in the *ketuba***

The *ketuba* alsomemorializes the husband’s commitment to provide for his wife’s basic needs, as well as the obligation of his estate to her and her children after his death.

Under Torah law, the husband commits to providing his wife with:

*Shemot 21:10*:

אִם־אַחֶרֶת יִקַּח־לוֹ שְׁאֵרָהּ כְּסוּתָהּ וְעֹנָתָהּ לֹא יִגְרָע׃

If he takes another, he must not withhold from this one her food, her clothing, or her conjugal rights.

* *She’ra:* Sustenance
* *Ksuta:* Clothing
* *Ona:*  Conjugal rights

He is also entitled to nullify certain vows his wife makes. After her death, he inherits her property. The Rabbis decreed that he is obligated to pay her medical bills and to redeem her from captivity.

In addition to the mandatory amount established in the *ketuba,* and any additional monetary settlement the husband commits to, the possessions that the wife brings into the marriage may be included in the *ketuba.* These are known as *nichsei tzon barzel* (literally, “iron sheep property”). These possessions are contrasted to *nichsei milug* (literally, “plucking property”).

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| *Nichsei tzon barzel* | *Nichsei milug* |
| “Guaranteed investment” | “Usufruct” |
| Property the wife brings into the marriage that is listed in the *ketuba* | Property the wife brings into the marriage that is not listed in the *ketuba* and property she brings in after the marriage took place |
| Husband can use them as he wishes and keeps the profit of the increased value of the property | Husband only gets to use them for their products (rent, produce) |
| Husband is liable for damage, loss and/or depreciation | Husband is not liable for damage, loss and/or depreciation |
| In case of dissolution of marriage: she gets the initial value of the asset back. If it’s worth less now, she can claim the remainder from the estate. | In case of dissolution of marriage: she gets the asset back regardless of its initial value, i.e., if it’s worth less now, she has no claim on the estate for the difference, and if it’s worth more now, the estate cannot demand the difference |
| IRON is enduring = this retains its value | When you PLUCK feathers from a bird, the bird itself is not changed |

The Rabbis decreed that the wife is responsible for certain tasks in the home, as well as contributing to the family income. The wife’s earnings from work she performs, as well as any profits for property she owns, and any lost items she may find, belong to her husband.

All the husband’s property is liened to the *ketuba.* After the wife’s death, the husband is required to bury her. Should he die first, she may continue to live in his home and be supported from his property (until she remarries). Any daughters born to this couple are also supported from his property, but their sons inherit her *ketuba* allocation in additionto their shares in their father’s estate. Should she withdraw her *ketuba* allocation from the estate, she can no longer claim shelter and sustenance from his estate. Her daughters, however, are maintained by the estate until they marry.

**Halachic Structure of Marriage**

According to Torah law, there are two stages to marriage, which today are combined in one ceremony under the *chuppah[[4]](#footnote-4)*. The first stage is known as *erusin* or *kiddushin*, and the second stage is *nissuin.*

*Erusin*  is approximated by the concept of “betrothal,” but is actually more than that, since the couple who has gone through *erusin* are considered legally married in most respects: the wife cannot marry anyone else, relations with another person are considered adultery and the *erusin* can only be dissolved by a *get* (divorce). However, the couple may not engage in relations until *nissuin.*

*Erusin* is effected by one of three methods, if done with the intent of establishing a marriage relationship:

* Transfer of money (or any object of value)[[5]](#footnote-5).
* Marriage document (NOT the *ketuba*).
* Cohabitation. *Note that the Rabbis forbade this.[[6]](#footnote-6)*

*Nissuin* is the second stage of the marriage, and is effected by *chupa* (literally, “canopy”). The *Rishonim* disagree as to what actually constitutes *chupa:*

* The husband covering the wife’s face with a veil
* The husband bringing the wife into his domain, which is symbolized by the *chupa* canopy[[7]](#footnote-7)
* The seclusion of the husband and wife for a brief period (known as *yichud*)

While many customs include all three of these practices, Syrian Jews (and many other Sephardic Jews) do not perform *yichud.*

Originally, the two components of the marriage were performed separately – usually a year apart. *Erusin* was performed and then the bride returned to her parents’ home, assumedly to prepare for married life. Once *nissuin* was performed, she would move into her husband’s home. Today, the common practice is for both stages to take place at the same time.

Some terminology:

In halachic terms, a girl passes three stages of development:

* *Katnut* (minority)
* *Na’arut*
* *Bagrut* (adulthood)

A girl is a *ketana* until she reaches age 12 and has two pubic hairs. At that point, she becomes a *na’ara*; this stage lasts for 6 months. She then is considered a full-fledged adult, known as a *bogeret*. These stages have implications for the father’s legal authority over his daughter. He has full control over a minor, partial control over a *na’ara*, and no control over a *bogeret.*

The *Ohnes* (rapist) and *Mefateh* (seducer)

If a man violates or seduces a virgin *na’ara*, he incurs several liabilities.

Based on the verses in Devarim 22:28-29:

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| כִּי־יִמְצָא אִישׁ נַעֲרָ בְתוּלָה אֲשֶׁר לֹא־אֹרָשָׂה וּתְפָשָׂהּ וְשָׁכַב עִמָּהּ וְנִמְצָאוּ׃ וְנָתַן הָאִישׁ הַשֹּׁכֵב עִמָּהּ לַאֲבִי הַנַּעֲרָ חֲמִשִּׁים כָּסֶף וְלוֹ־תִהְיֶה לְאִשָּׁה תַּחַת אֲשֶׁר עִנָּהּ לֹא־יוּכַל שַׁלְּחָהּ כׇּל־יָמָיו׃ |
| If a man comes upon a virgin who is not engaged and he seizes her and lies with her, and they are discovered, the party who lay with her shall pay the girl’s father fifty [shekels of] silver, and she shall be his wife. Because he has violated her, he can never have the right to divorce her. |

In addition to the 50-shekel fine, the rapist must pay her for:

* *Tzaar:* Pain[[8]](#footnote-8)
* *Boshet:* Humiliation
* *Pegam:* Depreciation (the difference in value between a virgin and non-virgin slave)

He must also marry her (if she and her father agree), and he can never divorce her against her wishes.

The seducer is described in Shemot 22:15-16:

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| וְכִי־יְפַתֶּה אִישׁ בְּתוּלָה אֲשֶׁר לֹא־אֹרָשָׂה וְשָׁכַב עִמָּהּ מָהֹר יִמְהָרֶנָּה לּוֹ לְאִשָּׁה׃ אִם־מָאֵן יְמָאֵן אָבִיהָ לְתִתָּהּ לוֹ כֶּסֶף יִשְׁקֹל כְּמֹהַר הַבְּתוּלֹת׃ |
| If a man seduces a virgin for whom the bride-price has not been paid and lies with her, he must make her his wife by payment of a bride-price. If her father refuses to give her to him, he must still weigh out silver in accordance with the bride-price for virgins. |

The seducer must pay her for:

* *Boshet:* Humiliation
* *Pegam:* Depreciation[[9]](#footnote-9)

While he is not *required* to marry her, if he, she or her father refuse the marriage, he must pay the 50 shekels. If he *does* marry her, he does not pay the fine, but must stipulate the dowry of a virgin (50 shekel) in her *ketuba,* which will be paid to her upon dissolution of the marriage by death or divorce. Note that he may divorce her.

Structure of the *Masechet:*

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| Chapter 1 | בתולה נשאת | 2a-15b | The marriage of a virgin  Credibility of each spouse with regard to virginity |
| Chapter 2 | **האשה שנתארמלה** | 15b-28b | Testimony which is deemed credible from people whose testimony is typically not accepted  Laws of a captive |
| Chapter 3 | **אלו נערות** | 29a-41b | The rapist and seducer  Relationship between corporal and fiscal punishment |
| Chapter 4 | **נערה שנתפתתה** | 41b-54b | Mutual rights of a father and daughter  Mutual rights of a husband and wife  Laws of a slanderer  Primary provisions of the *ketuba* |
| Chapter 5 | **אף על פי** | 54b-65b | Ordinances instituted regarding the *ketuba*  Alteration of fixed provisions in the *ketuba* by mutual agreement or unilaterally |
| Chapter 6 | **מציאת האשה** | 65b-70a | Monetary aspects of the *ketuba* |
| Chapter 7 | **המדיר** | 70a-77b | Partial or total abrogation of the *ketuba* due to vows or defects of either spouse |
| Chapter 8 | **האשה שנפלו** | 78a-82b | The husband’s control over *nichsei milug* (usufruct) |
| Chapter 9 | **הכותב לאשתו** | 83a-90a | The authority of the *ketuba:* what rights can be waived  Relationship between the *ketuba* and other monetary commitments |
| Chapter 10 | **מי שהיה נשוי** | 90a-95b | The division of a husband’s property among multiple wives and claimants |
| Chapter 11 | **אלמנה ניזונת** | 95b-101b | The rights of a widow based on the *ketuba* and how she acquires them  Women of flawed lineage |
| Chapter 12 | **הנושא את האשה** | 101b-104b | Laws of a widow, including rights stemming from her first *ketuba* and special financial arrangements |
| Chapter 13 | **שני דייני גזירות** | 104b-112b | Spouses’ right to relocate  The wife’s right to sustenance in the absence of her husband |

1. And *ketubot* are a popular genre of Judaica art [↑](#footnote-ref-1)
2. Over 30,000 dollars in 2022. [↑](#footnote-ref-2)
3. See daf 10a [↑](#footnote-ref-3)
4. The reading of the *ketuba* or the Rabbi’s speech serve to separate between the two components. [↑](#footnote-ref-4)
5. Commonly, a ring is used. Syrian Jews, among others, use a coin, [↑](#footnote-ref-5)
6. *Daf 12b* [↑](#footnote-ref-6)
7. Or the covering of the bride by the husband’s *tallit* in Sephardic and German ceremonies [↑](#footnote-ref-7)
8. *Daf*  40a discusses how these amounts are assessed. [↑](#footnote-ref-8)
9. *Daf* 39a discusses why she is not compensated for pain. [↑](#footnote-ref-9)