

The Cry of the Jewish Daughter

Investigating the severe prohibition
against wife beating.

“The cries of the daughters of our nation are heard from afar, concerning Jews who lift their hands to strike their wives. Who gave a man authority in this matter to strike his wife? Is he not commanded to not strike any member of the Jewish people?”

From the statutes of Rabeinu Peretz from Kurveil
(One of the *baalei HaTosfot*)

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Published by the “Bat Melech” non-profit organization
for assisting religious women in distress.

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י"ג שבט תשס"ה
(February, 2005)

"Chazon Yaakov"
**To Increase Torah and Kindness and
to Bring People Closer Together**
Headed by Harav Yaakov Yosef Shlita

I saw the Booklet called "Bat-Melech's Cry for Help" by my good friend, Noach Korman, Shlita with a collection of prohibitions from the Talmud and our rabbinic authorities regarding those who raise their hands to strike.

In this generation, where patience is a rare commodity, it would be worthwhile to distribute this booklet so that the people of Israel will be able to draw from the great power of "the voice is the voice of Yaakov" only (and the striking hands are of Esav), and I would like to congratulate the author: May he merit the privilege of increasing and enhancing the Torah. Amen.

With Torah blessings,
Yosef Yaakov

יום ו' לסדר 'שונאי בצע' (פרשת יתרו) תשס"ה
(February, 2005)

Rav Elchanan Perets
Rabbi of Bet Shemech B'
And Head of Rabbinical Courts

Letter of Congratulations

I had the honor of seeing the booklet, "Bat-Melech", that was written by my learned and intelligent friend, Harav Noach Korman Shlita, a man of considerable achievement, who is totally dedicated to bringing a cure to the daughters of Israel, and the contents of the booklet are true, written in good taste and arranged in proper order.

The painful matter of beatings and abuse must be fundamentally treated and this booklet serves as an important step in making people aware of the severity of the prohibition and to prevent many misdemeanors.

May G-d strengthen the hand of the author in all his endeavors and in this booklet and may he succeed in saving the oppressed from his oppressor and for this may he be blessed with the blessings of the prophet Yeshayahu, "Az yibaka keshachar orcha", to those who break the power of evil and in that way help the needy.

With blessings of the Torah
Elchanan Perets

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Chapter 1

The General Prohibition against Hitting any Jew

In *parashas* “Ki Seitzei” the Torah commands us concerning a person who is punished with lashes: “Arbaim yakenu lo yosif pen yosif leHakoto al aele maka raba veNikla achicha leEinecha“ Forty shall he strike him, he shall not add, lest he continue to strike him many blows beyond these, and your brother will be degraded in your eyes” (Devarim 25:3).

The **Rambam**¹ writes: “Whoever hits a kosher person of the Jewish people, whether child or adult, whether man or woman, he transgresses a negative commandment as the Torah says, ‘*lo yosif,*’ ‘He shall not add.

In his “Book of Mitzvot”² concerning the prohibition of a judge against giving more blows to a sinner than the Torah proscribes, the Rambam writes: “From this

¹ *Chovel Umazik* 5:1.

² *Lo ta'aseh* 300.

prohibition comes the prohibition against striking any Jew - if we are commanded to not strike a sinner (more than the Torah commands), how much more so another person!”

The “**Sefer Hachinuch**”³ writes: “The reason for this mitzvah is obvious, that it is not right to hit any person except according to his wickedness according to (the ruling of) the *beit din*.” He adds: “This prohibition to not hit any Jew applies in every place and every time, both to males and to females.”

The **Sifri**⁴ states that the prohibition of the above verse forbids the agent of *beis din* to add a slight blow, and how much more is it forbidden for regular people to hit indiscriminately.

³ Mitzvah 595.

⁴ *Parashat Ki Teitzei*.

Here is the ruling of the “**Shulchan Aruch:**”⁵ It is forbidden for a person to hit his fellow, and if he hits him he transgresses a negative command as it says, ‘*Pen yosif.*’ And if the Torah is particular concerning a wicked person to not hit him more than his wickedness (deserves), how much more so concerning the hitting of a righteous person.”

Chapter 2

The Seriousness of This Transgression

The Gemara⁶ warns: “Said Rabbi Chanina: Someone who slaps a Jew’s jaw is (considered) as if he slapped the jaw of the *Shechinah*⁷.”

The Gemara continues: “Said Reish Lakish: ‘Someone who raises his hand against his fellow, even if he did not strike him, is called a wicked person.’ Rabbi Chanina

⁵ “Choshen Mishpat” 420:1.

⁶ Sanhedrin 58b.

⁷ G-d’s Presence.

said: 'He is called a sinner.' Rav Huna said: 'His hand should be cut off, as it says, "*Uzero'a ramah tishaver*," "The arm that is raised will be smashed."

"Rav Huna cut off the hand (of someone who habitually hit people. See Rashi). Rabbi Elazar says: 'He has no rectification except burial, because it says, "*Ve'ish zero'a lo aretz*," "The man with an (aggressive) arm, to him (is worthy to be buried in) the land."

Chapter 3

The Prohibition against Hitting one's Wife in Particular

The prohibition against hitting one's fellow or any Jew, applies also to hitting one's wife and is even more severe. The **Beit Yosef**⁸ writes that someone who strikes his wife transgresses two negative commands, just like someone who hits any Jew.

⁸ "Even Ha'ezer" end of chapter 74.

Similarly, the **Remo**⁹ writes: “A man who hits his wife transgresses the same sin as someone who hits his fellow Jew... and it is not the way of Jews to hit their wives and it is an action worthy of gentiles.

The **Rashba** writes in his responsa:¹⁰ “A man may not hit his wife, because she is given to (improve her) life and not to afflict (her). And on the contrary, he must honor her more than himself.”

The **Maharam of Rutenberg** writes in a responsa:¹¹ “I have a tradition that if someone hits his wife, we should be more strict with him than with someone who hits his fellow Jew, **and this is the way of the gentiles**¹², **and G-d forbid that any Jew should do such a thing.**”

⁹ Ibid. chapter 154.

¹⁰ Volume 7 477, and in the “*Meyuchasot*,” 102.

¹¹ Prague edition, chapter 81.

¹² An example of such gentile conduct can be found in a collection of laws of Ardenberg, Flanders from the 14th century. It writes there that the husband is allowed to beat his wife, to cut incisions in her body from her

He adds in another responsa:¹³ “It is not the way of our people to hit their wives like the custom of the gentiles. G-d forbid that a Jew should do this thing.”

Rabeinu Simchah writes in a responsa:¹⁴ “Even if a person buys an *amah ivriyah* (a female, Jewish slave), it is as if he bought a master for himself, and how much more so concerning his wife. And for every blow one transgresses another transgression,¹⁵ and one’s punishment is greater than if one hit one’s fellow Jew.

So writes the **“Darkei Moshe:”**¹⁶ **“One should be very strict with someone who hits his wife, and his sin is great.”**

feet till her head, and to warm his feet in her blood. And if he deserts her and leaves her alone, this will not be against the law.

¹³ Crimona edition chapter 291.

¹⁴ Printed in Responsa of Maharam, Prague edition chapter 927.

¹⁵ He refers to this sin by the word *pen* (lest) found in the relevant verse.

¹⁶ “Even Ha’ezer” chapter 74.

The “**Sefer Agudah**” writes the same thing: “A husband who hits his wife, the Sages were very strict concerning him, and said that he transgresses the negative commandment, ‘*Lo yosif,*’ and they spoke at length and were very strict concerning this.”

This is what the **Radbaz**¹⁷ writes: “You already know that someone who hits his wife transgresses a negative command as it says, ‘*Pen yosif lehakoto.*’ Because why should a wife be different than a fellow Jew?”

In the responsa “**Binyamin Ze’ev**”¹⁸ it is written: “So we see that if someone hits his wife, his sin is too great to bear, because he did a tremendous evil in G-d’s eyes by transgressing the negative command of ‘*Lo yosif,*’.”

He says further: “So we see that whoever transgresses a decree or enactment of the *Chazal*, it is fitting to excommunicate him in order to not come near him... and

¹⁷ Section 3, 447.

¹⁸ Chapter 88.

it is obvious in my opinion, **that there is no one who transgresses the decrees of *Chazal* more than this person who hits her (his wife) constantly and insults her.** Because it is a decree of *Chazal* to not hit one's wife and to be careful of her honor as they say in Bava Metzia:¹⁹ “Said Rabbi Chelbo: ‘A person should always be careful of the honor of his wife.’ It also says there: ‘Said Rav: ‘A person should always be careful not to verbally afflict his wife, because since she cries easily, (the punishment for) upsetting her is near’ (See Rashi).

The **Rambam**²⁰ writes: “And also the sages commanded that a person should honor his wife more than himself, and love her like himself, and if he has money, he should increase her benefit according to the (amount of) money, and he should not over impose fear and awe on her, and he should talk quietly to her, and he should not be depressed and not be angry.”

¹⁹ 59a.

²⁰ *Ishut* 15:5.

The **Rambam**²¹ also writes: “But a husband who harmed his wife **is obligated to pay her (damages) immediately, (for) all the damage and all the pain and all the shame, and all (that he pays her) is hers.**

So rules the **Shulchan Aruch**.²² “A person is obliged to immediately pay (for) all the damages, her pain and her shame. And if she wants to give the money to someone else, she may give.”

Chapter 4

Concerning People who Disregard this Prohibition

Rabeinu Yona writes in “**Shaarei Teshuvah**.”²³ “There are negative commands that some of the common people do not observe their chief prohibitions, for example, wounding and hitting. Because someone who hits his

²¹ *Chovel Umazik* 4:16.

²² “Even Ha’ezer” 83:1.

²³ Third section 77.

fellow Jew transgresses two negative commands, as it says, ‘*Arba'im yakenu lo yosif, pen yosif.*’ **and many transgress these negative commands by hitting their wives.**”

Concerning this, **Rabeinu Peretz of Korveil**²⁴ (one of the *baalei Tosfot*) complained: “Who gave a man authority in this matter to strike his wife? Is he not commanded to not strike any member of the Jewish people?”

The “**Teshuvot Hageonim**” quotes **Rav Chanania Gaon** who rules concerning a man who injured his wife, that he is obligated (in damages) like anyone else who injured. He adds: “And if you claim that this applies to other people, but she is his wife and therefore he is allowed to hit her? Rav Chanania replied: ‘**He has no jurisdiction over her! Not to shame her and not to wound her,** because even concerning slaves it says, “*le’olam bahem ta’avodu,*” and the sages said – they are

²⁴ A manuscript quoted by the Responsa “Binyamin Ze’ev” chapter 88.

given to you for work and not to shame. (Therefore) concerning one's wife that one writes to her in the ketuvah: I will work, honor and feed you, is it not even more certain that one cannot shame or injure her.

The **Maharshal**²⁵ in his sefer "**Yam Shel Shlomo**" rejects the arguments of husbands who claim that their wives married them knowing they would be beaten and accepted it at the time of the marriage: **"And if you say that she married him on this condition (that he can beat her)? This would be like making a condition against what is written in the Torah, because he transgresses the negative commandment, 'Lo yosif,'** In other words, even in a case where a woman agrees to this in advance, there is not license because of this to hit her because one transgresses an explicit negative command from the Torah."

He adds: "Go and see what the sages obligate him (the husband to pay) if he injured her in conjugal relations,

²⁵ Bava Kama chapter 3 paragraph 21.

even though she was created for this from the beginning and it is obvious that he married her for this purpose. Even so, he has to be careful and hold himself back and control his inclination to not injure her. How much more is he forbidden to hit her because of his anger and fury?”

The “**Sefer Habrit**”²⁶ writes: “And even more, my son, be careful regarding this with your wife, the woman of your covenant. Because there are people who guard themselves from doing evil to any person, and love and honor them, but hate their wives and disparage them, and say that this is no sin because I am her husband, and my wife is like my body, and I am afflicting no one except myself. **But they do not understand that their sin is too heavy to bear, and more than if they had done so to another person.**

“Because why should women be excluded from the verse’s command, ‘*Lo tisna et achicha bilvavecha,*’ ‘Do not hate your brother in your heart?’ Or from the verse,

²⁶ Section 2, article 13 chapter 15.

‘Ve’ahavta lerei’acha kamocho,’ ‘You shall love your fellow like yourself?’ Do men need life and women not need life with their husbands, with love and companionship, peace and friendliness?

“But their punishment is stricter and their behavior is more disgusting, because she is bone of his bones and flesh of his flesh, and he cruelly oppresses his close relative. And it is forbidden to afflict one’s wife verbally, and certainly is it forbidden to raise one’s hand against her, G-d forbid!”

Chapter 5

Why it is Worse to Hit one's Wife than any other Person

It is clear in the *poskim*, that hitting one's wife is more severe than hitting other people. This is stated in the responsa of **Rabeinu Simchah**²⁷ quoted by **Rabeinu Yerucham**.²⁸

The **Maharam of Rutenberg** writes in his responsa²⁹ that hitting one's fellow Jew is prohibited, and “how much more is it forbidden to hit her (one's wife), because one transgresses the two negative commandments ‘*lo yosif*’ and ‘*pen yosif*.’ Because she is no less than anyone else, and on the contrary, it is a *kal vachomer*.”

He writes further: “And if a case came before us in *beit din*, that a woman complained that her husband hit her, we would be stricter on him than if he hit someone else.”

²⁷ Quoted in “Teshuvos Maharam,” Prague edition chapter 927.

²⁸ “Meisharim,” path 23 section 5.

²⁹ Carmona, chapter 297.

He writes in another responsa:³⁰ “I have a tradition that if someone hits his wife, we should be stricter than if he hit his fellow Jew.” The “**Terumas Hadeshen**”³¹ too, writes that one should be very strict concerning someone who hits his wife.

The Agudah³² writes: “The sages were very severe concerning a husband who hits his wife.”

And the **Darkei Moshe** there writes: “One should be very severe concerning someone who hits his wife, and it is a great sin... and so the **Sefer Habrit** writes that their punishment is more severe, and their behavior is regarded as more disgusting than those who hit their fellow Jews.”

³⁰ Prague edition, chapter 91.

³¹ Chapter 218.

³² End of Ketuvot.

Chapter 6

The Reasons why it is Worse to Hit one's Wife than any other Person

Various reasons are given in the *Rishonim* and *Acharonim* why this is so severe.

1. One is obligated to honor one's wife because *halacha* dictates that one is obligated to honor her more than one's oneself. And this is a *kal vachomer*. If a person is forbidden to hit people whom he has less of an obligation to honor, how much more is he forbidden to hit his wife.³³
2. The *ketuvah* obligates the husband to honor his wife and treat her fittingly.³⁴
3. A husband has a debt of gratitude to his wife³⁵ as the Gemara³⁶ says, "A well from which you drank water, do

³³ "Teshuvot Maharam," Cirmona, chapter 297. "Rabeinu Yerucham," *Meisharim*, path 23 section 5.

³⁴ "Teshuvot Maharam," Prague edition, chapter 91.

³⁵ "Teshuvot Binyamin Ze'ev," chapter 88.

not throw a stone inside it.” Rashi explains: “This means, if you needed something once, do not despise it afterwards, **and if we are told not to despise something we needed only once, how much more one’s wife who is like one’s body, that one needs her all the time, that one should not insult her and not hit her.**”

4. The wife is a bone of his bones and flesh of his flesh.³⁷

And he should relate to her with more love than with other people, and G-d forbid to do the opposite.

5. The woman lives with the husband alone and trusts him to protect and guard her, Therefore his sin is great if he himself, to whom she lifts her eyes, hits and troubles her.³⁸

6. Woman cry easily and suffer greatly when people insult and afflict them.³⁹ The Gemara (Ketuvot 62b) relates a fearful tale about Rav Rechumi who was delayed in the beit midrash and caused his wife, who was waiting

³⁶ Bava Kama 92b.

³⁷ “Sefer Habrit” part 2, article 13, chapter 15.

³⁸ Responsa of Rav Simchah of Spyer printed in “Teshuvot Maharam,” Prague edition, chapter 927. .

³⁹ Ibid.

for his return, to shed one tear. As a punishment for this, he fell off a roof and died. The Gemara⁴⁰ says: “A person should always be careful not to verbally afflict his wife, because since she cries easily, (the punishment for) upsetting her is near” (see Rashi).

Chapter 7

The Disgrace of Hitting one’s Wife

The rabbis of every generation related to wife beaters as lowly, disgusting people and as great sinners.

They referred to them as: “Evil people who treat Jewish daughters like slaves and have no shame.”⁴¹ They also refer to them as boors, empty people, drifters, may they rot. In addition, they apply to them the verse: “*Haratzachta vegam yarashta*,” “Have you murdered and

⁴⁰ Bava Metzia 59a.

⁴¹ “Peleh Yo’etz,” *Ahavat Ish ve’Isha, Haka’a*.

also claim inheritance (from your victim)?”⁴² They explain that a woman’s suffering from her husband’s violence is worse than death.

They write that this is the way of gentiles, and G-d forbid that any Jew behaves this way.⁴³ They also write that “his sin is too great to bear”⁴⁴ and that such a person has done tremendous evil in Hashem’s eyes.⁴⁵ They are excommunicated from the Heavenly *beit din* and need tremendous atonement. They are “a flourishing root of *rosh* and *la’ana*.”⁴⁶ Rashi writes that someone who hits his wife indicates that he is not of the seed of Avraham *Avinu*.⁴⁷ The book of Proverbs (11:17) writes: “He who oppresses his flesh (wife) is cruel.”

⁴² “Tashbetz,” part 2, *sha’ala* 9.

⁴³ “Teshovot Maharam,” Prague edition, page 91.

⁴⁴ “Teshuvot Rabeinu Simchah.”

⁴⁵ “Teshuvot Binyamin Ze’ev,” chapter 88.

⁴⁶ Bitter tasting plants. “Takanot Rabeinu Peretz.”

⁴⁷ “Teshuvot Rashi” quoted in “Teshuvot Chachmei Tzerfat veLotir,” chapter 40.

Chapter 8

The Obligation of the Community, its Leaders, and *Beit Din* to Relate to this Issue

It is the obligation of anyone who has the ability, to make efforts to save the oppressed from her oppressor.

The *sefer Peleh Yo'etz*⁴⁸ writes as follows: **“It is fitting for all town leaders to punish violent people, and especially evil people who cruelly hit their wives, may their souls rot, because they hold the daughters of Yisrael like captives and hit and trample before conjugal relations and have no shame. And it is fitting for whoever has the ability to punish them when possible.”**

Rabeinu Peretz,⁴⁹ one of the *baalei Tosfot* complained that there are women who cry and are not answered:

⁴⁸ *Erech haka'a*.

⁴⁹ “Takanot Rabeinu Peretz,” from a manuscript quoted by the “Teshuvot Binyamin Ze'ev,” chapter 88.

“The cries of the daughters of our nation are heard from afar, concerning Jews who lift their hands to strike their wives. Who gave a man authority in this matter to strike his wife? Is he not commanded to not strike any member of the Jewish people...

“And I heard from three rabbis, namely Rabeinu Shmuel, Rabainu Tam, and his brother the Rabeinu Yitzchak, who were the sons of Rabeinu Baruch.⁵⁰ And they heard that there were Jewish wives crying about this and no one in their community was responding. Therefore we decreed with the force of a decree and oath, that every such husband should be excommunicated at the request of the wife or at the request of her relatives... that no one should hit his wife in anger or wickedness or disparagingly, because such a thing should not be done in Yisrael. And if, G-d forbid, an evil person transgresses our command and is not afraid and trembling concerning this matter, we inform the *beit din* of that place to which the cry of that woman reached or according to the request

⁵⁰ Actually Meir.

of her relatives, that the *beit din* is obligated to help the wife and to obligate the husband to pay her support according to her status.”

The “**Teshuvat Hageonim**”⁵¹ writes that “*beit din* is **obliged** to rebuke him, and if he repeated his sin he should (be obligated to) divorce her and pay a *ketuvah*.”

And so writes “**Responsa Binyamin Ze’ev:**”⁵² “**It is fitting for anyone who has authority, to excommunicate him** (the husband) **with all the severity of an excommunication.**”

The “**Tashbatz**”⁵³ was asked concerning a woman whose husband harassed her and quarreled with her and starved her. The questioner said: “She cannot come to *beit din* because one of the rabbis threatened her that if she requests her *ketuva* in the *beit din* she will lose it.” This is

⁵¹ “Otzar Hage’onim” on Ketuvot, quoting Rav Yosef Ibn Avitor.

⁵² Chapter 88.

⁵³ Section 2 *teshuva* 8.

what he replied: “If, she goes to *beit din* and demands to be divorced and receive her *ketuva*, she loses nothing. And may G-d save us from shaming the miserable. **And it is fitting for *beit din* to reprimand him, and to apply this verse to him – ‘*Haratzachta vegam yarashta,*’ ‘Have you murdered and also inherited (your victim)?’** Because this is worse than death... And when Rabbi Yishmael passed away they said about him, ‘Daughters of Yisrael, weep for Rabbi Yishmael,’ because he used to seek their benefit and make them beloved to their husbands... **And a judge who forces her to return to her husband if she rebels, like the law of the Arabs, we excommunicate the judge.”**

The **Peleh Yo’etz**⁵⁴ writes concerning the obligation of the community and *beit din* to help beaten wives: “And if they can, they must take their wives away from their control if the wife wants it, **because a woman cannot**

⁵⁴ *Erech* “*Haka’a*”

live with a snake in one place, and it is a great mitzvah to save the oppressed from the oppressor.”

Chapter 9

The Obligation to Honor one’s Wife

The Gemara⁵⁵ writes: “The Sages taught: He who loves his wife like himself... concerning him the verse says, ‘*Veyadayta ki shalom ohalecha,*’ ‘And you will know that there is peace in your tent.’”

And the **Rambam**⁵⁶ writes: “And so the sages commanded that a person should honor his wife more than himself and love her like his body, and if he has money he should increase her benefit according to the money.”

⁵⁵ Yevamos 62b.

⁵⁶ *Ishut* 15:19.

The **Raavad**⁵⁷ writes: “Therefore it is fitting for a man to love his wife like himself, and to honor her, **and to have mercy on her, and to look after her that she is not harmed, as one looks after one’s own limbs.**”

The **Gemara**⁵⁸ writes: “A person should always eat and drink (according to) less than he has, and dress and cover himself with what he has, and honor his wife and children (with) more than he has, because they are dependent on him, and he is dependent on He who spoke and created the world.” It also writes:⁵⁹ “A person should always be careful concerning the honor of his wife, because blessing is only found in a man’s house because of his wife.”

The Gemara⁶⁰ adds: “A person should always be careful not to verbally afflict his wife, because since she cries

⁵⁷ “Baalei Hanefesh.” Introduction.

⁵⁸ Chulin 84b.

⁵⁹ Bava Metzia 59a.

⁶⁰ Ibid.

easily, (the punishment for) verbally afflicting her is near” (see Rashi).

The **Peleh Yo’etz**⁶¹ writes: “If quarreling and fighting between regular people is a terribly evil thing, how much doubly more when man and wife quarrel. And it is well known how the sages strove and how many decrees they enacted concerning the ways of peace, and especially to increase peace in the home. And the name of G-d that is written in sanctity is allowed to be erased in order to make peace between man and wife, and from this we can learn how much a person should bear to make peace in the home...

“And there is an obligation on an intelligent person to forgive his embarrassment if he is shamed, and to lower himself to honor his Creator, and to pursue peace with all his strength, because domestic strife is evil and causes evil to oneself and one’s children. And woe to him that he makes his children defective, because

⁶¹ *Erech Machloket.*

they are conceived out of quarrels and hate. And **a person should not seek to impose peace in the home by force**, and a man becomes wealthy if he increases the honor (of his wife) in his home.”

Chapter 10

The Obligation to Honor Even a Troublesome Wife

Husbands often rationalize that they may insult, shame, degrade and beat their wives, because when the sages commanded to respect one’s wife, they were referring to an obedient wife whom the husband favors and loves. But if she is unfavorable in her husband’s eyes, and he thinks that she is not fulfilling her duties as she should, the husband is allowed to beat her as he sees fit.

A partial representation of how the Sages address this attitude follows:

The **Gemara**⁶² discusses how certain Amoraim honored their wives even when they suffered from them. For example, Rabbi Chiya's wife used to make his life a misery, and nevertheless, whenever he found something she would like he bought it and brought it to her as a gift. And he said: "It is enough that they raise our children and save us from sin." In other words, because of these two things, a wife deserves honor even if she does not honor the husband and harasses him.

The *sefer Yam Shel Shlomo*⁶³ writes: "Behold, we find that some sages of Yisrael suffered many troubles from their wives and applied to themselves the verse, '*Mar Mimavet*,' '(A [bad] woman is) more bitter than death.' But they controlled themselves."

Rashi⁶⁴ writes in a responsa concerning a man who was disgusted by his wife because of a blemish that developed

⁶² Yevamos 63a.

⁶³ Bava Kama chapter 3 paragraph 21.

⁶⁴ "Teshuvot Chachmei Tzerafat veLotir," chapter 40.

on her face: “The man showed that he is a person of evil deeds, and showed that he is not of the seed of Avraham Avinu whose way was to have mercy on people, and how much more so on one’s wife who made a covenant with him. Because if he made up his mind to draw her close as he made up his mind to distance her, she would become favorable to him. Because this is what the sages say: ‘A place’s inhabitants find it favorable,’ even if it is a bad place with bad waters where the crops fail.

“Similarly, a woman is favorable to her husband, and fortunate is he that he merited to marry her and acquire the World to Come through her...

“And this person who despises a daughter of our Father in Heaven, as he testified concerning the connection between them, the law is that he should do with her according to what is customary with the daughters of Yisrael, and if he doesn’t (wish to) draw her near with mercy and honor, he should divorce her and give her a *ketuvah*.”

The *sefer Peleh Yo'etz*⁶⁵ writes: “We do not have to write concerning someone whom

G-d gave a wise, good wife, that certainly he will favor and love her. But the person who must beware, is someone who got a bad portion, a difficult wife. Because he has a great trial and he needs strength to behave with her in peace and friendship in honor of the *Shechina* (G-d's presence that dwells in the peaceful home)...

“And he should remember that fire has burnt cedars (great sages had difficult wives) so that the Gemara stated, ‘It is enough that they raise our children and save us from sin’...⁶⁶

“And if she disobeys him and angers him, he should control himself and not be angry with her, and certainly not shame, curse, or hit her, G-d forbid. Because that is

⁶⁵ *Erech Ahavat ish ve'ishto.*

⁶⁶ Yevamot 63a.

the way of boors, and empty and impulsive people, and a person who does so is only harming himself. He should only rebuke her softly and sweetly, and at any rate bear her yoke and be a person who is shamed and doesn't shame others. And he should accept the Heavenly judgment happily, because is Hashem who gives a man his wife...

and "The way to keep quarrels from one's home is to not be all that particular about domestic expenses and worry about every cent. **Because blessing does not rest on a house except because of one's wife.** And peace in the home is so important that it is permitted to erase G-d's great name to bring peace between man and wife. Therefore, **a person should not try and do things by force** to remove bad from his home, and make the *Shechinah* rest on his home."

He also writes:⁶⁷ "And even if she is a bad wife with no sense, who deliberately angers him and makes great

⁶⁷ "Peleh Yo'etz," rules 1.

expenses and suchlike... **nevertheless he should bear the yoke with great patience**, because domestic peace is very important, and one should honor one's wife in honor of the *Shechina*... If someone does this in this world, he will find rest and G-d will give him blessing.”

Chapter 11

The Punishment Mentioned in *Halachah* Concerning a Husband who Hits his Wife

The punishments given to husband who hits his wife to force him to treat her respectfully, include separating him from her, forcing him to give a divorce, forcing him to pay more than is obligated by the *ketuvah*, physical punishment, fines and excommunication.

Some *Rishonim* hold that *beit din* hits the wife-beating husband and forces him to give a divorce.

Rabeinu Simcha⁶⁸ has the view that one hits and forces the husband, and so does **Tosfos**⁶⁹ and the **Maharam**.⁷⁰

However, even those who do not say that we hit and force the husband to divorce his wife, do not allow him to continue beating her. **And all of them agree that we are severe and severely punish the husband and obligate him to give a divorce.**

Thus after quoting **Rabeinu Simcha**, the **Radbaz**⁷¹ writes: “But what should (the *beit din*) do? They (threaten to) excommunicate him so that he stops beating. If he stops, well and good, and if not, we announce that he is excommunicated. If he repents well and good, and if not, we fine him that he must pay her *ketuvah*. If he repents, well and good, And if not we get a gentile to give him corporeal punishment because he transgressed, ‘*Lo yosif*

⁶⁸ “Teshuvos Maharam,” Prague 927.

⁶⁹ Ketuvot 70a, *d”h Yostzi veyiten*.

⁷⁰ Prague chapter 91. Cirmona chapter 291.

⁷¹ Section 4 chapter 157.

lehakoto.’ And we imprison up because he hit her, and we do not mention that he should divorce his wife at all. And if he gets up and divorces her - that is not considered by force.”

Physical and Financial Penalties

Punishments concerning his body, money and excommunication are found in the *Gaonim*, the *Rishonim* and the *Acharonim* in many places and we will specify.

We saw earlier that hitting anyone contravenes a negative commandment for which one is liable to receive lashes (above chapter 1).

The **Gemara Sanhedrin**⁷² writes: “Rav Huna said: His hand should be cut off.” And the Gemara actually brings a case where “Rav Huna cut off his hand (of a violent person).” And Rashi explains: “They fined him in this way. As we said earlier, *beit din* used to give lashes and

⁷² 58b.

punish even if it was not prescribed by the Torah, in order to make a barrier and fence concerning the matter.”

Concerning beating one’s wife in particular, **Rabeinu Simcha**⁷³ writes that we punish the husband as follows: “Give him a severe fine that affects his body and finances for what he transgressed. Indeed, he needs a great atonement and you should be severe with him according to what you estimate he can bear... And if the husband does not maintain peace, and continues to beat and shame her, we agree with them **that he should be excommunicated in the Heavenly *beit din* and in the *beit din* below**, and they should force him through gentiles to give a divorce.”

The **Beit Yosef**⁷⁴ quotes **Rabeinu Yerucham** who writes: **“If someone does this he should be excommunicated, and cut off, and beaten and punished with all kinds of**

⁷³ “Teshuvot Maharam,” Prague 927.

⁷⁴ “Even He’ezer,” chapter 154.

hard punishments. And even to cut off his hand if he is habitual in this. And if she wants a divorce, he must divorce her and give a *ketuvah*.”

Similarly, it is written in the “**Teshuvot HaGe’onim**”⁷⁵ that we fine the husband according to his wealth and property, and the woman can do what she wishes with it (the money), so long as she does not give it as a gift.

And the **Remo**⁷⁶ writes: “If a man hits his wife, it is as great a sin as hitting his fellow Jew. And if he is habitual in this, the *beit din* should beat him, and excommunicate him, and afflict him with all kinds of oppression and force. And make him swear not to do it again.”

Similarly, the “**Sefer Aguda**”⁷⁷ writes: “Therefore, **he should promise her with financial guarantees that he**

⁷⁵ “Otzar Hagaonim” to *massechet* Ketuvot 477.

⁷⁶ 154:3.

⁷⁷ End of Ketuvot.

will hit her no more. And if he does not want to promise her, he should divorce her and give a *ketuvah*.”

Chapter 12

The Obligation of a Husband to Give support and Pay the *Ketuvah* of a Wife who Fled from him, and the Law of a Wife who Refuses to Fulfill her Duties because of a husbands violence.

If a woman is forced to flee from her violent husband, the husband remains obliged concerning providing her food and *ketuvah*, and she does not have the status of a rebellious wife at all.

This is what the **Rashba**⁷⁸ writes in his responsa: “Answer: That which Rachel argues that he should not hit or shame her from now on, and if not, she will not return to him, **she is in the right**. Because whoever hits (his wife) not in the way (of hitting) decent wives, and not

⁷⁸ Section 4, 113.

because she did him any harm, as she claims, if this matter is known (that he hits her), **we do not judge her as a rebellious wife**, because it is not right that he (the husband) should trample and eat like a wild animal, and hit and rape, **and this is not rebellion because she fled because of the beating.**”

In another responsa⁷⁹ the Rashba adds: “If he (the husband) beats and harasses her not in accordance to *halachah*, and she flees, she is in the right because a person cannot live together with a snake.”

The responsa of the **Radbaz**⁸⁰ discusses a woman who refused to leave her father’s house until her husband swore that he would not beat her: **“Therefore she is in the right in not wanting to leave until he swears that he will not hit her, because a person cannot live together with a snake.”**

⁷⁹ “*Meyuchasot*,” 102.

⁸⁰ Section 3, 447.

The **Remo**⁸¹ writes: “And if she left his (the husband’s) home and borrowed money and ate, if she left because he was always hitting her, he is obligated to pay.” Similarly, the responsa of the **Maharam**⁸² writes: “It is obvious that he has to pay all that she borrowed and ate.”

The **Remo**⁸³ also writes: “If she had a quarrel with the husband and does not live with him and the reason she does not return is because of him, and she borrowed for food, he must pay.”

The **Tashbatz**⁸⁴ writes: “Nevertheless, if she, because of all her anger went to *beit din* and demanded to be divorced and get her *ketuva*, she loses nothing... **and the judge who forces her to return to her husband like the**

⁸¹ Even Ha’ezer 144:3.

⁸² Cirmona, chapter 296.

⁸³ “Even Ha’ezer,” 70:12.

⁸⁴ Section 2, responsa 9.

**law of the Arabs, we excommunicate the judge. And
may G-d save us from shaming the miserable.”**