Talmud - Mas. Yevamoth 2a

C H A P T E R I

MISHNAH. FIFTEEN [CATEGORIES OF] WOMEN EXEMPT THEIR RIVALS[1] AND THE RIVALS OF THEIR RIVALS[2] AND SO ON, AD INFINITUM,[3] FROM THE HALIZAH[4] AND FROM THE LEVIRATE MARRIAGE;[5] AND THESE ARE THEY: HIS DAUGHTER,[6] THE DAUGHTER OF HIS DAUGHTER[7] AND THE DAUGHTER OF HIS SON;[7] THE DAUGHTER OF HIS WIFE,[8] THE DAUGHTER OF HER SON AND THE DAUGHTER OF HER DAUGHTER; HIS MOTHER-IN-LAW,[9] HIS MOTHER-IN-LAW'S MOTHER,[10] AND HIS FATHER-IN-LAW'S MOTHER;[10] HIS MATERNAL SISTER,[11] HIS MOTHER'S SISTER,[11] HIS WIFE'S SISTER AND HIS MATERNAL BROTHER'S WIFE;[12]

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(1) Heb., zarah, צרה 'rival'. Where a husband has move than one wife, each woman is a zarah in relation to the other. The term is derived from צרר which signifies oppression, hence 'rival', 'adversary', as in I Sam. I, 6 (cf. Kimhi a.l.). or 'to tie up', 'to bind', hence 'associate', 'co-wife'.

(2) The co-wives of a rival through a second marriage.

(3) עד סוף העולם lit., 'to the end of the world'.

(4) חלצה (rt. חלץ, 'to take off' or 'to loosen'), the ceremony of drawing off the shoe of the brother of her husband who died without issue. According to Biblical law (v. Deut. XXV, 5-9) the brother-in-law must either marry the widow (v. following note) or be subjected to halizah.

(5) יבום, rt. יבם 'to marry the levir'. Any woman coming under the fifteen categories enumerated below is not only herself exempt from halizah and yibbum but exempts also her own rivals as well as the rivals of her rivals, ad infinitum, as explained anon.

(6) Who had been married to his brother who subsequently died childless. Since he is forbidden to marry his daughter he is thereby also forbidden to marry any of her rivals, the widows of his deceased childless brother. 'HIS DAUGHTER' includes even one born to him as a result of outrage, v. infra.

(7) Cf. previous note. All the fifteen categories enumerated are among the near relatives whom a man is forbidden to marry in accordance with the explicit and implicit prohibitions in Lev. XVIII, 6ff.

(8) From a former husband.

(9) Who, after the death of her husband, had married his brother who subsequently died childless.

(10) The prohibition to marry in this case is derived in Sanhedrin 75a from Lev. XVIII, 17.

(11) Who was married to his paternal brother. The laws of the levirate marriage and halizah are applicable to a paternal, but not to a maternal brother.

(12) Who, after the death of her husband, had married his paternal brother.

Talmud - Mas. Yevamoth 2b

THE WIFE OF HIS BROTHER WHO WAS NOT HIS CONTEMPORARY,[1] AND HIS DAUGHTER-IN-LAW.[2] ALL THESE EXEMPT THEIR RIVALS AND THE RIVALS OF THEIR RIVALS, AND SO ON, AD INFINITUM, FROM THE HALIZAH AND FROM THE LEVIRATE MARRIAGE. IF, HOWEVER, ANY AMONG THESE[3] DIED,[4] OR MADE A DECLARATION OF REFUSAL,[5] OR WERE DIVORCED, OR WERE FOUND INCAPABLE OF PROCREATION, THEIR RIVALS ARE PERMITTED;[6] THOUGH, OF COURSE, ONE CANNOT SAY OF A MAN'S MOTHER-IN-LAW, OF THE MOTHER OF HIS MOTHER-IN-LAW AND OF THE MOTHER OF HIS FATHER-IN-LAW THAT THEY WERE FOUND INCAPABLE OF PROCREATION OR THAT THEY MADE A DECLARATION OF REFUSAL.[7]

HOW IS THE EXEMPTION OF THEIR RIVALS [BY THE WOMEN MENTIONED], TO BE UNDERSTOOD? IF A MAN'S DAUGHTER OR ANY OTHER OF THESE FORBIDDEN RELATIVES WAS MARRIED TO HIS BROTHER WHO HAD ALSO ANOTHER WIFE [AT THE TIME] WHEN HE DIED, THEN AS HIS DAUGHTER IS EXEMPT SO IS HER RIVAL

EXEMPT. IF HIS DAUGHTER'S RIVAL WENT AND MARRIED A SECOND BROTHER OF HIS,[8] WHO ALSO HAD YET ANOTHER WIFE WHEN HE DIED, THEN AS THE RIVAL OF HIS DAUGHTER IS EXEMPT SO IS ALSO HIS DAUGHTER'S RIVAL'S RIVAL EXEMPT, EVEN IF THERE WERE A HUNDRED [BROTHERS].[9]

HOW [IS ONE TO UNDERSTAND THE STATEMENT THAT] IF THEY HAD DIED, THEIR RIVALS ARE PERMITTED?[10] IF A MAN'S DAUGHTER OR ANY OTHER OF THESE FORBIDDEN RELATIVES WAS MARRIED TO HIS BROTHER WHO HAD ALSO ANOTHER WIFE, THEN, IF HIS DAUGHTER DIED OR WAS DIVORCED, AND HIS BROTHER DIED SUBSEQUENTLY, HER RIVAL IS PERMITTED.[10]

THE RIVAL OF ANY ONE WHO IS ENTITLED TO MAKE A DECLARATION OF REFUSAL[11] BUT DID NOT EXERCISE HER RIGHT, MUST PERFORM HALIZAH [IF HER HUSBAND DIED CHILDLESS], AND MAY NOT CONTRACT LEVIRATE MARRIAGE.[12]

GEMARA. Consider: All these[13] are deduced from the [exemption of] a wife's sister.[14] Why then was not HIS WIFE'S SISTER mentioned[15] first?[16] And if it be replied that the Tanna enumerated[17] [the forbidden relatives] in the order of the degrees of their respective severity,[18] and that it [our Mishnah] represents the view of R. Simeon who regards burning[19] as the severest,[20] [it may be retorted that], if that is the case,[21] HIS MOTHER-IN-LAW should have been mentioned[16] first, since [Scripture] enunciated the principle of burning in the case of a mother-in-law.[22] And, furthermore, HIS DAUGHTER-IN-LAW should have come[15] immediately after HIS MOTHER-IN-LAW, since, next to burning, stoning[23] is the severest penalty! — But [this in fact is the proper reply]: Since [the prohibition of intercourse with] 'HIS DAUGHTER'[24] has been arrived at by exposition[25] it is given preference.[26]

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(1) Lit., 'in his world', i.e., who died before he was born. Such a brother's widow and her rivals etc. are exempt. If, for instance, C was born after his brother A had died childless, so that his widow, N married (in accordance with the laws of the levirate marriage) a contemporary brother of his, B, who had another wife, or wives, and B also died childless, all B's widows are exempt from halizah and yibbum as far as C is concerned on account of N who is forbidden to him.

(2) Who married his brother after the death of his son. The marriage of a daughter-in-law is forbidden for ever, even after the death of one's son.

(3) Lit., '(in the case of) all of them'.

(4) Prior to the death of her husband who subsequently died childless.

(5) Such a declaration, mi'un מיאון, may be made against her husband (without any further necessity for a divorce) by a wife, while she is a minor, or as soon as she becomes of age, prior to cohabitation, in cases where she was betrothed either (a) as an orphan, by her mother or brothers or (b) even in the lifetime of her father (v. infra 109a) if she was once divorced (after her father had contracted for her a betrothal) and was betrothed again while still a minor.

(6) I.e., levirate marriage may be contracted, or halizah must be performed.

(7) For, having given birth they must be of age.

(8) Whenever one of the surviving brothers is not related to either of the widows, but another brother is, it is his duty to perform the levirate marriage or to submit to halizah.

(9) Everyone of whom had also another wife or wives and the rival's rival married them in turn, ad infinitum.

(10) V. p. 2, n. 7.

(11) A minor (V. supra, p. 2, n. 6).

(12) V. Gemara infra.

(13) Exemptions enumerated in our Mishnah.

(14) V. infra.

(15) Lit., 'let him teach'.

(16) In the list.

(17) Lit., 'took'.

(18) The degree of the severity of the penalty incurred by sexual intercourse with one of these relatives.

(19) The death penalty incurred for sexual intercourse with one of the first eight categories enumerated in our Mishnah. V. Sanh. 75a.

(20) Of the four death penalties. V. Sanh. 49b.

(21) Lit., 'if so'.

(22) Lev. XX, 14.

(23) The penalty for intercourse with one's daughter-in-law. V. Sanh. 53a.

(24) I.e., born as a result of outrage. V. supra p. 1, n. 6.

(25) V. infra.

(26) Lit., 'beloved to him'.

Talmud - Mas. Yevamoth 3a

[The law, surely,] concerning all the others also was arrived at[1] by exposition![2] — Granted that in respect of [exemption from] the levirate marriage [the law in relation to them] was arrived at by exposition, the principle of prohibition [of sexual intercourse] with them has been explicitly enunciated in Scripture, [while as regards] his daughter[3] the very principle underlying the prohibition [of intercourse with her] has been arrived at by exposition; for Raba[4] stated: R. Isaac b. Abdimi told me, 'Hennah[5] is derived from hennah[6] and zimmah[7] is derived from zimmah'.[8]

Now that it has been stated that preference is given to whatever is arrived at by exposition, the Tanna should have placed[9] HIS WIFE'S SISTER last![10] — As he was dealing with a prohibition due to sisterhood[11] he mentioned also HIS WIFE'S SISTER. Then let him relegate[9] the entire passage[12] to the end![13] — But [this is really the explanation]: The Tanna follows the order of the respective degrees of kinship. He, therefore, mentions [first] HIS DAUGHTER, THE DAUGHTER OF HIS DAUGHTER AND THE DAUGHTER OF HIS SON because they are his own next of kin; and since he enumerated three generations of his relatives in descending order he enumerated also three generations of her[14] relatives in descending order. Having enumerated three generations of her[14] relatives in descending order he proceeded to enumerate also three generations of her relatives in ascending order. He then mentions HIS SISTER and HIS MOTHER'S SISTER who are his blood[15] relatives;[16] and while dealing with prohibitions due to brotherhood he also mentions HIS WIFE'S SISTER. And it would indeed have been proper that HIS DAUGHTER-IN-LAW should be placed before THE WIFE OF HIS BROTHER WHO WAS NOT HIS CONTEMPORARY, since it is not on account of kinship[17] that the latter is forbidden, but as he was dealing with a prohibition due to brotherhood he mentioned also THE WIFE OF HIS BROTHER WHO WAS NOT HIS CONTEMPORARY and then mentioned HIS DAUGHTER-IN-LAW.

What argument can be advanced for using[18] the expression EXEMPT[19] and not that of[20] 'prohibit'?[21] — If 'prohibit' had been used it might have been assumed that the levirate marriage only was forbidden but that halizah[22] must nevertheless be performed,[23] hence it was taught[24] [that halizah also need not be performed]. Let it then be stated,[25] 'She is forbidden to perform halizah![26] — No harm, surely, is thereby done.[27] But why indeed should not [the expression of prohibition be applicable to halizah]? If you were to say that halizah is permissible, [one might say that] levirate marriage is also permitted![28] — As a rival[29] is forbidden only where the commandment [of the levirate marriage] is applicable but is permitted where the commandment is not applicable,[30] it was therefore necessary to use the expression, EXEMPT.[31]

What justification is there for stating, FROM THE HALIZAH AND FROM THE LEVIRATE MARRIAGE when it would have been sufficient to state[32] FROM THE LEVIRATE MARRIAGE only?[33] — If FROM THE LEVIRATE MARRIAGE only had been stated it might have been assumed that she must perform halizah[34] though she is exempt from the levirate marriage, hence it was taught[35] that whoever is subject[36] to the obligation of levirate marriage is also subject to halizah and whosoever is not subject to the obligation of the levirate marriage is not subject to halizah.

Let it [first] be stated,[37] FROM THE LEVIRATE MARRIAGE [and then] FROM THE HALIZAH,[38] or else only FROM THE HALIZAH?[39] — This Mishnah represents the view of Abba Saul who maintains that the commandment of halizah takes precedence over that of levirate marriage.[40]

What [was intended] to be excluded [by the] numeral at the beginning[41] and what [again was intended] to be excluded [by the] numeral at the end?[42]

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(1) In respect to their exemption from the levirate marriage.

(2) By deduction from the law of a wife's sister.

(3) V. n. 2.

(4) Others, 'Rab', who was a disciple of R. Isaac b. Abdimi, v. Tosaf. s.v. דאמר a.l.

(5) הנה ('they' or 'theirs') in Lev. XVIII, 10 which deals according to Talmudic interpretation with the daughter of his son, or of his daughter that was born from an outraged woman, but not with the daughter herself.

(6) Ibid. v. 17 which places a daughter on the same footing as a son's and a daughter's daughter. By this analogy the inference is arrived at that intercourse even with a daughter from an outraged woman is forbidden.

(7) זמה ('lewdness' or 'wickedness'), ibid. where the penalty of burning is not mentioned.

(8) Ibid. XX, 14 where the penalty of burning with fire is explicitly stated. Thus it is shown that the very foundation of the prohibition of sexual intercourse with a daughter from an outraged woman, as well as the death penalty of burning which the crime involves, are entirely dependent on inferences arrived at by exposition, v. Sanh. 51a.

(9) Lit., 'let him teach'.

(10) In the list in our Mishnah; since, as will be shewn infra, the exemption from levirate marriage in respect of all the others is derived by exposition from 'his wife's sister'.

(11) 'His mother's sister', v. our Mishnah.

(12) Which deals with the prohibitions through sisterhood.

(13) Of the list.

(14) His wife's.

(15) Lit., 'his own'.

(16) While a daughter-in-law is not consanguineous.

(17) A daughter-in-law should, consequently, receive priority.

(18) In our Mishnah.

(19) Which might imply that the levirate marriage in these cases is not obligatory but optional.

(20) v. supra p. 4, n. 13.

(21) Since, in fact, no marriage with a deceased brother's widow is permitted whenever the obligation of the levirate marriage does not exist.

(22) V. Glos.

(23) Since a prohibition could not very well apply to halizah which is a harmless act, the expression of 'prohibit' in respect of halizah would have been interpreted as a 'prohibition to be married to anyone before halizah had been performed'.

(24) By the use of the expression, 'exempt'.

(25) In our Mishnah.

(26) And, consequently, the expression 'prohibit' which is preferable to that of 'exempt' (v. supra notes 6 and 8) could well be used for the levirate marriage.

(27) Lit., 'what does he do', i.e., there is no reason why halizah should be forbidden. Hence the expression of 'prohibit' could not properly be used.

(28) The expression of 'prohibit' in relation to halizah could, consequently, properly have been used. Why then was 'exempt' preferred to 'prohibit'?

(29) Of one's daughter, for instance.

(30) If his daughter, e.g., had married one who was not his near of kin, her rival, on the death of her husband, is not forbidden to marry the father; v. infra 13a.

(31) 'Prohibit' might have implied that a daughter, e.g., always causes her rival to be prohibited to her father whether the

precept of the levirate marriage is applicable or not.

(32) Lit., 'let him teach'.

(33) It is obvious that if one is exempt from the levirate marriage there could be no question of being subject to halizah which is only the result of a refusal to contract the prescribed marriage.

(34) In order that the law of the levirate marriage be not entirely abrogated.

(35) By the use of the expression, exempt'.

(36) Lit., 'goes up' sc. to the gate, i.e., the court (cf. Deut. XXV, 7.)

(37) In our Mishnah.

(38) The marriage surely is of greater importance than the halizah, the latter being only an alternative of the former. V. Deut. XXV. 7.

(39) The exemption from the marriage being then self-evident.

(40) Infra 39b, 109a. And if only FROM THE HALIZAH had been stated, there would be no basis for this inference.

(41) Of our Mishnah, 'FIFTEEN'.

(42) Of the list; 'ALL THESE', implying the 'FIFTEEN' mentioned. If nothing were to be excluded, there would be no need for the addition of a cardinal at the beginning, or of a reference to it at the end of a list which presumably enumerated all possible cases.

Talmud - Mas. Yevamoth 3b

— [They were intended] to exclude the respective rulings of Rab and R. Assi.[1] What, [however, do the numerals] exclude according to Rab and R. Assi? — If they share each other's views, one numeral would serve to exclude the rival of one who made a declaration of refusal,[2] and the other to exclude the rival of a wife whom [her husband] remarried after having divorced her.[3] If they do not share the views of each other, [each would regard] one [numeral as serving] to exclude the ruling of his colleague;[4] and the other numeral, as serving to exclude either the rival of one who made a declaration of refusal[2] or the rival of a wife whom [her husband] remarried after having divorced her.[3]

According to Rab and R. Assi these[5] should have been enumerated in our Mishnah! — [This could not be done] because the law of the rival's rival[6] is not applicable [to these cases].[7]

Whence is this law[8] derived?[9] — [From] what our Rabbis taught: And thou shalt not take a woman to her sister, to be a rival to her, to uncover her nakedness, 'aleha [beside her] in her lifetime,[10] what need was there for the expression ''aleha'?[11] Because it was stated, Her husband's brother shall go in 'aleha [unto her],[12] it might have been imagined[13] that Scripture[14] speaks even of any of all the forbidden relatives enumerated in the Torah. Hence it was here[10] stated, ''aleha'[15] and elsewhere[12] it was also stated ''aleha'.[16] Just as elsewhere it is in the case of a precept[17] so here also it is in the case of a precept;[17] and yet did not the All Merciful say, Thou shalt not take.[18] We are thus in a position to know the law concerning herself;[19] whence do we derive the law concerning her rival? — From the Scriptural expression, To be a rival to her.[10] We have so far deduced the law concerning her rival only. Whence do we arrive at the law concerning her rival's rival? — From the fact that Scripture uses the expression li-zeror[20] and not that of la-zor.[21] Thus we have deduced the law concerning a wife's sister, whence is the law concerning the other forbidden relatives to be inferred? — It can be answered: As a wife's sister is singled out in that she is a forbidden relative, the penalty for presumptuous intercourse with her is kareth[22] and for unwitting intercourse a sin-offering, and she is forbidden to the levir, so also any woman who is a forbidden relative, and the penalty for presumptuous intercourse with whom is kareth[22] and for unwitting intercourse a sin-offering, is forbidden to the levir. Now we know the law concerning themselves only;[23] whence is the law con cerning their rivals deduced? — It may be answered: As a wife's sister is singled out in that she is a forbidden relative, kareth is incurred by presumptuous intercourse with her and a sin-offering for unwitting intercourse, and she is forbidden to the levir, and her rival is forbidden, so also in the case of any woman who is a forbidden relative, and for presumptuous intercourse with

whom is incurred the penalty of kareth and for unwitting intercourse a sin-offering, and who is forbidden to the levir, her rival is forbidden. Hence have the Sages said: FIFTEEN [CATEGORIES OF] WOMEN EXEMPT THEIR RIVALS AND THEIR RIVALS' RIVALS, AND SO ON, AD INFINITUM, FROM THE HALIZAH AND FROM THE LEVIRATE MARRIAGE. One might assume that the six more rigidly forbidden relatives[24] are also included in the ruling,[25] so that their rivals also[26] are forbidden,[27] hence it must be stated:[28] As a wife's sister is singled out in that she is a forbidden relative, kareth is incurred for presumptuous intercourse with her and a sin-offering for unwitting intercourse, she may be married to the other brothers, but is forbidden to the levir, and her rival is forbidden, so also in the case of any woman who is a forbidden relative, for presumptuous intercourse with whom is incurred the penalty of kareth and for unwitting intercourse a sin-offering, who may marry one of the other brothers, but is forbidden to the levir, her rival also is forbidden; excluded, however, are the six more rigidly forbidden relatives. Since they may not be married to the other brothers, their rivals are permitted; for [the law of] 'rival'[29] is applicable only [to widows] of a brother.[30]

Thus we have deduced the prohibition. Whence, however, is the penalty inferred? — Scripture said, For whosoever shall do any of these abominations etc. [shall be cut off from among their people.][31]

The reason,[32] then, is because the All Merciful has written, ''aleha',[33] otherwise it would have been said that levirate marriage may be contracted with the wife's sister; what is the reason? Is it because we assume that a positive precept,[34] supersedes a negative precept?[35] Surely, it is possible that[36] the rule that a positive precept supersedes a negative precept applies only where the latter is a mere prohibition; does it, however, supersede a prohibition involving the penalty of kareth?[35] Furthermore, whence is it derived that it may supersede even a mere prohibition?

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(1) Infra 11a and 12a.

(2) A minor who was one of the wives of a deceased childless brother, on declaring her refusal to marry the levir, exempts thereby her rivals from the levirate marriage but not from halizah.

(3) If one of the widows of a deceased brother was divorced once, and then remarried to him after she had married another man, she causes the exemption of her rivals from the levirate marriage, v. infra 11b. The halizah, however, must be performed.

(4) According to Rab that of R. Assi, and vice versa.

(5) The subjects of their respective rulings, i.e., the sotah (v. Glos.) and the barren wife, who, they maintain, infra 11a, 11b, exempt their rivals both from the levirate marriage and from halizah.

(6) V. our Mishnah.

(7) Since neither a sotah nor a barren woman may marry any one of the brothers.

(8) Of our Mishnah, that forbidden relatives as well as their rivals and rivals' rivals, ad infinitum, are exempt from the levirate marriage and from halizah.

(9) Lit., 'whence these words'.

(10) Lev. XVIII, 18.

(11) Which does not add any point to the law enunciated.

(12) Deut. XXV, 5.

(13) Lit., 'I hear'.

(14) Since it drew no distinction between a brother's wife who was a forbidden relative and one that was not forbidden.

(15) I.e. , 'beside her'.

(16) I.e., 'unto her'. In both cases the respective terms 'beside her' and 'unto her' are expressed by the same Heb. word עליה.

(17) That of levirate marriage.

(18) Two sisters, Lev. XVIII, 18. The verse in Lev. thus means that the prohibition of marrying the wife's sister is in force even where she is his dead brother's widow, in regard to whom the precept, 'her husband's brother shall go in unto her', might apply.

(19) Lit., ‘there is not to me but she’, sc. the forbidden relative herself.
(20) לרור ‘to be a rival’,
(21) לצר ‘to oppress’, the longer form li-zeror implies many rivals, i.e., rivals of the rivals. The last question and answer are deleted by R. Tam and Nahmanides. Cf. הגהות הגר א
(22) V. Glos.
(23) The forbidden relatives.
(24) Enumerated infra 13a.
(25) Relating to the other forbidden relatives.
(26) If they and their rivals were married to a stranger.
(27) To marry the man whom the forbidden relatives themselves are not allowed to marry.
(28) Lit., ‘say’.
(29) I.e., the rival's exemption from the levirate marriage and halizah.
(30) Where one of the widows is a forbidden relative of one of the surviving brothers and no forbidden relative of the deceased. As the relative is forbidden to marry the brother, her rival also is forbidden to him as ‘his brother's wife’. Where the relative, however, is married to a stranger, her rival is permitted to those to whom the relative herself is forbidden.
(31) Lev. XVIII, 29.
(32) Why a wife's sister is forbidden the levirate marriage.
(33) V. the texts from Lev. and Deut. and the analogy supra.
(34) The commandment of the levirate marriage.
(35) The prohibition to marry one's wife's sister.
(36) Lit., ‘say’.

Talmud - Mas. Yevamoth 4a

— Because[1] it is written, Thou shalt not wear a mingled stuff . . .[2] Thou shalt make thee twisted cords,[3] and R. Eleazar said,[4] ‘Whence is the rule of proximity [of texts] derived from the Torah?[5] As it is said, They are established[6] for ever and ever, they are done in truth and uprightness.’[7] Furthermore, R. Shesheth stated[8] in the name of R. Eleazar who stated it in the name of R. Eleazar b. Azariah: Whence is it proved that a sister-in-law, who falls to the lot of a levir who is afflicted with boils, is not muzzled?[9] From the Biblical text, Thou shalt not muzzle the ox when he treadeth out the corn,[10] and in close proximity to it is written If brethren dwell together.[11] Furthermore R. Joseph said: Even he who does not base interpretations on the proximity [of Biblical texts] anywhere else does base them [on the texts] in Deuteronomy,[12] for R. Judah who does not elsewhere base any interpretations [on textual proximity], bases such interpretations on the Deuteronomic text.[13] And whence is it proved that elsewhere he[14] does not advance such interpretation?[15] — From what has been taught: Ben ‘Azzai said, It was stated, Thou shall not suffer a sorceress to live,[16] and it is also stated, Whosoever lieth with a beast shall surely be put to death;[17] one subject was placed near the other to indicate that as the man who lies with a beast is to suffer the death penalty of stoning so also is a sorceress to suffer the death penalty of stoning. Said R. Judah to him: Shall we, because one subject was placed in close proximity to the other, lead out a person[18] to be stoned? In truth[19] [the penalty of the sorceress is derived from the following]: The necromancer and the charmer were included among the sorcerers; why then were they mentioned separately?[20] In order that the others may be compared to them, and to tell you that as the necromancer and the charmer are subject to the death penalty of stoning,[20] so is a sorceress also subject to the penalty of stoning.

And whence is it proved that in Deuteronomy he[21] does advance such interpretation?[15] — From what we learned: A man may marry a woman who has been outraged or seduced by his father or his son. R. Judah prohibits in the case of a woman outraged or seduced by one's father.[22] And in connection with this, R. Giddal said in the name of Rab: What is R. Judah's reason? Because it is written, A man shall not take his father's wife, and shall not uncover his father's skirt,[23] the ‘skirt’ which his father saw he shall not uncover. And whence is it inferred that this is written with

reference to an outraged woman? — From the preceding section of the text where it is written, Then the man that lay with her shall give unto the damsel's father fifty shekels of silver[24] near which it is stated, A man shall not take etc.[25] And the Rabbis?[26] — If one text had occurred in close proximity to the other the exposition would have been justified;[27] now, however, that it does not occur in close proximity[28] [it must be concluded that] the context speaks of a woman who is awaiting the decision of the levir[29] and that, [in marrying such a woman, a son][30] transgresses two negative precepts.[31]

And what is the reason why [R. Judah] derives laws [from the proximity of texts] in Deuteronomy? — If you wish I might say: Because [there the deduction][32] is obvious; and if you prefer I might say: Because [there the text] is superfluous.[33] 'If you prefer I might say: Because [there the deduction] is obvious' , for, otherwise,[34] the All Merciful should have written the prohibition in the section of forbidden relatives. 'And if you prefer I might say: Because [there the text] is superfluous', for otherwise[35] the All Merciful should have written, A man shall not take his father's wife.[25] what need was there for adding,[36] And shall not uncover his father's skirt?[25]

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(1) This is an answer to the second question. The first is answered infra 5b.

(2) Deut. XXII, 11.

(3) Ibid. 12.

(4) V. Ber. 10a.

(5) Heb. Semukim סמוכים (rt. סמך 'to join'); i.e., the exegetical principle that we deduce laws from the proximity of Biblical texts.

(6) 'Semukim'.

(7) Ps. CXI, 8. The proximity of the two texts (Deut. XXII, 11 and 12) may consequently be taken to indicate that though the wearing of mingled stuff (linen and wool) is forbidden in ordinary cases (Deut. XXII, 11) it is nevertheless permitted in the case of the performance of a positive precept such as that of the making of 'twisted cords' or zizith (v. Glos.) on the four corners of a garment (ibid. v. 12).

(8) Mak. 23a.

(9) I.e., she is not prevented from objecting to the levirate marriage, and is entitled to halizah. 'Muzzled' (rt. חסם) is taken from Deut. XXV, 4 from which this law is derived.

(10) Deut. XXV, 4.

(11) Ibid. v. 5, forming the introduction to the law of halizah. Thus it has been shewn that a law may be based on the proximity of Biblical texts, and this confirms the conclusion in respect of 'mingled stuff' in zizith (v. Deut. XXII, 11).

(12) Where the texts of 'mingled stuff' and zizith occur.

(13) Ber. 21b. Cf. Pes. 67b.

(14) R. Judah.

(15) Interpretations based on semukim or proximity of texts.

(16) Ex. XXII, 17.

(17) Ibid. 18.

(18) Lit., 'this' sc. the sorceress.

(19) Lit., 'but'.

(20) V. Lev. XX, 27.

(21) R. Judah.

(22) Ber. 21a, infra 97a.

(23) Deut. XXIII, 1.

(24) Deut. XXII, 29.

(25) Deut. XXIII, 1.

(26) Represented by the view of the first Tanna who differs from R. Judah. How do they, in view of R. Judah's exposition, allow the marriage of a woman outraged or seduced by one's father?

(27) Lit., 'as you said'.

(28) Cur. edd. contain within parentheses: 'Since the text, A man shall not take his father's wife is written between them'.

(29) Whether he will marry her or consent to halizah.

(30) Of the levir for whose decision the woman is waiting.
(31) Infra 97a. One is that of marrying a woman who is virtually his father's wife being subject still to the levirate marriage, and the other is that of marrying an aunt, the wife of his father's deceased brother.
(32) From the proximity of the texts.
(33) Lit., 'free', 'disengaged'. i.e., unnecessary for the contexts and consequently free for interpretation and exposition.
(34) Lit., 'if so', i.e., if the text was meant to convey its plain meaning only.
(35) Cf. previous note.
(36) Lit., 'wherefore to me'.

Talmud - Mas. Yevamoth 4b

Hence it must be concluded that the text was meant to provide a superfluous text.[1]

Similarly in the case of zizith,[2] if you wish I might reply:[3] Because [there[4] the deduction] is obvious. And if you prefer I might reply:[5] Because [there[6] the text] is superfluous.[7] 'If you prefer I might say: Because [there the deduction] is obvious', for otherwise,[8] the All Merciful should have written [the precept] in the section of zizith;[9] with what other practical rule in view has he written it here?[10] 'And if you prefer, I might reply: Because [there the text] is superfluous', for observe: It is written, Neither shall there come upon thee a garment of two kinds of stuff mingled together.[11] What need then was there for stating, Thou shalt not wear a mingled stuff?[12] Hence it must be concluded that the object was to provide a superfluous text.[13]

But [surely] both these texts[14] are required? For if the All Merciful had only written, Neither shall there come upon thee[15] it might have been assumed that all kinds of 'putting on' were forbidden by the All Merciful, even that of clothes dealers,[16] hence the All Merciful, has written, Thou shalt not wear a mingled stuff,[17] [shewing that the 'putting on' must be] of the same nature as that of wearing for personal comfort. And if the All Merciful had only written, Thou shalt not wear[18] it might have been assumed that only wear [is forbidden] because the pleasure derived therefrom is great, but not mere 'putting on', hence the All Merciful has written, Neither shall there come upon thee![19] — If so,[20] the All Merciful should have written, 'Thou shalt not wear a mingled stuff' what need was there for adding, 'Wool and linen'? For[21] observe: It is written, Neither shall there come upon thee a garment of two kinds of stuff mingled together,[15] and in connection with this a Tanna of the School of R. Ishmael taught: Whereas garments generally[22] were mentioned in the Torah, and in one particular case[23] Scripture specified wool and linen,[23] all must consequently be understood as having been made of wool and linen, what need, then, was there for the All Merciful's specific mention of wool and linen? Consequently it must be concluded that its object was to provide a superfluous text.[24]

But the text[25] is still required [for another purpose]! For it might have been assumed [that the limitation[26] applies] only to 'putting on', where the benefit is not great, but that in respect of wear, the benefit from which is great, any two kinds were forbidden by the All Merciful, hence has the All Merciful written, 'wool and linen'![27] — If so, Scripture should have omitted it altogether[28] and [the law[29] would have been] deduced [by analogy between] 'mingled stuff'[30] and 'mingled stuff'[31] [the latter of which occurs in connection with the law] of 'putting on'.[32]

As to the Tanna of the School of R. Ishmael, is the reason [why 'mingled stuff' is permitted in zizith] because the All Merciful has written 'wool and linen', but if He had not done so, would it have been assumed that the All Merciful had forbidden two kinds of stuff in the zizith? But, surely. it is written, And they shall make them fringes in the corners of their garments[33] and a Tanna of the School of R. Ishmael [taught]: Wherever 'garment' [is written] such as is made of wool or flax [is meant], and yet the All Merciful said that in them 'purple' shall be inserted, and purple, surely, is wool. And whence is it deduced that purple is wool? Since linen[34] is flax, purple must be wool.[35] —

[The text] was necessary; for it might have been assumed [that the interpretation is] according to Raba. For Raba pointed out a contradiction: It is written, the corner,[36] [which implies that the fringes must be of the same] kind of [material as that of the] corner,[37] but then it is also written, wool and linen.[38] How then [are these texts to be reconciled?] Wool and linen discharge [the obligation to provide fringes] both for a garment of the same, as well as of a different kind of material, while other kinds [of material][39] discharge [the obligation for a garment made] of the same kind [of material] but not for one made of a different kind [of material].[40]

But the Tanna of the School of R. Ishmael,[41] surely, does not hold the same view as Raba![42] — [The text][43] is still necessary; for it might have been assumed that Raba's line of argument[44] should be followed: 'The corner' [implies that the fringes must be made of the same] kind of [material as the] corner, and that what the All Merciful meant was this: 'Make wool [fringes] for wool [garments] and linen ones for linen; only when you make wool fringes for wool garments you must dye them'; but no wool fringes may be made for linen or linen fringes for wool, hence the All Merciful has written 'wool and linen' [to indicate] that even wool fringes [may be] made for linen garments or linen fringes for woollen garments.[45]

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(1) V. supra note 10.

(2) V. Glos.

(3) To the question why R. Judah expounds semukim in Deuteronomy.

(4) In Deuteronomy.

(5) To the question why R. Judah expounds semukim in Deuteronomy.

(6) In Deuteronomy.

(7) V. p. 12, n. 10.

(8) Lit., 'if so', i.e., if the text was meant to convey its plain meaning only.

(9) V. Glos.

(10) None. Consequently it must have been intended for a deduction on the basis of semukim.

(11) Lev. XIX, 19.

(12) Deut. XXII, 11.

(13) V. p. 12, n. 10.

(14) Lev. XIX, 19 and Deut. XXII, 11.

(15) Lev. XIX, 19.

(16) Who put on garments for mere business display or transport and not for bodily comfort or protection.

(17) Deut. XXII, 11, emphasis on wear.

(18) Ibid.

(19) Since both texts, then, are required for the purpose mentioned, how could they be employed for the deduction of a new law?

(20) That the texts were required only for the purpose mentioned.

(21) Should it be suggested that the text was required to indicate that the 'mingled stuff' forbidden was that of wool and linen.

(22) Without specifying the material they are made of.

(23) With reference to plagues in garments, Lev. XIII, 47, 48.

(24) V. p. 12, n. 10, supra.

(25) 'Wool and linen' (Deut. XXII, 11).

(26) Of the materials to wool and linen.

(27) How, then, could this text which is required for another purpose be expounded on the basis of semukim?

(28) Lit., 'kept silence from it'.

(29) Which has just been enunciated, i.e., that only wool and linen are forbidden.

(30) Deut. XXII, 11.

(31) Lev. XIX, 19.

(32) As the latter applies to wool and linen only, so also the former.

(33) Num. XV, 38.

(34) In the description of the materials of the High Priests' garments (Ex. XXXIX, 1ff).
(35) As the garments were either of wool or flax, and linen (flax) was specified in the case of one, all the others must have been wool. Now since it has been shewn that purple is wool, it obviously follows that woollen zizith or fringes are permissible in a garment of flax. What was the need, then, for a specific text to prove the permissibility of mingling wool and flax in zizith?
(36) Num. XV, 38.
(37) I.e., if the material of the corner is wool the fringes must be wool; if of flax the fringes must be of flax.
(38) Cf. Deut. XXII, 11f: Mingled stuff, wool and linen thou shalt make the twisted cords, which shews that the fringes may be made either of wool or of flax whatever the material of the corner might be.
(39) Silk for instance.
(40) So also according to the Tanna of R. Ishmael's school, (as will be explained in the Gemara anon) if Scripture had not specified 'wool and linen' it might have been assumed that in a woollen garment the fringes must be made of wool while in a garment of flax they must be made of flax, hence wool and linen were specified to shew on the basis of semukim that mingled stuffs also are allowed in zizith.
(41) At the moment it is assumed that the suggestion is that he is in agreement with Raba's argument in all respects.
(42) For, according to him, since 'garment' denotes only such as is made of wool and linen, garments made of other materials require no fringes (zizith). What need, then, was there for the expression of wool and linen to differentiate these from other materials?
(43) Wool and linen.
(44) Though not his view, applying his method of reasoning only in regard to a garment made of wool or linen.
(45) I.e., that mingled stuffs are permissible in the performance of the precept of zizith.

Talmud - Mas. Yevamoth 5a

This[1] is satisfactory according to the view of the Tanna of the School of R. Ishmael;[2] as to the Rabbis,[3] however, how do they arrive at the deduction?[4] — They derive it from his head;[5] for it was taught: [Scripture stated], 'His head';[5] what need was there for it?[6] — Whereas it has been stated, Ye shall not round the corners of your head,[7] one might infer that [this law[8] applies to] a leper also, hence it was explicitly stated, his head;[9] and this Tanna is of the opinion that rounding all the head is also regarded as 'rounding'.[10] This [conclusion, however,] may be refuted: The reason why the prohibition of[11] 'rounding' [may be superseded is] because it is not applicable to everybody![12] — But [the inference] is derived from his beard;[13] as it was taught: 'His beard';[13] what need was there for stating it?[14] — Whereas it was said, Neither shall they shave off the corners of their beard,[15] one might infer that this prohibition applies also to a leprous priest,[16] hence it was explicitly stated, 'his beard'.[17] And since there is no object in applying it to a prohibition which is not incumbent upon everybody,[18] let it be applied to a prohibition which is incumbent upon all.[19] But this[20] is still required [for its own context]! For since it might have been assumed that as priests are different from [other people]. Scripture having imposed upon them additional commandments, and so even a prohibition which does not apply to everybody is not superseded in their case; [therefore] it was necessary to teach us that it does supersede.[21] — In truth the inference comes from 'his head' [in the manner deduced by] the following[22] Tanna. For It was taught: His head:[23] what need was there for mentioning it?[24] Whereas Scripture had stated, There shall no razor come upon his head,[25] one might infer that the same prohibition is applicable to a leprous nazirite[26] also, hence it was explicitly stated, 'his head'.[27] This,[28] however, may be refuted: The reason why a [leprous] nazirite [may shave his head] is because he is also in a position to obtain absolution.[29] For, were not this the reason,[30] what then of the accepted rule,[31] that no positive precept may supersede a negative and positive precept combined; why not deduce the contrary from the law[32] of the [leprous] nazirite?[33] Consequently, [it must be conceded that] the reason why no deduction may be made [from the law of the nazirite is] because it may be refuted [on the grounds] that in his case absolution is possible; so here also the refutation may be advanced, 'Since in his case absolution is possible'![34] — The deduction, in fact, is made

(1) The deduction from semukim that a positive precept supersedes a negative one.
(2) Since on the lines of his interpretation the text, 'wool and linen' is superfluous and consequently free for the deduction mentioned.
(3) Who do not interpret 'garment' as denoting such as is of wool and flax.
(4) The text, 'wool and linen', being required for the completion of the plain meaning of the text, there remains no superfluous expression for the deduction. V. supra n. 2.
(5) Lev. XIV, 9, dealing with the purification of the leper.
(6) It was previously stated, and shave off all his hair (Lev. XIV, 8) which obviously includes that of the head.
(7) Lev. XIX. 27.
(8) The prohibition to round the corners of the head.
(9) Indicating that, despite the general prohibition, it is the leper's duty to round his head.
(10) Though the text speaks of rounding the corners. Such a rounding then, though generally forbidden, is in the case of a leper, permitted, because Scripture explicitly stated 'shave all the hair of his head' (Lev. XIV, 9). Thus it has been proved that the positive precept of the shaving of the leper supersedes the prohibition of rounding off one's head. Similarly, in the case of the levirate marriage, it might have been assumed that the positive precept of marrying the deceased brother's widow supersedes the prohibition of marrying a wife's sister; hence the necessity for a special text (v. supra 3b end and p. 10, n. 7) to prove that it does not.
(11) Lit., 'what as to the negative (command)'.
(12) Lit., 'equal in all'; women being exempt. (V. Kid. 35b). The prohibition of the marriage of a wife's sister, however, is applicable to the man and to the woman, the brother-in-law as well as the sister-in-law.
(13) Which also occurs in the regulations for the purification of the leper. (V. Lev. XIV, 9).
(14) Seeing that it was previously mentioned (Lev. XIV, 8) that the leper must 'shave off all his hair', which obviously includes that of his beard.
(15) Lev. XXI, 5.
(16) The prohibition of shaving the corners of one's head having been addressed to the priests. V. Lev. XXI, 1ff.
(17) Indicating that in the case of a leprous priest the precept of shaving supersedes the prohibition of 'shaving'.
(18) That such a prohibition is superseded by a positive precept having been deduced supra from 'his head'.
(19) Thus it has been proved that a positive precept supersedes any prohibition even if the latter is generally applicable. Marriage between a levir and his deceased brother's widow who is his wife's sister might, consequently, have been assumed to be permitted had not an explicit text pointed to its prohibition.
(20) The text, 'his beard'.
(21) How, then, can the same text which is required for the purpose mentioned also be used for a general deduction.
(22) Lit., '(manner) of that'.
(23) Lev. XIV, 9.
(24) Cf. supra, p. 16, n. 7.
(25) Num. VI, 5 dealing with the laws of the nazirite.
(26) So Rashal. Cur. edd. read, 'leper and nazirite'.
(27) Thus it is proved that a positive precept supersedes a prohibition. Cf. supra, note 7.
(28) The deduction from the nazirite.
(29) Heb. she'elah שְׁאֵלָה 'request', i.e., the nazirite may request a qualified person to disallow his vow and thus avoid the prohibition of shaving.
(30) Lit., 'if you will not say so'.
(31) Lit., 'that which is established for us'.
(32) Lit., 'let it be deduced'.
(33) The shaving of a nazirite's head is forbidden (a) by the precept that he must grow his hair long and (b) by the prohibition of allowing a razor to come upon his head.
(34) Whence, then, is it proved that a positive precept supersedes a prohibition?

Talmud - Mas. Yevamoth 5b

from the first cited text:[1] Since[2] Scripture could have used the expression, Thou shalt make thee fringes,[3] what need was there for that of 'twisted cords'? Consequently it must have been intended

for the purpose of allowing that text to be used for the deduction.[4] But this[5] is required for the determination of the number [of threads, thus]:[6] 'Twisted cord' implies two threads,[7] [and so] 'twisted cords'[8] implies four threads, therefore,[9] one twisted cord is to be made [of the four] and from the middle of it separate threads[10] are to hang down![11] — If so,[12] Scripture should have stated, Thou shalt not wear a mingled stuff wool and linen:[13] what need was there to add 'together'?[13] Consequently it must have been intended for the purpose of allowing a free text for the deduction.[14] But this text too[15] is required for the deduction that two stitches[16] form a combination[17] and that one stitch does not! — If so, the All Merciful should have written, Thou shalt not wear wool and linen together; what need was there for inserting 'mingled stuff'? Hence it must be concluded that the purpose was to allow a free text for deduction.[18] But is not this text[19] still required [for the deduction that 'mingled stuff'[20] is not forbidden] unless it was hackled, spun and twisted?[21] — But [the fact is that] all this is deduced from the expression of 'mingled stuff'.[22]

So far it has been shewn that a positive precept supersedes a mere prohibition;[23] where, however, do we find that it supersedes also a prohibition involving kareth,[24] and that in consequence [the explicit expression] ''aleha'[25] should be required to forbid it?[26] And if it be replied that this[26] might be deduced from circumcision,[27] [it may be retorted]: Circumcision stands in a different category,[28] for concerning it thirteen covenants[29] were made![30] From the paschal lamb?[31] — The paschal lamb also stands in a different category[32] since it too involves kareth![30] From the daily offering?[31] — The daily offering also stands in a different category[33] since it is also a regular [offering]![30] [Now though] it[34] cannot be derived from one[35] it might be derived from two. From which shall it be derived? [If the reply is]: Let it be derived from circumcision and the paschal lamb, [it may be retorted]: These also involve kareth.[36] From the paschal lamb and the daily offering? — Both are also intended for the Most High.[37] From circumcision and the daily offering? — Both were also in force before the giving of the law,[38] this being according to the view of him who holds that the burnt-offering which Israel offered in the wilderness was the daily burnt-offering.[39] Nor [can the derivation be made] from all of them, since they were all in force before the giving of the law.[40]

But [this is the reason for] the need of a special text:[41] It might have been assumed[42] that this[43] should be derived from the precept of honouring one's father and mother; for it was taught: Since one might have assumed that the honouring of one's father and mother should supersede the Sabbath, it was explicitly stated, Ye shall fear every man his mother and his father, and ye shall keep My Sabbaths,[44] it is the duty of all of you[45] to honour Me. Now is not the case in point one where the parent said to him, 'Slaughter for me',[46] or 'Cook for me';[46] and the reason [why the parent must not be obeyed is] because the All Merciful has written, 'Ye shall keep my Sabbaths',[44] but had that not been so[47] it[48] would have superseded?[49] — No;

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(1) 'Mingled stuff' in the case of zizith. (V. Deut. XXII, 11, 12 and supra p. 15, n. 3).

(2) Lit., 'if so', i.e., if according to the Rabbis the expression, 'wool and linen', is required for its own context and that text, therefore, is not available for deduction.

(3) The expression used in Num. XV, 38 in the section dealing with the precept of the fringes.

(4) That a positive precept supersedes a prohibition. Cf. supra, p. 10, n. 13.

(5) The expression of 'twisted cords', גדילים, Deut. XXII, 12.

(6) In the fringes.

(7) The twisted cord cannot be made of less than two threads.

(8) The plural, i.e., twice two.

(9) To harmonize this text (Deut. XXII, 12) which implies twisted cords, with that of Num. XV, 38, and that they put with the fringe of each corner a thread of blue, which implies only twisted threads.

(10) The four threads are inserted into the corner of the garment and, having been folded to form a fringe of eight threads, they are joined (by winding one of the threads round the others) into one twisted cord which extends over a section of length and is then separated again into eight separate threads.

(11) Men. 39b. Now, since the expression, 'twisted cords', is required for the determination of the number of the threads,

how could the Rabbis deduce from it the law of 'mingled stuff' in the fringes?
(12) That the law of 'mingled stuff' in the fringes was not to be deduced from the text cited.
(13) Deut. XXII, 11.
(14) Cf. supra p. 18, n. 10.
(15) Together, in Deut. XXII, II.
(16) Combining a material made of wool with one made of flax.
(17) Of 'mingled stuff' which is forbidden.
(18) Cf. supra p. 18, n. 10.
(19) Mingled stuff, Deut. XXII, 11.
(20) Of wool and flax.
(21) An etymological explanation of, or a play upon, the words 'mingled stuff' שעטנז, in Deut. XXII, 11. שעטנז is assumed to be an abbreviation of שוע טוי ונוז.
(22) The use of the peculiar expression, שעטנז, and not the usual כלאים, implies both (a) the deduction mentioned, (v. previous note) and (b) the deduction that a positive precept supersedes a prohibition (v. supra p. 10, n. 13).
(23) Cf. 3b end and p. 10, n. 7.
(24) V. Glos.
(25) Lev. XVIII, 18.
(26) The marriage by the levir of the widow of his deceased childless brother, when she happens to be a forbidden relative. V. p. 8, n. 9.
(27) Which must be performed on the eighth day of the child's birth even though that day happens to be a Sabbath when manual work is forbidden under the penalty of kareth.
(28) Lit., 'what in respect of circum-cision'.
(29) The expression 'covenant' (in various grammatical forms) occurs thirteen times in Gen. XVII, the section dealing with the precept of circumcision, v. Ned. 31b.
(30) Hence it may also supersede the Sabbath. It supplies, however, no proof that a positive precept which is not so stringent (such as the marriage with the levir) also supersedes a prohibition involving kareth.
(31) The slaughtering of which (a positive precept) supersedes the Sabbath though slaughtering is manual work which is forbidden on the Sabbath under the penalty of kareth.
(32) Lit., 'what in respect of the paschal lamb'.
(33) Lit., 'what in respect of the daily offering'.
(34) V. p. 19, n. 16.
(35) Circumcision, the paschal lamb, or the daily offering alone.
(36) Cf. supra n. 1.
(37) They are offered on the altar. Cf. supra n. 1.
(38) On Mount Sinai. Lit., 'speech' i.e., of the Deity. 'revelation', and as such are deemed of greater stringency.
(39) V. Ex. XXIV, 5 and Hag. 6a. Circumcision was ordained in the time of Abraham. V. Gen. XVII.
(40) V. supra nn. 9 and 10. The law of the paschal lamb also was given in Egypt prior to the date of the Revelation. V. Ex. XII.
(41) Beside her (Lev. XVIII, 18), to indicate that levirate marriage is forbidden when the widow of the deceased brother is the surviving brother's forbidden relative.
(42) Had not that text (in Lev. XVIII, 18; v. previous note) been written.
(43) That a positive precept supersedes a prohibition involving kareth and that consequently a levir may marry his deceased childless brother's widow even if she happens to be a forbidden relative of his.
(44) Lev. XIX, 3.
(45) Parents and children.
(46) I.e., to desecrate the Sabbath by an action the penalty for which is kareth.
(47) Had no such text been available.
(48) A parent's order, (the positive precept of honouring one's parents.)
(49) The prohibition of work on the Sabbath, though it is one involving kareth. Similarly in the case of the levirate marriage. Cf. supra p. 20, n. 14.

Talmud - Mas. Yevamoth 6a

this is a case[1] of ass driving.[2] And [you say that] it does not supersede[3] even in such a case?[4] But then what of the generally accepted rule that a positive precept supersedes a prohibition. Should it not be inferred from this case that it does not supersede![5] And if it be replied that the prohibitions of the Sabbath are different[6] because they are more stringent,[7] surely the following Tanna, [it may be pointed out,] speaks of prohibitions generally[8] yet no one advances any objection.[9] For it was taught: Since it might have been assumed that if his father had said to him,[10] 'Defile yourself',[11] or if he said to him, 'Do not restore,'[12] he must obey him, it was explicitly stated, Ye shall fear every man his mother, and his father, and ye shall keep my Sabbaths,[13] it is the duty of all of you to honour Me![14] — The real reason[15] is because this objection may be advanced: Those[16] are in a different category[17] since they are also essentials in the execution of the precept.[18]

But [the reason[19] is because] it might have been assumed that this[20] should be derived from the precept of the building of the Sanctuary. For it was taught: Since it might have been assumed that the building of the Sanctuary should supersede the Sabbath, it was explicitly stated, Ye shall keep My Sabbaths, and reverence My Sanctuary;[21] it is the duty of all of you to honour Me. Now is not the case in point one of [a father's order to his son to] build or to demolish,[22] and yet the reason [why it does not supersede the Sabbath is] because the All Merciful has written, 'Ye shall keep My Sabbaths',[23] but had that not been written it would have superseded?[24] — No; the case in point is one of ass driving.[25]

And [you say] that it[26] does not supersede a prohibition even in such a case?[27] But what of the generally accepted rule that a positive precept supersedes a prohibition? Should we not infer from this case that it does not supersede! And if it be replied that the prohibitions of the Sabbath are different[28] because they are of a more stringent nature,[29] surely the following Tanna [it may be pointed out] speaks of prohibitions generally[30] yet no one advances any refutation.[31] For it was taught: Since it might have been assumed that if his father had said to him,[32] 'Defile yourself',[33] or if he said to him, 'Do not restore,'[34] he must obey him, hence it was explicitly stated, Ye shall fear every man his mother, and his father etc.,[35] it is the duty of all of you to honour Me![36] — The true reason[37] is because this objection may be advanced: Those[38] are in a different category[39] since they are also essentials in the execution of the precept.[40] [But the law relating to] essentials in the execution of a precept could be derived from the previously cited text![41] — That is so indeed. What need, then, was there for the text, Ye shall keep My Sabbaths, and reverence My Sanctuary?[23] — It is required for the following deduction:[42] As it might have been imagined that a man should reverence the Sanctuary, it was explicitly stated in the Scriptures, Ye shall keep My Sabbaths, and reverence My Sanctuary;[23] the expression of 'keeping' was used in relation to the Sabbath and [in the same verse] that of 'reverence' in relation to the Sanctuary [in order that the following comparison may be made]: As in the case of 'keeping' used in relation to the Sabbath

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(1) Lit., 'negative precept'.

(2) I.e, where a father ordered his son to desecrate the Sabbath by driving an ass; a prohibition which, unlike slaughtering or cooking, does not involve the penalty of kareth. V. Shab. 154a.

(3) Lit., 'and even thus', sc. even the mere prohibition of ass driving.

(4) A mere prohibition not involving the penalty of kareth.

(5) Even a mere prohibition which does not involve the penalty of kareth.

(6) From other prohibitions.

(7) Since the infringement of any one of the laws of the Sabbath is regarded as the sin of idolatry (v. 'Er. 69b), even a mere prohibition which does not involve kareth, cannot be superseded by a positive precept.

(8) Lit., 'stands in the world', i.e., he compares with the prohibitions of the Sabbath others which have no connection with it.

(9) That the prohibitions of the Sabbath being more stringent than others should not be compared with them.

(10) His son who was a priest.
(11) For the dead, which is forbidden to a priest. V. Lev. XXI, 1ff.
(12) A lost animal. V. Deut. XXII, 1.
(13) Lev. XIX, 3.
(14) Thus it has been shewn that prohibitions generally may be compared with those of the Sabbath. The suggestion, therefore, that the parents' order supra concerned the performance of the act of ass driving is untenable. If, consequently, the order must have consisted of a request to perform an act involving the penalty of kareth, that case well supplies a satisfactory answer to the question (supra 5b) as to what need was there for the text, ''aleha', in Lev. XVIII, 18.
(15) Why no satisfactory reply to the question, what need is there for the text ''aleha', may be obtained from the precept of honouring one's parents.
(16) A father's orders to his son to slaughter or to cook on the Sabbath.
(17) From such a precept as the levirate marriage.
(18) Lit., 'it is a preparation of the precept'. The precept of honouring a father cannot possibly be performed by the son unless he actually executes the act of slaughtering or of cooking, which he has been ordered by his father to do, so that the fulfilment of the positive precept (honouring one's parents) is entirely dependent on its superseding the prohibition (that, e.g., of cooking). Hence it was necessary to have an explicit text to indicate that, even in such a case, a positive precept does not supersede a prohibition. In the case of the levirate marriage, however, the infringement of the prohibition is not absolutely essential to the fulfilment of the precept, since, instead of the marriage, halizah may be arranged, and the question remains, what need is there of the verse ''aleha'.
(19) Why the text, ''aleha' (Lev. XVIII, 18) was needed to indicate that wherever the deceased childless brother's widow was the living brother's forbidden relative no levirate marriage must take place.
(20) That a positive precept supersedes a prohibition involving kareth and consequently that the levirate marriage may take place even in such a case (v. previous note).
(21) Lev. XIX, 30.
(22) Actions which are among the principal classes of labour that are forbidden on the Sabbath under the penalty of kareth.
(23) Lev. XIX, 30.
(24) Thus it follows that a positive precept does supersede a prohibition even though the latter involves kareth.
(25) Which does not involve kareth.
(26) A positive precept.
(27) Which does not involve kareth.
(28) From other prohibitions.
(29) Cf. supra p. 21, n. 13.
(30) Cf. supra p. 21, n. 14.
(31) Cf. supra p. 21, n. 15.
(32) His son who was a priest.
(33) Cf. supra p. 21, n. 17.
(34) Cf. supra p. 21, n. 18.
(35) Lev.XIX, 3.
(36) Cf. supra p. 22, n. 2.
(37) Cf. supra p. 22, n. 3.
(38) Cf.supra p. 22, n. 4,
(39) Cf.supra p. 22, n. 5.
(40) Cf. supra p. 22, n. 6.
(41) Lit., 'from there', from Lev. XIX, 3, and this superfluous text serves to extend the principle of a positive precept superseding a negative precept involving kareth to a case such as levirate marriage. Hence the need of the text ''aleha'.
(42) Lit., 'for as it was taught'.

Talmud - Mas. Yevamoth 6b

one does not reverence the Sabbath but Him who ordered the observance of the Sabbath, so in the case of 'reverence' used in relation to the Sanctuary, one is not to reverence the Sanctuary but Him

who gave the commandment concerning the Sanctuary. And what is regarded as the 'reverence of the Sanctuary'? — A man shall not enter the Temple mount[1] with his stick, shoes or money bag[2] or with dust upon his feet, nor may he use it for making a short cut;[3] and spitting [is there forbidden] by inference a minori ad majus.[4] This, however, might apply[5] only to the time when the Sanctuary was in existence; whence is it deduced that the same holds good of the time when the Sanctuary no longer exists? It was expressly stated in Scripture, Ye shall keep My Sabbaths, and reverence My Sanctuary;[6] as the 'keeping' that was used in relation to the Sabbath holds good forever, so also the 'reverence' used in relation to the Sanctuary must hold good forever.[7]

Really [the reason[8] is because] it might have been assumed that this[9] should be derived from the prohibition of kindling a fire [on the Sabbath]. For a Tanna of the School of R. Ishmael taught: Wherefore was it stated, Ye shall kindle no fire throughout your habitations?[10] 'Wherefore 'was it stated'![11] Surely if one is to follow R. Jose, it was to intimate that [kindling a fire on the Sabbath is] a prohibition only;[12] and, if one is to follow R. Nathan, it was to intimate that even a single transgression involves one in the prescribed penalties;[13] for it was taught: 'The prohibition of kindling a fire [on the Sabbath] was mentioned separately[14] in order to [indicate that its transgression is] a prohibition only;[15] so R. Jose, while R. Nathan maintains that the intention was to intimate that even a single transgression involves the offender in the prescribed penalties'![13] And Raba explained that the Tanna[16] found difficult the expression of habitations,[17] [arguing thus]: What need was there for Scripture to state 'habitations'? [Is not this[18] obvious?] For consider: The observance of the Sabbath is a personal obligation, and any personal obligation is valid both in the Land [of Israel] and outside the land;[19] what need, then, was there for the All Merciful to write it[20] in connection with the Sabbath? This was explained by a disciple in the name of R. Ishmael: Whereas it was stated in the Scriptures, And if a man have committed a sin worthy of death, and he be put to death,[21] one might infer [that the death penalty may be executed] both on week-days and on the Sabbath and, as regards the application of the text, Everyone that profaneth it[22] shall surely be put to death,[23] this might be said to refer to the several kinds of labour other than the execution of a judicial death sentence; or again it might be inferred[24] that it[25] refers even to a judicial execution of a death sentence and, as regards the application of He shall surely be put to death[23] [this might be said to refer] to week-days but not to the Sabbath; or again it might be thought[26] to apply also to the Sabbath; hence it was expressly stated, Ye shall kindle no fire throughout your habitations,[27] and further on it is stated, And these things shall be for a statute of judgment unto you throughout your generations in all your habitations;[28] as the expression of 'habitations' mentioned below[28] refers to the Beth din, so the expression 'habitations' mentioned here[27] refers also to the Beth din, and concerning this the All Merciful said, 'Ye shall kindle no fire'.[29] Now, are we not to assume this statement to be in agreement with the view[30] of R. Nathan who holds that the object was to intimate that even a single transgression involves the offender in the prescribed penalties,[31] and the reason[32] is because the All Merciful has written, Ye shall kindle no fire,[27] but had that not been the case it would have superseded the [Sabbath]![33] — No; this may be according to R. Jose.[34]

Granted, however, [that it is according to the view of] R. Jose, might it not be suggested that R. Jose said that 'kindling a fire [on the Sabbath] is mentioned separately in order to indicate that it is a mere prohibition' [in the case only of] ordinary burning; the burning by the Beth din,[35] [however, is surely a case of] boiling of the metal bar[36] concerning which R. Shesheth said that there is no difference between the boiling of a metal bar and the boiling of dyes?[37] — R. Shimi b. Ashi replied: This Tanna[38] [requires Scriptural texts] not because elsewhere he holds that a positive precept supersedes a prohibition, but because this[39] might have been obtained by inference a minori ad majus; and it is this that he meant to say: 'As regards the application of the text, Every one that profaneth it[40] shall surely be put to death,[41] it might have been said to apply to the several kinds of labour other than that of the execution of a judicial death sentence, but that a judicial death sentence does supersede the Sabbath, by inference a minori ad majus:

(1) On which the Sanctuary stood.
(2) פונדה, Lat. funda. Others, 'a hollow girdle in which money is kept'.
(3) קפנדריא, cf. compendiaria.
(4) Bet. 54a. For an explanation of the inference, v. ibid. 62b.
(5) Lit., 'it is not (known) to me'.
(6) Lev. XIX, 30.
(7) And since there is no superfluous verse to extend the principle in such a case as levirate marriage, the question remains, what need was there for the text ''aleha'.
(8) Cf. supra p. 22, n. 7.
(9) Cf. supra p. 22, n. 8.
(10) Ex. XXXV, 3.
(11) The prohibition of kindling a fire, surely, is included in the general prohibition of labour on Sabbath.
(12) I.e., only a negative commandment the transgression of which does not, like the other Sabbath offences, involve the penalties of stoning or kareth. The former, if the offender was warned beforehand of the consequence of his offence, the latter, where no such warning had been given.
(13) Lit., 'to divide', i.e., one of the thirty-nine kinds of labour that are forbidden on the Sabbath was singly specified in order to indicate that to incur the prescribed penalties it is not necessary to commit all the thirty-nine transgressions (as the one general, all-embracing prohibition of about might have seemed to imply). The mention of one prohibition (kindling of fire) separately breaks up, so to speak, (divides), all the others into single units, indicating that, as in its own case, so in that of all the others first mentioned together with it, every single transgression involves the penalty of stoning, kareth, or a sin-offering.
(14) Lit., 'went out'.
(15) V. p. 24, n. 12.
(16) Who asked, supra, 'wherefore was it stated?'
(17) Ex. XXXV, 3.
(18) That the prohibition is in force in all 'habitations'.
(19) I.e., throughout all habitations.
(20) The phrase, 'throughout your habitations', Ex. XXXV, 3.
(21) Deut. XXI, 22.
(22) The Sabbath.
(23) Ex. XXXI, 14 which prohibits all kinds of about on the Sabbath.
(24) Lit., 'or it is not but'.
(25) The prohibition of labour.
(26) Lit., 'or it is not but'.
(27) Ex. XXXV, 3.
(28) Num. XXXV, 29, referring to the death penalties of murderers.
(29) I.e., execute no death penalty of burning on the Sabbath. The death penalty of 'burning' was executed by pouring molten lead through the condemned man's mouth into his body, thus burning his internal organs.
(30) Lit., 'what, (is it) not?'
(31) Of death or kareth. V. supra p. 25, n. 1.
(32) Why the death penalty of burning — a kind of work — which according to R. Nathan would involve kareth must not be executed on the Sabbath.
(33) Though the penalties involved include that of kareth. Thus it follows that a positive precept may supersede even such a prohibition. So also in the case of the levirate marriage it might have been assumed that the precept of marrying one's deceased childless brother's widow supersedes the prohibition of marrying a consanguineous relative despite the fact that such a transgression involves elsewhere the penalty of kareth; hence it was necessary for Scripture to add, ''aleha' (Lev. XVIII, 18), to indicate that even a levirate marriage is in such a case forbidden. (V. supra 3b and 5b).
(34) V. supra p. 24, n. 12.
(35) The death penalty of burning.
(36) Cf. supra note 4.
(37) Lit., 'what (difference is it) to me', Shab. 106a. The dyes were boiled in connection with the construction of the Tabernacle that was made by Moses, and any kind of labour that was there performed is included among the thirty-nine

principal kinds of labour which are forbidden on the Sabbath (v. Shab. 73a) and involve the penalty of kareth. Cf. supra p. 26, n. 8.

(38) Who deduced from Scriptural texts that a judicial death sentence may not be executed on the Sabbath.

(39) The assumption that the execution of a judicial death sentence might supersede the Sabbath.

(40) The Sabbath.

(41) Ex. XXXI, 14.

Talmud - Mas. Yevamoth 7a

If the Temple service which is of high importance and supersedes the Sabbath[1] is itself superseded by [a death sentence for] murder, as it is said, Thou shalt take him from Mine altar, that he may die,[2] how much more reasonable is it that the Sabbath which is superseded by the Temple service should be superseded by [a death sentence for] murder'. How, then, could it be said, 'Or it might rather [etc.]'?[3] — He means this: The burial of a meth mizwah[4] might prove [the contrary], since it supersedes the Temple service[5] and does not nevertheless supersede the Sabbath.[6] Then[7] he argued: It might be inferred a minori ad majus that the burial of a meth mizwah should supersede the Sabbath, [thus]: If the Temple service which super sedes the Sabbath is superseded by the burial of a meth mizwah, by deduction from Or for his sister,[8] how much more should the Sabbath which is superseded by the Temple service be superseded by the burial of a meth mizwah; hence it was explicitly stated, Ye shall kindle no fire.[9] [etc].[10]

According to our previous assumption, however, that a positive precept supersedes a prohibition, what is meant by, 'Or it might rather [etc.]'?[11] — It is this that was meant: 'As regards the application of the text, Every one that profaneth it[12] shall surely be put to death,[13] it might have been said to apply to the several kinds of labour other than the execution of a judicial death sentence, but that a judicial death sentence does supersede the Sabbath, for a positive precept[14] supersedes the prohibition. Then[15] he argued: It might be suggested that a positive precept supersedes a prohibition in the case of a mere prohibition only; has it, however, been heard to supersede a prohibition which involves kareth? Then he concluded: 'Even where[16] a positive precept supersedes a prohibition, is not the prohibition of a more serious nature than the precept?[17] And yet the positive precept comes and supersedes the prohibited; on what grounds, then, should a distinction be made between a minor and a major prohibition?[18] Hence it was explicitly stated, Ye shall kindle no fire[9] [etc.].'[19]

But[20] [this is the reason why a specific text] was needed:[21] It might have been assumed that this [case of a] brother's wife should be regarded as a subject which was included in a general proposition[22] and was subsequently singled out in order to predicate another law,[23] the predication of which is not intended to apply to itself alone but to the whole of the general proposition. For it was taught: 'A subject which was included in a general proposition and was subsequently singled out, etc. How [is this to be understood]? But the soul that eateth of the flesh of the sacrifice of peace-offerings [that pertain unto the Lord], having his uncleanness upon him;[24] were not peace-offerings included among the other holy things?[25] Why, then, were they subsequently singled out? In order that [the others] may be compared to them, and in order to tell you that as peace-offerings are distinguished by being consecrated objects of the altar so must also all other things[26] be consecrated objects of the altar, the objects consecrated for Temple repair only being excluded.'[27] Similarly here it might have been argued:[28] Since a brother's wife was included among all the other forbidden relatives, why was she singled out? In order that [the others] may be compared to her, and in order to tell you that as a brother's wife is permitted[29] so also are all the other forbidden relatives permitted.[30]

Are these, however, similar? There,[31] both the general proposition[32] and the particular specification[24] relate to a prohibition, but here[33] the general proposition relates to a prohibition while the particular specification relates to something which is permitted![34] This, surely, is rather to be

compared to an object that was included in a general proposition and was subsequently singled out in order to be made the subject of a fresh statement, which you cannot restore to the restrictions of the general proposition unless Scripture specifically restores it; for it was taught: Anything which was included in a general proposition and was subsequently excluded in order to be made the subject of a fresh statement, cannot be restored to the restrictions of the general proposition unless Scripture has explicitly restored it.[35] How[36] [may this principle be illustrated]? And he shall kill the he-lamb in the place where they kill the sin-offering and the burnt-offering in the place of the Sanctuary; for as the sin-offering is the priest's so is the guilt-offering.[37] Now since there was no need to state, 'As the sin-offering so is the guilt-offering.'[38] why did Scripture explicitly state. As the sin-offering so the guilt-offering? Because seeing that the guilt-offering of the leper was singled out[39] in order to impart a new law concerning the thumb of the right hand and the great toe of the right foot,[40] it might have been assumed that it required no application of blood to, and no burning of the prescribed portions of the sacrifice upon the altar;

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(1) Labour prohibited on the Sabbath may be performed in connection with the service of the Temple.

(2) Ex. XXI, 14. This is taken to mean that he may he removed from the altar even if he has to perform service thereon.

(3) Supra 6b. Since the inference was made a minori ad majus how could anyone dispute it?

(4) V. Glos.

(5) A priest may defile himself by the burial of a meth mizwah though he thereby becomes disqualified from performing the Temple service. V. Meg. 3b.

(6) Burial is forbidden on the Sabbath. So also, it could be argued, the execution of a death sentence, though it supersedes the Temple service, need not necessarily supersede the Sabbath.

(7) Saying again, 'Or it might rather etc.', supra 6b.

(8) Num. VI, 7; v. Meg. 3b.

(9) Ex. XXXV, 3.

(10) For the continuation, v. supra 6b.

(11) Cf. supra p. 27, n. 8. How, in view of this assumption, could any other conclusion be arrived at?

(12) The Sabbath.

(13) Ex. XXXI, 14.

(14) That the man worthy of death be put to death (v. Deut. XXI, 22).

(15) By saying again, 'Or it might rather', supra 6b.

(16) Cf. Bah, a.l.

(17) A transgression of the prohibition involves the serious penalty of flogging, while the non-performance of the precept is no punishable offence.

(18) As a positive precept supersedes an ordinary prohibition so it should also supersede one which involves kareth.

(19) V. supra note 3.

(20) Now that it is concluded that the need of the Scriptural text prohibiting the execution of a death sentence on Sabbath is because otherwise the permissibility thereof might have been argued a minori, and not on the ground of the principle that a positive command supersedes a prohibition, there is no proof available for the assumption that a positive precept supersedes a prohibition which involves kareth, and thus the original question again arises: What need was there for the specific text of Lev. XVIII, 18, ''aleha' (supra p. 8), to indicate the obvious? (i.e., that the positive precept of the levirate marriage does not supersede the prohibition of marrying a consanguineous relative).

(21) V. previous note.

(22) The prohibition of incest, Lev. XVIII, 29.

(23) The marriage of the widow of a deceased childless brother.

(24) Lev. VII, 20.

(25) Lev. XXII, 3, where the penalty of kareth is pronounced for eating consecrated things during one's uncleanness.

(26) For the eating of which during one's uncleanness the penalty of kareth is incurred.

(27) Ker. 2b. If these were eaten by one in a state of uncleanness no obligation is incurred.

(28) Reading with Bah א ה (הוה אצינא). Cur. edd. retain הא with no sign of abbreviation.

(29) To be married to the levir if her husband died childless.

(30) Cf. previous note. A text was consequently needed to intimate that the law was not so,

(31) The case of consecrated objects.

(32) Lev. XXII, 3.

(33) Levirate marriage and forbidden relatives.

(34) How, then, could the two be compared?

(35) Now, as the case of a brother's wife has not been restored to the general proposition, what need was there for the specific text of Lev. XVIII, 18?

(36) This is the continuation of the quotation.

(37) Lev. XIV, 13, dealing with the leper's guilt-offering.

(38) Since the place of killing was indicated at the beginning of the verse while the other regulations concerning this sacrifice are found in the laws of the guilt-offering in Lev. VII, 1ff.

(39) From the laws relating to other guilt-offerings.

(40) V. Lev. XIV, 14.

Talmud - Mas. Yevamoth 7b

hence it was explicitly stated, 'As the sin-offering so is the guilt-offering': As the sin-offering[1] requires application of the blood to, and burning of the prescribed portions upon the altar, so does the guilt-offering also require application of the blood to, and burning of the prescribed portions upon the altar.[2] Had Scripture not restored it,[3] however, it would have been assumed that it was singled out only in respect of what was explicitly specified but not in any other respect;[4] so also here,[5] I would assume, only a brother's wife who was explicitly mentioned [can be said] to be permitted[6] but not any of the other forbidden relatives![7]

But[8] it might have been assumed that the law of a wife's sister[9] should be deduced from what has been found in the case of a brother's wife; as a levir may marry his brother's wife so he may also marry his wife's sister.[10]

Are, however, the two cases[11] similar? In the one case[12] there is only one prohibition; in the other[13] there are two prohibitions![14] — It might have been assumed that since she[15] was permitted[16] [in respect of one prohibition][17] she was also permitted [in the case of the other].[18] And whence is it derived that we assume that 'since something was permitted [in one respect] it was also permitted [in the other]'? — From what was taught: In the case of a leper whose eighth day [of purification][19] fell on the Passover eve,[20] and who, having observed a discharge of semen on that day,[21] had taken a ritual bath, the Sages said: Although no other tebul yom[22] may enter [the Temple mount],[23] this one[24] may enter, for it is better that the positive precept,[25] the non-observance of which involves kareth, shall supersede a positive precept[26] the infringement of which involves no kareth.[27] And in connection with this R. Johanan said: According to the Torah, not even [the infringement of] a positive precept is involved,[28] for it is said, And Jehoshaphat stood in the congregation of Judah . . . before the new court.[29] What is meant by the new court? Rabbi[30] replied: That they enacted therein new laws, ordaining that a tebul yom[31] must not enter the camp of the Levites.[32] And 'Ulla said: 'What is the reason?'[33] Since he was given permission[34] in respect of his leprosy,[35] permission was also given to him in respect of his discharge of the semen.[36] But is this case[37] similar to that of 'Ulla?

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(1) Of a leper.

(2) Zeb. 49a.

(3) The leper's guilt-offering and brought it into line with other guilt-offerings.

(4) Lit., 'to what it went out, it went out; and to what it did not go out, it did not go out'.

(5) The case of the levirate marriage.

(6) Lit., 'that was permitted is permitted'.

(7) The question consequently arises again: What need was there for ''aleha' in Lev. XVIII, 18. (Cf. supra p. 30, n. s).

(8) The reason why a superfluous text (v. previous note) was needed.

(9) For this reading v. Bah.
(10) Hence it was necessary to have the superfluous text, ‘’aleha’ (v. supra n. 4) to shew that the law was not so.
(11) Brother's wife and wife's sister.
(12) Lit., ‘there’, a brother's wife.
(13) Lit., ‘here’, a wife's sister.
(14) The prohibitions to marry (a) a brother's wife and (b) a wife's sister. How then could the one be deduced from the other?
(15) A brother's wife who is also one's wife's sister and whose husband died childless.
(16) By the positive precept of the levirate marriage.
(17) That of marrying a brother's wife.
(18) The prohibition of marrying one's wife's sister. Hence etc. V. supra note 7.
(19) On which he completes the days of his purification and brings the prescribed sacrifices, presenting himself (whither as a leper he was till that day forbidden to enter) on the Temple mount at the entrance to the Nikanor gate of the Sanctuary, from where he extends his thumb and great toe into the Sanctuary (whither he is not yet allowed to enter) for the priest to apply to them some of the sacrificial blood, v. Nazir, Sonc. ed. p. 165ff.
(20) When the paschal lamb is sacrificed to be eaten in the evening.
(21) Such a discharge ordinarily disqualifies a man from entering the Temple mount.
(22) טבול יום one who has had his ritual bath and is awaiting nightfall for the completion of his purification.
(23) Before nightfall.
(24) The leper in the circumstances mentioned.
(25) That of the paschal lamb.
(26) That a leper like certain other unclean persons must be sent out from the Levitical camp in which the Temple mount is included.
(27) If he were not allowed to enter the Temple mount his purification from leprosy could not have been completed (cf. supra p. 31, n. 16) and he would in consequence have been prevented from participating in the paschal lamb. By allowing him to enter he is enabled to complete his purification, while nightfall would also terminate the uncleanness due to the discharge, and thus he is in a position to participate in the evening in the paschal lamb which during the day is prepared for him by a deputy.
(28) In allowing the leper in the conditions mentioned to enter the Temple court.
(29) II Chron. XX, 5, referring to a day when Israel completed a period of purification.
(30) This is the reading also in Zeb. 32b. Cur. edd. enclose in parentheses ‘R. Johanan’.
(31) V. Glos.
(32) Which proves that the prohibition for a tebul yom to enter the Levitical camp was not of Pentateuchal origin, having been first enacted in the days of Jehoshaphat.
(33) Why was a leper in the circumstances mentioned permitted to extend his hands into the Sanctuary whither an unclean person, according to ‘Ulla, may not project even part of his body?
(34) To project his hands into the Sanctuary.
(35) Despite the prohibition for an unclean person, though the days of his purification have been duly observed, to enter the Sanctuary even partially, prior to the offering of the prescribed sacrifices.
(36) Thus it is proved that since something was permitted in one respect the permission remains in force even when another prohibition may be involved in another respect. The same argument might have also applied to a wife's sister or widow of a deceased brother. Hence the need of the text, ‘’aleha’.
(37) A brother's wife who is also one's wife's sister.

Talmud - Mas. Yevamoth 8a

[The comparison] might well be justified where the deceased brother married [first][1] and the surviving brother married [his brother's wife's sister] afterwards,[2] for, in this case, since the prohibition of brother's wife was removed,[3] that of wife's sister[4] is also removed; but where the surviving brother had married [first] and the deceased brother had married subsequently, the prohibition of wife's sister was Surely in force first![5] Furthermore, even where the deceased had married [first], [the comparison] would be justified in the case where the deceased had married and

died, and the surviving brother had married afterwards so that [the widow] was eligible in the interval;[6] where, however, the deceased had married, and before he died his wife's sister was married by his surviving brother, [his widow] was never for a moment eligible for his brother! Does not 'Ulla admit that if the leper observed semen on the night preceding the eighth day[7] of his purification he must not project his hand into the Sanctuary on account of his thumb[8] because at the time he was eligible to bring the sacrifice [of the cleansed leper][9] he was not free from uncleanness?[10]

But [this is really the explanation]: If ''aleha' was at all needed, [it was for such a case as] where the deceased brother had married [first] and died, and the surviving brother married [the widow's sister] subsequently.[11]

If you prefer I can say [that the reason[12] is because] it[13] might have been deduced by means of R. Jonah's analogy. For R. Jonah — others say, R. Huna son of R. Joshua — said: 'Scripture stated: For whosoever shall do any of these abominations shall be cut off,[14] all forbidden relatives were compared to a brother's wife';[15] [so in this case also it might have been said], as a brother's wife is permitted[16] so also are all other forbidden relatives permitted; hence the All Merciful has written, ''aleha'.[17]

Said R. Aha of Difti[18] to Rabina: Consider! All forbidden relatives[19] might be compared to a brother's wife[20] and might equally be compared to a wife's sister,[21] what reason do you see for comparing them to a wife's sister?[21] Compare them rather to a brother's wife![20] — If you wish I might say: When a comparison may be made for increasing as well as for decreasing restrictions, that for increasing restrictions must be preferred. If you prefer, however, I might say: In the former cases[22] there are two prohibitions in the one as well as in the other,[23] and a double prohibition may justly be inferred from a double prohibition; in the latter case, however,[24] only one prohibition is involved,[25] and a double prohibition may not be inferred from a single one.

Raba said: [That] a forbidden relative herself[26] [may not contract the levirate marriage] requires no Scriptural text to prove it, since no positive precept can supersede a prohibition which involves kareth; if a Scriptural text was at all needed it was for the purpose of forbidding a rival.

And in the case of a forbidden relative is no Scriptural text required [to prohibit her levirate marriage]? Surely it was taught, 'Thus we are in a position to know the law concerning herself'![27] — On account of her rival.[28] Was it not taught, however, 'Now we know the law concerning themselves'?[29] — On account of their rivals.[30]

Come and hear: Rabbi said: [Instead of] and take, [Scripture stated], and take her,[31] [and instead of] and perform the duty of a husband's brother [Scripture stated], and perform the duty of a husband's brother unto her,[31] in order to prohibit[32] [the levirate marriage of] forbidden relatives and their rivals![33] — Read, 'To forbid [the levirate marriage of] the rivals of the forbidden relatives'. But two texts, surely, were mentioned;[34] was not one for the forbidden relative and the other for her rival? — No; both were for the rival, but one indicates prohibition[35] of a rival where the precept[35] is applicable, and the other indicates permission to marry the rival where the precept[35] is not applicable.[36] What is the reason? — [Because instead of] 'And perform the duty of a husband's brother' [Scripture stated] And perform the duty of a husband's brother UNTO HER, [which indicates that] only where levirate marriage is applicable is a rival forbidden[37] but where levirate marriage is not applicable[36] a rival is permitted.[37] R. Ashi said: [This[38] may] also be inferred from our Mishnah where it was stated, FIFTEEN [CATEGORIES OF] WOMEN EXEMPT THEIR RIVALS, but it was not stated, 'are exempt[39] and exempt [their rivals]'. This proves it.

In what respect does the case of a forbidden relative differ[40] that it should require no text?[41] Obviously because no positive precept may supersede a prohibition which involves kareth. But then

the case of a rival also should require no text,[41] since no positive precept may supersede a prohibition which involves kareth![42] — Said R. Aha b. Bebai Mar to Rabina, Thus it has been stated in the name of Raba: In the case of a rival also no Scriptural text[41] was needed; if a text was needed at all

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(1) His wife thus becoming a forbidden relative to his brother as 'brother's wife'.

(2) Thus adding to the one prohibition (v. previous note) the other of 'wife's sister'.

(3) By the precept of the levirate marriage, owing to the childlessness of the deceased.

(4) Since it was added subsequently.

(5) And could not consequently be removed by the removal of a prohibition which took effect subsequent to it.

(6) Between the death of her husband and the marriage of her sister by his surviving brother. This case would be analogous to that of the leper who was eligible to bring his sacrifices on the eighth day of his purification during the interval between the beginning of the day and the hour on that day he contracted a new uncleanness by his discharge.

(7) The night is reckoned as the beginning of the day following it.

(8) V. supra p. 31, n. 16.

(9) The eighth day of his purification.

(10) Owing to the discharge of the semen which occurred in the night. As a sacrifice must be brought in the day time only, there was not a single moment during which he was eligible to bring the sacrifices as being clean in all respects. The prohibition consequently remains in force. So also in the case of a wife's sister as regards the levirate marriage. The question, therefore, arises again, what need was there for the superfluous text of Lev. XVIII, 18. V. supra p. 30, n. 2.

(11) So that there was an interval during which he was permitted to marry the widow. V. p. 33. n. 11.

(12) Why the superfluous ''aleha' in Lev. XVIII, 18 was required.

(13) The law that forbidden relatives may be married in the case of a levirate marriage.

(14) Lev. XVIII, 29.

(15) Having been grouped together in this text.

(16) In the case of a levirate marriage.

(17) Lev. XVIII, 18; to intimate that they are not permitted.

(18) Dibtha, below the Tigris, S.W. of Babylon.

(19) That were enumerated in our Mishnah.

(20) And levirate marriage with all of them would thus be permitted.

(21) With whom the levirate marriage is forbidden by the text ''aleha' (v. supra).

(22) Lit., 'here', (a) in that of a wife's sister and (b) all the other forbidden relatives (other than a brother's wife).

(23) Lit., 'and here two prohibitions', (a) forbidden relatives and (b) brother's wife.

(24) Lit., 'but here,' a brother's wife who is not a consanguineous relative.

(25) That of a brother's wife.

(26) So Bah.

(27) I.e., the forbidden relative, supra 3b.

(28) Whose case had to be proved, it was necessary to begin with this introduction.

(29) I.e., the forbidden relatives.

(30) Cf. supra n. 3.

(31) Deut. XXV, 5.

(32) By the use of 'her' and 'unto her' which implies 'but no other'.

(33) Which shews that a Scriptural text is required, even in the case of forbidden relatives themselves, to prove that levirate marriage is prohibited.

(34) Lit., 'he took.'

(35) Of the levirate marriage.

(36) As, for instance, in the case of a rival of a forbidden relative who married a stranger, v. infra 13a.

(37) To be married by the man to whom the relative herself is forbidden.

(38) Raba's statement that the prohibition to contract levirate marriage with a forbidden relative is so obvious that no Scriptural text is required to prove it.

(39) Which shews that the exemption of the forbidden relatives themselves from the levirate marriage (i.e., the prohibition ever to marry them) was taken in our Mishnah for granted.

(40) From the case of her rival.
(41) To prove its prohibition even in the case of the levirate marriage.
(42) Kareth being the penalty in both cases.

Talmud - Mas. Yevamoth 8b

it was for the purpose of permitting a rival where the precept[1] is not applicable. What is the reason?[2] — Scripture stated, ‘’aleha’,[3] to indicate that only in the case of ‘unto her’[4] is she[5] forbidden,[6] where the other, however, may not, she is permitted.

Said Rami b. Hama to Raba: Might it not be suggested[7] that the forbidden relative[8] herself is permitted[9] where the precept[10] is not applicable? — Is not [such an argument contrary to the principle of inference] a minori ad majus? Being forbidden where the precept[10] is applicable, would she be permitted where the precept is not applicable? — [‘The case of a] rival’, the first replied, ‘could prove it, since she is forbidden[9] where the precept[10] is applicable, and is permitted[9] where the precept[10] is not applicable’. ‘It is for your sake,’ the other replied, ‘that Scripture states, In her life-time,[11] so long as she[12] lives’.[13] But is not the expression,[14] In her life-time,[11] required for the exclusion [of the prohibition of marriage] after her[12] death?[15] — This is deduced from the text, And a woman to her sister.[11] If [the deduction were only] from the text. ‘And a woman to her sister’,[11] it might have been said that if she[16] was divorced the sister would be permitted, hence it was expressly stated, ‘In her life-time.’[11] So long as she[16] is alive, even though she has been divorced, [her sister must] not [be married]![17] — But, said R. Huna b. Tahlifa in the name of Raba, two Scriptural texts are available; it is written, Thou shalt not take a woman to her sister, to be a rival to her[18] [implying two],[19] and it is also written, To uncover her nakedness,[20] which implies that only one is forbidden; how then [are the two texts to be reconciled]? Where the precept[21] is applicable both are forbidden;[22] where the precept[21] is not applicable she[23] is forbidden but her rival is permitted. Might not the deduction be reversed: Where the precept[21] is applicable she[23] is forbidden but her rival is permitted, but where the precept is not applicable both are forbidden![22] — If so, ‘’aleha’ should not have been stated.[24]

Said R. Ashi to R. Kahana: Whence is it derived that the expression ‘’aleha[25] indicates prohibition? Is it not possible that it implies permission, and that it is this that the All Merciful meant to imply: Thou shalt not take a woman to her sister, to be a rival to her,[25] neither herself nor her rival where ‘unto her’[26] is not applicable,[27] but where ‘unto her’[26] is applicable[28] both are permitted![29] — If so, how could the ‘uncovering of the nakedness’ of one[30] be possible? If in the case where the precept[31] is applicable, both are permitted;[32] and if where the precept is not applicable both are forbidden![33]

[Reverting to] the [above] text, Rabbi said: Instead of And take, Scripture stated, ‘And take her’ and instead of ‘And perform the duty of a husband's brother’, Scripture stated, ‘And perform the duty of a husband's brother unto her’,in order to prohibit [the levirate marriage of] forbidden relatives and their rivals. Are, then, rivals mentioned here at all? And, furthermore, the law of rivals has been derived from the expression To be her rival![34] — The expression To be her rival is employed by Rabbi for R. Simeon's deduction.[35] Where,[36] however, is the rival mentioned?[37] — What he meant is this: If so,[38] Scripture should have stated, And take; why then did it state, ‘And he shall take her’?[39] To indicate that wherever there are two to be taken,[40] he[41] having the choice of marrying whichever he prefers[42] both are permitted,[43] but if not,[44] both are forbidden; And perform the duty of a husband's brother unto her,[45] indicates that where levirate marriage is applicable there is the rival forbidden, where, however, levirate marriage is not applicable the rival is permitted.

As to the Rabbis,[46] to what do they apply the verse ‘And he shall take her’? — They require it for the deduction of R. Jose b. Hanina. For R. Jose b. Hanina said: ‘And he shall take her’[45] teaches that

he[47] may divorce her with a letter of divorce[48] and that he may remarry her;[49] And he shall perform the duty of a husband's brother unto her, even against her will.[50] And Rabbi?[51] — The law of R. Jose b. Hanina is deduced from To a wife,[45] and that the marriage may take place against her will is deduced from Her husband's brother shall go in unto her.[45]

What does Rabbi do with [the expression], ''aleha'? — He requires it [for another deduction], as we learnt: The Beth din[52] are under no obligation[53] unless [they ruled] concerning a prohibition the punishment for which is kareth, if the transgression was wilful, and a sin-offering if the transgression was unwitting; and so it is with the anointed High priest.

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(1) Of the levirate marriage.

(2) I.e., how is the permissibility deduced?

(3) Lev. XVIII, 18.

(4) Lit., 'in the place of עליה with reference to the verse 'Her husband's brother shall go in unto her' (v. supra p. 8, n. 9) i.e., where the command of levirate marriage would otherwise apply.

(5) The rival.

(6) To be married, cf. supra p. 35, n. 12.

(7) On the lines of the argument just advanced.

(8) I.e., the wife's sister.

(9) To be married.

(10) Of the levirate marriage.

(11) Lev. XVIII, 18.

(12) One's wife.

(13) Her sister must not be married. (Other forbidden relatives, as has been shewn supra, are deduced from one's wife's sister).

(14) Lit., 'that'.

(15) I.e., that the prohibition of a wife's sister which on the present assumption is limited to cases where the precept of levirate marriage is applicable, applies only during the lifetime of one's wife.

(16) The wife.

(17) But it can still be maintained that where no levirate marriage is applicable, there is no prohibition of marrying the wife's sister.

(18) Lev. XVIII, 18.

(19) I.e., that both the wife's sister and her rival are forbidden to be married. (This, as will be shewn infra, is deduced from the expression li-zeror.)

(20) Lev. XVIII, 18, emphasis on her (sing.).

(21) Of the levirate marriage.

(22) To be married.

(23) The forbidden relative herself.

(24) Since even without this additional phrase the two contradictory texts would have been naturally reconciled by applying the former (prohibition of both) to a case where the precept of the levirate marriage is inapplicable, and the latter (permission of the rival) to a case where it is applicable. The addition of the phrase must consequently have been intended to impart a new law, viz. that a rival is forbidden, like the forbidden relative herself, where the precept of the levirate marriage is applicable.

(25) Lev. XVIII, 18.

(26) V. supra p. 8, n. 9.

(27) I.e., where the law of the levirate marriage does not apply.

(28) Where levirate marriage does apply.

(29) The concluding part of the verse עליה בהייה meaning where he has to go 'unto her', the sister of his wife who is the widow of his brother, he may do so even in her (his wife's) life-time.

(30) V. Lev. XVIII, 18, implying, as explained supra, the prohibition of one only.

(31) Of the levirate marriage.

(32) So that there are two, not only one.

(33) And there is none.
(34) Heb. li-zeror (Lev. XVIII, 18), supra 3b. How then could it be said to be derived from a different text?
(35) V. infra 28b.
(36) V. Emden a.l. Cur. edd. read 'here'.
(37) In Deut. XXV, 5, the text cited by Rabbi. Clearly, it was not mentioned at all; how then could Rabbi derive from the text a law concerning a subject of which no mention was made?
(38) That the text refers to the forbidden relative only and not to a rival.
(39) Deut. XXV, 5.
(40) Lit., 'takings', i.e., when the deceased childless brother is survived by two widows, and the levir has to decide which of them to marry.
(41) The levir.
(42) I.e., when neither of the two is a forbidden relative.
(43) The emphasis on 'her' in And take her implies that there is a choice between two, and the phrase 'and take her' is taken to imply that the levir is in a position to choose whichever he pleases, since either of them must be capable of having the phrase 'and take her applied to her.
(44) If one cannot be married by him on account of her being his forbidden relative.
(45) Deut. XXV, 5.
(46) Who made the deduction from li-zeror.
(47) The levir.
(48) After he married her; and she requires no halizah.
(49) Though the precept of the levirate marriage has been fulfilled and she might have been assumed to be forbidden to him as a brother's wife. The text is interpreted as follows: And he takes her to him to wife, as soon as he has taken her, she is regarded henceforth in all respects as his wife, i.e., as if she had never been forbidden to him as a brother's wife.
(50) Emphasis on 'unto her' (v. Tosaf).
(51) Whence does he derive the law deduced by R. Jose b. Hanina?
(52) Who are guilty of an erroneous ruling.
(53) To bring the sacrifice prescribed in Lev. IV, 13ff.

Talmud - Mas. Yevamoth 9a

Nor [are they liable] in respect of idolatry unless [they ruled] concerning a matter the punishment for which is kareth, if it was committed wilfully and a sin-offering if committed unwittingly;[1] and we also learnt: [For the unwitting transgression of any] commandment in the Torah the penalty for which, if committed wilfully, is kareth and, if committed unwittingly a sin-offering, the private individual brings a sin-offering of a lamb or a she-goat; the ruler brings a goat; and the anointed High Priest and the Beth din bring a bullock. In the case of idolatry the individual and the ruler and the anointed High Priest bring a she-goat while the Beth din[2] bring a bullock and a goat, the bullock for a burnt-offering and the goat for a sin-offering. Whence is this deduced? From the following. For our Rabbis taught: When the sin wherein they have sinned is known:[3] Rabbi said, here[4] we read 'aleha[5] and further on[6] we also read 'aleha;[7] as further on[6] the prohibition involves the penalty of kareth if the transgression was wilful and that of a sin-offering if it was unwitting, so here[8] also, [the ruling must be concerning] a prohibition which involves the penalty of kareth if the transgression was wilful and that of a sin-offering if it was unwitting.[9]

Proof has thus been adduced for the case of the congregation; whence for that of the anointed High Priest? — It is written in relation to the High Priest, So as to bring guilt upon the people;[10] this shews that the anointed High Priest is like the congregation. And for an individual and a ruler? — The inference is made by a comparison of Things[11] with Things.[12] 'Nor [are they liable] in respect of idolatry unless [their ruling] concerned a matter the punishment for which is kareth if it was committed wilfully, and a sin-offering if committed unwittingly'. As regards the congregation in the matter of idolatry, deduction[13] is made by comparison between From the eyes[14] and From the eyes.[15] [The law[16] of] a private individual, a ruler and an anointed High Priest [is deduced] from, And if one

soul[17] which implies that there is no distinction between a private individual, a ruler and an anointed High Priest, while the waw[18] connects them with the previous subject,[19] and consequently the latter[20] may be deduced from the former.[21]

Whence, however, do the Rabbis[22] arrive at this inference?[23] — They deduce it from the Biblical interpretation which R. Joshua b. Levi taught to his son: Ye shall have one law for him that doeth aught in error. But the soul that doeth aught with a high hand etc.,[24] all the Torah is compared to the prohibition of idolatry;[25] as in regard to idolatry [obligation is incurred only where] the offence involves the punishment of kareth[26] when it was committed wilfully and a sin-offering[27] when committed unwittingly, so also in the case of any other transgression [it must be such] as involves kareth when committed wilfully and a sin-offering when committed unwittingly.

Proof has thus been found for the case of a private individual, a ruler and an anointed High Priest[28] both in regard to idolatry and the rest of the commandments; whence, however, [is it proved that the same law applies also to] the congregation in the case of idolatry? — Scripture said, And if one soul,[29] and the former[30] may be deduced from the latter.[31] Whence, however, [is it deduced that the same law applies to] the congregation in the case of the other commandments? — Deduction is made by comparison between 'From the eyes' and 'From the eyes'.[32]

And what does Rabbi do with the text of One law?[33] — He applies it to the following.[34] Whereas we find that Scripture made distinction between individuals and a group,[35] individuals being punished by stoning and their money, therefore, being spared, while a group are punished by the sword and their money is consequently destroyed, one might also assume that a distinction should be made in respect of their sacrifices; hence it was explicitly stated, Ye shall have one law.[33]

R. Hilkiah of Hagronia[36] demurred: Is the reason[37] because the All Merciful has written, Ye shall have one law,[33] so that had it not so been written it might have been thought that a distinction should be made [in respect of their sacrifices]? What, however, could they bring! Should they bring a bullock? The congregation,[38] surely, brings a bullock for the transgression of any one of all the other commandments![39] [Should they bring] a lamb? An individual, surely, brings a lamb if he transgressed any of the other commandments![40] A he-goat? A ruler brings one in the case of transgression of any of the other commandments![40] A bullock for a burnt-offering and a goat for a sin-offering? Such, surely, are brought by the congregation in the case of idolatry![40] Should they, then, bring a she-goat? This, surely, is also the sin-offering of a private individual![41] — [The text][42] was required, because it might have been suggested that whereas the congregation, in the case of an erroneous ruling, brings a bullock for a burnt-offering and a he-goat for a sin-offering, these[43] should also bring the same sacrifices, but] in the reverse order;[44] or [it might have been assumed to be] necessary[45] but that there was no remedy;[46] hence it was necessary to teach us.[47]

Said Levi to Rabbi: What ground is there for stating[48] FIFTEEN? Sixteen should have been stated! — The other replied: It seems to me that this man has no brains in his head. 'Do you mean', he continued, 'a man's mother who had been outraged by his father?[49] The case of a man's mother who has been outraged by his father is a matter in dispute between R. Judah and the Rabbis,[50] and the author of our Mishnah does not deal with any controversial matter'. But does he not? Surely, the prohibition due to a Rabbinical ordinance and the prohibition due to the levir's sanctity,[51] concerning which R. Akiba and the Rabbis are in dispute,[52] are mentioned! — We mean, in our chapter. But, surely it was taught,[53] 'Beth Shammai permit rivals to the other brothers and Beth Hillel prohibit them'![54] — The view of Beth Shammai where it is in contradiction to that of Beth Hillel is of no consequence.[55]

Is there not the case of the wife of a man's brother who was not his contemporary.[56]

(1) Hor. 8a.
(2) So in Hor. 9a. Cur. ed. 'congregation'.
(3) Lev. IV, 14.
(4) Concerning an erroneous ruling of the Beth din.
(5) עליה, Lev. loc. cit. ('wherein').
(6) Concerning marrying two sisters.
(7) Ibid. XVIII, 18, E.V., 'Beside the other'.
(8) Concerning an erroneous ruling of the Beth din.
(9) Thus it has been shewn that Rabbi requires the text Beside the other for another deduction.
(10) Lev. IV, 3.
(11) Heb. mizwoth מצות 'commandments'.
(12) Lev. IV, 22 and IV, 13.
(13) That the transgression must be one which involves kareth if done wilfully, and a sin-offering if done unwittingly.
(14) Num. XV, 24, dealing with idolatry.
(15) Lev. IV, 13, referring to an erroneous ruling.
(16) V. note 12.
(17) Num. XV, 27.
(18) 'And', in we'im (ואם, and if).
(19) The congregation.
(20) Individual, ruler and High Priest.
(21) The congregation, concerning whom deduction has previously been made from the law relating to an erroneous ruling.
(22) Who, unlike Rabbi, require the expression 'aleha (beside her) for deduction in connection with the laws of incest and rival wives, supra 3b.
(23) That obligation is incurred only where the prohibition involves kareth where it was transgressed wilfully and a sin-offering when transgressed unwittingly.
(24) Num. XV, 29, 30.
(25) The text, according to Rabbinical exposition, refers to idolatry and in relation to it the expression Law (Torah) is used.
(26) E.g., offering of a sacrifice.
(27) V. Num. XV, 30. Where wilful transgression involves kareth, unwitting transgression is atoned for by a sin-offering.
(28) By deduction from soul (nefesh, Num. XV, 27) which includes all ranks of individuals.
(29) Num. XV, 27, referring, as has just been pointed out, to individuals of all ranks.
(30) Congregation.
(31) Individuals.
(32) V. supra p. 40, n. 13 and p. 40, n. 14.
(33) Num. XV, 29.
(34) Lit., 'requires it for as it was taught'.
(35) Lit., 'many', i.e., the inhabitants of a city condemned for idolatry (Deut. XIII, 13ff).
(36) A suburb of Nehardea.
(37) Why the sin-offerings of a group and of individuals are the same in the case of idolatry (v. previous note).
(38) I.e., a majority of all the tribes of Israel.
(39) What distinction, then, would there be between the sin-offerings of a 'condemned city' and those of the 'congregation'? (V. previous note). If a distinction is to be made between the sacrifices of a 'condemned city' and those of individuals, how much more should such a distinction be made between the former and those of the 'congregation'!
(40) Cf. n. 7, supra.
(41) Now, since no distinction in the sacrifice could possibly be made, what need was there for the text of Num. XV, 29?
(42) V. previous note.
(43) The men of a 'condemned city'.
(44) A bullock for a sin-offering and a he-goat for a burnt-offering.
(45) For the men of a 'condemned city' to bring a special sin-offering.

(46) If the sin was committed unwittingly since an offering peculiar to themselves is an impossibility.

(47) That the sacrifices are the same (cf. supra p. 42, n. 5) as deduced from Num. XV, 27. For further notes v. Hor., Sonc. ed. pp. 53ff.

(48) In our Mishnah, supra 2a.

(49) I.e., that the Mishnah should have included as a sixteenth forbidden relative, a man's mother who was not the lawful wife of his father, and who, having been subsequently married by his paternal brother who died childless, is now subject to the levirate marriage or halizah of her own son, the brother of her second husband.

(50) Whether she may be married to his paternal brother, supra 4a.

(51) איסור מצוה a prohibition not included in the Biblical laws of incest, but ordained by the Rabbis. איסור קדושה a prohibition due to sanctity in the case, e.g., of a widow whose levir is a High Priest. (For this and an alternative explanation v. infra 20a).

(52) Infra loc. cit.

(53) In our very chapter, infra 13a.

(54) Which shews that even laws which are in dispute are recorded in the chapter.

(55) Lit., 'is not a teaching'; the view of Beth Hillel is accepted as law, and can consequently be included in our chapter.

(56) Lit., 'in his world', i.e., who was born after the death of his childless brother.

Talmud - Mas. Yevamoth 9b

concerning which R. Simeon and the Rabbis are in dispute,[1] and which is nevertheless mentioned? — R. Simeon does not dispute the case where the birth[2] was first, and the levirate marriage[3] later.[4] Did not R. Oshaia, however, say[1] that R. Simeon disputed the first case also?[5] — Surely. R. Oshaia's view was refuted.

Did not, however, Rab Judah state in the name of Rab, and R. Hiyya also taught: In the case of all these[6] it may happen that she who is forbidden to one brother may be permitted to the other[1] while she who is forbidden to the other brother may be permitted to the one, and that her sister who is her sister-in-law may be subject either to halizah or to the levirate marriage.[7] And Rab Judah interpreted [it[8] as referring to those][9] from one's MOTHER-IN-LAW onwards but not to the first six categories. What is the reason? Because in the case of a daughter this[10] is possible only [with one born] from a woman who had been outraged but not [with one born] from a legal marriage,[11] [and the author of our Mishnah] deals only with cases of legal matrimony and not with those of outraged women.[12] And Abaye interpreted it[8] [as referring] also to a daughter from a woman who had been out raged, because, since [the application of Rab's statement] is quite possible in her case, it matters not whether she was born from a woman who was legally married or from one that had been outraged; but not to the wife of a brother who was not his contemporary. What is the reason? Because [the application of Rab's statement in this case] is possible only according to the view of R. Simeon and not according to that of the Rabbis, [the author of our Mishnah] does not deal with any matter which is in dispute. And R. Safra interprets it[13] as referring also to the wife of a brother who was not his contemporary, and [in his opinion] it[13] is possible in the case of six brothers in accordance with the view of R. Simeon.[14]

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(1) Infra 18b.

(2) Of a third brother. (V. infra n. 4).

(3) Between the second brother and the widow of the first brother who died without issue (V. following note).

(4) In such a case, R. Simeon agrees that the third brother must not marry the widow, because at the time when he was born the widow was forbidden to him as 'the wife of his brother who was not his contemporary'. R. Simeon's disagreement with the Rabbis is limited to the case where the first brother, A, died childless and his widow was married to the second brother, B, prior to the birth of the third brother, C. If subsequently B died also childless, R. Simeon, contrary to the opinion of the Rabbis, allows the levirate marriage between the widow and C, because when C was born the widow was already the wife of B, and C's levirate marriage now is not due to A whose widow was a married woman when he was born, but to B whose contemporary he is.

(5) I.e., where C (v. note 4) was born before the levirate marriage between A's widow and B took place.
(6) The fifteen forbidden categories enumerated in our Mishnah, supra 2af.
(7) For full explanation of this statement V. infra 26a and 28b.
(8) Rab's statement.
(9) Forbidden categories.
(10) The full application of Rab's statement.
(11) Who would be forbidden to all the brothers.
(12) And since the case of a daughter could not be included, the other five cases also, bearing on a daughter, were excluded.
(13) Rab's statement.
(14) V. infra 28b for explanation.

Talmud - Mas. Yevamoth 10a

And your mnemonic is, 'Died, born, and performed the levirate marriage; died, born, and performed the levirate marriage'![1] — Rabbi[2] does not accept these rules.[3]

R. Adda Karhina stated before R. Kahana in the name of Raba: Rabbi, in fact, does accept these rules,[4] but it was this that he meant to say to [Levi]:[5] [The application of the statement[4] to] a woman outraged by one's father is possible only in one [of its parts]; it is impossible, however, to apply it in [both its parts], for if Jacob outraged his two sisters,[6] it is possible [to apply that part of the statement relating to] 'her sister who is her sister-in-law',[7] but not that of 'she who is forbidden to one brother may be permitted to the other';[8] and if be outraged two strangers,[9] it is possible [to apply the statement], 'she who is forbidden to one brother may be permitted to the other'[10] but not that of 'her sister who is her sister-in-law'.[11]

R. Ashi said: Rabbi, in fact, does not accept these rules[12] and [our Mishnah] does deal with matters in dispute, and as to the meaning[13] of 'It seems to me that this man has no brains in his head' which he[14] addressed to him,[15] what he meant was this: 'Why did you not carefully consider our Mishnah? For our Mishnah represents the view of R. Judah who forbids the marriage of a woman that was outraged by one's father,[16] as it was taught: Six forbidden relatives come under greater restrictions,[17] since they are to be married to strangers only,[18] and their rivals are permitted.[19] [These are:] his mother, his father's wife and his father's sister [etc.].[20] Now, what is meant by "his mother"? If it be assumed to mean one who was legally married to his father, such a woman surely is "his father's wife".[21] Must it not consequently mean one who was outraged by his father? And yet it was stated, "since they are to be married to strangers only", implying "to strangers only but not to the brothers". Now, who has been heard to hold such an opinion? Surely it was R. Judah who forbids marriage with a woman who was outraged by one's father.[22] Hence[23] it was not included in our Mishnah.'[24]

Said Rabina to R. Ashi: [Such a levirate relationship][25] is possible even according to R. Judah if and when one had married[26] illegally![27] — The author of the Mishnah is not concerned with an 'if'.[28] Said R. Ashi to R. Kahana: This[29] is also possible without the 'if',[30] where Jacob[31] outraged his daughter-in-law, begat from her a son, and then Reuben[32] died without issue, and she thus came into levirate relationship with her son;[33] and since she is forbidden to him,[34] her rival also is likewise forbidden![35] — The other replied: [The author of our Mishnah] deals only with lawful brotherhood but not with brotherhood which is due to a forbidden act.

Levi nevertheless[36] inserted it[37] in his Mishnah. For Levi taught: One's mother sometimes exempts her rival[38] and sometimes she does not exempt her. If his mother, for instance,[39] was lawfully married to his father, and then she was married[40] to his paternal brother[41] who subsequently died, such a mother does not exempt her rival.[42]

(1) Now, since in the case of 'the wife of a brother who was not his contemporary' the application of Rab's statement is only possible according to the view of R. Simeon but not according to that of the Rabbis, and since the statement is based on our Mishnah, it is obvious that our Mishnah deals also with a case which is in dispute.
(2) Cf. Bah. Cur. edd. insert, 'but'.
(3) Of Rab and R. Hiyya. Our Mishnah consequently deals only with that case in which R. Simeon and the Rabbis are in agreement. (V. supra 9b top).
(4) Of Rab and R. Hiyya, supra 9b.
(5) Whom he addressed supra 9a.
(6) And after one of them had given birth to a child, C, and the other to one, D, the first was married by A and the second by B, two of Jacob's sons from another wife.
(7) For should A and B die childless their wives who are sisters as well as sisters-in-law come under the law of the levirate marriage in relation to C and D the brothers of A and B.
(8) Both being forbidden to C as well as to D. The mother of C is forbidden to C as mother and to D as mother's sister, and the mother of D is similarly forbidden to D and C.
(9) Cf.n.8.
(10) Since the women are strangers and the restrictions mentioned in note 10 do not apply.
(11) The women being sisters-in-law only but not sisters. Thus it has been shewn that the statement could not be applied in its entirety to the case of an outraged woman. Hence it was excluded from the enumeration in our Mishnah.
(12) Of Rab and Hiyya.
(13) Lit., 'and what'.
(14) Rabbi.
(15) Levi, supra 9a.
(16) Hence it is impossible for a mother, whether legally married or outraged, ever to come into levirate relationship with her son. (Cf. supra p. 45, n. 8.)
(17) Than those relating to the fifteen enumerated in our Mishnah.
(18) No paternal brother of the person concerned may ever marry them.
(19) To marry the brother of their deceased husband who had been married to their rival (one of the six relatives) illegally (Maimonides). If the marriage was with a stranger the permissibility of marriage is obvious since the laws of rivals apply only to a brother's widow.
(20) Infra 13a.
(21) Who was specifically mentioned.
(22) So that it is impossible for one ever to be subject to levirate marriage with his brother's wife whose legitimate or illegitimate son he is.
(23) Since R. Judah holds such an opinion and the Mishnah represents his view.
(24) Lit., 'he did not teach it'.
(25) Cf. supra p. 46, n. 13.
(26) The woman his father had outraged and who is also the mother of his brother.
(27) Infra 78a. In such a case it is surely possible for a mother to come into the levirate relationship with her son.
(28) Lit., 'when if he does not teach', i.e., he is not concerned with a levirate relationship that may arise out of a possible and unlikely breach of the law.
(29) Levitate relationship with a mother. Cf. supra p. 46, n. 13.
(30) I.e., even if the deceased brothers did not transgress the law.
(31) The father of the deceased.
(32) Her husband, Jacob's son.
(33) Lit., 'and she fell before her son', who is the paternal brother of her deceased husband, Reuben.
(34) As his mother.
(35) Why then was not this case included in our Mishnah?
(36) Despite Rabbi's abusive reply, supra 9a.
(37) בדקה lit., 'examined it', i.e., revised our Mishnah and added the case under discussion. [Levi drew up a collection of teachings like those of R. Hiyya and R. Oshaia, v. B.B., Sonc. ed. p. 216].
(38) From halizah and the levirate marriage.

(39) Lit., ‘how so?’.

(40) Unlawfully.

(41) Which is a marriage forbidden under the penalty of kareth and is, therefore, illegal and invalid.

(42) The marriage having been invalid, the woman is not regarded as his brother's wife.

Talmud - Mas. Yevamoth 10b

If his mother, however, was a woman that had been outraged by his father and was then married to his paternal brother who subsequently died, such a mother does exempt her rival.[1] And though the Sages taught in our Mishnah FIFTEEN we must add a case like this as a sixteenth.

Resh Lakish said to R. Johanan: According to Levi who maintains that an ‘if’[2] is also included,[3] let our Mishnah also include[4] the case of a levir who gave halizah to his sister-in-law[5] and later betrothed[6] her and died without issue, for since [the widow of such a one] is forbidden,[7] her rival also is forbidden![8] — The other replied: Because in this case the law of the rival of the rival[9] cannot be applied.[10] But could he[11] not have answered[12] him[13] [that the brothers] are only subject to the penalties of a negative precept,[14] and that those who are subject to the penalties of a negative precept are[15] under the obligations of halizah and the levirate marriage?[16] — He[17] answered him[18] in accordance with the view he[18] holds. ‘According to my view,’ he[19] argued, [the brothers] are only subject to the penalties of a negative precept,[20] and those who are subject to the penalties of a negative precept are[21] under the obligations of halizah and the levirate marriage,[22] but even according to your view that they are subject to the penalty of kareth [the case could not have been included in our Mishnah] because the law of the rival's rival cannot be applied’.[23]

It has been stated: Where [a levir] had performed the ceremonial of halizah with his sister-in-law, and then betrothed her, Resh Lakish holds that he is not subject to the penalty of kareth for the haluzah,[24] but the other brothers are subject to kareth for the haluzah.[25] In the case of the rival,[26] both he[27] and the other brothers are subject to kareth for a rival.[28] R. Johanan, however, holds that neither he[27] nor the other brothers are subject to kareth either for the haluzah or for her rival.[29] What is the reason of Resh Lakish? — Scripture stated, That doth not build,[30] since he has not built he must never again build.[31] He himself is thus placed under the prohibition of building no more,[32] but his brothers remain in the same position in which they were before.[33] Furthermore, the prohibition to build no more applies only to herself,[34] her rival, however, remains under the same prohibition as before.[33] And R. Johanan?[35] — Is it inconceivable[36] that at first halizah should be allowed to be performed by any one of the brothers[37] and with either of the widows of the deceased brother[38] and that now one or other of these persons should[39] be involved in kareth![40] But [in point of fact] he[41] merely acts as agent for the brothers while she[42] acts as agent for her rival.[43]

R. Johanan pointed out to Resh Lakish the following objection: ‘If a levir who submitted to halizah from his sister-in-law, later betrothed her and died,[44] [the widow] requires halizah from the surviving brothers’. Now, according to me who maintains that [the surviving brothers][45] are subject to the penalties of a negative precept only, one can well understand why she requires halizah from the other brothers.[46] According to you, however, why should she require halizah?[47] — Explain, then, on the lines of your reasoning, the final clause, ‘If one of the brothers[48] actually[49] betrothed her, she has no claim upon him’![50] R. Shesheth replied: The final clause represents the opinion of R. Akiba who holds that a betrothal with those who are subject thereby to the penalties of a negative precept is of no validity.[51] Should it not then have been stated, ‘according to the view of R. Akiba she[52] has no claim upon him’![53]

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(1) Since her marriage with the deceased brother was not unlawful, her rival (any other wife of her husband) is subject to the same laws as any other rival in the case of the fifteen relatives of our Mishnah.

(2) Cf. p. 47, n. 4, supra.

(3) By R. Judah who, as has been shewn supra, is the author of our Mishnah. Though he prohibits the marriage of a woman that was outraged by one's father, he nevertheless, according to Levi's recital, included the case in our Mishnah.
(4) Lit., 'teach'.
(5) Whom he is in consequence forbidden to marry.
(6) Since the marriage in such a case is forbidden under a negative precept the transgression of which does not involve the penalty of kareth, the betrothal is legally valid.
(7) To the brothers of the levir who gave the halizah: this prohibition, according to Resh Lakish infra involving the penalty of kareth.
(8) To the brothers. Why then was not this case also added to the fifteen?
(9) V. our Mishnah.
(10) Her rival (as well as herself), being forbidden to all the other brothers (as brother's wife or as the haluzah of one of the brothers), can never have any of the wives of the brothers as her rival. In the case of the forbidden relatives in our Mishnah, they are forbidden to one of the brothers only, hence they or their rivals are not otherwise precluded from marrying one of the other brothers.
(11) R. Johanan.
(12) Lit., 'and he should say'.
(13) Resh Lakish.
(14) If they married the haluzah, their deceased brother's widow, with whom halizah had been performed by one of them. According to R. Johanan, infra, contrary to the view of Resh Lakish, no penalty of kareth is involved in such a marriage, whether the transgressor be the brother who performed the halizah or any of the other brothers.
(15) Unlike those subject to the penalty of kareth who are exempt from halizah and from the levirate marriage.
(16) I.e., though the marriage with them is forbidden by a negative precept, they remain nevertheless under the obligations of the levirate relationship and must, therefore, undergo the ceremonial of halizah. Why, then, did not R. Johanan give Resh Lakish this reply which would well account for the omission from our Mishnah of the case he mentioned?
(17) R. Johanan.
(18) Resh Lakish.
(19) R. Johanan.
(20) V. p. 48, n. 13.
(21) V. p. 48, n. 14.
(22) Cf. previous note.
(23) Cf. supra p. 48, n. 9.
(24) V. Glos. I.e., for having intercourse with her. Consequently the betrothal is valid.
(25) Consequently should any of the other brothers betroth the haluzah, the betrothal is invalid.
(26) Of a haluzah (v. previous note). A rival is exempt from halizah and the levirate marriage by the action of the haluzah.
(27) The levir who participated in the halizah.
(28) V. infra 53a.
(29) Infra 40b and l.c.
(30) Deut. XXV, 9.
(31) The imperfect יבנה may be rendered as a present as well as a future.
(32) I.e., under a negative precept only which involves no kareth.
(33) I.e., under the prohibition to marry a brother's wife, which involves the penalty of kareth.
(34) The haluzah.
(35) What reason does he advance for his opinions?
(36) Lit., 'is there (such) a thing'?
(37) Lit., 'if he prefers, this one participates in the halizah and if he prefers etc.'
(38) Lit., 'and if he prefers he performs the halizah with that one and if he prefers etc'.
(39) In case of a betrothal.
(40) Though the others are not.
(41) The brother who participated in the halizah.
(42) The widow who performed the halizah ceremonial.

(43) Hence all the brothers as well as all the rivals are in this respect in exactly the same position. As the brother and the widow who between them carried out the halizah ceremonial are in a case of subsequent marriage exempt from kareth and are subject only to the penalties of a negative precept, so also are all the others on whose behalf they acted.
(44) Without issue.
(45) In subsequently marrying the haluzah.
(46) Since the negative precept which bars them from the levirate marriage does not supersede halizah.
(47) Marriage with them would involve the penalty of kareth, and whenever such a penalty is involved the parties are not subject to the laws of halizah!
(48) Other than the one who participated in the halizah.
(49) Lit., 'stood'.
(50) I.e., the betrothal is invalid, she receives no kethubah, and no divorce is needed. This obviously proves that the penalty for such an ensuing marriage is kareth, as Resh Lakish maintains; for had it been, as R. Johanan asserts, that of a negative precept only, the betrothal should have been valid.
(51) Keth. 29b, Kid. 64a, 68a, Sot. 18b, infra 52b, 69a.
(52) So Bah, a.l. Cur. edd., 'he'.
(53) Since it is the general opinion that such a betrothal is valid.

Talmud - Mas. Yevamoth 11a

— This is rather a difficulty.

R. Ashi holds the same opinion as Resh Lakish[1] and explains it[2] in accordance with the ruling of R. Simeon.[3] Rabina holds the same opinion as R. Johanan[4] and explains it[5] in accordance with the ruling of the Rabbis.[6] 'R. Ashi holds the same opinion as Resh Lakish and explains it in accordance with the ruling of R. Simeon', thus: If [a levir] who submitted to halizah from his sister-in-law had subsequently betrothed her, she[7] requires halizah from the brothers. Who are these brothers? Those born [subsequently].[8] According to whose view? According to that of R. Simeon.[9] If one of the previously born[10] brothers, however, betrothed her, she has no claim upon him.[11] According to whose view? According to that of Resh Lakish.[11]

'Rabina holds the same opinion as R. Johanan and explains it in accordance with the ruling of the Rabbis', thus: If [a levir] who submitted to halizah from his sister-in-law had subsequently betrothed her, she requires halizah from the brothers. Who are these brothers? Those born [prior to the halizah]. According to whom? According to R. Johanan.[12] If one of the subsequently[13] born brothers, however, betrothed her, she has no claim upon him. According to whose view? According to that of the Rabbis.[14]

It has been stated: In the case where [the Ievir] had intercourse with his sister-in-law[15] and one of the other brothers had intercourse with her rival, there is a difference of opinion between R. Aha and Rabina. One said: [It involves[16] a transgression subject] to kareth and the other said: [The transgression] of a positive precept.[17] He who said, '[A transgression subject] to kareth' follows Resh Lakish;[18] and he who said, '[The transgression] of a positive precept' follows R. Johanan.[19]

Rab Judah said in the name of Rab: The rival of a sotah[20] is for bidden.[21] What is the reason?[22] — Because uncleanness is ascribed to her[23] as to the cases of incest.[24] R. Hisda raised an objection:[25] R. Simeon[26] said, the intercourse[27] or halizah of the brother of the first husband exempts her rival![28] — Rab can answer you, 'I speak of a sotah that is Biblically forbidden,[29] and you talk of a sotah that is only Rabbinically forbidden'.[30]

But as to him who raised this objection, what did he imagine?[31] — He thought that Rabbinical provisions were given the same force as Biblical laws.[32]

R. Ashi raised an objection: If she[33] entered with the man into a private place and remained with him for a period sufficient for the consummation of defilement, she is forbidden to her house,[34] she may not eat of terumah,[35] and if he died she must undergo the ceremony of halizah

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(1) That any brother, other than the one who submitted to the halizah, who married the widow after she had performed the halizah is subject to the penalty of kareth (v. supra 10b).

(2) The first clause of the statement cited in the discussion between R. Johanan and Resh Lakish, according to which halizah is required.

(3) Who maintains that a brother born after the levirate marriage of his elder brother is not subject, in relation to the deceased brother, to the restriction of a 'brother who was not his contemporary'. The first clause then, which requires halizah, may consequently refer to brothers born after both the halizah and the betrothal had taken place. The widow of the levir not being forbidden to them on account of her first deceased husband, is subject to halizah on account of the second. (The final clause which clearly agrees with the view of Resh Lakish requires of course no explanation).

(4) Who maintains that the brother who performed the halizah as well as all the other brothers are forbidden to marry the widow subsequent to the halizah, not under the penalty of kareth but under that of a negative precept. Hence the ruling in the first clause that halizah is required.

(5) The final clause. (Cf. n. 2 supra).

(6) Who hold that even a brother born after the levirate marriage (v. n. 3 supra) is subject to the restrictions of 'a brother who was not his contemporary'. The final clause may accordingly refer to such brothers to whom the widow is forbidden for this reason (not on account of the halizah that had been performed) and the marriage or betrothal with whom is consequently invalid. (The first clause obviously is in agreement with R. Johanan).

(7) In the case where the levir who betrothed her also died without issue.

(8) After the halizah and the betrothal. Having been born after the halizah they have never been subject to the levirate relationship on account of the first deceased brother and the halizah of the levir had, therefore, imposed no restrictions upon them in relation to the widow.

(9) V. supra n. 3. Hence it is the duty of one of these brothers to submit to halizah which is incumbent upon them as brothers of the levir who also died without issue.

(10) Prior to the performance of the halizah.

(11) Since according to Resh Lakish the performance of the halizah by one of the brothers had caused the prohibition of the widow upon all other contemporary brothers under the penalty of kareth, such a betrothal is invalid.

(12) V. supra p. 51, n. 4.

(13) After the performance of the halizah.

(14) V. supra p. 51, n. 6.

(15) The widow of his deceased childless brother.

(16) For the other brother.

(17) The precept is to perform one levirate marriage but not more than one, a transgression to which no penalty is attached.

(18) In whose view (supra 10b) the levir who marries, or participates in halizah with the widow, does not act as the agent of the other brothers. Hence, despite the fact that in the levir's own case the prohibition to marry the rival is regarded as having the force of a positive precept, in that of the other brothers the original prohibition to marry a brother's wife remains in force and marriage with her involves, therefore, the penalty of kareth.

(19) Who regards the levir as the agent of the brothers (supra 10b). Hence they are subject to the same prohibition. As in the levir's own case so in that of the other brothers the levirate obligations supersede the prohibition of marrying a brother's wife, and with it the original penalty of kareth.

(20) סוטה, a married woman suspected of adultery, who is subject to the ordeal prescribed in Num. V, 12ff. V. Glos.

(21) To the levir; in the case where there are witnesses that the sotah had committed the crime and her husband subsequently died childless. The rival and certainly the sotah herself are in such a case exempt from both the levirate marriage and the halizah.

(22) So Bah. Cur. edd. omit.

(23) She being defiled. Num. V, 13.

(24) Defile ye not yourselves. Lev. XVIII, 24. As the rival in the latter case is forbidden, so is she in the former.

(25) The following refers to a case where a woman married a second husband on the basis of a report by one witness that

her first husband had died in a foreign country. If later it was discovered that her first husband was alive, she must be divorced by both. If both died childless prior to the divorce she requires halizah from a brother of each but may not, according to the Rabbis, marry either of them.

(26) Disagreeing with the Rabbis in one point.

(27) Her second marriage having been entered into through an innocent error, no penalty is incurred by her as far as her relationship with the levir from the first marriage is concerned. Hence, in the opinion of R. Simeon, either marriage or halizah is permitted, v. infra 87a.

(28) From this it follows that the rival of a married woman who had intercourse with another husband is permitted to the levir both according to R. Simeon and according to the Rabbis (the latter having only disputed the case of the married woman herself). Why, then, did Rab state that the rival of a sotah is forbidden?

(29) A woman that was faithless to her husband. (Num. V, 12ff).

(30) The woman who married a second husband under an honest misapprehension. Biblically she is permitted to live again with her husband since her second marriage was entered into on the basis of a report by a witness, on the strength of which she was by Biblical law fully permitted to contract the marriage.

(31) He must surely have known that the one was Biblical and the other only Rabbinical! ודקארי לה מאי קארי rt. ארי or ארא (cf. Gr. **) 'to speak', 'enquire', 'argue'.

(32) Lit., 'all that the Rabbis provided, like that of the Torah they provided'.

(33) A woman suspected by her husband who warned her not to seclude herself with a certain man.

(34) I.e., to her husband.

(35) V. Glos.; in the case where the husband is a priest.

Talmud - Mas. Yevamoth 11b

though she may not marry the levir![1] — Rab can answer you. 'I speak of a definite sotah, and you speak of a doubtful one'. But why should a definite sotah be different? Obviously because in relation to her the expression of 'uncleanness' is used;[2] is not, however, the expression of 'uncleanness' also used in relation to a doubtful sotah! For it was taught: R. Jose b. Kipper said in the name of R. Eleazar, The remarriage by a husband of his divorced wife is forbidden after marriage[3] and permitted after betrothal,[4] because it is stated in the Scriptures. After that she is defiled.[5] The Sages, however, say, the one as well as the other[6] is forbidden,[7] and the expression[8] 'After that she is defiled' implies the inclusion of a sotah who secluded herself with a man![9] — The underlying meaning of 'secluded herself' is 'sexual intercourse'. Why then did he say 'secluded herself'? — In order to employ a euphemism.[10] But in relation to sexual intercourse, [surely,] uncleanness was actually mentioned in the Scriptures. She being defiled secretly![11] — To subject the offence[12] to a negative precept.[13] And R. Jose b. Kipper?[14] — He does not hold the view that a negative precept is applicable to a sotah, even in the case where she had actually committed adultery. What is the reason? — [Because in reference to the remarriage of a divorced wife] Scripture uses the expression of[15] becoming[16] as well as that of matrimony.[17]

Rab Judah inquired of R. Shesheth: What is the law in regard to the rival of a woman whom her former husband remarried after her second marriage and died?[18] According to the view of R. Jose b. Kipper the question does not arise. For R. Jose b. Kipper having stated that 'uncleanness' is mentioned in the case of him who remarried his divorced wife, it follows that her rival is subject to the very same restrictions. And if [objection be raised] from the Scriptural text, She is an abomination,[19] [it may be replied that the implication is] that she is an abomination and not her children,[20] her rival, however, being an abomination. The question, however, arises on the view of the Rabbis: Does the Scriptural text,[21] despite the fact that the Rabbis had applied the expression 'uncleanness' to the sotah, also bear its ordinary meaning,[22] or since it[23] was once torn away [from its ordinary meaning] it must in all respects so remain?[24] Others say: According to the Rabbis no question arises, for since the text has once been torn away [from its ordinary meaning] it must in all respects so remain. The question, however, arises according to the view of R. Jose b. Kipper: What is the law? [Is it assumed that] although R. Jose b. Kipper stated that the expression of 'uncleanness'

refers to the remarriage of a divorced wife, the All Merciful has written 'She is an abomination' to indicate that 'she' is an abomination but not her rival,[25] or is the implication, perhaps, that 'she' is an abomination, but her children are not; a rival, however, being an abomination?[26] — The other replied: You have learnt it, 'If one of them[27] was a permitted wife and the other a forbidden one; if he[28] submit to halizah he must submit to that of the forbidden one;[29] and if he marries he marries the permitted one.'[29] Now what is meant by 'permitted' and 'forbidden'? If it be suggested that 'permitted' means permitted for all the world,[30] and 'forbidden' means forbidden for all the world,[31] what practical difference, in view of the fact that she is In either case suitable for him,[32] could this make to him? Consequently 'permitted' must mean permitted to him, and 'forbidden', forbidden to him; and this may happen where[33] he[34] remarried his divorced wife;[35] and yet it was taught, 'and if he marries he marries the permitted one'![36] — No; 'permitted' may still mean permitted to all the world[30] and 'forbidden', forbidden for all the world;[31] and as to your question, 'what practical difference, in view of the fact that she is in either case suitable for him, could this make', one must take into account the moral lesson[37] of R. Joseph. For R. Joseph stated: Here[38] Rabbi taught that a man shall not pour the water out of his cistern so long as others may require it.[39]

Come and hear: 'Where a man remarried his divorced wife after she had been married,[40] she and her rival are to perform the halizah.' Is it possible to say 'she and her rival'?[41] Consequently it must mean, 'Either she or her rival.'[42] Did you not, however, have recourse to an interpretation?[43] [You might as well] interpret thus: She is to perform halizah, while her rival may either perform halizah or be married by the levir.

R. Hiyya b. Abba said: R. Johanan inquired as to what is the law[44] in regard to a rival of a divorced woman whom her former husband remarried after her second marriage. Said R. Ammi to him: Enquire rather regarding herself![45] — Concerning herself I have no question since her case may be inferred a minori ad majus: If she is forbidden to him[46] to whom she was originally[47] permitted, how much more so to the man[48] to whom she was originally[47] forbidden![49] The question, however, remains concerning her rival: Is the inference a minori ad majus strong enough to exclude a rival[50] or not?

R. Nahman b. Isaac taught as follows: R. Hiyya b. Abba said, R. Johanan enquired as to what is the law[44] in regard to a divorced woman whom her husband remarried after her second marriage. Said R. Ammi to him: Enquire rather regarding her rival! — Concerning her rival I have no question, for an inference a minori ad majus[51] is not strong enough to exclude a rival;[50] the question, how ever, remains regarding herself. Is the inference a minori ad majus strong enough [to be acted upon] where a precept[52] is involved or not?

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(1) If the sotah herself must go through the ceremony of halizah, much more so her rival; how then could Rab state that the rival of a sotah (and much more so the sotah herself, v. supra p. 53, n. 1) is exempt from halizah?

(2) Num. V, 13.

(3) With a second husband who subsequently died or divorced her.

(4) Where no marriage with the second man took place, and he died.

(5) Deut. XXIV, 4, referring, in the opinion of R. Eleazar, to a divorced woman who had married a second husband.

(6) Married or betrothed.

(7) This is deduced by the Sages from And goeth and becometh another man's wife (Deut. XXIV, 2) which, they maintain, implies betrothal as well as marriage.

(8) Lit., 'but what do I establish'.

(9) That the husband must not take her back. This clearly shews that the expression of 'uncleanness' was also used concerning a doubtful sotah.

(10) Lit., 'he took a nice (or superior) expression'.

(11) Num. V, 13; what need, then, was there for the implication of the text of Deut. XXIV, 4?

(12) Of remarrying a sotah.

(13) Lit., 'to cause to stand concerning it in a negative (prohibition)'; the negative can only be derived from Deut. XXIV, 4: May not take her again to be his wife.
(14) Who applies the entire text to the remarriage of a divorced wife, whence does he derive the law concerning the sotah?
(15) Lit., 'it is written concerning it'.
(16) Deut. XXIV, 2, And she departeth out of his house, and goeth and becometh (ותיתה) another man's wife.
(17) Ibid., Or if the latter husband (האיש) die, implying that the divorced woman's connection with the second man must be that of 'husband and wife', i.e., lawful matrimony. In the case of the sotah the intercourse was unlawful and cannot come, therefore, under the prohibition of Deut. XXIV, 4.
(18) Is the rival subject to the levirate marriage and halizah?
(19) Deut. XXIV, 4, dealing with a woman remarried after divorce. The text She is an abomination. תועכה היא might be taken to imply that the designation, and consequently the restrictions, refer to the woman only (היא= she) and not to her rival.
(20) I.e., the exclusion of היא may refer not to her rival but to her children who, unlike their mother who is regarded as an 'abomination', may marry into priestly families.
(21) Describing the woman (or the act of remarrying the first husband after divorce and second marriage) as 'uncleanness'.
(22) I.e., its bearing on the woman remarried (v. previous note), with whose case the text in its ordinary meaning is concerned, and consequently on her rival also.
(23) The expression of uncleanness.
(24) Lit., 'that it was uprooted it was uprooted', i.e., since it was removed from its context and applied to the sotah, it can never be re-applied to its original case. Hence a rival would not come under the same restrictions as the sotah herself.
(25) To whom, consequently, the restrictions would not apply.
(26) And consequently subject to the same restrictions as the woman herself.
(27) Two widows of a brother who died without issue.
(28) The levir.
(29) Infra 44a, and thereby liberates also the other widow, her rival.
(30) I.e., even to priests.
(31) In case she was once, e.g., a divorced woman and is thus forbidden to marry a priest.
(32) He being an ordinary Israelite.
(33) Lit., 'and what is it'.
(34) The deceased brother.
(35) In which case the woman who was remarried is forbidden to the levir as she was forbidden to his deceased brother who had married her unlawfully, while her rival, having been lawfully married, is permitted to the levir.
(36) Which clearly shews that the rival of a woman remarried by her former husband is subject to the levirate marriage.
(37) Lit., 'because of'.
(38) In the Mishnah cited where it is stated that halizah is to be performed with the forbidden one.
(39) A man should not destroy anything which may be of use to others though it is of no use to him. In the case under discussion, the levir submits to halizah from the forbidden one and thus liberates the permitted one to marry even a priest to whom she would have been forbidden had the halizah been performed by her.
(40) To a second husband who divorced her or died.
(41) Halizah surely is performed by one of the widows only!
(42) Which supplies an answer to the enquiry addressed by Rab Judah to R. Shesheth.
(43) 'He and her rival' was interpreted as 'Either etc.'
(44) In respect of the levirate marriage.
(45) The remarried woman.
(46) Her first husband.
(47) Before she married her second husband.
(48) The levir.
(49) As brother's wife.
(50) From the levirate marriage.
(51) V. previous paragraph.

(52) The levitate marriage.

Talmud - Mas. Yevamoth 12a

— The other replied,[1] You have learned it: If one of them was a permitted wife and the other a forbidden one; if she submits to halizah he must submit to that of the forbidden one; and if he marries, he marries the permitted one. Now, what is meant by 'permitted' and 'forbidden'? If it be suggested that 'permitted' means permitted to all the world and 'forbidden' means forbidden to all the world, what practical difference, in view of the fact that she is in either case suitable for him, could this make to him? Consequently 'permitted' must mean permitted to him, and 'forbidden', forbidden to him; and this may happen where he remarries his divorced wife; and yet it was taught. 'If he marries he marries the permitted one'![2] — No; 'permitted' may still mean permitted to all the world, and 'forbidden', forbidden to all the world; and as to your question. 'What practical difference, in view of the fact that she is in either case suitable for him, could this make'? One must take into account the moral lesson of R. Joseph. For R. Joseph said: Here, Rabbi taught that a man shall not pour the water out of his cistern so long as others may require it.[3]

Come and hear: 'Where a man remarried his divorced wife after she had been married, she and her rival are to perform halizah.' Is it possible to say 'she and her rival'? Consequently it must mean, 'either she or her rival.'[4] Did you not, however, have recourse to an interpretation? [You might as well] interpret thus: She is to perform halizah, while her rival may either perform halizah or be married by the levir.

R. Levi b. Memel said in the name of Mar 'Ukba in the name of Samuel: The rival of a mema'eneth[5] is forbidden. To whom [is she forbidden]? If it be suggested, to the brothers,[6] [it may be retort ed], now that she herself[7] is permitted,[8] for Samuel said, 'If she refused one brother she is permitted to marry the other',[9] is there any question that her rival is permitted![8] Hence [it means] to himself.[10] Wherein, however, does the mema'eneth[11] differ[12] that she is in consequence permitted to the other brothers? Obviously, in that she had taken no action in relation to them;[13] but her rival also had taken no action in relation to them![14] — It is an enactment made to prevent marriage with the rival of one's daughter[15] who was a mema'eneth.[16]

Is, however, the rival of one's daughter who is a mema'eneth forbidden? Surely we learned, IF, HOWEVER, ANY AMONG THESE DIED, OR MADE A DECLARATION OF REFUSAL, OR WERE DIVORCED[17] [etc.] THEIR RIVALS ARE PERMITTED. Now, against whom was the declaration of refusal made? If it be suggested that she refused the husband, then this case is identical with that of a divorced woman.[18] Consequently it must refer to refusal of the levir![19] — No; it may, in fact, refer to the refusal of a husband, but there are two kinds of divorce.[20]

Wherein, however, does the refusal of a husband differ?[21] Obviously in that she thereby annuls the original marriage; but when she refused the levir she has also annulled the original marriage! — [It differs] in respect of what Rami b. Ezekiel had learnt. For Rami b. Ezekiel learnt: If she[22] declared her refusal against the husband she is permitted to marry his father;[23] if against the levir, she is forbidden to his father.[24] From this it clearly follows that from the moment she becomes subject to the levirate marriage[25] she is looked upon as his[26] daughter-in-law; similarly here also[27] she is looked upon as the rival of his daughter from the moment she[28] becomes subject to the levirate marriage.

Said R. Assi: The rival of a woman incapable of procreation is forbidden;[29] for it is said in the Scriptures, And it shall be that the firstborn that she beareth,[30] which excludes a woman incapable of procreation, since she does not bear.[31] R. Shesheth raised an objection: In the case where three brothers were married to three women who were strangers to one another, and one of them having

died, the second brother addressed to her[32] a ma'amar[33] and died, behold these[34] must perform the halizah but may not marry the levir; for it is said, And one of them die [etc.] her husband's brother shall go in unto her,[35] only she[36] who is tied to one levir[37] but not she who is tied to two levirs;[38] and concerning this it was taught: R. Joseph said, 'This is the rival of a paternal brother's wife whose prohibition[39] is due to her double subjection to the levirate marriage,[40] a case the like of which we do not find through out the Torah'.[41] Now, what does the expression 'This is' exclude? Does it not exclude the rival of a woman incapable of procreation, who is permitted![42] — No; it excludes the rival of a woman incapable of procreation who is forbidden. What, then, is meant by the expression, 'This is'?[43] — It is that in this case, where the subjection to the levirate marriage has caused the prohibition, her rival requires halizah; in the case, however, of a woman incapable of procreation even halizah is not required. What is the reason? — The prohibition of the one[44] is Pentateuchal;[45] that of the other only Rabbinical.[46]

We learnt; IF, HOWEVER, ANY AMONG THESE DIED, OR MADE A DECLARATION OF REFUSAL, OR WERE DIVORCED, OR WERE FOUND INCAPABLE OF PROCREATION, THEIR RIVALS ARE PERMITTED![47] — This is no difficulty; the one[48] is a case where he[49] knew her defect[50] while the other[51] is a case where[52] he did not know of it.[53] The inference from our Mishnah also proves this; for it was stated WERE FOUND[54] and not 'were'. This proves it.

Raba said:

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(1) This reply applies to both versions of the inquiry.

(2) Which shews that for the rival levirate marriage is permitted while for the remarried woman herself it is forbidden. For further notes v. supra p. 56.

(3) For notes v. supra p. 56f.

(4) Which supplies answers to the enquiries raised by R. Johanan in both versions.

(5) A minor who declared her refusal to marry the levir. V. Glos. s.v. mi'un.

(6) Of the levir.

(7) The minor who refused to marry the levir.

(8) To marry the other brothers.

(9) Infra 107b.

(10) To the levir whom the minor had refused. The refusal removes the precept of the levirate marriage and in respect of the rival the prohibition of marrying a brother's wife comes again into force.

(11) V. p. 58, n. 6.

(12) From her rival.

(13) Her refusal having been confined to one of the brothers only.

(14) Not even against one of them. Why then is she forbidden to the levir?

(15) Who comes in the category of forbidden relatives whose rivals also are forbidden. On the possibility of mi'un during a father's lifetime, v. supra p. 2, n. 6.

(16) If the one were permitted the other also might erroneously be married.

(17) So Bah. Cur. edd. omit.

(18) Which was already mentioned.

(19) And yet, as our Mishnah shews, her rival is permitted in all cases enumerated, i.e., even in that of one's daughter.

(20) Actual divorce and one by mi'un.

(21) From that of the levir.

(22) A minor who was married to a stranger.

(23) Her declaration of refusal having completely annulled the original betrothal, she is no more his daughter-in-law.

(24) Her former marriage having once subjected her to levirate relationship, she must be regarded as the levir's father's daughter-in-law. V. infra 13a.

(25) Lit., 'falling'.

(26) The levir's father's.

(27) In the case of the rival of one's daughter who made the declaration of refusal.

(28) The daughter.
(29) I.e., if one of the widows of the brother who died without issue is such the other also is forbidden.
(30) Deut. XXV, 6.
(31) Hence she herself is forbidden as a brother's wife, and her rival as the rival of a forbidden relative.
(32) The widow of the deceased.
(33) V. Glos.
(34) The widows of the two dead brothers.
(35) Deut. XXV, 5.
(36) May marry the levir.
(37) I.e., where the second brother had actually married her and has thus severed all her connections with the first. In such a case as in that of the usual levirate she would stand in relation to the third brother as the widow of one brother only.
(38) The formula of betrothal or ma'amar addressed to her by the second brother has only partially attached her to him and has not completely severed her connection with her husband, the first brother. She thus remains tied to the two, and consequently entirely forbidden the levirate marriage.
(39) Of the levirate marriage.
(40) Lit., 'falling'. Her levirate relationship with the third brother being due to her partial connection with each of the two dead brothers.
(41) The widow not being one of the relatives forbidden by the Torah. The prohibition of the levirate marriage in her case is only Rabbinical, the Biblical text cited being a mere asmakta.
(42) How, then, could R. Assi state that a rival of one incapable of procreation is forbidden?
(43) Which seems to imply that only this case is forbidden but not the other.
(44) A woman incapable of procreation.
(45) The prohibition being derived from Deut. XXV, 6 supra.
(46) V. supra n. 1.
(47) V. supra n. 2.
(48) Lit., 'here', in R. Assi's statement.
(49) The husband now deceased.
(50) At the time their marriage took place. Having known her defect he was not in any way misled, and the marriage, therefore, is valid. Her rival is consequently the rival of a legally married wife who is incapable of procreation and is forbidden by the deduction from Deut. XXV, 6.
(51) Our Mishnah.
(52) The husband now deceased.
(53) At the time he married her. Since her defect was unknown to him the marriage which had taken place under a misapprehension is invalid. The woman, therefore, is not his lawful wife, and her rival cannot be regarded as a legal rival. Hence the statement in our Mishnah that such a rival is permitted.
(54) Implying discovery after the event, i.e., after the marriage.

Talmud - Mas. Yevamoth 12b

The law is that the rival of a woman incapable of procreation is permitted, even though he[1] knew her defect,[2] and even the rival of one's own daughter who was incapable of procreation [is permitted].[3] But what about the expression WERE FOUND[4] in our Mishnah? — Read, 'were'.

When Rabin came[5] he stated in the name of R. Johanan: The rival of a mema'eneth,[6] the rival of a woman incapable of procreation, as well as the rival of a divorced woman who had been remarried to her former husband,[7] are all permitted.

R. Bebai recited before R. Nahman: Three [categories of] women may[8] use an absorbent[9] in their marital intercourse:[10] A minor, a pregnant woman and a nursing woman. The minor,[11] because [otherwise] she might[12] become pregnant, and as a result[13] might die. A pregnant woman,[11] because [otherwise]. she might[12] cause her foetus to degenerate into a sandal.[13] A nursing woman,[11] because

[otherwise] she might[12] have to wean her child prematurely[14] and this would result in his death. And what is the age of such a minor?[15] From the age of eleven years and one day until the age of twelve years and one day. One who is under,[16] or over this age[17] must carry on her marital intercourse in the usual manner. This is the opinion of R. Meir. The Sages, however, say: The one as well as the other carries on her marital intercourse in the usual manner, and mercy will be vouchsafed from heaven,[18] for it is said in the Scriptures. The Lord preserveth the simple.[19]

Since it has been stated, 'because she might become pregnant and as a result might die' it may be implied that it is possible for[20] a minor to be pregnant and not die. But, if so, one could imagine a case where[21] a mother-in-law should be in a position to make a declaration of refusal,[22] whereas we learned, ONE CANNOT SAY OF A MAN'S MOTHER-IN-LAW, THE MOTHER OF HIS MOTHER-IN-LAW AND THE MOTHER OF HIS FATHER-IN- LAW THAT THEY WERE FOUND INCAPABLE OF PROCREATION OR THAT THEY MADE A DECLARATION OF REFUSAL! — Read, 'because she might become pregnant and die';[23] for Rabbah b. Liwai said: She[24] is subject to an age limitation. Prior to that period[25] she does not conceive at all; during that period[25] she dies and her embryo dies; after that period[25] both she and her embryo survive. But is it really so? Surely, Rabbah b. Samuel recited: One cannot say of a man's mother-in-law, the mother of his mother-in-law and the mother of his father-in-law that they were found incapable of procreation or that they made a declaration of refusal, since they have already given birth to children![26] — But [the reading], in fact, is, 'because she might become pregnant and as a result might die'. But, [then, the previously mentioned] difficulty remains![27] — R. Safra replied: Children are like marks of puberty.[28] Others Say: Children are more conclusive proof than the marks of puberty. What practical difference is there between the two statements? — [It is this: That] even he who follows R. Judah who stated, '[a girl may exercise the right of refusal] until the black[29] predominates'[30] admits in the case of children.[31]

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(1) The deceased brother, at the time when he married.

(2) And nevertheless consented to the marriage, which is consequently valid, and the woman is his lawful wife.

(3) The rival of a forbidden relative is forbidden only where the latter would have been subject to the precept of the levirate marriage if she had been no relative. In the case of a wife incapable of procreation, however, since she is not subject to the levirate marriage even where she is no relative at all, her rival even where she (the wife) is a forbidden relative, is regarded as the rival of one in relation to whom the precept of levirate marriage is not applicable at all. Cf. הלכות גדולות quoted by Rashi.

(4) V. p. 61, n. 14.

(5) From Palestine to Babylon.

(6) V. Glos. s.v. mi'un. In this case it refers to one who refused the levir (V. Rashi a.l.).

(7) After she had been married by a second husband who divorced her or died.

(8) [So Rashi. R. Tam: Should use, v. Tosaf s.v. שלש.]

(9) מוך, hackled wool or flax.

(10) To prevent conception.

(11) May use the absorbent.

(12) Lit., 'perhaps'.

(13) סנדל lit., 'a flat fish', i.e., a flat, fish-shaped abortion due to superfetation.

(14) Owing to her second conception.

(15) Who is capable of conception but exposed thereby to the danger of death.

(16) When no conception is possible.

(17) When pregnancy involves no fatal consequences.

(18) To save her from danger.

(19) Ps. CXVI, 6; those who are unable to protect themselves.

(20) Lit., 'there is'.

(21) Lit., 'we found'.

(22) In the case, for instance, where the minor gave birth to a child in her twelfth year and that child was betrothed

before the year was over. The minor who thus becomes a mother-in-law is entitled to make a declaration of refusal before, and until she enters her thirteenth year.

(23) I.e., while conception is a matter of doubt, death is a certainty whenever conception happened to take place.

(24) A minor.

(25) The age of eleven years and one day to the age of twelve and one day.

(26) Rabbah does not state, 'since they already grew up' but 'gave birth', which proves that even a minor (not yet grown up) is capable of bearing living children.

(27) From here it appears that a minor can bear children while from our Mishnah it follows that she cannot.

(28) As soon, therefore, as she gave birth to a child the minor is assumed to have passed out of the age of minority into that of puberty. Hence it is impossible for a mother, whatever her age, ever to make a declaration of refusal to which a minor only is entitled.

(29) I.e., the pubic hair.

(30) The growth of two hairs which the Rabbis regard as a definite mark of puberty not being considered by R. Judah as conclusive proof. Keth. 36a, B.B. 156a, Nid. 52a.

(31) That they provide definite proof of puberty irrespective of the state of the hair.

Talmud - Mas. Yevamoth 13a

R. Zebid, however, stated: No children are possible prior to the appearance of the marks of puberty.[1] Then let an examination be held![2] — There is the possibility that they might have fallen off.[3] This reply is perfectly satisfactory according to him who holds that such a possibility is taken into consideration;[4] what, however, can be said according to him who holds that no such contingency need be considered? — Even according to him who holds that no such contingency need be considered, the possibility must be taken into consideration in this case on account of the pains of birth.[5]

HOW IS THE EXEMPTION OF THEIR RIVALS [BY THE WOMEN MENTIONED] TO BE UNDERSTOOD? Etc. Whence is this law[6] deduced? — Rab Judah replied: [From] Scripture which stated, li-zeror,[7] [implying that] the Torah included many rivals.[8] R. Ashi replied. 'It[9] is arrived at by reasoning: Why is a rival forbidden? Surely because she takes the place of the forbidden relative; the rival's rival also takes the place of the forbidden relative'.

HOW [IS ONE TO UNDERSTAND THE STATEMENT THAT] IF THEY HAD DIED etc. Even if he[10] married[11] first and then divorced?[12] This, then, would be contradictory [to the following Mishnah]: '[The case of] three brothers two of whom were married to two sisters and the third was married to a stranger, and one of the husbands of the sisters divorced his wife while the one who married the stranger died, and he who had divorced his wife then married the widow[13] and died, is one concerning which it has been said, that if they died or were divorced, their rivals are permitted'.[14] The reason, then,[15] is because the divorce[16] took place first and the marriage[17] was subsequent to it, but had the marriage[17] taken place first and the divorce[16] after it, [the rival would] not [have been permitted]![18] — R. Jeremiah replied: Break it up:[19] He who taught the one did not teach the other. The one Tanna[20] is of the opinion that it is the death[21] which subjects the widow to the levirate marriage[22] while the other[23] holds the opinion that it is the original marriage that subjects her to the levirate marriage.[24] Raba said: [Both statements] may, in fact, represent the views of [one Tanna,] it[25] being a case of 'this; and there is no need to state that'.[26]

WHOSOEVER IS ENTITLED TO MAKE A DECLARATION OF REFUSAL [etc.]. Then let her[27] declare her refusal now[28] and thus enable [her rival] to be married to the levir![29] May it then[30] be suggested that this supports R. Oshaiah? For R. Oshaiah said: She[31] may annul [the levir's] ma'amar[32] by her declaration of refusal,[33] but may not sever by such a declaration the levirate bond![34] — No;[35] the case of the rival of a forbidden relative is different;[36] for Rami b. Ezekiel learnt: If a minor made a declaration of refusal against her husband she is permitted to marry his

father.[37] If, however, she made her declaration of refusal against the levir[38] she is forbidden to marry his father.[39] From this it clearly follows that from the moment she becomes subject to the levirate marriage[40] she is looked upon as his[41] daughter-in-law; similarly here also[42] she is looked upon as the rival of his daughter from the moment she becomes subject to the levirate marriage.[43] MISHNAH. [IN THE CASE OF THE FOLLOWING] SIX RELATIVES, MARRIAGE WITH WHOM IS MORE RESTRICTED THAN WITH THESE,[44] IN THAT THEY MAY ONLY BE MARRIED TO STRANGERS,[45] MARRIAGE WITH THEIR RIVALS IS PERMITTED:[46] HIS MOTHER.[47] HIS FATHER'S WIFE,[48] HIS FATHER'S SISTER,[48] HIS PATERNAL SISTER.[48] HIS FATHER'S BROTHER'S WIFE[48] AND HIS PATERNAL BROTHER'S WIFE.[48]

BETH SHAMMAI PERMIT THE RIVALS[49] TO THE SURVIVING BROTHERS, AND BETH HILLEL PROHIBIT THEM.

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(1) Should an apparent minor, whatever her age, ever give birth to a child it must be taken for granted that the marks of puberty had already appeared, and the age of minority had passed.

(2) Why should the existence of the marks be left to conjecture when an examination would definitely determine the facts?

(3) And the examination would prove nothing.

(4) This is a question in dispute in Nid. 46a.

(5) Which may have caused the falling off of the hair.

(6) Lit., 'these words'. That a rival's rival is also exempt.

(7) Lev. XVIII, 18, to be a rival. V. supra 3b.

(8) For explanation, v. p. 12, n. 8.

(9) The exemption of a rival's rival.

(10) The brother now deceased.

(11) The rival.

(12) His first wife, the forbidden relative. In such a case, is the rival, though the two were rivals prior to the divorce, permitted to the levir wherever the forbidden relative was dead or divorced at the time their husband died and the question of the levirate marriage arose?

(13) Lit., 'her',

(14) Infra 30a.

(15) Why the rival in this case is permitted.

(16) Of one of the sisters.

(17) Of the widow.

(18) How, then, could this be reconciled with our Mishnah from which it has been inferred that 'even if he married first and then divorced' the rival is permitted?

(19) תרבא, rt. תבר, Heb. שבר 'break', 'divide'.

(20) Of our Mishnah.

(21) Of the husband.

(22) And if at that time the women were no longer rivals it matters little whether marriage or divorce (cf. supra nn. 5 and 4) took place first.

(23) The Tanna of the Mishnah cited from 30a infra.

(24) Consequently, if the marriage of the second took place after the divorce of the first, levirate marriage is permitted since the two have never been real rivals. If, however, the marriage preceded the divorce, even if only by a fraction of time, the two have become rivals, and the rival of a forbidden relative is forbidden for ever, even after the rivalry had ceased.

(25) The statements and arrangement of our Mishnah and that cited from 30a infra

(26) זו ואין צריך לומר זו, one of the systems adopted in arranging legal statements. Our Mishnah permits 'this', the case of the rival whose marriage preceded the divorce of the forbidden relative, and consequently 'there is no need to state that', the case (infra 30a) of a rival whose marriage followed the divorce of the forbidden relative. (Cf. supra n. 12).

(27) The forbidden relative who is still a minor.

(28) And thus annul the original marriage.
(29) Since as a result of the annulment of the marriage the other would no more be the rival of a forbidden relative.
(30) As such a declaration is not allowed.
(31) A minor.
(32) V. Glos. Since the actual marriage had not yet taken place.
(33) She has only to perform the halizah; but there is no need for a divorce which would have been required had she been of age (v. infra 50b).
(34) I.e., she has no power to annul the original marriage in order to be exempt thereby from halizah also. Similarly here (v. note 4) the declaration of the minor has no force to annul the original marriage and thus (v. supra note 3) to enable her rival to marry the levir.
(35) The inference from our Mishnah provides no support for R. Oshaia.
(36) The prohibition of a minor's declaration in this case is not Biblical, but a Rabbinical enactment made in order to prevent laxity in the law of rivals of forbidden relatives (cf. infra n. 17).
(37) The refusal having completely annulled the marriage, the minor and her former father-in-law are now mere strangers.
(38) I.e,, after the death of her husband, when she became subject to the levirate marriage of his brother.
(39) Her former father-in-law who is also the father of the levir whom she refused.
(40) Lit., 'falling'.
(41) The levir's father's.
(42) The case of a rival of one's daughter.
(43) Had the original marriage been allowed to be annulled by the daughter's present declaration, and had her rival in consequence been permitted to marry the minor's father, any rival of one's daughter might similarly be allowed and thus an important restriction against incest would be broken down. (V. supra n. 10 and cf. text and notes, supra 12a).
(44) The fifteen enumerated in the previous Mishnah, supra 2af.
(45) But never to one's paternal brothers.
(46) Though they themselves ate forbidden. Their husbands having been strangers, the law prohibiting the marriage of rivals, which is only applicable in connection with the levirate marriage, does not apply. Should one's brother unlawfully marry one of these six relatives his marriage would be regarded as null and void and the law relating to the rivals would still be inapplicable. (Cf. Maimonides, Commentary on the Mishnah a.l.).
(47) Who is also forbidden to his paternal brother as 'his father's wife'.
(48) Who obviously stands in the same relationship to his paternal brother.
(49) In respect of the levirate marriage.

Talmud - Mas. Yevamoth 13b

IF THEY[1] PERFORM THE HALIZAH,[2] BETH SHAMMAI DECLARE THEM INELIGIBLE TO MARRY A PRIEST,[3] AND BETH HILLEL DECLARE THEM TO BE ELIGIBLE.[4] IF THEY WERE MARRIED TO THE LEVIRS, BETH SHAMMAI DECLARE THEM ELIGIBLE [TO MARRY A PRIEST],[5] AND BETH HILLEL DECLARE THEM INELIGIBLE.[6] THOUGH THESE FORBADE WHAT THE OTHERS PERMITTED, AND THESE REGARDED AS INELIGIBLE WHAT THE OTHERS DECLARED ELIGIBLE, BETH SHAMMAI, NEVERTHELESS, DID NOT REFRAIN FROM MARRYING WOMEN FROM [THE FAMILIES OF] BETH HILLEL, NOR DID BETH HILLEL [REFRAIN FROM MARRYING WOMEN] FROM [THE FAMILIES OF] BETH SHAMMAI. [SIMILARLY, IN RESPECT OF] ALL [QUESTIONS OF RITUAL] CLEANNESS AND UNCLEANNESS, WHICH THESE DECLARED CLEAN WHERE THE OTHERS DECLARED UNCLEAN, NEITHER OF THEM ABSTAINED FROM USING THE UTENSILS OF THE OTHERS FOR THE PREPARATION OF FOOD THAT WAS RITUALLY CLEAN.[7]

GEMARA. R. Simeon b. Pazzi said: What is Beth Shammai's reason?[8] — Because it is written, The outside[9] wife of the dead shall not be married unto one not of his kin;[10] 'outside'[11] implies that there is also an internal,[12] and the All Merciful said, She shall not marry [unto one not of his kin].[13]

And Beth Hillel?[14] — They require the text for the exposition which Rab Judah reported in the name of Rab. For Rab Judah stated in the name of Rab: Whence is it deduced that betrothal [by a stranger] is of no validity in the case of a sister-in-law?[15] For it is said in the Scriptures, The wife of the dead shall not be married[16] outside[17] unto one not of his kin;[18] there shall be no validity in any marriage of a stranger with her.[19] And Beth Shammai? — Is it written 'la-huz'?[20] Surely 'huzah'[21] was written. And Beth Hillel? — Since the expression used was huzah[22] it is just the same as if la-huz had been written; as it was taught: R. Nehemiah said, 'In the case of every word which requires a 'lamed' at the beginning[23] Scripture has placed a 'he'[24] at the end; and at the School of R. Ishmael the following examples were given:[25] Elim, Elimah;[26] Mahanayim, Mahanayimah;[27] Mizrayim, Mizraimah;[28] Dibelathaimah;[29] Yerushalaimah;[30] midbarah.[31]

Whence do Beth Shammai derive the deduction made by Rab Judah in the name of Rab? — It is derived from Unto one not of his kin.[32] Then let Beth Hillel also derive it from 'Unto one not of his kin'! — This is so indeed. What need, then, was there for 'huzah'? — To include one who was only betrothed.[33] And the others? — They derive it from the use of ha-huzah where huzah could have been used.[34] And the others? — A deduction from huzah ha-huzah does not appeal to them.

Raba said: Beth Shammai's reason[35] is that one prohibition[36] cannot take effect on another prohibition.[37] This explanation is satisfactory in the case where the deceased had married first and the surviving brother married[38] afterwards, since the prohibition of marrying a wife's sister[39] could not come and take effect on the prohibition of marrying a brother's wife;[40] where, however, the surviving brother had married first[41] and the deceased married later,[42] the prohibition of 'wife's sister' was, surely, first![43] — Since the prohibition of a 'brother's wife' cannot take effect on the prohibition of 'wife's sister', [any of the other widows] is the rival of a forbidden relative to whom[44] the precept of the levirate marriage is inapplicable, and is consequently permitted.[45]

IF THEY HAD PERFORMED THE HALIZAH, BETH SHAMMAI DECLARE THEM INELIGIBLE etc. Is not this obvious?[46] — [It had to be stated] in order to exclude [the instruction] of R. Johanan b. Nuri who said: Come and let us issue an ordinance that the rivals[47] perform the halizah but do not marry the levir.[48] Hence it was taught that Beth Hillel declare them eligible.[49]

IT THEY WERE MARRIED TO THE LEVIRS etc. BETH HILLEL DECLARE THEM INELIGIBLE. What need again was there for this? — Because it was taught, IF THEY PERFORM THE HALIZAH[50] it was also taught, IF THEY WERE MARRIED TO THE LEVIRS.[51]

We learned elsewhere: The Scroll of Esther[52] is read on the eleventh, the twelfth, the thirteenth, the fourteenth or the fifteenth [of Adar].[53] but not earlier[54] or later.[55] Said Resh Lakish to R. Johanan: Apply here the text of Lo tithgodedu,[56] you shall not form separate sects![57] (Is not Lo tithgodedu required for its own context, the All Merciful having said, 'You shall not inflict upon yourselves any bruise for the dead'?[58] — If so, Scripture should have said, Lo tithgodedu,[59] why did it say 'Lo tithgodedu'?[60] hence it must be inferred that its object was this.[61] Might it not then be suggested that the entire text refers to this only?[62] — If so, Scripture should have said, Lo thagodu;[63] why did it say 'Lo tithgodedu'? Hence the two deductions.)[64] — The former answered: Have you not yet learned,[65] 'Wherever it is customary to do manual labour on the Passover Eve until midday it may be done; wherever it is customary not to do any work it may not be done'?[66] The first said to him: I am speaking to you of a prohibition, for R. Shaman b. Abba said in the name of R. Johanan: 'Scripture having said, To confirm these days of Purim in their appointed times,[67] the Sages have ordained for them different times,[68] and you speak to me of a custom![69] But is there no prohibition there?[70] Surely we learned, 'Beth Shammai prohibit work during the night[71] and Beth Hillel permit it'![72] — The other said to him: In that case,[73] anyone seeing [a man abstaining from work] would suppose him to be out of work.[74] But do not BETH SHAMMAI PERMIT THE RIVALS TO THE OTHER BROTHERS AND BETH HILLEL FORBID THEM![75]

(1) The rivals.
(2) With the brothers.
(3) In the opinion of Beth Shammai the halizah is legal and any woman who performed legal halizah is, like one divorced, forbidden to marry a priest.
(4) In their opinion the halizah was unnecessary and may, therefore, be treated as if it had never taken place.
(5) When their husbands die.
(6) Because having married persons to whom they are forbidden they are regarded as harlots who are ineligible ever to marry a priest.
(7) Lit., 'do clean things, these upon these'.
(8) For permitting the rivals to marry the other brothers.
(9) החוצה is rendered, 'the one who is the outside one', the word being regarded as an adjective fem. with the relative. E.V., 'abroad'.
(10) Deut. XXV, 5.
(11) I.e., the one who is not otherwise related to the levir.
(12) Related to the levir.
(13) But only unto her husband's brother (Deut. XXV, 5), which shews that a rival is permitted to the other brothers.
(14) Who prohibit the rival to the brothers, how do they explain this text?
(15) Before halizah had been performed.
(16) Lit., 'she shall not be', לא תהיה (rt. היה).
(17) Cf. E.V. for החוצה, supra note 3.
(18) Deut. XXV, 5.
(19) Lit., 'a stranger shall have no being (הויה of the root היה) in her'.
(20) לחוץ, lit., 'to the outside'.
(21) החוצה, v. supra note 3.
(22) חוצה.
(23) To indicate direction.
(24) The he being the he local.
(25) Lit., 'he recited' or 'taught'.
(26) 'To אילם appears as אילמה (Ex. XV, 27) instead of לאילם.
(27) 'To מחנים' appears as מחמימה (II Sam. XVII, 24) instead of למחמים.
(28) 'To מצרים', מצרימה, Gen. XII, 10.
(29) 'To דבלתים, דבלתימה (Num. XXXIII, 47).
(30) 'To ירושלים' (Jerusalem) ירושלימה (Ezek. VIII, 3).
(31) 'To מדבר (wilderness or place-name) מדברב (I Chron. V, 9).
(32) Deut. XXV, 5.
(33) To the deceased brother. Such a widow also is subject to the levirate marriage as if she had been actually married. 'Huzah' implies (cf. supra p. 68, n. 3) 'outside', i.e., one who is not within the marriage bond.
(34) The addition of the 'he' in החוצה where חוצה would have conveyed the same meaning implies the inclusion of the betrothed. (V. n. 6.)
(35) V. p. 68, n. 2, supra.
(36) That, e.g., of marrying a brother's wife.
(37) That of marrying a forbidden relative (e.g., a daughter). Since the latter prohibition takes no effect in such a case, the forbidden relative whom the levirate bond does not consequently affect may be regarded as non-existent, so far as her levirate obligations are concerned. Her rivals, therefore, come under the category of complete strangers and are consequently permitted to the brothers.
(38) A sister of his brother's wife.
(39) Which arose later.
(40) As legally the widow is only 'his brother's wife' but not 'his wife's sister', her rivals may justly be regarded as strangers who are permitted.
(41) And his wife's sister has in consequence become forbidden to him.
(42) When the prohibition of a brother's wife arose.

(43) And consequently had taken effect; why then are her rivals permitted? This objection is based on the assumption that Raba, in stating the prohibition of marrying a forbidden relative cannot take effect owing to the prohibition of 'brother's wife', was referring only to such prohibitions as are due to a marriage contract, e.g., a wife's sister.
(44) Lit., 'in the place'.
(45) V. supra p. 69, n. 10.
(46) What need then was there for stating it.
(47) Of forbidden relatives.
(48) And being subject to halizah, even though on account of a Rabbinical ordinance only, it might have been assumed that they are ineligible for marriage with a priest. (Cf. supra p. 67, n. 9.)
(49) Indicating that the rivals in such a case are not even Rabbinically subject to the halizah.
(50) For the reason given supra. V. previous note.
(51) Halizah and marriage usually being the only alternatives.
(52) מגילה 'scroll', always signifies in Rabbinical literature the Scroll of Esther, unless the context explicitly or implicitly points to any other scroll.
(53) According to whether the readers live in a village, a town, or a town that had been walled in the days of Joshua, and according to the day of the week on which the feast of Purim occurs.
(54) Than the eleventh.
(55) Than the fifteenth. Meg. 2a.
(56) לא תתגודדו (Deut. XIV, 1), rendered by E.V. Ye shall not cut yourselves, is here taken as a form of the root אגד, 'to bind', implying the formation of separate groups, sects, factions.
(57) Why, then, was the Scroll allowed to be read on different days by different classes of people?
(58) Cf. supra n. 13 for the rendering of E.V.
(59) Which would have implied the prohibition of cutting or bruising the body. (V. p. 70, n. 13.)
(60) The longer form, the Hithpael.
(61) Lit., 'for this it came', to imply both 'cutting the body for the dead', and 'the formation of sects'.
(62) The formation of sects.
(63) Which would have been understood to refer to the undesirable formation of sects.
(64) It has thus been shewn that the formation of sects is undesirable; why then was it allowed to form separate groups to read the Scroll of Esther on different dates?
(65) Or 'You should have replied' (Rashi).
(66) Which shews that, despite the undesirability of forming separate groups, different customs are allowed.
(67) Esth. IX, 31, emphasis on 'appointed times', בזמניהם.
(68) I.e., a group who were ordained to read the Scroll on a particular date must not read it on any other date.
(69) Manual labour on the Passover Eve is universally permitted, and its prohibition in certain places is not a matter of law but merely a question of custom.
(70) In the case of work on the Passover Eve. (Both the day and the night preceding the Passover are designated ערב פסח Passover Eve).
(71) Preceding the first Passover night.
(72) Which shews, since some would be acting in accordance with the ruling of Beth Shammai while others would follow Beth Hillel, that even in the case of a prohibition the formation of sects is allowed.
(73) Lit., 'there', where some people do no work though permitted.
(74) The question of sects does not arise in such a case.
(75) A dispute which creates faction, some following the ruling of the one authority and others that of the other.

Talmud - Mas. Yevamoth 14a

— Do you imagine that Beth Shammai acted in accordance with their views? Beth Shammai did not act in accordance with their views.

R. Johanan, however, said: They certainly acted [in accordance with their views]. Herein they[1] differ on the same point as do Rab and Samuel. For Rab maintains that Beth Shammai did not act in accordance with their views, while Samuel maintains that they certainly did act [in accordance with

their views]. When?[2] If it be suggested, prior to the decision of the heavenly voice,[3] then what reason has he who maintains that they did not act [in accordance with their own view]? If, however, after the decision of the heavenly voice, what reason has he who maintains that they did act [in accordance with their views]? — If you wish I could say, prior to the decision of the heavenly voice; and if you prefer I could say, after the heavenly voice. 'If you wish I could say, prior to the heavenly voice', when, for instance, Beth Hillel were in the majority: One maintains[4] that they[5] did not act [according to their view] for the obvious reason that Beth Hillel were in the majority; while the other maintains[6] that they did act [according to their view, because] a majority is to be followed only where both sides are equally matched;[7] in this case, however, Beth Shammai were keener of intellect. 'And if you prefer I could say, after the heavenly voice'; one maintains that they[5] did not act [according to their view] for the obvious reason that the heavenly voice had already gone forth;[8] while the other who maintains that they did act [according to their view] is [of the same opinion as] R. Joshua who declared that no regard need be paid to a heavenly voice.[9]

Now as to the other who 'maintains that they did act [according to their views]'[10] — should not the warning, 'Lo tithgodedu, you shall not form separate sects'[11] be applied? — Abaye replied: The warning against opposing sects is only applicable to such a case as that of two courts of law in the same town, one of whom rules in accordance with the views of Beth Shammai while the other rules in accordance with the views of Beth Hillel. In the case, however, of two courts of law in two different towns [the difference in practice] does not matter. Said Raba to him: Surely the case of Beth Shammai and Beth Hillel is like that of two courts of law in the same town! The fact, however, is, said Raba, that the warning against opposing sects is only applicable to such a case as that of one court of law in the same town, half of which rule in accordance with the views of Beth Shammai while the other half rule in accordance with the views of Beth Hillel. In the case, however, of two courts of law in the same town [the difference in practice] does not matter.

Come and hear: In the place of R. Eliezer, wood was cut on the Sabbath wherewith to produce charcoal on which to forge the iron.[12] In the place of R. Jose the Galilean the flesh of fowl was eaten with milk.[13] In the place of R. Eliezer only[14] but not in the place of R. Akiba; for we learnt: R. Akiba laid it down as a general rule that any labour which may be performed on the Sabbath Eve[15] does not supersede the Sabbath![16] — What an objection is this! The case, surely, is different [when the varied practices are respectively confined to] different localities. What then did he who raised this question imagine?[17] — It might have been assumed that owing to the great restrictions of the Sabbath [different localities are regarded] as one place, hence it was necessary to teach us [that the law was not so].

Come and hear: R. Abbahu, whenever he happened to be in the place of R. Joshua b. Levi, carried[18] a candle,[19] but when he happened to be in the place of R. Johanan[20] he did not carry a candle![21] — What question is this! Has it not been said that the case is different [when the varied practices are respectively confined to] varied localities? — This is the question:[22] How could R. Abbahu act in one place in one way and in another place in another way?[23] — R. Abbahu is of the same opinion as R. Joshua b. Levi,[24] but when he happened to be in R. Johanan's place he did not move a candle out of respect for R. Johanan. But his attendant,[25] surely was also there![26] — He gave his attendant the necessary instructions.

Come and hear: THOUGH THESE FORBADE WHAT THE OTHERS PERMITTED . . . BETH SHAMMAI, NEVERTHELESS, DID NOT REFRAIN FROM MARRYING WOMEN FROM THE FAMILIES OF BETH HILLEL, NOR DID BETH HILLEL [REFRAIN FROM MARRY ING WOMEN] FROM THE FAMILIES OF BETH SHAMMAI. Now, if it be said that they[27] did not act [in accordance with their own view] one can well understand why THEY DID NOT REFRAIN [from intermarrying with one another].[28] If, however, it be said that they[27] did act [in accordance with their own view], why did they not refrain? That Beth Shammai did not refrain from marrying

women from the families of Beth Hillel may well be justified because such[29] are the children of persons guilty only of the infringement of a negative precept;[30] but why did not Beth Hillel refrain from [marrying women from the families of] Beth Shammai? Such,[31] surely, being children of persons who are guilty of an offence involving kareth, are bastards![32] And if it be suggested that Beth Hillel are of the opinion that the descendant of those who are guilty of an offence involving kareth is not a bastard,[33] surely, [it may be retorted], R. Eleazar said: Although Beth Shammai and Beth Hillel are in disagreement on the questions of rivals, they concede that a bastard is only he who is descended from a marriage which is forbidden as incest and punishable with kareth! Does not this then conclusively prove that they[27] did not act [in accordance with their own view]? — No; they[27] acted, indeed, [in accordance with their own view], but they[27] informed them[34] [of the existence of any such cases] and they[34] kept away.

This[35] may also be proved by logical inference; for in the final clause it was stated. [SIMILARLY IN RESPECT OF] ALL [THE QUESTIONS OF RITUAL] CLEANNESS AND UNCLEANNESS, WHICH THESE DECLARED CLEAN WHERE THE OTHERS DECLARED UNCLEAN, NEITHER OF THEM ABSTAINED FROM USING THE UTENSILS OF THE OTHERS FOR THE PREPARATION OF FOOD THAT WAS RITUALLY CLEAN.

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(1) R. Johanan and R. Lakish.

(2) I.e., to what period does the dispute just mentioned refer?

(3) בת קול (v. Glos. s.v. Bath Kol), which decided that the law in practice was always to be in accordance with the rulings of Beth Hillel (v. ‘Er. 13a).

(4) Lit., ‘according to him who said’.

(5) Beth Shammai.

(6) Lit., ‘and he who said’.

(7) In qualifications and attainments.

(8) And decided the issue in favour of Beth Hillel.

(9) B.M. 59b, Ber. 52a, ‘Er. 7a, Pes. 114a.

(10) Even after the heavenly voice.

(11) Cf. supra p. 70, n. 13.

(12) The knife required for the performance of circumcision. The circumcision of a child, his health permitting, must take place on the eighth day of his birth (v. Gen. XVII, 12) even though it happened to fall on a Sabbath when manual labour is prohibited. And since the precept itself supersedes the Sabbath, all its requisites such as the wood and coals (for the preparation of warm water) and the knife may also be performed on the Sabbath.

(13) Though it is forbidden to eat meat, or any dishes made of meat, together with milk or any preparation of milk. R. Jose exempts the flesh of fowl from the general prohibition of the consumption of meat and milk. Shab. 130a, Hul. 116a.

(14) Lit., ‘yes’; only there was the preparation of the requisites of circumcision permitted on the Sabbath.

(15) Such as the cutting of wood, the production of coals and the forging of the knife.

(16) Now, in view of the undesirability of creating different sects, why were all these varied practices allowed?

(17) It should have been obvious to him that different localities may differ in their custom. (Cf. supra p. 53, n. 11.)

(18) Lit., ‘moved’.

(19) On the Sabbath. A candle, though it was burning when Sabbath set in may, according to R. Joshua who follows R. Simeon in permitting mukzeh (v. next note), be moved on the Sabbath after the flame has gone out.

(20) R. Johanan, following R. Judah, forbids the carrying or moving of a candle that had been burning when the Sabbath set in though it had subsequently gone out. As it was burning at the commencement of the Sabbath it was at that time fit for no other use and is regarded, therefore, as mukzeh, i.e., ‘something set aside’, that is not to be used for any other purpose. Anything that was mukzeh when the Sabbath began remains so until it ends.

(21) Is not the practice of carrying a candle in one place and not carrying it in another as undesirable as the formation of opposing sects?

(22) Lit., ‘we say thus’.

(23) Lit. , ‘how did he do here thus’ (bis).

(24) V. supra note 3.

(25) Who well knew that his master was of the same opinion as R. Joshua b. Levi. The שמעא was in many cases both an attendant on the master and also one of his learned disciples.
(26) And might move such a candle on the Sabbath even in R. Johanan's place.
(27) Beth Shammai.
(28) Since, in practice, both schools followed the same principles.
(29) The descendants from the marriages with strangers contracted by the rivals who, in accordance with the ruling of Beth Hillel, performed no halizah.
(30) Even Beth Shammai who require the rivals to perform the halizah regard such marriages as the infringement of a prohibition only ('The wife of the dead shall not be married abroad', Deut. XXV, 5), which does not involve kareth. The children of such marriages are consequently not deemed to be bastards.
(31) Descendants from marriages between rivals and brothers-in-law. Such marriages, which are permitted by Beth Shammai, are regarded by Beth Hillel as forbidden under the prohibition of marrying one's brother's wife, which involves the penalty of kareth.
(32) How, then, did they intermarry with families containing such members?
(33) A bastard being the descendant only of such marriages as are subject to one of the capital punishments that are carried out under the jurisdiction of a court.
(34) Beth Hillel.
(35) That Beth Shammai duly informed Beth Hillel of any families contracting marriages which according to the ruling of the latter were forbidden.

Talmud - Mas. Yevamoth 14b

Now, if it be agreed that the required information was supplied[1] one well understands why they[2] did not abstain.[3] If, however, it be assumed that no such information was supplied, one can still understand why Beth Shammai did not abstain from using the utensils of Beth Hillel, since that which was regarded by Beth Hillel as ritually unclean was deemed by Beth Shammai to be ritually clean; but why did not Beth Hillel abstain from using the utensils of Beth Shammai when that which was deemed clean by Beth Shammai was regarded as unclean by Beth Hillel? Must it not, then, be concluded that they supplied them with the required information! Our point is thus proved.

In what respect is the one[4] more conclusive proof[5] than the other?[6] — It might have been thought that the case of a rival[7] receives due publicity,[8] hence it was necessary [for the inference from the final clause] to be cited.

[Reverting to] the previous text, 'R. Eleazar said: Although Beth Shammai and Beth Hillel are in disagreement on the question of rivals they concede that a bastard is only he who is descended from a marriage forbidden as incest and punishable by kareth'. Who concedes? If it be said, Beth Shammai to Beth Hillel;[9] this, surely, is obvious, since the children of those who are guilty of the infringement of a negative precept[10] are deemed legitimate.[11] Must it not consequently be the case that Beth Hillel conceded to Beth Shammai;[12] but this very case is subject to the penalty of kareth! — The fact is that Beth Shammai conceded to Beth Hillel; and the purpose was to exclude the opinion of R. Akiba, who maintains that a descendant from persons guilty of the infringement of a negative precept is deemed a bastard.[13] Hence it was taught[14] that a descendant from persons guilty of the infringement of a negative precept is not deemed a bastard.

Come and hear: Although Beth Shammai and Beth Hillel are in disagreement on the questions of rivals, sisters,[15] an old bill of divorce,[16] a doubtfully married woman,[17] a woman whom her husband had divorced[18] and who stayed with him over the night in an inn,[19] money, valuables, a perutah and the value of a perutah,[20] Beth Shammai did not, nevertheless, abstain from marrying women of the families of Beth Hillel, nor did Beth Hillel refrain from marrying those of Beth Shammai. This is to teach you that they shewed love and friendship towards one another, thus putting into practice the Scriptural text, Love ye truth and peace.[21] R. Simeon said: They abstained [from marrying] in cases

of certainty but did not abstain in doubtful cases.[22] Now, if you agree that they[23] acted [in accordance with their own views] one can well understand why they abstained. If, however, you assume that they did not so act, why did they abstain? — And how do you understand this? Even if it be granted that they did act (in accordance with their own views], one can only understand why Beth Hillel abstained from intermarrying with Beth Shammai, because the latter, in the opinion of Beth Hillel, were guilty of offences involving kareth and their descendants were consequently bastards; as to Beth Shammai, however, why did they abstain from intermarrying with Beth Hillel, when they were [even in the opinion of Beth Shammai] only guilty of the infringement of a negative precept and [their descendants] were consequently legitimate? — As R. Nahman said elsewhere that the statement was required only for the case of the rival herself, so here also the Statement is required for the case of the rival herself.[24]

Why is a doubtful case different from a case of a certainty? Obviously because it is forbidden. Is not a doubtful case also forbidden? — Do not read, 'from a doubtful case', but 'from a case unknown', since when they received the information they kept away.[25] And what does he teach us thereby? That they shewed love and friendship to one another? But this is exactly the same as the first clause![26] — He teaches us this: That the entire Mishnah represents the views of R. Simeon.

Come and hear: R. Johanan b. Nuri said: 'How is this law[27] to be promulgated in Israel? Were we to act in accordance with the ruling of Beth Shammai,[28] the child would, in accordance with the ruling of Beth Hillel, be a bastard.[29] And were we to act in accordance with the ruling of Beth Hillel,[30] the child, according to the ruling of Beth Shammai, would be tainted;[31] come, then, and let us issue an ordinance that the rivals

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(1) By Beth Shammai.

(2) Beth Hillel, who were the more rigorous in matters of ritual cleanness.

(3) From using the utensils of Beth Shammai. The fact that any vessel was not clean according to Beth Hillel would have been, they knew, duly communicated to them.

(4) The inference from the final clause of our Mishnah relating to ritual cleanness and uncleanness.

(5) That the required information was supplied.

(6) The first clause dealing with the marriages of rivals.

(7) Who married one of the brothers.

(8) And no special report on such a case is needed.

(9) Where a rival married a stranger without previously performing the halizah (v. our Mishnah).

(10) V. supra p. 75, n. 4.

(11) And the question of legitimacy does not at all arise in the dispute.

(12) In respect of a rival who married one of the brothers.

(13) Infra 49a.

(14) In our Mishnah.

(15) Who married their brothers; infra 26a.

(16) Git. 79b.

(17) I.e., where the validity of her marriage is in doubt. V. infra 107a.

(18) Lit., 'and about him who divorced his wife'.

(19) Git. 81a.

(20) The last four deal with the question of what constitutes legal betrothal. Kid. 2a and 11a.

(21) Zech. VIII, 19.

(22) Tosef. Yeb. I.

(23) Beth Shammai.

(24) Whom Beth Shammai abstained from marrying before she performed the halizah.

(25) So long, therefore, as no report had been received the unknown case was assumed to belong to the pure families.

(26) Why then should there be a repetition of the same thing?

(27) Relating to the marriages of rivals.

(28) Who permit the rivals to marry the brothers.

(29) Having been born from a forbidden marriage (that of a brother's wife) which involves kareth.

(30) Permitting rivals to marry strangers without previous halizah.

(31) Though not actually a bastard, he would, were he a kohen, be disqualified from the priesthood.

Talmud - Mas. Yevamoth 15a

perform the halizah[1] but do not marry any of the brothers'.[2] They had hardly time to conclude the matter before confusion set in. Said R. Simeon b. Gamaliel to them, 'What now could we do with previous rivals'![3] Now, if you assume that they[4] acted [in accordance with their own rulings] one can understand why he said, 'What shall we do'.[5] If, however, you assume that they did not so act, what is the meaning of 'What shall we do'?[6] — R. Nahman b. Isaac replied: This[7] was required only in the case of the rival herself;[8] and this is the meaning of the objection 'what shall we do': 'How shall we, according to Beth Shammai, proceed with those rivals [who married[9] in accordance with the rulings] of Beth Hillel? Should they be asked to perform the halizah, they would become despised by their husbands; and should you say, "Let them be despised", [it could be retorted]. Her ways are ways of pleasantness and all her paths are peace'.[10]

Come and hear: R. Tarfon[11] said: Would that the rival of [my] daughter[12] were to fall to my lot[13] so that I could marry her![14] — Read, 'that I could make her marry [another]'.[15] But he said, 'Would'![16] — It[17] implies objection to the ordinance[18] of R. Johanan b.Nuri.[19]

Come and hear: It happened that R. Gamaliel's daughter was married to his brother Abba who died without issue, and that R. Gamaliel married her rival![20] — But how do you understand this? Was R. Gamaliel[21] one of the disciples of Beth Shammai![22] But [this is the explanation]: R. Gamaliel's daughter was different because she was incapable of procreation.[23] Since, however, it was stated in the final clause, 'Others say that R. Gamaliel's daughter was incapable of procreation' it may be inferred that the first Tanna is of the opinion that she was not incapable of procreation! — The difference between them[24] is the question whether he[25] knew her[26] defect[27] or not.[28] And if you wish I might say that the difference between them[24] is the case where he[25] married [the rival] first and subsequently divorced [his wife].[29] And if you wish I might say that the difference between them[24] is whether a stipulation[30] in the case of matrimonial intercourse is valid.[31]

R. Mesharsheya raised an objection: It once happened that R. Akiba gathered the fruit of an ethrog[32] on the first of Shebat[33] and subjected it to two tithes,[34] one[35] in accordance with the ruling of Beth Shammai[36] and the other[37] in accordance with the ruling of Beth Hillel.[38] This proves that they[39] did act [in accordance with their rulings!] — R. Akiba was uncertain of his tradition, not knowing whether Beth Hillel said the first of Shebat[40] or the fifteenth of Shebat.[40]

Mar Zutra raised an objection: It once happened that Shammai the Elder's daughter-in-law was confined with child[41] and he[42] broke an opening through the concrete of the ceiling and covered it above the bed with the proper festival roofing[43] for the sake of the child.[44] Does not this prove that they[39] did act [in accordance with their rulings]?[45] — In that case, any onlooker might assume that it was done in order to increase the ventilation.[46]

Mar Zutra raised an objection: It once happened with Jehu's Trough in Jerusalem, which was connected by means of a hole with a ritual bathing pool,[47] and in which[48] all ritual cleansing in Jerusalem was performed, that Beth Shammai sent and had the hole widened; for Beth Shammai maintain that the greater part [of the intervening wall] must be broken through.[49] But we have also learned that the combination of bathing pools[50] may be effected by a connecting tube of the size of the mouth-piece of a leather bottle in diameter and circumference,[51] viz., a tube in which two fingers may conveniently be turned round.[52] Does not this prove that they[53] did act [in accordance with their

rulings]?[54] — There

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(1) So that any stranger might be permitted to marry them, even according to Beth Shammai.

(2) And thus prevent their children from being branded bastards according to Beth Hillel. (V. supra note 6).

(3) Tosef. Yeb, I; the rivals who, relying on Beth Shammai, married brothers-in-law, prior to the ordinance, whose children would, were the ordinance of R. Johanan b. Nuri to be accepted, become bastard.

(4) Beth Shammai.

(5) Since some may have married brothers-in-law. V. supra n. 1.

(6) No such marriage could possibly have taken place.

(7) R. Simeon b. Gamaliel's precaution.

(8) Who may have married a stranger without previous halizah, in accordance with the ruling of Beth Hillel. It has no reference at all to the children, who would not be regarded bastards even according to Beth Shammai.

(9) Strangers, previously performing the halizah.

(10) Prov. III, 17. The ways of the law must lead to no unpleasantness for the innocent.

(11) A disciple of Beth Shammai.

(12) Who was married to a brother of his.

(13) As levir.

(14) Which shews that Beth Shammai acted in accordance with their ruling that the rival of a forbidden relative is permitted to the brothers.

(15) Which is, of course, permitted according to Beth Hillel. The Heb. אשאנה 'I will marry her' (verb. neut. Kal) may be easily mistaken for אשיאנה 'I will cause her to marry another' (verb. act. Hif.).

(16) Which implies a desire to shew something novel. Marrying a stranger, in accordance with the ruling of Beth Hillel, is the usual practice.

(17) The expression 'would'.

(18) Lit., 'to bring out', 'to exclude (the view)'.

(19) Who desired to institute for rivals halizah to enable them to marry strangers, though prohibiting their marriage with the brothers

(20) Thus acting in accordance with the ruling of Beth Shammai. (V. p. 79, n. 12.)

(21) A descendant of the house of Hillel.

(22) Obviously not. How, then, could it he assumed that he acted in accordance with a ruling of Beth Shammai?

(23) And the rival of such a woman is permitted to the brothers. V. Mishnah supra 2b.

(24) The 'Others' and the first Tanna.

(25) The husband, R. Gamaliel's brother.

(26) R. Gamaliel's daughter's.

(27) At the time of their marriage.

(28) V. supra 12a. According to the first Tanna, the rival of R. Gamaliel's daughter was permitted only because her husband was unaware of her defect, and their marriage consequently took place under a misconception. Such a marriage being invalid, R. Gamaliel's daughter was not a legal wife, and her rival consequently was a mere stranger to her father. According to the 'Others', who use the expression 'was incapable' and not 'was discovered to be incapable', the rival was permitted to R. Gamaliel irrespective of whether his daughter's defect had or had not been known, to her husband.

(29) V. supra 13a. Such as was the case with R. Gamaliel's daughter. The first Tanna is of the opinion that the rival was permitted to R. Gamaliel because at the time his brother died she was no more his daughter's rival. The 'Others', however, maintain that so long as the two were rivals for any length of time (in this case, between the time of the marriage with the rival and the divorce of R. Gamaliel's daughter) they remain legally as rivals for all time, and the only reason why R. Gamaliel was allowed to marry the rival of his daughter was because his daughter had the defect of being incapable of procreation, and the rival of such a woman is permitted to the brothers. V. supra 2b.

(30) That the woman, e.g., suffers from no illness or that she is not afflicted with any infirmity.

(31) Such a stipulation was made by the husband in the case of R. Gamaliel's daughter. The first Tanna is of the opinion that the stipulation is valid, and since an infirmity was subsequently discovered, the marriage is null and void and the rival as a mere stranger is consequently permitted. The 'Others', however, regard a stipulation in connection with marital intercourse as invalid. R. Gamaliel's marriage with the rival was consequently permitted only because his daughter was incapable of procreation.

(32) V. Glos.
(33) The eleventh month in the Hebrew calendar, the first day of which is regarded by Beth Shammai as the New Year for trees. The period of the gathering was about the end of the second year of the septennial cycle and the beginning of the third.
(34) The 'second tithe' which is due in the second year of the septennial cycle, and the 'tithe for the poor' which is due in the third year of the cycle.
(35) The 'tithe for the poor'.
(36) According to whom, the first of Shebat being regarded as the beginning of the New Year for trees, the third year of the cycle had already begun, and the tithe due is, therefore, that of the poor.
(37) The 'second tithe'.
(38) Who, maintaining that the new year for trees does not begin until the fifteenth of Shebat, regard the first day of the month as still belonging to the concluding year, i.e., the second of the cycle in which the 'second tithe' is due. 'Er. 7a, R.H. 14a.
(39) Beth Shammai.
(40) Was the new year. Cf. supra nn. 5-7.
(41) During the Festival of Tabernacles when it is obligatory upon all males to dwell in booths (Lev. XXIII, 42), the roof of which must consist of branches or leaves or any similar material which grows from the ground (v. Suk. 2aff).
(42) Shammai.
(43) V. supra n. 10.
(44) Who was a male and, in the opinion of Beth Shammai, a male child, though still dependent on his mother, is like any male adult subject to the obligation of dwelling in a booth during the festival. Suk. 28a.
(45) Since according to Beth Hillel the child, being dependent upon his mother, is exempt from the obligation.
(46) The action, therefore, did not in any way demonstrate a disregard for the ruling of Beth Hillel.
(47) מקוה 'a gathering together', applied to a bath or pool containing forty se'ah of water, which is the prescribed minimum for a ritual bath.
(48) The trough, though containing less than the required minimum, was rendered ritually fit through fusion with the larger pool by means of the connecting hole.
(49) Mik. IV, 5.
(50) Which renders the smaller one, containing less than the prescribed minimum, ritually fit.
(51) Lit., 'like the tube of a leather bottle in its thickness and hollow space'.
(52) Hag. 21b, Mik. VI, 7; lit., 'as two fingers returning to their place'.
(53) Beth Shammai.
(54) Since the original tube, according to Beth Hillel, was quite sufficient, and they had nevertheless ordered its extension.

Talmud - Mas. Yevamoth 15b

the onlooker might assume that the extension was made in order to increase the volume of the water.[1]

Come and hear: R. Eleazar b. Zadok said: When I was learning Torah with R. Johanan the Horonite[2] I noticed that in the years of dearth he used to eat dry bread with salt. I went home and related it to my father, who said to me, 'Take some olives to him'. When I brought these to him and he observed that they were moist[3] he said to me, 'I eat no olives'.[4] I again went out and communicated the matter to my father, who said to me, 'Go tell him that the jar was broached,[5] only the lees had blocked up the breach';[6] and we learned: A jar containing pickled olives, Beth Shammai said, need not be broached;[7] but Beth Hillel say: It must be broached.[8] They admit, however, that where it had been broached and the lees had blocked up the holes, it is clean.[9] And though he[10] was a disciple of Shammai, he always conformed in practice[11] to the rulings of Beth Hillel. Now, if it be conceded that they[12] did act in accordance with their own rulings, one can well understand why his[10] action was worthy of note;[13] if, however, it were to be contended that they did not so act, in what respect was his conduct noteworthy![14]

Come and hear: R. Joshua was asked, 'What is the law in relation to the rival of one's daughter'? He answered them, 'It is a question in dispute between Beth Shammai and Beth Hillel'. — 'But [he was asked] in accordance with whose ruling is the established law'? 'Why should you,' he said to them, 'put my head between two great mountains, between two great groups of disputants, aye, between Beth Shammai and Beth Hillel? I fear they might crush my head! I may testify to you, however, concerning two great families who flourished in Jerusalem, namely, the family of Beth Zebo'im of Ben 'Akmai and the family of Ben Kuppai of Ben Mekoshesh,[15] that they were descendants of rivals[16] and yet some of them were High Priests who ministered upon the altar'. Now, if it be conceded that they[17] acted [in accordance with their own rulings] it is quite intelligible why he said, 'I fear'.[18] If, however, it be suggested that they[17] did not so act, why did he say, 'I fear'![19] But even if it be granted that they did act [according to their rulings], what [cause had he for saying,] 'I fear'? Surely R. Joshua said that a bastard was only he who was a descendant of one of those who are subject to capital punishments which are within the jurisdiction of the Beth din![20] — Granted that he[21] was not a bastard, he is nevertheless tainted;[22] as may be deduced by inference a minori ad majus from the case of the widow: If the son of a widow[23] who is not forbidden to all[24] is nevertheless tainted,[25] [how much more so the son of a rival][26] who is forbidden to all.[27]

They asked him concerning rivals and he answered them about the sons of the rivals! — They really asked him two questions: 'What is the law concerning the rivals? And if some ground could be found in their case in favour of the ruling of Beth Hillel, what is the law according to Beth Shammai in regard to the sons of the rivals, [who married][28] in accordance with the ruling of Beth Hillel'?[29] What practical difference is there?[30] — That a solution may be found, according to Beth Hillel, for the question of the child[31] of a man who remarried his divorced wife.[32] Do we[33] apply the inference a minori ad majus, arguing thus: 'If the son of a widow who was married to a High Priest, who is not forbidden to all,[34] is nevertheless tainted,[35] how much more so the son of her[36] who is forbidden to all';[37] or is it possible to refute the argument, thus: 'The case of the widow is different because she herself is profaned'?[38] And he said to them, 'With reference to the rivals I am afraid;[39]

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(1) V. note 2.

(2) [Cf. Hauran, mentioned in Ezek. XLVII, 18, south of Damascus, the Auranitis of the Graeco-Roman times.]

(3) Moisture renders fruit susceptible to Levitical uncleanness.

(4) He hesitated to eat them owing to the possibility (Rashi) or the certainty (Tosaf. a.l. s.v. אמר) that the earthen jar in which they were kept had been touched by an 'am ha-arez and, being moist, received the uncleanness imparted to them by the jar which, by Rabbinical enactment, had become unclean by the touch of the 'am ha-arez.

(5) Keeping olives in a broached container is clear evidence that the owner had no desire to retain the sap that exudes from the olives; and only liquids which are desired by the owner render the fruit susceptible to Levitical uncleanness.

(6) And thus the undesired 'moisture remained on the olives. As such moisture does not render the fruit susceptible to uncleanness (v. previous note) the olives may safely be eaten even by the scrupulous.

(7) Because in their opinion the moisture that exudes from the olives is regarded as a fruit juice which does not render food susceptible to Levitical uncleanness.

(8) The moisture is regarded by them as actual oil which does render food susceptible to uncleanness. Broaching is consequently necessary in order to indicate thereby that the owner had no desire to preserve the liquid.

(9) I.e., the liquid, having clearly been shewn to be unwanted, does not render the olives susceptible to Levitical uncleanness. 'Ed. IV, 6.

(10) R. Johanan the Horonite.

(11) Lit., 'all his deeds he only did'.

(12) Beth Shammai.

(13) Lit., 'that is his greatness'; i.e., his conduct was remarkable and worthy of note in that he acted according to the ruling of Beth Hillel despite the practice of his colleagues of acting in accordance with the rulings of their own School.

(14) Lit., 'what was his greatness'; he only acted on the same lines as the other disciples of Beth Shammai. Consequently it must be concluded that Beth Shammai did act in accordance with their own rulings.

(15) [A locality in Judaea; on the identification of the other names, v. Klein MGWJ 1910, 25ff, and 1917, 135ff and Buchler Priester, p. 186.]
(16) Who, in accordance with the ruling of Beth Hillel, married strangers without previously performing halizah with the levirs.
(17) Beth Shammai.
(18) As the rivals, acting on the ruling of Beth Shammai, might have married the brothers, their children who, according to Beth Hillel, would thus be descendants of marriages forbidden under the penalty of kareth, would be deemed to be bastards. These would certainly resent R. Joshua's declaration in favour of Beth Hillel, and his life would thus be in danger.
(19) No one could possibly resent his decision since no one would be adversely affected by it. Cf. supra p. 83 , n. 10, final clause.
(20) Infra 49a. Now, even if he had decided in favour of Beth Hillel no one would have been degraded thereby to the level of a bastard. Why then was he afraid?
(21) A descendant from a marriage punishable by kareth.
(22) Though not actually a bastard, he would, were he a kohen, he disqualified from the priesthood.
(23) Born from her marriage with a High Priest.
(24) A widow is forbidden only to a High Priest. V. Lev. XXI, 14.
(25) V. note 8.
(26) Cur. edd., 'etc.'
(27) A rival is forbidden to Israelites as well as priests.
(28) Strangers without previous halizah with the levirs.
(29) Are the children of such marriages, which are forbidden by a negative precept, disqualified from the priesthood?
(30) Since the halachah is according to Beth Hillel.
(31) A daughter.
(32) After she had been married to another man. Such remarriage is also forbidden (v. supra note 2) by a negative precept (V. Deut. XXIV, 1-4.)
(33) In this case according to Beth Hillel, as in the case of a rival's son according to Beth Shammai; both cases coming under the prohibition of a negative precept.
(34) V. p. 84, n. 10.
(35) V. p. 84, n. 8.
(36) A rival.
(37) A rival is forbidden to Israelites as well as to priests.
(38) On the death of the High Priest to whom she was unlawfully married she may not marry any more even an ordinary priest, and as she was a priest's daughter she is henceforth forbidden to eat terumah. On a woman, however, who was remarried after divorce no new restrictions are imposed.
(39) V. supra p. 84, n. 4.

Talmud - Mas. Yevamoth 16a

as to the sons of the rivals[1] I may testify to you'.[2]

Come and hear: In the days of R. Dosa b. Harkinas the rival of a daughter was permitted to marry the brothers.[3] From this it may be inferred that [Beth Shammai] acted [in accordance with their own rulings].[4] This proves the point.

[To turn to] the main text. In the days of R. Dosa b. Harkinas, the rival of a daughter was permitted to marry the brothers. This ruling was very disturbing to the Sages, because he[5] was a great scholar[6] and his eyes were dim so that he was unable to come to the house of study.[7] When a discussion took place as to who should go and communicate with him, R. Joshua said to them, 'I will go'. 'And who after him?' — 'R. Eleazar b. Azariah.' 'And who after him?' — 'R. Akiba'. They went and stood at the entrance of his house. His maid entered and told him, 'Master, the Sages of Israel are come to you'. 'Let them enter', he said to her; and they entered. Taking hold of R. Joshua

he made him sit upon a golden couch. The latter said to him, ‘Master, will you ask your other disciple to sit down’? ‘Who is he?’ [the Master] enquired. — ‘R. Eleazar b. Azariah’. ‘Has our friend Azariah a son?’ [the Master] exclaimed, and applied to him this Scriptural text, I have been young and now I am old; yet have I not seen the righteous forsaken, nor his seed begging bread;[8] and so took hold of him also and made him sit upon a golden couch. ‘Master’, said he,[9] ‘will you ask your next disciple also to sit down’? ‘And who is he?’ [the Master] asked. — ‘Akiba the son of Joseph’. ‘You are,’ [the Master] exclaimed, ‘Akiba son of Joseph whose name is known from one end of the world to the other! Sit down, my son, sit down. May men like you multiply in Israel’. Thereupon they began to address to him all sorts of questions on legal practice[10] until they reached that of the daughter's rival. ‘What is the halachah’, they asked him, ‘in the case of a daughter's rival?’ ‘This,’ he answered them, ‘is a question in dispute between Beth Shammai and Beth Hillel.’ ‘In accordance with whose ruling is the halachah?’ — ‘The halachah,’ he replied, is in accordance with the ruling of Beth Hillel’. ‘But, indeed,’ they said to him, ‘it was stated in your name that the halachah is in accordance with the ruling of Beth Shammai!’ He said to them: ‘Did you hear, "Dosa"[11] or "the son of Harkinas?"’[12] — ‘By the life of our Master.’ they replied. ‘We heard no son's name mentioned.’[13] ‘I have,’ he said to them, ‘a younger brother who is a dare-devil[14] and his name is Jonathan and he is one of the disciples of Shammai.[15] Take care that he does not overwhelm you on questions of established practice, because he has three hundred answers to prove that the daughter's rival is permitted. But I call heaven and earth to witness that upon this mortar[16] sat the prophet Haggai[17] and delivered the following three rulings: That a daughter's rival is forbidden, that in the lands of Ammon and Moab the tithe of the poor is to be given in the Seventh Year,[18] and that proselytes may be accepted from the Cordyenians and the Tarmodites.’[19]

A Tanna taught: When they cam[20] they entered through one door; when they went out they issued through three different doors.[21] He came upon R. Akiba, submitted his objections to him and silenced him.[22] ‘Are you’, he called out, ‘Akiba whose name rings from one end of the world to the other? You are blessed indeed to have won fame while you have not yet attained the rank of oxherds.’ ‘Not even,’ replied R. Akiba, ‘that of shepherds.’

‘In the lands of Ammon and Moab the tithe of the poor is given in the Seventh Year,’ because a Master said: Those who came up from Egypt[23] had conquered many cities which those who came up from Babylon[24] did not conquer, and the first sanctification[23] was intended for that time only but not for the future.[25] Hence they were allowed [cultivation][26] in order that the poor[27] might find their support there in the Seventh Year.[28]

‘And that proselytes may be accepted from the Cordyenians and the Tarmodites’. But [the law, surely,] is not so! For Rami b. Ezekiel learnt: No proselyte may be accepted from the Cordyenians. — R. Ashi replied: The statement was Kartuenians,[29] as people, in fact, speak of ‘disqualified Kartuenians’.

Others say: Rami b. Ezekiel learnt, ‘No proselytes are to be accepted from the Kartuenians’. Are not Kartuenians the same as Cordyenians? — R. Ashi replied: No; Kartuenians are a class by themselves, and Cordyenians are a class by themselves, as people, in fact, speak of ‘disqualified Kartuenians’.[30]

Both R. Johanan and Sabya maintain that no proselytes may be accepted from the Tarmodites. Did R. Johanan. however, say such a thing? Surely we learned: All blood stains [on women's garments] that come from Rekem[31] are levitically clean,[32] and R. Judah declares them unclean because [the people there] were proselytes though misguided;[33] [those that come] from the heathens[34] are levitically clean.[35] And the difficult point was raised

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(1) Whether they are tainted or not.

(2) V. supra 15b, which shews that they were not tainted, since they were permitted to occupy the highest office in the priesthood.
(3) Of the father of that daughter.
(4) Since the permission to marry was issued by a brother of R. Dosa (v. infra) who was a member of Beth Shammai.
(5) R. Dosa, who was thought to be the author of the ruling.
(6) And they did not venture to act against his decision without first consulting him.
(7) And was thus unaware that the general opinion at the College was against the ruling.
(8) Ps. XXXVII, 25.
(9) R. Joshua.
(10) Lit., 'surrounded him with halachoth'.
(11) I.e., that Dosa permitted the rival.
(12) Without the mention of the name of the son.
(13) Lit., 'not specifically', 'undefined'.
(14) בכור שטן lit., 'the first-born of Satan', first in obstinate dispute (Jast.); Satansjunge similar to Teufelskerl (Golds.); keen and obstinate (Rashi). Some suggest בחור שונון 'keen — witted youth'. R. Dosa appears to have been playing upon the rhyme of ah katan, bekor satan, and Jonathan.
(15) And it must have been Jonathan who dared to issue a ruling in accordance with the views of his school against those of Beth Hillel.
(16) מדוכה or mortar-shaped seat.
(17) [That does not mean that he was a contemporary of Haggai the prophet, but that he had an incontrovertible tradition on the matter, Me'iri.]
(18) Of the septennial cycle. The countries of Ammon and Moab, though conquered by Moses and included in the boundary of the Land of Israel, were in the days of the Second Temple excluded. The laws of the Seventh or Sabbatical year, which apply to the Land of Israel, were consequently inapplicable to the lands of Ammon and Moab. Any Jews living in those countries, it was ordained by the Rabbis, were to be allowed to cultivate their fields in this year, but besides the 'first tithe' which is due in all other years, they were to give the tithe of the poor also.
(19) Despite the opinion of some Rabbis that they were to be regarded as bastards. Cordyene or Kardu was in Babylon; Tarmod or Tadmor, (Palmyra) lay in an oasis of the desert of Syria. [According to Obermeyer (p. 133) the question as to the legitimacy of the offering of the Kardu was on account of the possible intermarriage of the non-Jewish inhabitants with the Jewish converts, won over to Christianity by the Christian missions from Edessa in the first century.]
(20) To interview R. Dosa.
(21) Either in order not to attract Jonathan's attention, or, on the contrary, in the hope that one of them at least might meet him.
(22) Lit., 'and made him stand'.
(23) In the days of Joshua.
(24) In the days of Ezra.
(25) Hag. 3b.
(26) In the Sabbatical year.
(27) Of the Land of Israel where no cultivation was permitted and where consequently no poor-tithe was given in that year.
(28) By obtaining employment in the fields or by receiving the tithes and the other gifts of the poor.
(29) Mountaineers of Media. The Gr. ** natives of Karta are mentioned by Polybius and Strabo.
(30) The Cordyenians, however, are not tainted.
(31) Place on the borders of Palestine. Perhaps Petra or the Biblical Sela in Edom, v. Git., Sonc. ed. p. 1, n. 2.
(32) Only the menstrual blood of the daughters of Israel is levitically unclean; and no pure Israelites lived at Rekem.
(33) Though they no longer observed the religious laws of Judaism they were once proselytes and as such their menstrual blood is levitically unclean as is the case with that of Israelites.
(34) I.e., from localities where no Israelites live.
(35) Nid. 56b, Bek. 38b.

Talmud - Mas. Yevamoth 16b

that having stated categorically,[1] '[those that came] from the heathens' [he must also imply,] 'even those from Tarmod'![2] And R. Johanan replied: This proves that proselytes may be accepted from Tarmod.[3] And if it be replied [that R. Johanan only said], 'This',[4] but he himself does not hold this view,[5] surely R. Johanan said, 'The halachah is in accordance with an anonymous Mishnah'![6] — It is a question in dispute between Amoraim as to what was actually the view of R. Johanan.

Why are no [proselytes to be accepted] from Tarmod? — R. Johanan and Sabya give different reasons. One says, 'On account of the slaves of Solomon,'[7] and the other says, 'On account of the daughters of Jerusalem.'[8]

According to him who Says. 'On account of the slaves of Solomon,' the reason is quite intelligible, because he may hold the opinion that the child of a heathen or a slave who had intercourse with a daughter in Israel is a bastard. According to him, however, who said, 'On account of the daughters of Jerusalem', what is the reason? — R. Joseph and the Rabbis dispute the point, and both of them in the name of Rabbah b. Bar Hana. One maintains that [the number was] twelve thousand [foot]men and six thousand archers, and the other maintains that there were twelve thousand men and, of these, six hundred archers. At the time when the heathens entered the Temple, everyone made for the gold and the silver, but they made for the daughters of Jerusalem; as it is said in the Scriptures. They have ravished the women in Zion, the maidens in the cities of Judah.[9]

R. Samuel b. Nahmani said in the name of R. Jonathan: The following verse was uttered by the Genius of the Universe:[10] I have been young and now I am old[11] For who else could have said it! If the Holy One, blessed be He, be suggested, is there any old age in his case? Then David must have said it? But was he so old? Consequently it must be concluded that the Genius of the Universe had said it.

R. Samuel b. Nahmani further said in the name of R. Jonathan: What is [the meaning of] the Scriptural text,[12] The adversary hath spread out his hand upon all her treasures?[13] — This [refers to] Ammon and Moab. At the time when the heathens entered the Temple all made for gold and silver, but they turned to the Scroll of the Law, saying, 'That in which it is written, An Ammonite or a Moabite shall not enter into the assembly of the Lord,[14] shall be burned with fire.'

The Lord hath commanded concerning Jacob that they that are round about him should be his adversaries.[15] Rab said: As, for instance, Humania towards Pum Nahara.[16]

Rab Judah said in the name of R. Assi: If at the present time a heathen betroths [a daughter in Israel], note must be taken of such betrothal since it may be that he is of the ten tribes.[17] But, surely, anything separated [from a heterogeneous group] is re garded as having been separated from the majority![18] — [R. Assi's statement refers] to places where they have settled;[19] for R. Abba b. Kahana said: And he put them in Halah and in Habor, on the river of Gozan, and the cities of the Medes;[20] Halah is Halwan,[21] and Habor

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(1) Lit., 'he decides and teaches'.

(2) But can that be so in view of the doubtful character of the admixture of Jewish stock of its inhabitants?

(3) Nid. 56b. I.e., they are not regarded as an admixture of Jewish stock and tainted from birth and disqualified. How then could it be said supra that R. Johanan maintains that proselytes may not be accepted from the Tarmodites?

(4) 'This proves etc.' supra.

(5) I.e., he disagrees with the Mishnah.

(6) Which, as has been shewn, implies that proselytes may be accepted from Tarmod.

(7) Who married Jewish women.

(8) This is explained immediately.

(9) Lam. V, 11.

(10) Or ‘Prince of the world’; identified by some writers with Metatron ‘whose name is similar to that of his master’; v. Sanh., Sonc. ed. p. 245, nn. 11 and 12 and cf. op. cit. p. 246, n. 6. V. also ‘A.Z., Sonc. ed. p. 10, n. 6.
(11) Ps. XXXVII, 25, referred to by R. Dosa supra 16a.
(12) Lit., ‘what of that which was written?’
(13) Lam. I, 10.
(14) Deut. XXIII, 4.
(15) Lam. I, 17.
(16) Both were localities in Babylon. The former, inhabited by Greeks, was a constant source of annoyance to the latter the inhabitants of which were poor Israelites. Humania was below the city of Ctesifon and near it was Pum Nahara.
(17) Whom Shalmaneser had carried away into captivity (II Kings XVIII, 11) where they intermarried with the heathens. Children born from such marriages are bastards, and R. Assi holds that a bastard's betrothal is valid.
(18) I.e., if it is not known to which group or class a person or object that comes from a mixed multitude belongs, it is always assumed that the unit came from the majority. Now, since the ten tribes represent only a minority of the heathens, it should be assumed that the betrothal was not made by one of the ten tribes but by a heathen.
(19) And formed a majority of the inhabitants (Tosaf. s.v. בדוכתא a.l.). Rashi: A group which is in a settled condition, (kabu'a, v. Keth. 15a and Glos.), though it is a minority, is deemed to represent a half of the whole multitude.
(20) II Kings XVIII, 11.
(21) So Kid. 72b. Cur. edd., חלזון. Halwan is a locality in Assyria. V. Kid., Sonc. ed. p. 367, n. 4.

is Hadyab,[1] the river Gozan is Ginzak,[2] and the cities of the Medes are Hamdan[3] and its neighbouring towns; others say, Nihar[4] and its neighbouring towns. Which are its neighbouring towns? — Samuel replied: Karak,[5] Moshki,[6] Hidki[7] and Dumkia.[8] R. Johanan said: All these[9] [were enumerated] in order to declare them as being unfit.[10] When, however, I[11] mentioned the matter[12] in the presence of Samuel he said to me: Thy son,[13] implies that he who is descended from an Israelitish woman may be called thy son, but thy son who is descended from a heathen woman is not called thy son but her son.[14] But, surely, there were also daughters,[15] and Rabina had said, 'From this it may be inferred that thy daughter's son born from [a union with] a heathen is called thy son'![16] — There is a tradition that the women of that generation were sterilized.[17]

Others read: When I mentioned the matter[18] in the presence of Samuel he said to me, 'They did not move from there until they had declared them[19] to be perfect heathens; as it is said in the Scriptures, They have dealt treacherously against the Lord, for they have begotten strange children.'[20]

R. Joseph sat behind R. Kahana while R. Kahana sat before Rab Judah, and while sitting he made the following statement: 'Israel will make a festival when Tarmod will have been destroyed'.[21] But, surely, it was destroyed! — That[22] was Tammod.[23]

R. Ashi said: Tarmod and Tammod are identical, but the city was rebuilt;[24] when it was destroyed on one side it was settled on the other side, and when the other side was destroyed it was settled on the first side.[25]

R. Hamnuna sat before 'Ulla and was engaged in discussing a traditional law when the latter remarked,[26] 'What a man! And how much more important would he have been[27] had not Harpania[28] been his [native] town'! As the other was embarrassed, he said to him, 'Where do you pay poll tax'? — 'To Pum Nahara', the other replied. 'If so', 'Ulla said, 'You belong to Pum Nahara'. What [is the meaning of] Harpania? — R. Zera replied: A mountain whither everybody[29] turns.[30] In a Baraitha it was taught: Whosoever did not know his family and his tribe[31] made his way thither. Raba said: And it was deeper than the nether-world,[32] for in the Scripture it is said, I shall ransom them from the power of the nether-world; I shall redeem them from death,[33] but for the unfitness of these there is no remedy at all; the unfit of Harpania on account of the unfit of Meshan,[34] and the unfit of Meshan on account of the unfit of Tarmod,[35] and the unfit of Tarmod on account of the slaves of Solomon.[36] Thus it is that people say, 'The small kab and the big kab[37] roll down to the nether-world, from the netherworld to Tarmod,[38] from Tarmod to Meshan, and from Meshan to Harpania.[39]

CHAPTER II

MISHNAH. HOW [IS THE EXEMPTION OF HER RIVAL BY] THE WIFE OF HIS BROTHER WHO WAS NOT HIS CONTEMPORARY'[40] [TO BE UNDERSTOOD]?- IF THERE WERE TWO BROTHERS ONE OF WHOM DIED, AND AFTER A THIRD[41] BROTHER WAS BORN[42] THE SECOND[43] TOOK IN LEVIRATE MARRIAGE HIS DECEASED BROTHERS WIFE AND THEN DIED HIMSELF, THE FIRST WOMAN[44] IS EXEMPT[45] AS 'THE WIFE OF HIS BROTHER WHO WAS NOT HIS CONTEMPORARY', AND THE SECOND[46] [IS EXEMPT][45] AS HER RIVAL. IF HE[47] ADDRESSED TO HER A MA'AMAR[48] AND DIED,[49] THE SECOND[50] , MUST PERFORM HALIZAH[51] BUT MAY NOT ENTER INTO THE LEVIRATE MARRIAGE.[52]

GEMARA. R.Nahman said: He who uses the expression FIRST[53] commits no error and he who uses the expression SECOND[53] also commits no error. 'He who uses the expression

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(1) Adiabene, a region between the rivers Caprus and Lycus in Assyria.
(2) Ganzaka, identified with Shiz, S.E. of Urmia Lake, N.W. of Persia, v. ibid. n. 8.
(3) Hamadan, the capital of Media, otherwise known as Ekbatana. V. Schrader, Keilinschriften, p. 378.
(4) Nahawand, a town on the south of Ekbatana (v. previous note). V. ibid. n. 4.
(5) כרך, Others read, כרך (fort) in the construct, and connect it with the following nouns.
(6) Or Kerak Moshki, the Fort of Moshki. The land of the Moshki lay on the southern side of Colchis.
(7) A locality in Assyria, variously described as Hudki, Hirki, Hizki and Huski.
(8) Rumki, Ruthki, or the Fort of Rumki in Media. On all these localities v. Kid., Sonc. ed. pp. 365ff notes.
(9) Localities mentioned.
(10) Most of their inhabitants being deemed bastards, since the women had intermarried with the heathens, and their descendants, furthermore, married forbidden relatives.
(11) This is the continuation of Rab Judah's statement.
(12) R. Assi's ruling, supra 16b.
(13) V. Deut. VII, 4 and Kid. 68b.
(14) I.e., is regarded as a perfect heathen and his betrothal has no validity.
(15) Of the ten tribes who married heathens.
(16) V. infra 23a. The children of such unions, then, being deemed Israelites though unfit, should have the right of betrothal. How then could Samuel contend that they are deemed to be perfect heathens? (V. supra p. 91, n. 18).
(17) אצטרויי אצטרו (root, צרי or צרא. Ithpa., 'to tear', 'split'. Lit., 'they were split', i.e., an operation for sterilization was performed on them.
(18) Of R. Assi's ruling supra 16b.
(19) The ten tribes.
(20) Hos. V, 7.
(21) Being of tainted birth they contaminated many pure families in Israel by their intermarriages.
(22) The destroyed city.
(23) [According to Obermeyer. p. 199, the district between Medina and Syria inhabited by the Arab tribe Thamod, mentioned by Plinius and which, according to the Koran (VII, 76) has been destroyed by earthquake.]
(24) Lit., 'redoubled'.
(25) This explains the destruction and existence of the same city.
(26) Referring to R. Hamnuna.
(27) Lit., 'his strength' (Bah). Cur. edd., repeat 'what a man'.
(28) Hipparenum, a wealthy industrial town in the Mesene district, inhabited by a Jewish community of tainted birth.
(29) Of spurious or tainted descent who cannot obtain a wife anywhere else.
(30) הר שהכול פונין בו a play upon the word הרפנחא, the Aleph in הרפניא taking the place of the waw in בו.
(31) V. n. 1.
(32) Sheol, Hell.
(33) Hos. XIII, 14.
(34) Mesene, the island territory lying between the Tigris, the Euphrates and the Royal Canal. Its inhabitants were of spurious descent (v. Kid. 71b) and Harpania was situated near it.
(35) [Palmyrean merchants would make with their caravans across the wilderness direct for Mesene and there intermarry with the inhabitants, v. Obermeyer, p. 198.]
(36) V. supra, 16b.
(37) I.e., both measures are false. This saying is a metaphor for all sorts of people who in a minor or major degree are of spurious descent.
(38) Tarmod being deeper and lower than Hell itself.
(39) Harpania lying in the lowest depths of immorality and tainted descent.
(40) V. Mishnah supra 2b top.
(41) Lit., 'to them'.
(42) And thus found his deceased brother's widow subject to the marriage with his elder brother and forbidden to himself as 'the wife of his brother who was not his contemporary'.
(43) Of the two elder brothers who was already a married man.

(44) The widow of the first deceased brother who is now also the widow of the second brother.
(45) From levirate marriage with the third brother.
(46) Her rival, the widow of the second brother, who in ordinary circumstances would have been subject to levirate marriage with the third brother since he was a contemporary of her husband.
(47) The second brother.
(48) I.e., said to her in the presence of witnesses, 'Be thou betrothed unto me'.
(49) Prior to the consummation of the marriage.
(50) V. note 7.
(51) With the third brother. Since her husband's union with his deceased brother's widow was not consummated he never was her legal husband, and as she is consequently not her rival she cannot be exempt from the halizah.
(52) Because the ma'amar that the husband of the second addressed to the first widow has partially attached that woman to him, and the second has, in consequence, become the partial rival of a forbidden relative and is, therefore, Rabbinically forbidden to enter into the levirate marriage.
(53) In describing the widow of the first deceased brother.

Talmud - Mas. Yevamoth 17b

FIRST commits no error', since 'first' may signify[1] 'first to be subject [to the levirate marriage]'; and 'he who uses the expression SECOND also commits no error', since 'second' may signify 'second to marry',[2] Does not our Mishnah, however, include also[3] the case of one who contracted the levirate marriage first and subsequently married his other wife?[4] What, then, is meant by 'second'? Second in respect of her marriages.[5]

Where [in the Scriptures] is [the prohibition of marrying] 'the wife of his brother who was not his contemporary' written? — Rab Judah replied in the name of Rab: Scripture states, If brethren dwell together,[6] i.e., dwell in the world at the same time; the wife of one's brother who was not his contemporary is consequently excluded; 'together' implies who are together in respect of inheritance,[7] a maternal brother is, therefore, excluded.

Rabbah said: [That legal] brothers [are only those who are descended] from the same father is deduced by a comparison of this 'brotherhood'[8] with the 'brotherhood' of the sons of Jacob;[9] as there [the brotherhood was derived] from the father[10] and not from the mother,[11] so here also [the brotherhood spoken of is that] from the father and not from the mother.[12]

Let him rather deduce this 'brotherhood'[8] from the 'brotherhood' of forbidden relatives![13] — Brethren[8] may be deduced from brethren,[9] but not brethren[8] from thy brother.[14] What practical difference is there [between the two expression]? Surely the School of R. Ishmael taught: And the priest shall return,[15] and the priest shall come,[16] 'returning' and 'coming' are the same thing![17] — Such an analogy is drawn only[18] where there is no other identical word; when, however, there occurs another word which is identical, the analogy is made only with that which is identical.

Let him, then, deduce this 'brotherhood'[19] from the 'brotherhood' in the case of Lot, since it is written in the Scriptures. For we are brethren![20] -It stands to reason that the deduction should be made from the sons of Jacob. because the [analogous expression] is available for the purpose;[21] for it could have been written, Thy servants are twelve sons of one man[22] and yet 'brethren' also was written. Hence it must be inferred that the word was made available for the deduction.[23]

It was necessary for Scripture to write brethren,[24] and it was also necessary to write together.[24] For had the All Merciful written 'brethren' only, it might have been suggested that this 'brotherhood' should be deduced from the 'brotherhood' in the case of Lot. And were you to reply that [the analogous word][25] , is not available for deduction,[21] your statement would be negatived,[26] [the analogous word] being indeed available; for whereas he could have written 'friends' and yet

wrote ‘brethren’, the inference must be that the object was to render it available for analogous deduction; hence the All Merciful has written ‘together’, implying only those who are together in respect of inheritance.[27] If, [on the other hand,] the All Merciful had only written ‘together’, it might have been said to refer to such as have the same father and mother; [hence both expressions were] required.

But how could you have arrived at such an opinion?[28] The All Merciful has, surely, made[29] the levirate marriage dependent on inheritance,[30] and inheritance[31] is derived from the father and not from the mother![32] -It[33] was necessary. For it might have been assumed that whereas this[34] is an anomaly,[35] a forbidden relative[36] having been permitted, the brotherhood must, therefore, be both paternal and maternal; [hence it was] necessary [to teach us that the law was not so].

R. Huna said in the name of Rab: If a woman awaiting the decision of the levir![37] died, [the levir] is permitted to marry her mother. This obviously shews that he![38] is of the opinion that no levirate bond[39] exists[40] let him then say, the halachah is in accordance with the view of him who said no levirate bond exists![41] — If he had said so, it might have been suggested that this applied only to the case of two[42] but that in the case of one[43] a levirate bond does exist. Then let him say, ‘The halachah is in accordance with him who said no levirate bond exists even in the case of one levir’![44] — If he had said so it might have been assumed even where she[45] is alive;[46] hence he taught us that only after death and not when she is still alive, because it is forbidden to abolish the commandment of levirate marriages.

We learned, ‘If his deceased brother's wife died he may marry her sister’,[47] which implies that her sister only may be married but not her mother! — The same law applies even to her mother; only because he taught in the earlier clause ‘if his wife died he is permitted to marry her sister’ in which case only her sister is meant and not her mother, since the latter is Biblically prohibited, he also taught in the latter clause ‘he is permitted to marry her sister’.[48]

Rab Judah, however, said: If a woman awaiting the decision of the levir[49] died, the levir is still forbidden to marry her mother. This[50] obviously implies that he[51] is of the opinion that a levirate bond exists,[52] let him then say, the halachah is in accordance with the view of him who said a levirate bond exists![53] -If he had said so it might have been suggested that this applied only to the case of one,[54] but in the case of two[55] no levirate bond exists. But the dispute,[56] surely, centered round the question of two![57] — But [this is really the reply]: If he[51] had said so[58]

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(1) Lit., ‘what is first?’

(2) The second brother who was already a married man when he contracted the levirate marriage with her. V. supra p 94. n. 4.

(3) Lit., ‘are we not engaged on’.

(4) In which case the widow was also the first to marry him.

(5) The first marriage with her husband and the second with the levir.

(6) Deut. xxv, 5.

(7) I.e., entitled to inherit from one another.

(8) The expression ‘brethren’ in Deut. xxv, 5’ in relation to the levirate marriage.

(9) the thy servants are twelve brethren (Gen. XLII, 13).

(10) Jacob.

(11) Since they were born from different mothers.

(12) B.B. 110b, infra 22a.

(13) The nakedness of thy brother's wife (Lev. XVIII, 26) which includes (v. infra 55a) the wife of a maternal brother.

(14) In the case of the levirate marriage (Deut. xxv, 5) as well as that of Jacob's sons (Gen. XLII, 13) the expression is אחים ‘brethren’; In that of Lev. XVIII, 16 it is אחיך ‘thy brother’.

(15) Lev. XIV, 39.

(16) Ibid. v. 44.
(17) And an analogy between them may be drawn. Though in that case the expressions ושב and ובא, are derived from different roots they are nevertheless, owing to their similarity in meaning. employed for the purposes of an analogy (‘Er. 51a, Yoma 2b, Naz. 5a, Mak. 13b, Hor. 8b et a.l.), how much more so should an analogy be justified between the same nouns which differ only (v. supra p. 95’ n. 14) in their suffixes!
(18) Lit., ‘these words’.
(19) The expression ‘brethren’ in Deut. xxv, 5 in relation to the levirate marriage.
(20) Gen. Xlii, 8. Lot having been Abraham's nephew the deduction would establish a novel law of marriage with a deceased uncle's or nephew's widow.
(21) Lit., ‘vacant’.
(22) Gen. XLII, 23. Cur. edd., read, in. stead of ‘one man’, ‘our father’, which occurs in v. 32. If the reference were to the latter verse ‘thy servants’ which does not occur there would have to be deleted here. Several MSS. support the reading here adopted.
(23) Lit., ‘to make it vacant.
(24) Deut. xxv, 5.
(25) In the case of Lot.
(26) לאיי (cf. Jast.) or לאיי (cf. Levy). Contract. of לא הי’not it’. Aruk: derivation is from לא + Gr. ** ‘not so my son’.
(27) V. supra p. 95, n. 7.
(28) Lit., ‘and this, whence does it come’, i.e., how could any one have assumed that the levirate marriage should only apply to brothers from the same father and mother?
(29) Lit ‘hung’.
(30) [Infra 24a.
(31) Of one's brother.
(32) What need then was there for the expression ‘brethren’?
(33) The expression ‘brethren,.
(34) Levirate marriage.
(35) Lit., ‘something novel’.
(36) A brother's wife.
(37) שומרת יבם a woman during the period between the death of her husband and the levirate marriage or halizah.
(38) Rab.
(39) Zikah זיקה v. Glos.
(40) Between the widow of the deceased brother and the levir, prior to the levirate marriage. Had such a bond existed, her mother would have been forbidden to the levir as his mother-in. law.
(41) V. infra 41a.
(42) Brothers. Since it is not known which of them will actually marry her, the levirate bond is necessarily weak.
(43) Who alone is entitled to marry her,
(44) Infra 29b.
(45) The widow.
(46) Her mother is permitted to the levir. Consequently she would be exempted from halizah as ‘his wife's daughter’.
(47) Infra 49a.
(48) Her mother, however, is equally permitted.
(49) V. supra, p. 97’ n. 11.
(50) The prohibition to marry her mother prior to the levirate marriage as if she had already been his actual mother-in-law.
(51) Rab Judah.
(52) Between the widow of the deceased brother and the levir, before levirate marriage takes place.
(53) Infra 41a.
(54) Brother, who is the only one entitled to marry the widow, and may consequently be regarded as the actual husband.
(55) v. supra p. 97’ n. 16.
(56) Between R. Judah and the Rabbis, infra 41a.
(57) Brothers. How then could it possibly have been assumed that the halachah referred to the case of one brother only?

(58) That the halachah was in accordance with the view of him who said that a levirate bond exists between the widow and the levir prior to the levirate marriage.

Talmud - Mas. Yevamoth 18a

it might have been assumed [that this holds good only] while she is alive but that after death the bond is broken,[1] hence it was taught that the levirate bond is not automatically[2] dissolved.

May it be suggested that the following supports his view: 'If his deceased brother's wife died, the Ievir is permitted to marry her sister', which implies her sister Only but not her mother?[3] — The same law may apply even to her mother; but because he taught in the earlier clause, 'if his wife died he is permitted to marry her sister', in which case her sister only is permitted and not her mother, the latter being forbidden Biblically, he also taught in the latter clause, 'he is permitted to marry her sister'.

R. Huna b. Hiyya raised an objection: IF HE ADDRESSED THE MA'AMAR TO HER AND DIED, THE SECOND MUST PERFORM HALIZAH BUT MAY NOT ENTER INTO THE LEVIRATE MARRIAGE.[4] The reason then[5] is because he addressed to her[6] the ma' amar, but had he not addressed a ma'amar to her,[5] the second also would have been permitted to enter into the levirate marriage with him. Now, if it be maintained that the levirate bond does exist,[7] the second, owing to this bond, would be the rival of the 'wife of his brother who was not his contemporary'![8] — Rabbah replied: The same law, that the second must perform the halizah with, but may not be married to the levir, applies even to the case where no ma'amar was addressed to her;[6] and the ma'amar was mentioned only in order to exclude the view of Beth Shammai. Since they maintain that the ma'amar effects a perfect contract,[9] he teaches us [that it was not so].

Abaye pointed out the following objection to him:[10] In the case of two [contemporary] brothers one of whom died without Issue, and the second determined[11] to address a ma'amar to his deceased brother's wife[12] but before he managed to address a ma amar to her a third[13] brother was born and he himself died, the first[14] is exempt[15] as 'the wife of his brother who was not his contemporary' while the second[16] either performs the halizah or enters into the levirate marriage.[17] Now, if it be maintained that a levirate bond does exist,[18] the second, owing to this bond, would be the rival of 'the wife[19] of his brother who was not his contemporary'![20] Whose view is this? It is that of R. Meir, who holds that no levirate bond exists.

Does R. Meir, however, maintain that no Ievirate bond exists?[18] Surely we have learned: In the case of four brothers two of whom were married to two sisters, if those who were married to the sisters died, behold their widows perform the halizah but may not be taken in levirate marriage [by either of the levirs].[21] Now, if R. Meir is of the opinion that no levirate bond exists,[22] these would come from two different houses,[23] and one brother could marry the one while the other could marry the other! — The fact is that [R. Meir maintains that] no levirate bond exists; [but the levirate marriage is nevertheless forbidden] because he is of the opinion that it is forbidden to annul the precept of levirate marriages, it being possible that while one of the brothers married [one of the widowed sisters] the other brother would die,[24] and thus the precept of levirate marriages would be annulled.[25]

If, however, no Ievirate bond exists, let [also the precept of the levirate marriage] be annulled! For R. Gamaliel who holds that no levirate bond exists[26] also [maintains that] the precept of the levirate marriage may be annulled; as we learned; R. Gamaliel said, 'If she[27] made a declaration of refusal[28] well and good;[29] if she did not make a declaration of refusal let [the elder sister] wait until [the minor] grows up[30] and this one[31] is then exempt as his wife's sister'![32] -The other[33] said to him: Are you pointing out a contradiction between the opinion of R. Meir and that of R. Gamaliel?[34] No

[replied Abaye]; we mean to say this: Does R. Meir provide even against a doubtful annulment[35] and R. Gamaliel does not provide even against a certainty![36] — It is quite possible that he who does not provide[37] makes no provision even against a certain annulment, while he who does provide[37] makes provision even against a doubtful annulment.[38]

Said Abaye to R. Joseph: Rab Judah's statement[39] is Samuel's;[40] for we learnt:

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(1) Lit., 'burst', 'split'.

(2) Lit., 'by nothing', 'without formality', i.e., without the due performance of the halizah.

(3) Because she is presumably regarded as his mother-in-law.

(4) Supra 17a, q.v. for notes.

(5) Why the levirate marriage is forbidden to the second

(6) The first, the widow of the first deceased brother.

(7) Between the widow and the levir, from the moment her husband, the first brother, died.

(8) With whom levirate marriage is forbidden.

(9) Lit., 'acquires perfect possession', i.e., the widow is regarded as the legal wife of the second brother, and his own wife thus becomes her rival and is consequently exempt even from the halizah.

(10) To Rabbah.

(11) Lit., 'stood'.

(12) The widow of the first deceased brother.

(13) Lit., 'to him'.

(14) The widow of the first deceased brother.

(15) From the halizah and levirate marriage of the third brother.

(16) Her rival, the widow of the second deceased brother.

(17) With the third brother. Infra 19a.

(18) v. supra p. 99' n. 5.

(19) The bond being regarded to be just as binding as actual marriage.

(20) And she should be exempt.

(21) 'Ed. V, 5' infra 23b, 26a, 7b; because, obviously, both are bound by a levirate bond to both surviving brothers and each is the sister of a woman who is connected with either of the brothers by such a levirate bond.

(22) V. supra p. 99' n. 5.

(23) None of them standing in any marital relationship with either of the surviving brothers.

(24) And be prevented from marrying the other widow.

(25) Since the surviving brother would not be able to marry (or to participate in the halizah of) the second widow who is now his wife's sister.

(26) Infra 51a.

(27) A minor who was married to one brother while her sister had been married to another brother who died without issue.

(28) A minor may refuse to live with her husband and no divorce is needed in her case. V. Glos. s.v. m1 un.

(29) Lit., 'she refused'. By her declaration of refusal her marriage becomes null and void retrospectively. As she has thus never been the legal wife of the Ievir, her sister (being no more his 'wife's sister') may contract the levirate marriage with him.

(30) And becomes the legal wife of the surviving brother.

(31) l.e., the elder sister.

(32) Infra 79b, 109a; which shews that R. Gamaliel permits the annulment of the law of the levirate marriage. Similarly, if R. Meir maintains, like R. Gamaliel, that no levirate bond exists, he should also permit the annulment of the precept of the levirate marriage.

(33) Rabbah.

(34) Though they may agree on the question of the levirate bond, it does not necessarily follow that they agree also on the question of permission to annul the precept of the levirate marriage.

(35) Supra; the possibility that one of the brothers might die.

(36) It is a certainty that when the minor becomes of age the elder sister will be precluded from both marriage and

halizah. This wide divergence of opinion is unlikely. Hence the fear of annulling the levirate marriage cannot be the reason for R. Meir's ruling in the above cited Mishnah; and consequently R. Meir cannot be of the opinion that no levirate bond exists.

(37) Against the annulment of the precept of the levirate marriage.

(38) So that R. Meir need not necessarily agree with R. Gamaliel on this point though he will agree with him on the question of the levirate bond.

(39) That if a woman awaiting the decision of the levir died, the levir is still forbidden to marry her mother (supra 17b end).

(40) Not Rab's who also was his teacher.

Talmud - Mas. Yevamoth 18b

If the brother of the levir had betrothed the sister of the widow who was awaiting the levir's decision,[1] he is told, so it has been stated in the name of R. Judah b. Bathyra, 'Wait[2] until your brother has taken action;'[3] and Samuel said, 'The halachah is in accordance with the ruling of R. Judah b. Bathyra'.[4] The other[5] asked him: 'What [objection could there be] if the statement[6] be attributed to Rab?[7] Is it the contradiction between the two statements of Rab?[8] Surely it is possible that these Amoraim[9] are in dispute as to what was the opinion of Rab!' — Since this ruling was stated with certainty in the name of Samuel, while as to Rab's view [on the matter] Amoraim differ, we do not ignore[10] the statement attributing it with certainty to Samuel in favour of the one[11] which involves Amoraim In a dispute as to the opinion of Rab.

Said R. Kahana: I reported the statement[12] in the presence of R. Zebid of Nehardea, when he said: You teach it thus;[13] our version is explicit:[14] 'Rab Judah stated in the name of Samuel, "If a woman awaiting the decision of the levir died, [the levir] is forbidden to marry her mother", from which it naturally follows that he is of the opinion that a levirate bond exists'.[15] Samuel is here consistent; for Samuel said, 'The halachah is in accordance with the view of R. Judah b. Bathyra'.

Said [both statements[16] are] necessary. For had he only stated, 'A levirate bond exists', it might have been assumed to refer to the case of one levir only[17] but not to that of two,[18] hence we are taught[19] [that the Same law applies also to two]. And if it had only been stated, 'The halachah is in accordance with the opinion of R. Judah b. Bathyra',it might have been assumed [that the levirate bond is in force] while the widow[20] is alive but that after her death the bond is dissolved, hence we are taught[21] that the levirate bond Is not dissolved automatically.[22]

MISHNAH. IF THERE WERE TWO BROTHERS AND ONE OF THEM DIED,[23] AND THE SECOND PERFORMED THE LEVIRATE MARRIAGE WITH HIS [DECEASED] BROTHER'S WIFE, AND AFTER A [THIRD] BROTHER WAS BORN THE SECOND DIED,[23] THE FIRST[24] IS EXEMPT[25] ON ACCOUNT OF HER BEING THE WIFE OF HIS BROTHER WHO WAS NOT HIS CONTEMPORARY', WHILE THE SECOND IS EXEMPT AS HER RIVAL.[26] IF HE[27] ADDRESSED TO HER[28] A MA'AMAR AND DIED,[29] THE SECOND MUST PERFORM THE HALIZAH[30] BUT SHE MAY NOT BE TAKEN IN LEVIRATE MARRIAGE. R. SIMEON SAID:[31] HE[32] MAY EITHER TAKE IN LEVIRATE MARRIAGE WHICHEVER OF THEM HE DESIRES[33] OR HE MAY PARTICIPATE IN THE HALIZAH WITH WHICHEVER OF THEM HE DESIRES.[33]

GEMARA. R. Oshaia said: R. Simeon disputed the first case also'[24] Whence is this inferred?From the existence Cf a Super. fluous Mishnah. For in accordance with whose view was it necessary to teach the clause of the first [Mishnah]? If it be suggested, [according to that] of the Rabbis, [it may be retorted]: If when the levirate marriage had taken place first and the birth[34] occurred afterwards, in which case he,[35] found her[36] permitted,[37] the Rabbis nevertheless forbade her,[38] is there any need [for them to specify prohibition in the case where] the birth[34] occurred first and the marriage took

place afterwards![39] Consequently[40] it must have been required [in connection with the view] of R. Simeon; and the first [Mishnah] was taught in order to point out to you how far R. Simeon[41] is prepared to go[42] while the last Mishnah was taught in order to show you how far the Rabbis[43] are prepared to go. It would, indeed, have been logical for R. Simeon to express his dissent in the first case, but he waited for the Rabbis to conclude their statement and then he expressed his dissent with their entire statement.[44]

How, in view of what has been said,[45] is it possible according to R. Simeon to find a case of 'a wife of his brother who was not his contemporary'?[46] — In the case of one brother who died and a second brother was subsequently[47] born;[48] or also in the case of two brothers[49] where the second has neither taken the widow in the levirate marriage nor died.[50]

One can well understand [R. Simeon's reason][51] where the levirate marriage[52] took place first and the birth[53] afterwards, for in this case he found her permitted;[54] where, however, the birth occurred first and the levirate marriage took place afterwards,[55] what [reason [could be advanced]?[56] -He holds the opinion that a levirate bond exists[57] and that such a bond is like actual marriage.[58]

R. Joseph demurred: If R. Simeon is in doubt as to whether in the case of a 'levirate bond' and a 'ma amar' combined the widow should or should not be regarded as married, need there be any [doubt in the case of] a 'levirate bond' alone?[59] Whence is this known?[60] — We have learned: In the case where three brothers were married to three women who were strangers [to one another] and, one of the brothers having died, the second brother addressed to her[61] , a ma'amar and died, behold these[62] must perform halizah with, but may not marry the [surviving] levir; for it is said in the Scriptures, And one of then die [etc.], her husband's brother shall go in unto her,[63] only she[64] who is tied to one levir,[65] but not she who is tied to two levirs.[66] R. Simeon said: He[67] may take in levirate marriage whichever of them he pleases[68] and submits to the halizah of the other.[69] He must not take both widows in levirate marriage since it is possible that a levirate bond exists[70] and thus the two sisters-in-law[71] would be coming

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(1) Her sister being forbidden to him as the sister of the woman connected with him by a Ievirate bond.

(2) With the consummation of the marriage.

(3) I.e., married the widow, when the Ievirate bond between her and the third brother will have been severed, and her sister will consequently be permitted to marry him.

(4) Infra 410. Meg. 18b. This shews that in the opinion of Samuel a levirate bond exists between a widow and the brothers-in-law whose decision she is awaiting. (V. previous note).

(5) R. Joseph.

(6) Cf. supra p.101, n.13.

(7) Cf. p.101, n. 14.

(8) Lit., 'that of Rab upon Rab', i.e., Rab's presumed statement reported by Rab Judah is contradictory to the statement made in his name by R. Huna, supra 17b.

(9) R. Huna and Rab Judah, both of whom were disciples of Rab.

(10) Lit., 'leave aside'.

(11) Lit., 'and establish it'.

(12) Rab Judah's.

(13) Attributing the ruling to Rab Judah without mentioning the authority from whom it originated.

(14) I.e., specifically indicating the reported authority.

(15) V. supra p. 99, n. 5.

(16) Of Samuel.

(17) Cf. supra p. 98, n. 8.

(18) Cf. supra . gin. 16.

(19) By the statement that the halachah is in accordance with R. Judah b. Bathyra.

(20) The sister.in.law awaiting the levir's decision.

(21) By the statement, ‘a levirate bond exists’.
(22) V. supra p. 98, n. 24.
(23) Without issue.
(24) The widow of the first deceased brother who is now also the widow of the second.
(25) From halizah and marriage with the third brother.
(26) Both having been the wives of the second brother.
(27) The second brother.
(28) The first brother's widow.
(29) Before marriage took place.
(30) With the third brother.
(31) With reference to the first case of our Mishnah.
(32) The third brother.
(33) And thereby exempt the other. (16) That mentioned in the previous Mishnah (supra 17a ad fin.). In his opinion the third brother may marry or submit to halizah from either of the two widows, even if he was born before the second brother had married the first brother's widow. (17) Lit., ‘that which was taught’.
(34) Of the third brother.
(35) The third brother on the date of his birth.
(36) The widow of the first brother.
(37) As an ordinary sister-in-law; she being no more the ‘wife of his brother who was not his contemporary’. Lit., ‘for when he found her he found her in a permitted state’.
(38) To marry the third brother.
(39) In which case the third brother's birth took place during the period when she was forbidden him as the ‘wife of his brother who was not his contemporary.
(40) Lit., ‘but not?’
(41) Who permits marriage with the third brother even where his birth occurred prior to the widow's marriage. v. supra note 6.
(42) Lit., ‘the strength of R. Simeon’.
(43) Who forbid the marriage even when the birth followed the marriage. Cf ‘pro note 4.
(44) Lit., ‘against them’.
(45) Lit., ‘but’; if R. Simeon permits marriage in both cases.
(46) To be forbidden the levirate marriage in accordance with the statement in the first Mishnah of the Tractate, supra 2b ab init.
(47) Lit., ‘to him’.
(48) The levirate relationship here is entirely due to the deceased brother who was not the surviving brother's contemporary; and marriage is. therefore, rightly forbidden.
(49) The first of whom died without issue.
(50) The third brother, who was born after the death of the first, is forbidden to marry the widow whose connection with the first brother has never been severed, since the second has neither married her nor submitted to her halizah.
(51) For permitting the third brother to marry either of the widows.
(52) With the second brother.
(53) Of the third brother.
(54) V. supra p. 104, on 2-4.
(55) v....supra p. 104, n. 6.
(56) For R. Simeon's permission of marriage.
(57) Between widow and living levir.
(58) The widow is consequently regarded as the wife of the second brother from the moment the first died. When the third brother is subsequently born the widow has no longer any connection with the deceased brother and cannot any more be regarded in relation to the third, as ‘the wife of his brother who was not his contemporary’.
(59) Obviously not. How then could it be said that R. Simeon definitely regards the ‘levirate bond’ alone as actual marriage?
(60) Lit., ‘what is it?’ where did R. Simeon express such doubt?
(61) The widow of the deceased brother.

(62) The widows of the two deceased brothers.
(63) Deut. XXV, 5.
(64) May be taken in levirate marriage.
(65) v. supra p. 98, n. 8.
(66) V. supra p' 97' n. 16.
(67) The levir.
(68) R. Simeon does not recognize a double bond. If the ma'amar addressed by the second brother was binding. the bond with the first brother, he maintains, was thereby severed, and there remains only the bond with the second; and if it was not binding then again only one bond exists, that with the first brother.
(69) Infra 31b. For the reason given anon.
(70) Between the levir (the second brother) and the first widow.
(71) The second brother's actual wife and the widow of the first to whom he addressed a ma'amar and who is his virtual wife.

Talmud - Mas. Yevamoth 19a

from one house.[1] Nor must he take one In levirate marriage and thereby exempt the other, for it is possible that the levirate bond is not as binding as actual marriage, and the two sisters-in-law would thus be coming from two houses.[2] From this it clearly follows that he[3] is in doubt.[4] And should you reply that Biblically one of the widows may indeed be taken in levirate marriage and the other is thereby exempt, but that this procedure had Rabbinically been forbidden as a preventive measure against the possibility of the assumption that where two sisters-in-law came from two houses[5] one may be taken in levirate marriage and the other is thereby exempt without any further ceremonial;[6] surely [it may be pointed out] R. Simeon's reason is because of his doubt as to the validity of the levir's ma'amar![7] For it was taught: R. Simeon said to the Sages, 'If the ma'amar of the second brother is valid he[8] is marrying the wife of the second; and if the ma'amar of the second is invalid he is marrying the wife of the first'! — Said Abaye to him:[9] Do you not make any distinction between the levirate bond with one levir and the levirate bond with two levirs? It is quite possible that R. Simeon said the levirate bond is like actual marriage in the case of one levir only[10] but not in that of two levirs.[11]

Does R. Simeon, however, recognize such a distinction?[12] Surely it was taught: R. Simeon has laid down a general rule that wherever the birth[13] preceded the marriage[14] the widow is neither to perform halizah nor to be taken in levirate marriage. If the marriage[14] preceded the birth[13] she may either perform the halizah or be taken In levirate marriage. Does not this apply to one levir?[15] And yet It is stated 'she is neither to perform halizah nor to be taken in levirate marriage'![16] — No; it applies to two levirs.[17] But in the case of one levir,[17] may she in such circumstances also[18] either perform halizah or contract levirate marriage? If so, instead of stating, 'If the marriage preceded the birth she may either perform halizah or be taken in levirate marriage' the distinction should have been drawn in this very case itself,[19] thus: 'This applies only to the case of two brothers.in.law but with one brother-in-law she may either perform halizah or be taken in levirate marriage'! — The entire passage dealt with two brothers-in-law.[20]

What, then, is meant by the general rule?[21] And a further objection[22] was raised by R. Oshaia: If there were three brothers and two of them were married to two sisters, or to a woman and her daughter, or to a woman and her daughter's daughters or to a woman and her son's daughter, behold these[23] must[24] perform the halizah[25] but may not be taken in levirate marriage.[26] R. Simeon, however, exempts them.[27] Now, if it be assumed that R. Simeon is of the opinion that the 'levirate bond' has the same force as actual marriage, let [the third brother] take the first widow[28] In levirate marriage and let the other[29] be thereby exempt.[30] R. Amram replied: The meaning of 'exempt'[31] is that he exempts the second widow,[32] But has it not been taught: R. Simeon exempts them both'?[33] -Raba replied: The second of the one pair and the second of the other pair.[34] Raba, however, was

mistaken [in the interpretation] of the four pairs.[35] For, in the first instance, we have twice the word 'or',[36] and, furthermore, [if Raba's interpretation were the correct one][37] it should [have read], 'R. Simeon exempts the four'.[38] Furthermore, it was taught: R. Simeon exempts both[39] from the halizah and from the levirate marriage, for it is said in the Scriptures, And thou shalt not take a woman to her sister, to he a rival to her,[40] when they become rivals to one another[41] you may not marry even one of them![42] But, said R. Ashi: If they[43] had become subject [to the levir] one after the other, the law would indeed have been so.[44] Here,[45] however, we are dealing with the case where both become subject to him at the same time; and R. Simeon shares the view of R. Jose the Galilean who stated, 'It is possible to ascertain simultaneous occurrence'.[46]

R. Papa[47] said: R. Simeon differs[48] only where the levirate marriage[49] took place first, and the birth[50] afterwards; he does not differ, however, when the birth[50] occurred first, and the marriage[49] took place afterwards; and both these cases[51] are required on account of the Rabbis,[52] and[53] [a stronger case is given after a weaker] 'not only this[54] but also that'.[55]

It was taught in agreement with R. papa[56] and in contradiction to R. Oshaia: If one of two contemporary brothers died without Issue, and the second intended to address a ma 'amar to his deceased brother's wife but before he was able to do so a third brother was born and he himself died, the first widow is exempt[57] as 'the wife of the brother who was not his contemporary', and the second[58] may either perform the halizah or be taken in levirate marriage. If, however, he[59] addressed a ma'amar to the widow and subsequently a third brother was born, or if a third brother was born first and he[59] addressed the ma'amar to the widow subsequently, and died, the first widow is exempt[57] as 'the wife of his brother who was not his contemporary' while the second[58] must perform the halizah,[60] though she may not be taken in levirate marriage.

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(1) One as actual, the other as virtual wife of the same husband, the second brother. The Torah required the levir 'to build up his brother's house' (Deut. XXV, 9) from which it is inferred that it is his duty to build up only a house but not houses, i.e., to marry his brother's one wife but not his two wives.

(2) Both of whom are subject to the levirate marriage. and one of whom cannot exempt the other.

(3) R. Simeon.

(4) As to whether a levirate bond exists. Cf. supra p. 105, n. 9.

(5) Where two brothers died simultaneously; when the one widow is as much tied to him as the other.

(6) Lit., 'with nothing'.

(7) Lit., 'saying and not saying' or 'ma'amar and not ma'amar'.

(8) The third brother.

(9) R. Joseph.

(10) As in our Mishnah where the first brother was survived by one brother only. The subsequent birth of a third brother does not affect the levirate any more than it can affect an actual marriage.

(11) Of which the cited Baraitha speaks. There, when the first brother died he was survived by two brothers.

(12) Between one levir and two.

(13) Of a third brother.

(14) Of the second brother with the widow of the first.

(15) Who survived the first deceased brother after whose death the third brother was born.

(16) Which proves that even in the case of one levir R. Simeon does not recognize the existence of a levirate bond.

(17) Cf. supra note 4.

(18) Where the birth of the third preceded the marriage of the second.

(19) Where birth preceded marriage.

(20) The Tanna preferred to draw a distinction between two sets of circumstances both of which relate to the brothers-in-law rather than to draw a distinction between one brother-in-law and two brothers-in-law in the same set of circumstances.

(21) According to which neither halizah nor levirate marriage is allowed whenever the birth preceded the marriage. Both, according to what has just been said, are permissible in the case of one levir.

(22) Against the statement that R. Simeon regards the levirate bond as actual marriage.
(23) The women enumerated.
(24) If their husbands, the two brothers, died without issue.
(25) With the third surviving brother.
(26) By that brother; since both are equally related to him by the same 'levirate bond' and each is forbidden to him as the consanguineous relative of the woman connected with him by such bond.
(27) Infra 28b; even from the halizah.
(28) I.e., the widow whose husband bad died first, and who, through the 'levirate bond',is regarded as the levir's virtual wife even before he married her.
(29) Her consanguineous relative, the widow of the second deceased brother.
(30) As a forbidden relative; being consanguineous with his virtual wife.
(31) In R. Simeon's statement.
(32) Whose husband died last. The first, however, is to be taken in levirate marriage.
(33) Infra 28b, Rid. 50b.
(34) 'Both' used by R. Simeon refers to the second of each pair. Raba assumed that the two brothers had married two sisters and also a mother and her daughter. One of the first is taken in levirate marriage and the others are thereby exempt either as 'forbidden relatives' or 'rivals'.
(35) Enumerated in the cited Mishnah, assuming as he did that it meant marriage by the. two brothers of more than one pair (v. previous note).
(36) 'Or' occurs after the enumeration of each pair.
(37) Viz., that R. Simeon's exemption refers to the second of each pair.
(38) Since four pairs were enumerated.
(39) Widows of the first brother.
(40) Lev. XVIII, 18.
(41) As in the case cited, where each of the two brothers was married to one of each pair, and when the first brother died all his widows became subject to levirate marriage with the second brother and thus become rivals.
(42) Even the first widow. Consequently R. Simeon's exemption applies to all, which shews that he recognizes no distinction on the question of the levirate bond between one levir and two levirs!
(43) The widows.
(44) That the 'levirate bond' in the case of one levir being recognized even by R. Simeon as being as forcible as actual marriage. the levir (the third brother) marries the first while the other is exempt, though her husband (the second brother) died before he actually married the first.
(45) In the Mishnah cited by R. Oshaia in objection against the view attributing to R. Simeon a distinction between one levir and two levirs.
(46) I.e., to ascertain that two things occur exactly at one and the same moment, Bek. 17a. Hence it may happen that both brothers die simultaneously and both widows simultaneously become subject to the third brother and consequently, on the view of R. Simeon, both exempt from halizah and levirate marriage.
(47) Disagreeing with R. Oshaia, supra 18b.
(48) From the Rabbis of our Mishnah.
(49) With the second brother.
(50) Of the third brother.
(51) 'Marriage before birth' in our Mishnah and 'birth before marriage' in the previous one.
(52) To shew that they exempt not only in the one case but also in the other. Cf. infra notes 11-12
(53) As to the objection raised (supra 18b): Since they exempt in the second case, what need was there to mention the first which could have been inferred from it a minori ad majus?
(54) The case in the first Mishnah, the birth of the third brother before the marriage of the second, where the birth occurred while the widow was still under a prohibition to marry him.
(55) The case in the second Mishnah, where the birth of the third brother occurred when the widow was already permitted to him.
(56) That when the birth of the third brother occurred prior to the marriage of the second with the widow of the first, R. Simeon agrees with the Rabbis.
(57) From marriage and halizah with the third brother.

(58) The widow of the second brother.

(59) The second brother.

(60) The ma'amar addressed to the first widow not having 'the same force as actual marriage to render the second brother's wife her rival to be exempt from halizah as well as from the levirate marriage with the third brother.

Talmud - Mas. Yevamoth 19b

R. Simeon said: Intercourse or halizah with the one of them[1] exempts her rival.[2] If, however, he[3] participated in halizah with her to whom [the second brother had] addressed the ma'amar, her rival is not exempt.[4] If he[1] married her[5] and died, and a [third] brother was subsequently born, or if a [third] brother was born, and subsequently he married her[5] and died, both [widows] are exempt from the halizah and the levirate marriage. If he married her[5] and [after that a third] brother was born and then he himself died, both widows are exempt from the halizah and the levirate marriage; this is the opinion of R. Meir. R. Simeon, however, said: Since, when he[6] came [into the world] he found her[7] permitted to him,[8] and she was never forbidden to him even for one moment, he[6] may take in levirate marriage whichever of them he desires or he may participate in the halizah with whichever of them he desires. Now, in accordance with whose view was the case in the latter clause[9] taught?[10] If it be suggested that it was taught in accordance with the view of R. Meir,[11] it might be observed that, as R. Meir draws no distinction between marriage that was followed by birth and birth that was followed by marriage, all these cases should have been combined in one statement![12] Consequently it must have been in accordance with the view of R. Simeon who thus differs[13] only in the case where the levirate marriage was followed by birth'[14] but does not differ[13] where birth was followed by levirate marriage.[15] Our point is thus proved.

The Master said, '[If] the second intended to address a ma'amar to his deceased brother's wife but before he was able to do so, a third brother was born while he himself died, the first widow is exempt as "the wife of the brother who was not his contemporary and the second may either perform halizah or be taken in levirate marriage'. What is meant by 'he intended' and what by 'he was not able'? If he did it, it is an accomplished fact;[16] and if he did not do it, it is not an accomplished fact![16] -In fact [this is the meaning:] 'He intended' with her consent and 'he was not able' with her consent but against her wish.[17]

This,[18] however, is not in agreement with the view of Rabbi. For it was taught: If a man addressed a ma'amar to his deceased brother's wife against her consent, Rabbi regards this as legal [betrothal].[19] But the Sages say, This is not a legal [betrothal]. What is Rabbi's reason?-He deduces [this form of betrothal] from the intercourse with the wife of a deceased brother; as the Intercourse with the wife of a deceased brother may be effected against her will[20] so may the betrothal of the wife of a deceased brother be effected against her will. And the Rabbis?-They deduce it from the usual form of betrothal;[21] as the usual betrothal can be effected with the woman's consent only so may the betrothal of a yebamah[22] be effected with her consent only. On what principle do they differ? — One Master[23] is of the opinion that matters relating to a yebamah should be inferred from matters relating to a yebamah and the Masters[24] are of the opinion that matters of betrothal should be inferred from matters of betrothal.[25]

'If, however, he addressed a ma'amar to the widow, and subsequently a third brother was born, or if a third brother was born first and he[26] addressed the ma'amar to the widow subsequently and died, the first widow is exempt as "the wife of his brother who was not his contemporary" while the second must perform the halizah, though she may not be taken in levirate marriage. R. Simeon said: Intercourse or halizah with the one of them exempts her rival'.[27] What is R. Simeon referring to?[28] If it should be suggested, 'To the case where the third brother was born first and he[26] addressed the ma'amar subsequently's surely it has been stated, that where birth preceded marriage R. Simeon does not differ from the Rabbis![29] — But [the reference is] to the case where the ma'amar was addressed

first and the third brother was born subsequently. Hence, ‘if he participated in halizah with her to whom [the second brother had] addressed the ma amar, her rival is not exempt’, because[30] the [subjection of the] rival[31] is a certainty[32] while [the subjection of her] to whom the ma'amar had been addressed is doubtful,[33] and no doubt may over-ride[34] a certainty.

R. Manasseh b. Zebid sat in the presence of R. Huna, and in the course of the session he said: What is R. Simeon s reason?[35] — ‘What is R. Simeon's reason’! [Surely it is] as it has been stated: The reason is ‘because when he was born he found her permitted to him, and she was never forbidden him even for one moment’![36] But [the question rather is] what is the reason of the Rabbis?[37] -Scripture said, A/Id take her to him to wife, and perform the duty of a husband's brother unto her,[38] the former levirate attachment still remains with her.[39] But then what of the following[40] where we learned, ‘If he[41] married her[42] she is regarded as his wife in every respect’[43] and [in connection with this] R. Jose b. Hanina said, ‘This teaches

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(1) I.e., the second widow.

(2) As will be explained infra this applies to the case where the ma'amar was addressed to the first widow and the third brother was born subsequently, R. Simeon being of the opinion that it is uncertain whether the ma'amar has the same force as actual marriage or not. The rival is in either case exempt: If the ma'amar was binding, then even the first widow is according to R. Simeon permitted to the third brother, since it is a case of ‘marriage prior to birth’, and the halizah with the second consequently exempts the first as her rival, both having been married to the same husband; and if the ma'amar was not binding, the first widow is forbidden to the third brother as the widow of ‘the brother who was not his contemporary’ while the second is not her rival and may be taken in levirate marriage or perform the halizah.

(3) The third brother.

(4) Since it is possible that the ma'amar is not binding and she is in consequence forbidden to him as ‘the wife of his brother who was not his contemporary’ and her halizah has no validity.

(5) The first widow.

(6) The third brother.

(7) The first widow.

(8) Having been born after her marriage with the second brother had entirely severed her connection with the first brother.

(9) Marriage between the second brother and the first widow, followed by the birth of the third brother, which again was followed by the death of the second.

(10) I.e., in accordance with whose view was it necessary to have the case of marriage prior to birth separated from that of marriage after birth?

(11) To indicate that even in such a case he forbids marriage.

(12) Lit., ‘let him mix them and teach them’; the third case, ‘if he married her and (after that a third) brother was born and then he himself died’ should not have been separated from the previous two cases, since according to R. Meir it matters little whether marriage of the second brother with the first widow preceded or followed the birth of the third brother.

(13) From the Rabbis.

(14) As R. Papa stated. V. supra note 7.

(15) Contrary to the opinion of R. Oshaia.

(16) And the intention is of no consequence.

(17) The object of the statement being that the ma'amar has not even partially the force of marriage if it was made against the woman's will. The second widow may, therefore, be taken in levirate marriage.

(18) That the ma'amar addressed to the wife of a deceased brother (Yebamah. v. Glos.) is invalid unless she consented to the betrothal.

(19) Lit., ‘he acquired’.

(20) V supra 8b.

(21) The betrothal of a stranger.

(22) The wife of a deceased brother.

(23) Rabbi.

(24) The Sages.
(25) Rid. 440.
(26) The second brother.
(27) Supra 19a-b, q.v. for notes.
(28) In differing from the Rabbis. Lit.,'on what does he stand'.
(29) But agrees that the first widow in relation to the third brother is to be regarded as 'the wife of his brother who was not his contemporary'. Now, since it is possible that the ma'amar is as valid as actual marriage, how could R. Simeon have permitted the rival of a forbidden relative? Furthermore, the expression 'she exempts her rival' would be unsuitable, since her rival has all the time been exempt as the 'wife of the brother who was not his contemporary'.
(30) Lit., 'what is the reason'.
(31) To the third brother.
(32) If the ma'amar was valid both widows are subject to the third brother, since it is a case of marriage before birth; if the ma'amar is invalid, the second is still subjected to the levir since, no marriage having taken place, she is not the rival of a forbidden relative.
(33) It being possible that the ma'amar is not valid, and the first widow thus remains forbidden to the third brother as 'the wife of his brother who was not his contemporary'. Halizah with her is, therefore, of no validity and cannot exempt the second widow.
(34) Lit., 'puts out'.
(35) For permitting levirate marriage with the third brother in the case where the second brother had married the first widow prior to the birth of the third brother.
(36) Supra, q.v. for notes.
(37) Why do they forbid the levirate marriage between the first widow and the third brother, where the only relationship between them is through the second brother, the relationship through the first brother having ceased with the levirate marriage of the widow by the second brother prior to the birth of the third?
(38) Deut. XXV, 5.
(39) ולקחהיעיעיעויבמה 'taking her to wife', ולקחה, does not remove from her the designation of 'brother's wife' יבמה
(40) Lit., 'but that'.
(41) A brother-in-law.
(42) The widow of his deceased childless brother.
(43) Infra 38a. Keth. 80b.

Talmud - Mas. Yevamoth 20a

that he may divorce her with a letter of divorce and that he may remarry her' ,[1] let it there also be said, 'And perform the duty of a husband's brother unto her,[2] the former levirate attachment still remains with her' and, consequently, she should require halizah [also]! — There the case is different; since Scripture stated, 'And take her to him to wife',[2] as soon as he married her she becomes his wife in every respect. If so, [the same deduction should be applied] here also! — Surely the All Merciful has written, 'And perform the duty of a husband's brother unto her'.[2] And why the differentiation?[3] - It stands to reason that permission[4] should be applied to that which is [also otherwise] permitted,[5] and that prohibition[6] should be applied to that which is [also otherwise] prohibited.[7]

According to R. Simeon, however, who stated, 'Because when he was born he found her permitted, and she was never forbidden to him even for one moment',[8] a brother, if this reason is tenable,[9] should be allowed to take in levirate marriage his maternal sister whom his paternal brother had married prior to his birth, dying subsequently, since, when he was born, he found her permitted.[10] — Whither did the 'prohibition of sister' vanish?[11] — Here, also, whither did the prohibition of 'the wife of the brother who was not his contemporary' vanish! — The one[12] is a prohibition which can never be lifted; the other[13] is a prohibition which may be lifted.[14]

MISHNAH. A GENERAL RULE HAS BEEN LAID DOWN:[15] IN RESPECT OF THE DECEASED BROTHER'S WIFE:[16] WHEREVER SHE IS PROHIBITED[17] AS A FORBIDDEN RELATIVE, SHE[18] MAY NEITHER PERFORM THE HALIZAH NOR BE TAKEN IN LEVIRATE MARRIAGE. IF SHE IS PROHIBITED BY VIRTUE OF A COMMANDMENT[19] OR BY VIRTUE OF HOLINESS,[20] SHE MUST PERFORM THE HALIZAH AND MAY NOT BE TAKEN IN LEVIRATE MARRIAGE. IF HER SISTER IS ALSO HER SISTER-IN-LAW,[21] SHE[22] MAY PERFORM THE HALIZAH OR MAY BE TAKEN IN LEVIRATE MARRIAGE.[23]

PROHIBITED BY VIRTUE OF A COMMANDMENT' [REFERS TO] THE SECONDARY DEGREES IN RELATIONSHIP FORBIDDEN BY THE RULING OF THE SCRIBES. 'PROHIBITED BY VIRTUE OF HOLINESS' [REFERS TO THE FOLLOWING FORBIDDEN CATEGORIES]: A WIDOW TO A HIGH PRIEST;[24] A DIVORCED WOMAN, OR ONE THAT HAD PERFORMED HALIZAH TO A COMMON PRIEST;[25] A FEMALE BASTARD OR A NETHINAH[26] TO AN ISRAELITE;[27] AND A DAUGHTER OF AN ISRAELITE,[27] TO A NATHIN[28] OR A BASTARD.

GEMARA. What was the GENERAL RULE meant to include?[29] — Rafram b. papa replied: TO include the rival of a woman who was incapable of procreation, In agreement with the view of R. Assi.[30]

Some there are who say:[31] 'Whenever her prohibition is that of a forbidden relative then only is her rival forbidden; when, however, her prohibition is not that of a forbidden relative, her rival is not forbidden'. What was this meant to exclude? — Rafram replied: To exclude the rival of one incapable of procreation, contrary to the view of R. Assi.[30]

IF HER SISTER IS ALSO HER SISTER-IN-LAW [etc.]. Whose sister? If the sister of her who is forbidden by Virtue of an ordinance of the Scribes be suggested, fit may be objected,] since, pentateuchally, she[32] is subject to the levir, he would[33] come in marital contact with the sister of her who is connected with him by the levirate bond! — It means the sister of her who is prohibited to him as a forbidden relative.

PROHIBITED BY VIRTUE OF A COMMANDMENT', [REFERS TO] THE SECONDARY DEGREES. Why are these designated, PROHIBITED BY VIRTUE OF A COMMANDMENT'?-Abaye replied: Because it is a commandment to obey the rulings of the Sages.

PROHIBITED BY VIRTUE OF HOLINESS'... A WIDOW TO A HIGH PRIEST; A DIVORCED WOMAN, OR ONE WHO HAD PERFORMED THE HALIZAH, TO A COMMON PRIEST. Why are these designated 'PROHIBITED BY VIRTUE OF HOLINESS'?-Because It is written in the Scriptures, They shall be holy onto their God.[34]

It was taught: R. Judah reverses the order: prohibited by virtue of a commandment [refers to the following prohibited categories:] a widow to a high priest; a divorced woman or one that had performed halizah, to a common priest. And why are these designated, prohibited by virtue of a commandment? — Because it is written in the Scriptures, These are the commandments.[35] prohibited by virtue of holiness [refers to] the secondary degrees of relationship forbidden by the rulings of the scribes. And why are these designated, prohibited by virtue of holiness?-Abaye replied: Because whosoever acts in accordance with the rulings of the Rabbis is called a holy man. Said Raba to him: Then he who does not act in accordance with the rulings of the Rabbis is not called a holy man; nor is he called a wicked man either?[36] — No, said Raba: 'Sanctify yourself by that which is permitted to you'.[37]

A WIDOW TO A HIGH PRIEST. An unqualified ruling is laid down making no distinction

between a nissu'in[38] widow and an erusin[38] widow. Now, one can well understand the reason the case of a nissu'in widow [since marriage with her is forbidden by] a positive[39] and a negative precept ,[40] and no positive precept[41] may override both a negative and a positive precept. In the case, however, of an erusin widow [marriage with whom is forbidden by] a negative precept only,[42] let the positive precept[41] override the negative[40] one? — R. Giddal replied in the name of Rab: Scripture stated, Then his brother's wife shall go up to the 'gate,[43] where there was no need to state his brother's wife;[44] why then was 'his brother's wife' specified? [To indicate that] there is a case of another[45] brother's wife who goes up for halizah but does not go up for levirate marriage.[46] And who is she? One of those prohibited[47] by a negative precept.[48]

Might it[49] not be said [to include also] such as are subject to the penalty of kareth?[50] — Scripture said, If the man like not to take,[51] if he likes, however, he may take her in levirate marriage, [hence it is to be inferred that] whosoever may go up to enter into levirate marriage may also go up to perform halizah and whosoever may not go up to enter into levirate marriage[52] may not go up to perform halizah either. If so, the same should apply also to those forbidden by a negative Precept! — But, surely, the All Merciful has included them [by the expression] 'His brother's wife'. What ground is there for such differentiation?[53]

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(1) Supra 8b, q.v. for notes, infra 39a.

(2) Deut. XXV, 5'

(3) Lit., 'and what did you see', i.e., why apply the first part of the text to one case and the second part of the same text to the other?

(4) To give ordinary divorce without submitting to halizah. and to remarry, which is derived from And take her to him to wife.

(5) Ordinary levirate.

(6) Implied in the words 'And perform the duty of a husband's brother unto her'.

(7) I.e., 'the wife of his brother who was not his contemporary'.

(8) Supra 19b, q.v. for notes.

(9) Lit., 'but from now'.

(10) When he was born she was already his 'brother's wife'.

(11) Lit., 'whither did it go?'

(12) Prohibition of a sister.

(13) A brother's wife.

(14) Where the brother died without issue. When the first brother died childless the prohibition of 'brother's wife' was removed and thus the widow was permitted to the second brother. Her connection with the first thus having come to an end, the third brother, as her legitimate levir through the second brother, may consequently marry her.

(15) Lit., 'they said'.

(16) Whose husband died without issue.

(17) To marry the levir.

(18) The rival, and much more so the forbidden relative herself.

(19) Or 'an ordinance of the Scribes'. The term איסור מצוה is discussed infra.

(20) קדושה איסור v. infra.

(21) In the case where two sisters were married to two brothers who died childless, and both widows become subject to levirate marriage with a third brother towards whom one of them stood in any kind of forbidden relationship as, say. that of mother-in-law or daughter-in-law.

(22) The sister of the forbidden relative.

(23) Since the forbidden relative may never marry the levir, her sister does not come under the prohibition of 'the sister of his zekukah' i.e., of 'the woman related to him by the levirate bond'.

(24) Whose holy status precludes him from marrying a widow. V. Lev. XXI, 13f.

(25) Where his brother unlawfully married such a woman and died without issue. The levir must not marry her on account of his holy status. v. Lev. XXI, 7.

(26) V. Glos.

(27) Who is forbidden on the ground of the sanctity of Israel to marry such types.
(28) V. Glos.
(29) In addition to the forbidden relatives actually enumerated.
(30) Who stated (supra 12a) that such a woman may neither perform halizah nor be taken in levirate marriage.
(31) In interpretation of our Mishnah.
(32) The woman forbidden by the ordinance of the Scribes.
(33) Should he marry her sister.
(34) Lev. XXI, 6.
(35) Lev. XXVII, 34 which refers to all the priestly commandments laid down in that book.
(36) Surely, a person disobeying the Rabbis is indeed a wicked man!
(37) I.e., marriages forbidden by the rulings of the scribes are designated as 'prohibited by virtue of holiness' because these restrictions are designed to promote self-sanctification and as a barrier and a safeguard against marriage with those who are Pentateuchally forbidden.
(38) V. Glos.
(39) Lev. XXI, 13. And he shall take a wife in her virginity.
(40) Ibid. v. 14, A widow... shall he not take.
(41) That of the levirate marriage.
(42) V. supra n. 6. The positive precept (v. n. 5) is not infringed since she is still a virgin.
(43) Deut. XXV, 7.
(44) Since the pronoun implied in ועלתה (then she shall go up) sufficiently indicates the subject which has been previously mentioned.
(45) Cf. Bah a.l. Cur. edd., 'one'.
(46) I.e., a brother's wife not coming under the obligation of levirate marriage as the one spoken of previously in the text.
(47) Lit., 'guilty of'.
(48) A widow to a High Priest. V supra p. 117, n. 6.
(49) The text, His brother's wife.
(50) And so subject them also to halizah.
(51) Deut. xxv, 7'
(52) Such as those who are subject to kareth.
(53) Lit., 'what did you see', i.e., why include the one and exclude the other?

Talmud - Mas. Yevamoth 20b

— This[1] stands to reason, since betrothal of those forbidden by a negative precept is valid while the betrothal of those subject to kareth is not valid.

Raba raised an objection: In the case of one forbidden by virtue of a commandment or by virtue of holiness, with whom the Ievir bad intercourse or participated in halizah, her rival is thereby exempt. Now, if one is to assume that those forbidden by a negative precept are Pentateuchally subject to halizah but not to the levirate marriage, why should her rival be exempt when he had intercourse with her? He raised the objection and he also supplied the answer: This is to be understood respectively;[2] 'he had intercourse with her' refers to one prohibited by virtue of a commandment,[3] 'participated in halizah with her' refers to the one forbidden by virtue of holiness.[4]

Raba raised an objection: He who is wounded in the stones or has his privy member cut off, a man-made saris,[5] and an old man, may either participate in halizah,ah or contract levirate marriage. How?[6] If these died and were survived by brothers and by wives, and those brothers arose and addressed a ma'amar to the widows, or gave them letters of divorce, or participated with them in halizah, their actions are legally valid;[7] if they had intercourse with them, the widows become their lawful wives.[8] If the brothers died and they[9] arose and addressed a ma'amar to their wives, or gave them divorce, or participated with them in halizah, their actions are valid,[7] and if they had intercourse with them, the widows become their lawful wives but they[10] may not retain them,

because it is said in the Scriptures — He that is wounded in the stones or hath his privy member cut off shall not enter [into the assembly of the Lord] .[11] Now, if it could be assumed that those forbidden by a negative precept are Pentateuchally subject to halizah and not to levirate marriage, why should the widows become their lawful wives if they[12] had intercourse with them?[13]

But, said Raba, [say rather that] an erusin widow is forbidden[14] by both a positive and a negative precept, for it is written in the Scriptures, They shall be holy unto their God.[15] What, however, can be said in respect of a bastard or a nethinah?[16] — It is written, And sanctify yourselves.[17] If so,[18] all the [negative precepts of the] Torah should be regarded as positive and negative since it is written in the Scriptures, And sanctify yourselves![17] But, said Raba, [the fact is that][19] an erusin widow is forbidden[20] as a preventive measure against the marriage of a nissu'in widow.[21] What, however, can be replied in respect of a bastard and a nethinah?[22] — [The prohibition in] the case where a precept is applicable[23] is a preventive measure against [a marriage] where no precept is applicable. If so, let one's paternal brother's wife not be allowed levirate marriage as a preventive measure against marriage with the wife of his maternal brother! — 'We All Merciful made levirate marriage dependent on inheritance[24] [and the relationship] is, therefore, well known.[25] A woman, then, who has no children should not be taken in levirate marriage as a preventive measure against the marriage of a woman who has children! — The All Merciful made levirate marriage dependent on [the absence of] children, [and the fact[26] would be] well known. The wife of one's contemporary brother should not be taken in levirate marriage as a preventive measure against marriage with the wife of one's brother who was not one's contemporary! — The All Merciful has made it[27] dependent on dwelling together[28] [and the fact][29] is well known. All women should not be taken in levirate marriage as a preventive measure against the marriage of a woman incapable of procreation! — This[30] is unusual.[31] A bastard and a nethinah also are unusual![32] — But, said Raba, [this is the reason]: The first act of Intercourse[33] is forbidden[34] as a preventive measure against a second act of intercourse.[35]

It has been taught likewise: If they[36] had intercourse [with any of the forbidden women] they acquire [her as wife] by the first act of intercourse, but may not keep her for a second act of intercourse.[37]

Subsequently Raba, others say R. Ashi, said: The statement I made[38] is valueless,[39] for Resh Lakish said, 'Wherever you come upon a combination of a positive and a negative precept and[40] you are able to act in conformity with both, well and good; but if not, the positive precept must override the negative'.[41] Similarly here[42] it is possible to perform halizah, whereby one is enabled to keep the positive as well as the negative precept.

An objection was raised: If they[36] had intercourse [with any of the forbidden women] they acquire [her as wife]![43] — This is indeed a refutation.

It was stated: Concerning an act of intercourse between a High Priest and a widow[44] [there is a difference of opinion between] R. Johanan and R. Eleazar. One maintains that it does not exempt her rival,[45] and the other maintains that it does exempt her rival.[46])

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(1) The inclusion of the one who is prohibited by a negative precept and the exclusion of those who are subject to kareth.

(2) Lit., 'he taught to sides'.

(3) As defined in our Mishnah. I.e., a woman forbidden by Rabbinic ordinance but who is Pentateuchally permitted and subject to levirate marriage. Intercourse with her consequently exempts her rival.

(4) With whom marriage is forbidden, and her halizah only exempts her rival.

(5) Lit., 'eunuch of man', opp. to natural castration due to a disease etc. V. notes on the Mishnah, infra 79b.

(6) I.e.,in what circumstances is the law mentioned applicable.

(7) Lit., 'what they have done is done'; a divorce is required in respect of the ma'amar; no marriage may take place after

the divorce, though no ma'amar preceded it, and the halizah is valid.
(8) Lit., 'they acquired'.
(9) I.e., the maimed persons mentioned, or the old man.
(10) I.e., those that are maimed. The old man is excluded. V. infra.
(11) Deut. XXIII, 2. V. Tosef. Yeb. XI, infra 79b.
(12) Who are crushed or maimed in their privy parts and who are, therefore, forbidden by a negative precept to marry an Israelite's daughter.
(13) This proves that those forbidden by negative precept are subject to levirate marriage no less than to halizah, and thus the question remains, why should an erusin widow be forbidden in levirate marriage to a High Priest?
(14) To a High Priest.
(15) Lev. XXI, 6. This text adds a positive precept to the negative one of ibid. 14, and for this reason an erusin widow is forbidden in levirate marriage to a High Priest.
(16) Marriage with whom is forbidden by a negative precept only and yet may not be superseded by the positive precept of the levirate.
(17) Lev.XI, 44cf. p. 119,n. II.
(18) That Lev. XI, 44 provides a text from which a positive precept may be deduced and added to the negative one.
(19) Raba's answer thus being rebutted, there remains the question, why should an erusin widow be forbidden in levirate marriage to a High Priest.
(20) To a High Priest.
(21) Not because those forbidden by a negative precept may not contract levirate marriage. Pentateuchally, in fact, they may; and this is the reason why marital intercourse with such consummates marriage, as stated supra.
(22) Why are these forbidden levirate marriage?
(23) Such as the precept of the levirate marriage.
(24) Supra 17b, infra 240.
(25) Everybody knows whether the brother is paternal or only maternal.
(26) That there are children, or that there are not. as the case may be.
(27) Levirate marriage.
(28) I.e., that the brothers must be contemporaries. v. supra.
(29) That the levir was, or was not 'dwelling together with the deceased'.
(30) That a woman should be incapable of procreation.
(31) And there is no need to provide against rare cases.
(32) And yet they were forbidden as a preventive measure.
(33) In the levirate marriage, Pentateuchally permissible even in the case of one forbidden by a negative precept, the positive precept overriding the negative.
(34) In the case of an erusin widow.
(35) When only the prohibition under the negative precept remains, the positive precept of the levirate marriage having been fulfilled with the first act of intercourse.
(36) Those who are forbidden marriage by a negative precept.
(37) Sanh. 19a.
(38) That the first act of intercourse is Pentateuchally permitted.
(39) Lit., 'it is nothing'.
(40) Lit., 'if'.
(41) Shab. 133a, Naz. 41a, Men. 56a.
(42) The case of the erusin widow of a brother of a High Priest who died after betrothal and before marriage.
(43) Which shews that Pentateuchally the positive precept of levirate marriage does supersede the prohibition of marrying a widow. Had that not been the case, the levir's Pentateuchal illegitimate intercourse could not have constituted a legal bond of marriage.
(44) Whose deceased husband, the High Priest's brother, died without issue.
(45) From the levirate marriage or halizah.
(46) As well as herself, who would, as a result, require a divorce but no halizah.

Talmud - Mas. Yevamoth 21a

Talmud - Mas. Yevamoth 21a

In the case of a nissu'in widow they both agree[1] that it does not exempt, since no positive precept may override a combination of a positive and a negative precept.[2] They differ, however, in the case of an erusin widow. He who maintains that it[3] exempts [does so because] a positive precept supersedes a negative one; and he who maintains that it[3] does not exempt holds that the positive precept here does not supersede the negative one since [in this case] halizah is possible.[4]

An objection was raised: If they[5] had intercourse [with any of the forbidden women] they acquire [her as wife]![6] -This is indeed a refutation. May this[7] be assumed to provide a refutation of the view of Resh Lakish also?[8] -Resh Lakish can answer you: I said it only in the case where the precept is fulfilled; here, however, halizah as a substitute for the levirate marriage is not a fulfilment of the precept.[9]

Raba said: Where in the Torah may an allusion be found to [the prohibition of] relations in the second degree?[10] It is said, For all these abominations have the men of the land done;[11] the expression, these[12] implies grave abominations, from which it may be inferred that there are milder ones. And what are these? The cases of incest of the second degree. What proof is there that 'these'[12] is an expression of gravity? — Because it is written in the Scriptures, And the mighty[13] of the land he took away.[14] May it be assumed that this view[15] differs from that of R. Levi? For R. Levi said: The punishments for [false] measures are more rigorous than those for [marrying] forbidden relatives; for in the latter case the word used is El,[12] but in the former Eleh.[16] — El implies rigour, but Eleh implies greater rigour than El.[17] Is not Eleh written also In connection with forbidden relatives?[18] -That [Eleh has been written] to exclude [the sin of false] measures from the penalty of kareth.[19] In what respect, then,[20] are they[21] more rigorous? — In the case of the former,[22] repentance is possible; in that of the latter[23] repentance is impossible.[24]

Rab Judah said: It[25] may be derived from the following: Yea he pondered, and sought out, and set in order many proverbs,[26] in relation to which 'Ulla said in the name of R. Eleazar, 'Before Solomon appeared, the Torah was like a basket without handles; when[27] Solomon came he affixed handles[28] to it.

R. Oshaia said: It[25] may be derived from the following: Avoid it, pass not by it; turn from it, and pass on.[29]

Said R. Ashi: R. Oshaia's interpretation may be represented by the simile[30] of a man who guards an orchard. If he guards it from without, all of it is protected. If, however, he guards it from within, only that, section in front of him is protected but that which is behind him is not protected. This statement of R. Ashi, however, is mere fiction.[31] There,[32] the section in front of him, at least, is protected; while here were it not for the prohibition of incest of the second degree, one would have encroached upon the very domain of incest.

R. Kahana said, it may be derived from here: Therefore shall ye keep My charge,[33] provide a charge to my charge.[34]

Said Abaye to R. Joseph: This,[35] surely, is Pentateuchal![36] — It is Pentateuchal' but the Rabbis have expounded it.[37] All the Torah, surely- was expounded by the Rabbis![38] But [the fact is that the prohibition[39] is] Rabbinical, while the Scriptural text is [adduced as] a mere prop.[40]

Our Rabbis taught: Who are the forbidden relatives in the second degree?[41] — His mother's mother, his father's mother, his father's father's wife, his mother's fathers wife, the wife of his father's maternal brother, the wife of his mother's paternal brother, the daughter-in-law of his son daughter-in-law his daughter. A man is permitted to marry the wife of his father-in-law and the wife

of his step-son but is forbidden to marry the daughter of his step-son. His step-son is permitted to marry his[42] wife and his[42] daughter. The wife of his step-son may say to him, 'I am permitted to you though daughter is forbidden to you'.

Is not the daughter of, his step-son forbidden, it being written in the Scriptures, Her son's daughter or her daughters daughter?'[33] — As he wished to state in the latter clause, 'The wife of his step-son may say to him, "I am permitted to you though my daughter is forbidden to you", and though my daughter is forbidden to you Pentateuchally the Rabbis did not forbid me as a preventive measure', he stated in the previous clause also 'the daughter of his step-son'. If so,[43] could not the wife of his father-In-law also say, 'I am permitted to you and my daughter is forbidden to you', since she is his wife's sister?[44] -The prohibition of the one[45] is permanent;[46] that of the other is not.[47]

Rab said: Four [categories of] women [forbidden in the second degree] are subject to a limitation.[48] Of these Rab knew[49] three: The wife of a mother's[50] paternal brother, the wife of a father's[51] maternal brother, and one's daughter-in-law.[52] Ze'iri, however, adds also the wife of his mother's father. Said R. Nahman b. Isaac: Your mnemonic sign is, 'Above that of Rab'.[53] Why does not Rab include it?[54] — Because she[54] might be mistaken for the wife of one's father's father.[55] And Ze'iri?-Thither[56] one usually goes,[57] but hither[58] one does not usually go.[59]

Is not the prohibition of one's daughter-in-law

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(1) Lit., 'all the world do not differ'.

(2) The levirate marriage is consequently illegal.

(3) The act of intercourse.

(4) Which would not conflict with the negative precept, while the requirements of the positive one would also be complied with.

(5) V. supra p. 121, n. 5.

(6) V. supra p. 121 , n. 12.

(7) The Baraitha cited.

(8) Who stated (supra 20b) that whenever it is possible to observe the positive, as well as the negative precept, the rule of the abrogation of the one by the other is not to be applied.

(9) It is only a ritual to be observed where levirate marriage cannot take place. The precept of levirate marriage, however, is not thereby fulfilled.

(10) Lit., 'whence an allusion to seconds from the Torah'.

(11) Lev. XVIII, 27, dealing with incest.

(12) האל

(13) אילי which is analogous to האל

(14) Ezek. XVII, 13. describing the serious and grave position of Judah

(15) Of Raba.

(16) אלה Deut. XXV, 16. This implies that the sin of incest is of a milder nature.

(17) El and Eleh have the same meaning, but the additional eh (הי) at the end of the latter is taken to imply additional punishment.

(18) Lev. XVIII, 26. האלה

(19) Since the expression of 'abomination' has been applied in the Pentateuchal text to both false measures and forbidden relations, it might have been assumed that the sin of the former is, like the latter, subject to kareth. Hence the need for the excluding word.

(20) If the penalty of kareth is inflicted for the sin of incest only and not for that of false measures.

(21) The punishments for false measures.

(22) Incest, so long as there was no Issue.

(23) False measures.

(24) V. B.B. 88b. One cannot by mere repentance make amends for robbing. The return of the things robbed must precede penitence. In the case of false measures it is practically impossible to trace all the individual members of the

public that were defrauded.
(25) An allusion to the prohibition of relations in the second degree.
(26) Eccl. XII, 9.
(27) Lit., 'until'.
(28) אזנים, sing. אזן, 'ear' or 'handle'. The Heb. אזן (E.V. he pondered) is regarded as denominative of אזן, 'he made handles', i.e., he added restrictions to the commandments of the Torah, such as the prohibitions of incest of the second degree, which helped to preserve the original precepts of the Torah as handles are an aid to the preservation of the basket.
(29) Prov. IV, 15; an allusion to the Torah. One must add restrictions to its precepts, such as those of incest of the second degree, in order to keep away from any possible infringement of its original precepts.
(30) Lit., 'the parable of R. Oshaia, to what may the thing be compared?'
(31) בדותא v.B.M., Sonc. ed. p.47, n.1.
(32) The orchard.
(33) Lev. XVIII, 30, dealing with incest.
(34) Or 'make a keeping to my keeping', a protection to my protection', i.e., 'add restrictive measures to safeguard my original precept'.
(35) R. Kahana's text.
(36) Why then is this class of incest described as of the 'second' degree?
(37) Hence it must come under the second degree.
(38) And yet no one would describe those laws as of the second degree!
(39) Of incest of the second degree.
(40) Heb., Asmakta, v. Glos.
(41) Of incest.
(42) The step-father's. (13) Lev. XVIII, 17. Why include it among incest of the second degree?
(43) [If this is the reason for including Pentateuchal prohibition in this list].
(44) [And thus let him also include the daughter of his mother-in-law.]
(45) Lit., that', the daughter of his step-son.
(46) Lit., 'it is definite to him'.
(47) The daughter of his mother-in-law is permitted to him after the death of her sister, his wife.
(48) Lit., 'break' i.e., only they themselves are forbidden but not their descendants or ancestors in the descending or ascending line. In the case of the other relatives in the second degree of incest the prohibition extends throughout all generations in the ascending. and descending lines.
(49) Lit., 'held in his hand'.
(50) But not, e.g., of a mother's mother's.
(51) Not of a father's father's.
(52) This case is discussed infra.
(53) Ze'ri's addition to the limitations is one generation above that of Rab. While the latter stops at the second generation (that of father and mother) the former goes as far as the third (mother's father).
(54) Ze'ri's addition, a mother's father's wife.
(55) Who is Pentateuchally forbidden. Were a limit to be set in the case of the former, a similar limit would erroneously be set to the latter.
(56) To the family of one's father.
(57) I.e., there is frequent social intercourse between the members of the family on the paternal side.
(58) One's mother's family.
(59) No mistake, therefore, could occur between a mother's father and a father's father. Hence no preventive measure is necessary.

Talmud - Mas. Yevamoth 21b

Pentateuchal, it being written in the Scriptures, Thou shalt not uncover the nakedness of thy daughter-in-law?[1] — Read, 'the daughter-in-law of his son'. But is there any limitation[2] for the daughter-in-law of one's son? Surely it was taught: His daughter-in-law is a forbidden relative, and

the daughter-in-law of his son is a forbidden relative of the second degree; and the same principle is to be applied to one's son and son's son to the end of all generations![3] — But read, 'the daughter-in-law of his daughter' for R. Hisda said: I heard from a great man-And who is he? R Ammi- [the following statement]: 'The daughter-in.law was forbidden only on account of the daughter-in-law'; and when the soothsayers[4] told me, 'You will be a teacher', I thought , 'If I would be a great man[5] I would explain it[6] on my own; and should I be a Scripture teacher of little children I would ask the Rabbis who come to the school house.[7] Now I am in a position to explain it on my own: The daughter-in-law of one's daughter was forbidden only on account of the daughter-in-law of one's son.

Said Abaye to Raba: I can explain it to you: Take as an example a daughter-in-law of the house of Bar Zithai.[8] R. Papa said: As for example a daughter-in-law in the house of R. Papa b. Abba.[9] R. Ashi said: As for example a daughter-in-law of the house of Mari b.Isak.[9]

An inquiry was made: What [is the law in respect of] the wife of a mother's maternal brother? Did the Rabbis forbid as a preventive measure only the wife. of a father's maternal brother and the wife of a mother's paternal brother because in these cases there is a paternal strain,[10] but where there is no paternal strain[11] the Rabbis did not pass any preventive measure, or is there no difference?R. Safra replied: She herself[12] is forbidden as a preventive measure; shall we come and superimpose a preventive measure upon a preventive measure! Said Raba: Are not others[13] forbidden as a preventive measure to a preventive measure? His mother, e.g., Is a forbidden relative, his mother's mother is a forbidden relative of the second degree, and yet was his father's mother forbidden as a preventive measure against his mother's mother[13] And what is the reason? Because they are both called 'grandmother'[14] His father's wife is a forbidden relative, his father's father's wife is a forbidden relative of the second degree, and yet was his mother's father's wife forbidden as a preventive measure against his father's father's wife! And what is the reason? Because they are both called 'grandfather'.[15] The wife of his father's paternal brother is a forbidden relative, the wife of his father's maternal brother is a forbidden relative of the second degree, and yet was the wife of his mother's paternal brother forbidden as a preventive against the wife of his father's maternal brother! And what is the reason? Because they are both called uncle![15] What, then, is the law?[16] Come and hear: When R. Judah b. Shila came[17] he stated that In the West[18] the rule was laid down[19] that whenever a female[20] is a forbidden relative the wife of the male[21] is forbidden in the second degree as a preventive measure; and Raba remarked: 'Is this a general rule? Surely one's mother-in-law is a forbidden relative and yet is one's father-in-law's wife permitted, the daughter of his mother-in-law is a forbidden relative and yet is the wife of the son of his mother-in-law permitted, his step-daughter is a forbidden relative and yet is the wife of his step-son permitted, the daughter of his step-daughter is a forbidden relative and yet is the wife of the son of his step-son permitted'; what, then, does R. Judah b. Shila's [reported rule] include? Does it not then include the case of the wife of a mother's maternal brother, since 'wherever a female[22] as a forbidden relative[23] the wife of the male[24] is forbidden in the second degree as a preventive measure'![25]

What is the difference between those[26] and this?[27] — In this case[27] she becomes related to him by one act of betrothal;[28] in those cases[29] they do not become related to him until two acts of betrothal have taken place.[30]

R. Mesharsheya of Tusaneya[31] sent to R. Papi: Will our Master instruct us as to what is the law concerning the wife of the father's father's [paternal][32] brother, and a father's father's sister?[33] Seeing that the degree below is incest,[34] has a preventive measure been issued in respect also of the degree above,[35] or perhaps [not]. since the relationship has branched off?[36] Come and hear: Who are the forbidden relatives of the second degree [etc.];[37] and these[35] were not enumerated among them![38] — Some might have been mentioned and others omitted.[39] What other omissions were made such as to justify this omission also? — The forbidden relatives of the second degree, of the School of R.

Hiyya,[40] were also omitted.

Amemar permitted the wife of one's father's father's brother and one's father's father's sister. Said R. Hillel to R. Ashi:[41] 'I saw the [list of] forbidden relatives of the second degree of Mar the son of Rabana[42] and sixteen were written down as forbidden cases. Would they not be the eight of the Baraitha,[43] the six of the School of R. Hiyya,[44] and these two,[45] in all sixteen?-But according to your view there should be seventeen, since there is also the case of the wife of a mother's maternal brother, who in accordance with our decision is forbidden!' — 'This is no difficulty.

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(1) Lev. XVIII, 15; why then did Rab include her among those of the second degree?

(2) V. supra p. 125, n. 6.

(3) Ker. 14b.

(4) כלדאי lit., 'Chaldeans', known for their extensive practice of divination and soothsaying.

(5) I.e., if 'teacher' implied a teacher of scholars at the academy.

(6) R. Ammi's vague statement.

(7) [Lit., 'House of Assembly', the synagogue to which was attached the school for children.]

(8) In that family there were both a daughter-in-law of Bar Zithai's son and a daughter-in-law of his daughter, and permission to marry the latter might easily have led to the erroneous conclusion that the former also was permitted.

(9) Cf. n. 7' mutatis mutandis.

(10) Lit., 'side of father'.

(11) As in the case of the wife of a mother's maternal brother, here under discussion.

(12) The wife of a mother's paternal brother.

(13) Lit., 'all of them'. v. Rashi, a.l.

(14) Lit., 'all of them call her of the house of grandmother'. Hence the necessity for a preventive measure.

(15) Cf. previous note mutatis mutandis. All of which shews that we do superimpose a Preventive measure upon a preventive measure.

(16) With respect to the wife of a mother's maternal brother.

(17) From Palestine to Babylon.

(18) Palestine.

(19) Lit., 'they said'.

(20) In any degree of relationship.

(21) In the same degree of relationship as the female.

(22) In any degree of relationship.

(23) Such as a mother's maternal sister.

(24) In the same degree of relationship as the female.

(25) Hence the wife of a mother's maternal brother must be forbidden as a relative in the second degree.

(26) The cases pointed out by Raba.

(27) The wife of a mother's maternal brother. v. n. 4.

(28) The betrothal of the woman by his mother's maternal brother.

(29) Pointed out by Raba.

(30) In the case of the wife of his father-in-law, for instance, her relationship to him is dependent on (a) his betrothal of his own wife whereby her father becomes his father-in-law, and (b) the betrothal by his father-in-law of his wife; and similarly in all the other cases pointed out by Raba.

(31) [Prob. for Astunia near Pumbeditha (Obermeyer p. 229. n' 1.); cf. Keth., Sonc. ed. p. 715, n. 4.

(32) Cf. Rashi a.l.

(33) Paternal or maternal.

(34) The wife of a father's paternal brother, and a father's paternal or maternal sister.

(35) The cases cited in the inquiry, which are a generation higher.

(36) Lit., 'divided' or 'removed'.

(37) Supra 21a.

(38) Which seems to prove that these were not forbidden.

(39) Lit. , 'he taught and left over'; though the others might be equally forbidden.

(40) Infra 22a.
(41) Who held the same opinion as Amemar. V. Tosaf. a.l. s.v. אמימר.
(42) Or Rabina.
(43) Supra 21a.
(44) Infra 22a.
(45) Those of Amemar, agreed to by R. Ashi. V. supra p. 128. n. 20.

Talmud - Mas. Yevamoth 22a

Those two which resemble one another[1] are reckoned as one, and thus [the total is] sixteen.' 'But, after all, I saw that these were written down as forbidden!'[2] The other said to him: 'Granted that this is so, would you have relied upon that list, if the cases had been written down as permitted? "Has Mar the son of Rabana signed them?" [you would have argued]. Now then that they have been written down as forbidden, [you might also argue]. "Mar the son of Rabana has not signed them".

It was taught at the School of R. Hiyya: The third generation of his son,[3] of his daughter.[4] of the son of his wife[5] or of the daughter of his wife[6] [is forbidden as incest of the] second degree; the fourth generation[7] through his father-in-law[8] or his mother-in-law[9] [is forbidden as incest of the] second degree.

Said Rabina to R. Ashi: Why is the wife included in the ascending line[10] and not included in the descending line?[11] -In the case of the ascending line, where the prohibition is due to his wife, she is included; in the descending line, where the prohibition is not due to his wife,[12] she is not included. But, surely, there is the case of the son of his wife and the daughter of his wife whose prohibition is due to his wife who is, nevertheless, not included! — As he enumerated three generations in the descending line on his side[13] and did not include her, he also enumerated three generations in the descending line on her side[14] and did not include her.

Said R. Ashi to R. Kahana: Are the second degrees of incest of the School of R. Hiyya subject to the limitation[15] or not?Come and hear what Rab said: 'Four [categories of forbidden] women are subject to a limitation',[16] but no more. But is it not possible that Rab was only referring to that Baraitha![17]

Come and hear: 'The third' and 'the fourth' ,[18] which implies the third and fourth generations only but no further. But is it not possible [that this meant] from the third generation onwards[19] and from the fourth generation onwards![19]

Raba said to R. Nahman, 'Has the Master seen the young scholar who came from the West[20] and stated: The question was raised in the West whether the second degrees of incest were forbidden as a preventive measure among proselytes or not'? — The other replied: Seeing that even in respect of actual incest ' but for the fear that they might be said to have exchanged a [religion of] stricter for [one of] more easy-going sanctity, the Rabbis would not have imposed upon them any preventive measures,[21] is there any question [that they should have done so in respect of] the second degrees?

Said R. Nahman: As the subject of proselytes has come up,[22] let us say something about them: Maternal brothers may not tender evidence;[23] if, however, they did, their evidence is valid.[24] Paternal brothers may tender evidence without challenge.[25]

Amemar said: Even maternal brothers may tender evidence without challenge. And why is this case different from incest?[26] — Matters of incest lie in everybody's hands;[27] evidence is entrusted to Beth din, and [they know that] one who has become a proselyte is like a child newly born.[28]

MISHNAH. IF ONE HAS ANY KIND OF BROTHER,[29] [THAT BROTHER] IMPOSES UPON HIS BROTHER'S WIFE THE OBLIGATION OF THE LEVIRATE MARRIAGE AND IS DEEMED TO BE HIS BROTHER IN EVERY RESPECT. FROM THIS IS EXCLUDED A BROTHER BORN FROM A SLAVE OR A HEATHEN.[30]

IF ONE HAS ANY KIND OF SON, [THAT SON] EXEMPTS HIS FATHER'S WIFE FROM THE LEVIRATE MARRIAGE, IS LIABLE TO PUNISHMENT FOR STRIKING OR CURSING [HIS FATHER]. AND IS DEEMED TO BE HIS SON IN EVERY RESPECT. FROM THIS IS EXCLUDED THE SON OF A SLAVE OR A HEATHEN.[31] GEMARA. What does the expression ANY KIND include?Rab Judah said: It includes a bastard. Is not this obvious? Surely, he is his brother! — It might have been assumed that 'brotherhood'[32] here should be deduced from 'brotherhood' in the case of the sons of Jacob;[33] as there they were all legitimate and untainted, so here also [the brothers must be] legitimate and untainted; hence we were taught [that it is not so]. [Might we still suggest that it is so?] — Since he[34] has at any rate the power to confer exemption from the levirate marriage[35]

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(1) Amemar's cases, both of whom are related to one through one's father (paternal grandfather's brother's wife, and paternal grandfather's sister) and both are one degree above that of actual incest.

(2) While according to Amemar and R. Ashi (v. supra p. 128, n. 20) these are permitted! [The text is difficult. Read with MS.M.: But after all I saw (the list) and sixteen were written down as forbidden.]

(3) I.e. , his son's son's daughter, his son's daughter being forbidden as actual incest, v. Lev. XVIII, 10.

(4) His daughter's son's daughter; his daughter's daughter coming under the prohibition of actual incest. Cf. n. 7.

(5) Cf. note 7, mutatis mutandis.

(6) Cf. note 8, mutatis mutandis.

(7) From his wife.

(8) His father-in-law's mother's mother who Is the fourth generation from his wife. (A father-in-law's mother comes under the prohibition of actual incest).

(9) His mother-in-law's mother's mother. Cf. previous note.

(10) V. previous three notes.

(11) Regarding, for instance, his son's son's daughter as of the third generation and not of the fourth, as would have been the case had his wife (his son's mother) been included.

(12) Since, as has been explained supra 40, Lev. XVIII, 10 refers to a son born from a woman whom he had outraged.

(13) The third generation of his son or daughter born from a woman he had outraged.

(14) The third . generation of the son or daughter of his wife.

(15) V. supra P. 125, n. 6.

(16) Supra 21a.

(17) Which enumerated (supra 1.c.) eight cases only of the second degrees of incest, but none of those of the School of R. Hiyya.

(18) I.e., the School of R. Hiyya supra included in the second degree only the third generation in the descending, and the fourth generation in the ascending line.

(19) Are forbidden in the second degree of incest; but those of the nearer generations are forbidden as actual incest.

(20) Palestine.

(21) Biblically, the proselyte is regarded as a newborn child and all his previous family ties are severed. It is only Rabbinically that he was subjected to the laws of incest.

(22) Lit., 'to our hand'.

(23) Since the family relationship in their case is a certainty, and a relative is ineligible as a witness.

(24) As, Biblically, the proselyte is deemed to be a newborn child without any relatives. V. supra p. 130, n. 10.

(25) Lit., 'as from the start', since in: their case no brotherly relationship is recognized, the heathens having been known to indulge in promiscuous Intercourse.

(26) Which is applicable to a proselyte also. If he married, for instance, his maternal sister he must divorce her (infra 98a).

(27) Marriages are not, as a rule, arranged with the aid of the Beth din, and, should a proselyte be permitted to live with

his sister, some people might infer that such a marriage was permitted to an Israelite also. Hence the prohibition.

(28) The Beth din who know this law would not allow a brother of an Israelite to give evidence though this would be allowed to a brother of a proselyte.

(29) This is explained in the Gemara. Lit., 'from any place'.

(30) Such children assume their mother's status of inferiority, and are not regarded as one's paternal brothers.

(31) Cf. n. 9.

(32) Brethren in the context of the levirate relationship, Deut. XXV, 5.

(33) Gen. XLII, 13, twelve brethren.

(34) A bastard.

(35) A woman whose husband died without leaving any issue from their union may. nevertheless, be exempt from the requirements of the levirate marriage if that husband had a bastard son.

Talmud - Mas. Yevamoth 22b

he also has the power to impose the obligation of the levirate marriage.[1]

AND IS DEEMED TO BE HIS BROTHER IN EVERY RESPECT. In respect of what, in actual practice?-That he is to be his heir and that he[2] may defile himself for him. Is not this obvious, he being his brother! — Whereas it is written, Except for his kin, that is near unto him,[3] and a Master had said that 'his kin' refers to his wife, while [on the other hand] it is written, A husband among his people shall not defile himself, to profane himself,[4] [which verses taken together mean],[5] some kind of husband may defile himself and some kind of husband may not, and how [is this to be understood]? He may defile himself for his lawful wife but may not defile himself for his unlawful wife; and so here it might have been assumed that he may defile himself for a legitimate brother but may not defile himself for an illegitimate brother; hence it was taught [that it is hot so]. Might we still suggest that it is so?In that case she is liable at any moment to be sent away,[6] but here he is his brother.

FROM THIS IS EXCLUDED A BROTHER BORN FROM A SLAVE OR A HEATHEN. What is the reason? Scripture stated, The wife and her children shall be the master's.[7]

IF ONE HAS ANY KIND OF SON, [THAT SON] EXEMPTS etc. What does ANY KIND include?-Rab Judah said: It includes a bastard. What is the reason? — Because Scripture stated, And have no [en lo] child[8] which implies 'hold an inquiry[9] concerning him.'[10]

AND IS LIABLE TO PUNISHMENT FOR STRIKING [HIM]. But why? One should apply here the Scriptural text , Nor curse a ruler of thy people.[11] only when he practises the deeds of thy people![12] — As R. Phinehas in the name of R. Papa said [elsewhere] 'When he repented', so here also it is a case where he repented. Is such a persona however, capable of penitence? Surely we learnt: Simeon b. Menasya said, That which is crooked cannot be made straight.[13] refers to him who had intercourse with a forbidden relative and begot from her a bastard! — Now, at any rate. he is practising 'the deeds of thy people'.[14]

Our Rabbis taught : He who has intercourse with his sister who is also the daughter of his father's wife[15] is guilty[16] on account of both his sister and his father's wife's daughter. R. Jose son of R. Judah said: He is only guilty on account of his sister but not of the daughter of his father's wife.

What is the Rabbis' reason? Observe, they would say, it is written, The nakedness of thy sister, the daughter of thy father, or the daughter of thy mother,[17] what need was there for The nakedness of thy father's wife's daughter, begotten of thy father, she is thy sister?[18] In order to intimate that he is guilty on account of both his sister and his father's wife's daughter. And R. Jose son of R. Judah? — Scripture stated, She is thy sister,[19] you can hold him guilty on account of his sister, but you cannot

hold him guilty for his father's wife's daughter. And to what do the Rabbis apply the expression, 'She is thy sister'?-They require it [for the deduction] that a man is guilty on account of his sister who is the daughter of his father and the daughter of his mother,[20] thus indicating that no prohibition[21] may be deduced by logical argument.[22] And R. Jose son of R. Judah?[23] -If so, the All Merciful should have written 'thy sister', what need was there for 'she is'? To indicate that you may hold him guilty on account of 'thy sister' but you cannot hold him guilty on account of 'his father's wife's daughter'. And the Rabbis? Although 'thy sister' was written, It was also necessary to write 'she is'; in order that no one should suggest that elsewhere a prohibition may be deduced by logical argument and that the All Merciful has written here, 'thy sister[24] because Scripture takes the trouble to write down any law that may be deduced a minori ad majus; hence did the All Merciful write 'she is'.[25]

And R. Jose son of R. Judah?-If so, the All Merciful should have written [the expression], 'She is 'thy sister' in the other verse.[26]

And to what does R. Jose son of R. Judah apply the phrase Thy father's wife's daughter?[27] — He requires it for [the deduction]: Only she with whom your father can enter Into marital relationship, but a sister born from a slave or a heathen[28] is excluded, since your father cannot enter with her into marital relationship.[29]

Might it not be said to exclude a sister born from one whom his father had outraged? — You cannot say this owing to Raba's statement. For Raba pointed out a contradiction: It is written In Scripture, The nakedness of thy son's daughter, or of thy daughter's daughter, even their nakedness thou shalt not uncover,[30] thus it follows that her[31] son's daughter and her daughter's daughter are permitted; but [below] it is written, Thou shalt not uncover the nakedness of a woman and her daughter; [thou shalt not take] her son's daughter or her daughter's daughter.[32] How then [are these to be reconciled]? The one[33] refers to a case of outrage,[34] the other[32] to that of lawful marriage.

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(1) Upon the wife of any son of his father. However, since he is debarred from marrying her, he frees her by halizah, v. supra 20a.

(2) Even if he is a priest. Cf. Lev. XXI, 1ff.

(3) Ibid. v. 2.

(4) Ibid. v. 4. The Talmudic rendering of the verse differs slightly from E.V. which render husband בעל as 'chief',

(5) In order to remove the apparent contradiction.

(6) The husband is not allowed to live with her. Hence she cannot be regarded as his wife.

(7) Ex. XXI, 4, referring to a slave. The case of the heathen is explained infra.

(8) Deut. XXV, 5. ובן אין לו.

(9) עיין 'examine' , 'search', 'investigate' . The Aleph (א) of אין is interchangeable with the 'Ayin (ע) of עין

(10) I.e., inquire whether he has been survived by ANY KIND OF SON. Cf. B.B. 115a, Sonc. ed.. p. 474 nn. 6ff.

(11) Ex. XXII. 27.

(12) This father, however, who is guilty of incest did not practise the deeds of his people! Why then should his son be punished for his action against such a man?

(13) Eccl. I, 15.

(14) Though he cannot clear his past he may turn over a new leaf.

(15) I.e., the offspring of a lawful marriage.

(16) V. infra p. 201, n.16. and Mak. 13a.

(17) Lev. XVIII, 9, referring to the offspring of an intercourse, whether as a result of marriage or outrage.

(18) Ibid. v. II. This, surely. is only are petition of one of the cases dealt with in v.9.

(19) Lev. XVIII, 11.

(20) Who was not his father's lawful wife; in the case, for instance, when he and his sister were born from one whom their father had outraged. This case could not be deduced from Lev. XVIII, 9, since the sister born as a result of outrage,' spoken of there, is one who is the daughter of the father or of the mother, while the expression Thy father's wife's daughter refers to one born from a lawful marriage.

(21) Such, e.g.. as intercourse with a sister born from the same woman whom their father had outraged.
(22) If a sister who is the daughter of only one of his parents is forbidden, how much more so a sister who is the daughter of both his parents. V. Mak., Sonc. ed. pp. 18 and 26.
(23) How does he meet the argument of the Rabbis?
(24) Lit., 'and if you would say what need was there for "thy sister" what the All Merciful has written'.
(25) Only she is, i.e., only in this case, where Scripture had explicitly stated it, is the prohibition in force; but elsewhere, where Scripture has not explicitly stated the prohibition, the inference a minori ad majus cannot bring a prohibition into force.
(26) In Lev. XVIII, 9' which speaks of a sister born from a woman his father had outraged. Since, however, it was inserted in v.11 which speaks of a sister born from a marriage it must have been meant to imply. as R. Jose said supra, that one 'is only guilty of incest with his sister but not with that of the daughter of his father's wife'.
(27) Lev. XVIII, II.
(28) The betrothal of either of whom is not considered valid.
(29) V. Kid. 68a.
(30) Lev. Xviii, 10.
(31) One's wife's.
(32) Lev. XVIII, 17.
(33) Lit., 'here'; Lev. XVIII. 10.
(34) In which case a man may not marry the daughter of his own son or the daughter of his own daughter, and may marry the daughter of the son or the daughter of the daughter whom the outraged woman had from another husband; since he himself is not her lawful husband. As in the case of one's own son and one's own daughter, though the offspring of a woman he outraged, they are legally regarded as son and daughter. so is the sisterhood and brotherhood of such children regarded as legal.

Talmud - Mas. Yevamoth 23a

Might it not be suggested that it excludes those who are subject to the penalties of negative precepts?[1] -R. Papa[2] replied: The betrothal of those forbidden under negative precept is valid,[3] for it is written in the Scriptures, If a man have two wives, the one beloved and the other hated;[4] can it be said that the Omnipresent loves the one[5] or hates the other?[6] But 'beloved' means beloved in her marriage;[7] 'hated' means hated in her marriage;[8] and yet the All Merciful has said if ... have.[9] Might it be taken to exclude those who are liable to kareth?[10] — Raba replied: Scripture said, The nakedness of thy sister, the daughter of thy father, or the daughter of thy mother, whether born at home, or born abroad,[11] whether your father is told, 'You may keep her' or whether your father is told, 'Let her go',[12] the All Merciful said, 'She is thy sister'.

Will you suggest [that what is meant is]: Whether your father is told, 'You may keep her' or whether your father is told, 'Let her go'. the All Merciful said, 'She is thy sister', to include his sister from a slave and a heathen! — Scripture stated, The father's wife's daughter,[13] only she with whom your father can enter into marital relationship, but a sister from a slave or a heathen is excluded.[14] And what ground is there for this?[15] — It is logical to include those subject to kareth since generally[16] their betrothal is valid.[17] On the contrary! A slave and a heathen should have been included since on embracing the Jewish faith, betrothal with himself is also valid! — When any of these adopts the Jewish faith she becomes a different person.[18]

Whence do the Rabbis deduce the exclusion of a slave and a heathen?-They deduce it from The wife and her children shall be her master's.[19] And R. Jose son of R. Judah?- One text refers to a slave and the other to a heathen. And both are required; for had we been informed [concerning the exclusion of the] slave, it might have been thought [that this was so in her case] because she has no recognized ancestry, but not in that of a heathen who has recognized ancestry. And had we been informed [of the exclusion of the] heathen,it might have been assumed [that this was so In her case] because she stands under no obligation In relationship to the observance of commandments,[20] but

not In that of a slave who is [in some respects] attached to the observance of the commandments.[21] Hence both were required.

With reference to the Rabbis, we have discovered [the reason for the exclusion of a] slave; whence do they derive [the exclusion of the] heathen? And should you suggest that we might derive it by inference from the slave, those[22] were surely needed![23] R. Johanan replied in the name of R. Simeon b. Yohai: Scripture stated, For he will turn away thy son from following Me;[24] 'thy son born from an Israelitish woman is called thy son[25] but 'thy son who was born from a heathen is not called thy son[25] but her son.[26] Said Rabina: From this it follows[27] that the 'son of your daughter' who derives from a heathen is called 'thy son'.[28] Does this imply that Rabina is of the opinion that if a heathen or a slave had intercourse with a daughter of Israel the child is considered fit![29] -Though he is admittedly no bastard neither is he considered fit; he is rather regarded[30] as a tainted Israelite.[31]

But does not that text[32] occur in connection with the seven nations?[33] — For he will turn away[32] includes all who turn away. This is satisfactory if we follow R. Simeon who expounds[34] his own reasons for Scriptural precepts;[35] whence, however, do the Rabbis[36] derive it according to their view?[37] — Who is the Tanna[38] who disputes the opinion of R. Jose son of R. Judah? It is R. Simeon.

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(1) If his father, e.g.. had married a bastard, who is forbidden by a negative Precept. the daughter from such a union should not be regarded as his legitimate sister.

(2) Aruch reads, 'Raba'.

(3) Hence the sisterhood must also be deemed legal.

(4) Deut. XXI, 15.

(5) Lit., 'is there a loved one before the Omnipresent'.

(6) I.e., the husband's love or hatred could not obviously influence a divine law; why then should his love or hatred be mentioned at all?

(7) l.e., permitted to marry him.

(8) I.e., forbidden to marry.

(9) תהיין (rt. היה 'to be'). i.e., the betrothal is Sc. remains valid.

(10) I.e., a daughter from such a marriage which is legally invalid should not be deemed one's legal sister.

(11) Lev. XVIII, 9.

(12) Whether he is permitted to live with her (בית at home) or not (חוץ abroad).

(13) Lev. XVIII, 11.

(14) Since betrothal or marriage with either is invalid.

(15) Lit., 'and what do you see', to apply the excluding text to a slave and a heathen. and the including one to those subject to kareth. Why not reverse the application?

(16) Lit., 'to the world', to those who are not forbidden relatives.

(17) The betrothal of a slave or a heathen, however, is always invalid.

(18) And is no longer regarded as a heathen or slave.

(19) Ex. XXI, 4.

(20) A heathen is under no obligation to observe the precepts of the Torah.

(21) A slave must observe certain commandments. V. Hag. 40.

(22) The texts speaking of the slave and the heathen, supra.

(23) In connection with their own context. They are not available for any deduction.

(24) Deut. VII, 4. The pronoun he in this clause must, according to Talmudic exposition, refer to the antecedent son in v. 3' thy daughter thou shalt not give unto his son, and not to son in the clause, nor his daughter shalt thou take unto thy son. Had the reference been to the latter the reading in v. 4 would have been, for SHE (i.e., the heathen woman) will turn away thy son. 'He' must consequently refer to the heathen husband of the Israelitish woman who would turn away the son of his Israelitish wife, the (grand)son of her father. The son of his son born from the heathen. however, is obviously not called his (grand)son since, 'For he will turn etc.' does not apply to him.

(25) בנך thy son or grandson.

(26) I.e., he is a heathen like his mother.

(27) Cf. supra n. 5.
(28) V. kid.. Sonc. ed. p. 345 nn. 5.6.
(29) This is a question in dispute, infra 450. [Cf. parallel passage in Kid. 68b where the reading is, the child is a mamzer, a reading to which Tosaf. (s.v. קסבר) gives preference.]
(30) Lit., 'called'.
(31) For further notes, v. Kid., Sonc. ed. p. 345ff
(32) Deut. VII, 4, from which deduction has just been made.
(33) Enumerated in Deut. VII, I. How, then, could the same text be applied to other nations?
(34) Even where Scripture assigns no reason.
(35) V. B.M. 115a; the explicit reason, For he will turn etc. given here is consequently superfluous and may be used for the deduction mentioned.
(36) Who do not assign reasons for Biblical precepts t,unless Scripture itself supplies them.
(37) The text, For he will turn etc. being required as a reason for the precepts enunciated in that context itself.
(38) Designated supra as 'the Rabbis'.

Talmud - Mas. Yevamoth 23b

MISHNAH. IF A MAN BETROTHED ONE OF TWO SISTERS AND DOES NOT KNOW WHICH OF THEM HE HAS

BETROTHED, HE MUST GIVE A LETTER OF DIVORCE TO THE ONE AS WELL AS TO THE OTHER.[1] IF HE DIED,[2] LEAVING A BROTHER,[3] THE LATTER MUST PARTICIPATE IN THE HALIZAH WITH BOTH OF THEM.[4] IF HE HAD TWO BROTHERS,[3] ONE IS TO PARTICIPATE IN THE HALIZAH[5] AND THE OTHER MAY CONTRACT THE LEVIRATE MARRIAGE.[6] IF THEY ANTICIPATED [THE BETH DIN] AND MARRIED THEM[7] THEY ARE NOT TO BE [PARTED FROM] THEM.[8]

IF TWO MEN BETROTHED TWO SISTERS AND THE ONE DOES NOT KNOW WHOM HE BETROTHED AND THE OTHER DOES NOT KNOW WHOM HE BETROTHED, THE ONE MUST GIVE TWO LETTERS OF DIVORCE AND THE OTHER MUST ALSO GIVE TWO LETTERS OF DIVORCE. IF THEY DIED AND THE ONE LEFT A BROTHER AND THE OTHER ALSO LEFT A BROTHER, THE ONE BROTHER MUST PARTICIPATE IN THE HALIZAH WITH THE TWO WIDOWS AND THE OTHER ALSO MUST PARTICIPATE IN THE HALIZAH WITH THE TWO WIDOWS.[9] IF ONE[10] LEFT ONE BROTHER AND THE OTHER LEFT TWO, THE ONE BROTHER MUST PARTICIPATE IN THE HALIZAH WITH THE TWO WIDOWS[11] AND [AS REGARDS] THE TWO, ONE PARTICIPATES IN THE

HALIZAH[12] AND THE OTHER MAY CONTRACT THE LEVIRATE MARRIAGE.[13] IF THEY ANTICIPATED [THE BETH DIN] AND MARRIED THEM,[14] THEY ARE NOT TO BE DEPRIVED OF THEM.[15] IF ONE[10] LEFT TWO BROTHERS AND THE OTHER[13] ALSO LEFT TWO, ONE BROTHER OF THE ONE PARTICIPATES IN THE HALIZAH WITH ONE WIDOW AND ONE BROTHER OF THE SECOND PARTICIPATES IN THE HALIZAH WITH THE OTHER WIDOW, [AND THEN THE OTHER] BROTHER OF THE FIRST MAY CONTRACT LEVIRATE MARRIAGE WITH THE HALUZAH OF THE SECOND[16] AND [THE OTHER] BROTHER OF THE SECOND MAY CONTRACT THE LEVIRATE MARRIAGE WITH THE HALUZAH OF THE FIRST. IF BOTH[17] ANTICIPATED [THE BETH DIN] AND PARTICIPATED IN THE HALIZAH,[18] THE [OTHER] TWO MUST NOT BOTH CONTRACT THE LEVIRATE MARRIAGE,[19] BUT ONE MUST PARTICIPATE IN THE HALIZAH[20] AND THE OTHER MAY THEN CONTRACT THE LEVIRATE MARRIAGE.[21] IF BOTH[22] ANTICIPATED [THE BETH DIN][23] AND MARRIED[24] THEY ARE NOT TO BE DEPRIVED OF THEM.[25]

GEMARA. Is it to be inferred from here that even betrothal which cannot culminate in connubial intercourse[26] is also valid?[27] — Here we are dealing with the case where they were known[28] but were later confused. This may also be proved by deduction, since it was stated, AND HE DOES NOT KNOW[29] and it was not stated 'and it was not known'[30] This proves it.

What, then, does our Mishnah teach us?[31] — The second clause was necessary:[32] IF HE DIED AND LEFT A BROTHER, THE LATTER MUST PARTICIPATE IN THE HALIZAH WITH BOTH OF THEM. IF HE HAD TWO BROTHERS, ONE IS TO PARTICIPATE IN THE HALIZAH AND THE OTHER MAY CONTRACT THE LEVIRATE MARRIAGE, only halizah must be first and the levirate marriage afterwards, but not the levirate marriage first, since, thereby, he might infringe [the interdict against] the sister of her who is connected with him by the levirate bond.[33]

IF TWO MEN BETROTHED TWO SISTERS etc. Does this imply that a betrothal which cannot culminate in connubial intercourse is also valid?[34] — Here also it is a case where they were known.[35] but were subsequently confused. This may also be proved by deduction, since it was stated, AND THE ONE DOES NOT KNOW,[36] and it is not stated 'and it is not known'.[37] This proves it.

What, then, does our Mishnah teach us?[38] — It was necessary to have the latter clause,[39] IF THEY DIED ... AND ONE LEFT ONE BROTHER AND THE OTHER LEFT TWO, THE ONE BROTHER MUST PARTICIPATE IN THE HALIZAH WITH THE TWO WIDOWS AND, [As REGARDS] THE TWO, ONE PARTICIPATES IN THE HALIZAH AND THE OTHER MAY CONTRACT THE LEVIRATE MARRIAGE.[40] Is not this obvious, being in the same case as the first clause?[41] -It might have been assumed that [levirate marriage should be forbidden in the case of] two brothers as a preventive measure against the case Of one, hence we were taught [that it was not so], and also that halizah must be first and the levirate marriage afterwards, but the .levirate marriage must not take place first, for thereby, one might infringe [the interdict against] a yebamah's marriage to a stranger.

IF ONE LEFT TWO BROTHERS AND THE OTHER ALSO LEFT TWO etc. What need was there again for this statement? It is, surely. the same![42] — It might have been assumed that [the marriage should be forbidden] as a preventive measure against marrying without previous (halizah,[43] hence we were taught [that no such measure Was enacted].[44] Wherein does this case differ from the following in which we learned: In the case of four brothers two of whom were married to two sisters, and those who were married to the sisters died, behold their widows may only perform the halizah but may not be taken in levirate marriage [by either of the levirs]?[45] -What a comparison![46]

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(1) He is forbidden to live with either since each might be 'his wife's sister'.

(2) Without issue.

(3) Who survived him.

(4) Since it is not known which is his sister-in-law. He may not marry the one and submit to halizah from the other, because the sister of a haluzah (v. Glos.) is Rabbinically forbidden. Even prior to the halizah with the one he may not marry the other; for if she is not his sister-in-law she is still forbidden to him as the sister of his zekukah (v. Glos.)

(5) With one of the widows.

(6) With the other, subsequent to the halizah of the first. This procedure is safe in either ease; if the second widow is really his sister-in-law he is legally entitled to marry her. But even if she is not, she is no longer forbidden as the sister of the first who was his zekukah since the halizah has severed the bond.

(7) Each brother married one of the sisters.

(8) Since each of them is entitled to marry one of the widows either as his yebamah (v. Glos.) or as a stranger. The question of the forbidden marriage of the sister of a zekukah does not arise, since both are now married, and the marriage of the zekukah to the one brother has severed her levirate bond with the other.

(9) Neither may marry any of the widows since either might happen to be the sister of his zekukah.

(10) Of the deceased.
(11) For the reasons explained supra p. 138, n. 9.
(12) And thus, in case she is the actual yebamah, severs the levirate bond between her and the brothers. Her sister may then be married by the other brother in any ease: If she is the sister-in-law he may rightly marry her; and if not, she is no longer forbidden as the sister of a zekukah in view of the fact that the halizah of the other had severed that bond.
(13) V. previous note.
(14) Each brother married one of the sisters.
(15) V. p. 138. n. 13.
(16) This Procedure enables both widows to marry. because in the case of each it may be said: If she is his yebamah, he may marry her since his brother did not participate in the halizah with her but with her sister who was a Perfect stranger to him, and the halizah with her is of no legal value. If, on the other hand, she is not his yebamah, he may certainly marry her as a stranger. The question of the 'sister of a zekukah' does not arise, since that bond has in any case been severed by the halizah in which his brother had participated with her sister.
(17) Brothers of one of the deceased.
(18) With both widows.
(19) One brother with the one widow and the other with the other widow; because whichever widow any one of them would desire to marry might be the sister of his .zekukah.
(20) With one 'of the widows.
(21) With the other sister. For the reason cf. supra p. 139, n. 4.
(22) The second two brothers.
(23) After halizah was performed with the first.
(24) Each one of them one of the sisters.
(25) Cf. supra p. 138. n. 13.
(26) It is now assumed that even at the time of the betrothal it was not known which of the sisters was betrothed; when, for instance, the man said 'I betroth one of you' and both appointed an agent to receive on their behalf the token of betrothal. In such a case the man may have no connubial intercourse with either of the women since each might be his wife's sister.
(27) Since our Mishnah requires him to give a letter of divorce to each. Why then did this question remain a matter in dispute between Abaye and Raba in Kid. 51a?
(28) At the time of the betrothal, as to which was, and which was not the betrothed one. Hence it was a betrothal which could culminate in connubial intercourse.
(29) I.e, now.
(30) Which would have implied that the identity of the betrothed was never known.
(31) If the betrothal was valid and the man does not know now whom he betrothed it is self-evident that both women must be divorced!
(32) And because of the second the first also had to be stated.
(33) His zekukah. V. supra . 138, n. 11,
(34) Cf.supra p. 140, n.11.
(35) V.p. 140. n.12.
(36) I.e., now,
(37) V. p.140, n. 14.
(38) V.p. 140, n. 15.
(39) And because of the second the first also had to be stated.
(40) This indicates that halizah must take place first.
(41) Where it was stated that if there were two brothers one submits to halizah first while the other may subsequently contract the levirate marriage. (10) Lit., 'a yebamah for the street'. A yebamah who is subject to the levirate marriage may not be married by a stranger before the levir has submitted to halizah. For further notes on the whole passage v. Kid., Sonc. ed. pp. 26off.
(42) As the one already made earlier in our Mishnah: ONE PARTICIPATES IN THE HALIZAH AND THE OTHER MAY CONTRACT THE LEVIRATE MARRIAGE. There it is a case of two brothers and here also of two groups of two, one of each participating in halizah and the other contracting levirate marriage.
(43) And each of the two brothers so marrying would infringe the prohibition against marriage of a doubtful yebamah

and the sister of a zekukah.

(44) This could not have been inferred from the previous clause where only one marriage takes place. The fact that at least one of the sisters may not be married and must perform halizah only, would sufficiently indicate that in the case of the other also halizah by one brother must precede the marriage by the other. Where, however, as here, both sisters are married it might well have been considered likely that the law requiring previous halizah might be overlooked.

(45) 'Ed. V, 5, infra 26a. [According to Rashi (he question is from the concluding part of that Mishnah which reads, 'If they had forestalled (the Beth din) and married them, they must put them away', whereas in our Mishnah it is ruled that they are not to be parted. Aliter: In our Mishnah levirate marriage may take place after halizah had been performed, whereas in the other Mishnah no levirate marriage is allowed at all for fear it is contracted before halizah. v. Tosaf. ha-Rosh.]

(46) Lit., 'thus now'.

Talmud - Mas. Yevamoth 24a

There,[1] if one is to follow the view of him who said that a levirate bond does exist,[2] a levirate bond exists;[3] and if one is to follow him who said[4] that it is forbidden to annul the precept of levirate marriage,[5] well, it is forbidden to annul the precept of levirate marriage. Here, however, it is possible to assume that every one will happen to get his own.[6]

IF BOTH ANTICIPATED [THE BETH DIN] AND MARRIED THEY ARE NOT TO BE PARTED FROM THEM etc. Shila recited:

Even if both were priests.[7] What is the reason?[8] — Because a haluzah is only Rabbinically forbidden,[9] and in the case of a doubtful haluzah[10] the Rabbis enacted no preventive measures.[11] But is a haluzah only Rabbinically forbidden? Surely it was taught: From Put away[12] one might only infer the prohibition concerning a divorced woman; whence that of a haluzah? Hence it was explicitly stated, And a woman![13] The prohibition is really Rabbinical, and the Scriptural text is a mere prop.[14]

MISHNAH. THE COMMANDMENT OF THE LEVIRATE MARRIAGE DEVOLVES UPON THE [SURVIVING ELDER BROTHER]. IF A YOUNGER BROTHER, HOWEVER, FORESTALLED HIM, HE IS ENTITLED TO ENJOY THE PRIVILEGE.

allowed to marry one of the widows he would not be able either to contract levirate marriage or to participate in halizah with the other widow (she being forbidden to him as 'his wife's sister'), should the other brother happen to die before he married that widow; and thus the entire precept of levirate marriage would in such a case be annulled. GEMARA. Our Rabbis learned: And it shall be, that the firstborn[15] implies[16] that the commandment of the levirate marriage devolves upon the [surviving elder brother];[17] that she beareth[15] excludes a woman who is incapable of procreation, since she cannot bear children: shall succeed in the name of his brother,[15] in respect of inheritance.[18] You say, 'in respect of inheritance';[19] perhaps it does not [mean that]. but, 'in respect of the name':[20] [If the deceased, for Instance, was called] Joseph [the child] shall be called Joseph; If Johanan he shall be called Johanan! — Here it is stated, shall succeed in the name of his brother[15] and elsewhere it is stated, They shall be called after the name of their brethren in their inheritance,[21] as the 'name' that was mentioned there [has reference to] inheritance, so the 'name' which was mentioned here [has also reference] to inheritance. That his name be not blotted out[15] excludes a eunuch[22] whose name is blotted out.

Said Raba: Although throughout the Torah no text[23] loses its ordinary meaning, here the :gezerah shawah[24] has come and entirely deprived the text of its ordinary meaning.[25]

But apart from the gezerah shawah, would it have been thought that 'name' actually signifies 'a

name'? To whom, then, does the All Merciful address the instruction![26] If to the levir, the wording should have been. 'shall succeed in the name of thy brother'; if to the Beth din, the wording should have been, 'shall succeed in the name of his father's brother'![27] — It is possible that the All Merciful thus addressed the Beth din: Tell the levir, 'He[28] shall succeed to the name of his[29] brother'; but the gezerah shawah has come and deprived the text entirely [of its ordinary meaning].

Now that it has been stated that Scripture speaks of the elder brother only, why not assume that the firstborn must perform the duty of the levirate marriage and that any ordinary brother may not contract a levirate marriage at all![30] — If so, what need[31] was there for the All Merciful to have excluded the 'wife of his brother who was not his contemporary'?[32]

R. Aha objected: Might it not be suggested that the exclusion[33] had reference to a mother's firstborn son![34] -You could not possibly have assumed that,[35] since the All Merciful has made levirate marriage dependent on inheritance, and the right of inheritance derives from the father and not from the mother.[36] But might It not be suggested that where there is a firstborn the commandment of the levirate marriage shall be observed;[37] where, however, there is no firstborn the commandment of the levirate marriage shall not be observed?[38] Scripture stated, And one of them died;[39] does not this include also the case where the firstborn died,[40] and so the All Merciful has said that the younger shall perform the duty of the levirate marriage?

But perhaps[41] [the text speaks of a case] where the younger died, and the All Merciful says that the firstborn shall perform the duty of the levirate marriage?-Surely, the All Merciful has excluded the wife of his brother who was not his contemporary![42]

May it be suggested that where there is no firstborn the younger brother, if he forestalled [the Beth din],[43] is entitled to the privilege,[44] but that where there is a firstborn the younger brother, even if he forestalled him, is not entitled to the privilege? — Scrip. stated, If brethren dwell together,[45] the dwelling of one brother was compared to that of the other.[46] May it be suggested that where there is a firstborn one turns to the eldest[47] but where there is no firstborn one does not turn to the eldest?[48] Why, then, did Abaye the Elder teach that the commandment to perform the duty of the levirate marriage is incumbent Upon the elder brother; if he refuses, the younger brother is approached;[49] if he also refuses,[50] the elder is approached again![51] — [Scripture has designated him] as the firstborn;[52] as with the firstborn the cause is his birthright, so with the elder brother the cause is his Seniority. Might it be said that when the firstborn performs the duty of the levirate marriage he also takes the inheritance[53] but when an ordinary brother performs the duty of the levirate marriage, he[54] does not take the inheritance?[53] Scripture stated, Shall succeed in the name of his brother[55] and behold he has succeeded![56]

But since the All Merciful called him the firstborn;[57]

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(1) Where both sisters are bound by the levirate tie.

(2) Between the levir and his deceased brother's widow from the moment death took place.

(3) Consequently both widows are forbidden in levirate marriage, each being in relation to the other a sister of one's zekukah. But such prohibition is never removed even when one of them subsequently performed the halizah with one of the brothers and has thus severed her levirate bond, for once a yebamah is prohibited to her deceased husband's brother for a single moment, she is in the same category as a widow of a brother who died with issue.

(4) The reason why none of the surviving brothers may marry one of the two widows.

(5) Were one brother to be

(6) Now, if the widow whom one of them bad married was really his yebamah. the other must be a total stranger to him and to the other brother; and since this might be said in the case of each pair of brothers where the marriage had already taken place. They are not, in the face of such a possibility. to be parted (Rashi). [According to the alternative interpretation (supra p. 142, n. 4.) in face of such a possibility the Rabbis saw no reason for enacting the preventive

measure forbidding levirate marriage after halizah had been performed.]
(7) Who are forbidden to marry a haluzah.
(8) One of them, surely, must inevitably have married a haluzah since, In case she is not his yebamah, she is the betrothed of the stranger with whose brother (v. our Mishnah) she had performed halizah'
(9) To marry a Priest.
(10) As here where each brother can claim that the one he married was his yebamah.
(11) The prohibition consequently does not apply. Hence they may continue to live with the widows they had married.
(12) Lev. XXI, 7, speaking of priests.
(13) Ibid.. which proves that the prohibition is Pentateuchal.
(14) Asmakta, v. Glos.
(15) Deut. XXV, 6.
(16) Lit., 'from here (it is deduced)'.
(17) The text of Deut. XXV, 6. being connected with v. 5 preceding it, thus: Her husband's brother shall ... take her to him to wife (v. 5) and he shall be the firstborn (ibid. v. 6). והיה in והיה הבכור may be rendered either, and it shall be (as E.V.) or and he (i.e., the levir) shall be as the Talmud here renders it.
(18) Only the brother who marries the widow, and no other brother, is entitled to the inheritance of the deceased.
(19) Taking the 'brother' who marries the widow as the subject of 'shall succeed'. (Cf. supra n. 3)'
(20) The subject of 'shall succeed' being 'the child' that will be born from the levirate union.
(21) Gen. XLVIII, 6.
(22) Since he 15 Incapable of procreation. his wife is exempt alike from yibbum and halizah.
(23) Though it had been given a Midrashic interpretation.
(24) V. Glos. גזרה שוה the word analogy between the expression 'name' in the two cited texts.
(25) So that despite the ordinary meaning of the text, the child born from the levirate union need not be named after the deceased.
(26) About the name.
(27) Consequently. name in this text could not possibly have borne its ordinary meaning, but must have that given to it in the exposition supra. viz., that Beth din are instructed to hand over the inheritance Of the deceased to the levir who married his widow. An objection against Raba!
(28) The child that will be born.
(29) The levir's.
(30) Neither when there is, nor when there is not, a firstborn.
(31) Lit., 'why to me'.
(32) He would in any case have been excluded since he was not the firstborn.
(33) Of the 'wife of a brother who was not his contemporary'.
(34) Who was the paternal brother of the deceased.
(35) That a mother's firstborn should be regarded as the legal firstborn in respect of the levirate marriage.
(36) Hence there was no need to exclude him. The exclusion consequently indicates that by firstborn, in this context, any elder brother was meant.
(37) Either by the firstborn or by any other of the brothers, and that for this reason the exclusion of 'a brother who was not his contemporary' was necessary.
(38) At all; by any brother.
(39) Deut. XXV, 5, which refers to all cases, even to that where there were Only two brothers.
(40) Since the text does not specify any particular case.
(41) Lit., 'and say'.
(42) Were it as suggested this exclusion would be unnecessary. Cf. supra p. 145, nn. 6 and 13.
(43) Married before the Beth din could prevent him.
(44) Of the levirate marriage.
(45) Deut. XXV. 5.
(46) All brothers must be equal in respect of the levirate marriage.
(47) If the other brothers refused to marry the widow it should be his duty to marry her.
(48) Not being the firstborn it is no more his duty to marry the widow than it is that of his brothers.
(49) I.e., all the brothers are approached in the order of seniority. V. Tosaf. s.v. ה ג, a.l., and cf. Rashi a.l.

(50) I.e., when the youngest of all has also refused to marry the widow.

(51) Now, since the brothers are approached. in the order of seniority. it is obvious that it is always the eldest, not necessarily the firstborn, upon whom the duty of the levirate marriage devolves!

(52) V. supra p. 144, n. 3.

(53) Of his deceased brother.

(54) The ordinary brother.

(55) Deut. XXV, 6.

(56) Hence any brother who marries the widow is entitled to the inheritance of the deceased.

(57) And not merely 'the elder' or 'the eldest'.

Talmud - Mas. Yevamoth 24b

what practical ruling was thereby intended?[1] — To impair his rights; As a firstborn does not take a double portion in his father's prospective property[2] in the same way as he does in that which is already In his possession,[3] so does this one[4] take no [double][5] portion In [his father's] prospective property[6] as he does in that which is already in his possession.[7]

MISHNAH. IF A MAN IS SUSPECTED OF [INTERCOURSE][8] WITH A SLAVE WHO WAS LATER EMANCIPATED, OR WITH A HEATHEN WHO SUBSEQUENTLY BECAME A PROSELYTE, LO, HE MUST NOT MARRY HER.[9] IF, HOWEVER, HE DID MARRY HER THEY NEED NOT BE PARTED.[10] IF A MAN IS SUSPECTED OF INTERCOURSE[8] WITH A MARRIED WOMAN[11] WHO, [IN CONSEQUENCE,] WAS TAKEN AWAY FROM HER HUSBAND,[12] HE MUST LET HER GO EVEN THOUGH HE HAD MARRIED HER.[13]

GEMARA. This implies that she may become a proper prose lyte.[14] But against this a contradiction is raised. Both a man who became a proselyte for the sake of a woman and a woman who became a proselyte for the sake of a man, and, similarly, a man who became a proselyte for the sake of a royal board, or for the sake of joining Solomon's servants,[15] are no proper proselytes. These are the words of R. Nehemiah, for R. Nehemiah used to Say: Neither lion-proselytes,[16] nor dream-proselytes[17] nor the proselytes of Mordecai and Esther[18] are proper proselytes unless they become converted at the present time. How can it be said, 'at the present time'?-Say 'as at the present time'![19] -Surely concerning this it was stated that R. Isaac b. Samuel b. Martha said in the name of Rab: The halachah is in accordance with the opinion of him who maintained that they were all proper proselytes. If so, this[20] should have been permitted altogether![21] - On account of [the reason given by] R. Assi. For R. Assi said,[22] Put away from thee a froward mouth, and perverse lip's etc.[23]

Our Rabbis learnt: No proselytes will be accepted in the days of the Messiah.[24] In the same manner no proselytes were accepted in the days of David nor in the days of Solomon.[25] Said R. Eleazar: What Scriptural [support is there for this view]?-Behold he shall be a proselyte who is converted for my own sake,'[26] he who lives with you shall be settled among you,[27] he only who 'lives with you' in your poverty shall be settled among you; but no other.

IF A MAN IS SUSPECTED OF INTERCOURSE WITH A MARRIED WOMAN etc. Rab said: [This[28] must be confirmed] by witnesses.[29] Said R. Shesheth: It seems[30] that Rab made this statement while he was sleepy and about to doze off;[31] for it was taught: 'If a man is suspected of intercourse with a married woman who, in consequences was taken away from her husband[32] and was subsequently divorced by another man,[33] he[34] need not part with her once he has married her'. Now, how is this to be understood? If it is a case where witnesses[35] are available, of what avail is it that another man stepped in and checked the rumour?[36] [Must we] not then [conclude that this is a case] where there were no witnesses;[35] and the reason[37] is because another man stepped in and checked the rumour, but had that not happened she would have been taken away from him?[38] — Rab

can answer you: The same law, that where witnesses[35] are available she is taken away from him and that where no witnesses are available she is not taken away, applies also to the case where no other man stepped in and checked the rumour, but this it is that was meant: 'Even if another man stepped in and checked the rumour it is not proper for him[39] to marry her'.[40]

An objection was raised: This[41] has been said in the case only where she had no children,[42] but if she has children[42] she must not be divorced.[43] If, however, witnesses to the seduction[44] presented themselves, she must go away from him[45] even if she had ever so many children![46] -Rab explains our Mishnah as dealing with the case where she has children and witnesses against her are available.

What, however, impels Rab to explain our Mishnah as dealing with a case where she has children and where witnesses against her are available, and to give as the reason why she is to be taken away, because witnesses are available, and [to imply that] if witnesses are not available she is not taken away; let him rather explain [our Mishnah as dealing with the case] where she has no children [and has to be taken away] even though no witnesses are available! Raba replied: Our Mishnah presented a difficulty to him. What point was there [he argued] for using the expression 'WAS TAKEN AWAY'?[47] It should have been stated 'he parted from her';[48] but any such expression as 'was taken away' implies 'by the Beth din' and the Beth din take away Only where witnesses are available.[49]

If you prefer I may say that that Baraitha[50] represents the view of Rabbi;[51] for It was taught: When a pedlar[52] leaves a house and the woman within is fastening her sinnar,[53] since the thing is ugly she must, said Rabbi, go.[54] If spittle is found[55] on the upper part of the curtained bed, since the thing is ugly,[56] she must, said Rabbi, go.[54]

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(1) For all practical purposes. as it has been shewn, the elder or eldest brother has the same privileges as the firstborn; why, then, was the expression בכור, (firstborn) used instead of גדול(elder or eldest) which would have included the firstborn?

(2) Property which was not in his father's possession at the time of his death.

(3) At the time he died.

(4) The levir who marries the widow and is given a double share (his and that of the deceased) in the inheritance of their father.

(5) Rashi. [Aliter: the levir inherits only such property of the deceased brother as had been in the latter's possession at the time of his death. Any property that fell into his possession subsequent thereto he shares equally with the other brothers. On this view the levir has no claim to the share which the deceased brother would have been entitled to in the property of their father had he survived the father, v. Nimmuke Joseph and Me'iri.]

(6) V. supra note 3.

(7) V. note 4.

(8) נטען lit., 'spoken against' 'having to be a defendant'. Rt. טען 'to plead', 'sue'.

(9) Since such a marriage might confirm the rumour.

(10) Lit., 'they do not take out of his hand'.

(11) Lit., 'the wife of a man'.

(12) Lit., 'and they (i.e., Beth din) took her out from under his hand'. He was ordered to divorce her.

(13) Because the woman is Biblically forbidden to both husband and seducer. (V. Sot. 27b).

(14) Even though her conversion was solely due to her desire to contract the marriage.

(15) To enter the king's employ.

(16) גרי אריות'proselytes of lions', those who, like the Samaritans (II Kings XVII, 25), were converted to Judaism by the fear of divine visitation.

(17) גרי חלומות 'proselytes of dreams', those who embraced Judaism in response to a dream or the advice of a dreamer.

(18) V. Esth. VIII, 17. Those who from similar motives of expediency adopt the Jewish faith.

(19) In the dire days after the Hadrianic Wars, when the proselyte 15 not actuated either by motives of fear or of gain. Now, how is this Baraitha to be reconciled with Our Mishnah?

(20) The marriage of the proselyte spoken of in our Mishnah.
(21) Lit., ‘even as at the start’. Why then was it stated, HE MUST NOT HARRY HER?
(22) In explaining the reason for the prohibition of marrying the proselyte. (Rashi); v. Keth., Sonc. ed. p. 123. n. 5’
(23) Prov. IV, 24. Owing to the rumour of Previous Intercourse one should not contract such a marriage. V. supra p. 147, n. 10.
(24) When Israel will be Prosperous and Prospective proselytes will be attracted by worldly considerations.
(25) During Israel's heyday. V. previous note.
(26) Or who is converted while I am not with you (v. Rashi, a.l.) i.e., while Israel is in exile and forsaken by God.
(27) Isa. LIV, 15, according to the Midrashic interpretation of R. Eleazar. The rt. גור which E.V. renders ‘to gather’ is here interpreted ‘to become a proselyte’, ‘to be converted’.
(28) The suspicion.
(29) Who were present during the misconduct.
(30) Lit., ‘I would say’.
(31) Lit., ‘dozing and lying’.
(32) V. supra p. 147. nn. 9’ 12 and 13.
(33) To whom she was married after her first husband had divorced her.
(34) The paramour.
(35) V. supra note 3.
(36) By his marriage. The testimony of the witnesses surely caused her to be permanently prohibited to the paramour.
(37) Why the paramour need not divorce her once he has married her.
(38) How then could Rab maintain that she is taken away Only where there are witnesses?
(39) The paramour.
(40) Only if he already married her may she in this case remain with him.
(41) That the paramour must divorce her.
(42) From the first husband.
(43) A divorce would be regarded as a confirmation of the suspicion, and the children would thereby be tainted as bastards.
(44) Lit., ‘uncleanness’.
(45) The paramour.
(46) Which shews, contrary to the Opinion of Rab, that when see has no children ‘she is to part from her paramour even where witnesses are not available.
(47) הוציאה lit., ‘they (i.e. Beth din) took her away’.
(48) הוציאה, lit., ‘he (i.e., the husband) brought her out’.
(49) No wife may be taken away from her husband because of a mere rumour or suspicion.
(50) Which requires a wife who had no children to leave her husband even where no witnesses are available.
(51) Who forbids a wife to her husband even on the grounds of a rumour or suspicion. According to the other Rabbis, however, who are the majority, the woman, as Rab said, need not be taken away where no witnesses are available, even if she has no children.
(52) רוכל Rashi explains rokel as dealer in women's perfumes.
(53) The סינר was a kind of breech-cloth or petticoat women wore as a matter of chastity (v. Rashi, a.l.).
(54) Even if there were no witnesses that misconduct took place.
(55) After the pedlar had left the house.
(56) Only the woman lying face upwards could have spat on that spot Intercourse may. therefore, be suspected.

Talmud - Mas. Yevamoth 25a

if shoes[1] lie under the bed, since the thing is ugly,[2] she must, said Rabbi, go.[3] ‘Shoes’?[4] One can surely see whose they are! — Say rather the marks[5] of shoes.[6]

The law is in accordance with the view of Rab,[7] and the law is in accordance with the view of Rabbi.[8]

This, then, represents a contradiction between one law and the other! — There is no contradiction. One[9] refers to a rumour that had ceased;[10] the other, to a rumour that had not ceased. Where the rumour has not ceased, though no witnesses are available, [the law is] according to Rabbi; where the rumour has ceased but witnesses are available [the law is] according to Rab.

For how long [must a rumour continue in order to be regarded] as uninterrupted? Abaye replied: Mother[11] told me that a town rumour[12] [must remain uncontradicted for] a day and a half. This has been said Only in the case where It was not interrupted in the meantime. If, however, it was interrupted in the meantime, well, it was interrupted.[13] This, however, is only when the interruption was not due to intimidation, but if it was due to intimidation, well, it was due to intimidation.[14] This,[15] however, has been said only in the case where no enemies are about, but where enemies are about, well, it must have been the enemies who published the rumour.[13]

We learned elsewhere: If a man divorced his wife because of a bad name,[16] he must not remarry her; if on account of a vow he must not remarry her.[17] Rabbah son of R. Huna[18] sent to Rabbah son of R. Nahman: Will our Master Instruct us as to whether he[19] must part with her if he did remarry her? The other replied: We have learnt It: IF A MAN IS SUSPECTED OF INTERCOURSE WITH A MARRIED WOMAN WHO [IN CONSEQUENCE] WAS TAKEN AWAY FROM HER HUSBAND[20] HE MUST LET HER GO EVEN THOUGH HE HAS MARRIED HER![21] He said to him: Are these two cases at all alike? There[22] she was taken away;[23] here he[24] had let her go.[25]

And Rabbah son of R. Nahman?[26] — In our Mishnah also we learned, 'He let her go'.[27] But even now, are they at all alike? Here[28] it is the husband;[29] there[30] it is the seducer![31] — The other replied: They are indeed alike.[32] For here[30] the Rabbis said, 'he[33] must not marry her, and if he did marry he must let her go' and there[27] also the Rabbis would Say, 'he[34] must not remarry her and if he did remarry he must let her go'. This, however, is not [much of an argument]. There[30] he lends colour to the rumour,[35] while here it might well be assumed that he[34] investigated the rumour and found it to be groundless. MISHNAH. A MAN WHO BRINGS A LETTER OF DIVORCE FROM A COUNTRY BEYOND THE SEA[36] AND STATES, 'IT WAS WRITTEN IN MY PRESENCE AND IT WAS SIGNED IN MY PRESENCE', MUST NOT MARRY THE [DIVORCER'S] WIFE.[37] [SIMILARLY, IF HE STATES]. 'HE DIED', 'I KILLED HIM', OR 'WE KILLED HIM', HE MUST NOT MARRY HIS WIFE. R. JUDAH SAID:

[IF THE STATEMENT IS], '[36] KILLED HIM', THE WOMAN MAY NOT MARRY [ANY ONE];[38] [IF, HOWEVER, IT IS], 'WE KILLED HIM',

THE WOMAN MAY MARRY AGAIN.[39]

GEMARA. The reason then[40] is because he came FROM A COUNTRY BEYOND THE SEA, in which case we have to entirely upon him;[41] but [had he come] from the Land of Israel, in which case we need not depend upon him,[42] would he have been allowed to marry the divorcer's wife? But, surely, when the Statement is, 'HE DIED', in which case we do not depend entirely upon him since a Master said, 'a woman[43] makes careful inquiry before she marries'[44] and yet it was stated, HE MUST NOT MARRY HIS WIFE! — There,[45] no document exists, but here[46] a document[47] does exist. For thus we have learned: Wherein lies the difference between [the admissibility of] a letter of divorce and [that of evidence of] death?[48] In that the document[47] supplies the proof.[49]

[SIMILARLY, IF HE STATES], 'HE DIED', 'I KILLED HIM', OR 'WE KILLED HIM', HE MUST NOT MARRY HIS WIFE. Only he, then, must not marry his wife, she, however, may be married to another man? But, surely, R. Joseph said: [If a man stated], 'So-and-so committed pederasty with me against my will', he and any other witness may be combined[50] to procure his execution; [if, however, he said], 'with my consent',[51] he is a wicked man concerning whom the

Torah said, Put not thy hand with the wicked to be an unrighteous witness![52] And were you to reply that matrimonial evidence[53] is different because the Rabbis have relaxed the law in its case,[54] surely, [it may be pointed out], R. Manasseh stated:

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(1) So MSS. Cur. edd. add. 'overturned'.

(2) The shoes indicating the presence of an unknown stranger on the bed.

(3) Even if there were no witnesses that misconduct took place.

(4) So MSS. Cur. edd. add. 'overturned'.

(5) Lit., 'place of', i.e., the shoes have left marks on the floor.

(6) Cur. edd. contain the following addition. 'Overturned under the bed, said Rabbi, since the thing is ugly she shall go'. All this with the exception of the first word is enclosed in parentheses. Cf. Rashal.

(7) That no rumour or suspicion is to be relied upon in forbidding a wife to her husband. Only the evidence of witnesses may be acted upon.

(8) Cf. supra p. 150, n. 7.

(9) The law according to Rab.

(10) I.e., when a contradictory rumour obtained currency.

(11) His foster-mother. V. Kid. 31b.

(12) דומי, 'suspicion' or 'gossip'.

(13) And it cannot any more be regarded as 'an uninterrupted rumour'.

(14) The force of the rumour is not thereby impaired.

(15) That an uninterrupted rumour is relied upon.

(16) Suspected immorality.

(17) V. Git., Sonc. ed. pp. 200ff, q.v. notes.

(18) So Emden. Cur. edd: Omit 'R'.

(19) Who divorced his wife 'because of a bad name'.

(20) [So MS.M. in conformity with the text of our Mishnah. Cur. edd.: and he had let her go.]

(21) So also in the case under discussion, though he married her, he must part from her.

(22) In our Mishnah.

(23) By the Beth din acting on the evidence of witnesses.

(24) Her husband at his own discretion.

(25) And the prohibition to remarry her is only Rabbinical. Hence it is possible that once he has remarried her he need not part from her.

(26) How can he draw a comparison between two dissimilar cases?

(27) Though there were no witnesses. Consequently, the woman is forbidden to her paramour Rabbinically only on the ground of suspicion (cf. supra p. 148. n. 10) and yet it was stated that he must part with her, which proves that even where the prohibition to marry is Rabbinical only (cf. supra note 9) the woman must be parted from the man.

(28) Rabbah b. R. Huna's enquiry.

(29) Whose remarriage of his former wife is obviously not suggestive of any immorality.

(30) Our Mishnah.

(31) Whose marriage with the woman undoubtedly lends colour to the rumoured suspicion. In such circumstances it is quite reasonable to order their separation. How can this, however, be used as an example for the case in the enquiry? (Cf. supra n. 13).

(32) Since the prohibition in both cases is only Rabbinical.

(33) Her paramour.

(34) The woman's former husband.

(35) Lit., 'he enforces the rumour'. Cf. supra n. 15.

(36) מדינת הים, lit., 'country of the sea', a term applied to all countries of the world exclusive of Palestine and Babylonia.

(37) Since the validity of the divorce 15 entirely dependent on his word (v. infra n. 6) he may be suspected of giving false evidence with a view to marrying the woman himself. As, however, a woman 15 permitted to marry even if only a single witness had testified to the death of he husband, she is allowed to marry any other man.

(38) Having admitted murder he cannot any longer be regarded as a reliable witness.

(39) This is explained infra.
(40) Why the man who brings the letter of divorce may not marry the divorcer's wife.
(41) The divorce not being valid unless the carrier of the letter of divorce can testify that it was written and signed in his presence. (V. Git. 20).
(42) Reliance being placed on the qualified scribes of Palestine, there is no need for the carrier of a letter of divorce to declare that he witnessed the writing and the signing of it.
(43) Ab death of whose husband is attested by one witness Only.
(44) And for this reason is allowed to remarry. Infra 53 b, 115a. 116b.
(45) In the case of evidence of death.
(46) Divorce.
(47) The letter of divorce.
(48) I.e., why are certain relatives accepted as legally qualified. carriers of a letter of divorce but not as witnesses to the death of a husband?
(49) V. Git. 23b, infra 117a.
(50) The two together forming a pair of witnesses, the minimum required for bringing about a man's condemnation by a court of law.
(51) Was the crime committed.
(52) Ex. XXIII, which shews that a man who admitted a criminal offence may not act as a witness at all!
(53) In allowing a woman to marry on the evidence of the death of her husband.
(54) In other cases two witnesses are required and in this case one is sufficient.

Talmud - Mas. Yevamoth 25b

'One who is Rabbinically regarded as a robber[1] is eligible to be a witness in matrimonial matters;[2] one, however, who is Biblically regarded as a robber is ineligible to act as witness in matrimonial matters;[3] would it then be necessary to assume that R. Manasseh holds the same opinion as R. Judah?[4] - R. Manasseh can answer you: My statement may be reconciled even with the view of the Rabbis, but the reason of the Rabbis[5] here is the same as that of Raba. For Raba said, 'A man is his own relative and consequently[6] no man may declare himself wicked'.

Must it then be assumed that R. Joseph[7] is of the same opinion as R. Judah?[8] — R. Joseph can answer you: 'My Statement may be in agreement even with the view of the Rabbis, but matrimonial evidence[9] is different, since the Rabbis relaxed the law in its case;[10] and it is R. Manasseh who adopted the view of R. Judah'.

'I KILLED HIM' etc., 'WE KILLED HIM ... MAY MARRY etc. What is the practical difference between 'I killed him' and 'we killed him'?[11] — Rab Judah said: [Our Mishnah speaks of the case] where he said, 'I was present together with his murderers' —[12] Has it not, however, been taught: They said to R. Judah, 'It once happened that a robber when led out to his execution in the Cappadocian Pass[13] said to those present,[14] "Go and tell the wife of Simeon b. Kohen that I killed her husband when I entered Lud" [others Say: When he entered Lud], and his wife was permitted to marry again'![15] He answered them: Is there any proof from there? [It was a case] where he said, 'I was present together with his murderers'.[12] But it was stated, 'a robber'! — He was apprehended on account of robbery.[16] But it was stated, 'led out to his execution'! — [He was sentenced by] a heathen court of law who executed without due investigation.[17]

MISHNAH. A SAGE WHO HAS PRONOUNCED A WOMAN FORBIDDEN TO HER HUSBAND BECAUSE OF A VOW[18] MUST NOT MARRY HER HIMSELF.[19] IF, HOWEVER, A WOMAN MADE A DECLARATION OF REFUSAL[20] OR PERFORMED HALIZAH IN HIS PRESENCE, HE MAY MARRY HER, SINCE HE [WAS BUT ONE OF THE] BETH DIN.[21]

GEMARA. This implies that if he had disallowed her vow, be would have been permitted to

marry her![22] What then are the circumstances?[23] If [he acted] alone, could one disallow a vow? Surely[24] R. Hiyya b. Abin said in the name of R. Amram that it was taught: The disallowance of vows is to be carried out by three! If, however, three were Present, would they be suspected? Surely we learned, IF, HOWEVER, A WOMAN MADE A DECLARATION OF REFUSAL OR PERFORMED HALIZAH IN HIS PRESENCE, HE MAY MARRY HER, SINCE HE [WAS BUT ONE OF THE] BETH DIN!-The fact is that [he acted] alone, and[25] as R.

Hisda said in the name of R. Johanan, 'By a fully qualified individual',[26] so here also it is a case of one fully qualified individual.[26]

IF A WOMAN MADE A DECLARATION OF REFUSAL, OR PERFORMED HALIZAH etc. The reason, then,[27] is because [he was one of a] Beth din,[28] but had he been one of a group of two only. would he not [have been permitted]? Wherein, then, does this case differ from the following concerning which it was taught:[29] If witnesses signed on [a document relating to] a purchased field or on a letter of divorce, the Rabbis do not apprehend such collusion![30] — It is this very thing that he taught us,[31] viz., that the opinion of him who said that a declaration of refusal may be made in the presence of two is to be rejected and that one is to infer[32] that a declaration of refusal must be made in the presence of three.[33]

The question was raised: If he[34] married her[35] must he part from her? R. Kahana said: Though he married, he must part from her. R. Ashi said: Once he has married, he need not part from her.

R. Zuti at the School of R. Papa recited [a teaching] in accordance with the opinion of him who said that if he[34] married her[35] he need not part from her. Said the Rabbis to R. Ashi: Is this[36] a tradition or a matter of opinion? He answered them: It is a Mishnah: If a man is suspected of intercourse with a slave who was subsequently emancipated, or with a heathen who subsequently became a proselyte, lo, he must not marry her; if, however, he did marry her the marriage need not be dissolved. Which proves

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(1) A gambler, for instance, who is not Biblically forbidden to act as a witness. V. R.H. 220.

(2) V. note 4.

(3) Which proves that even in matrimonial matters a murderer (a man Biblically regarded as wicked) is not eligible as a witness.

(4) Who in our Mishnah rejected the evidence of the man who admitted murder. The halachah being according to the Rabbis who are the majority, would R. Manasseh ignore the majority in favour of a minority?

(5) For admitting the evidence of a man who announced himself as a murderer.

(6) As no relative is admitted as witness.

(7) Who does not admit the evidence of the man who declared himself a murderer, (supra 25a).

(8) V.p. 154, n. 9.

(9) V. p. 154, n. 4.

(10) V. supra p. 154, n. 5. Hence they also admitted the evidence of one who declared himself to be a murderer.

(11) In either case he admitted murder.

(12) But did not himself participate in the crime.

(13) Or 'ford'.

(14) Lit., 'to them'.

(15) Tosef. Yeb. IV; which proves that the evidence of a murderer is accepted.

(16) V. n. 10. He was Only present during the robbery.

(17) The condemned man, however, was not a murderer.

(18) Which the woman made. If she vowed, for instance, to derive no benefit from her husband, and he did not annul her vow; and on consulting the Sage and finding no ground for the remission of her vow (v. Ned. 22b), her vow was not disallowed and her husband was consequently forbidden to her.

(19) To avoid the suspicion that his motive in forbidding the woman was to marry her himself.

(20) V. Glos. s.v. mi'un.
(21) Declarations of refusal and the performance of halizah, unlike the disallowance or confirmation of vows, must always take place in the presence of a court of three; and a court of three would not be suspected.
(22) If her husband subsequently divorced her or died.
(23) Lit., 'in what are we engaged'.
(24) Cur. edd. add in parentheses. 'Rab said'.
(25) As to the difficulty of the implication that one individual should be in a position to disallow vows.
(26) A mumhe (v. Glos.) who, like a lay court of three, is empowered to disallow vows by himself. Ned. 78b, B.B. 120b, 121a.
(27) Why the Sage may marry the woman in question.
(28) Which consists of no less than three members.
(29) Cur. edd., we learned'.
(30) Lit., 'this thing'. They do not, as a precaution against collusion, forbid the witnesses the subsequent purchase of the field from the buyer. or the marriage with the woman n whose divorce they assisted. This obviously shews that even a group of two is not to be suspected!
(31) By mentioning Beth din which implies three members.
(32) From the mention of Beth din in our Mishnah.
(33) And not, as has been assumed, that only three are not to be suspected. Two also are above suspicion.
(34) The Sage referred to in our Mishnah (Rashb. and Asheri). The Sage or the man who delivered a letter of divorce mentioned in the previous Mishnah (Rashi and Maimonides). V. Wilna Gaon, Glosses, a.l.
(35) The woman who was forbidden to her husband or the one divorced (v. previous note).
(36) The statement R. Ashi made.

Talmud - Mas. Yevamoth 26a

that [once a woman was married she] is not taken away because of a mere rumour; and so here also [the woman married] is not to be taken away because of a rumour.

MISHNAH. IF ALL THESE[1] HAD WIVES[2] WHO [SUBSEQUENTLY] DIED, [THE OTHER WOMEN][3] ARE PERMITTED TO MARRY THEM.[4] IF THEY[3] WERE MARRIED TO OTHERS[5] AND WERE [SUBSEQUENTLY] DIVORCED,[6] OR WIDOWED, THEY MAY BE MARRIED TO THESE.[7] THESE[8] ARE ALSO PERMITTED TO THEIR[6] SONS OR BROTHERS.[9]

GEMARA. Only if they[10] died[11] but not if they were divorced.[12] Said R. Hillel to R. Ashi: Surely, it was taught: Even if they were divorced! — This is no difficulty: The one[13] refers to the case where they led[14] a quarrelsome life;[15] the other,[16] where they[17] had no quarrels.[18] If you prefer I might say that the one as well as the other [refers to the case] where there were no quarrels, and yet there is no difficulty: The former[16] is a case where the husband had led on [to the divorce];[19] in the latter,[20] she led on to the divorce.

IF THEY WERE MARRIED etc. It was now assumed that death[21] has reference to the case of death,[22] and divorce[23] to that of divorce.[24] Must it then be said that our Mishnah[25] is in disagreement the delivery of the letter of divorce by the messenger, or the evidence of the man who testified to their husbands' deaths. with the view of Rabbi? For had it been in agreement with Rabbi, [a third marriage would not have been allowed], for he said that two occurrences constitute a hazakah.[26] — No;[27] death[28] [has reference] to divorce,[29] and divorce[28] to death.[30]

THESE ARE ALSO PERMITTED TO THEIR SONS OR BROTHERS. Wherein is this different from the following where it was taught:[31] A man who is suspected of intercourse with a woman is forbidden to marry her mother, her daughter and her sister.[32] -It is the usual thing for women to pay frequent visits to other women;[33] it is not usual, however, for men to pay frequent visits to other men.[34] Or [this] also:[35] Women who do not cause one another to be forbidden by their cohabitation[36]

do not particularly mind one another;[37] men, however, who do cause one another to be forbidden by their cohabitation[38] do mind one another.[34] If so,[39] [the same law[40] should] also [apply to] one's father![41] -The meaning is, 'There is no need',[42] [thus]: There is no need [to state that the law[40] is applicable to] one's father before whom a son is shy;[43] but [in the case of] one's son[44] before whom a father[44] is not shy it might have been assumed [that this law was] not [to be applied], hence we were informed [that the same law was applicable to a son also].

CHAPTER III

MISHNAH. [IN THE CASE OF] FOUR BROTHERS, TWO OF WHOM WERE MARRIED TO TWO SISTERS, IF THOSE WHO WERE MARRIED TO THE SISTERS DIED, BEHOLD. THESE[45] MUST PERFORM HALIZAH BUT MAY NOT BE TAKEN IN LEVIRATE MARRIAGE [BY THE BROTHERS].[46] IF THEY HAD ALREADY[47] MARRIED THEM, THEY MUST DISMISS THEM. R. ELIEZER SAID: BETH SHAMMAI HOLD THAT THEY MAY RETAIN THEM, AND BETH HILLEL HOLD THAT THEY MUST DISMISS THEM.

IF ONE OF THE SISTERS[48] WAS FORBIDDEN TO ONE [OF THE BROTHERS] UNDER THE PROHIBITION OF INCEST,[49] HE IS FORBIDDEN TO MARRY HER BUT MAY MARRY HER SISTER,[50] WHILE TO THE SECOND BROTHER BOTH ARE FORBIDDEN.

[IF ONE SISTER][48] WAS FORBIDDEN BY VIRTUE OF A COMMANDMENT[51] OR BY VIRTUE OF HOLINESS[51] SHE MUST PERFORM THE HALIZAH BUT MAY NOT BE TAKEN IN LEVIRATE MARRIAGE.

IF ONE OF THE SISTERS[48] WAS FORBIDDEN TO ONE BROTHER UNDER THE LAW OF INCEST AND THE OTHER SISTER WAS FORBIDDEN TO THE OTHER UNDER THE LAW OF INCEST, SHE WHO IS FORBIDDEN TO THE ONE IS PERMITTED TO THE OTHER AND SHE WHO IS FORBIDDEN TO THE OTHER IS PERMITTED TO THE FIRST. THIS IS THE CASE CONCERNING WHICH IT HAS BEEN SAID: WHEN HER SISTER IS HER SISTER-IN-LAW[52] SHE MAY EITHER PERFORM HALIZAH OR BE TAKEN IN LEVIRATE MARRIAGE.[53]

GEMARA. This then[54] implies that a levirate bond exists;[55] for if no levirate bond exists, observe this point: These widows come from two different houses,[56] let one brother take in levirate marriage the one and the other brother the other![57] — As a matter of fact it may still be assumed that no levirate bond exists[55] [but the levirate marriage is nevertheless forbidden] because he[58] is of the opinion that it is forbidden to annul the precept of levirate marriage, it being possible that while one of the brothers married [one of the widowed sisters] the other brother would die,[59] and the precept of levirate marriage would be annulled.[60] If so,[61] [the same applies to] three [brothers] also![62] — This may be regarded as the case of 'There is no need etc.';[63] thus: There is no need to state three,[64] since the precept of levirate marriage would inevitably have to be annulled;[65] but [in the case of] four[66] [it might have been assumed that] one need not take precautions against [possible] death,[67] hence we were informed [that even in such a case levirate marriage is forbidden].[68] If so,[69]

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(1) Lit., 'and all of them'. The Sage, the messenger who brought a letter of divorce and the man who testified to the death of a husband. (V. previous two Mishnahs, supra 250, 25b).

(2) At the time of their action which resulted in enabling the women there mentioned to marry.

(3) I.e. the women concerned in their respective actions. V. previous note.

(4) Having had their own wives at the time they were engaged in the other women's affairs they are not to be suspected of any ulterior motives. Cf. supra p. 153, n. 2 and p. 155. n. 12.

(5) After the decision of the Sage,

(6) By their second husbands.

(7) Cf. supra p. 157, n. 6.
(8) V. p. 157, n. 8.
(9) The prohibition being limited to themselves.
(10) The wives of the Sage, messenger and witness (cf. supra p. 157, n. 6).
(11) Lit., 'they died, yes'; only then is it permissible for the husbands to marry the women whom they had helped to obtain permission to marry.
(12) It being possible that their action in favour of the women and the subsequent divorces were dictated by the same ulterior motive.
(13) The Baraitha quoted by R. Hillel.
(14) Before their respective husbands had acted in favour of the other women.
(15) With their husbands. It is consequently obvious that the divorces were due to the domestic differences, and that the husband's subsequent actions were not dictated by ulterior motives.
(16) That implied in our Mishnah.
(17) V. supra note 5.
(18) As husbands and wives lived in peace until the former had met the other women, there is good reason to suspect that the divorces were due to these meetings.
(19) Hence there is cause for suspicion.
(20) V. supra note 8.
(21) Of the second husbands with whom marriage had taken place In the meanwhile.
(22) In the second clause of the Previous Mishnah but one (supra 25a), where evidence was given that the woman's first husband had died or was killed.
(23) Cf. supra n. 16.
(24) Where a letter of divorce was brought by a messenger, (v. the first clause of the Mishnah supra 25a).
(25) Which allows a woman to marry a third husband though her first two husbands had died or divorced her.
(26) V. Glos. An established characteristic or defect in the woman, physical or moral, which confirms her as the cause of the death of her husbands or as the cause of the divorces. Hence, she should not have been permitted ever to marry again.
(27) Our Mishnah does not differ from Rabbi.
(28) V. p. 158, n.16. .
(29) V. p.158,n.19.
(30) V. supra p. 158. n. 17. Hence no two husbands died or divorced the same woman, and no hazakah could, therefore, have been constituted.
(31) Cur. edd., 'we learned'.
(32) Because there is reason to suspect that the marriage was planned by the man as a mere means of bringing him into closer association and intimacy with his paramour. Why, then, is this suspicion disregarded in the case of our Mishnah?
(33) Misconduct may, therefore, occur and suspicion (v. previous note) is justified.
(34) And suspicion that any intimate intercourse might take place would, therefore, be groundless.
(35) May be said in reply.
(36) With one another's husbands. The husband is not forbidden to his wife if cohabitation occurred between him and another woman.
(37) V. note 8.
(38) With one another's wives. The wife of one with whom the other cohabited is forbidden to her husband.
(39) That men are watchful of one another, and that consequently there is no ground for suspicion.
(40) Permitting the marriage of any of the women in question.
(41) Why, then, does our Mishnah mention sons and brothers only?
(42) Lit., 'it is not required he said'.
(43) And would not venture to be too intimate with his wife.
(44) Or brother.
(45) The sisters.
(46) The reason is explained in the Gemara, infra.
(47) Lit., 'anticipated' (the ruling of the court).
(48) In the case mentioned in the first paragraph of our Mishnah.
(49) E.g., as a mother-in-law.

(50) Who is not forbidden on account of her rival since the latter is biblically forbidden to the levir and cannot be regarded as his zekukah (v. Glos.).
(51) The term is used in the Mishnah supra 20a and discussed in the Gemara loc. cit.
(52) The wife of her husband's brother.
(53) V. supra 20a. Cf. supra p. 162, n. 6.
(54) The first clause of our Mishnah.
(55) Between the widow of a deceased childless brother and his surviving brothers, in consequence of which each widow being a zekukah (v. Glos.), is forbidden as the sister of a zekukah.
(56) They are the widows of two different husbands and neither of them stands in any marital relationship with any of the surviving brothers (v. previous note).
(57) A levirate bond then obviously does exist. That being so, why has the question of the existence of a levirate bond remained a matter of dispute in Ned. 742 and supra 17b?
(58) The author of our Mishnah.
(59) And thus be prevented from marrying the other widow.
(60) Because the surviving brother would then not be able either to marry, or to participate in the halizah with the second widow who by that time will have become his wife's sister. If, however, halizah only is performed with one brother and the death of the other should occur before the second widow had performed halizah with him, no difficulty would arise, since the first brother may then participate in the halizah of the second also.
(61) That the reason for the prohibition of the levirate marriage with the widowed sisters is not the existence of a levirate bond but the endeavour to prevent the annulment of the precept of levirate marriage.
(62) If two of them died childless and both their widows become subject to the levirate marriage or halizah of the third. In this case too the third brother must only participate in halizah; for, should he marry one of the sisters, the other would be forbidden, as the sister of his wife, either to marry him or to perform halizah with him.
(63) Lit., 'it is not required, do we say'.
(64) That where one of three brothers survived, no levirate marriage must take place.
(65) Were he to marry one of the widows. Cf. supra p. 162, n. 8.
(66) Brothers, two of whom survived.
(67) And that consequently one brother should marry one of the widows and the other brother the other.
(68) Because provision must always be made against possible death.
(69) v. previous note.

Talmud - Mas. Yevamoth 26b

the same applies to five brothers also![1] -The possibility that two might die[2] need not be taken into consideration.

Rabbah[3] son of R. Huna said in the name of Rab:If three sisters who are sisters-in-law fell to the lot of two brothers who are their brothers-in-law, one of the brothers participates in her halizah with one, and the other brother participates in the halizah with the other, but the third,[4] requires halizah from both. Said Rabbah to him: Since you say that the third widow requires submission to halizah by both brothers, you must be holding the opinion that a Ievirate bond exists[5] and that the halizah is of an impaired character,[6] and that as an impaired halizah it must go the round of all the brothers;[7] but if so, [the same should apply to] the first [two sisters] also![8] — If they[9] had become subject [to the levirs] at the same time the law would indeed have been so;[10] [the statement of our Mishnah, however,] was required only in the case where they become subject [to the Ievirs] one after another. When the first sister became subject to the obligation of the levirate marriage. Reuben[11] participated in her halizah;[12] when the second came Under the obligation. Simeon[13] participated in her halizah;[14] when the third came under the obligation.[15] if the one brother participated in her halizah he removed his own levirate bond,[16] and when the other participated in the halizah he likewise removed his own levirate bond. But, surely. Rab said that no levirate bond exists![17] — This statement[18] he made in accordance with the opinion of him who maintains that a levirate bond does exist.

Samuel, however, stated that one brother participates in the halizah with all of them. But consider: We have heard Samuel say that a proper halizah is required for Samuel said:

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(1) Two of whom who were married to two sisters died and three survived. In this case also, if provision is to be made against the possibility of death, no levirate marriage should be allowed to any of the three survivors, since it might happen that two of the survivors would also die and the last and only surviving brother would be precluded from levirate marriage and halizah because the widows would then be his wife's sisters.
(2) Lit., 'for the death of two'.
(3) So Emden. Cur. edd., 'Raba'.
(4) Lit., 'the middle one'.
(5) V. supra p. 162, n. 3'
(6) Since each brother may only participate in halizah with the widow but may not, as she is the sister of his haluzah (v. Glos.). marry her. Such a halizah is not of the same validity as one which is the alternative of a permitted levirate marriage.
(7) The levirate bond between the widow and the other brothers cannot be dissolved by such a halizah with one of them. [Me'iri seems to have had a shorter and smoother text: . . . that a levirate bond exists and that an impaired halizah must go the round of all the brothers'.]
(8) Since they, like the third, are subject to the Ievirate bond, and with them also only halizah, but not levirate marriage may take place, and their halizah also is consequently of an impaired character.
(9) All the three sisters.
(10) Halizah would have had to be performed by every one of them with every brother.
(11) I.e., the first brother. Reuben was Jacob's first son (Gen. XXIX, 32).
(12) This was a proper halizah since at that time he could have married her if he wished.
(13) I.e., the second brother. Simeon was the second son of Jacob. (Cf. Gen. XXIX, 33)'
(14) This also was a proper halizah since he could marry her if he wished. She is no longer the sister of his zekukah (v. Glos.) since the first brother had already performed with that zekukah proper halizah and had thereby severed the levirate bond between her and Simeon as well as between her and himself.
(15) Levirate marriage is no more possible since, in the case of each brother, she is the sister of his haluzah, while exemption from !halizah cannot be granted because the prohibition to marry the sister of one's haluzah is only Rabbinical and cannot supersede the Biblical precept which requires halizah where no levirate marriage takes place.
(16) Which otherwise could not have been severed. V. previous note.
(17) Supra 17b.
(18) Reported supra by Rabbah b. R. Huna.

if he[1] participated in the halizah with the sisters, the rivals are not exempt;[2] how then should Reuben,[3] where the halizah of Simeon[4] has the force of a valid halizah,[5] participate in an impaired halizah?[6] — By saying. 'One brother participates in the halizah with all of them' he also meant 'the third widow'.[7] But surely, 'All of them' was stated![8] -As the majority is on his side[9] it may be described as 'All of them'. If you prefer I might say: Only in respect of exempting one's rival[10] did Samuel say that proper halizah was required; as regards exempting herself, however, [any halizah][11] sets her free.[12]

[To turn to] the main text ,[13] Samuel said: If he[14] participated in the halizah with the sisters, the rivals are not exempt;[15] ff with the rivals. the sisters are exempt.[16] If he[17] participated in the halizah with the one[18] who had been divorced,[19] her rival is not thereby exempt;[20] if with the rival[21] the divorced woman is exempt —[22] If he[17] participated in the halizah with one[18] to whom he addressed a ma'amar, her rival is not thereby exempt;[23] if with the rival,[24] the widow to whom the ma'amar had been addressed is exempt.[25]

In what respect are the sisters different that [by their halizah] the rivals should not be exempted?

Apparently because [each one of them] is 'his wife's sister' through the levirate bond;[26] [but for this very reason] the sisters also, if he participated in the halizah with their rivals, should not be exempt, since those are the rivals of 'his wife's sister' through the levirate bond![27] — Samuel holds the opinion that no Ievirate bond exists. But, surely, Samuel said that a levirate bond did exist![28] -He was here speaking in accordance with the view of him who maintains that a levirate bond does not exist. If so,[29] why are not the rivals exempt when he participated In the halizah with the sisters? One can well understand why Rachel's[30] rival is not exempt; for, as he had already participated in the halizah of Leah[31] and only subsequently participated in the halizah of Rachel, Rachel's halizah is a defective one;[32] but Leah's rival should be exempt![33] -When he[34] said that 'The rivals are not exempt', he meant indeed the rival of Rachel. But, surely, he used the expression 'rivals'![35] -Rivals generally. If so,[36] how could the sisters be exempt if he participated in the halizah with their rivals? Is Rachel exempt by the halizah of her rival![37] Surely we learned: A man is forbidden to marry the rival of the relative of his halizah[38] — Samuel also [is of the same opinion] but draws a distinction according to the manner In which[39] one began or did not begin: If one began with the sisters[40] he must not finish with the rivals,[41] for we learned, 'A man is forbidden to marry the rival of the relative of his haluzah';[42] but if he began with the rivals[43] he may finish even with the sisters,[44] for we learned, 'A man is permitted to marry the relative of the rival of his haluzah'.[45]

R. Ashi said: Your former assumption[46] may still be upheld, and [yet no difficulty[47] arises] because the levirate bond is not strong enough to make the rival equal to the forbidden relative herself.[48]

It was taught in agreement with the view of R. Ashi: If the levir participated in the halizah with the sisters, their rivals are not thereby exempt; but if with the rivals, the sisters are thereby exempt. What is the reason? Obviously[49] because he is of the opinion that a levirate bond exists and that that bond is not strong enough to make the rival equal to the forbidden relative herself.

R. Abba b. Memel said: Who is the author of this?[50] Beth Shammai; for we learned: Beth Shammai permit the rivals to the [surviving] brothers.[51] If so,[52] let them[53] be taken in levirate marriage also![54] [This is] in agreement with R. Johanan b. Nuri who said: Come, let us issue an ordinance that the rivals perform the halizah but do not marry the levir.[55] But did not a Master say that they had hardly time to conclude the matter before confusion set in?[56] — R. Nahman b. Isaac replied: After him[57] they re-ordained it.

The question was raised:

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(1) A levir whose two deceased childless brothers were survived by two widows who were sisters, each of whom had also a rival.

(2) Because the halizah with the sisters is defective, the levir not being in a position to marry either of them. Cf. supra p. 263, n. 11,

(3) Cf. supra note 2,

(4) cf. note 4.

(5) Simeon, having participated in no halizah, the second sister is not the sister of his haluzah.

(6) In the case of Reuben who had already participated in the halizah of one sister, the halizah with the second is a halizah performed by the sister of his haluzah, which is not a completely valid operation.

(7) I.e., the second brother, after he participated in the halizah with the second widow, also participates in the halizah with he third (who is now the sister of his as well as of his brother's haluzah): and there is no need, according to Samuel, for a defective halizah to go the round of all the surviving brothers.

(8) How- then could the expression 'all' refer to the second and third widows only?

(9) Simeon having participated in the halizah of two widows out of the three.

(10) As he actually said, 'The rivals are not exempt'.

(11) Even a defective one.

(12) In the case of the three widows mentioned above, where there are no rivals, the defective halizah is, therefore, valid even according to Samuel.
(13) A passage from which was cited supra top of page.
(14) V.p. 164,n. 10.
(15) V.p. 164, n.11.
(16) As the prohibition to marry the rivals is not so severe as that of the sisters, the halizah with the former is of greater validity and force than that with the latter. Cf. supra p. 163,n.11.
(17) The levir.
(18) Of two sisters-in-law, widows of the same brother.
(19) By the levir prior to the halizah.
(20) A halizah after a divorce is defective, since the levirate bond had already been partially severed by the divorce that preceded it.
(21) Since no letter of divorce was given to her.
(22) Infra 51a.
(23) Since the halizah alone does not in this case exempt the widow; a divorce also, owing to the ma'amar, being required.
(24) To whom no ma'amar had been addressed.
(25) infra 53a.
(26) In consequence of which he may marry neither of them and the halizah in which he participates is for this reason of a defective character.
(27) A rival taking the place of a forbidden relative, being subject to the same restrictions as the relatives, is also forbidden to be taken in levirate marriage.
(28) Supra 18b.
(29) That no levirate bond exists and the halizah with the sisters is consequently perfectly valid.
(30) I.e., the sister who was second to perform the halizah. Rachel was Jacob's second, Leah his first wife (v. Gen. XXIX, 23-28).
(31) I.e., the first sister. Cf. previous note.
(32) Because Rachel cannot any more be married to him owing to her being the sister of his haluzah.
(33) Leah's halizah having been perfect, since the levir could have married her if he wished.
(34) Samuel.
(35) The plural.
(36) That the expression of ‘rivals’ refers only to rivals of the sister who was second to perform the halizah and not to those of the first also.
(37) Would the sister of a haluzah be exempt by the halizah of her rival?
(38) Infra 40b. As he cannot marry the rival of Rachel who is his haluzah's sister, his halizah with her would be of a defective character which, consequently, could not exempt Rachel.
(39) Lit., ‘he said’.
(40) Participated in the halizah with one of them.
(41) By participating in the halizah with the rival of the second sister. Such halizah would not exempt the sister.
(42) Much more so the relative herself. The halizah, therefore, being defective, would have to be performed by both the second sister and her rival.
(43) If he participated in the halizah with the rival of the first sister.
(44) He may participate in halizah not only with the rival of the second sister and thus exempt the sister herself, but also with the second sister and thus exempt her rival.
(45) Rachel (the second sister), being the relative of Leah (the first sister) who is the ‘rival’ of the haluzah, is consequently permitted to marry the levir, and her halizah is, therefore, perfectly valid and exempts also her rival.
(46) That the rivals are not exempted by the halizah of the sisters, owing to its defectiveness which is due to the existence of the levirate bond (cf. supra p. 164, n. 21).
(47) As to why the halizah of the rival of the relative of a haluzah should be more valid than that of the relative of the haluzah herself (v. supra p. 266, n. 2).
(48) The Rabbis who forbade the marriage of a zekukah owing to the levirate bond did not extend the prohibition to her rival. The halizah of the latter is, therefore, more valid and exempts also the former.

(49) Lit., ‘not’?
(50) The Baraitha quoted.
(51) Supra 132, ‘Ed. Iv, 8; as marriage with the rivals is permitted, their halizah also (cf. supra p. 163, n. 11) is perfectly valid.
(52) That the Baraitha quoted represents the view of Beth Shammai.
(53) The rivals.
(54) Why then was only halizah mentioned?
(55) Supra 13b, 14b.
(56) Supra15a, q.v. notes.
(57) R. Johanan b. Nuri.

Talmud - Mas. Yevamoth 27b

Between the one[1] who was given[2] a letter of divorce and the other[1] to whom a ma'amar had been addressed[2] who is to be preferred?[3] Is she who was divorced to be preferred.[4] or is, perhaps, she to whom the ma'amar had been addressed to be preferred since she is nearer to him in respect to intercourse? — R. Ashi replied, Come and hear: R. Gamaliel, however, admits[5] that a letter of divorce[6] after a ma'amar,[7] and a ma'amar[6] after a letter of divorce[8] is valid.[9] Now, if a letter of divorce has the preference.[10] the ma'amar after it should have no validity; and if the ma'amar has the preference, the divorce after it should have no validity. Consequently it must be concluded that they have both equal validity. This proves it.

R. Huna[11] said in the name of Rab: If two sisters who were sisters-in-law became subject to one levir, the one is permitted[12] when he[13] has participated in her halizah; and the other is permitted[14] when he has participated in her halizah. If the first[15] died[16] he[17] is permitted [to marry] the second,[18] and there is no need to state that if the second[19] died[16] the first is permitted,[14] since, as a sister-in-law who was permitted,[20] then forbidden[21] and then again permitted,[22] she returns to her former state of permissibility. R. Johanan, however, said: If the second[19] died[16] he[17] is permitted to marry the first,[23] but if the first[24] died he is forbidden to marry the second.[19] What is the reason? Because any sister-in-law to whom the injunction. Her husband's brother shall go in unto her[25] cannot be applied at the time of her coming under the obligation of the levirate marriage[26] is, indeed,[27] like the wife of a brother who has children and is, consequently, forbidden. But does not Rab hold the same view?[28] Surely Rab said: Any woman to whom the injunction, Her husband's brother should go in unto her[25] cannot be applied at the time of her coming under the obligation of the levirate marriage is, indeed, like the wife of a brother who has children and is, consequently, forbidden![29] -That statement[30] applies only to the case where the woman is faced with the prohibition of ‘a wife's sister’, which is Pentateuchal;[31] here, however, [the prohibition due to] the levirate bond is only Rabbinical.[32]

R. Jose b. Hanina raised the following objection against R. Johanan:[33] IN THE CASE OF FOUR BROTHERS, TWO OF WHOM WERE MARRIED TO TWO SISTERS, IF THOSE WHO WERE MARRIED TO THE SISTERS DIED, BEHOLD, THESE MUST PERFORM HALIZAH BUT MAY NOT BE TAKEN IN LEVIRATE MARRIAGE. But why? Let one of the brothers take on the duty of participating in the halizah with the second widow, and thus place the first widow, in relation to the second, in the category of a deceased brother's wife that was permitted- then forbidden, and then again permitted,[34] and thus she would return to her former state of permissibility! — The other replied: I do not know who was the author of the statement concerning the sisters.[35] But let him rather reply that the meaning of the expression of MUST PERFORM THE HALIZAH, which had been used, indeed signifies that only one is to perform the halizah![36] -The expression used was THEY MUST PERFORM THE HALIZAH.[37] Then let him reply that the expressions THEY MUST PERFORM THE HALIZAH[37] refers to women generally[38] who perform the halizah!-It was stated, BEHOLD THESE.[39] Let him, then, reply that [this is a case] where halizah was already performed

by the first![40] -[The expression] THESE MUST PERFORM HALIZAH

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(1) Of two widows of the same husband who was survived by one brother.

(2) By the surviving brother.

(3) In respect of the halizah, if that halizah is to exempt the rival. None of these widows may be taken in levitate marriage: the one, because a letter of divorce was given to her, and the other, because she is the rival of the former. The only question is, which of the two should perform the halizah and which should thereby be exempt.

(4) I.e., shall she perform the halizah and thus exempt her rival? Cur. edd. add., 'because he began with her with halizah'. Rashal (Glosses. a.l.) reads, 'divorce' for 'halizah'. Both additions are absent in MSS, v. Tosaf. s.v. בעלה)-

(5) Though he holds that a divorce to one of the widows of his deceased brothers after a divorce to her rival is invalid (infra 50a).

(6) To one of the widows of his deceased childless brother.

(7) That had been first addressed to the other widow, her rival.

(8) Given first to the other.

(9) Infra 51a. Lit., 'there is'. If the ma'amar was made first, the subsequent divorce forbids the marriage of the second and also that of the first, the ma'amar to her not being regarded as actual marriage, and if the divorce was first and the ma'amar afterwards, the second widow also requires a divorce, the divorce of the first not having the force of halizah to invalidate the ma'amar addressed to the second.

(10) Over the ma'amar.

(11) Asheri: Judah.

(12) To marry any stranger.

(13) The levir.

(14) To marry any stranger.

(15) Widow; the one whose husband died first, and who became subject to the levirate marriage before the other.

(16) Before she had performed the halizah with the levir.

(17) The levir.

(18) Since death had severed his levirate bond with the first, and the surviving widow is no longer the sister of a zekukah.

(19) The widow of the brother who died after the first, and who became subject to the levirate marriage after the subjection of the first.

(20) To the levir. At the time she became subject to him there was no other zekukah.

(21) When her sister's husband died.

(22) When her sister died.

(23) V. note 2, because at the time she became subject to the levirate marriage she was permitted to him.

(24) V. note 2.

(25) Deut. XXV, 5.

(26) As in this case where she was forbidden to the levir, as 'the sister of his zekukah', at the time she came under the obligation of the levirate marriage through her husband's death.

(27) Lit., 'behold'.

(28) That had been advanced by R. Johanan.

(29) Infra 30a, 111b.

(30) Of Rab, just quoted.

(31) As in the case of three brothers two of whom were married to two sisters (infra 30a) in connection with which Rab made his statement.

(32) And is, therefore, removed as soon as one of the sisters dies.

(33) The same objection applies to Rab also (Rashi). Cf. however, Tosaf. s.v. איתיביה a.l.

(34) V. supra2 p. 169, nn. 7, 11.

(35) I.e., the Mishnah is not authoritative. —

(36) Lit., 'she performs the halizah, (namely) one', i.e., the second widow.

(37) חולצות the pr. particip. Plural.

(38) In similar circumstances.

(39) Which implies the two spoken of.

(40) So that the other, who is not exempted by that of the first, must also perform halizah.

Talmud - Mas. Yevamoth 28a

is an instruction as to what it is the proper thing to do.[1] Let him reply that it[2] was a preventive measure against the possibility of the levir's participating first in the halizah of the first![3] — It was stated, BUT MAY NOT BE TAKEN IN LEVIRATE MARRIAGE, i.e., the law of the levirate marriage is not applicable here at all.[4] Let him, then, reply that it[5] was a preventive measure in case he[6] might die,[7] it being forbidden to annul the precept of levirate marriage![8] — R. Johanan makes no provision against possible death.[9] Then let him reply that it[5] is the ruling of R. Eleazar[10] who said that so long as she remained forbidden to him for one moment she is forbidden to him for ever![11] — Since the latter clause [represents the view of] R. Eleazar,[12] the first clause cannot represent his view. Then let him reply that it[13] is a case where they[14] fell under the obligation[15] at the same time, and that it represents the opinion of R. Jose the Galilean who maintains that it is possible to ascertain simultaneity![16] — The Tanna would not have recorded an anonymous Mishnah in agreement with the view of R. Jose the Galilean. Let him reply [that it[13] is a case] where it is not known which[17] came under the obligation[15] first![18] — If that were the case[19] how could it have been stated,[20] EVEN IF THEY HAD ALREADY MARRIED THEM THEY MUST DISMISS THEM! In the case of the first,[21] at least, one can understand [the reason].[22] since he can be told, 'Who permitted her to you'?[23] In the case, however, of the second,[24] the levir[25] could surely claim, 'My friend[26] has taken the second in levirate marriage[27] and I take the first '[28] This, then,[29] is the reason why he[30] said to him,[31] 'I do not know who was the author of the statement concerning the sisters'.[32]

We learned: IF ONE OF THE SISTERS WAS FORBIDDEN TO ONE [OF THE BROTHERS] UNDER THE PROHIBITION OF INCEST,[33] HE IS FORBIDDEN TO MARRY HER BUT MAY MARRY HER SISTER, WHILE TO THE SECOND BROTHER BOTH ARE FORBIDDEN. It was now assumed that his mother-in-law[34] came under the obligation[35] first.[36] Now, why [should both sisters be forbidden]?[37] Let the son-in-law undertake the duty of marrying first that sister who is not his mother-in-law,[38] and his mother-in-law, in relation to the other levir, would thereby come into the same category as a sister-in-law that was permitted,[39] then forbidden,[40] and then permitted again,[41] who returns to her former state of permissibility! R. Papa replied: [They are forbidden] in a case where she who was not his mother-in-law came under the obligation[42] first.[43]

R. ELIEZER SAID: BETH SHAMMAI HOLD etc. The following was taught: R. Eliezer said: Beth Shammai hold that they may retain them, and Beth Hillel hold that they must dismiss them. R. Simeon said: They may retain them. Abba Saul said: Beth Hillel uphold in this matter the milder rule, for it was Beth Shammai who said that the women must be dismissed while Beth Hillel said they may be retained.[44]

Whose view does R. Simeon represent?[45] If that of Beth Shammai,[46] he is merely repeating R. Eliezer; if that of Beth Hillel,[46] he is repeating Abba Saul! It was this that he meant: In this matter there is no dispute at all between Beth Shammai and Beth Hillel.

IF ONE OF THE SISTERS etc. But we have learned this already: When her sister is her sister-in-law she may either perform halizah or be taken in levirate marriage![47] — [Both are] necessary. For had the law been stated there[48] it might have been assumed [to apply to that case alone],[49] because there is no need to enact a preventive measure against a second brother,[50] but not [to the case] here where it might be advisable to issue a preventive measure against a second brother.[50] And had the law been stated here,[51] it might have been assumed [to apply to this case alone] because there is a second brother who proves it[52] but not [to that case] where no second brother exists.[53] [Hence were both] required.

BY VIRTUE OF A COMMANDMENT etc. But we have [already] learned this also:

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(1) And not as to what is to be done in certain eventualities. Lit., ‘for as at the beginning, it was taught’.

(2) The provision that both widows are to perform halizah and that none may be taken in levirate marriage.

(3) And then he would marry the second, in his erroneous assumption that, as he may participate in the halizah of the second and marry the first, so he may participate in the halizah of the first and marry the second. This, however, does not imply that if he already did participate in the halizah of the second he may not, after her death, marry the first. In this latter case the reason for the marriage with the first would be obvious and would leave no room for erroneous conclusions.

(4) Even if halizah was first performed by the second.

(5) The provision in our Mishnah that both widows must perform halizah and none of them may be taken in levirate marriage.

(6) One of the surviving brothers who intended to marry one of the widowed sisters.

(7) After the second brother had married the second widow and had thus become disqualified from marrying or participating in the halizah of the other — who is now forbidden to him as the sister of his wife.

(8) And this only is the reason for the prohibition of the levirate marriage with either of the sisters. Had this prohibition been due to the levirate bond, as suggested, the first would certainly have been permitted to marry the levir after halizah with the second, which had severed the levirate bond, had taken place. Consequently, in the case discussed by R. Johanan, where the second died, and the preventive measure is not applicable. the first may indeed be taken in levirate marriage!

(9) The ruling in our Mishnah could not, therefore, be due to a preventive measure.

(10) Bah a.l. reads, ‘Eliezer’ throughout the context.

(11) Infra 1092; while R. Johanan, agreeing with the Rabbis, may disregard this individual opinion.

(12) His authorship being specifically stated there.

(13) V. note 2, supra

(14) Both sisters.

(15) Of the levirate marriage.

(16) supra 19a, Bek. 92a

(17) Of the two widowed sisters.

(18) So that there is no known ‘second’ widow with whom to participate in the halizah

(19) That the prohibition in our Mishnah to marry the two widowed sisters is entirely due to the fact that it is not known which of them was the first to become a widow and which was second; and that, had the fact been known, the first would have been permitted to be taken in the levirate marriage.

(20) Lit., ‘(is it) that why it was stated’!

(21) I.e., the levir who married first, Cf. Bah a.l. Cur. edd. read, ראשומה for ראשון

(22) Why the woman must be dismissed.

(23) Before the marital bond between him and her sister was severed she was forbidden to him as the sister of his zekukah. Hence he must rightly dismiss her.

(24) Levir (v. Bah) who married after his brother had married one of the widows. Cur. edd. שניב for שני.

(25) When he is ordered to divorce the woman.

(26) The levir who married first.

(27) I.e., the sister who became widow second; and naturally no one could disprove his contention.

(28) Who became permitted to him owing to the previous marriage of her sister who, he claims, was the second widow. The marriage of the second severs the marital bond between the sister and the levirs, and thus liberates the first from the prohibition of ‘the sister of one's zekukah’ and brings her under the category of ‘permitted, forbidden and permitted again’.

(29) Since this last suggested answer is also untenable.

(30) R. Johanan, supra 27b.

(31) R. Jose.

(32) Cf. supra p. 170. n. 3’

(33) If she was, for instance, his mother-in-law.

(34) V. previous note. ‘Mother-in-law’ is taken as an instance of any forbidden relative.

(35) Of the levirate marriage.
(36) I.e., her husband died before the other brother.
(37) To marry the other levir.
(38) That widow is permitted to him, because she is neither his forbidden relative nor the sister of his zekukah, since a forbidden relative is not a zekukah.
(39) Since at the time she became subject to the levirate marriage she was not the sister of a zekukah.
(40) When her sister became the zekukah of the surviving levirs by the death of her husband.
(41) 'When his brother had contracted with her the levirate marriage.
(42) Of the Ievirate marriage.
(43) So that his mother-in-law who came under the obligation next was never for one moment permitted even to the other levir.
(44) Tosef. v.
(45) Lit., 'R. Simeon like whom'. He could not possibly advance a view of his own, since he is not sufficiently great to disagree either with Beth Shammai or with Beth Hillel.
(46) I.e., if he maintains that what he said was their view.
(47) Supra 20a, which Implies the law here stated, viz, that he is forbidden to marry the forbidden relative but may marry her sister.
(48) And not here.
(49) Where one brother only is involved.
(50) Who might marry a sister of his zekukah by mistaking the reason for the levirate marriage of his brother.
(51) And not there.
(52) That there is a special reason why his brother may marry one of the sisters. The fact that he himself does not marry either of the sisters is sufficient proof that the sister of a zekukah is forbidden.
(53) And people might erroneously infer that the sister of a zekukah is always permitted.

Talmud - Mas. Yevamoth 28b

If she is forbidden by virtue of a commandment or by virtue of holiness she must perform halizah and may not be taken in levirate marriage![1] -There[1] it is a question of one forbidden by virtue of a commandment alone,[2] but here [it is a case of one] forbidden by virtue of a commandment and [by virtue of] her sister.[3] Since it might have been assumed that the prohibition by virtue of a commandment shall take the same rank as the prohibition by the law of incest[4] and [her sister] should, therefore, be taken in levirate marriage, hence we were taught [that the law is not so].

But how could she[5] possibly be taken in levirate marriage? Since Pentateuchally she[6] is to submit to him,[7] he would come in contact with the sister of his zekukah[8] -It might have been thought that such provision[9] was made by the Rabbis for the sake of the precept,[10] hence we were taught [that it was not so].

IF ONE OF THE SISTERS etc. What need was there again for this statement? Surely, it is precisely identical [with the one before]![11] For what difference is there whether [a woman is forbidden] to one or to two?- [Both are] required. For had the former only[12] been stated, it might have been assumed [that the law was applicable there only] because there exists a second brother to indicate the cause,[13] but not here where there is no second brother to indicate it.[14] And if the statement had been made here only it might have been assumed on the contrary that both brothers afford proof in regard to each other,[15] but not in the other case;[16] [hence both were] required.

THIS IS THE CASE CONCERNING WHICH IT HAS BEEN SAID etc. What is the expression, THIS IS intended to exclude?[17] -To exclude the case [where one sister was forbidden by] Virtue of a commandment to the one [brother]. and [the other sister was forbidden] by virtue of a commandment to the other. But what need was there for this [additional statement]? Surely it is precisely identical [with that mentioned before];[18] for what difference is there whether it relates to one or to two! — It

might have been thought that only where there is the necessity of providing for a preventive measure against a second brother do we not say that the prohibition by a commandment takes the same rank as a prohibition by the law of incest,[19] but that where there is no necessity to provide against a second brother we do say that in the case of the one brother the prohibition by a commandment is to be given the same force as the prohibition by the law of incest, and that also in the case of the other brother the prohibition by a commandment is to be given the same force as the prohibition by the law of incest, and that the sisters may consequently be taken in levirate marriage; hence we were taught [that such an assumption is not to be made].

Rab Judah said in the name of Rab and so did R. Hiyya teach: In the case of all these[20] it may happen that she who is forbidden to one brother[21] may be permitted to the other,[22] and that her sister who is her sister-in-law may either perform the halizah or be taken in the levirate marriage;[23] and Rab Judah interpreted it[24] [as referring to those][25] from one's mother-in-law onward but not to the first six categories. What is the reason? Because this[26] is only possible in the case of a daughter born from a woman who had been outraged.[27] but not in that of a daughter born from a legal marriage.[28] [and the author of that Mishnah][29] deals only with cases of legal matrimony and not with those of outraged women.[30]

Abaye. however, Interprets it[24] as referring also to a daughter from a woman that had been outraged. because, since [the application of Rab's statement][31] is quite possible in her case, it matters not whether she was born from a woman who was legally married or from one that had been outraged; but not to the 'wife of a brother who was not his contemporary' since this[31] is possible only according to the view of R. Simeon[32] and not according to that of the Rabbis and he[33] does not deal with any matter which is a subject of controversy. But R. Safra interprets [it[34] as referring] also to the 'wife of a brother who was not his contemporary', and this[34] is possible in the case of six brothers in accordance with the view of R. Simeon.[35] And your mnemonic is, 'died, born, and performed the levirate marriage; died, born, and performed the levirate marriage'.[36] [Suppose. for instance]. Reuben and Simeon[37] were married to two sisters, and Levi and Judah were married to two strangers. When Reuben died, Issachar was born and Levi took the widow in levirate marriage. When Simeon died, Zebulun was born and Judah took [the second widow] in levirate marriage. When Levi and Judah subsequently died without issue and their widows fell under the obligation of the levirate marriage before Issachar and Zebulun, she[38] who is forbidden to the one[39] is permitted to the other[40] while she[41] who is forbidden to the other[42] is permitted to the first.[43]

In the example of 'her sister who is her sister-in-law',[44] what need was there[45] for Judah to contract the levirate marriage? Even if Judah did not contract any levirate marriage it is also possible![46] — Owing to the rival.[47] This[48] satisfactorily explains the case of the rival; what can be said, however, in respect of the rival's rival?[49] — If, for instance, Gad and Asher also subsequently married them.[50]

MISHNAH. IF TWO OF THREE BROTHERS WERE MARRIED TO TWO SISTERS, OR TO A WOMAN AND HER DAUGHTER, OR TO A WOMAN AND HER DAUGHTER'S DAUGHTER, OR TO A WOMAN AND HER SON'S DAUGHTER, BEHOLD, THESE[51] MUST[52] PERFORM THE HALIZAH[53] BUT MAY NOT BE TAKEN IN LEVIRATE MARRIAGE.[54] R. SIMEON, HOWEVER, EXEMPTS THEM.[55]

IF ONE OF THEM[56] WAS FORBIDDEN TO HIM BY THE LAW OF INCEST, HE IS FORBIDDEN TO MARRY HER BUT IS PERMITTED TO MARRY HER SISTER. IF, HOWEVER, THE PROHIBITION IS DUE TO A COMMANDMENT OR TO HOLINESS, THEY MUST PERFORM THE HALIZAH BUT MAY NOT BE TAKEN IN LEVIRATE MARRIAGE.

GEMARA. It was taught: R. Simeon exempts both from the halizah and the levirate marriage. for

it is said in the Scriptures, And thou shalt not take a woman to her sister, to be a rival to her:[57] when they become rivals to one another,[58] you may not marry even one of them.

IF ONE OF THEM WAS etc. What need was there again for this statement? Surely it is the same![59] -It was necessary because of the opinion of R. Simeon: As it might have been assumed that, since R. Simeon had said that two sisters were neither to perform halizah nor to be taken in levirate marriage. A preventive measure should be enacted[60] against two sisters generally.[61] hence we were taught[62] [that it was not so].[63]

IF, HOWEVER, THE PROHIBITION IS DUE TO A COMMANDMENT etc.

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(1) Supra 202, Sanh. 532.

(2) Only one sister-in-law being concerned.

(3) Since two sisters, the widows of the two brothers, are here involved, and one of them is forbidden not only as the sister of his zekukah but also by virtue of a commandment.

(4) As the one is not regarded as a zekukah so neither is the other.

(5) The sister of one forbidden by virtue of a commandment.

(6) The sister-in-law forbidden by virtue of a commandment.

(7) To levirate marriage; her prohibition being only Rabbinical.

(8) Which cannot obviously be permitted. What need, then. was there for a law that is so obvious.

(9) The permission to marry the sister of his zekukah.

(10) Of the levirate marriage. In order that this precept may be fulfilled they may have removed the prohibition of the marital bond, which is only Rabbinical, in cases where the woman is not forbidden by the law of incest but by virtue of a commandment only.

(11) Where one sister-in-law is similarly forbidden to one levir, and he is permitted to marry her sister.

(12) Lit., ‘there’.

(13) Since one brother is forbidden to marry either sister it will be obvious that the brother was permitted to marry one of the sisters for a special reason.

(14) Since both brothers marry respectively the two sisters, it might be assumed that any levir may marry the sister of his zekukah.

(15) Since each brother is permitted to marry only one particular sister and not the other, it is obvious that the other is forbidden to him. The law of zekukah could not consequently be mistaken.

(16) Where there is only one brother, and no other brother to indicate that there is a special reason why the sister of his apparent zekukah. should be permitted to be taken in Ievirate marriage.

(17) THIS IS implies this and no other.

(18) In our Mishnah: [IF ONE SISTER] WAS FORBIDDEN BY VIRTUE OF A COMMANDMENT... SHE MUST PERFORM THE HALIZAH AND MAY NOT BE TAKEN IN LEVIRATE MARRIAGE.

(19) V. supra p. 174. n. 6.

(20) The fifteen forbidden categories enumerated in the Mishnah, supra 2af.

(21) As a forbidden relative under the law of incest.

(22) With whom she is not so closely related.

(23) The prohibition of the one under the law of incest removes the marital bond, and her sister who, in consequence, is no longer the ‘sister of a zekukah’, may, therefore, be married to, or perform the halizah with the levir to whom the former is forbidden.

(24) Rab's statement.

(25) Of the fifteen relatives enumerated in the Mishnah mentioned.

(26) That two sisters shall be the daughters of two brothers, and that the one forbidden to one brother shall be permitted to the other brother. V. n. 8.

(27) If, of four brothers, A, B, C and D, A had a daughter from a woman he had outraged. and B had a daughter from the same woman whom he outraged after A, and these daughters of A and B, who are maternal sisters, married their father's brothers, C and D, who subsequently died without issue, A's daughter is permitted to B (who is her brother-in-law but otherwise a complete stranger) and is forbidden to A her father. For similar reasons A's daughter is permitted to A and

forbidden to B. Thus it is possible for two sisters to marry the two levirs respectively because each one of them is a daughter of the other levir to whom she is forbidden by the law of incest.
(28) Since the mother of such a daughter would be forbidden to marry her husband's brother, even though she had been divorced by her husband after the birth of that daughter.
(29) Supra 2a, which is now under discussion.
(30) And since the case of a daughter could not be included (v. supra nn. 8 and 9), the other five cases which also bear on a daughter had equally to be excluded.
(31) V. supra p. 176. n. 7.
(32) Supra 18b. V. also R. Safra's interpretation and notes, Infra.
(33) Rab or R. Hiyya.
(34) Rab's statement.
(35) Who in certain circumstances permits the marriage of the ‘widow of a brother who was not his contemporary’. V. supra 18b.
(36) v. infra, when (a) death, (b) birth and (c) marriage occurred in this order in the case of both groups of brothers.
(37) Jacob's sons, the sequence of whose births is known (v. Gen. XXIX. 32-XXX, 20), are taken here as an illustration of the possibility of the application of Rab's statement in certain circumstances of birth, death and marriage.
(38) The widow of Levi.
(39) To Issachar, because he was born before the marriage of Levi had removed the levirate bond between Reuben's widow and the other brothers, and thus came under the prohibition of marrying ‘the wife of his brother who was not his contemporary’.
(40) To Zebulun who was born after she had married Levi and the levirate bond between her and the other brothers had been removed.
(41) The wife of Judah.
(42) To Zebulun, to whom the widow of Simeon stands in the same relation as the widow of Reuben to Issachar. (V. supra note 9).
(43) Issachar who was Simeon's contemporary.
(44) Supra.
(45) In R. Safra's interpretation.
(46) For one sister to be forbidden to one brother and permitted to the other, and vice versa. Suppose Reuben died, and then Issachar was born, and Levi married the widow; then Simeon died, Zebulun was born, and Levi died; and the widows of Simeon and Levi came under the obligation of the levirate marriage with Issachar and Zebulun. Levi's widow is forbidden to Issachar owing to the levirate bond originating from her first husband, Reuben, (v. supra p. 177, n. 9) and is permitted to Zebulun (v. p. 177, n. 10), while Simeon's widow is forbidden to Zebulun (v. p. 177, n. 12) and permitted to Issachar (v. p. 177. n. 13). Now, since the point may be illustrated by five brothers, why was it necessary to bring in six?
(47) As the Mishnah under discussion (supra 2af) speaks of the rivals it was desired to give an illustration which may be applicable to rivals as well as to the forbidden relatives, and this could only be done by assuming that Judah married Simeon's widow. Had he not married her, the rival would have had to be not Judah's but Simeon's wife who would thus be forbidden to Zebulun not as ‘rival’ but as ‘the wife of his brother who was not his contemporary’.
(48) The illustration with the six brothers.
(49) How is it possible that one rival's rival shall be forbidden to one brother and permitted to the other while the other rival's rival should be forbidden to the other brother and permitted to the first?
(50) The first wives of Levi and Judah (the rivals of their second wives, the widows of Reuben and Simeon). If Gad who married, say. the widow of Judah, and Asher who married, say. the widow of Levi died subsequently without issue and were survived by their wives who are now subject to the levirate marriage with Issachar and Zebulun the surviving brothers, Gad's first wife, the rival of his second wife (the widow of Judah) who was the rival of Simeon's wife, is forbidden to Zebulun as the rival's rival of the wife of Simeon who was not his contemporary, but is permitted to Issachar. Similarly Asher's first wife is forbidden to Issachar and permitted to Zebulun.
(51) The women enumerated.
(52) If their husbands, the two brothers, died without issue.
(53) With the third surviving brother.
(54) By that brother; since both are related to him by the ‘levirate bond’ and each is forbidden to him as the

consanguineous relative of the woman connected with him by such bond.

(55) Even from the halizah. V. Gemara infra.

(56) The sisters.

(57) Lev. XVIII, 18.

(58) The Ievirate bond which subjects both to the same levir causing them to be rivals.

(59) As that which had been taught in an earlier Mishnah in the case of four brothers, supra 26a.

(60) Forbidding levirate marriage even where the prohibition of one is due to the law of incest.

(61) Lit., 'of the world'. If permission to marry one of the sisters were given where one is forbidden by the law of incest, it might be mistakenly concluded that levirate marriage is allowed even when none was forbidden by the law of incest.

(62) By the statement in our Mishnah that one IS PERMITTED TO MARRY HER SISTER.

(63) The similar statement in the earlier Mishnah (supra 262) does not prove this point as far as R. Simeon is concerned, since it refers to the view of the Rabbis according to whom the marriage of the sister of a zekukah is only Rabbinically forbidden and no preventive measure is obviously required against a possible infringement of such a prohibition. According to R. Simeon, however, who regards the marriage of a sister of a stekukab as incest, a preventive measure might have been expected had not our Mishnah proved the contrary.

Talmud - Mas. Yevamoth 29a

But did not R. Simeon state that two sisters[1] are neither to perform the halizah nor to be taken in levirate marriage![2] — This[3] is a preventive measure against any other case where the prohibition is due to a commandment —[4] This is a satisfactory explanation in respect of herself;[5] what, however, can be said in respect of her sister?[6] -The provision was made in the case of her sister as a preventive measure against herself.[7] But, surely. no such preventive measures were made in the case where one was forbidden as incest![8] — A case of incest is different because people are well acquainted with it[9] and it[10] is well known.[11]

MISHNAH. IF TWO OF THREE BROTHERS WERE MARRIED TO TWO SISTERS AND THE THIRD WAS UNMARRIED,[12] AND WHEN ONE OF THE SISTERS HUSBANDS DIED, THE UNMARRIED BROTHER ADDRESSED TO HER[13] A MA'AMAR,[14] AND THEN HIS SECOND BROTHER DIED, BETH SHAMMAI SAY: HIS WIFE[15] [REMAINS] WITH HIM WHILE THE OTHER IS EXEMPT[16] AS BEING HIS WIFE'S SISTER.[17] BETH HILLEL, HOWEVER, MAINTAIN THAT HE MUST DISMISS HIS WIFE[18] BY A LETTER OF DIVORCE[19] AND BY HALIZAH,[20] AND HIS BROTHER'S WIFE BY HALIZAH.[21] THIS IS THE CASE IN REGARD TO WHICH IT WAS SAID: WOE TO HIM BECAUSE OF HIS WIFE, AND WOE TO HIM BECAUSE OF HIS BROTHER'S WIFE.[22]

GEMARA. What was THIS IS meant to exclude?[23] — To exclude the statement[24] of R. Joshua,[25] [and to indicate] that we do not act In accordance with his view but either in accordance with that of R. Gamaliel or that of R. Eliezer.

R. Eleazar said: It must not be assumed that a ma'amar according to Beth Shammai constitutes a perfect kinyan,[26] so that,if he[27] wishes to dismiss her, a letter of divorce is sufficient; but rather that, according to Beth Shammai, a ma'amar constitutes a kinyan only so far as to keep out the rival.[28] Said R. Abin: We also have learned the same thing: Beth Shammai said, 'They may retain them',[29] which implies that they may only retain them[30] but [that they may] not [marry them] at the outset.[31]

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(1) Who are both subject to Ievirate marriage.

(2) Owing to the levirate bond which Pentateuchally binds both sisters to the levir. Why, then, should halizah be performed here where Pentateuchally both sisters are subject to the levirate marriage and each is, consequently, forbidden as the sister of a zekukah?

(3) The provision that halizah shall be performed.

(4) Were halizah to be discarded in this case, an erroneous conclusion might be formed that it is to be discarded in all

cases where the prohibition is due to a commandment (as if it had been due to the Pentateuchal laws of incest). even if the question of the sister of a zekukah did not arise.

(5) The sister forbidden by a commandment.

(6) Why is she not exempt from the halizah as the sister of a zekukah?

(7) לתא דידה לתא 'her ill-luck'. Others render, 'company'. As the sister who is forbidden by a commandment is subject to halizah (as a preventive measure, for the reason previously stated) so must her sister (so that one case be not mistaken for the other) be also subject to the same measure.

(8) V. our Mishnah: HE IS FORBIDDEN TO MARRY HER BUT IS PERMITTED TO MARRY HER SISTER, and no preventive measure against the sister was enacted.

(9) And would know that one sister was forbidden because of incest.

(10) The cause why the second sister is taken in levirate marriage.

(11) Lit., 'it has a voice'. And no one would in consequence permit elsewhere the marriage of the sister of another zekukah who is not forbidden by the laws of incest.

(12) מונה 'empty'.

(13) The widow.

(14) V. Glos.

(15) The sister-in-law to whom he addressed the ma'amar though he had not actually married her. A ma'amar, according to Beth Shammai, constitutes legal marriage in this respect. V. infra.

(16) From levirate marriage and halizah.

(17) Since her sister is regarded as legally married she is no more the sister of the levir's zekukah but of his wife.

(18) Cf. supra n. 4.

(19) Since the ma'amar is partially regarded as marriage.

(20) A ma'amar, according to Beth Hillel, does not constitute a proper marriage, and she is now the sister of a zekukah. V. following note.

(21) v. previous note. As the ma'amar did not constitute a proper marriage with her sister she is the sister of a zekukah who may not contract levirate marriage but must perform halizah.

(22) V. infra 109a. The second widow who becomes subject to him through the levirate law is not only herself forbidden to marry him (cf. note 10) but deprives him also of the first widow, his virtual wife. (Cf. note 9)-

(23) THIS IS implying this but not other cases.

(24) Lit., 'that'.

(25) Infra 109a.

(26) V. Glos., i.e., perfect marriage.

(27) The levir.

(28) I.e., her rival who is her sister does not cause her to be forbidden to the levir as the 'sister of a zekukah'.

(29) Supra 26a, in the case where the levirs married the sisters-in-law before consulting the Beth din as to the permissibility of their action.

(30) If they had already married them.

(31) Because each one is the sister of a zekukah. Lit., 'they may retain, yes; for as at the start, not'.

Talmud - Mas. Yevamoth 29b

Now, if it could be assumed that a ma'amar, according to Beth Shammai, constitutes a perfect kinyan, let the one levir address a ma'amar[1] and constitute thereby a kinyan,[2] and let the other also address a ma amar[1] and thereby constitute a kinyan.[3] What then! [Is it your inference that] it[4] keeps the rival completely out?[5] Let then one levir address a ma'amar[1] and keep her out[6] and let the other levir also address a ma'amar[1] and keep her out![7] What, however, may be said in reply? That a permitted ma'amar[8] does keep the rival out, while a forbidden ma'amar[9] does not keep her out; so also here, even according to him who maintains that a ma'amar constitutes a perfect kinyan, only a permitted ma'amar[10] constitutes a kinyan. but a forbidden one[8] does not.

R. Ashi taught it[11] in the following manner: R. Eleazar said: It must not be assumed that a ma'amar, according to Beth Shammai, keeps the rival[12] completely out, and that she does not require

even halizah; but rather it[13] keeps her out[14] and still leaves [a partial bond].[15] Said R. Abin: We also have learned the same thing: Beth Shammai said, 'they may retain them',[16] which implies that they may only retain them[16] but [that they may] not [marry them] at the outset.[17] Now, if it could have been assumed that a ma amar, according to Beth Shammai, keeps a rival out completely. let the one levir address a ma'amar,[18] and thus keep her out.[19] and let the other also address a ma'amar[18] and so keep her out.[20] But. surely. it was taught. BETH SHAMMAI SAY: HIS WIFE [REMAINS] WITH HIM WHILE THE OTHER IS EXEMPT AS HIS WIFE'S SISTER![21] — The fact is, a yebamah who is eligible for all[22] is also eligible for a part;[23] a yebamah who is not eligible for all[24] is not eligible for a part.[25]

Rabbah inquired: Does a ma'amar, according to Beth Shammai, constitute marriage or betrothal? — Said Abaye to him: On what practical issue [does this question bear]? Shall I say on [the issue] of inheriting from her,[26] defiling himself to her[27] or annulling her vows?[28] surely. [it could be answered that] seeing that in the case of[29] ordinary betrothal[30] R. Hiyya taught, that where the wife has only been betrothed[31] [the husband] is neither subject to the laws of onan[32] nor may he defile himself for her.[27] and she in his case is likewise not subject to the laws of onan[33] nor may she defile herself for him,[34] and that if she dies he does not inherit from her though if he dies she collects her kethubah;[35] is there any need [to speak of the case where] a ma'amar had been addressed![36] Rather. [the question is] in respect of introduction into the bridal canopy: Does it[37] constitute a marriage and, therefore. no introduction Into the bridal canopy is required.[38] or does it perhaps constitute betrothal and, consequently, introduction into the bridal canopy is required? The other replied: If where he did not address to her any ma'amar it is written [in Scripture]. Her husband's brother shall go in unto her,[39] even against her will, is there any need [to speak of the case where] he has addressed to her a ma'amar![40] The former retorted: Yes;[41] since I maintain that whenever a levir has addressed a ma'amar to his sister-in-law, the levirate bond disappears and she comes under the bond of betrothal. What [then is the decision]? — Come and hear: In the case of a widow awaiting the decision of the levir.[42] whether there be one levir or two levirs, R. Eliezer said. he[43] may annul [her vows]. R. Joshua said: [Only where she is waiting] for one and not for two.[44] R. Akiba said: Neither when she [is waiting] for one nor for two.[45] Now we pondered thereon: One can well understand R. Akiba, since he may hold that no levirate bond exists even in the case of one;[46] according to R. Joshua, the levirate bond may exist where there is one levir but not where there are two levirs.[47] According to R. Eliezer, however, granted that a levirate bond exists, one can understand why, in the case of one, he may annul, but why also in the case of two?[48] And R. Ammi[49] replied: Here it is a case where he addressed to her a ma'amar, and the statement represents the opinion of Beth Shammai who maintain that a ma'amar constitutes a perfect kinyan.[50] Now, if it be granted that it[51] constitutes a marriage, it is quite intelligible why he may annul her vows. If. however, it be assumed that it constitutes only a betrothal, how could he annul her vows? Surely we learned: The vows of a betrothed girl may be annulled by her father in conjunction with her husband![52] -Said R. Nahman b. Isaac: What is meant by annulment? Jointly.[53]

According to R. Eleazar, however, who holds that a ma'amar, In the opinion of Beth Shammai, constitutes a kinyan only so far as to keep out the rival, how[54] could the annulment be effected even jointly?[55] — R. Eleazar can answer you: When l said that it[51] constitutes a kinyan so far only as to keep out the rival, [I meant to indicate] that a letter of divorce was not sufficient[56] but that halizah also was required;[57] did l say anything. however, as regards the annulment of vows! And if you prefer l might say. R. Eleazar can answer you: Is it satisfactorily explained according to R. Nahman b. Isaac?[58] Surely it was not stated 'they may annul' but 'he may annul'![59] Consequently this must be a case where he[60] appeared before a court[61] and[62] a specified sum for alimony was decreed for her out of his estate; and [this is to be understood] In accordance with the statement R. Phinehas made in the name of Raba. For R. Phinehas stated in the name of Raba: Any woman that utters a vow does so on condition that her husband will approve of it.[63]

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(1) To one of the sisters-in-law; since such an action is not forbidden.
(2) v. Glos. i.e., perfect marriage.
(3) The prohibition 'as sister of a zekukah' would consequently be removed and both levirs could properly marry the respective sisters-in-law.
(4) The ma'amar.
(5) V. supra p. 181, n. 17.
(6) v. p. 181, n. 17.
(7) V. supra p. 181, n. 17, and supra n. 6. Why, then, was levirate marriage with the two sisters forbidden!
(8) One addressed to a sister-in-law in a case where levirate marriage with her was permissible at the time.
(9) When two sisters were subject to the levirate marriage before the ma'amar had been addressed.
(10) V. note 11.
(11) The previous statement of R. Eleazar and R. Abin etc.
(12) The sister-in-law who, like her sister (the other sister-in-law), is subject to the levirate bond.
(13) The ma'amar.
(14) So that she cannot cause the prohibition of the other to whom the ma'amar had been addressed.
(15) Which necessitates her performing the halizah if she wishes to marry a stranger before he levir had properly married her sister.
(16) V. supra p, 182, n. 1.
(17) V. supra p. 182, n. 3.
(18) v. supra p. 182, n. 4.
(19) Cf. supra p. 181, n. 17.
(20) Consequently it must be concluded that a ma'amar still leaves a partial bond, and that before the other sister had performed the halizah the first is forbidden as the sister of one's zekukah.
(21) Which shews that no halizah at all is required!
(22) For both levirate marriage and halizah, as in the case of our Mishnah where the ma'amar was addressed to one sister before the death of the husband of the other had subjected that other also to the same levir.
(23) To the ma'amar which, in such circumstances. completely keeps out the other when she also, through her husband's subsequent death, comes under the obligation.
(24) As in the Mishnah, supra 26a, where both widows were equally subject to the levirs at the time the ma'amar had been addressed, and none was eligible for both the levirate marriage and the halizah.
(25) I.e., for the ma'amar which, in such a case, does not keep out the sister.
(26) As a husband who is the heir of his wife.
(27) If he is a priest who may defile himself by attending on the dead bodies of certain relatives of whom a wife is one.
(28) A husband may annul the vows of his wife. v. Num. XXX. 7ff
(29) Lit.. 'now'.
(30) Lit., 'a betrothed in the world', i.e., ordinary betrothal which is pentateuchally valid.
(31) But not yet married.
(32) A mourner prior to the burial of certain relatives is called onan (v. Glos.) and is subject to a number of restrictions. If his betrothed died he may, unlike one whose married wife died, partake of holy things.
(33) She also is allowed to partake of holy things.
(34) During a festival when not only priests but also Israelites and women are forbidden to attend on the corpses of those who are not their near relatives. (V. R.H. 16b). Others render. 'nor need she defile etc'. Cf. Tosaf. a.l., s.v. **לא**
(35) v. Glos.,in a case where such a document was given to her at the betrothal, prior to the marriage (v. Keth. 89b).
(36) A ma'amar is only a Rabbinical enactment. If Pentateuchal betrothal has not the force of a marriage in respect of the laws mentioned, how much less the Rabbinical ma'amar!
(37) The ma'amar.
(38) She being regarded as his wife even if connubial intercourse took place against her will, and should he wish to part with her, a Get will suffice without additional halizah.
(39) Deut. XXV, 5-
(40) Where there is, in addition to his claim as Ievir, the force of the ma'amar.
(41) So Bah. a.l.
(42) **שומרת יבם** V. Glos. s.v. shomereth yabam.

(43) Any one of the levirs.
(44) In the latter case neither of the levirs is entitled to annul her vows.
(45) Ned. 74a.
(46) Hence a levir is never entitled to the privilege of a husband in respect of the annulment of vows.
(47) Since it is not known to which of them she is really subject, the bond between them and the widow is necessarily a weak one.
(48) Only both together. but not one only, should be allowed to annul her vows.
(49) Cur. edd. enclose in parentheses 'b. Ahabah'.
(50) Ned. loc. cit.
(51) The ma'amar.
(52) But not by her husband alone. And, since the levir alone may here annul, a ma'amar must have the force of marriage.
(53) The levir and her father, as in the case of a betrothal. Hence no proof may be adduced from here as to whether a ma'amar has the force of a marriage or of a betrothal.
(54) Not having the force even of a betrothal.
(55) Cf. supra note 8.
(56) In the case of a yebamah to whom a ma'amar had been addressed.
(57) If he did not wish to marry her.
(58) Who holds that the father and husband jointly annul the vows of the widow to whom a ma'amar has been addressed.
(59) The reading is **יפר** (sing.). not **יפרו** (plur.). How, then, could he state that two jointly annul her vows!
(60) The levir. So Bah a.l. Cur. edd., 'she'.
(61) Either before he addressed the ma'amar (according to R. Nahman b. Isaac) or after the ,na'amar (according to R. Ammi).
(62) As he refused either to marry, or to submit to her halizah.
(63) Since she is maintained out of his estate he is regarded by her as husband and her vows are subject to his will. Hence he may also annul them. With the whole passage cf. Ned. 74a. Sonc. ed. pp. 233ff, q.v. notes.

Talmud - Mas. Yevamoth 30a

MISHNAH.IF TWO OF THREE BROTHERS WERE MARRIED TO TWO SISTERS AND THE THIRD WAS MARRIED TO A STRANGER, AND ONE OF THE SISTERS' HUSBANDS DIED AND THE BROTHER WHO WAS MARRIED TO THE STRANGER MARRIED HIS WIFE AND THEN DIED HIMSELF, THE FIRST[1] IS EXEMPT[2] AS BEING A WIFE'S SISTER, AND THE SECOND IS EXEMPT[2] AS BEING HER RIVAL. IF, HOWEVER, HE HAD ONLY ADDRESSED TO HER[3] A MA'AMAR AND DIED, THE STRANGER IS TO PERFORM THE HALIZAH BUT MAY NOT CONTRACT THE LEVIRATE MARRIAGE.[4]

GEMARA. The reason[5] is because he had addressed to her[3] a ma'amar;[6] had he, however, not addressed a ma'amar to her,[3] the stranger also would have had to be taken in levirate marriage.[7] This proves, said R. Nahman, that no levirate bond exists[8] even in the case of one brother.[9]

MISHNAH. IF TWO OF THREE BROTHERS WERE MARRIED TO TWO SISTERS AND THE THIRD WAS MARRIED TO A STRANGER, AND WHEN THE BROTHER WHO WAS MARRIED TO THE STRANGER DIED, ONE OF THE SISTERS' HUSBANDS MARRIED HIS WIFE AND THEN DIED HIMSELF, THE FIRST[10] IS EXEMPT[11] IN THAT SHE IS HIS WIFE'S SISTER, AND THE OTHER[12] IS EXEMPT AS HER RIVAL. IF, HOWEVER, HE HAD ONLY ADDRESSED TO HER[13] A MA'AMAR AND DIED, THE STRANGER MUST PERFORM HALIZAH[14] BUT MAY NOT BE TAKEN IN LEVIRATE MARRIAGE.

GEMARA. What need was there again [for the law in this Mishnah]? Surely it is the same:[15] If there,[16] where the wife's sister is only a rival to the stranger[17] it has been said that the stranger is forbidden,[18] how much more so[19] here where the stranger is the rival to a wife's sister![20] -The Tanna

had taught first this,[21] while the other[22] was regarded by him as a permissible case, and so he permitted her.[23] Later, however, he came to regard it as a case that was to be forbidden;[24] and, as it was dear to him,[25] he placed it first; while the other Mishnah[26] was allowed to stand in its original form.[27]

MISHNAH. IF TWO OF THREE BROTHERS WERE MARRIED TO TWO SISTERS AND THE THIRD WAS MARRIED TO A STRANGER, AND WHEN ONE OF THE SISTERS' HUSBANDS DIED THE BROTHER WHO WAS MARRIED TO THE STRANGER MARRIED HIS WIFE, AND THEN THE WIFE OF THE SECOND BROTHER DIED, AND AFTERWARDS THE BROTHER WHO WAS MARRIED TO THE STRANGER DIED ALSO, BEHOLD,SHE[28] IS FORBIDDEN TO HIM[29] FOR ALL TIME, SINCE SHE WAS FORBIDDEN TO HIM FOR ONE MOMENT.[30]

GEMARA. Rab Judah said in the name of Rab: Any yebamah to whom the instruction Her husband's brother shall go in unto her[31] cannot be applied at the time she becomes subject to the levirate marriage, is indeed like the wife of a brother who has children, and is consequently forbidden.[32] What new thing does he[33] teach us? Surely we have learned, SHE IS FORBIDDEN TO HIM FOR ALL TIME SINCE SHE WAS FORBIDDEN TO HIM FOR ONE MOMENT! — It might have been assumed that this[34] applies only to the case where she[35] was not suitable for him[36] at all during the period of her first subjection;[37] but that where she[38] was at all suitable for him[39] during her first subjection[40] it might have been assumed that she[38] should be permitted, hence, he[41] taught us [that It was not so].

But we have learned this also: If two brothers were married to two sisters, and one of the brothers died and afterwards the wife of the second brother died, behold, she[42] is forbidden to him for all time, since she was forbidden to him for one moment![43] — It might have been assumed [that this law is applicable] only there because she was completely forced out of that house;[44] but here, where she was not entirely forced out of that house,[45] it might have been said that as she is suitable for the brother who married the stranger she is also[46] suitable for the other brother,[47] hence he[41] taught us [that she was not].

MISHNAH. IF TWO OF THREE BROTHERS WERE MARRIED TO TWO SISTERS AND THE THIRD WAS MARRIED TO A STRANGER, AND ONE OF THE SISTERS' HUSBANDS DIVORCED HIS WIFE, AND WHEN THE BROTHER WHO WAS MARRIED TO THE STRANGER DIED HE WHO HAD DIVORCED HIS WIFE MARRIED HER AND THEN DIED HIMSELF- THIS IS A CASE CONCERNING WHICH IT WAS SAID: AND IF ANY OF-THESE DIED OR WERE DIVORCED. THEIR RIVALS ARE PERMITTED.[48] GEMARA. The reason[49] is because he[50] had divorced [his wife first] and [his brother][51] died afterwards,[52] but [if the other][51] had died [first] and he[50] divorced [his wife] afterwards,[53] she[54] is forbidden.[55] Said R. Ashi: This proves that a levirate bond exists,[56] even where two brothers are involved.[57]

But as to R. Ashi's [inference] does not that of R. Nahman[58] present a difficulty?-R. Ashi can answer you: The same law, that the stranger is to perform the halizah and that she is not to be taken in levirate marriage.is applicable[59] even to the case where no ma' amar had been addressed; and the only reason why ma'amar was at all mentioned[60] was in order to exclude the ruling of Beth Shammai. Since they maintain that a ma'amar constitutes

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(1) Widow, who is now also the widow of the second deceased brother.

(2) From levirate marriage and halizah with the surviving brother.

(3) The first widow.

(4) With the surviving brother.

(5) Why the stranger is not to be taken in levirate marriage.

(6) Since our Mishnah makes the stranger's exemption dependent on the ma'amar, whereby she became the first widow's rival.
(7) Despite the fact that the first widow is also subjected to the levir for the levirate marriage.
(8) Between the widow of the deceased brother and the levirs.
(9) As here, where only one brother could possibly marry her, she being forbidden to the other as his wife's sister. Even in such a case the mere subjection of the widow to the levir (to be taken in levirate marriage or to perform the halizah) does not constitute a levirate bond to attach her to him as if she had been his actual wife.
(10) Wife of the second deceased brother.
(11) From marriage and halizah with the surviving brother.
(12) The stranger. whom the second deceased brother had taken in levirate marriage.
(13) To the stranger.
(14) With the surviving brother.
(15) As the law implied in the previous Mishnah.
(16) In the previous Mishnah.
(17) Who was the first and proper wife.
(18) To be taken in levirate marriage.
(19) Should the stranger be forbidden to be taken in levirate marriage.
(20) Who was the first and proper wife.
(21) The second Mishnah.
(22) Mishnah, which is now the first.
(23) l.e., allowed the stranger to be taken in levirate marriage by the surviving brother, because the prohibition that arose from her husband's 'wife's sister' was imposed upon her later, after she had been lawfully married to her husband and after a period during which, had he died without issue, she would have been permitted to be taken in levirate marriage by his brother. It was not the Tanna's Intention, therefore, to include this case in a Mishnah at all.
(24) Since her rival was, after all, the surviving brother's wife's sister.
(25) Owing to its novelty.
(26) The second Mishnah.
(27) Lit., 'did not move from its place'. though in the light of the newly added Mishnah it had obviously become superfluous.
(28) The wife of the first brother.
(29) The surviving brother.
(30) Lit., 'hour'. When her husband died she was forbidden to his brother who was married to her sister as his 'wife's sister'. This prohibition remains permanently in force and is not removed even when her sister subsequently dies and she is no longer the levir's 'wife's sister'.
(31) Deut. XXV, 5'
(32) Even later when the cause of the prohibition is removed. Cf. our Mishnah.
(33) Rab.
(34) The law in our Mishnah.
(35) The widow of the first brother.
(36) The brother who was married to the second sister.
(37) I.e., if her sister, the wife of the second brother, did not die until after she had married the brother whose wife was the stranger.
(38) The widow of the first brother.
(39) The brother who was married to the second sister.
(40) If her sister died before she (the first widow) had married the other brother.
(41) Rah.
(42) The widow of the first brother.
(43) Infra 32a.
(44) When her husband died and she was not permitted to marry his only surviving brother whose wife's sister she was, her connection with her husband's family had been completely severed, she remaining free to marry any stranger.
(45) Since she was still under the obligation of marrying the third brother who was married to the stranger.
(46) Thanks to the levirate bond with a member of her deceased husband's family.

(47) Who was the husband of her sister, now that the latter is dead.
(48) The stranger who was taken in levirate marriage was never the rival of the sister of the wife of the surviving brother, since the sister had been divorced before the levirate marriage with the stranger had taken place.
(49) Why the stranger who was taken in levirate marriage by one of the husbands of the sisters is permitted to the last surviving brother.
(50) The brother who divorced his wife.
(51) The first husband of the stranger.
(52) So that the stranger was not even for one moment the rival of one of the sisters, either through marriage or through the levirate bond of subjection.
(53) In which case the stranger came for a certain period under the levirate bond in respect of the husbands of the two sisters.
(54) The stranger.
(55) To marry the last surviving brother. Since she was, for a period at least, the rival of one of the sisters, through the levirate bond, she may never be married to the husband of that sister's sister (being forbidden to him as the rival of his wife's sister) even if the sister whose rival she was had been subsequently divorced and ceased to be her rival.
(56) Between the widow of a deceased childless brother and the levirs.
(57) Since, in the case under discussion, the widow whose husband died before one of the sisters had been divorced was subject to two levirs and is, nevertheless, regarded as the rival of the divorced sister, in consequence of which she is forbidden to the last surviving brother.
(58) From a Mishnah supra, that no levirate bond exists even in the case of one brother.
(59) Contrary to R. Nahman's inference.
(60) In that Mishnah.

Talmud - Mas. Yevamoth 30b

a perfect kinyan,[1] he taught us[2] that [the halachah is] not in accordance with Beth Shammai.

But then as to R. Nahman's [inference] does not that of R. Ashi present a difficulty? And should you reply that the same law, that her rival is permitted,[3] is also applicable to the case where he[4] died first and the other brother[5] divorced his wife afterwards,[6] what [it could be objected] would THIS IS exclude? It might exclude the case where he[5] married her[7] first and then divorced his wife.[8] This might be a satisfactory explanation if he[9] holds the view of R. Jeremiah who said, 'Break it up: He who taught the one did not teach the other,'[10] [for, if this is so]. one Tanna may hold the opinion that it is death[11] that causes the subjection[12] while the other might be of the opinion that it is the original marriage[11] that causes the subjection,[13] and THIS IS would thus exclude the case where he first married[7] and then divorced;[14] if, however, he is of the same opinion as Raba who said, 'Both statements may in fact represent the views of one Tanna, it being a case of "this and there is no need to state that"',[15] what does THIS IS exclude?[16] — He[9] has no alternative but to adopt the view of R. Jeremiah.

And according to Raba,[17] the explanation would be satisfactory if he held the View of R. Ashi,[18] for then, THIS IS would exclude the case of one who died without first divorcing his wife;[19] if, however, he holds the same view as R. Nahman,[20] what would THIS IS exclude?[21] -He[22] has no alternative but to accept the view of R. Ashi. MISHNAH. [IF IN THE CASE OF ANY ONE OF] ALL THESE[23] THE BETROTHAL OR Dlvorce[24] WAS IN DOUBT, BEHOLD, THESE RIVALS MUST PERFORM THE HALIZAH[25] BUT MAY NOT BE TAKEN IN LEVIRATE MARRIAGE.[26] WHAT IS MEANT BY DOUBTFUL BETROTHAL? IF WHEN HE THREW TO HER A TOKEN OF BETROTHAL[27] IT WAS UNCERTAIN WHETHER IT FELL NEARER TO HIM[28] OR NEARER TO HER,[29] THIS IS A CASE OF DOUBTFUL BETROTHAL. DOUBTFUL DIVORCE? IF HE WROTE A LETTER OF DIVORCE IN HIS OWN HANDWRITING AND IT BORE NO SIGNATURES OF WITNESSES,[30] OR[31] IF IT BORE SIGNATURES BUT NO DATE, OR IF IT BORE A DATE BUT THE SIGNATURE OF ONLY ONE WITNESS, THIS IS A CASE OF

DOUBTFUL DIVORCE.

GEMARA. In the case of divorce, however, It is not stated IT WAS UNCERTAIN WHETHER IT FELL NEARER TO HIM OR NEARER TO HER; what is the reason?[32] -Rabbah replied: This woman[33] is in a state of permissibility to all men;[34] would you forbid her [marriage] because of a doubt?[35] You must not forbid her because of a doubt![36] Said Abaye to him: If so, let us also in the matter of betrothal say: This woman[37] is in a state of permissibility to the levir;[38] would you forbid her[39] because of a doubt? You must not forbid her because of a doubt! — There[40] [it leads] to a restriction.[41] But it is a restriction which may lead to a relaxation! For, sometimes, he would betroth her sister[42] by betrothal that was not uncertain, or it might occur that another man would betroth her also by a betrothal that was not uncertain and, as the Master has forbidden her rival to be taken in levirate marriage. it would be assumed that the betrothal of the first[43] was valid and that that of the latter was not![44]

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(1) And not even halizah is required.

(2) By stating that halizah must be performed.

(3) To the third surviving brother.

(4) The first husband of the stranger.

(5) The brother who divorced his wife.

(6) The levirate bond with the stranger, prior to the divorce of his wife, not constituting the one woman a rival of the other.

(7) The stranger.

(8) In such a case, since she was actually married, the stranger is regarded as the rival of the third brother's wife's sister, though at the time she becomes subject to him she and his wife's sister have ceased to be rivals.

(9) R. Nahman.

(10) Supra 13a.

(11) Of the childless brother.

(12) Of the widow to the levir.

(13) v. previous note and supra p. 65, n. 7.

(14) His wife.

(15) V. supra p. 65, n. 14 and cf. p. 65, n. 12, so that even if marriage of the stranger took place prior to the divorce of the other, the former, after divorce had taken place, is permitted, even according to the Tanna of our Mishnah.

(16) When the levirate marriage is permitted in both these cases.

(17) Who holds that the subjection to the levirate marriage is caused by the death of the childless brother, and that the rival is permitted to the surviving levir even if the deceased had married her prior to his divorcing his wife, who is the sister of the surviving levir's wife.

(18) That a levirate bond exists.

(19) And without marrying the stranger who would, nevertheless, be forbidden to the surviving third brother on account of the levirate bond.

(20) That no levirate bond exists.

(21) In view of the fact that levirate marriage is permitted in all cases except one, where the second brother took the stranger in levirate marriage and did not divorce his wife, a case which was explicitly stated and required no expression like THIS IS to exclude it.

(22) Raba.

(23) Fifteen relatives enumerated in the first Mishnah of the Tractate, supra 2af.

(24) On the part of the deceased childless brother.

(25) Since it is possible that the betrothal was, or that the divorce was not valid, and they are consequently the rivals of a forbidden relative.

(26) It being possible that the betrothal was not, or that the divorce was valid and they are, therefore, not rivals of a forbidden relative.

(27) While they were both standing in a public domain and a distance of exactly eight cubits intervened between them.

(28) I.e., within the four cubits nearest to him.

(29) Within her four cubits. The person within whose four cubits the object rested is deemed to be the legal possessor.
(30) A document in one's own handwriting. even though it is not signed by witnesses, is within certain conditions and limitations deemed to be valid. V. B.B. 175b.
(31) Where it is not in his own handwriting.
(32) Why should not even halizah on the part of the rival, be required in such a case?
(33) The rival.
(34) Lit., 'to the market', i.e., the public. The rival of a forbidden relative, not being subject to levirate marriage or halizah. is permitted to marry any one she desires.
(35) The possibility that the forbidden relative's divorce was valid.
(36) The doubt here being whether the forbidden relative was divorced at all. In the three cases of divorce mentioned in our Mishnah, however, the prohibition Is not due to doubtful divorce but to a defect or an irregularity in the document itself.
(37) The rival.
(38) Had her husband died childless before he married the forbidden relative.
(39) To be taken in levirate marriage.
(40) The case of doubtful betrothal.
(41) The prohibition to marry the levir.
(42) The sister of the one whose betrothal was doubtful.
(43) Since her rival is forbidden.
(44) Because, in the first case, he betrothed his wife's sister; and, in the second, he betrothed a married woman. In the latter case, the betrothal being regarded as invalid, the woman might illegally marry another man. In the former case, should he die without issue, his maternal brother might illegally marry her, believing her never to have been the wife of his brother.

Talmud - Mas. Yevamoth 31a

— Since she is required to perform halizah it is sufficiently known that it[1] is a mere restriction.[2] If so, let him, in the case of divorce also,[3] state it,[4] and require her to perform halizah, and it will be sufficiently known that it[5] Was a mere restriction![6] — Were you to say that she was to perform halizah it might also be assumed that she may be taken in levirate marriage.[7] But here also,[8] were you to say that she is to perform halizah, she might also be taken in levirate marriage![7] -Well, let her be taken in levirate marriage and it will not matter at all since thereby she only retains her former status.[9]

Abaye raised the following objection against him:[10] If the house collapsed upon him[11] and upon his brother's daughter.[12] and it is not known which of them had died first, her rival must perform halizah[13] but may not contract the levirate marriage.[14] But why? Here also it may be said, 'This woman finds herself in the status of permissibility to all,[15] would you forbid her [marriage on the basis] of a doubt? You must not forbid her [on the basis] of a doubt'! And should you suggest that here also the prohibition is due to a restriction, [it may be retorted that] it is a restriction which may result in a relaxation, for should you say that she is to perform the halizah she might also be taken in levirate marriage! — In respect of divorce which is of frequent occurrence the Rabbis enacted a preventive measure;[16] in respect of the collapse of a house which is not of frequent occurrence the Rabbis did not enact any preventive measure. Or else:[17] In the case of divorce, where the forbidden relative is demonstrably alive, were her rival to be required to perform halizah, it might have been thought that the Rabbis[18] had ascertained that the letter of divorce was a valid document,[19] and the rival might, therefore, be taken in levirate marriage. In the case of a house that has collapsed. however, could the Rabbis[18] have ascertained [who was first killed] in the ruin![20]

Have we not learned a similar law in the case of divorce? Surely we learned: If she[21] stood in a public domain, and he[22] threw it[23] to her, she is divorced if it fell nearer to her; but if nearer to him she is not divorced. If it was equidistant,[24] she is divorced and not divorced. And when it was asked,

'What is the practical effect of this',[25] [the reply was] that if he was a priest she is forbidden to him;[26] and if she is a forbidden relative, her rival must perform the halizah.[27] We do not say, however, that were you to rule that she must perform halizah she might also be taken in levirate marriage![28] -Concerning this statement, surely, it was said: Both Rabbah and R. Joseph maintain that here we are dealing with two groups of witnesses, one of which declare that it[23] was nearer to her and the other declares that it[23] was nearer to him, which creates a doubt involving a Pentateuchal [prohibition] —[29] Our Mishnah, however, speaks of one group.[30] where the doubt involved is only Rabbinical.[31]

Whence is it proved that our Mishnah speaks of one group? — On analogy with betrothal:[32] As in betrothal only one group is involved so also in divorce[33] one group only could be involved. Whence is it known that in betrothal itself only one group is involved? Is it not possible that it involves two groups of witnesses! — If two groups of witnesses had been involved, she would have been allowed to contract the levirate marriage, and no wrong would have been done.[34] Witnesses stand and declare that it[35] was nearer to her,[36] and you say that she may be taken in levirate marriage and no wrong will be done![37] Furthermore, even where two groups of witnesses are involved the doubt is only Rabbinical, since it might be said 'Put one pair against the other and let the woman retain her original status'![38] This indeed is similar to [the incident with] the estate of a certain lunatic. For a certain lunatic once sold some property. and a pair of witnesses came and declared that he had effected the sale while in a sound state of mind, and another pair came and declared that the sale was effected while he was in a state of lunacy. And R. Ashi said: Put two against two

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(1) The prohibition to take her in levirate marriage.

(2) And is not due to the fact that the betrothal of the forbidden relative was valid.

(3) As in the case of betrothal.

(4) The case of uncertainty as to whether the letter of divorce rested nearer to the husband or nearer to the wife (v. our Mishnah).

(5) The halizah.

(6) Seeing that levirate marriage was forbidden to her.

(7) And by marrying the rival of a forbidden relative one might become subject to the penalty of kareth.

(8) In the case of doubtful betrothal.

(9) Of being permitted to marry the levir.

(10) Rabbah.

(11) Who was childless.

(12) To whom he had been married.

(13) With the daughter's father, the brother of the deceased. Though the dead woman was his forbidden relative, since it is possible that she had been killed before the man, her rival becomes subject to the obligation of performing halizah.

(14) Infra 67b. Since it is also possible that the man was killed first and the rival remained forbidden to the levir as the rival of his daughter.

(15) v. supra p. 192, n. 12.

(16) That wherever the divorce is doubtful the rival must not perform halizah in order that this performance might not lead also to levirate marriage.

(17) It may be replied.

(18) The scholars or experts who dealt with the case.

(19) And the forbidden relative was no more the wife of the deceased.

(20) It would be obvious, therefore, that the requirement of halizah was a mere restriction.

(21) The wife.

(22) The husband.

(23) The letter of divorce.

(24) Lit., 'half on half'.

(25) The statement that she is divorced and not divorced.

(26) A priest must not marry or continue to live with a divorced woman.

(27) Git. 78a.
(28) Which shews that even in the case of divorce no preventive measure has been enacted.
(29) As two witnesses declare that the letter of divorce was nearer to the woman, and as evidence of two witnesses is Pentateuchally valid, the possibility that her rival is no more the rival of a forbidden relative must be taken into consideration, and she cannot be permitted to marry a stranger without previous halizah with the levir.
(30) One witness of which is contradicting the other.
(31) Hence, in the matter of betrothal, where the rival enjoyed the status of permissibility to the levir, the law that halizah is required in the case of such contradictory evidence could well be applied, since she cannot be deprived of her status by the evidence of the single witness who states that the token of betrothal was nearer to her. In the case of divorce, however, where the rival has the status of permissibility to marry any stranger, the law that halizah is required in the case of contradictory evidence of two single witnesses could not be applied. since the evidence of one witness is not sufficient to deprive her of that right. particularly as it can also be claimed that were she required to perform halizah she might be taken in levirate marriage also.
(32) Divorce and betrothal being mentioned side by side in this Mishnah.
(33) Had it been included in our Mishnah.
(34) Since the evidence of one pair would have been sufficient to confirm the rival in her status of permissibility to the levir. Hence, as levirate marriage was forbidden it cannot be a case of two groups of witnesses.
(35) The token of betrothal.
(36) Thus presenting a Pentateuchal doubt (cf. supra p. 195. n. 9).
(37) This, surely. might result in the breach of a Pentateuchal law!
(38) Why. then, even in the case of divorce itself, when the two groups of witnesses cancel each other, should the rival, who was hitherto in a state of permissibility to marry anyone. be required to perform halizah!

Talmud - Mas. Yevamoth 31b

and let the land remain in the possession of the lunatic! — Rather, said Abaye. Its friend telleth concerning it:[1] that which was taught in connection with betrothal[2] is also to be applied to divorce,[3] and what was taught in connection with divorce[4] is also to be applied to betrothal.

Said Raba to him: If its friend telleth concerning it' what was the object of stating THIS IS?[5] -Rather, said Raba, whatever is applicable to betrothal[6] is also to be applied to divorce, but certain points are applicable to divorce,[7] which cannot be applied to betrothal. And THIS IS[8] which was mentioned in the case of divorce is not to be taken literally. as THIS IS was used in connection with betrothal[9] only because it was also used in connection with divorce.

What was THIS IS mentioned in connection with betrothal meant to exclude? — To exclude the question of date which is inapplicable to betrothal.[10] And wherefore was no date ordained to be entered in [documents of] betrothal? This[11] may well be satisfactorily explained according to him who holds [that the date is required In a letter of divorce][12] on account of the usufruct ,[13] since a betrothed woman has no [need to reclaim] usufruct —[14] According to him, however, who holds [that it[15] was ordained] on account of one's sister's daughter.[16] the insertion of a date should have been ordained [in the case of betrothal also]![17] — Since some men betroth with money[18] and others betroth with a document the Rabbis did not ordain the inclusion of a date.

Said R. Aha son of R. Joseph to R. Ashi: What about the case of a slave of whom some acquire possession by means of money and others by means of a deed, yet the inclusion of a date has nevertheless been ordained by the Rabbis! — In that case[19] acquisition is generally by means of a deed; here,[20] it is generally by means of money. If you prefer I might say: Because it is impossible.[21] For how should one proceed? Were it[22] to be left with her, she might erase it.[23] Were it[22] to be left with him, it might happen that the betrothed might be his sister's daughter and he would shield her.[24] Were it to be left with the witnesses-well, if they remember[25] they could come and tender their evidence;[26] and if they do not,[27] they may sometimes consult the document and then come and

tender evidence, while the All Merciful said, 'out of their mouth'[28] but not out of their writing. If so, let the same argument[29] be applied to divorce also! — There,[30] it[31] comes to save her,[32] here,[33] it[31] comes to condemn her.[34]

MISHNAH. IN THE CASE WHERE THREE BROTHERS WERE MARRIED TO THREE WOMEN WHO WERE STRANGERS [TO ONE ANOTHER]. AND ONE OF THEM HAVING DIED[35] THE SECOND BROTHER ADDRESSED TO HER[36] A MA'AMAR[37] AND DIED, BEHOLD, THESE[38] MUST PERFORM HALIZAH[39] BUT MAY NOT BE TAKEN IN LEVIRATE MARRIAGE; FOR IT IS SAID. AND ONE OF THEM DIED [ETC.] HER HUSBAND'S BROTHER SHALL GO IN UNTO HER.[40] ONLY SHE WHO IS BOUND TO ONE LEVIR[41] BUT NOT SHE WHO IS BOUND TO TWO LEVIRS.[42] R. SIMEON SAID: HE MAY TAKE IN LEVIRATE MARRIAGE WHICHEVER OF THESE HE WISHES[43] AND THEN PARTICIPATE IN THE HALIZAH WITH THE OTHER.[44]

GEMARA. If, however, the levirate bond with two levirs[45] is Pentateuchal,[46] even halizah should not be required! — But it[47] is only Rabbinical,[48] a preventive measure having been enacted against the possible assumption that two sisters-in-law coming from the same house[49] may both be taken in levirate marriage. Then let one be taken in levirate marriage and the other be required to perform halizah! — A preventive measure has been enacted against the possible assumption that one house was partially built

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(1) Job XXXVI, 33.רִיעוֹ, (E.V., the noise thereof) is here rendered its friend. The text is taken to imply that passages in close proximity are to be compared to one another and what is applicable to one is to be applied to the other also.

(2) The case of uncertainty as to whether the token of betrothal fell nearer to the man or nearer to the woman.

(3) When a similar doubt has arisen with reference to a letter of divorce that had been thrown in, similar circumstances.

(4) IF A MAN WROTE IN HIS OWN HANDWRITING etc. (V. our Mishnah).

(5) Which implies some exclusion.

(6) UNCERTAIN WHETHER IT WAS NEARER TO HIM etc. (V. our Mishnah).

(7) v. infra for further explanation.

(8) Which implies that only that which was specified and no other doubt is applicable, v. supra p. 196, n. 10.

(9) Where THIS IS excludes the question of date, which is not applicable to it but to divorce only.

(10) The date does not matter in a document whereby betrothal is effected. V. infra.

(11) Why no date was required.

(12) v. Git. 26b.

(13) Which the wife is entitled to reclaim from her husband, in respect of her estate, from the date of her letter of divorce, though the document itself may not have been delivered to her until a much later date. v. Git. 17a.

(14) The man who betrothed her having no right whatsoever to the usufruct of her estate until actual marriage has taken place. Cf. Keth. 51a.

(15) The insertion of a date 10 a letter of divorce.

(16) Who was his wife and had committed adultery. Her uncle, in his desire to protect her, might supply her with an undated letter of divorce which would enable her to escape her due punishment by pleading that the offence had been committed after she had been divorced.

(17) Since a betrothed woman also possessing an undated document of betrothal could protect herself against punishment for adultery. by pleading that the offence had been committed prior to the betrothal.

(18) Where a date is, of course, inapplicable.

(19) A slave.

(20) Betrothal.

(21) Usefully to insert a date in a deed of betrothal.

(22) The deed.

(23) The date. V. supra p. 197, n. 12 and cf. p.197,n.11.

(24) By erasing the date. V. previous note.

(25) The date of the betrothal.

(26) Of what use, then, is the deed?
(27) Remember the date.
(28) Cf. Deut. XVII, 6, At the mouth of two witnesses etc., which is taken to imply that evidence must be given from memory (the witnesses' own mouth) and not from information obtained from a written document. V. Git. 71a.
(29) Used in respect of betrothal, that there is no safe or proper place to keep the deed.
(30) In the case of divorce.
(31) The document.
(32) Unless she produced it, were she ever to be accused of adultery. she would certainly be condemned since she was known as a married woman. The letter of divorce being her sole protection, it being the sole proof that her married state had ended, she should in her own interest carefully preserve it intact for fear that should she tamper with it, the deed may be declared invalid. (Cf. Tosaf. s.v. לְהַצָּלָה, a.l.).
(33) The case of betrothal.
(34) The document is proof that she had passed out of her unmarried state and that henceforward she is forbidden to all men except her betrothed. She (or any friend of hers) is not anxious to preserve such a document; and, should an accusation of adultery ever be brought against her, she could either destroy it or erase the date and claim her previously confirmed status of an unmarried woman. Hence no date was ordained to be included.
(35) Without issue.
(36) The widow of the deceased brother.
(37) v. Glos.
(38) The two widows.
(39) With the surviving brother.
(40) Deut. xxv, 5.
(41) Is to be married by him.
(42) The first to whom she was bound by the levirate tie and the second to whom she is bound by the ma'amar. A ma'amar of a levir, unlike his levirate marriage. cannot sever the bond between the widow and her deceased husband-the levirate tie.
(43) v. supra 19a. If the ma'amar has the validity of marriage, the surviving levir is marrying his second brother's wife, and if a ma'amar is invalid he is marrying either the wife of his first brother or the wife of the second.
(44) The levirate marriage of the one cannot exempt the other from the halizah, since it is possible that a ma'amar is invalid and the two widows are consequently of different brothers. He may not marry the two, since a ma'amar may be valid and he would thus be marrying two widows of the same brother.
(45) According to the Rabbis of our Mishnah.
(46) Since they forbade the levirate marriage in such a case.
(47) The levirate bond with two levirs.
(48) Pentateuchally a ma'amar is not binding. and the two widows consequently are of two different brothers and may both be married.
(49) l.e., widows of the same brother.

and partially pulled down.[1] Well, let the assumption be made![2] — Had he first contracted the levirate marriage and then participated in the halizah, no objection could be raised —[3] The preventive measure, however, has been enacted against the possibility of his participating in the halizah first and contracting the levirate marriage afterwards and thus placing himself under the prohibition of That doth not build up,[4] the All Merciful having said, 'Since he had not built[5] he must never again build'.[6]

Raba said: If he[7] gave a letter of divorce in respect of his ma'amar, her rival[8] is permitted;[9] but she herself is forbidden, because she might be mistaken for one who is the holder of a letter of divorce.[10] Others say that Raba said: If he[11] gave a letter of divorce in respect of his ma'amar even she herself becomes permitted.[12] What is the reason? — Because what he has done to her he has taken back.[13]

MISHNAH. IF TWO BROTHERS WERE MARRIED TO TWO SISTERS, AND ONE OF THE BROTHERS DIED, AND AFTERWARDS THE WIFE OF THE SECOND BROTHER DIED, BEHOLD, SHE[14] IS FORBIDDEN TO HIM[15] FOREVER, SINCE SHE WAS FORBIDDEN TO HIM FOR ONE MOMENT.[16] GEMARA. Is not this obvious? If there,[17] where she[18] was not entirely excluded from that house[19] it has been said, 'No',[20] how much more so here[21] where the widow is completely excluded from that house![22] -The Tanna had taught first this,[21] while the other[23] was regarded by him as a permissible case,[24] and so he permitted it —[25] Later, however, he came to regard it as a case that was to be forbidden;[26] and, as it was dear to him[27] he placed it first; while our Mishnah was allowed to remain in its original form.[28]

Our Rabbis learned: If he[29] had intercourse with her ,[30] he is guilty on account of both 'his brother's wife'[31] and 'his wife's sister';[32] so R. Jose. R. Simeon said: He is guilty on account of 'his brother's wife' on]y. But, surely. it was taught that R. Simeon said: He is guilty on account of 'his wife's sister' only! — This is no difficulty: There, it is a case where the surviving brother had married first[33] and the deceased had married afterwards;[34] here it is a case where the deceased had married first and the surviving brother afterwards.[35] As to R. Simeon, in the case where the deceased had married first and the surviving brother married afterwards, let her, since the prohibition of wife's sister cannot take effect, be permitted even to contract the levirate marriage! — R. Ashi replied: The prohibition of wife's sister remains suspended, and as soon as the prohibition of brother's wife is removed[36] the prohibition of wife's sister comes into force; hence It cannot be treated as non-existent.[37]

Does, then, R. Jose hold the view that one prohibition may be imposed upon another? Surely, it was taught: A man who committed a transgression which involves two death penalties[38] is punished by the severer one. R. Jose said: He is to be dealt with In accordance with that prohibition which came into force first.[39] And it was taught: How is one to understand R. Jose's statement that sentence must be in accordance with the prohibition which came into force first? [If the woman was first] his mother-in-law[40] and then became also a married women, he is to be sentenced for [an offence against] his mother-in-law; if she was first a married woman and then became his mother-in-law, he is to be sentenced for [an offence against] a married woman![41]

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(1) And the same procedure would unlawfully be followed in the case of two widows of the same brother.

(2) What objection can be raised against it?

(3) Lit., 'thus also', the assumption would not have mattered.

(4) אשר לא יבנה Deut. XXV, 9.

(5) I.e., refused to marry his brother's widow, but participated in her halizah.

(6) Must never marry the other widow. The imperfect יבנה may be rendered as a past, present or future.

(7) The second brother who had addressed a ma'amar to the first brother's widow. V. our Mishnah.

(8) I.e., his first wife.

(9) To the third surviving brother if the second also died without issue. The two widows are no longer rivals since the divorce has annulled the ma'amar, and they. being the widows of two different brothers, are now coming from two different houses.
(10) . That was given to her in respect of the levirate bond as well as of the ma'amar, v. infra 52b. Such a sister-in-law is forbidden under the prohibition of That doth not build up (v. supra and notes 3, 4 and 5)' since in her case the levirate bond also had been severed.
(11) V. note 6.
(12) And she is thus subject to the third brother as the widow of the first.
(13) The ma'amar by which he bound her he has himself annulled.
(14) The widow.
(15) The surviving brother.
(16) Prior to his wife's death and after the death of her husband, however short that period may have been, she was forbidden to him as his wife's sister.
(17) The third Mishnah, on fol. 30a supra, where there were three brothers involved, two of whom were married to two sisters and one to a stranger.
(18) The widow of the first brother.
(19) For though she had been forbidden to the second brother, who was married to her sister, she was permitted to the third and she remained in the family.
(20) I.e:, she has been forbidden to the second brother, after the death of the third brother who had married her, owing to the original prohibition which may have lasted one moment only. even after his wife (her sister) had died.
(21) Our Mishnah where only two brothers are involved.
(22) When her husband died there was not a single brother whom she was permitted to marry. What need, then, was there for our Mishnah?
(23) v. note 1.
(24) Since, there, she was not entirely forced out of the family.
(25) Hence he did not consider it necessary to enunciate It 10 a Mishnah.
(26) As, after all, in the case of the second brother, the levirate marriage was for a time forbidden to her.
(27) Owing to its novelty and its wider range.
(28) Lit. — 'did not move from its place'. Though in the presence of the other Mishnah it is indeed superfluous.
(29) The levir.
(30) The widow (v. our Mishnah), while his wife was still alive.
(31) Since she is exempt from the levirate marriage she is forbidden to the levir as any widow of a brother who has issue.
(32) So that if the offence was committed unwittingly he is liable to bring two sin.offerings.
(33) One of the sisters; and thus the prohibition of 'wife's sister' came into force first.
(34) The other sister. The added prohibition of 'brother's wife' could not take effect where one prohibition was already in force.
(35) Cf. previous two notes mutatis mutandis.
(36) פקע, lit., 'to split', hence removed'.
(37) Lit., 'it is not removed'. The levirate marriage is consequently forbidden.
(38) Intercourse, for instance, with a mother-in.law (which is punishable by burning) who was at the time a married woman (the penalty for which Is strangulation).
(39) Tosef. Sanh. XII, Sanh. 81a.
(40) Having been a widow or divorcee at the time of his marriage.
(41) Though the penalty in this case (strangulation) is lighter than that for an offence against a mother-in-law (burning). This proves that one prohibition may not be imposed upon another. Had it been otherwise, the severer penalty should have been inflicted though the prohibition which had caused it came into force later.

Talmud - Mas. Yevamoth 32b

— R. Abbahu replied: R. Jose admits[1] where the latter prohibition is of a wider range.[2]

This is satisfactory in the case where the surviving brother had married[3] first and the deceased had

married[4] afterwards, since the prohibition. having been extended in the case of the brothers, had also been extended in his own case.[5] What extension of the prohibition is there, however, where the deceased had married[3] first[6] and the surviving brother had married[4] afterwards?[7] And were you to reply: Because thereby[8] he is forbidden to marry all the sisters,[9] [it may be retorted that] such is only a comprehensive prohibition![10]

The fact is, said Raba, he is deemed[11] to have committed two offences,[12] but is liable for one only.[13]

Similarly when Rabin came[14] he stated in the name of R. Johanan: The offender is deemed[11] to have committed two offences, but he is only liable for one. What practical difference does thisl[5] make?- That he must be buried among confirmed sinners.[15]

This[16] is a question on which opinions differ. For It was stated: A common man[17] who performed some Temple service on the Sabbath, is. R. Hiyya said, liable for two offences.' Bar Kappara said: He is only liable for one.[18] R. Hiyya jumped up and took an oath. 'By the Temple',[19] [he exclaimed]. 'so have l heard from Rabbi:[20] two'! Bar Kappara jumped up and took an oath, 'By the Temple. thus have I heard from Rabbi:[20] one'! R. Hiyya began to argue the point thus: Work on the Sabbath was forbidden to all [Israelites,] and when it was permitted in the [Sanctuary], it was permitted to the priests, hence it was permitted to the priests only, but not to common men. Here, therefore, is involved the offence of Temple service by a common man, and that of the desecration of the Sabbath. Bar Kappara began to argue his point thus: Work on the Sabbath was forbidden to all [Israelites]. but when it was permitted in the Sanctuary, it was permitted [to all], hence only the offence of Temple service by a common man is here involved.

A priest having a blemish who performed [some Temple] services[21] while unclean is. R. Hiyya said, guilty of two offences. Bar Kappara said: He is guilty of one offence only. R. Hiyya jumped up and took an oath, 'By the Temple. thus have I heard from Rabbi: two'! Bar Kappara jumped up and took an oath, 'By the Temple, thus have I heard from Rabbi: one'! R. Hiyya began to reason: [Temple service during one's] uncleanness was forbidden to all; and when it was permitted in the Sanctuary,[22] it was permitted to priests who had no blemish — Hence it must have been permitted only to priests who had no blemish, but not to those who had. Consequently. both the offence of service being done by one with a blemish and that of service during one's uncleanness are here involved. Bar Kappara began to reason thus: [Temple service during] uncleanness was forbidden to all. When it was permitted at the Sanctuary.[23] was [universally] permitted.[24] Consequently. only one offence, that of service by one who had a blemish, is involved.

A common man who ate melikah[25] is. R. Hiyya said, guilty of two offences. Bar Kappara said: He is guilty only of one. R. Hiyya jumped up and took an oath, 'By the Temple. so l heard from Rabbi: two'! Bar Kappara jumped up and took an oath, 'By the Temple. so I heard from Rabbi: one'! R. Hiyya began to reason thus: Nebelah[26] was forbidden to all; and when it was permitted in the Sanctuary[27] it was permitted in the case of the priests. Hence it must be permitted to priests only and not to common men. Consequently. both the offence of consumption[28] by a common man, and that of melikah are here involved. Bar Kappara began to reason: Nebelah[26] was forbidden to all; and when it was permitted in the Sanctuary[27] it was [universally] permitted — Consequently. only the offence due to consumption[28] by a common man is here involved.

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(1) That one prohibition may be imposed upon another.

(2) 1I'אסור מוסיף' lit., 'a prohibition which adds', i.e., one which causes an object (or a person) to be forbidden to others to whom it was not previously forbidden. Hence he admits the imposition of the prohibition of 'brother's wife' upon that of 'wife's sister', even where the latter prohibition was already in force, because the former, unlike the latter, is applicable not only to him alone but to the other brothers also. In the case, however, of a married woman who became

his mother-in-law where the first prohibition was of a wider range (the woman being forbidden to all men except her husband) and the later one (forbidden to him only) of a restricted range, the second prohibition cannot be imposed upon the first. The reason why in the case of a mother-in-law who became a — married woman the sentence is to be that for an offence against a mother-in-law is not because the latter (which is of a wider range) cannot be imposed upon the former, but because wherever two penalties are to be inflicted the severer one (burning) supersedes the lighter one (strangulation).

(3) One of the sisters.

(4) The other sister.

(5) V. supra p. 202, n. 9.

(6) Bringing Into force the prohibition of brother's wife which is applicable to all brothers.

(7) Adding the prohibition of wife's sister which, being applicable to himself only, is of a more restricted range, and cannot consequently be imposed on that of brother's wife, which preceded it.

(8) By marrying the other sister.

(9) While before this marriage the widow only was forbidden.

(10) איסור כולל lit., 'a prohibition which includes'. The additional prohibition includes the widow in the same manner only as it does the other sisters but, unlike an issur mosif (the prohibition of the wider range, v. supra p. 202, n. 9), it does not place any additional restriction as far as the widow herself is concerned upon any other men.

(11) Lit., 'I bring upon him'.

(12) I.e., in this sense only is R. Jose's statement, that he is guilty of two offences (supra 32a), to be understood.

(13) Because R. Jose. in fact, does not admit the imposition of one prohibition upon another.

(14) From Palestine to Babylon. (13) The fact that he is theoretically guilty of two offences.

(15) The Beth din had at its disposal two burial places, and offenders who were executed or died were buried in the one or the other according to the degree of their respective offences. (V. Sanh. 46a). The reference here will consequently be to an intentional transgression.

(16) Whether one act involving two transgressions is deemed to be one offence or two offences.

(17) זר lit., 'a stranger', I.e., a non-priest.

(18) This is explained infra.

(19) Lit., 'the (Temple) service'.

(20) R. Judah the Prince, compiler of the Mishnah.

(21) Such as that connected with the rites of a congregational offering which may be performed in certain circumstances by priests (v. Yoma 6b). even when they are unclean, provided they are physically fit.

(22) Cf. previous note.

(23) v. p. 204, n' 7.

(24) Even to a priest afflicted with a blemish.

(25) מליקה (rt. מלק 'to pinch'), applied to the meat, of a fowl whose head was 'pinched off', in accordance with Lev. I, 15.

(26) נבלה 'a corpse'. 'carrion', applied also to animals that have not been ritually slaughtered and the consumption of which is forbidden.

(27) Melikah being permitted to the priests.

(28) Of sacrificial meat.

Talmud - Mas. Yevamoth 33a

What is the point at issue between them?[1] -R. Jose's view[2] with regard to a comprehensive prohibition.[3] R. Hiyya is of the opinion that in the case of a comprehensive prohibition R. Jose deems the transgressor guilty of two offences,[4] while Bar Kappara is of the opinion that he deems him guilty of one offence only.[5] But what comprehensive prohibition. is here involved? In the case of a common man[6] this[7] may well be understood, since at first[8] he was permitted to do ordinary work though forbidden to perform the Temple service, and when Sabbath came in, as he was now forbidden to do any other work,[9] so he was also forbidden to perform the Temple service.[10] [Similarly with a priest] who had a blemish,[11] since he was at first[12] permitted to eat [of sacrificial meat] though forbidden to perform the Temple service, now that he became defiled, as he was

forbidden to eat of sacrificial meat[13] so he was also forbidden to perform the Temple service.[14] Mehkah. however, is only an illustration[15] of prohibitions that set in simultaneously[16] but not of a comprehensive prohibition![17] -Rather, the point at issue between them[18] is that of simultaneous prohibitions' and R. Jose's view[19] regarding them. R. Hiyya is of the opinion that in the case of simultaneous prohibitions R. Jose deems the transgressor guilty of two offences,[20] while Bar Kappara is of the opinion that he deems him guilty of one offence only.[21] But how are here simultaneous prohibitions possible?[22] — In the case of a common man who performed the Temple service on the Sabbath, when, for instance, he grew two hairs[23] on the Sabbath, so that the prohibitions of Temple service by a common man and of work on the Sabbath have simultaneously arisen.[24] [In the case of a priest] who had a blemish, also, when, for instance, he grew two hairs,[23] while he was unclean, so that [his disability as] a man with a blemish and his uncleanness[25] have simultaneously arisen.[26] Or else, if a man cut his finger with an unclean knife.[27]

Now according to [the statement of] R. Hiyya it is quite possible to explain[28] that he[29] was taught[30] in accordance with the view of R. Jose, and that Bar Kappara was taught in accordance with the view of R. Simeon.[31] According to [the statement of] Bar Kappara, however,[32] did R. Hiyya swear falsely?[33] -Rather, the question at issue between them[34] is that of simultaneous prohibitions, and the view of R. Simeon[35] on the subject.

One can well understand why R. Hiyya took an oath. He did it in order to weaken the force[36] of R. Simeon s view.[37] What need, however, was there for Bar Kappara to take an oath? — This is a difficulty.

Now according to [the statement of] Bar Kappara. it is possible to explain[38] that when Rabbi taught him he was enunciating the opinion of R. Simeon,[39] and that when he taught R. Hiyya he was enunciating the opinion of R. Jose.[40] According to [the statement] of R. Hiyya. however,[41] did Bar Kappara[42] tell a lie?[43] R. Hiyya can answer you:[44] When Rabbi taught him, he taught him two instances[45] only where the transgressor is exempt[46]

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(1) R. Hiyya and Bar Kappara.

(2) Who maintains supra that in certain circumstances a prohibition may be imposed upon a prohibition which is already in force.

(3) אימור כולל Cf. supra p. 203. n. 8.

(4) Nebelah and melikah. V. supra. no. 3 and 4.

(5) And R. Jose's statement supra that the transgressor is guilty of two offences is, according to Bar Kappara, applicable only where the surviving brother had married one of the sisters before the deceased had married the other. (V. supra p. 203. nn.1ff and relevant text). R. Simeon's statement, (supra 32a) that 'he is guilty on account of brother's wife only', which has been interpreted as referring to the case where the deceased had married prior to the surviving brother, is according to Bar Kappara, to be deleted from the Baraitha.

(6) Who performed some Temple service on the Sabbath.

(7) That a comprehensive prohibition is involved.

(8) Before the Sabbath.

(9) Owing to Sabbath.

(10) The prohibition being 'comprehensive' in that it included both ordinary work and Temple service. It is not a 'prohibition of a wider range' since the prohibition of Temple service itself was in no way extended.

(11) Cf. supra, n. 2.

(12) Prior to his defilement.

(13) Owing to his uncleanness.

(14) The prohibition comprehending the Temple service as well as the consumption of sacrificial meat. Cf. supra. n' 5'

(15) Lit., 'it is found'.

(16) בת א חת 'at once', 'at the same moment'. Before the head of the fowl was pinched off there was only the prohibition of nebelah (v. Glos.) which included also priests. The two prohibitions of nebelah and melikah as far as

common men are concerned had set in simultaneously at the moment of the pinching off of the fowl's head.
(17) Since both have been simultaneous. How then could the dispute on melikah be dependent on the principle of a 'comprehensive prohibition'?
(18) R. Hiyya and Bar Kappara.
(19) V. supra p. 205. n. 8.
(20) R. Jose's statement (supra 32a). that the transgressor is guilty of the offences of (a) brother's wife and (b) wife's sister, is taken to refer to the case where the two brothers appointed an agent to betroth for them the two sisters, who in turn appointed an agent to act on their behalf. At the moment the agents carried out their mission both prohibitions had set in.
(21) Cf. supra p. 205, n. 11.
(22) As has been shewn, the instances mentioned, with the exception of melikah, are 'comprehensive prohibitions!'
(23) The marks of puberty.
(24) In this particular case, since prior to the manifestation of the marks of puberty he was considered a minor, and not subject to legal penalties.
(25) l.e., his liability to penalties for performing Temple service under such conditions.
(26) Cf. note 4, mutatis mutandis.
(27) Which act caused both the blemish and the uncleanness to set In at the very same Instant.
(28) To reconcile the contradictory statements made by R. Hiyya and Bar Kappara both in the name of Rabbi.
(29) R. Hiyya.
(30) By Rabbi. Lit., 'when he taught him (it was)'.
(31) And that Bar Kappara may have misunderstood Rabbi to give him the opinion of R. Jose.
(32) Who asserts that Rabbi recognizes one offence only according to R. Jose.
(33) If R. Jose allows the lighter punishment, how much more so R. Simeon. If R. Hiyya. then, made the statement that Rabbi taught him that a double offence had been committed he could not have spoken the truth since according to Bar Kappara no authority ever held such a view.
(34) R. Hiyya and Bar Kappara.
(35) R. Hiyya maintains that R. Simeon subjected the transgression to one offence only in the case of a 'comprehensive prohibition'; but that in a 'simultaneous prohibition' he admits, like R. Jose, a double offence. Bar Kappara, on the other hand, maintains that R. Simeon disagrees with R. Jose even in regard to simultaneous prohibitions, always admitting one offence only.
(36) By his oath he affirmed that R. Simeon is in favour of the lighter course only in the case of a 'comprehensive prohibition' but not in that of 'simultaneous prohibitions'.
(37) Which is known to favour the lighter penalty.
(38) I.e., to reconcile the contradictory statements. v. supra, p. 207. n. 8.
(39) Favouring the lighter penalty.
(40) Who imposes the heavier penalty; but R. Hiyya mistook him to be reporting R. Simeon and thus the discrepancy arose.
(41) Who submitted that the heavier penalty was imposed even by R. Simeon, much more so by R. Jose.
(42) Who submitted that Rabbi taught him that the lighter penalty only was to be imposed.
(43) He could not have spoken the truth if R. Hiyya's report was at all correct. v. note 6.
(44) Bar Kappara did not tell a lie.
(45) The first two-that of a non-priest who performed the Temple service on the Sabbath and that of a priest who had a blemish and performed the Temple service while he was unclean.
(46) From one of the penalties.

Talmud - Mas. Yevamoth 33b

. and [thereby he, in fact.] taught him the law of comprehensive prohibition[1] in accordance with the view of R. Simeon. Bar Kappara. however, considered the case of a common man who ate melikah and, as it seemed to be similar to the others, he treated it like the others.[2] When, later, he examined it[3] and found it to be possible only as a case of simultaneity of prohibitions. he imagined that as this one[3] is a case of simultaneity so are also the others cases of simultaneity;[4] and as the others are cases

where the transgressor is exempt[5] so [he assumed] is this also one in which the transgressor is exempt.[5]

An objection was raised: If a common man performed some Temple service on the Sabbath, or if a priest having a blemish performed Temple service while he was levitically unclean, the offences of service by a common man and the desecration of the Sabbath or those of service by a man with a blemish and levitical uncleanness are here respectively involved. These are the words of R. Jose. R. Simeon who said: Only the offence of service by a common man or that of service by a man with a blemish respectively is here involved.[6] [The case of] melikah, however, is here omitted.[7] Now, on account of whom was it omitted?[8] If it be suggested. on account of R. Jose[9] [it may be retorted]. if[10] R. Jose subjects one to two penalties where the prohibition is comprehensive, how much more so[11] when it is simultaneous. Consequently It must have been[12] on account of R. Simeon[13] who thus grants exemption only where the prohibition is comprehensive[14] but imposes both penalties when the prohibitions are simultaneous —[15] This, then, is a refutation against Bar Kappara![16] This is indeed a refutation.

'If a common man performed some Temple service on the Sabbath'. Of what nature? If slaughtering, slaughtering is permitted by a common man.[17] If reception[18] or carriage.[19] this involves only a mere movement.[20] If burning,[21] surely R. Jose said, 'The prohibition of kindling a fire [on the Sabbath][22] was mentioned separately[23] in order to [indicate that its transgression is] a prohibition only'![24] — R. Aha b. Jacob replied: The slaughtering of the bullock of the High Priest ,[25] and in accordance with the view of him who stated that the slaughtering of the bullock of the High priest on the Day of Atonement by a common man Is Invalid.[26] If so, what reason is there for mentioning a common man? EVen a common priest would have been equally forbidden![27] -What was meant was one who is a common man as far as It Is concerned.[28]

R. Ashi demurred: Was any mention made of sin-offerings or of negative precepts?[29] Surely, only forbidden acts were spoken of![30] — The point at issue is whether he is to be buried among confirmed sinners.[31]

MISHNAH. IF TWO MEN BETROTHED TWO WOMEN, AND AS THESE WERE ENTERING INTO THE BRIDAL CHAMBER, THEY EXCHANGED THE ONE FOR THE OTHER, BEHOLD, THEY[32] ARE GUILTY OF AN OFFENCE AGAINST A MARRIED WOMAN. IF THEY[32] WERE BROTHERS THEY ARE GUILTY ALSO OF AN OFFENCE AGAINST A BROTHER'S WIFE. IF [THE BETROTHED WOMEN] WERE SISTERS, THEY[33] ARE GUILTY ALSO ON ACCOUNT OF THE PROHIBITION, [AND THOU SHALT NOT TAKE] A WOMAN TO HER Slster.[34] IF THESE[35] WERE MENSTRUANTS [THEY[33] ARE GUILTY ALSO] ON ACCOUNT OF [THE LAW OF THE] MENSTRUANT.[36]

THEY[35] MUST BE KEPT APART[37] FOR THREE MONTHS, SINCE IT IS POSSIBLE THAT THEY ARE PREGNANT.[38] IF THEY[35] WERE MINORS INCAPABLE OF BEARING CHILDREN, THEY MAY BE RESTORED[39] AT ONCE. IF THEY[35] WERE PRIESTLY WOMEN THEY ARE DISQUALIFIED FROM THE PRIESTHOOD.[40]

GEMARA. THEY EXCHANGED?[41] Are we discussing wicked men![42] Furthermore, [there is the difficulty] of the statement made by[43] R. Hiyya. that[44] sixteen sin-offerings[45] are here [involved]. Is any sacrifice brought[46] where the act[47] was wilful?[48] Rab Judah replied: Read THEY WERE EXCHANGED.[49] This[50] may also be proved by logical reasoning. For in the latter clause it was stated, IF THEY WERE MINORS INCAPABLE OF BEARING CHILDREN THEY MAY BE RESTORED AT ONCE. Now, if the act[47] had been willful, would [this[51] have been] permitted! — This is no difficulty. The seduction of a minor is deemed to be an outrage, and an outraged woman is permitted to an Israelite.[42] But, then, what of that which is stated, that THEY MUST BE KEPT

APART FOR THREE MONTHS, SINCE IT IS POSSIBLE THAT THEY ARE PREGNANT, implying that if they were not pregnant they would be permitted. Now if the act[52] had been wilful would she be permitted! Consequently[53] the reading must have been[54] THEY WERE EXCHANGED.[55] This may be taken as proved.

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(1) Though when the prohibitions in these cases should happen to be simultaneous, the double penalty would undoubtedly be imposed.

(2) Lit., 'mixed it up with them'; as those are cases where the transgressor is exempt from one of the penalties, so' he thought. was that of melikah.

(3) Melikah.

(4) I.e., the same law is applicable to them whether the case is that of a comprehensive prohibition' or, like melikah, one of 'simultaneous prohibitions'.

(5) From one of the penalties.

(6) Tosef. Yeb. V.

(7) Implying that there is no difference of opinion regarding the case where a common man ate of melikah.

(8) I.e., who agrees with whom in this case that it should be excluded from the dispute.

(9) I.e., that R. Jose agrees in the case of melikah with R. Simeon.

(10) Lit., 'now'.

(11) Lit., 'is it required (to be stated)'?

(12) Lit., 'but (is it) not'.

(13) Who, despite his opinion that in the two cases mentioned only one penalty is involved, agrees with R. Jose that in melikah two penalties are involved.

(14) As in the two cases mentioned.

(15) As in melikah, v. supra.

(16) Who maintained supra that even in simultaneous prohibitions R. Simeon exempts from one of the penalties.

(17) Hence no prohibition of 'service by a common man' is here involved.

(18) Of the sacrificial blood in a basin for sprinkling purposes.

(19) Bringing the blood near the altar.

(20) טלטול 'moving an object from place to place'; and such movement on the Sabbath is no punishable offence.

(21) Of the sacrifices.

(22) In Ex. XXXV, 3.

(23) Lit., 'went out'.

(24) Shab. 702, Sanh. 35b, 62a, supra 6b. A 'prohibition', i.e., a negative commandment that does not involve any of the death penalties of stoning or of kareth.

(25) On the Day of Atonement (v. Lev. XVI, 3ff) which happened to fall on a Sabbath.

(26) V. Yoma 42a. As it is invalid it is also forbidden on the Sabbath under the death penalties of stoning or kareth which are incurred by the performance of certain kinds of manual labour on the Sabbath.

(27) Lit., 'also', since the opinion that disqualifies the common man for this service disqualifies also the common priest.

(28) Lit., 'who is a stranger to it , i.e., the particular service, including here even a common priest.

(29) Which entail flagellation.

(30) Since no actual penalty. either of a sin offering or flagellation, is involved, what matters it whether the two offences are regarded as one or as two? V. next note.

(31) V. supra p. 204, n. 1. [Aliter: Since no actual penalty is involved the reference might indeed be to 'burning', the practical point at issue being whether he is to be buried among confirmed sinners.]

(32) The men if they had intercourse with the women.

(33) The men if they had intercourse with the women.

(34) Lev. XVIII, 18.

(35) The women.

(36) Lev. XVIII, 19.

(37) Away from their husbands.

(38) Children from such a union are bastards and precaution must be taken that they are not allowed to pass as legitimate children.

(39) To their husbands.
(40) So Rashal. Cur. edd. 'terumah'.
(41) הִחְלִיפוּ Hif., 3rd plural.
(42) Who had deliberately exchanged their wives.
(43) Lit., 'that which he taught'.
(44) Lit., 'behold'.
(45) Four offerings, (one for each transgression enumerated) by each of the four persons mentioned.
(46) Lit., 'is there?'
(47) In this case the exchange.
(48) V. supra notes 9 and 10. For wilful transgression other penalties are prescribed!
(49) הוחלפן (B.H. הֻחְלְפוּ), Hof., i.e., accidentally.
(50) That the exchange was not a wilful act.
(51) The immediate restoration of the minors to their husbands. (20) Her husband. V. Keth. 51b.
(52) In this case the exchange.
(53) Lit., 'but not'.
(54) Lit., 'infer from this'.
(55) v. supra p. 211, n. 17.

Talmud - Mas. Yevamoth 34a

And who is this Tanna[1] that admits the force[2] of a 'comprehensive prohibition', a 'prohibition of a wider range' and 'simultaneous prohibitions'?[3] -Rab Judah replied in the name of Rab: It is R. Meir; for we learnt:[4] A man may sometimes consume one piece of food[5] and incur thereby the penalty of four sin-offerings and one guilt.offering. [If. e.g., a man levitically] unclean ate suet[6] that remained over from holy sacrifices,[7] on the Day of Atonement[8] R. Meir said: If this happened on[9] the Sabbath and [the consumer] carried out [the suet] in his mouth, liability is incurred [for this act[10] also].[11] They said to him: This[10] is an offence of a different character.[12]

Whose view, however, IS R. Meir[13] following? If he follows R. Joshua.[14] surely the latter had said that he who made a mistake in respect of a commandment[15] is exonerated![16] — Rather he follows the view of R. Eliezer.[17] If you prefer I might say: He may. in fact, follow the view of R. Joshua, for R. Joshua's statement, that he who made a mistake in respect of a commandment is exonerated, may only be applicable to the case of the children,[18] where one is pressed for time.[19] but not in such a case as this,[20] where time is not pressing.[21]

What about terumah,[22] where one is not pressed for time, and he[23] nevertheless exonerates! For we learnt: In the case of a priest who was In the habit of eating terumah and it then transpired that he was the son of a divorced woman or of a haluzah,[22] R. Eliezer imposes payment of the principal and of a fifth,[24] and R. Joshua exonerates![25] — Surely, in relation to this it was stated that R. Bibi b. Abaye said: We are here speaking of terumah[26] on the Eve of Passover when time is pressing.[27] If you prefer I might say: [Our Mishnah speaks] of simultaneous prohibitions, and may represent even the View of R. Simeon.[28]

All these,[29] it may well be conceded, may occur [simultaneously] where [the brothers] appointed an agent[30] and [the sisters also] appointed an agent[31] and one agent met the other;[32] but how could such [simultaneity] occur with menstruation?[33] - R. Amram in the name of Rab replied: When the women's menstrual discharge continued from [the men's] thirteenth, until after their thirteenth [birthday], when these become subject to legal punishments; and from their own twelfth, until after their twelfth [birthday], when they themselves become subject to punishments.[34]

THEY MUST BE KEPT APART. Surely, no woman conceives from the first contact![35] R. Nahman replied in the name of Rabbah b. Abuha: Where contact was repeated. Why, then, did R.

Hiyya state, 'Behold sixteen offerings are here involved',[36] when, in fact,[37] there should be thirty-two?[38] And according to your line of reasoning, following the opinion of R. Eliezer who deems they are guilty for every sexual effort, are there not more?[39] But [your own answer would be] that he only takes into consideration the first effort. Well, here also, only the first contact is taken into consideration.

Said Raba to R. Nahman:

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(1) In our Mishnah.

(2) Lit., 'to whom there is'.

(3) Wherever they can all be applied to the same person. If, e.g., A the brother of B betrothed C the sister of D, C is forbidden to B as 'his brother's wife' and as 'a married woman', both prohibitions having come into force simultaneously. If B subsequently betrothed D, her sister C becomes forbidden to him, by the comprehensive prohibition of 'his wife's sister', (comprehending all the sisters of D inclusive of C). When C becomes a menstruant she is forbidden to B as a menstruant also, this last being a prohibition of a wider range extending as it does the prohibition of the woman to A also.

(4) Cur. edd., 'it was taught'.

(5) Lit., 'there is one eating'.

(6) Forbidden fat.

(7) Nothar, v. Glos.

(8) The four sin-offerings are due for the eating of (a) holy food while the man is levitically unclean, (b) forbidden fat, (c) nothar and (d) food on the Day of Atonement; while the guilt-offering (asham me'iloth) is incurred for the benefit the consumer (even though he were a priest) had from holy things which were to be burnt on the altar.

(9) Lit., 'it was'.

(10) Carrying on the Sabbath.

(11) Thus it is shewn that R. Meir recognizes the validity of the three kinds of prohibition: When the animal was consecrated, the prohibition of having any benefit from any part of it has been added to that of eating its suet (wider range). and when a piece of the suet became nothar (since it is thereby forbidden to be offered up on the altar, which is an added restriction) the prohibition of nothar has also been imposed in respect of its consumption by the priests (again wider range). When the priest becomes unclean and is consequently forbidden to consume any holy meat he is also forbidden to consume the nothar (comprehensive), and with the advent of the Day of Atonement the prohibition of the consumption of food generally on that day falls also on the nothar (again comprehensive). Finally, at the moment Sabbath sets in two more prohibitions are imposed (simultaneous) that of carrying on the Sabbath and that of eating on the Day of Atonement (Rashi) or those of carrying on the Sabbath and on the Day of Atonement (Tosaf., s.v. והוצתאו a.I.).

(12) Lit., 'it is not from the (same) designation'. Shab. 102a, Shebu. 24b, Ker. 13b.

(13) Who, as has been shown, is represented by the Tanna of our Mishnah who admits the imposition of one prohibition upon another even where the performance of a commandment (e.g.. marriage) was intended.

(14) Who is at variance on a similar question with R. Eliezer (Shab. 1370). Both R. Joshua and R. Eliezer were R. Meir's teachers.

(15) I.e., if his intention was to fulfil a precept and, through an error, his act resulted in a transgression. Cf. the case in our Mishnah and v. supra n. 1 —

(16) While our Mishnah declares the men guilty!

(17) v. supra. n. 2.

(18) One of whom had to be circumcised on the Sabbath and by mistake another child was circumcised who was born a day later. Only circumcision which takes place on the eighth day of birth is permitted on the Sabbath. Any other is forbidden like all manual labour.

(19) One is anxious to perform the commandment at its proper time, and one's anxiety that the day shall not pass without its performance may easily result In an error.

(20) Marriage. spoken of in our Mishnah.

(21) One may contract marriage during any time of his life.

(22) V. Glos.

(23) R. Joshua.
(24) The disqualified priest. having consumed terumah which was forbidden to him, must pay compensation as any layman, as prescribed in Lev. V, 16.
(25) Ter. VIII, 1; Pes. 72b, Mak. 11b.
(26) Containing 'leaven' or any other hamez.
(27) After a certain hour on that day all hamez, would have to be burnt.
(28) Who agrees with R. Meir that simultaneous prohibitions do rank as equal in force, and both may be imposed.
(29) Prohibitions, enumerated in our Mishnah.
(30) To betroth the women on their behalf.
(31) To accept on their behalf the tokens of betrothal.
(32) So that all prohibitions took effect at the very same moment.
(33) Which would naturally occur either before, and thus prevent the other three prohibitions from coming into force; or after, and thus be prevented itself from coming Into force.
(34) A male becomes legally liable to punishments on the termination of his thirteenth, and a female on that of her twelfth year of age. If the respective agents of the two parties who were of the same age to a day. met sometime prior to the conclusion of the last day of the year (twelfth of the females and thirteenth of the males), and arranged for the betrothals to take effect on the following day when both parties become 'of age' (as otherwise the betrothals would not be valid) the betrothals and the prohibitions simultaneously come into force.
(35) What, then, is the need for the precaution?
(36) Supra 33b.
(37) Since our Mishnah represents the view of R. Eliezer (or Eleazar).
(38) Sixteen for each contact. V. infra 92a, Ker. 15a.
(39) Sin-offerings involved.

Talmud - Mas. Yevamoth 34b

Surely Tamar[1] conceived from a first contact! The other answered him: Tamar exercised friction with her finger;[2] for R. Isaac said: All women of the house of Rabbi who exercise friction[3] are designated Tamar. And why are they designated Tamar? — Because Tamar exercised friction with her finger. But were there not Er and Onan?[4] — Er and Onan indulged in unnatural intercourse.

An objection was raised: During all the twenty-four months[5] one may thresh within and winnow without;[6] these are the words of R. Eliezer. The others said to him: Such actions are only like the practice of Er and Onan![7] -Like the practice of Er and Onan, and yet not [exactly] like the practice of Er and Onan: 'Like the practice of Er and Onan', for it is written in Scripture, And it came to pass, when he went in unto his brother's wife, that he spilt it on the ground;[8] and 'not [exactly] like the practice of Er and Onan', for whereas there it was an unnatural act, here it is done in the natural way.

[The source for] Onan's [guilt] may well be traced, for it is written in Scripture, That he spilt it on the ground;[8] whence however, [that of] Er?-R. Nahman b. Isaac replied: It is written, And He slew him also,[9] he also died of the same death.[10]

[The reason for] Onan's [action] may well be understood, because he knew That the seed would not be his;[8] but why did Er act in such a manner? — In order that she might not conceive and thus lose some of her beauty.

Our Rabbis taught [The woman also] with whom [a man shall lie],[11] excludes a bride;[12] so R. Judah. But the Sages say: This excludes unnatural intercourse.

Said Hon son of R. Nahman to R. Nahman: Does this imply that R. Judah is of the opinion that the Torah had consideration for the bride's make-up?[13] — The other replied: Because no woman conceives from her first contact —[14] On what principle do they differ? — The Rabbis are of opinion

that 'carnally'[11] excludes the first stage of contact, and 'with whom'[11] excludes unnatural intercourse; but R. Judah is of the opinion that the exclusion of unnatural intercourse and the first stage of contact may be derived from 'carnally'.[11] while 'with whom'[11] excludes a bride.

When Rabin came[15] he stated in the name of R. Johanan: A woman who waited ten years after [separation from] her husband, and then remarried, would bear children no more. Said R. Nahman: This was stated only in respect of one who had no Intention of remarrying: if, however, one's intention was to marry again she may conceive.

Raba said to R. Hisda's daughter:[16] The Rabbis are talking about you. She answered him: I had my mind on you.

A woman once appeared before R. Joseph, and said to him: Master, I remained unmarried after [the death of] my husband for ten years and now I gave birth to a child — He said to her: My daughter, do not discredit the words of the Sages. She thereupon confessed, 'l had intercourse with a heathen'.[17]

Samuel said: All these women,[18] with the exception of a proselyte and an emancipated slave who were minors, must wait three months.[19] An Israelitish minor, however, must wait three months. But how [was she separated]?[20] If by a declaration of refusal,[21] surely. Samuel said that she[22] need not wait![23] And if by a letter of divorce, surely Samuel has already stated this once! For Samuel said: If she' formally refused him[21] she need not wait three months; if he gave her a letter of divorce she must wait three months![24] -[It[25] was] rather in respect of unlawful intercourse,

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(1) V. Gen. XXXVIII, 15, 18, 24ff.

(2) Having thus destroyed her virginity she was capable of conception from a first contact.

(3) To destroy their virginity.

(4) Who were married to Tamar prior to the incident with Judah (v. Gen. XXXVIII, 6ff) and her virginity would presumably have been destroyed then.

(5) After the birth of a child, i.e., during the period in which the mother is expected to breast-feed her child.

(6) Euphemism. This would prevent possible conception which might deprive the young child of the breast feeding of his mother.

(7) Which implies that there was natural contact. Cf. supra note 5.

(8) Gen. XXXVIII, 9.

(9) Ibid. 10.

(10) For the same offence.

(11) Lev. XV, 18.

(12) She does not become unclean by the first contact and does not require. therefore, any ritual bathing.

(13) Which would be spoiled by the water were she required to perform ritual ablution.

(14) Scripture speaking only of intercourse which may result in conception. V. Lev. ibid.

(15) From Palestine to Babylon.

(16) Whom he married after a period of ten years had passed since the death of her husband, Rami b. Hama.

(17) During the ten years.

(18) Enumerated infra 41a, 42b.

(19) Before they marry again.

(20) From her former husband.

(21) Mi'un, v. Glos.

(22) A minor.

(23) Three months.

(24) Keth. 100b; why, then, should he repeat it here?

(25) Samuel's statement.

the Rabbis having made the provision[1] in the case of a minor[2] as a precaution against one who is of age.[3] But is provision made in the case of a minor as a precaution against one who is of age? Surely we learnt, IF THEY WERE MINORS INCAPABLE OF BEARING CHILDREN THEY MAY BE RESTORED AT ONCE! — R. Giddal replied: This[4] was a special ruling.[5] Does this imply that such a case had actually occurred![6] — Rather [this is the meaning:] It[4] was like a special ruling, since the exchange of brides is an unusual occurrence.[7]

[Others adopt] a different reading: Samuel said: All these women,[8] with the exception of a proselyte and an emancipated slave who were of age. must wait three months.[9] An Israelitish minor, however, need not wait three months. But how [was she separated]? If by a declaration of refusal, Surely Samuel has already stated this one! And if by a letter of divorce, Samuel surely stated that she' must wait! For Samuel said: If she exercise her right of refusal against him, she need not wait three months; if he gave her a letter of divorce she must wait three months! [It was] rather in respect of harlotry. and harlotry with a minor[8] an unusual occurrence.[7]

Let, however, a preventive measure[10] be made in respect of a proselyte and an emancipated slave with whom harlotry is not unusual! — He holds the same view as R. Jose. For it was taught: Proselytes,[11] captivesl or slaves[11] who were redeemed, or embraced the Jewish faith or were emancipated, must wait three months; so R. Judah. R. Jose permits immediate betrothal and marriage.[12] Rabbah said: What is R. Jose's reason? He is of the opinion that a woman who plays the harlot makes use of an absorbent in order to prevent conception.[12]

Said Abaye to him: This[13] is intelligible in the case of a proselyte; as her intention is to embrace the Jewish faith she is careful[14] in order to know the distinction between the seed that was sown in holiness and the seed that was sown in unholiness. It[13] is also [intelligible In the case of] a captive and a slave; since on hearing from their masters[15] they exercise care.[16] How is this[13] to be applied. however, in the case of one who is liberated through the loss of a tooth or an eye?[17] And were you to suggest that wherever something unexpected happens[18] R. Jose admits,[19] surely it was taught:[20] A woman who had been outraged or seduced must wait three months; so R. Judah. R. Jose permits immediate betrothal and marriage![21] — Rather, said Abaye,[22] a woman playing the harlot turns over In order to prevent conception.[23] And the other?[24] -There is the apprehension that she might not have turned over properly.[25]

IF THEY WERE PRIESTLY WOMEN etc. Only[26] priestly women but not an Israelitish woman?[27] -Read, 'If they were the wives of priests'.[28] Only' 'priests' wives,'[29] but not Israelites' wives?[30] Surely R. Amram said, 'The following statement was made to us by R. Shesheth who threw light on the subject[31] from our Mishnah:[32] An Israelite's wife[33] who was outraged, though she is permitted to her husband, is disqualified from the priesthood.[34] — Raba replied: It is this that was meant:[35] IF THEY WERE PRIESTLY WOMEN[36] married to Israelites THEY ARE DISQUALIFIED from eating terumah at their parents' home.[37] [

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(1) That three months must be allowed to pass.

(2) Though she is not capable of conception.

(3) A proselyte and an emancipated slave who were minors are, however, exempt. because, being cases of rare occurrence, no preventive measure is required.

(4) The ordinance in our Mishnah.

(5) הוראת שעה lit., 'a ruling of the hour'.

(6) But our Mishnah, 'IF THEY WERE MINORS etc. Obviously speaks of a contingency and not of a fact.

(7) And no preventive measure is. therefore, necessary.

(8) Enumerated infra 41a, 42b.

(9) Before they are allowed to marry again. (17) That in such circumstances she need not wait three months.
(10) To avoid conception and the mingling of legitimate with illegitimate children.
(11) In the original the noun is in the sing.
(12) Keth. 372.
(13) Rabbah's explanation.
(14) Cf. supra note 1; and has always some absorbent in readiness.
(15) Of their impending liberation.
(16) Cf. supra notes 1 and 5.
(17) V. Ex. XXI, 26, where the liberation of the slave comes suddenly. and no previous care would have been exercised by her.
(18) Lit., 'of itself', when the woman was not likely to have been prepared with an absorbent.
(19) That a waiting period of three months must be allowed.
(20) Cur. edd., 'we learned'.
(21) Which shews that even when the unexpected happens R. Jose requires no waiting period!
(22) The reading in Keth. 372 is 'Rabbah'. Others, 'Raba' (v. Alfasi).
(23) Keth. loc. cit. No absorbent is needed. Similarly in the case of a liberated captive or slave. Hence no waiting period is required.
(24) Why then does he require a waiting period?
(25) And conception might have taken place. V. Keth. loc. cit.
(26) Lit., 'yes'.
(27) The wife of a priest. Surely she also is forbidden to her husband!
(28) V. previous note.
(29) Are forbidden to marry priests.
(30) Who were priests' daughters.
(31) Lit., 'and lit up our eyes'.
(32) I.e., the Mishnah infra 53b which was under discussion.
(33) A priest's daughter who on the death of her husband returns to her father's house and is permitted again to eat terumah. V. Lev. XXII, 12-13.
(34) Infra 56af. She may not marry a priest even after the death of her husband.
(35) By our Mishnah.
(36) l.e., daughters of priests.
(37) PRIESTHOOD in our Mishnah referring to the right of eating terumah on their return to their parents' home in their widowhood (v. Lev. XXII, 13). V. supra n. 8, and the reading of cur. edd. supra p. 211, n. 8.

Talmud - Mas. Yevamoth 35b

C H A P T E R I V

MISHNAH. IF A LEVIR PARTICIPATED IN HALIZAH WITH HIS DECEASED BROTHER'S WIFE[1] WHO WAS SUBSEQUENTLY FOUND TO BE PREGNANT, AND SHE GAVE BIRTH, HE IS, WHEREVER THE CHILD IS VIABLE,[2] PERMITTED TO MARRY HER RELATIVES AND SHE IS PERMITTED TO MARRY HIS RELATIVES,[3] AND HE DOES NOT RENDER HER UNFIT FOR THE PRIESTHOOD;[4] BUT WHEREVER THE CHILD IS NOT VIABLE,[5] THE LEVIR IS FORBIDDEN TO MARRY HER RELATIVES AND SHE IS FORBIDDEN TO MARRY HIS RELATIVES, AND HE RENDERS HER UNFIT TO MARRY A PRIEST.

IF A LEVIR MARRIED HIS DECEASED BROTHER'S WIFE[1] WHO IS FOUND TO HAVE BEEN PREGNANT,[6] AND SHE GAVE BIRTH, HE, WHEREVER THE CHILD IS VIABLE, MUST[7] DIVORCE HER. AND BOTH ARE UNDER THE OBLIGATION OF BRINGING AN OFFERING;[8] BUT IF THE CHILD IS NOT VIABLE, HE MAY RETAIN HER. IF IT IS DOUBTFUL WHETHER IT IS A NINE-MONTHS CHILD OF THE FIRST [HUSBAND] OR A SEVEN-MONTHS CHILD OF THE SECOND [HUSBAND]. SHE MUST BE DIVORCED, AND

THE CHILD IS LEGITIMATE,[9] BUT THEY ARE UNDER THE OBLIGATION OF AN ASHAM TALUI.[10] GEMARA. It was stated: In the case of a levir who participated In halizah with a pregnant woman who subsequently miscarried, R. Johanan said, She need not perform the halizah with the brothers; and Resh Lakish said: She must perform halizah with the brothers. 'R. Johanan said, She need not perform halizah with the brothers', because the halizah of a pregnant woman[11] is deemed to be proper halizah and marital contact with a pregnant woman is deemed to be proper marriage.[12] 'Resh Lakish said: She must perform halizah with the brothers', because the halizah with a pregnant woman is not deemed to be a proper halizah, nor is marital contact with a pregnant woman deemed to be a proper marriage. On what principle do they[13] differ? — If you wish I might say: In the interpretation of a Scriptural text. And if you prefer I might say: On a logical point. 'If you wish I might say: In the interpretation of a Scriptural text';[14] R. Johanan is of the opinion that the All Merciful said, And have no child,[15] and this man[16] surely has none; while Resh Lakish is of the opinion that And have no [en lo] child[17] implies. 'Hold an inquiry[18] concerning him'.[19] 'And If you prefer I might say: On a logical point'; R. Johanan argues: Had Elijah[20] appeared and announced that the woman would miscarry. would she not have been subject to halizah or levirate marriage?[21] Now also[22] the fact is established retrospectively. And Resh Lakish maintains that a fact cannot be said to have been established retrospectively.

R. Johanan raised an objection against Resh Lakish: WHEREVER THE CHILD IS NOT VIABLE THE LEVIR IS FORBIDDEN TO MARRY HER RELATIVES AND SHE IS FORBIDDEN TO MARRY HIS RELATIVES, AND HE RENDERS HER UNFIT TO MARRY A PRIEST. This is quite correct according to my view: Since I maintain that the halizah of a pregnant woman is a proper halizah he, consequently, renders her unfit. According to you, however, who maintain that the halizah of a pregnant woman is not proper halizah, why does he render her unfit to marry a priest? — The other answered him: It[23] is only Rabbinical and it is a mere restriction.[24]

Others say: Resh Lakish raised an objection against R. Johanan: WHEREVER THE CHILD IS NOT VIABLE THE LEVIR IS FORBIDDEN TO MARRY HER RELATIVES AND SHE IS FORBIDDEN TO MARRY HIS RELATIVES, AND HE RENDERS HER UNFIT TO MARRY A PRIEST. This is quite correct according to my view; since I maintain that the halizah of a pregnant woman is not a proper halizah it was justly stated as a restriction,[25] that HE RENDERS HER UNFIT TO MARRY A PRIEST but not that 'she requires no halizah from the brothers';[26] according to you, however,[27] it should have been stated that 'she requires no halizah from the brothers'![28] — The other replied: It should have been indeed;[29] only because in the first clause it was stated, HE DOES NOT RENDER HER UNFIT[30] it was also[31] stated in the latter clause, HE RENDERS HER UNFIT.[32]

R. Johanan raised an objection against Resh Lakish: IF THE CHILD IS NOT VIABLE, HE MAY RETAIN HER. This is quite correct according to my view; since I maintain that the halizah of a pregnant woman is a proper halizah and marital contact[33] with a pregnant woman is a proper marriage. it was rightly stated HE MAY RETAIN HER.[34] According to you, however, who maintain that the halizah of a pregnant woman is not a valid halizah and the marital contact[35] with a pregnant woman is not a valid marriage, it should have been stated, 'He must repeat contact and only then he may retain her'! — The meaning of HE MAY RETAIN HER is that he must repeat contact and then HE MAY RETAIN HER, but not otherwise.[36]

Others say: Resh Lakish raised an objection against R. Johanan: IF THE CHILD IS NOT VIABLE HE MAY RETAIN HER. This is quite correct according to my view; since I maintain that the halizah of a pregnant woman is not a valid halizah and marital contact with a pregnant woman is not a valid marriage, it was rightly stated HE MAY RETAIN HER, [meaning that] he must repeat contact and then HE MAY RETAIN HER, since otherwise this[37] would not have been permitted.[38] According to you,[39] however, it should have been stated, 'If he wishes he may divorce her and if he prefers he may continue to live with her'! — It should have been indeed;[40] only because in the

earlier clause it was stated HE MUST DIVORCE HER, it was also stated in the latter clause HE MAY RETAIN HER.

An objection was raised: 'Where a levir married his yebamah who was found to be pregnant, her rival may not be married, since it is possible that the child would be viable'. On the contrary! If the child were viable her rival would be exempt![41] — But read: Since it is possible that the child would not be viable.[42] Now, if it could be imagined that marital contact with a pregnant woman is to be regarded as a valid marriage, why may not her rival be married? She should be exempted through the marital contact of her associate! — Abaye replied: Both[43] agree that by marital contact she does not exempt [her rival]; they differ only on the question of halizah. R. Johanan is of the opinion that the halizah of a pregnant woman is a valid halizah, though marital contact with a pregnant woman is not a valid marriage, while Resh Lakish is of the opinion that marital contact with a pregnant woman is no valid marriage, nor is halizah with a pregnant woman a valid halizah. Said Raba: Whatever is your opinion? If marital contact with a pregnant woman is a valid marriage. the halizah of a pregnant woman should be a valid halizah; or if marital contact with a pregnant woman is no valid marriage, the halizah of a pregnant woman also should be no proper halizah; for we have an established rule

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(1) Whose husband died without issue.

(2) Although the child died soon after.

(3) Since a viable child was born the halizah is rendered void.

(4) She, unlike any other haluzah, may marry a priest. V. n. 3 supra.

(5) I.e., if it was of a premature birth.

(6) Prior to the levirate marriage.

(7) Since the levirate marriage should not take place where the deceased brother has had any issue.

(8) A sin-offering for their unwitting transgression in contracting a forbidden marriage (one's brother's wife) where the precept of the levirate marriage did not apply. V. supra n. 7.

(9) Since in either case he has been born from a lawful union: If he is a nine-months child he is the legitimate offspring of the deceased brother; and if he is a seven-months child of the surviving brother, the deceased had died without issue and the marriage between the widow and the surviving brother was accordingly lawful.

(10) The offering prescribed for doubtful trespass. V. Lev. V, 17ff and cf. Ker. 17b.

(11) Who miscarried.

(12) The miscarriage proved that the previous halizah or marriage were lawful.

(13) R. Johanan and Resh Lakish.

(14) V.Bah a.l. Cur. edd. reverse the order.

(15) Deut. XXV, 5.

(16) The deceased whose widow has now miscarried.

(17) ובין אין לו.

(18) עיין 'consider', 'investigate'. The 'Ayin (ע) of עיין is interchanged with the Aleph (א) of אין.

(19) Inquire whether the deceased has been survived by any kind of child. Even a miscarriage is deemed to be a child. Cf. B.B., Sonc. ed., p. 474. nn. 6ff.

(20) The prophet, who could predict the future.

(21) Of course she would.

(22) That she has actually miscarried, though after the halizah or levirate marriage.

(23) The prohibition for the woman to marry a priest.

(24) One not knowing the circumstances of this particular case would erroneously assume that any other haluzah may also be married to a priest.

(25) V. supra n. 2. Had not this been specifically stated it might have been assumed that, as the halizah is invalid, she is not rendered unfit at all.

(26) Because she does.

(27) Who regard the halizah as valid.

(28) And the prohibition to marry each other's relatives and his rendering her unfit for a priest would be inferred as self-evident.

(29) Lit., yes, thus also'.
(30) The ruling concerning halizah not being applicable in this context, since a viable child was born.
(31) So in old editions. Cur. edd. omit 'also'.
(32) Thus, as in the first clause, omitting all reference to halizah.
(33) Of the levir.
(34) Emphasis on MAY. No second contact is necessary after the miscarriage, (since the first was valid) and the levir may also, if he wishes, divorce her.
(35) Of the levir.
(36) Lit., 'it is not enough without such'. V. Emden, a.l. Cur. edd. omit the last two words.
(37) The option of either retaining or divorcing her.
(38) Cf. n. 3 supra.
(39) Who deem the marriage to be valid.
(40) Lit., 'yes thus also'.
(41) And free to marry. since her deceased husband is now survived by a living child, and neither she nor the other widow is subject to halizah or levirate marriage.
(42) So that his mother as well as her rival would be subject to the levir, the former's previous marital contact, during her pregnancy. being invalid.
(43) R. Johanan and Resh Lakish.

Talmud - Mas. Yevamoth 36a

that whosoever is subject to the obligation of levirate marriage is also subject to halizah, and whosoever is not subject to the obligation of the levirate marriage is not subject to halizah![1] Rather, said Raba, it is this that was meant:[2] Where a levir married his yebamah who was found to be pregnant, her rival may not be married, because it is possible that the child would be viable, and marital contact with a pregnant woman is no proper marriage nor is the halizah of a pregnant woman proper halizah, while the child does not bring exemption until he is actually born.[3]

It was taught in agreement with the view of Raba: Where a levir married his yebamah who was found to be pregnant, her rival may not be married, because it is possible that the child would be viable, and neither marital contact nor halizah but only the child brings exemption; and the child brings exemption only after he is born.

The reason, then,[4] is because it is possible that the child might be viable, but where the child is not viable her rival is exempt;[5] does this imply an objection against Resh Lakish?[6] — Resh Lakish can answer you [that the Baraitha] is thus to be interpreted:[7] Where a levir married his yebamah who was found to be pregnant, her rival may not be married; since it is possible that the child may not be viable, and the halizah of a pregnant woman is no valid halizah nor is the marital contact with a pregnant woman a proper marriage; and were you to suggest that one should be guided by the majority of women, and the majority of women bear healthy children, [it could be retorted that] a child brings no exemption until he is actually born.[8]

Said R. Eleazar: Is it possible that there should exist [such a ruling as] that of Resh Lakish and that we should not have learnt it in a Mishnah? When he went out he carefully considered the matter and found one. For we learned: If people came to a woman whose husband and rival had gone to a country beyond the sea and told her, 'Your husband is dead',[9] she may neither be married[10] nor be taken in levirate marriage[11] until she has ascertained whether her rival[12] is pregnant.[13] One can well understand why she may not be taken in levirate marriage, since it is possible that the child[14] may be viable and [the levir] would thus[15] infringe the Pentateuchal prohibition against [marrying] a brother's wife: but why should she not perform the halizah? It is possible to understand the reason why she must not perform the halizah within the nine months[16] and also contract a marriage within nine months,[16] since such [procedure would naturally be forbidden on account of the] doubt;[17] but

let her perform the halizah within the nine months[16] and be married after the nine months![18] — But even in accordance with your view,[19] let her perform the halizah and be married after the nine months![20] The fact, however, is that nothing may be inferred from this;[21] for both Abaye b. Abin[22] and R. Hinena b. Abin[22] stated:[23] It is possible that the child[24] might be viable[25] and you would then subject her to the necessity of an announcement[26] in respect of the priesthood.[27] — Well, let her be subjected![28] — It may happen that someone would be present at the halizah and not at the announcement,[26] and would form the opinion that a haluzah was permitted to a priest.

Said Abaye to him: Was it stated, 'She shall neither perform halizah nor be taken in levirate marriage'? The statement, surely, was, 'She shall neither be married nor be taken in levirate marriage'[29] without halizah; if halizah, however, had been performed[30] she would indeed have been permitted![31]

It was taught in agreement with Resh Lakish: Where a levir participated in the halizah with a pregnant woman who subsequently miscarried, she is required to perform halizah with the brothers.

Raba said: The law is in accordance with the views of Resh

!!

If on the other hand, a viable child had been born, exemption took effect at his birth, and subsequent marriage would consequently be lawful. As the Mishnah, however, forbids halizah and marriage even after the nine months, unless definite information about the rival had been received, it must be assumed to represent the view of Resh Lakish who deems a halizah invalid wherever the child is not viable and the ceremony took place during pregnancy. Lakish in the following three rulings.[32] One is the ruling just spoken of. Another is his ruling in connection with the following Mishnah:[33] If a man[34] distributed his property verbally[35] and gave to one [son] more and to another less, or if he assigned to the firstborn a share equal to that of his brothers,[36] his arrangements are valid.[37] If, however, he said, 'As an inheritance',[38] his instructions are disregarded.[39] If he wrote[40] either at the beginning or the end or the middle, 'as a gift',[41] his instructions are valid.[42]

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(1) Supra 3a.

(2) By the Baraitha cited.

(3) Lit., 'he went forth into the air of the world'.

(4) Why the rival is not exempt.

(5) On the strength of the marital contact which took place prior to the miscarriage of the child, no repeated contact being necessary.

(6) Who does not regard the marital contact of a pregnant woman as a valid marriage

(7) Lit., 'thus he taught'.

(8) Lit., 'he went forth unto the air of the world'.

(9) And has left no issue.

(10) To a stranger.

(11) By the levir.

(12) Who went together with her husband.

(13) Infra 119a. Only if she learns that her rival is not pregnant may she contract the levirate marriage.

(14) That might be born from the rival.

(15) By marrying the widow of his brother who did not die without issue.

(16) After the death of her husband.

(17) It being uncertain whether the child would be viable or not. Should he be viable, neither the halizah nor the marriage would be valid, while exemption on his account would not come into force until his actual birth.

(18) This should be permitted according to the view of R. Johanan at all events: If the rival had been pregnant and miscarried or had not been pregnant at all, the halizah was, surely, valid.

(19) That halizah is forbidden because of the possibility that the rival was pregnant at the time halizah took place.
(20) When all doubt as to pregnancy would have been removed. Why, then, has it been stated that she may not marry until she had ascertained (even though many years have passed), whether her rival had been pregnant.
(21) Mishnah. Lit., 'but outside of that'. No support to the view of Resh Lakish may be derived from it.
(22) Cur. edd., 'Abaye'.
(23) The reason why no halizah may take place.
(24) Of the rival.
(25) The birth of a viable child renders the halizah invalid and the woman is consequently permitted to marry a priest.
(26) That the halizah was unnecessary and therefore invalid.
(27) V. supra n. 7.
(28) Lit., 'required'.
(29) [Rashi apparently omits this and reads: 'She shall neither be married' without halizah].
(30) Even within nine months.
(31) To marry at the end of that period; the Baraitha will then afford no support to Resh Lakish.
(32) B.B. 129b, Hul. 77a.
(33) Lit., 'because we learned'.
(34) Lying on his death-bed.
(35) I.e., explicitly intimated his desire and did not die intestate (v. Rashi, a.l.).
(36) Lit., 'he made the firstborn equal to them', though Biblically he is entitled to a double portion.
(37) Lit., 'his words stand', because a man is entitled to dispose of his property, as a gift, in any manner that may appeal to him.
(38) I.e., if he distributed the shares as portions of an inheritance and not as gifts.
(39) Lit., 'he said nothing'. One has no right to give instructions which are contrary to the law of the Torah which entitled every son to a portion and the firstborn to a double portion in the father's estate.
(40) In disposing of his property in a written will.
(41) I.e., used an expression denoting 'gift', even though it was accompanied by one denoting 'inheritance'. If he wrote, for instance, let a certain field (a) be presented to X that he may inherit it (beginning), or (b) inherited by X and be presented to him that he may inherit it (middle), or (c) be inherited by X and be presented to him (end).
(42) B.B. 126b. V. supra note 6. So long as the expression of 'gift' was used, the other expression of 'inheritance' that may have been coupled with it, does not in any way affect the validity of the testator's instructions.

Talmud - Mas. Yevamoth 36b

And [in connection with this] Resh Lakish stated: No possession is ever acquired,[1] unless the testator had said, 'Let X and Y inherit this and that particular field which I have assigned to them as a gift, so that they may inherit them'.[2] And the third[3] is his ruling in connection with the following Mishnah:[4] If a man assigned all his estate, in writing, to his son[5] [to be his][6] after his[7] death, the father may not sell it[8] because it is assigned to the son, and the son may not sell it because it is in the possession of the father. If the father sold the estate, the sale is valid until his death.[9] If the son sold it, the buyer has no claim whatsoever upon it until the father's death.[10] And it was stated: If the son sold the estate[11] during the lifetime of his father, and died while his father was still alive, R. Johanan said: The buyer does not acquire ownership;[12] and Resh Lakish said: The buyer does acquire ownership.[13] R. Johanan said that 'the buyer does not acquire ownership', because possession of usufruct is like possession of the capital;[14] and Resh Lakish said that 'the buyer does acquire ownership', because possession of usufruct is not like possession of the capital.[15]

BUT IF THE CHILD IS NOT VIABLE etc. A Tanna taught: It has been said in the name of R. Eliezer that[16] he must put her out by means of a letter of divorce.[17]

Said Raba: R. Meir and R. Eliezer taught the same law.[18] R. Eliezer, in the ruling just mentioned, R. Meir [in the following Baraitha] wherein it was taught: A man shall not marry the pregnant, or nursing wife of another;[19] and if he married, he must put her out and never remarry her; so R. Meir.

But the Sages said: He shall let her go.[20] and at the proper time[21] he may marry her again.[22]

Abaye said to him:[23] How do you arrive at such a conclusion which may possibly be wrong?[24] R. Eliezer's ruling might extend to the present case[25] only because the levir is encroaching[26] upon the prohibition of 'brother's wife', which is Pentateuchal,[27] but there,[28] where the prohibition is only Rabbinical,[29] he may hold the same view as the Rabbis. Alternatively, it is possible that R. Meir's ruling extends only to that case because the prohibition is Rabbinical,[29] and the Sages have given more force to their provisions than to those which are Pentateuchal,[30] but not to the case here,[31] where the prohibition is Pentateuchal,[26] and people as a rule keep away from it.[32]

Raba said: Even according to the ruling of the Rabbis[33] he must let her go from him by means of a letter of divorce.[34] Said Mar Zutra: This may also be deduced, since the expression used was 'he shall put her out'[35] and not 'he shall let her part'.[36] This proves it.

R. Ashi said to R. Hoshaia son of R. Idi: 'Elsewhere it was taught.[37] "R. Simeon b. Gamaliel said: Any human child[38] that survived for thirty days cannot be regarded as a miscarriage.[39] Had he not lived so long,[40] however, he would have been a doubtful case.[41] But it was also stated: Where he[42] died within thirty days[43] and she[44] was subsequently[45] betrothed,[46] Rabina said in the name of Raba that if she[44] was the wife of an Israelite[47] she must perform the halizah[48] and if she was the wife of a priest[49] she must not perform the halizah.[50] R. Mesharsheya[51] said in the name of Raba: The one as well as the other must perform the halizah. Said Rabina to R. Mesharsheya:[51]

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(1) Where two fields were given to two persons and the expression of 'inheritance was used together with that of 'gift'.

(2) Both acquire possession of the respective fields because the testator had used the expression, 'which I have assigned to them as a gift', implying that the gift was made before it was assigned as an 'inheritance' (v. R. Gershom, B.B. 129a).

(3) Lit., 'and the other', the third ruling of Resh Lakish, which is an accepted halachah.

(4) Lit., 'because we learned'.

(5) Inserting the formula 'From this day and after my death'. The law that follows applies also to a gift made by any other person.

(6) The sons.

(7) The testator's.

(8) Either the land or its produce.

(9) Lit., 'sold until he dies'. Until then only may the buyer enjoy its usufruct.

(10) B.K. 88b, B.B. 1362.

(11) Assigned to him by his father for possession after his death.

(12) Even after the father's death, since the estate has never come into the son's possession.

(13) After the death of the father, as the representative of the son, who, were he alive, would have been entitled to the inheritance.

(14) Since the usufruct was in the ownership of the father, the capital, i.e., the soil, is also regarded as being in his possession, and the son, therefore, during the lifetime of his father is not entitled to transfer it to the buyer.

(15) B.K. l.c., B.B. 136af. The soil, therefore, was the undisputed property of the son who, consequently. was fully entitled to transfer it to the buyer.

(16) Contrary to the law of our Mishnah which allows the levir to continue his connubial association with his sister-in-law wherever the child is not viable.

(17) Though the death of the child has proved retrospectively that the levirate marriage was lawful, divorce is imposed upon such a union as a penalty for contracting it at a time when, owing to the uncertainty of the result of the pregnancy, it was of doubtful legality.

(18) Lit., 'said one word', that the penalty of divorce is imposed upon any union the legality of which was doubtful at the time the marriage was contracted.

(19) Though she is now a widow or divorced.

(20) V. infra for meaning.

(21) Lit., 'and when his time to marry arrives', i.e. at the end of the period of twenty-four months allowed for the nursing

of a child.
(22) Sot. 262.
(23) Raba.
(24) Lit., 'from what? perhaps it is not (so)'.
(25) Lit., 'R. Eliezer did not so far say (his ruling) here'.
(26) It being possible that the child would be viable.
(27) For such a serious offence a penalty is rightly imposed.
(28) Marriage with an expectant. or nursing mother.
(29) Biblically one need not wait twenty-four months before marrying her.
(30) As people might be lax in the observance of a Rabbinical law it was necessary to impose a penalty for its non-observance.
(31) Marriage with an expectant yebamah.
(32) Or 'her', i.e., from marrying an expectant yebamah. No penalty. therefore, need be imposed upon an occasional offender.
(33) Who permit marriage after the period of twenty-four months had elapsed.
(34) Mere separation is not enough.
(35) יוציא Hif. of יצא 'to go out'.
(36) יפיש Hif. of פרש 'to separate'.
(37) Cf. Tosaf. Hul. 87b, s.v. תנן and Bek. 49a s.v. מת. Cur. edd., 'we learned'.
(38) Of doubtful premature birth. Lit., 'among man', opp. to cattle mentioned in the final clause.
(39) Tosef. Shab. XVI, Shab. 135b, Nid. 44b, infra 80b; and consequently exempts his mother from levirate marriage and halizah. In the case of a mature birth (cf. prev. note) the child exempts his mother on the first day of his birth. (V. Nid. 43b).
(40) [Rashi: By dying a natural death; Tosaf. If he was killed; for if he died a natural death within thirty days even the Rabbis would regard him as a miscarriage, v. Tosaf, s.v. הא].
(41) And his mother would have had to perform halizah only, but would not have been allowed to contract the levirate marriage.
(42) The child of a sister-in-law whose husband had died without having left any other issue.
(43) Of his birth.
(44) His mother, the widow of his deceased father.
(45) Lit., 'stood up.'
(46) To a stranger; believing that the birth of the child was sufficient to exempt her from the obligations of the levirate marriage and the halizah.
(47) I.e., if the man who betrothed her was an Israelite who may marry a haluzah.
(48) With the levir.
(49) Cf. supra 8. A priest may not marry a haluzah.
(50) Were she to perform it. her husband could not subsequently be allowed to live with her. Hence she is granted exemption from halizah by virtue of the child's birth alone.
(51) Var. lec. 'Sherabya', v. Shab. 136b.

Talmud - Mas. Yevamoth 37a

Raba said so[1] in the evening, but on the following morning he retracted.[2] The other exclaimed, "So you have permitted;[3] would that you permitted also abdominal fat!"[4] Now, what is the law here in respect of the pregnant, or nursing wife of another man who was married to a priest? Did the Rabbis make any provision for a priest[5] or not?' — The other[6] replied:[7] What a comparison![8] [The distinction][9] is well justified there;[10] since the Rabbis differ from R. Simeon b. Gamaliel in maintaining that the child is deemed to be sound even though he did not live long enough,[11] we may, in the case of a priest's wife, where no other course is open,[12] act in accordance with the view of the Rabbis.[13] Here,[14] however, in accordance with whose view could we act? If in accordance with that of R. Meir, he surely stated that he[15] must put her out and never remarry her! And if in accordance with the view of the Rabbis, they, surely, stated [that she must be sent away] by means of a letter of

divorce![16]

It was stated: [The case of the man who] betrothed a woman[17] within the three [months][18] and fled, is one concerning which R. Aha and Rafram are at variance. One holds that the man is to be placed under the ban,[19] but the other holds that his flight is sufficient.[20] Such an incident once happened, and Rafram ruled,[21] 'His flight is sufficient'.[20]

IF IT IS DOUBTFUL WHETHER IT IS A NINE-MONTHS CHILD etc. Said Raba to R. Nahman. Let the ruling be that one is to go by the majority of women, and the majority of women bear at nine months![22] — The other replied: Our women bear at seven months. 'Are your women', the first retorted, 'the majority of the world'! — 'What I mean', the other replied, 'is this: Most women bear at nine months and a minority at seven, and the embryo in the case of every woman who bears at nine is recognizable after a third of the period of her pregnancy;[23] and in the case of this woman, since her embryo was not recognized after a third of the period of her pregnancy[23] [her presumption to belong to] the majority is impaired'.

If in the case of every woman, however, who bears at nine the embryo is recognizable after a third of the period of her pregnancy. it is obvious that with this [woman], since her embryo had not been recognized after a third of the period of her pregnancy, it must be a seven-months child of the second[24] husband! — But say rather: When a woman bears at nine months, her embryo in most cases is recognizable after a third of her pregnancy. and with this woman, since her embryo was not recognized after a third of the period of her pregnancy, [her presumption to belong to] the majority is impaired.

Our Rabbis taught: The first [child][25] is fit to be a High priest,[26] and the second[27] is deemed a bastard owing to his doubtful origin.[28] R. Eliezer b. Jacob said: He is not of doubtful bastardy.[29] What does he[30] mean?[31] — Abaye replied: It is this that he meant, 'The first child[25] is fit to be a High priest[26] while the seconds is one of doubtful bastardy[29] and is consequently forbidden to marry a bastard.[32] R. Eliezer b. Jacob said: He is not one of doubtful bastardy but an assured bastard, and is consequently permitted to marry a bastard'. Raba replied: It is this that was meant: 'The first[33] is fit to be a High priest[34] and the second,[35] on account of his doubtful origin,[36] is deemed to be an assured bastard and is consequently permitted to marry a bastard; but R. Eliezer b. Jacob said: He cannot be deemed an assured bastard on account of his doubtful origin;[36] he is, however, regarded as one of doubtful bastardy and is consequently forbidden to marry a bastard.[37] And they[38] differ in [the interpretation of a ruling] of R. Eleazar. For we learned: 'R. Eleazar said, persons of confirmed illegitimacy may [intermarry] with others of confirmed illegitimacy, but those of confirmed illegitimacy may not intermarry with those of doubtful illegitimacy;[39] nor those of doubtful, with those of confirmed illegitimacy; nor those of doubtful, with others of doubtful illegitimacy. And the following are of doubtful legitimacy: The shethuki,[40] the asufi[41] and the Samaritan.[42] And [in connection with this] Rab Judah stated in the name of Rab, 'The halachah is in accordance with the ruling of R. Eleazar, but when I stated this in the presence of Samuel[43] he said to me, "Hillel taught that the following ten different genealogical classes went up from Babylon:[44] priests, Levites, Israelites, profaned priests,[45] proselytes, emancipated slaves, bastards, nethinim,[46] shetkuki[40] and asufi,[41] and all these may inter marry",[47] and you state that the halachah is in accordance with the ruling of R. Eleazar'![48] Now Abaye upholds the opinion of Samuel who stated that the halachah is in agreement with the ruling of Hillel and consequently brings the ruling of R. Eliezer b. Jacob into harmony with the halachah so that there may be no contradiction between the one halachah and the other.[49] Raba, on the other hand, upholds the opinion of Rab who stated that the halachah is in agreement with the ruling of R. Eleazar, and so he brings the ruling of R. Eliezer b. Jacob into harmony with the halachah in order that there may be no contradiction

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(1) That halizah must be performed even where the husband is a priest (R. Mesharsheya's version).

(2) Exempting the widow from halizah where a priest is involved (Rabina's version).
(3) Var. lec. 'permitted it'.
(4) Shab. 136af.
(5) That temporary separation until the twenty. four months had elapsed shall suffice and that, unlike an Israelite, the priest shall not be required to give a divorce. If an Israelite gives a divorce in such circumstances he may remarry the woman after the lapse of the forbidden period. A priest, however, being forbidden to marry a divorced woman, would never again be allowed to remarry her once she had been divorced.
(6) R. Hoshaia.
(7) To R. Ashi.
(8) Lit., 'thus now'.
(9) Between an Israelite and a priest.
(10) Where the child died within the first thirty days of his life and his mother was betrothed to a stranger.
(11) The full thirty days.
(12) Since a priest is forbidden to marry a divorced woman.
(13) In regarding the child as viable and thus exempting the mother from the levirate marriage and halizah.
(14) Where the levir married his sister-in-law while she was an expectant, or nursing mother.
(15) The levir.
(16) V. supra 36b and cf. p. 229, nn. 16 and 17.
(17) An expectant, or nursing mother who was a widow or divorcee.
(18) After she became a widow or divorcee.
(19) Until he consents to divorce the woman.
(20) He need not be compelled to give her a divorce, and no penalty need be imposed upon him, since his flight may be taken as an indication that it was not his intention to live with her before the lapse of a period of twenty-four months after the birth of a child.
(21) Lit., 'said to them'.
(22) The child would consequently be deemed to be the son of the first husband, and the marriage of his mother with the levir would be a forbidden union. The levir who thus married unlawfully his brother's wife should bring a sin-offering and not, as stated in our Mishnah, an asham talui.
(23) Lit., 'her days'.
(24) Lit., 'last'.
(25) Born from the levirate marriage, and in respect of whom it is doubtful whether he is a nine-months child of the deceased or a seven-months one of the levir.
(26) His legitimacy is beyond all doubt. If he is the son of the deceased brother he is legitimate. though the subsequent levirate marriage is a forbidden one; and if be is the son of the levir, the levirate marriage itself is a lawful union.
(27) Any child after the first, born from the levirate marriage.
(28) It being possible that the first child was the son of the deceased, and that the levirate marriage was consequently forbidden under the penalty of kareth. Children born from such a union are bastards.
(29) Cur. edd., 'There is no bastard on account of doubt'.
(30) R. Eliezer b. Jacob.
(31) Does he imply that one cannot be described as a bastard unless his illegitimacy is a certainty?
(32) Since it is equally possible that he himself is not a bastard. (11) So Bah a.l. cur. edd. omit the last two words.
(33) V. supra p, 232, n. 3.
(34) V. loc. cit. n. 4.
(35) V. loc. cit. n. 5.
(36) V. loc. cit. n. 6.
(37) Since it is equally possible that he himself is not a bastard.
(38) Abaye and Raba in their differing explanations of the Baraitha cited.
(39) Since it is possible that a person of doubtful legitimacy may in fact be legitimate, and by marrying one whose illegitimacy is established a bastard, contrary to Pentateuchal law, would be 'admitted into the congregation'. (V. Deut. XXIII, 3).
(40) שתוקי (rt. שתק 'to be silent'), he who knows his mother but does not know who was his father (v. Kid. 6); who 'keeps silent' about his origin.

(41) אסופי (rt. אסף 'to gather') a child picked up in the street, and whose fatherhood and motherhood are unknown (v. Kid. l.c.); 'a foundling'.
(42) Kid. 74a. In all these cases the legitimacy is doubtful: in the first two, because the father is unknown; and in the last, because the Samaritans did not observe all the laws of betrothal, and any Samaritan might be the issue of an illicit union between his father and a woman who had been legally betrothed to another man.
(43) After Rab's death, where Rab Judah joined Samuel's academy for a short period.
(44) To Judaea, in the days of Ezra.
(45) Priests born from a forbidden union (cf. Lev. XXI, 7).
(46) נתינים, plur. of nathin, v. Glos.
(47) I.e., each class may intermarry with at least one other class.
(48) Kid. 75a. How, in view of Hillel's ruling (v. supra n. 1), could the halachah be said to be in agreement with the view of R. Eleazar according to whom certain classes, not being of confirmed illegitimacy, could never intermarry!
(49) The halachah is always determined by the teachings of R. Eliezer h. Jacob whose information was well sifted and authoritative. (V. Git. 67a).

Talmud - Mas. Yevamoth 37b

between one halachah and the other.

Said Abaye: Whence do I infer that R. Eliezer b. Jacob treats any doubtful case as a certainty? — [From] what was taught: R. Eliezer b. Jacob said, 'Behold, when a man has intercourse with many women and does not know with which particular woman[1] he had intercourse, and, similarly, when a woman with whom many men had intercourse does not know to which particular man her conception is due, the consequences are that a father will be marrying his daughter and a brother his sister, and the whole world will be filled with bastards,[2] and concerning this it was said, And the land became full of lewdness'.[3] And Raba?[4] — He can answer you: It is this that was meant, 'What might be the result'?[5]

More than that[6] was said by R. Eliezer b. Jacob: A man shall not marry a wife in one country and then proceed to marry one in another country, since [their children][7] might marry one another and the result might be that a brother would marry his sister.[8]

But, surely, this could not be [the accepted ruling], for Rab, whenever he happened to visit Dardeshir,[9] used to announce, 'Who would be mine[10] for the day'! So also R, Nahman, whenever he happened to visit Shekunzib,[11] used to announce, 'Who would be mines for the day'![12] — The Rabbis came under a special category since they are well known.[13]

But did not Raba say: A woman who had an offer of marriage and accepted must allow a period of seven ritually clean days to pass![14] — The Rabbis sent their representatives and these presented the announcements to the women.[15] And if you prefer I might say: The Rabbis only had them[16] in their private rooms;[17] for the Master said, 'He who has bread in his basket cannot be compared to him who has no bread in his basket'.[18]

A Tanna taught: R. Eliezer b. Jacob said: A man must not marry a woman if it is his intention to divorce her, for it is written, Devise not evil against thy neighbour, seeing he dwelleth securely by thee.[19]

If the 'doubtful son'[20] and the levir came to claim a share[21] in the estate of the deceased,[22] the 'doubtful son' pleading, 'I am the son of the deceased and the estate is mine', while the levir pleads, 'You are my son and you have no claim whatsoever upon the estate',it is a case of money of doubtful ownership,[23] and money the ownership of which is doubtful must be divided.[24]

Where the 'doubtful son'[20] and the sons of the levir came to claim their share[21] in the estate of the deceased, the 'doubtful son' pleading, 'I[25] am the son of the deceased and the estate is mine while the sons of the levir plead, 'You are our brother and you have only a share equal to ours', it was the intention of the Rabbis to submit to R. Mesharsheya that this was a case [identical with that] of a Mishnah wherein we learned, 'He[26] does not inherit from them[27] but they inherit from him',[28] since here the case is just the reverse:[29] There they tell him, 'produce proof and take [your share]'[30] while here he tells them, 'produce proof and take your share'.[31] R. Mesharsheya, however, said to them, 'Are [the two cases] equal? There, their claim is a certainty[32] while his is doubtful,[33] while here both are doubtful![34] If, however, a case is to be compared to a Mishnah it is to the following: That of a 'doubtful son'[35] and the sons of the levir who came to claim[36] shares in the estate of the levir himself, where they can say to him: produce proof that you are our brother and take your share'.[37]

If a 'doubtful son'[35] and the sons of the levir came to claim[36] their shares in the estate of the levir after the levir had received his share in the estate of the deceased, the sons of the levir pleading, 'produce proof that you are our brother and you will receive [your share]', the 'doubtful son' can tell them, 'Whatever you wish: If I am your brother, give me a share among you;[38] and if I am the son of the deceased, return to me the half which your father received when he shared the estate with me'.

Said R. Abba in the name of Rab: The judgment must stand.[39] R. Jeremiah said: The judgment is to be reversed.[40]

May it be suggested that they[41] differ on the same principle as that which underlies the dispute between Admon and the Rabbis? For we learned: If a man went to a country beyond the sea and [in his absence] the path to his field was lost,[42] he shall, Admon said, use the shortest cut;[43] but the Sages said: He must purchase a path even though it will cost him a hundred maneh or else fly in the air.[44] And in discussing this [Mishnah it was pointed out] against the Rabbis that Admon was perfectly right; and Rab Judah replied in the name of Rab that here it is a case where [the fields of] four persons surrounded it on its four sides.[45] But [it was asked] what is Admon's reason? And Raba replied: Where four persons[46] derive their rights of possession from four persons[47] or where four persons derive it from one[45] all agree that these[48] can refuse[49] him; the dispute only concerns one person who derived his rights from four. Admon is of the opinion that he[50] can tell him, 'At all events[51] my path is in your fields',[52] while the Rabbis hold that the other can answer him, 'If you will keep quiet, well and good;[53] and if not, I will return the deeds to their original owners whom you will have no chance to call to law'.[54] May it, then, be suggested that R. Abba[55] holds the view of the Rabbis[56] and R. Jeremiah[57] that of Admon?[58] R. Abba can tell you: I may even hold the view of Admon; he made his ruling there[59] only because he[60] can say to him,[61] 'Whatever you wish to plead,

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(1) Among those who had issue from their unlawful connection.

(2) Thus it has been shewn that, according to R. Eliezer b. Jacob, even persons of doubtful illegitimacy are described as 'bastards'.

(3) זמה Lev. XIX, 29, Tosef. Kid. I.

(4) How could he maintain a ruling which is contrary to the statement of R. Eliezer b. Jacob just quoted?

(5) מה היא Lit., 'this, what is it', a play on the word זמה (cf. Ned. 51a), i.e., R. Eliezer b. Jacob implies the possibility that the consequences might be the bringing of bastards into the world; not that all the issue would be deemed confirmed bastards.

(6) I.e., not only did he denounce indiscriminate intercourse, as has just been shewn, but he also forbade lawful marriage wherever its consequences might lead to moral chaos.

(7) Born in different parts of the world and knowing nothing of each other's parentage.

(8) Yoma 18b.

(9) [Ardashir, a town near Mahuza. V. Obermeyer pp. 164ff and 175, n, 1.].

(10) By marriage.

(11) [A town on the eastern bank of the Tigris, v. op. cit. p. 190].

(12) Yoma l.c. [Rashi: 'for the days' (plur.). He was anxious to establish a home in Shekunzib which he often visited on business affairs and consequently wished to secure a wife to bless his home whenever he would stay there, v. Obermeyer, p. 191].
(13) Should there be any issue from their marriages, in whatever part of the world this might happen, it will be well known to everybody who the father is.
(14) Nid. 662; because it is possible that the excitement of the proposal and its acceptance has produced menstrual flow, and the woman has thus become levitically unclean. How, then, could the Rabbis mentioned marry on the very day on which their announcements were made?
(15) Seven days prior to the Rabbis' arrival.
(16) The women they married for the day.
(17) Rt. יחד B.H. אחד, 'to be alone with one other person'; but no connubial intercourse took place.
(18) Yoma loc. cit., Keth. 62b. The consciousness of having no bread at all intensifies the pangs of hunger, while the presence of bread in the basket, and the knowledge that it may be enjoyed at any moment, mitigates the craving. Similarly, the consciousness of the presence of one's own wife mitigates the sensual desires.
(19) Prov. III, 29; v. Git. 90a.
(20) A son of whom it is not known whether he was a nine-months child of the deceased, or a seven-months one of the levir. (V. our Mishnah).
(21) Lit., 'to divide', or 'to dispute'.
(22) Who died without issue and whose expectant wife had married the levir and bore this 'doubtful son'.
(23) Lit., 'which is thrown into doubt'; none of the disputants has any claim superior to that of the other.
(24) Between the claimants.
(25) Lit., 'that man'.
(26) The son concerning whom it is uncertain whether he was a nine months child of his mother's first, or a seven-months child of her second husband. Cf. supra n. 2.
(27) Neither from the sons of his mother's first, nor from those of her second husband. As his claim is indefinite, since he cannot possibly know who his father really was, each group of heirs, whose claim to the estate of their respective fathers is definite and certain, can plead that he is not the son of their father.
(28) Infra 100b. When he dies, the two groups of brothers, since they have exactly equal claims upon his estate, are entitled to equal shares in it.
(29) While in the Mishnah cited their claim is certain and his is not, in this case his claim is certain while theirs is not. His claim is certain since at all events he is entitled either to all the estate (if he is the son of the deceased) or to a part at least (if he is the son of the levir), their claim, however, is doubtful since it is possible that he is the son of the deceased and they, as the sons of the levir, have no claim whatsoever upon the estate.
(30) Cf. supra note 9.
(31) Cf. supra p. 236, n. 11.
(32) They know exactly whose children they are and by virtue of whose rights they advance their claims.
(33) He is not sure whose son he is.
(34) He himself whose claim to heirship is certain is also in doubt as to who exactly his father was and by virtue of whose rights he is entitled to the estate.
(35) V. supra p. 236, n. 2.
(36) V. loc. cit. n. 3.
(37) Here, as in the Mishnah, one claim is a certainty (that of the sons of the levir) while the other (that of the 'doubtful son') is not.
(38) And the half he already received he would return. This, of course, applies to the case only where one share in the levir's estate exceeds half the estate of the first deceased brother.
(39) Once the levir received a half of the estate of his deceased brother it cannot again be taken away from his heirs. The second claim of the 'doubtful son' is, therefore, invalid.
(40) The sons of the levir must either return to the 'doubtful son' the half which their father had received or allow him in their father's estate a share equal to theirs.
(41) R. Abba and R. Jeremiah.
(42) It being unknown in which of the surrounding fields it lay.
(43) He must be allowed a short path through one of the surrounding fields. V. infra for further explanation.

(44) Keth. 109b.
(45) So that each person can plead that it was not in his field, but in one of the others, that the lost path lay.
(46) The respective owners of the four surrounding fields.
(47) Who presented or sold the fields to them.
(48) The present four owners.
(49) Lit., 'reject'.
(50) Whose path was lost.
(51) In whichever field it was lost,
(52) Hence he is entitled to the short cut.
(53) Lit., 'you will keep quiet'. He will sell him a path at a reasonable price (Rashi). Cf., however, Tosaf. s.v. דאמר.
(54) Lit., 'and you will not be able to talk law with them'. V. supra note 3.
(55) Who does not allow the alternative claim of the 'doubtful son'.
(56) Who also disallow the alternate claim of the loser of the field.
(57) Who admits the alternative claim of the 'doubtful son'.
(58) Who also admits the alternative claim in the case of the lost path.
(59) The case of the lost path.
(60) The loser of the path.
(61) The present owner of the fields.

Talmud - Mas. Yevamoth 38a

my only path lies in your fields', but could such a plea be advanced here! And R. Jeremiah can tell you: I may uphold even the view of the Rabbis, for the Rabbis made their ruling there only because he can tell him, 'If you keep silence, well and good, and if not I will return the deeds to their original owners and you will have no chance to call them to law', but could such a plea be advanced here!

Where a 'doubtful son'[1] and a levir came to claim their shares[2] in the estate of the grandfather,[3] the former[4] pleading, 'I am[5] the son of the deceased and half of the estate belongs, therefore, to me', while the levir pleads, 'You are my own son and you have, therefore, no share whatsoever', the levir's claim being a certainty[6] and that of the 'doubtful son' a doubtful one,[7] doubt may not supersede[8] a certainty.

Where the 'doubtful son'[1] and the sons of the levir came to claim their shares[2] in the estate of their grandfather,[9] the former[4] pleading. 'I am[5] the son of the deceased and half of the estate is, therefore, mine'[10] while the sons of the levir plead, 'You are our brother and you have a share like one of us',[11] they receive the half which he concedes to them while he receives the third[12] which they concede to him, and thus a sixth[13] remains,[14] which, being property[15] of uncertain ownership, is to be equally divided.[16]

Where the grandfather[17] and the levir [claim their shares] in the estate of the 'doubtful son' or where the grandfather[17] and the 'doubtful son' [claim their shares] in the estate of the levir, the estate is to be regarded as money of uncertain ownership and is to be equally divided.[16] MISHNAH. IF A WOMAN AWAITING [THE DECISION OF] THE LEVIR[18] CAME INTO THE POSSESSION OF[19] PROPERTY,[20] BETH SHAMMAI AND BETH HILLEL AGREE THAT SHE MAY SELL IT OR GIVE IT AWAY, AND THAT HER ACT IS LEGALLY VALID. IF SHE[21] DIED, WHAT SHALL BE DONE WITH HER KETHUBAH[22] AND WITH PROPERTY THAT COMES IN AND GOES OUT WITH HER?[23] BETH SHAMMAI SAID: THE HEIRS OF HER HUSBAND[24] ARE TO SHARE IT[25] WITH THE HEIRS OF HER FATHER;[26] AND BETH HILLEL SAID: THE PROPERTY IS TO REMAIN WITH THOSE IN WHOSE POSSESSION IT IS, [HENCE] THE KETHUBAH IS TO REMAIN IN THE POSSESSION OF THE HEIRS OF THE HUSBAND WHILE THE PROPERTY WHICH COMES IN AND GOES OUT WITH HER[23] REMAINS IN THE POSSESSION OF THE HEIRS OF HER FATHER.[27] WHERE HE MARRIED HER,[18] SHE IS

DEEMED TO BE HIS WIFE IN EVERY RESPECT SAVE THAT HER KETHUBAH REMAINS A CHARGE ON HER FIRST HUSBAND'S ESTATE.

GEMARA. Wherein does the first clause[28] in which there is no dispute between them[29] differ from the final clause[30] in which they[29] do dispute?[31] 'Ulla replied: The first clause deals with a woman who became subject to the levirate marriage[32] while betrothed, and the final clause with one who became subject to the levirate marriage[32] while married. And 'Ulla is of the opinion that the levirate bond[33] of a betrothed woman renders her 'doubtfully betrothed'[34]

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(1) V. supra p. 236, n. 2.

(2) V. loc. cit. n. 3.

(3) Of the 'doubtful son', the father of the levir and the deceased.

(4) Lit., 'the doubtful'.

(5) Lit., 'that man'.

(6) He knows exactly by virtue of whose, and by virtue of what rights he advances his claim, and he may consequently be regarded as being in actual possession of the estate.

(7) He cannot in any way be sure whose son he is and by virtue of whose rights his claim is advanced.

(8) Lit., 'take out'.

(9) Cf. supra note 3.

(10) Since it is to be divided into two equal shares between the two sons of the deceased.

(11) If for instance, the total number of brothers was three, he is entitled, they claim, to a third of the estate only, and not to a half,

(12) V. note 13 supra.

(13) דנקא, a sixth of a denar, hence a 'sixth' generally.

(14) 1 — (1/2 + 1/3) = 1/6.

(15) Lit., 'money'.

(16) Between the claimants.

(17) V. supra note 3.

(18) שומרת יבם the widow of a deceased brother during the period intervening between the death of her husband and the halizah or marriage with the levir.

(19) Lit., 'there fell to her'. The assumption now is that this occurred during her 'waiting period'. v. supra n. 1,

(20) Bequeathed to her by her father or presented to her as a gifts

(21) V. supra note 1.

(22) V. Glos.

(23) Her melog property. v. Glos.

(24) Who is heir to his wife. Husband in this context _ levir.

(25) In the Gemara it is explained that this refers to the melog property only. In respect to the kethubah Beth Shammai agree with Beth Hillel.

(26) It being a matter of doubt whether the levirate bond with the levir constitutes such a close relationship as that of an actual marriage, the right of heirship as between her husband's heirs and hers cannot be definitely determined and the property must, therefore, be equally divided between them.

(27) For further notes v. Keth., Sonc. ed. pp. 507 ff.

(28) The case where the widow is alive.

(29) Beth Shammai and Beth Hillel.

(30) Where the widow had died.

(31) Why is the widow in the first case regarded as the confirmed possessor of the property and allowed to dispose of it in any manner she desires, while in the second case her right of possession is in dispute, her rightful heirs not being regarded as the lawful and undisputed successors to her property?

(32) Lit., 'when she fell'.

(33) Between the widow and the levir, due to the obligations of the levirate.

(34) The levirate bond not carrying the same force as actual betrothal.

and the levirate bond of a married woman renders her 'doubtfully married'.[1] 'The levirate bond of a betrothed woman renders her doubtfully betrothed', for were we to assume that she is regarded as definitely betrothed, [how could both] BETH SHAMMAI AND BETH HILLEL AGREE THAT SHE MAY SELL IT OR GIVE IT AWAY AND THAT HER ACT IS LEGALLY VALID when we learned: If she came into the possession of property while she was betrothed, Beth Shammai said, she may sell it, and Beth Hillel said, she may not sell it, but both agree that if she had sold or had given it away her act is legally valid![2] Consequently[3] it must be inferred that the levirate bond of a betrothed woman renders her 'doubtfully betrothed'.[4] 'The levirate bond of a married woman renders her doubtfully married', for had it been possible to assume that she is regarded as definitely married, [how could] Beth Shammai state that THE HEIRS OF HER HUSBAND ARE TO SHARE IT WITH THE HEIRS OF HER FATHER when we learned: If she came into the possession of property while she was married, both[5] agree that, if she had sold or given it away, her husband may seize it from the hand of the buyers![6] Consequently it must be inferred that the levirate bond of a married woman renders her 'doubtfully married'.[7]

Said Rabbah to him:[8] Why, then, do they[9] dispute on [the question of the estate] itself after the death [of the widow]? Let them rather dispute on the question of the usufruct while she is alive! No, said Rabbah, both clauses deal with property which came into her possession while she was married; and the levirate bond of a married woman stamps her as doubtfully married. In the first clause, therefore, where she is alive, she is the certain possessor[10] while they are only doubtful possessors, and doubt cannot override a certainty.[11] In the final clause, however, where she is dead, both groups come equally as heirs[12] and are, therefore,[13] to take equal shares.[14]

Abaye pointed out an objection against him:[15] Cannot a doubt, in accordance with the view of Beth Shammai, override a certainty? Surely we learned: [In the case where] a[16] house collapsed upon a man[17] and his father or upon a man[17] and those whose heir he was,[18] and that man had against him the claim of his wife's kethubah[19] or that of a creditor,[20] [and in the first case], the heirs of the father plead that the son died first and the father afterwards,[21] while the creditor pleads that the father died first and the son afterwards,[22] Beth Shammai hold [that the amount in dispute is] to be divided,[23] and Beth Hillel hold that the estate is to remain in its former status.[24] Now here, surely, [the claim of] the heirs of the father is a certainty[25] and that of the creditor is only a doubt[25] and yet[26] the doubtful claim overrides the certainty![27] — Beth Shammai are of the opinion that a bond of indebtedness which is due for repayment is regarded as [already] repaid![28]

And whence do you derive this?[29] — [From] what we learned: If their husbands[30] died before they drank,[31] Beth Shammai rule that they are to receive their kethuboth[32] and that they need not drink,[33] and Beth Hillel rule that they either drink[33] or they do not receive their kethuboth.[34] [But how can it be ruled,] 'They either drink', when the All Merciful said, Then shall the man bring his wife[35] and he is not there! Consequently [the meaning must be that] as they do not drink they are not to receive their kethuboth.[32] Now here, surely, it is a matter of doubt, it being uncertain whether she did play the harlot[36] or not,[37] and yet the doubt overrides the certainty.[38] Consequently[39] it must be inferred that a bond of indebtedness which is due for repayment is regarded as already repaid.[40]

Abaye,[41] then,[42] should have raised his objection from this![43] — [The law of] a wife's kethubah might be different owing to considerations of courtesy.[44]

Then let him[45] raise his objection from the law of the kethubah in our Mishnah![46] They[47] do not dispute this point.[48]

But do they not? Surely we learned,[49] IF SHE DIED, WHAT SHALL BE DONE WITH HER

KETHUBAH AND WITH PROPERTY THAT COMES IN AND GOES OUT WITH HER? BETH SHAMMAI SAID: THE HEIRS OF HER HUSBAND ARE TO SHARE IT WITH THE HEIRS OF HER FATHER; BETH HILLEL SAID: THE PROPERTY IS TO REMAIN WITH THOSE IN WHOSE POSSESSION IT IS! — It is this that was meant: IF SHE DIED, WHAT SHALL BE DONE WITH HER KETHUBAH? and then [the enquiry] was abandoned. As to PROPERTY THAT COMES IN AND GOES OUT WITH HER, BETH SHAMMAI SAID: THE HEIRS OF HER HUSBAND ARE TO SHARE WITH THE HEIRS OF HER FATHER AND BETH HILLEL SAID: THE PROPERTY IS TO REMAIN WITH THOSE IN WHOSE POSSESSION IT IS.

Said R. Ashi: The inference from the expressions in our Mishnah leads to the same conclusion;[50] for it was stated, THE HEIRS OF HER HUSBAND ARE TO SHARE WITH THE HEIRS OF HER FATHER[51] and it was not stated 'the heirs of the father [are to share it] with the heirs of the husband'.[52] This proves it.

[Reverting to the previous question,][53] Abaye replied: The first clause [deals with property] that came into her possession while she was awaiting [the decision of] the levir,[54] and the latter clause [with such] as came into her possession while she was still with her husband.

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(1) Cf. supra n. 3.

(2) Keth. 78a., Sonc. ed. pp. 490ff q.v.

(3) Since in the case of a definite betrothal Beth Hillel, contrary to the opinion of Beth Shammai do not allow the widow the right of sale or gift, while in the first clause of our Mishnah they do.

(4) Hence Beth Shammai, who concede to the widow the right to sell and to give away even where her betrothal was certain, with all the more reason concede such rights to the widow spoken of in the first clause of our Mishnah where her betrothal is only doubtful. Beth Hillel, too, since in the case of a definite betrothal they agree that a sale or gift that had already taken place is valid, may rightly concede to the widow in the case of doubtful betrothal the full rights of selling and giving away.

(5) Beth Shammai and Beth Hillel.

(6) Keth. loc. cit.

(7) And so both Beth Shammai and Beth Hillel, who in the case of a definite marriage recognize the husband's right to seize from the buyers even property that his wife had already sold, agree that in the case of our Mishnah, the status of marriage being a matter of doubt, the husband's rights are also a matter of doubt. Hence Beth Shammai might well maintain that the property which is of doubtful ownership should be equally divided between the rival claimants, while Beth Hillel may maintain that the widow's right of possession is to be given priority since she came into the possession of the property at a time when her married status was a matter of uncertainty.

(8) 'Ulla.

(9) Beth Shammai and Beth Hillel.

(10) Since the property is in any case hers.

(11) Hence Beth Shammai as well as Beth Hillel agree that she is fully entitled to sell the property or to give it away.

(12) Lit., 'those come to inherit' (bis). Had the levirate bond borne the same force as marriage the estate would undoubtedly have become the property of the levir only. Had it not borne the same force as marriage the estate would have been given to her father's heirs only, and the levir would have had no claim whatsoever. The claims of either group are consequently evenly balanced.

(13) Since the claim of either is equally doubtful.

(14) According to Beth Shammai. Beth Hillel's view, on the other hand, may be justified on the ground that the widow's father's heirs are her certain relatives and are, therefore, entitled to inherit that which was in her possession. No such claim, however, could be advanced by the husband's relatives since the husband himself was never for one moment in definite and undisputed possession of the property in question.

(15) Rabbah.

(16) Lit., 'the'.

(17) Lit., 'upon him'.

(18) Brothers, for instance, or other relatives, who had no other heirs but him.

(19) V. Glos.
(20) And he left no other money or possessions wherewith to meet his obligations, while those whose heir he was did leave possessions.
(21) The son did not consequently inherit from his father whose estate would, therefore, belong to the surviving heirs.
(22) And the son had, therefore, inherited his father's estate which may consequently be seized in payment of the son's debts.
(23) Between the creditor and the heirs, their respective claims being regarded by Beth Shammai as of equal force.
(24) B.B. 157a; With the heirs of the father. The claim of the heirs is regarded by Beth Hillel as a certainty, since they are in possession of the estate either as heirs of the father or as heirs of the son, while the claim of the creditor, being dependent on his being put into possession of the estate by the court, is of doubtful validity, and 'doubt cannot override a certainty'.
(25) v. supra n. 8.
(26) According to Beth Shammai.
(27) Lit., 'and doubt comes and takes away from the hands of certainty'. V. supra n. 8.
(28) Sot. 25a. The amount of the debt is deemed to be in the virtual possession of the creditor. The claims respectively of the heirs and the creditor are, consequently, of equal force. If the father died first his son inherited his estate and the creditor had immediately come into the legal possession of a share of the estate equal to the amount of his debt. If the son died first the heirs come into possession of the entire estate. As it is not known who died first the claims of the two parties are equally doubtful and of equal validity.
(29) That Beth Shammai hold the opinion just attributed to them.
(30) Of women suspected of illicit intercourse with strangers after they had been warned by their husbands. V. Glos. s.v. sotah.
(31) The water of bitterness. V. Num. V, 24.
(32) Pl. of kethubah, v. Glos.
(33) The water of bitterness. V. Num. V, 24.
(34) Sot. 24a, Keth. 81a.
(35) Num. V, 15; emphasis on man.
(36) And has, therefore, lost the right to her kethubah.
(37) And is consequently entitled to receive it.
(38) Cf. supra p. 243, n, 12. Despite the doubt as to whether she is entitled to her kethubah she receives it, according to Beth Shammai; and she thus takes away the amount of her kethubah from the heirs of her husband who are the undoubted successors to his property.
(39) Since the rule is that 'doubt cannot override certainty's
(40) The kethubah is, therefore, deemed to have been collected as soon as the husband died, and the widow is consequently deemed to be the virtual possessor of such a portion of his estate as would cover the amount of her kethubah.
(41) Whose objection to Rabbah, supra, was based on a Mishnah from Baba Bathra.
(42) Since the principle of virtual possession did not occur to him as the reason for allowing a doubtful claim in face of certain one.
(43) The Mishnah just cited which is embodied in the Tractates of Sotah and Kethuboth both of which belong to the same order as our Tractate. Since the principles in both Mishnahs are identical, why did Abaye resort to a Mishnah in another order when one was available in our order of Nashim.
(44) חינא 'gracefulness', 'loveliness'. It is possible that in order that pleasant and cordial relations may exist between husband and wife the law has been enacted that, despite the general rule that 'doubt cannot override a certainty', a woman shall be privileged to collect her kethubah even when her own claim is of a doubtful character and that of her litigants is a certain one. No objection could, therefore, be put forward from such a special case; and Abaye had consequently to resort to a Mishnah in Nezikin. Other explanations of משום חינא (v. Jast.): 'In order to make her attractive', 'that women may be willing to marry'.
(45) Abaye.
(46) Where, according to Beth Shammai, the heirs of the father (by virtue of his being heir to his daughter, the widow), though their claim is of a doubtful nature, share the amount of the kethubah with the heirs of the husband whose rights to the amount of the kethubah (as the heirs of the husband) are certain. At the moment it is assumed that Beth Shammai's

disagreement with Beth Hillel extends to the KETHUBAH as well as to the PROPERTY THAT COMES IN AND GOES OUT WITH HER; and 'considerations of courtesy' could not, of course, apply when the woman is dead and the claimants are her male heirs. Cf. Keth. 97b.

(47) Beth Shammai.

(48) They agree with Beth Hillel that the KETHUBAH IS TO RETAIN IN THE POSSESSION OF THE HEIRS OF THE HUSBAND. V. supra p. 240, n. 8.

(49) So MS.M. Cur. edd. 'it was taught'.

(50) That Beth Shammai's disagreement with Beth Hillel does not extend to the question of the kethubah.

(51) I.e., the former take a share in that which is virtually in the possession of the latter, viz., the melog property which belongs to the heirs of the wife's father.

(52) Which would have referred to the kethubah which is in the virtual possession of the husband's heirs,

(53) Supra 38a, 'Whereby does the first clause etc.

(54) As the levirate bond is not strong enough to give the levir any right over that property, it is generally agreed that she and, in case of her death, her heirs also are entitled to dispose of it in any manner they like.

Talmud - Mas. Yevamoth 39a

And Abaye[1] maintains that a husband's rights[2] have the same force as his wife's.[3] Said Raba to him:[4] If she came into possession of property while she was still With her husband, no one[5] would dispute the view that his rights are superior to hers.[6] Both [clauses of our Mishnah], however, [deal with property] which came into her possession while she was awaiting [the decision of] the levir; the first clause speaking of one to whom a ma'amar had not been addressed,[7] and the final clause, of one to whom a ma'amar had been addressed.[8] And Raba is of the opinion that a ma'amar, according to Beth Shammai, renders [the widow] definitely betrothed and doubtfully married. She is deemed to be definitely betrothed in respect of excluding her rival;[9] and she is deemed to be doubtfully married in respect of taking a share in the property.[10]

A statement was made in the name of R. Eleazar in agreement with Raba and a statement was made in the name of R. Jose son of R. Hanina in agreement with Abaye. Could R. Eleazar, however, have made such a statement? Surely R. Eleazar said: A ma'amar, according to Beth Shammai, constitutes a kinyan in so far only as to keep out the rival![11] — Reverse [the statements]. If you prefer I might say: There is really no need to reverse [them, for] R. Eleazar can tell you, 'What I said [amounted to this]: that a letter of divorce alone is not enough[12] but that she requires also halizah; did I state, however, that the ma'amar constitutes no kinyan even in respect of taking a share in her property'![13]

Said R. Papa: The inference from our Mishnah is in agreement with the opinion of Abaye,[14] although 'IF SHE DIED' presents a difficulty.[15] Seeing that it was stated PROPERTY THAT COMES IN AND GOES OUT WITH HER, what is meant by COMES IN and what by GOES OUT? Obviously,[16] 'COMES INTO the possession of her husband'[17] and 'GOES OUT from the possession of her husband into the possession of her father'.[18]

'Although IF SHE DIED presents a difficulty': Why should they[19] dispute [on the question of the property] itself, which can arise only in the event of the woman's death[20] , let them rather dispute on the question of the usufruct which arises even when the woman is still alive![21] The fact is that no further objection [can be raised].[22]

WHERE HE MARRIED HER, SHE IS DEEMED etc. For what practical law [was this statement needed]? — R. Jose b. Hanina replied: To indicate that he may divorce her by means of a letter of divorce[23] and that he may remarry her.

'He may divorce her by means of a letter of divorce'; Is not this obvious?[24] — It might have been

assumed that, since the All Merciful said[25] And perform the duty of a husband's brother unto her,[26] she retains the obligation of the first levirate relationship[27] and so may be set free[28] only through halizah but not through a letter of divorce, hence it was necessary to teach us [that the law is not so].

'He may remarry her'; Is not this obvious?[29] — It might have been assumed that since he[30] has already performed[31] the commandment which the All Merciful has imposed upon him, she shall now be forbidden to him as the wife of his brother, hence it was necessary to teach us [that he may nevertheless remarry her]. Might it not be suggested that the law is so indeed?[32] — Scripture stated, And take her to him to wife;[33] as soon as he has taken her she is deemed to be his wife in every respect.

SAVE THAT HER KETHUBAH etc. What is the reason? — A wife has been given[34] to him[35] from heaven.[36] If, however, she is unable nothing more'. The inference from our Mishnah is undoubtedly in agreement with the view of Abaye, the only difficulty being the one mentioned. to obtain her kethubah from her first [husband], provision was made that she [is to receive it] from the second[37] in order that it may not be easy for him to divorce her.[38]

MISHNAH. THE DUTY OF THE LEVIRATE MARRIAGE IS INCUMBENT UPON THE ELDEST [OF THE SURVIVING BROTHERS].[39] IF HE DECLINES, ALL THE OTHER BROTHERS ARE APPROACHED IN TURN.[40] IF THEY ALL DECLINE, THE ELDEST IS AGAIN APPROACHED AND HE IS TOLD, 'THE DUTY IS INCUMBENT UPON YOU; EITHER SUBMIT TO HALIZAH OR PERFORM THE LEVIRATE MARRIAGE.

IF HE[41] WISHED TO SUSPEND ACTION[42] UNTIL A MINOR[43] BECOMES OF AGE, OR UNTIL THE ELDEST[43] RETURNS FROM A COUNTRY BEYOND THE SEA OR [UNTIL A BROTHER WHO WAS] DEAF[44] OR AN IMBECILE [SHOULD RECOVER],[45] HE IS NOT TO BE LISTENED TO, BUT IS TOLD, 'THE DUTY IS INCUMBENT UPON YOU; EITHER SUBMIT TO HALIZAH OR PERFORM THE LEVIRATE MARRIAGE.

GEMARA. It was stated: [On the relative importance of] the intercourse of a younger, and the halizah of an elder brother there is a difference of opinion between R. Johanan and R. Joshua b. Levi. One holds that the intercourse of the younger is preferable and the other holds that the halizah of the elder is preferable. 'One[46] holds that the intercourse of the younger is preferable,' because the commandment, surely, is to perform the levirate marriage;[47] and 'the other[46] holds that the halizah of the elder is preferable', because in the presence of an elder brother the intercourse of the younger is valueless.[48]

We learned, IF HE DECLINED, ALL THE OTHER BROTHERS ARE APPROACHED IN TURN. Does not this mean that he declined to contract the levirate marriage but [was willing] to submit to the halizah? And yet it was stated, ALL THE OTHER BROTHERS ARE APPROACHED IN TURN, which proves[49] that the intercourse of a younger brother is preferred! — No; he wished neither to submit to halizah nor to perform the levirate marriage. Similarly, then, in the case of the other brothers, [the meaning is that] they declined both halizah and levirate marriage;[50] why, then, is THE ELDEST AGAIN APPROACHED with the object of bringing pressure upon him? Let pressure be brought to bear upon them![51] — As the duty[52] is incumbent upon him, pressure also must be used against him.

We learned, IF HE WISHED TO SUSPEND ACTION UNTIL A MINOR BECOMES OF AGE ... HE IS NOT TO BE LISTENED TO. But if the intercourse of a minor is to be preferred, why IS HE NOT TO BE LISTENED TO? Let us rather wait, since on becoming of age he might contract the levirate marriage! — Following your view [it might similarly be objected], why [if he wished to wait] UNTIL THE ELDEST RETURNS FROM A COUNTRY BEYOND THE SEA . . . HE IS

NOT TO BE LISTENED TO? Let us rather wait, since on his return he might contract the levirate marriage![53] The fact is that the performance of a commandment must not be delayed.[54]

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(1) Since he explains the latter clause to be dealing with property that came into the wife's possession while her husband was still alive.

(2) To his wife's melog property.

(3) Lit., 'his hand is like her hand'. The husband's rights, according to Beth Hillel, he maintains, are in no way superior to those of his wife. Hence, when he dies and the widow comes only under the levirate bond, the levir's rights, which cannot have the same force as those of a husband, are inevitably inferior to those of the widow. The property, therefore, must remain in the possession of herself or her heirs. Beth Shammai, on the other hand, maintain that a husband's rights have more force than those of his wife. When he dies and the levir steps in by virtue of the levirate bond, the latter's rights, though inferior to those of the husband, are of equal force with those of the widow whose rights also are inferior to those of her husband.

(4) Abaye.

(5) Lit., all the world', even Beth Hillel.

(6) Lit., 'his hand is better than her hand', and the husband's heirs would consequently have been entitled to the property.

(7) By the levir, before the property came into her possession. The levirate bond alone is not sufficient to effect a transfer of the property to the levir.

(8) And after that the property came into her possession. As the ma'amar, according to Beth Shammai, is regarded as virtual marriage (v. supra 29a), the levir also is entitled to the property. Hence it must be divided. Beth Hillel, on the other hand, not regarding a ma'amar as marriage, deny the levir all rights upon the property which is, therefore, to remain with the heirs of the woman.

(9) Her sister who does not cause her to be forbidden to the levir as 'his zekukah's sister'. V. supra 29a.

(10) The levir is not entitled to all the property as if he had actually married the widow, but only to a share of it.

(11) Supra 29a, Ned. 74a.

(12) When a ma'amar had been addressed to the widow.

(13) Certainly not. Consequently his statement in agreement with the view of Raba may be perfectly authentic.

(14) That the final clause deals with property that came into the woman's possession while she was still living with her husband.

(15) This is explained infra.

(16) Lit., 'not?'

(17) At the time they came into her possession.

(18) When she dies. The property must consequently have come into her possession when she was still living with her husband, as Abaye maintains.

(19) Beth Shammai and Beth Hillel.

(20) Lit., 'and after death'.

(21) Lit., 'in her life and concerning the fruit'.

(22) Lit., 'and

(23) And no halizah is required.

(24) Since with the levirate marriage she assumes the status of a married woman.

(25) So MS.M. Cur. edd., add, 'It is written, And take her to wife'.

(26) Deut. XXV, 5; although it was already stated in the same verse, and take her to wife.

(27) So MS.M., cur. edd., 'the levirate relationship of the first'.

(28) Lit., 'yes'.

(29) Cf. supra n. 2.

(30) The levir.

(31) By his first marriage.

(32) That a brother's widow with whom levirate marriage was performed still requires halizah and may not be remarried by the levir after he had divorced her.

(33) Deut. XXV, 5; where only the latter part of the verse, And perform the duty of a husband's brother unto her would have been sufficient. V. supra 8a.

(34) Lit., 'they caused him to acquire'.

(35) The levir.
(36) He has neither chosen her nor has he undertaken any obligations towards her. She was imposed upon him by the divine law of the levirate marriage. The claim of her kethubah must, therefore, be a charge upon the estate of her first husband whose choice she had been.
(37) The levir.
(38) Lit., 'that she may not be easy in his eyes to cause her to go out'.
(39) V. supra 24a.
(40) In the descending order of age.
(41) The eldest brother present on the spot. (Rashi).
(42) Lit., 'he hung' or 'suspended'. [Aliter. He referred (the action) to; v. n. 9].
(43) Brother.
(44) in Rabbinic literature usually signifies one who is deaf from birth. Hence 'a deaf-mute'.
(45) [Tosaf.: He referred her to a deaf brother etc.].
(46) Lit., 'he who'.
(47) Halizah being merely a substitute for it.
(48) Since the duty is, in the first instance, incumbent upon the elder.
(49) Since the younger brothers are asked to contract the levirate marriage when the elder expressed his willingness to submit to halizah.
(50) Since the same expression of unwillingness is used.
(51) If the eldest had only refused marriage but was willing to submit to halizah, as has first been assumed, one could explain our Mishnah to mean that 'THE ELDEST IS AGAIN APPROACHED with a view to halizah'; he being the eldest, halizah also is first offered to him. If, however, he refused both halizah and marriage, as has now been explained, and the object of approaching him is coercion, why should the Beth din be troubled to summon him again in order to coerce him when any of the brothers who happens to be near at hand might just as well be coerced?
(52) Of the levirate marriage. V. our Mishnah.
(53) So marginal gloss. Cur. edd., 'and submits to halizah'.
(54) And this is the only reason why his request is not granted.

Talmud - Mas. Yevamoth 39b

Some say: As regards intercourse all agree that the intercourse of a younger brother is preferred.[1] They only differ on the halizah of a younger brother. And the statement[2] ran thus: [On the relative importance of] the halizah of a younger, and the halizah of an elder brother there is a difference of opinion between R. Johanan and R. Joshua b. Levi. One holds that the halizah of the elder is preferable, and the other holds that both are of equal importance. 'One[3] holds that the halizah of the elder is preferable'[4] because the commandment surely, is incumbent upon the elder. And the other [maintains that] the statement, 'the commandment is incumbent upon the elder', [was made] in respect of the levirate marriage; in respect of the halizah, however, they are both of equal importance.

We learned, IF THEY ALSO DECLINE, THE ELDEST IS AGAIN APPROACHED. Does not this mean that they declined to contract the levirate marriage but [were willing] to submit to halizah? And yet it was stated, THE ELDEST IS AGAIN APPROACHED, which proves that the halizah of the elder is preferred! — No; they declined the halizah as well as the levirate marriage.

Similarly, in the case of the eldest brother, he declined the halizah as well as the levirate marriage;[5] why, then, IS THE ELDEST AGAIN APPROACHED with the object of coercing him? Let coercion be used against them![6] — As the duty[7] is incumbent upon him, coercion also must be used against him.

Come and hear: IF HE WISHES TO SUSPEND ACTION . . . UNTIL THE ELDEST RETURNS FROM A COUNTRY BEYOND THE SEA . . . HE IS NOT TO BE LISTENED TO. But if the

halizah of the eldest is preferable why IS HE NOT TO BE LISTENED TO? Let us rather wait, since it is possible that when he returns he will submit to halizah! — Following your view [it might similarly be objected], why [if he wishes to postpone action] UNTIL A MINOR BECOMES OF AGE . . . HE IS NOT TO BE LISTENED TO? Let us rather wait, since, on becoming of age, he might contract the levirate marriage![8] The fact is that the performance of a commandment must not be delayed.[9]

We learned elsewhere: At first, when the object was the fulfilment[10] of the commandment, the precept of the levirate marriage was preferable to that of halizah; now, however, when the object is not the fulfilment of the commandment, the precept of halizah, it was laid down, is preferable to that of the levirate marriage.[11] Rab said: But no coercion[12] may be used.[13]

When they[14] came before Rab he addressed them thus: 'If you[15] wish, submit to halizah; if you prefer, contract the levirate marriage; the All Merciful has given you the choice:[16] And if the man like not to take his brother's wife,[17] implying, if he likes he may, whenever he wishes, submit to halizah or, if he prefers, contract the levirate marriage.'

Rab Judah also is of the opinion that no coercion may be applied; since Rab Judah has ordained [the following formula] for a deed of halizah: '[We certify] that So-and-so daughter of So-and-so brought before us into court her brother-in-law So-and-so, and we have ascertained him to be the paternal brother of the deceased. We told him, "If you wish to contract the levirate marriage, contract it, and if not, incline[18] towards her your right foot". He inclined[19] towards her his right foot and she removed his shoe from off his foot and spat out before him, a spittle which has been seen by the court upon the ground'.

R. Hiyya b. Iwya in the name of Rab Judah concluded[20] as follows: 'And we read before them [the relevant passage] that is written in the Book of the Law of Moses'.

'We ascertained him'. On this, R. Aha and Rabina are in dispute. One says: Through [qualified] witnesses. The other says: Even a relative and even a woman[21] [may tender the evidence].

The law is that it[22] is a mere intimation, and that even a relative and even a woman [may tender the evidence].

'At first, when the object was the fulfilment of the commandment, the precept of the levirate marriage was preferable to that of halizah; now, however, when the object is not the fulfilment of the commandment, the precept of halizah, it was laid down, is preferable to that of the levirate marriage'. Said Rami b. Hama in the name of R. Isaac: It was re-enacted that the precept of the levirate marriage is preferable to that of halizah.

Said R. Nahman b. Isaac to him: Have the generations improved in their morals? — At first they held the opinion of Abba Saul, and finally they adopted that of the Rabbis. For it was taught: Abba Saul said, 'If a levir marries his sister-in-law on account of her beauty, or in order to gratify his sexual desires or with any other ulterior motive, it is as if he has infringed the law of incest; and I am even inclined to think that the child [of such a union] is a bastard'. But the Sages said, 'Her husband's brother shall go in unto her,[23] whatever the motive'.[24]

Who is the Tanna of the following statement which our Rabbis taught: 'Her husband's brother shall go in unto her,[23] is a commandment; for originally[25] she stood in relation to him in the status of permissibility, then[26] she was forbidden to him, and then again[27] permitted; consequently it might have been assumed that she reverts to her original status of permissibility, hence it was specifically stated, Her husband's brother shall go in unto her,[23] it is a commandment'. — Who, now, is the

Tanna? — R. Isaac b. Abdimi replied. It is [the statement of] Abba Saul, and it is this that he meant: Her husband's brother shall go in unto her,[23] is a commandment; for originally[25] she stood in relation to him in the status of permissibility; he could have married her, if he wished, on account of her beauty and he could have married her, if he wished, in order to gratify his sexual desires; then[28] she was forbidden to him, and then again[29] permitted; consequently it might have been assumed that she reverts to her original status of permissibility,[30] hence it Was specifically stated, Her husband's brother shall go in unto her[31] only with the intention of performing the commandment.[32]

Raba said: You may even say [that the authorship[33] is that of] the Rabbis,[34] and it is this that was meant: Her husband's brother shall go in unto her,[31] is a commandment; for originally[35] she was in the status of permissibility; he could have married her if he wished and, if he preferred, he could have abstained from marrying her; then[28] she was forbidden to him, and then again[29] permitted; consequently it might have been assumed that she was to revert to her original status of permissibility, so that, if he wished, he might marry her and, if he preferred, he could abstain from marrying her. [You say,] 'If he preferred he could abstain from marrying her'? Surely she is tied to him;[36] can she be set free by no act whatever! — Say rather: [It might have been assumed that] if he wished he might marry her, and, if he preferred, he might submit to halizah, hence it was specifically stated her husband's brother shall go in unto her,[31] it is a commandment.[37]

Read, then,[38] the first clause: 'It shall be eaten without leaven in a holy place,[39] is a commandment;

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(1) To the halizah of an elder brother.

(2) Of the dispute supra 39a.

(3) Lit., 'he who'.

(4) To the halizah of a younger one.

(5) V. p. 250, n. 3. supra.

(6) V. p. 250, n. 4.

(7) Of the levirate marriage. V. our Mishnah.

(8) Cur. edd. enclose the following in parentheses. 'Or also he might come and contract with her the levirate marriage'.

(9) V. supra p. 250, n. 7.

(10) Lit., 'they had the intention for the name etc.'

(11) Bek. 13a. Keth. 64a.

(12) To perform or to submit to halizah.

(13) If both parties consent to contract the levirate marriage.

(14) Levirate cases.

(15) Speaking to the levir.

(16) Lit., 'hung upon you'.

(17) Deut. XXV, 7.

(18) Af. of טלע, 'to halt' (Heb. צלע). hence 'incline'. Others: Ethp. of טלע =שלף and חלץ (cf. Targ. Ruth IV, 7, 8; Lam. IV, 3)' hence 'allow . . . to be removed or untied'. 'Turn thy right foot towards her' (Jast.). 'Allow the shoe of your right foot to be removed by her' (Aruk.).

(19) Cf. supra n. 11.

(20) The formula of the certificate of halizah.

(21) Who are, as a rule, ineligible as witnesses.

(22) The insertion of 'we ascertained him'.

(23) Deut. XXV, 5.

(24) Tosef. Yeb. VI,

(25) Before she married his brother.

(26) When she married his brother.

(27) When his brother died childless.

(28) When she married his brother.

(29) When his brother died childless.
(30) So that he may marry her with any ulterior motive.
(31) Deut. XXV, 5.
(32) לְמִצְוָה lit., 'for the commandment', i.e., the fulfilment of the Scriptural text.
(33) Of the above cited teaching.
(34) The Sages who oppose Abba Saul, supra.
(35) Before she married his brother.
(36) By the levirate bond.
(37) מִצְוָה, a mere commandment, no intention at the performance thereof being particularly essential (cf. n. 5). The duty to contract the levirate marriage far exceeds that of halizah which is only a substitute to be resorted to as a last expedient.
(38) If the interpretation of R. Isaac b. Abdimi of the final clause of the Baraitha cited is tenable.
(39) Lev. VI, 9, dealing with the laws of the meal-offering and the consumption thereof by the priest who performed the rite.

Talmud - Mas. Yevamoth 40a

for originally[1] its status in relation to him was one of permissibility; then[2] it was forbidden, and again[3] permitted; consequently one might assume that it reverts to its first status of permissibility, hence it was specifically stated, It shall be eaten without leaven in a holy place,[4] it is a commandment'. Now, according to Raba who said that it[5] represents the view of[6] the Rabbis, one could well explain that what is meant here[7] is this: It shall be eaten without leaven in a holy place[4] is a commandment, for at first[8] its status in relation to him was one of permissibility since, if he desired, he could eat it and, if he preferred, he could abstain from eating it; then[9] it was forbidden, and again[3] permitted; consequently it might be assumed that it reverts to its first status of permissibility[10] so that, if he wished, he could eat it and, if he preferred, he could abstain from eating it. — [You say,] 'If he preferred he could abstain from eating it'? Surely it is written in the Scriptures, And they shall eat those things wherewith atonement was made[11] which teaches that the priests must eat them, and that the owner attains thereby atonement! Say rather: [it might be assumed that] if he wished, he[12] may eat it[13] himself and, if he preferred, another priest may eat it, hence it was specifically stated, It shall be eaten' without leaven in a holy place,[14] it is a commandment.[15] According to R. Isaac b. Abdimi, however, who said that it[16] [represents the view of] Abba Saul, what two alternatives[17] exist here?[18] And were you to suggest[19] that if he wished he could eat it[13] to appease his appetite and, if he preferred, he could devour it gluttonously can eating gluttonous]y [it may be retorted] be described as proper eating? Surely Resh Lakish said, 'He who eats gluttonously on the Day of Atonement[20] is exempt [from kareth],[21] since [Scripture has stated], Shall not be afflicted'![22] [Were you to suggest], however,[23] that if he wished he could eat it[24] unleavened and, if he preferred, he could eat it leavened, surely [it might be retorted] it is written in Scripture, It shall not be baked with leaven their portion[25] from which Resh Lakish inferred that even their portion[26] must not be baked with leaven! Again [Were you, to suggest,][23] that if he wished he could eat it[24] unleavened and, if he preferred, he could eat it as a dumpling,[27] how [it could be retorted] is one to imagine [such a dumpling]? If it is unleavened, well, then it is unleavened;[28] and if it is not unleavened, the All Merciful, surely, has said without leaven![29] — No;[30] it[31] may indeed be assumed to be unleavened; but the object of the exposition of the Scriptural text[32] was to forbid it.[33] In respect of what practical issue, then,[34] has it been stated that a dumpling may be regarded as unleavened bread? — [The statement was made] to indicate that a man may perform with it[31] his duty[35] on the Passover. Though he made it first into a dumpling, it is nevertheless designated the 'bread of affliction', since he subsequently baked it in an oven. Consequently a man may perform with it his duty[35] on the Passover. MISHNAH. IF A LEVIR PARTICIPATED IN HALIZAH WITH HIS DECEASED BROTHER'S WIFE HE IS REGARDED AS ONE OF THE OTHER BROTHERS IN RESPECT OF INHERITANCE.[36] IF, HOWEVER, THE FATHER[37] WAS LIVING,[38] THE ESTATE BELONGS TO THE FATHER.[39]

HE WHO MARRIES HIS DECEASED BROTHER'S WIFE GAINS POSSESSION OF HIS BROTHER'S[37] ESTATE. R. JUDAH SAID: IN EITHER CASE,[40] IF THE FATHER[37] WAS LIVING[38] THE ESTATE BELONGS TO THE FATHER.

GEMARA. Is not this[41] obvious? — It might have been presumed that halizah takes the place of the levirate marriage and he receives, therefore, all the estate, hence it was taught [that he does not].[42] If so,[43] why was it stated that HE IS REGARDED AS ONE OF THE OTHER BROTHERS when it should have been stated, he is to be regarded only as one of the brothers! — In truth [this is the purpose of our Mishnah]: It might have been assumed that because he deprived her [of levirate marriage][44] he shall be penalized,[45] hence we were taught [that he does receive a share].

IF, HOWEVER, THE FATHER WAS LIVING, [THE ESTATE BELONGS TO HIM], for a Master said that a father takes precedence over all his lineal descendants.[46]

HE WHO MARRIES HIS DECEASED BROTHER'S WIFE etc. What is the reason? — The All Merciful said, Shall succeed in the name of his brother,[47] and behold he[48] has succeeded.

R. JUDAH SAID etc. Said 'Ulla: The halachah is in agreement with R. Judah, and R. Isaac Nappaha likewise said: The halachah is in agreement with R. Judah.

'Ulla, furthermore, (others say, R. Isaac Nappaha) said: What is R. Judah's reason? — Because it is written in Scripture, And it shall be, that the firstborn that he beareth,[49] [he is] like the firstborn; as the firstborn has nothing while his father is alive, so has this one[50] also nothing while his father is alive. If [one were to suggest that] as the firstborn receives a double portion after his father's death so shall this one also receive a double portion[51] after his father's death, [it might be retorted]: Is it written, 'Shall succeed in the name of his father'? It is written, surely, Shall succeed in the name of his brother,[52] not 'in the name of his father'.[53] Might it be suggested that, where the father is not alive to receive the inheritance,[54] the law of the levirate marriage should be carried out, but where the father is alive [and the levir] does not receive the inheritance the law of the levirate marriage shall not be carried out? — Has the All Merciful in any way made the levirate marriage dependent on the inheritance? The levir must contract the levirate marriage in any case, and if any inheritance is available he receives it; if not, he does not receive it.

The Bible teacher, R. Hanina, once sat before R. Jannai, and as he sat there he stated: The halachah is in agreement with R. Judah. The other called out to him: Go out, read Biblical verses outside;[55] the halachah is not in agreement with R. Judah.

A tanna recited in the presence of R. Nahman: The halachah is not in agreement with R. Judah. The other said to him: In agreement with whom, then? In agreement with the Rabbis? This is surely obvious, [since in a dispute between] one individual and a majority the halachah is in agreement with the majority! — 'Shall I', the first asked him, 'reject it'?[56] 'No', the other replied, 'you were taught [that] the halachah is [in agreement with R. Judah] which, presenting to you a difficulty,[57] you reversed;[58] and in so far as you reversed it your wording is well justified.[59]

MISHNAH. IF A LEVIR PARTICIPATED IN HALIZAH WITH HIS DECEASED BROTHER'S WIFE HE IS FORBIDDEN TO MARRY HER RELATIVES AND SHE IS FORBIDDEN TO MARRY HIS RELATIVES:[60]

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(1) Before its ingredients were consecrated.

(2) When its ingredients were consecrated as a meal-offering,

(3) When the 'handful' (v. Lev. VI, 8) had been offered up upon the altar.

(4) V. p. 254, n. 1 2.
(5) The first clause of the Baraitha cited.
(6) Lit., ‘this, whose’.
(7) In the second clause which presumably represents the views of the same authors.
(8) Before its ingredients were consecrated.
(9) When its ingredients were consecrated as a meal-offering.
(10) Cur. edd. enclose ‘then it was forbidden . . . permissibility’ in parentheses.
(11) Ex. XXIX, 33.
(12) The priest who performed the ceremonial.
(13) The meal-offering.
(14) Lev. VI, 9, dealing with the laws of the meal-offering.
(15) מצוה That the first priest (v. supra n. 10) shall eat it.
(16) The first clause of the Baraitha cited.
(17) Analogous to those in the first clause.
(18) Acting (a) with, and (b) without the intention of fulfilling the commandment, which are the alternatives in the case of the levirate marriage in the first clause, are obviously inapplicable here, since whatever be the motive of one's eating, no prohibition, such as is the case with levirate marriages, is thereby infringed.
(19) As the two alternatives.
(20) When eating is prohibited.
(21) V. Glos.
(22) And whatsoever soul it be that shall not be afflicted in that same day, he shall be cut off from his people (Lev. XXIII, 29). An excessive meal being injurious to the body is deemed to be an affliction. Now, since such a meal is not regarded as eating in the case of the Day of Atonement, how could it be regarded as proper eating in the case of a meal offering?
(23) As the two alternatives.
(24) The meal-offering.
(25) Lev. VI, 20.
(26) That of the priests, the remnants of the meal-offering.
(27) חלוט(rt. to mix’), a paste prepared by stirring flour in hot water.
(28) And is not forbidden at all.
(29) Take the meal-offering . . . and eat it without leaven (Lev. X, 12); what need then was there for repeating the same prohibition in Lev. VI, 9?
(30) The eating of the meal-offering with leaven is not one of the alternatives.
(31) The dumpling.
(32) In the first clause of the Baraitha cited.
(33) Lit., ‘to prevent’. A meal-offering may not be prepared in the form of a dumpling even though that paste is unleavened.
(34) Since a meal-offering which must be unleavened may not be prepared in the form of a dumpling.
(35) Of eating unleavened bread. Cf. Ex. XII, 18.
(36) Of the estate of the deceased brother.
(37) Of the deceased brother.
(38) Lit., ‘if there is’.
(39) A father takes precedence over a brother in respect of inheritance. V. B.B. 115a and infra.
(40) Whether the levir married, or submitted to the halizah from his sister-in-law.
(41) That participation in the halizah does not deprive the levir of his share in his brother's estate.
(42) The object of our Mishnah is not to state that the levir is entitled to a share but that he is not entitled to all the estate.
(43) That the object of our Mishnah is to indicate his disadvantage. V. supra n. 7.
(44) Halizah with him has placed the widow under the prohibition of marrying any of the brothers.
(45) And shall receive no share at all.
(46) B.B. 115a. V. supra note 4.
(47) Deut. XXV, 6.
(48) The levir who, according to Rabbinic interpretation (v. supra 24a), is the subject of shall succeed.

(49) Deut. XXV, 6.
(50) The levir.
(51) His own and his brother's.
(52) Ibid.
(53) And since he is not entitled to a double portion at the time he steps into the place of his brother he cannot subsequently claim such a portion when he ultimately becomes entitled to a share in the same estate only by virtue of his succession to his father.
(54) Which consequently passes over into the possession of the levir.
(55) V. Keth., Sonc. ed. p. 328, n, 7.
(56) As a superfluous addition.
(57) How could the halachah be in agreement with an individual against the rule of a majority?
(58) Stating, 'the halachah is not in agreement with R. Judah.
(59) Lit., 'you reversed well'. [He, however, forgot that he had reversed it; cf, supra 33b, v. Strashun].
(60) All relatives that are Biblically forbidden to husband and wife respectively are Rabbinically forbidden to levir and haluzah respectively.

Talmud - Mas. Yevamoth 40b

HE IS FORBIDDEN TO MARRY HER MOTHER, HER MOTHER'S MOTHER AND HER FATHER S MOTHER; HER DAUGHTER, HER DAUGHTER'S DAUGHTER AND HER SON'S DAUGHTER; AND ALSO HER SISTER WHILE SHE[1] IS ALIVE. THE OTHER BROTHERS, HOWEVER, ARE PERMITTED.[2] SHE[1] IS FORBIDDEN TO MARRY HIS FATHER AND HIS FATHER'S FATHER;[3] HIS SON AND HIS SON'S SON; HIS BROTHER AND HIS BROTHER'S SON.

A MAN IS PERMITTED TO MARRY THE RELATIVE OF THE RIVAL OF HIS HALUZAH BUT IS FORBIDDEN TO MARRY THE RIVAL OF THE RELATIVE OF HIS HALUZAH.

GEMARA. The question was raised: Were relatives of the second degree[4] forbidden[5] in the case of a haluzah as a preventive measure,[6] or not? Did the Rabbis forbid marriage with relatives of the second degree, as a preventive measure,[6] only in respect of a relative who is pentateuchally forbidden,[7] but in respect of a haluzah[8] the Rabbis did not forbid relatives of the second degree as a preventive measure, or is there perhaps no difference?[9] — Come and hear: HE IS FORBIDDEN TO MARRY HER MOTHER AND HER MOTHER'S MOTHER, but 'her mother's mother's mother' is not mentioned![10] [No.] It is possible that the reason why this relative was omitted[11] is because it was desired to state in the final clause, THE OTHER BROTHERS, HOWEVER, ARE PERMITTED, and, were 'her mother's mother's mother' also mentioned it might have been presumed that the brothers are permitted [to marry] her mother's mother's mother only[12] but not her mother's mother or her mother.[13] Then let 'her mother's mother's mother' be mentioned, and let it also be stated: The brothers are permitted to marry all of them![14] — This is a difficulty.

Come and hear: SHE IS FORBIDDEN TO MARRY HIS FATHER AND HIS FATHER'S FATHER. 'His father's father,' at any rate, was mentioned. Is not this[15] due to[16] the levir who participated in the halizah, through whom she is the daughter-in-law of his[17] son?[18] — No; this[19] is due to the deceased through whom she is the daughter-in-law of his[20] son.[21]

Come and hear: AND HIS SON'S SON, Is not this[19] due to the levir who participated in the halizah through whom she is the wife of his[22] father's father?[18] — No; it[19] is due to the deceased through whom she is his[22] father's father's brother's wife.[21] But, surely, Amemar permitted the marriage of one's father's father's brother's wife![23] — Amemar interprets that[24] to refer to the son of the grandfather.[25] If so, [HIS SON, AND SON'S SON] are the same as HIS BROTHER AND HIS BROTHER'S SON![26] — Both his paternal brother and his maternal brother were specified.[27]

Come and hear what R. Hiyya taught:[28] Four [categories of relatives are forbidden][29] Pentateuchally[30] and four Rabbinically.[31] His[32] father and his[33] son, his[34] brother and his[35] brother's son are Pentateuchally forbidden;[30] his father's father[36] and his mother's father,[37] his son's son[38] and his daughter's son[39] are forbidden Rabbinically.[40] 'His father's father', at any rate, is mentioned here. Is not this[41] due to the levir who participated in the halizah through whom she is his son's daughter-in-law?[42] — No; it[41] is due to the deceased[43] whose son's daughter-in-law she is.

Come and hear: 'His mother's father'.[44] Is not this[41] due to the levir who participated in the halizah through whom she is his[45] daughter's daughter-in-law?[46] — No; it[41] is due to the deceased[47] through whom she is his[45] daughter's daughter-in-law.

Come and hear: 'And his son's son'.[48] Is not this[41] due to the levir who participated in the halizah through whom she is his father's father's wife?[42] — No; it[41] is due to the deceased[47] through whom she is his father's father's brother's wife. But, surely, Amemar permitted the marriage of one's father's father's brother's wife![49] — Amemar explains that[50] to be due to the levir who participated in the halizah,[51] but is of the opinion that relatives of the second degree were forbidden as a preventive measure even in respect of a haluzah.[52]

Come and hear: 'And the son of his daughter'.[48] Is not this[41] due to the levir who participated in the halizah through whom she is his mother's father's wife?[42] — No; it[41] is due to the deceased[47] through whom she is his mother's father's brother's wife. But, surely, no prohibition as a preventive measure was made in respect of the second degrees of incest![53] Consequently[54] it must be due to the levir who participated in the halizah,[55] and thus it may be inferred that relatives of the second degree were forbidden as a preventive measure even in the case of a haluzah. This proves it.

A MAN IS PERMITTED etc. R. Tobi b. Kisna said in the name of Samuel: Where a man had intercourse with the rival of his haluzah the child [born from such a union] is a bastard. What is the reason? — Because she[56] remains under her original prohibition.[57]

Said R. Joseph: We also have learned [to the same effect]: A MAN IS PERMITTED TO MARRY THE RELATIVE OF THE RIVAL OF HIS HALUZAH. Now, if you grant that the rival is excluded[58] one can well understand why the man is permitted to marry her sister.[59] If it be maintained, however, that the rival has the same status as the haluzah, why [should her sister] be permitted [to him]?[60]

May it be suggested that this[61] furnishes an objection against R. Johanan who stated: Neither he[62] nor the other brothers are subject to kareth either for [the betrothal of] a haluzah or for [the betrothal of] her rival?[63] — R. Johanan can answer you: Do you understand it![64] Is the sister of a haluzah Pentateuchally forbidden?[65] Surely Resh Lakish said: Here[66] it was taught by Rabbi that the prohibition to marry the sister of a divorced wife is Pentateuchal and that that of the sister of a haluzah is Rabbinical![67]

Why is there a difference [in the law] between the one and the other?[68]

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(1) The haluzah (v. Glos.).

(2) To marry the enumerated relatives of the haluzah.

(3) Bomberg ed. adds, 'and his mother's father'.

(4) E.g., the haluzah's mother's mother's mother or her father's mother's mother (Rashi). Cf. supra 21a.

(5) Rabbinically.

(6) Against marriage with relatives of the first degree.

(7) I.e. ' a wife's relatives whose prohibition is specifically stated in the Pentateuch.

(8) Whose relatives, even of the first degree, are only Rabbinically forbidden.
(9) In respect of the law of incest, between the relatives of a wife who are Pentateuchally forbidden and those of a haluzah who are only Rabbinically forbidden.
(10) V. supra p. 259, n. 9.
(11) Lit., 'that he did not teach'.
(12) Because even in the case of one's wife she is not Biblically forbidden.
(13) Who, in the case of one's wife, are Pentateuchally prohibited.
(14) And the possible misinterpretation would thus be avoided.
(15) Prohibition to marry a father's father.
(16) Lit., 'what not, owing to'.
(17) The father's father.
(18) I.e., a relative of the second degree, which proves that even such relatives were forbidden in respect of a haluzah.
(19) V. supra note 9.
(20) V. supra n. 20.
(21) In whose case the prohibition is Pentateuchal and provides no answer to our enquiry.
(22) The son's son.
(23) Supra 21b. How, then, according to Amemar, could this case be included among forbidden relatives?
(24) The SON'S SON in our Mishnah.
(25) The father of both the deceased and of the levir who submitted to the halizah. Our Mishnah is thus interpreted: HIS FATHER is the father of the deceased and of the levir who participated in the halizah; HIS SON, i.e., the son of the FATHER mentioned, who is the brother of the deceased and of the levir who participated in the halizah; and HIS SON'S SON is the son of the son of the father mentioned, to whom the haluzah is forbidden as the wife of his father's brother.
(26) V. supra n. 1.
(27) The former by HIS SON AND HIS SON'S SON (v. supra n. 1) and the latter by HIS BROTHER AND HIS BROTHER'S SON, the prohibitions being Pentateuchal since they are due to the woman's relationship with the deceased as his wife, and not to her relationship with the levir as haluzah, the prohibitions resulting from which could only be Rabbinical.
(28) In respect of a haluzah.
(29) To marry her.
(30) Lit., 'from the words of the Torah', i.e., owing to their relationship to the haluzah as the wife of the deceased, and the prohibition to marry whom is specifically mentioned in the Pentateuch.
(31) Lit., 'from the words of the Scribes'.
(32) The levir's (who participated in the halizah). The prohibition is Pentateuchal, it being due to his brother, the deceased, whose wife and whose father's daughter-in-law the haluzah was.
(33) The levir's (v. supra n. 8). The haluzah is forbidden to him Pentateuchally as the wife of his father's brother.
(34) The levir's (v. supra n. 8), who is also the brother of the deceased, and the haluzah is forbidden to him Pentateuchally.
(35) The levir's (v supra n. 8), the deceased also having been his father's brother, and the prohibition is consequently Pentateuchal.
(36) To whom the haluzah is forbidden as his son's daughter-in-law.
(37) The prohibition being that of one's daughter's daughter-in-law.
(38) It is now assumed that the prohibition to marry this relative is due to the levir who participated in the halizah through whom she is his father's father's wife.
(39) Whose mother's father's wife she was.
(40) Cf. supra note 7, all being cases of the second degree, forbidden by a provision of the Rabbis only.
(41) The prohibition to marry this relative.
(42) Which proves that, even in respect of a haluzah, relatives of the second degree are prohibited.
(43) In whose case the prohibition is Pentateuchal, and supplies no answer to our enquiry.
(44) This is a citation from R. Hiyya's Baraitha supra.
(45) His mother's father's.
(46) V. supra n. 2.
(47) The prohibition being a preventive measure against the infringement of a Pentateuchal law. Consequently it supplies

no proof in respect of our enquiry which is concerned with a preventive measure against an infringement of a Rabbinical law.

(48) V. supra n. 4.

(49) How then could such a case be included among forbidden relatives?

(50) 'Son's son' in R. Hiyya's Baraitha.

(51) The prohibition being that of 'his father's father's wife', as first assumed.

(52) According to those, however, who, contrary to the opinion of Amemar, forbid marriage with a father's father's brother's wife, the prohibition in R. Hiyya's Baraitha might still be attributed to the deceased (v. supra n. 7), and the original enquiry as to whether relatives of the second degree were forbidden in the case of a haluzah still remains unanswered.

(53) How then could it be suggested that the prohibition is due to the fact that the haluzah is the 'wife of the mother's father's brother' of the deceased?

(54) Lit., 'what, not'?

(55) The prohibition being that of 'his mother's father's wife' who is a relative of the second degree.

(56) The rival.

(57) Of 'brother's wife', which is subject to the penalty of kareth. Children born from a union that is forbidden under such a penalty are deemed to be bastards.

(58) [Lit., 'outside'. Rashi reads: 'Stands outside'.] From the restrictions of the haluzah, the latter not being regarded as her agent or representative.

(59) Since she herself remains forbidden to the levir as 'brother's wife', her sister is not the 'sister of a haluzah'.

(60) She should be forbidden as the sister of a haluzah! As she is permitted, however, it must be granted that the rival of a haluzah remains under the original prohibition of 'brother's wife', which entails the penalty of kareth. (V. supra n. 5).

(61) The inference from our Mishnah. (V. supra n. 8 second clause).

(62) The levir who submitted to halizah.

(63) Supra 10b; while from the inference of our Mishnah, as has been proved, the penalty for contracting a union with the rival of a haluzah is kareth!

(64) R. Joseph's argument.

(65) As R. Joseph implies by his assumption that if the rival had the same status as the haluzah her sister would be forbidden.

(66) In the following Mishnah to which he refers.

(67) The reason why the sister of a rival of a haluzah is permitted is not that assumed by R. Joseph. but the following: As the prohibition of the sister of a haluzah herself is only Rabbinical, the prohibition was not extended to the sister of the rival of the haluzah also.

(68) The first and second case of the final clause of our Mishnah. THE RIVAL OF THE RELATIVE OF HIS HALUZAH is surely as much of a stranger to him as THE RELATIVE OF THE RIVAL OF HIS HALUZAH.

Talmud - Mas. Yevamoth 41a

— The Rabbis have enacted a preventive measure[1] in respect of her who accompanies the haluzah to court;[2] in the case, however, of her who does not accompany her to court[3] the Rabbis enacted no preventive measure.[4]

MISHNAH. WHERE HE PARTICIPATED IN A HALIZAH WITH HIS DECEASED BROTHER'S WIFE, AND HIS BROTHER MARRIED HER SISTER AND DIED,[5] THE WIDOW[6] MUST PERFORM HALIZAH BUT MAY NOT BE TAKEN IN LEVIRATE MARRIAGE.[7]

SIMILARLY[8] WHERE A MAN DIVORCED HIS WIFE AND HIS BROTHER MARRIED HER SISTER AND DIED[5] THE WIDOW IS EXEMPT.[9]

IF A BROTHER OF THE LEVIR HAD BETROTHED THE SISTER OF THE WIDOW WHO WAS AWAITING THE LEVIR S DECISION, HE IS TOLD, SO IT HAS BEEN STATED IN THE NAME OF R. JUDAH B. BATHYRA, WAIT[10] UNTIL YOUR BROTHER HAS ACTED'.[11] IF

HIS BROTHER HAS PARTICIPATED WITH THE WIDOW IN THE HALIZAH OR CONTRACTED WITH HER THE LEVIRATE MARRIAGE, HE MAY MARRY HIS [BETROTHED] WIFE. IF THE SISTER-IN-LAW DIED HE MAY ALSO MARRY HIS [BETROTHED] WIFE. BUT IF THE LEVIR DIED, HE[12] MUST RELEASE HIS [BETROTHED] WIFE BY A LETTER OF DIVORCE AND HIS BROTHER'S WIFE BY HALIZAH.[13]

GEMARA. What [is meant by] SIMILARLY?[14] — Read: BUT WHERE A MAN DIVORCED.

Resh Lakish said: Here[15] it was taught by Rabbi[16] that [the prohibition to marry the] sister of a divorced wife is pentateuchal [and that of] the sister of a haluzah is Rabbinical.

HAD BETROTHED [THE SISTER OF THE] WIDOW WHO WAS AWAITING THE LEVIR'S DECISION etc. Samuel said: The halachah is in agreement with the view of R. Judah b. Bathyra.[17]

The question was raised: If his wife[18] died may he marry his sister-in-law?[19] — Both Rab and R. Hanina stated: If his wife died he is permitted to marry his sister-in-law. But both Samuel and R. Assi stated: If his wife died he is forbidden to marry his sister-in-law. Said Raba: What is Rab's reason? — Because she is a deceased brother's wife who was permitted[20] then forbidden[21] and then again permitted[22] and who consequently reverts to her first state of permissibility.

R. Hamnuna raised an objection: If two of three brothers were married to two sisters and the third was unmarried, and when one of the sisters' husbands died the unmarried brother addressed to the widow a ma'amar, and then the second brother[23] died,[24] and after him his wife also died,[25] that sister-in-law must perform halizah but may not be taken in levirate marriage.[26] But why?[27] Let her be regarded[28] as a deceased brother's wife who was permitted[29] then forbidden,[30] and then again permitted[22] who reverts to her former state of permissibility![31] He remained silent. After the other went out he said: I should have told[32] him that it[33] represents the view of R. Eleazar who maintains that once she has been forbidden to him for one moment she is forbidden to him for ever! Subsequently he remarked: It might be contended that R. Eleazar held that view only where she was not fit[34] at the time she became subject to the levirate marriage;[35] did he express such an opinion, however, in the case where she was fit[34] at the time she became subject to the levirate marriage?[36] Subsequently however, he said: Yes,[37] for, surely, it was taught: R. Eleazar said: If his[38] yebamah died, his wife is permitted to him; if his wife died, that yebamah must perform halizah but may not be taken in levirate marriage.

Must it then be assumed that Samuel and R. Assi are of the same opinion as R. Eleazar?[39] — The may be said to be in agreement even with the Rabbis. For the Rabbis differed from R. Eleazar[40] only because from the time she became subject to the levirate marriage and onward she was no longer forbidden to him.[41] Here,[42] however,where she was so forbidden[43] even the Rabbis agree.[44]

MISHNAH. THE DECEASED BROTHER'S WIFE[45] SHALL NEITHER PERFORM THE HALIZAH NOR CONTRACT LEVIRATE MARRIAGE BEFORE THREE MONTHS HAVE PASSED.[46] SIMILARLY ALL OTHER WOMEN[47] SHALL BE NEITHER BETROTHED NOR MARRIED BEFORE THREE MONTHS HAVE PASSED[46] WHETHER THEY WERE VIRGINS OR NON-VIRGINS, WHETHER DIVORCEES OR WIDOWS,[48] WHETHER MARRIED OR BETROTHED.

R. JUDAH SAID: THOSE WHO WERE MARRIED MAY BE BETROTHED [FORTHWITH], AND THOSE WHO WERE BETROTHED MAY EVEN BE MARRIED [FORTHWITH], WITH THE EXCEPTION OF THE BETROTHED WOMEN IN JUDAEA, BECAUSE THERE THE BRIDEGROOM WAS TOO INTlmate[49] WITH HIS BRIDE.[50]

R. JOSE SAID: ALL [MARRIED] WOMEN[51] MAY BE BETROTHED [FORTHWITH] EXCEPTING THE WIDOW[52]

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(1) The prohibition to marry the rival of the relative of one's Haluzah.

(2) I.e., her sister whom she takes with her to court when she goes to perform the halizah. The public, not being aware which of the sisters is the haluzah, might subsequently mistake the one for the other. Hence the rival of the sister was forbidden to the levir who participated in the halizah in order that people might not think that he married the rival of the haluzah herself.

(3) The widow does not take her rival with her when she goes to court to perform halizah.

(4) Since no one is likely to mistake the rival for the haluzah. Hence the law that the relative of the rival is permitted.

(5) Without issue.

(6) Being the sister of a haluzah.

(7) The sister of a haluzah is (a) Pentateuchally permitted but (b) Rabbinically forbidden. Because of (a) she is subjected to the levirate bond and requires halizah, and because of (b) she is forbidden to contract the levirate marriage.

(8) This expression is discussed in the Gemara infra.

(9) From the halizah as well as from the levirate marriage. The sister of a divorced wife is Pentateuchally forbidden to the divorcee.

(10) With the consummation of the marriage.

(11) I.e., until he had either contracted the levirate marriage or submitted to halizah. Before such action the sister of the widow is forbidden to him, as to all the other brothers, as the sister of their zekukah.

(12) Being the only surviving brother and, consequently, the only one to whom the widow is subject.

(13) Being the sister of his divorced wife she is not permitted to contract with him the levirate marriage. (Cf. supra p. 264, n. 11.

(14) Seeing that the clause introduced by this expression is not at all similar to the previous one.

(15) In the first two clauses of our Mishnah,

(16) R. Judah the Prince, Redactor of the Mishnah.

(17) That the levirate bond between the widow and all the surviving brothers remains in force until one of the brothers has contracted the levirate marriage or has submitted to halizah.

(18) The sister of the widow of his deceased brother.

(19) I.e., the widow whose deceased sister is now no more his wife.

(20) When her husband died without issue.

(21) When the brother had betrothed her sister.

(22) When her sister died.

(23) Of the two who married the two sisters.

(24) And his widow, the sister of the first widow to whom the ma'amar had been addressed by the third brother, had thus come under the levirate bond and consequently caused her sister's prohibition to the third brother as ‘the sister of his zekukah’.

(25) When the first widow, the surviving sister, is no more the ‘sister of his zekukah’.

(26) Cf. supra 29a.

(27) If Rab's reason as given by Raba is to be accepted, why should not the widow, now that her sister had died, be permitted to enter into levirate marriage?

(28) On the analogy of Rab's reasoning.

(29) When her husband died and the unmarried brother addressed a ma'amar to her.

(30) When the second brother, the husband of the other sister, died.

(31) Why then was it stated that she may not contract the levirate marriage and that she is restricted to halizah only?

(32) Lit., ‘why did I not tell’.

(33) The Baraitha cited by R. Hamnuna.

(34) To be married by the levir.

(35) R. Eleazar's view was expressed in connection with a woman who had been divorced (and had thus become forbidden to the levir as the ‘divorcee of his brother’), and then was remarried, and finally, on the death of her husband, became subject to the levir as the wife of his deceased childless brother (v. infra 108bf). In this case, when the widow became subject to the levirate obligations, she had been already, for a time, forbidden to the levir as the ‘divorcee of his

brother'.

(36) As is the case in the Baraitha cited by R. Hamnuna. The prohibition there arose after she had become subject to the obligations of the levirate.

(37) I.e., R. Eleazar forbids levirate marriage for ever, if the widow was unfit for such a marriage for one single moment, even if at the time when she became subject to the levirate obligations she (the widow) was quite fit to contract the carriage.

(38) The levir's, who betrothed the sister of his yebamah.

(39) Who is in a minority, against that of the Rabbis. Would they agree with a minority against the ruling of the majority?

(40) In the case of a woman who had been divorced and then remarried and then became subject to the levirate obligation, infra 108b. Cf. supra p. 266, n. 16.

(41) The prohibition having ceased with the death of her husband when the obligation of the levirate had arisen.

(42) The case cited by R. Hamnuna.

(43) Because after she became subject to the levirate obligations he was for a time, owing to the death of his second brother, forbidden to him as the sister of his zekukah.

(44) That only halizah must be performed, levirate marriage being forbidden.

(45) Whose husband died without issue, and who became subject to the levirate obligations.

(46) From the date of her husband's death. The reasons are discussed in the Gemara infra.

(47) Whose husbands have died.

(48) The distinctions between these classes are discussed in the Gemara.

(49) Lit., 'his heart is bold', and cohabitation might have taken place.

(50) Cf. Keth. 12a,

(51) Whose husbands have died.

(52) Who must allow a period of thirty days to pass.

Talmud - Mas. Yevamoth 41b

OWING TO HER MOURNING.[1]

GEMARA. It is quite reasonable that she[2] shall not be taken [forthwith] in levirate marriage, since the child [whom she might bear] may be viable,[3] and the levir would thus infringe the prohibition of marrying a brother's wife, which is Pentateuchal; but why should she not [forthwith] perform the halizah?[4] Does this,[5] then, present an objection against R. Johanan who said that the halizah of a pregnant woman is deemed to be a valid halizah?[6] But has not an objection against R. Johanan once been raised?[7] — [The question is whether] it may be assumed that an objection arises from here also?[8] — No; here, the reason[9] is this: The child might be viable;[10] and you would in consequence subject her to the need for an announcement[11] in respect of the priesthood.[12] Well, let her be subjected![13] — It may happen that some people would be present at the halizah but would not be present at the announcement, and they would consider her ineligible to marry a priest.

This quite satisfactorily explains the case of a widow; what can be said, however, in respect of a divorced woman?[14] — Because she would thereby[15] lose her maintenance.[16] This provides a quite satisfactory explanation in the case of a married woman; what can be said, however, in respect of a betrothed divorcee?[17] — The reason[18] is rather the ruling of[19] R. Jose. For it was taught: A man once appeared before R. Jose and said to him; 'May halizah be performed within three months'? The master replied, 'She must not perform the halizah'. — 'Let her perform the halizah! What would she lose'?[20] Thereupon he recited for him this Scriptural text: If the man like not,[21] [implying] that if he likes he may contract the levirate marriage; whosoever may go up[22] to contract the levirate marriage may also go up to perform the halizah etc.[23]

R. Hinena raised an objection: In doubtful cases halizah is performed and no levirate marriage may be contracted. Now, what is meant by 'doubtful cases'? If it be assumed to mean doubtful

betrothal;[24] why, indeed, should no levirate marriage be contracted? Let the widow be taken in levirate marriage since no objection could possibly be raised![25] Consequently,[26] the doubt must consist in the betrothal of two sisters when the man is uncertain which of them he betrothed;[27] and yet it was stated that halizah was to be performed![28] — How now! There,[29] if Elijah were to come and point out the sister that was betrothed, she would be eligible for both halizah and levirate marriage;[30] here,[31] however, were Elijah to come and declare that the widow was not pregnant, would anyone heed him and allow her to contract the levirate marriage? Surely even a minor who is incapable of pregnancy must wait three months![32]

Our Rabbis taught: A yebamah[33] is maintained during the first three months out of the estate of her husband. Subsequently[34] she is not to be maintained either out of the estate of her husband or out of that of the levir. If, however, the levir appeared in court[35] and then absconded, she is maintained out of the estate of the levir. If she became subject to a levir who was a minor she receives nothing from the levir. Does she, however, [receive her maintenance] from her husband's estate? — On this question, R. Aha and Rabina are in dispute. One holds that she receives and the other holds that she does not. And the law is that she receives nothing; for her penalty comes from heaven.

Our Rabbis learned: A yebamah,[36] with whom the brothers had participated in halizah within the three months, must wait three months.[37]

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(1) Which terminates on the thirtieth day.

(2) The deceased brother's wife spoken of in our Mishnah.

(3) And the levirate obligations would thereby be removed.

(4) Marriage with an outsider could thus take place after three months, if she is found to be without child or if she miscarried.

(5) The implication that halizah is forbidden because it is possible that the woman will miscarry after the ceremony and, believing the halizah to have been valid, would remarry without performing the ceremony again while, in fact, the law is that the halizah of a pregnant woman is not valid.

(6) Supra 35b.

(7) V. n. 11; why then doubt it?

(8) So that if the first objection should ever be removed the second would still remain.

(9) Why halizah also must be postponed until three months have passed.

(10) And his birth would render the halizah invalid, and his mother would consequently be permitted to marry a priest whom, as a haluzah, she would not have been allowed to marry.

(11) That the halizah was invalid and that the widow is eligible to marry a priest.

(12) V. p. 268 n. 15.

(13) To the necessary announcement. What loss could such an announcement cause her?

(14) I.e., who had been a divorcee prior to her marriage with the deceased brother. Having been divorced once, she is for ever ineligible to marry a priest, even though she were no haluzah. Why, then, should she be forbidden to perform the halizah forthwith?

(15) By performing the halizah before the three months have passed.

(16) Which she receives from her deceased husband's estate for a period of three months. This would cease with the performance of the halizah. [On this view the Mishnah does not state a prohibition but a piece of sound advice (Tosaf.)]

(17) A woman who has been betrothed whilst she was a divorcee and became a widow before the marriage took place. As a betrothed she is not entitled to maintenance from the dead man's estate, and as a divorcee she is not eligible to marry a priest. Why, then, should she not be allowed forthwith to perform the halizah?

(18) V. supra p. 268, n. 14.

(19) Lit., ‘because of’.

(20) Lit., ‘and what in it’.

(21) Deut. XXV, 7.

(22) Sc. to the gate (cf. loc. cit.) i.e., to court.

(23) ‘And whosoever may not go up to contract the levirate marriage may not go up to perform the halizah’ (v. supra

20a, 36a, infra 44a). Since the widow may not contract levirate marriage within three months, she may not perform halizah either. This,' however, presents no objection to R. Johanan's ruling since, though it is improper to arrange a halizah within the three months, if halizah had actually taken place it is valid.

(24) Such as are dealt with in the Mishnah and subsequent Gemara supra 30b.

(25) Lit., 'and there is nothing in it'. If the widow's betrothal by the deceased was valid, the levirate marriage is also valid; and if it was not valid, the so-called widow is in reality an unmarried woman and may be married as a stranger.

(26) Lit., 'but not?'

(27) And he died without issue.

(28) Though no levirate marriage may be contracted owing to the doubt in the case of each sister that she might be the 'sister of a zekukah'. How, then, could it be said that halizah may be performed only where levirate marriage also is possible?

(29) Where it is uncertain which sister was betrothed.

(30) Each sister may consequently be regarded as virtually fit for the levirate marriage.

(31) A widow within the first three months after her husband's death.

(32) As levirate marriage is thus absolutely forbidden for the time being, the halizah also must be postponed until the time when levirate marriage would be permitted. [Where, however, the prohibition to contract levirate marriage is absolute, as, for example, in the case of a sister of a haluzah (supra 41a) halizah may be performed (Rashi).]

(33) Who awaits halizah or levirate marriage which is not to take place before three months have passed.

(34) Lit., 'from now and onwards'.

(35) In response to the widow's claim that he should contract levirate marriage or submit to halizah.

(36) V. p. 270, n. 10.

(37) Dating from her husband's death, and may contract marriage after that period.

Talmud - Mas. Yevamoth 42a

If [the halizah was performed] after the three months, she need not wait three months.[1] Thus it may be inferred that the three months spoken of are [to be dated] from the time of the husband's death and not from the time of the levir's halizah.

Why [is the law here][2] different from that of a letter of divorce where Rab maintains [that the waiting period is to date] from the time of the delivery[3] and Samuel maintains [that it is to date] from the time of writing?[4] — Raba replied: A minori ad majus, if you permitted marriage[5] where a prohibition under the penalty of kareth is involved,[6] how much more so [should marriage be permitted[5] where only] an ordinary prohibition[7] [is involved]![8]

SIMILARLY ALL OTHER WOMEN. The case of a sister-in-law[9] one can well understand, as has just been explained,[10] but why ALL OTHER WOMEN?[11] — R. Nahman replied in the name of Samuel: Because Scripture said, To be a God unto thee and unto thy seed after thee,[12] a distinction must be made between the seed of the first husband and the seed of the second.

Raba raised an objection: Hence must a male proselyte and a female proselyte[13] wait three months.[14] Now, what distinction is there to be made here? — Here also there is the distinction to be made between seed that was sown in holiness and seed that was not sown in holiness.

Raba said: This[15] is a preventive measure against the possibility of his[16] marrying his paternal sister,[17] contracting levirate marriage with the wife of his maternal brother,[18] setting his mother free to marry anybody[19] and releasing his sister-in-law to all the world.[20]

R. Hanania raised an objection: In all these[21] I read a provision against incest, but here[22] it is a provision in favour of the child.[23] Now, if this[24] is tenable, all[25] would be due to a provision against incest! — The meaning of 'a provision in favour of the child' is that the child might not infringe a prohibition of incest'.[26]

It is easy to understand why [a divorcee or widow] shall not marry after waiting a period of just two months because that would create a doubt as to whether the child is a nine-months one of the first[27] or a seven-months one of the second.[27] Let her wait, however, one month only and then marry, so that, should she give birth at seven months, the child would be a seven-months one of the last husband;[28] and should she give birth at eight months the child would obviously be a nine-months one of the first![27] — Even if she gave birth at eight months it might still be assumed to be the child of the last husband since it may be that her conception was delayed one month.[29]

Let her, then, wait two months and a half and marry, so that, were she to give birth at seven months, the child would obviously be a seven-months one of the last,[27] and were she to give birth at six months and a half, the child would naturally be a nine-months one of the first;[30] for had he been the son of the last he would not be viable as a six-and-a-half-months child. — Even if she gave birth at six and a half months it is still possible to assume the child to be that of the last husband, for Mar Zutra stated: Even according to him who said that a woman who bears at nine months does not give birth before the full number of months had been completed,[30] a woman who bears at seven months 'does give birth before the full number of months has been completed;[30] for it is stated in Scripture, And it came to pass, after the cycles of days,'[31] the minimum of 'cycles'[32] is two, and the minimum of 'days' is two.[33] Let her, then, wait a little[34] and marry, and when the three months[35] will have been fulfilled she might be examined![36] — R. Safra replied: Married women are not examined, in order that they may not become repulsive to their husbands. Then let her be examined by her walk![37] — Rami b. Mama replied: A woman conceals the fact[38] in order that her child may inherit his share in her [second] husband's estate. Where, however, it has been ascertained that she[39] was pregnant, let her be permitted to marry! Why then was it taught: A man shall not marry the pregnant, or nursing wife of another;[40] and if he married, he must divorce her and never again remarry her! — This[41] is a preventive measure against the possibility of turning the foetus into a sandal.[42] If so, [this should apply in the case] of one's own wife also![43] — If according to him who said, 'With an absorbent',[44] she uses[45] an absorbent; and if according to him who said, 'Mercy will be shewn from heaven',[46] mercy will be shewn from heaven. Here also[47] [it could be argued]: If according to him who said, 'With an absorbent', she uses an absorbent; if according to him who said, 'Mercy will be shewn from heaven', mercy will be shewn from heaven! — [The prohibition][48] is due, rather, to [the danger of abdominal] pressure.[49] If so, [this[50] applies in the case] of one's own wife also![51] — A man has consideration for his own.[52] Here also[53] one would have consideration for the child![54] — [The reason is][55] rather because a pregnant woman is usually expected to breast-feed her child [and were she to marry during pregnancy] she

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(1) From the date of the halizah.

(2) Halizah.

(3) Of the letter of divorce to the woman.

(4) Git. 18a. Why, then, should not here also a period of three months after halizah be required to pass before the widow is allowed to remarry?

(5) Three months after the death of the husband.

(6) The marriage with the levir, where the widow gives birth to a viable child, is an act of incest which is punishable by kareth.

(7) Marriage by the widow with a stranger during pregnancy.

(8) Hence, whenever the halizah was performed three months after the husband's death, the widow may forthwith be permitted to marry.

(9) The reason why she must not marry before three months from the date of her husband's death have passed

(10) Supra 41b.

(11) Why must they also wait three months?

(12) Gen. XVII, 7 emphasis on 'thy'.

(13) Husband and wife (Rashi). Cf. however, Tosaf. s.v. גר a.l.

(14) After their conversion, before resuming connubial relations.
(15) That any widow or divorced woman shall not marry before three months have passed after her husband's death or divorce respectively.
(16) The son born from a widow or divorcee who married within the three months, and who is a nine-months child of her first husband but is assumed to be a seven-months child of the second.
(17) A daughter of the first husband from another wife, believing her to be a stranger.
(18) He, if his mother bore a son to her second husband, and that son died childless, would be contracting levirate marriage with his widow in the belief that he is the paternal brother while in fact he is his maternal brother whose wife is, therefore, forbidden to him under the penalty of kareth.
(19) Lit., 'to the market'. Should his mother's second husband die without having had any other children his mother would be deemed to be free from the levirate obligations on the assumption that he was the son of the second husband.
(20) Lit., 'to the market'. If his brother (the son of his mother's first husband from another wife) dies childless and is survived by no other known brother his widow would be released to marry any stranger on the assumption that he had no surviving brother, while in reality the widow is bound to him by the levirate bond.
(21) prohibitions to marry or to contract levirate marriage.
(22) The law of a three months' period of waiting before any widow or divorcee is permitted to marry.
(23) This is assumed to mean: In order that it be known whose child he is.
(24) Raba's explanation.
(25) Prohibitions to marry or to contract levirate marriage.
(26) In the other cases the man and the woman themselves might encroach on the prohibition of incest.
(27) Husband.
(28) Had he been an eight-months child of the first husband he would not have been viable.
(29) And the child is one of seven months.
(30) **למקיטעין** (rt. **קטע** 'lop off') 'incomplete number of months'.
(31) I Sam. I, 20. E.V., When the time was come about.
(32) **תקופות** pl. of **תקופה**. The year is divided in four cycles (tekufoth), each consisting of three months. The pl. **תקופות** represents no less than two, hence six months.
(33) The text, speaking of Hannah's conception and the birth of Samuel, implies that a viable child may be born after a pregnancy of six months and two days.
(34) A week or two.
(35) Dating from the time of her first husband's death or divorce.
(36) If she is found to be pregnant it will be obvious that the child's father was the first husband; if not, the father of the child born subsequently will be the second husband. After three months of conception the marks of pregnancy may be distinguished.
(37) A pregnant woman, walking on soft soil or loose earth, leaves a deeper impression than a non-pregnant woman (Responsa of the Geonim, Cf. Rashi a.l.).
(38) Lit., 'covers herself'. She makes every effort to conceal all signs of pregnancy which might lead to the discovery that the child's father was her first husband.
(39) A divorced woman or a widow.
(40) Though she had been divorced or widowed.
(41) The reason why no expectant mother may be married.
(42) **סנדל** 'a flat fish', hence an abortion that has the shape of a flat fish, assumed to be caused by intercourse during pregnancy.
(43) During pregnancy. V. supra n. 7.
(44) That a woman during pregnancy may use an absorbent to prevent a second conception. V. supra 12b.
(45) Lit., 'with'.
(46) No artificial means of contraception may be used. The woman must have implicit confidence in divine protection.
(47) A divorced woman or a widow.
(48) To marry an expectant mother.
(49) Which may cause the death of the foetus.
(50) The reason why no expectant mother may be married.
(51) During pregnancy. V. supra note 7.

(52) And takes every possible precaution to-avert danger.
(53) With a divorced woman or a widow.
(54) A man would surely take care not to destroy any life.
(55) The reason why no expectant mother may be married.

Talmud - Mas. Yevamoth 42b

might conceive again, her milk would become turbid, and she might thereby[1] cause the death of the child. If so, [this applies in the case] of the man's own child also! — His own child she would sustain with eggs and milk. Would she not sustain her own child also with eggs and with milk? — Her husband would not give her the means. Let her claim it[2] from the heirs![3] — Abaye replied: A woman would shrink from going to court[4] and would rather let her child die.

WHETHER THEY WERE VIRGINS OR NON-VIRGINS. Who are the VIRGINS and who are the BETROTHED?[5] Who are NON-VIRGINS and who are MARRIED women?[6] — Rab Judah replied, It is this that was meant: WHETHER VIRGINS OR NON-VIRGINS who became widows or were divorced[7] either after betrothal or after marriage.[8]

R. Eleazar did not go one day[9] to the Beth Hamidrash. On meeting R. Assi he asked him, 'What did the Rabbis discourse at the Beth Hamidrash'? The other replied 'Thus said R. Johanan: The halachah is in agreement with R. Jose'.[10] — Does this, then, imply that only individual opinion[11] is against him?[12] — Yes; and so it was taught: A [married woman] who was always anxious[13] to spend her time[14] at her paternal home,[15] or who had some angry quarrel at her husband's home,[16] or whose husband was in prison[17] or was old or infirm,[16] or who was herself infirm,[18] or had miscarried after the death of her husband, or was barren, old, a minor, incapable of conception or in any other way incapacitated from procreation, must[19] wait three months.[20] These are the words of R. Meir. R. Judah[21] permits immediate betrothal and marriage.[22]

R. Hiyya b. Abba said: R. Johanan retracted.[23] Said R. Joseph: If he retracted, he did so on account of what has been taught at the Vineyard.[24] For it was taught: R. Ishmael son of R. Johanan b. Beroka said: I heard from the mouth of the Sages in the Vineyard of Jabneh that all women must wait three months.[25]

Said R. Jeremiah to R. Zerika: When you visit R. Abbahu point out to him the following contradiction: Could R. Johanan have said, 'The halachah is in agreement with R. Jose' seeing that he stated elsewhere 'the halachah is in agreement with the anonymous Mishnah',[26] and we learned, ALL OTHER WOMEN SHALL BE NEITHER MARRIED NOR BETROTHED BEFORE THREE MONTHS HAVE PASSED, WHETHER THEY WERE VIRGINS OR NON-VIRGINS![27] The other replied, 'The one who pointed out to you this contradiction did not care much for [the quality of] flour.[28] This is an anonymous Mishnah that was followed by a dispute,[29] where the halachah does not agree with the anonymous Mishnah; for R. Papa or, some say, R. Johanan stated: When a disputed ruling is followed by an anonymous one,[30] the halachah is in agreement with the anonymous ruling; when, however, an anonymous ruling is followed by a dispute,[31] the halachah is not in agreement with the anonymous ruling.

R. Abbahu once walked leaning upon the shoulder of his attendant,[32] R. Nahum, whilst gathering from him information as to traditional rulings.[33] He inquired of him: What [is the halachah] where a dispute is followed by an anonymous statement? The other replied: The halachah is in agreement with the anonymous statement, 'What [is the halachah', the first enquired, 'when] an anonymous statement is followed by a dispute'? The other replied: The halachah is not in agreement with the anonymous statement. 'What if the anonymous statement occurs in a Mishnah and the dispute in a Baraitha'? The other replied: The halachah is in agreement with the anonymous statement. 'What if

the dispute is in the Mishnah and the anonymous statement in the Baraitha'? The other replied:

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(1) Since she would either feed him with contaminated milk or deprive him altogether of her breast milk.
(2) The extra cost of the maintenance.
(3) Of her first husband.
(4) To litigate with the heirs.
(5) Both are identical. No virgin can possibly be subject to the levirate obligations unless she has been previously betrothed!
(6) Cf. supra n. 9, mutatis mutandis.
(7) This is the meaning of WHETHER DIVORCEES OR WIDOWS.
(8) This has been expressed by WHETHER MARRIED OR BETROTHED. The last four terms are interpretations of the first two.
(9) Lit., 'enter'.
(10) That women who were married may be betrothed forthwith, and those who were betrothed may even be married forthwith, with the exception of the betrothed in Judaea (as R. Judah, with whom R. Jose is in agreement, has stated in our Mishnah) and with the exception of married women that became widows who must allow the period of thirty days of mourning to pass before remarriage or betrothal (v. our Mishnah).
(11) That of the first Tanna in our Mishnah, SIMILARLY ALL OTHER WOMEN etc.
(12) Otherwise the halachah should be in agreement with the view of the majority.
(13) Pas. particip. of רדף 'to pursue', 'be anxious'.
(14) Lit., 'to go'.
(15) And was there when her husband died.
(16) At the time of his death.
(17) Tosef. J. and Babli in Keth. 60b add, 'or if her husband had gone to a country beyond the sea'. Cf. Wilna Gaon, Glosses, a.l.
(18) When her husband's death occurred.
(19) Though in all these cases it is obvious that the woman is not pregnant.
(20) Before remarriage or betrothal, as a precaution against such marriage or betrothal on the part of a normal woman who might be pregnant.
(21) So in Tosef. In 'Er.47a, Keth. (v. n. 12) and She'iltoth, however, the reading is R. Jose.
(22) Tosef. VI, 6; 'Er. 47a, Keth. 60b. Thus it has been shewn that the opinion of the first Tanna who disagrees with R. Jose (or R. Judah) is that of R. Meir alone, and is, therefore, only that of an individual.
(23) And ruled that the halachah is not in agreement with R. Jose.
(24) כרמא, designation of the academy at Jabneh or Jamnia where the students' seats on the ground were arranged in tows like vines in a vineyard.
(25) After their divorce or the death of their husbands, before they may remarry or accept betrothal (v. supra note 10). Tosef. VI.
(26) Shab. 46a.
(27) And this Mishnah is anonymous!
(28) 'What kind of flour he grinds'. He was careless in his arguments.
(29) The anonymous statement of the first Tanna in our Mishnah is immediately followed by the dispute of R. Judah and of R. Jose.
(30) Either in the same Tractate or in the same Order.
(31) As in our Mishnah.
(32) שמדי Many of the Rabbis had a שמעא, sham'a, who was both attendant and disciple of the Master and himself a scholar.
(33) Or halachoth.

Talmud - Mas. Yevamoth 43a

If Rabbi[1] has not taught it,[2] whence would R. Hiyya[3] know it! The first said to him: Surely we learned: A hackle for flax, whose teeth were broken off and two remained, is [susceptible to

levitical] uncleanness, but [if only] one [tooth remained,[4] it is levitically] clean.[5] All the teeth, however, if they were removed one by one are individually [susceptible to levitical] uncleanness.[6] A wool [comb] whose alternate teeth[7] are broken off is levitically clean.[8] If three consecutive[9] teeth, however, remained, it is susceptible to levitical uncleanness. If one of these was a side tooth,[10] [the comb] is levitically clean.[11] If two [teeth] were removed and someone used them as pincers, they are susceptible to levitical uncleanness. One [tooth also] that was adopted for [snuffing] the light,[12] or as a spool,[13] is susceptible to levitical uncleanness.[14] And we have it as a traditional ruling that the halachah is not in agreement with this Mishnah![15] — The other replied, 'With the exception of this;[16] for both R. Johanan and Resh Lakish stated: This is not [an authoritative] Mishnah'.

What is the reason? — R. Huna b. Manoah replied in the name of R. Idi son of R. Ika: Because the first clause is in contradiction to the second one. For at first it was stated that 'a wool comb whose alternate teeth are missing is levitically clean' from which it follows that if two consecutive teeth did remain it would be susceptible to uncleanness, while immediately afterwards it was stated, 'If three consecutive teeth, however, remained it is susceptible to levitical uncleanness' from which it follows that only three but not two! — What difficulty is this? It is possible that one[17] refers to the internal,[18] and the other[19] the external teeth![20]

The contradiction, however, arises from the following:[21] It was taught first, 'all the teeth, however, if they were removed one by one are individually susceptible to levitical uncleanness' [implying], even though each tooth was not adapted [for the purpose] . Now read the final clause: 'One tooth that was adapted for snuffing the light, or as a spool, is susceptible to levitical uncleanness', [implying,] only when he adapted it but not when he did not adapt it! — Abaye replied: What is the difficulty? It is possible that the one [refers to a tooth] with a handle[22] and the other [to a tooth] without a handle! R. Papa replied: What is the difficulty? It is possible that the one refers to small,[23] and the other to thick teeth.[24] [The reason][25] is rather because accurate scholars add this conclusion: 'These are the words of R. Simeon'.[26]

R. Hiyya b. Abin sent the following message: Betrothal may take place within the three months, and the practice [of the Sages][27] is also in accordance with this ruling. And R. Eleazar, too, taught us the same law in the name of R. Hanina the Great: The greater part of the first month, the greater part of the third one, and the full middle month.[28]

Amemar permitted betrothal on the ninetieth day.[29] Said R. Ashi to Amemar: But, surely, both Rab and Samuel stated that the widow must wait three months exclusive of the day on which her husband died and exclusive of the day of her betrothal! — This ruling was stated in connection with a nursing mother; for both Rab and Samuel stated: She must wait twenty-four exclusive of the day on which the child was born and exclusive of the day of her betrothal.[30] Did not, however, a man once arrange a betrothal feast on the ninetieth days[31] and Raba spoilt his feast![32] — That was a wedding feast.

The law is that [a nursing mother] must wait twenty-four months, exclusive of the day on which the child was born and exclusive of the day on which she is to be betrothed. Similarly. One [who is not a nursing mother] must wait three months, exclusive of the day on which her husband died and exclusive of the day on which she is to be betrothed.

EXCEPTING THE WIDOW etc. R. Hisda said: [Cannot the law[33] be deduced by inference] from major to minor?[34] If when washing of clothes is forbidden,[35] betrothal is permitted, how much more should betrothal be permitted when the washing of clothes is permitted![36] What is it?[37] — We learned: During the week in which the Ninth of Ab occurs it is forbidden to cut the hair and to wash clothes. On the Thursday, however, this is permitted in honour of the Sabbath.[38] And [in connection with this Mishnah] it was taught: Before this time[39] the public must restrict their activities in

commerce, building and plantings but it is permissible to betroth though not to marry, nor may any betrothal feast be held![40] — That was taught in respect of the period before that time.[41] Said Raba, Even in respect of the 'period before that time'[42] [the law might be arrived at by inference from] major to minor: If where it is forbidden to trade it is permitted to betroth,how much more should betrothal be permitted where trade also is permitted! — Do not read, R. JOSE SAID: ALL [MARRIED] WOMEN[43] MAY BE BETROTHED but read, 'ALL MARRIED WOMEN[43] may be married'.[44]

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(1) The Redactor of the Mishnah and teacher of R. Hiyya.

(2) As an anonymous ruling which is to represent the established halachah.

(3) Rabbi's disciple, who compiled Baraithas and the reputed author of the Tosefta. (11) Since the hackle can still be used even though only two teeth remained. כלים 'vessels' (v. Lev. XI, 32ff) by which all kinds of implements and instruments are understood, are susceptible to levitical uncleanness so long only as they are useable. Broken 'vessels' which cannot be put to any further use ate always levitically clean.

(4) The hackle thus becoming unusable.

(5) V. supra p. 277. n. 11 last clause.

(6) Since each single broken tooth can be used for some purpose. V. infra.

(7) Lit., 'one from between', i.e. , one tooth between every three.

(8) Its teeth are far apart. and the absence of every alternate tooth renders the instrument useless.

(9) Lit., 'in one place'.

(10) Which serves as a protection for the other teeth but is in itself useless for combing purposes.

(11) V. supra p. 277. n. 11 .

(12) V. Jast.; or 'for picking a candlestick', v. Rashi a.l.

(13) Lit. , 'for stretching'. V. Jast.

(14) Kelim XIII, 8.

(15) Though it is anonymous.

(16) Only here has the anonymous Mishnah been disregarded.

(17) The first clause which implies that if only two teeth remained the comb is still susceptible to uncleanness.

(18) With two teeth of which the comb may still be used.

(19) The final clause, implying that if only two teeth remained the comb is no more susceptible to uncleanness.

(20) Two of which are useless. A wool comb had two sets of teeth, external and internal. The former were used for the main work, and no less than three were required. The latter served only the purpose of holding up the wool, and two of these were quite sufficient for that purpose. It should be noted that the 'side tooth' mentioned in the Baraitha does not refer to these but to the first or last tooth of the row (v. supra p. 278, n. 7).

(21) Lit., 'but from here'.

(22) When a part of the wooden base of the comb was broken off together with the tooth. In this case no adaptation is necessary.

(23) Small teeth require a handle without which they cannot be used.

(24) Which can be used without any adaptation.

(25) Why the halachah is not in agreement with that Mishnah.

(26) The Mishnah thus is not at all anonymous.

(27) Which he witnessed (v. Rashi a.l.).

(28) Constitute the required period of three months. Three full months are not necessary.

(29) After divorce or husband's death.

(30) Keth. 60b.

(31) After divorce or husband's death.

(32) By forbidding the betrothal on that day.

(33) On a widow's betrothal within the period of the thirty days of mourning.

(34) In a way contrary to the ruling of R. Jose.

(35) During the week in which the fast of the Ninth of Ab occurs.

(36) A mourner may wash his clothes before the period of the thirty days of mourning has passed- the prohibition extending to the first week of mourning only.

(37) I.e., where does the law concerning washing and betrothal occur.

(38) Ta'an. 26b.

(39) This is now assumed to mean, before the Ninth of Ab and during the week in which the fast occurs.

(40) Which shews that betrothal is permitted even when washing of clothes is forbidden. How, then, could R. Jose forbid betrothal where even washing was permitted? (V. supra note 7).

(41) Lit., 'before of before', prior to the week in which the fast occurs, when washing also is permitted. During the week itself, however, betrothal as well as washing is forbidden.

(42) V. supra p. 280, n. 12.

(43) Whose husbands died.

(44) R. Jose's disagreement with R. Judah has no bearing on the question of marriage during mourning on which R. Judah and R. Jose are in agreement, the former also admitting that no marriage may be celebrated during the mourning period. R. Jose's disagreement relates to the general question of the remarriage of a married woman within three months after her husband died (or divorced her). While R. Judah permits a married woman within three months betrothal only, but not marriage, R. Jose permits marriage also.

Talmud - Mas. Yevamoth 43b

Does not R. Jose, then, hold the view that it is necessary to make a distinction?[1] — If you wish I might say[2] that he does not. And if you prefer I might say that he does,in fact, hold [this view],[3] but read, 'R. Jose said: All betrothed women who were divorced may be married'.[4] If so, it[5] is the same view as that of R. Judah![6] — The point at issue between them is the question of the betrothal[7] of a married woman. R. Judah maintains that a married woman may be betrothed,[7] while R. Jose maintains that a married woman may not be betrothed.[7] But is R. Jose of the opinion that a married woman is forbidden betrothal?[7] Surely it was taught, 'R. Jose said: All women[8] may be betrothed,[7] excepting the widow, owing to her mourning. And how long does her mourning continue? Thirty days. And all these must not marry before three months have passed'! — What an objection is this![9] If it be argued: Because it was stated, 'R. Jose said: All women may be betrothed', is this [it may be retorted] of greater force than our Mishnah? As that was interpreted to mean that 'betrothed women who were divorced may be married' so here also [it might be interpreted to mean], 'All betrothed women who were divorced may be married'! — [The objection,] however, [arises from] the final clause where it was stated, 'And all these must not marry before three months have passed', [implying that] only marriage is forbidden to them but they may well be betrothed![10] — Raba replied: Explain and reconstruct it[11] as follows:[12] R. Jose said: Betrothed women who were divorced may be married, excepting the widow owing to her mourning. And how long does her mourning continue? Thirty days. And married women may not be betrothed before three months have passed.[13] But is any mourning to be observed by an erusin[14] widow? Surely R. Hiyya b. Ammi taught: In the case of a betrothed wife,[15] the husband is neither subject to the laws of onan[16] nor may he defile himself[17] for her;[18] and she, [in his case,] is likewise not subject to the laws of onan[16] nor may she defile herself for him;[19] if she dies he does not inherit from her, though if he dies she collects her kethubah![20] — The fact, however, is that this[21] is a question in dispute between[22] Tannaim. For it was taught: From the first day of the month[23] until the fast,[24] the public must restrict their activities in trade, building and planting, and no betrothals or marriages may take place.[25] During the week in which the Ninth of Ab occurs it is forbidden to cut the hair, to wash clothes;[26] and others say that this is forbidden during the entire month.[27] R. Ashi demurred: Whence is it proved that betrothal means actual betrothal! Is it not possible that it is only forbidden to give[28] a betrothal feast but that betrothal itself is permitted?[29] — If so, does 'no marriage may take place' also mean that the giving of a wedding feast is forbidden but marriage itself is permitted! — How now! In the case of a marriage without a feast there is still sufficient rejoicing;[30] in the case of betrothal, however, is there any rejoicing when no feast is held?[31] The fact is, said R. Ashi, that recent mourning[32] is different from ancient mourning,[33] and public mourning[33] is different from private mourning.[34] MISHNAH. WHERE FOUR BROTHERS WHO WERE MARRIED TO FOUR WOMEN DIED, THE ELDEST[35] MAY, IF HE DESIRES, CONTRACT LEVIRATE MARRIAGE WITH ALL OF

THEM.

WHERE A MAN WHO WAS MARRIED TO TWO WOMEN DIED, COHABITATION OR HALIZAH WITH ONE OF THEM EXEMPTS HER RIVAL.

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(1) Between a child of the first, and one of the second husband. (V. supra 42a). If he does, how could he permit marriage within the three months?

(2) V. Bah a.l. Wanting in cur. edd.

(3) He admits the necessity for a distinction between the children of the two husbands.

(4) Forthwith. In such cases the question of pregnancy does not arise. Hence, immediate marriage is permitted except in the case of mourning (v. our Mishnah final clause).

(5) R. Jose's view.

(6) Who stated, THOSE WHO WERE BETROTHED MAY EVEN BE MARRIED FORTHWITH.

(7) Forthwith.

(8) Even married women.

(9) The point of the objection is explained infra.

(10) How, then, could R. Jose say here that betrothal is forbidden.

(11) The second Baraitha cited.

(12) Lit., 'and say thus'.

(13) R. Jose in the Baraitha, in thus forbidding betrothal, advances the same opinion as R. Jose in our Mishnah in accordance with the interpretation supra.

(14) V. Glos.

(15) Before her marriage has taken place.

(16) A mourner for certain relatives prior to their burial (v. Glos.) who is subject to a number of restrictions.

(17) If he is a priest who is forbidden to come in contact with dead bodies except those of very near relatives among whom a wife is included. Aliter: 'nor need he defile himself'; v. supra 29b.

(18) A 'betrothed wife' not being regarded as being as near of kin as a married wife.

(19) During a festival when Israelites and women (and not only priests) are forbidden to attend on a dead body (unless they are engaged in its burial) if they are not near relatives (cf. R.H. 16b). Others render, 'nor need she . . . him'. (V. Rashi a.l. and Tosaf. supra 29b s.v.).

(20) V. Glos. in a case where the document was given to her at the betrothal. Supra 29b, B.M. 18a, Keth. 53a. The reference in the Mishnah hence cannot be to an erusin widow but to the prohibition of the betrothal of a widow within thirty days, which brings us back to the original question of R. Hisda.

(21) Whether betrothal is forbidden or permitted before the Fast of Ab.

(22) Lit., 'but it'.

(23) Of Ab.

(24) On the ninth of the month.

(25) Ta'an. 26b.

(26) Cut. edd. insert in parentheses, 'and it is forbidden to betroth'.

(27) Ta'an. 29b. The Tanna of this Baraitha thus forbids betrothal before the Ninth of Ab though the Tanna of the Baraitha previously cited (supra 43a) permits it. The objection against R. Jose raised by R. Hisda from the first Baraitha is, therefore, untenable, since R. Jose may disagree with that Tanna and follow the view of the one in the second Baraitha, who forbids betrothal. R. Jose's statement in our Mishnah may consequently be read and interpreted as originally assumed, viz., that ALL (MARRIED) WOMEN MAY BE BETROTHED, the point at issue between him and R. Judah being the question of mourning during which in the opinion of the first betrothal is, and in the opinion of the latter is not forbidden.

(28) Lit., 'to make'.

(29) Cf. infra note 10.

(30) Hence it is quite conceivable that marriage, even though no wedding feast is held, should be forbidden.

(31) It is quite possible, therefore, that the 'betrothal' forbidden is only one celebrated with the holding of a festive meal, while betrothal alone is permitted. The second Baraitha would thus be in agreement with the first. How, then, could R. Jose, contrary to the rulings of the two Baraithas maintain that betrothal during mourning is forbidden?

(32) After a personal bereavement.

(33) That before the Fast of Ab in commemoration of historical events.

(34) Personal and recent grief is more poignant, and is subject to more stringent regulations than those of public mourning which is less rigid. Hence there need be no contradiction between R. Jose's ruling concerning the prohibition of betrothal during the widow's personal mourning and the permission of betrothal in the Baraithas which speak of public mourning. Consequently the assumption that the two Baraithas are in disagreement and that R. Jose follows the latter is no longer necessary. Both Baraithas, in fact, may permit betrothal before the Fast of Ab, and R. Jose also may share the same view.

(35) Surviving brother; v. Gemara.

Talmud - Mas. Yevamoth 44a

IF ONE OF THESE, HOWEVER, WAS ELIGIBLE[1] AND THE OTHER INELIGIBLE,[1] THEN IF HE[2] SUBMITS TO HALIZAH IT MUST BE FROM HER WHO IS INELIGIBLE,[3] AND IF HE CONTRACTS LEVIRATE MARRIAGE IT MAY BE EVEN WITH HER WHO IS ELIGIBLE.

GEMARA. FOUR BROTHERS? Is this conceivable![4] — Read, FOUR of the BROTHERS.

MAY. And is he allowed?[5] Surely it was taught: Then the elder's of his city shall call him,[6] 'they' but not their representative; 'and speak unto him'[6] teaches that he is given suitable advice. If he,[2] for instance, was young and she[7] old, or if he was old and she was young, he is told, 'What would you with[8] a young woman'? or 'What would you with an old woman'? 'Go to one who is [of the same age] as yourself and create no strife in your house'![9] — This is applicable to that case only where he can afford it.[10] If so, even more wives also![11] — Sound advice was given: Only four but no more, so that each may receive one marital visit a month.[12]

WHERE A MAN WHO WAS MARRIED etc. Let him contract levirate marriage with both! — R. Hiyya b. Abba replied in the name of R. Johanan: Scripture stated, That doth not build up his brother's house,[13] he builds one house[14] but does not build two houses. Then let him submit to halizah from both of them! — Mar Zutra b. Tobia replied: Scripture stated, The house of him who had his shoe drawn off,[15] he submits to the drawing off of the shoe in respect of one house but must not submit to the drawing off of the shoe in respect of two houses. Then let him submit to halizah[16] from one and contract levirate marriage with the other! — Scripture stated, That doth not build,[17] as he has not built[18] he must never again build. Then let him contract levirate marriage with one and submit to halizah from the other! — Scripture states, If he like not,[19] if, however, he liked, he may contract levirate marriage; whosoever may go up[20] to contract levirate marriage, may also go up to perform halizah and whosoever may not go up[17] to contract levirate marriage[21] may not go up to perform halizah. Furthermore, in order that it be not said that the same house[22] is partially 'built' and partially 'drawn off'. But let them say! — If he had first contracted levirate marriage and then submitted to halizah this would have been so indeed;[23] it is possible, however, that he may submit to halizah and subsequently contract levirate marriage and thus place himself under the prohibition of that doth not build.[24]

Might it be suggested that where there is only one,[25] the law of the levirate marriage shall be observed, but that where there are two, the law of levirate marriage shall not be observed! — If so, what need was there for the All Merciful to prohibit marriage with the rival of a forbidden relative? If any two rivals,it has been said, are not both subject to halizah and the levirate marriage, was there any need [to mention the exemption of] a rival of a forbidden relative! Why not? It is certainly needed! For it might have been assumed that the forbidden relative stands excluded, and her rival may, therefore, be taken in levirate marriage, hence it was taught that she also was forbidden! — But in fact [this is the proper explanation:] The repetition of his brother's wife[26] widened the scope.[27]

IF ONE OF THEM, HOWEVER, WAS ELIGIBLE. Said R. Joseph: Here[28] it was taught by Rabbi[29] that a man should not pour the water out of his cistern while others may require it.[30]

MISHNAH. A MAN WHO REMARRIED HIS DIVORCED WIFE,[31] OR MARRIED HIS HALUZAH, OR MARRIED THE RELATIVE OF HIS HALUZAH MUST DIVORCE HER, AND THE CHILD[32] IS A BASTARD; THESE ARE THE WORDS OF R. AKIBA. BUT THE SAGES SAID: THE CHILD IS NOT A BASTARD. THEY AGREE, HOWEVER, THAT WHERE A MAN MARRIED THE RELATIVE OF HIS DIVORCEE THE CHILD[32] IS A BASTARD.

GEMARA. Does R. Akiba hold the view that the child of a man who MARRIED THE RELATIVE OF HIS HALUZAH is a bastard? Surely Resh Lakish stated: Here[33] it was taught by Rabbi[34] [that the prohibition to marry] the sister of a divorced wife is Pentateuchal and that that of the sister of a haluzah is Rabbinical![35] — Read,[36] THE RELATIVE OF HIS divorcee. This view may also logically be supported. For it was stated in the final clause, THEY AGREE, HOWEVER, THAT WHEN A MAN MARRIED THE RELATIVE OF HIS DIVORCEE THE CHILD IS A BASTARD. Now, if you grant that her case[37] was under discussion one can well see the reason why the expression of THEY AGREE had been used; if you contend, however, that her case[37] was not under discussion what is the purport of THEY AGREE?[38]

Is it not possible that we were informed[39] that the [offspring of a union] of those who are subject to the penalty of kareth is a bastard?[40] — This surely is taught below: 'Who is a bastard? [The offspring of a union with] any consanguineous relative with whom cohabitation is forbidden; so R. Akiba. Simeon[41] the Temanite said: [The offspring of any union] the penalty for which is kareth at the hands of heaven. And the halachah is in agreement with his view.[42] But is it not possible that the Tanna[43] intended to indicate by his anonymous statement that the halachah is according to Simeon[41] the Temanite?[44] — If so, he should have stated, 'Others who are subject to the penalty of kareth', why then [specify] THE RELATIVE OF HIS DIVORCEE? Consequently it must he inferred that this case[45] was under discussion. But is it not indeed possible to maintain that it[45] was not under discussion, but because THE MAN WHO REMARRIED HIS DIVORCED WIFE OR MARRIED HIS HALUZAH OR THE RELATIVE OF HIS HALUZAH was spoken of,[46] he also introduced THE RELATIVE OF his divorcee'?[47]

Would consequently [the offspring of a union with] the RELATIVE OF HIS HALUZAH, according to R. Akiba,[48] be a bastard![49] — R. Hiyya b. Abba replied in the name of R. Johanan, This is R. Akiba's reason: Because Scripture stated, The house of him that had his shoe drawn off;[50] Scripture thus called it his house.[51]

R. Joseph stated in the name of R. Simeon b. Rabbi: All agree that, where a man remarried his divorced wife,

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(1) To marry a priest. V. Lev. XXI, 7.

(2) The levir.

(3) So that the halizah shall not disqualify the eligible widow from marrying a priest.

(4) If there were only four brothers and all of them died, how could levirate marriage take place?

(5) To marry four wives.

(6) Deut. XXV, 8.

(7) The widow, his sister-in-law.

(8) Lit., 'what to thee at'.

(9) Infra 101b. Similarly in the case of our Mishnah also the levir should have been advised not to undertake the responsibility of maintaining four wives.

(10) When he possesses the means.

(11) Should be allowed. Why then were FOUR only mentioned.

(12) Once a week, on Friday evenings, is the time when scholars in moderate health should pay their marital visits (Keth 62b). More than four wives would reduce each one's visits to less than one per month.
(13) Deut. XXV, 9: emphasis on ‘house’ (sing.).
(14) I.e., marries one widow.
(15) E.V., loosed, ibid. 10, emphasis on ‘house’.
(16) For this insertion v. Bah a.l.
(17) Ibid. 9, emphasis on ‘not build’.
(18) I.e., did not contract levirate marriage.
(19) Ibid. 7.
(20) Sc. to the gale (ibid.), i.e., the court.
(21) As is the case with the rival who may not contract levirate marriage, for the reason given supra, ‘he builds one house but does not build two houses’.
(22) Of the one brother.
(23) What people might say about ‘partially built’ etc. would not have mattered.
(24) V. supra note 5, ‘as he has not built he must never again build’.
(25) Widow.
(26) Deut. XXV, 7.
(27) Indicating that even where there are two rivals the precept of levirate marriage is to be observed.
(28) By the instruction that halizah is to be performed by the ineligible, and not by the eligible widow.
(29) R. Judah the Prince, Redactor of the Mishnah.
(30) Though the levir himself would lose nothing by disqualifying the widow from marriage with a priest, he must not be the cause of her disqualification out of consideration for a priest who might wish to marry her.
(31) After she had been married to another man.
(32) The offspring of any such union.
(33) In the Mishnah supra 41a to which Resh Lakish refers.
(34) The Redactor of the Mishnah.
(35) Supra 40b, 41a. The offspring of a union that is only Rabbinically forbidden would not be a bastard.
(36) In R. Akiba's statement in our Mishnah.
(37) That of the relative of a divorcee.
(38) One does not AGREE in respect of a case that never was in dispute!
(39) By the use of the expression AGREE.
(40) I.e., the Rabbis AGREE in this case because it involves kareth, though they maintain that the offspring of those who are subject to the penalty of flogging only is not a bastard, AGREE would consequently provide no proof that R. Akiba spoke of the relative of a divorcee!
(41) Cur. edd. add ‘R’.
(42) Infra 49a. The halachah must obviously be in agreement with the Rabbis who form the majority. Consequently there was no need for the Rabbis to state the same halachah in our Mishnah also. THEY AGREE must, therefore, imply that R. Akiba also spoke of the relative of a divorcee.
(43) Of our Mishnah.
(44) Hence the repetition in Our Mishnah of the one infra 49a. Cf. supra n. 5 second clause.
(45) The case of the relative of one's divorcee.
(46) And on which the Rabbis disagreed with R. Akiba. In the case of the RELATIVE OF HIS HALUZAH, however, R. Akiba, it might still be contended, regards the child as a bastard.
(47) In whose case the Rabbis agree with R. Akiba.
(48) Since the expression RELATIVE OF HIS HALUZAH in R. Akiba's statement is not amended to ‘RELATIVE OF HIS divorcee’.
(49) On what ground could R. Akiba maintain such an opinion?
(50) Deut. XXV, 10.
(51) The relative of a haluzah, according to R. Akiba, is consequently, like that of a divorcee, forbidden Pentateuchally. The offspring of a union with such a relative is, therefore, a bastard.

Talmud - Mas. Yevamoth 44b

the child[1] is tainted in respect of the priesthood.[2] Who [is meant by] 'All agree'? — Simeon the Temanite. For although Simeon the Temanite stated that the offspring of a union forbidden under the penalty of flogging is not a bastard, he agrees that, though he is not a bastard, he is nevertheless tainted.[3] This is deduced a minori ad majus from the case of a widow: If in the case of a widow married to a High Priest, the prohibition of whom is not applicable to all,[4] her son[1] is tainted,[3] how much more should the son of a divorcee be tainted, whose prohibition is equally applicable to all.[5] [This argument, however], may be refuted: A widow's case may well be different[6] because she herself becomes profaned and;[7] and, furthermore, it is written in Scripture, She is an abomination,[8] 'she'[9] only is an abomination but her children are not an abomination. — Furthermore, it was taught: Where a man remarried his divorced wife, or married his haluzah, or married the relative of his haluzah, R. Akiba said, his betrothal of her is not valid,[10] she requires no divorce from him, she is disqualified,[11] her child is disqualified,[12] and the man is compelled to divorce her. And the Sages said: His betrothal of her is valid, she requires a divorce from the man, she is fit, and her child is fit. Now, in respect of what?[13] Obviously in respect of the priesthood![14] — No; in respect of entering the congregation.[13]

If so, in respect of whom is she[15] fit? If it be suggested 'in respect of entering the congregation', is not this [it may be retorted] obvious? Has she become ineligible to enter the congregation because she played the harlot![16] Consequently it must mean in respect of the priesthood. Now, since she is [untainted] in respect of the priesthood, her child also must be [untainted] in respect of the priesthood![14] — Is this an argument? The same term may bear different interpretations in harmony with its respective subjects.[17] This[18] is also logically sound. For in the first clause[19] it was stated, 'She is disqualified and her child is disqualified'. Now, in respect of what is 'she disqualified'? If it be suggested, 'in respect of entry into the congregation', does she [it may be retorted] become disqualified for entry into the congregation because she played the harlot![20] Consequently it must mean 'in respect of the priesthood!' Now, again, in respect of what is 'her child disqualified'? If it be suggested, 'in respect of the priesthood' thus implying that he is permitted to enter the congregation, surely [it may be objected] R. Akiba stated that the child is a bastard![21] Obviously then 'in respect of entry into the congregation'.[22] And, as in the first clause the same term bears different interpretations in harmony with its respective subjects, so may the same term in the final clause bear different interpretations in agreement with its respective subjects.[23] Also as to the expression[24] , This is an abomination it [may be interpreted]: 'She is an abomination but her rival is no abomination'.[25] Her children, however, are an abomination.[26]

The objection. however, from the 'widow' [still remains, thus]: 'A widow's case may well be different[27] because she herself becomes[28] profaned'![29] — But [the fact is that] if any statement was made[30] it was as follows:[31] R. Joseph stated in the name of R. Simeon b. Rabbi, 'All agree that where a man cohabited with any of those who are subject to the penalty of kareth[32] the child[33] is tainted'.[34] Who [is referred to by] 'All agree'? — R. Joshua. For although R. Joshua stated that the offspring of a union forbidden under the penalty of kareth is not a bastard, he agrees that, though he is no bastard, he is nevertheless tainted.[35] This is deduced a minori ad majus from the case of a widow: If in the case of a widow married to a High Priest, the prohibition of whom is not applicable to all,[36] her son[37] is tainted,[35] how much more should the son of this woman be tainted whose prohibition is equally applicable to all.[38]

And were you to object: A widow's case may be different[39] because she herself becomes profaned,[40] [it may be retorted that], here also, as soon as the man had any connubial relations with her he stamped her as a harlot.[41]

Rabbah b. Bar Hana said in the name of R. Johanan: All agree that where a slave or an idolater had intercourse with a daughter of an Israelite the child is a bastard. Who is meant by 'All agree'? —

Simeon the Temanite. For although Simeon the Temanite stated that the offspring of a union forbidden under the penalty of flogging is not a bastard, his statement applies only

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(1) The offspring of such a union.
(2) פגום defective, inferior (in status). If a male he is disqualified from the priesthood: and if a female she is ineligible to marry a priest. [Rashi reads simply: 'the child is tainted', so MS.M.]
(3) And disqualified for the priesthood.
(4) A widow is forbidden to a High Priest only, but not to an ordinary priest or an Israelite.
(5) No one, priest or Israelite, may remarry his divorced wife after she had been married to another man.
(6) I.e., her son may indeed be tainted.
(7) Having once married a High Priest unlawfully, she may not marry after his death even an ordinary priest (v. Kid. 77a), and if she is a priest's daughter she loses her privilege to eat terumah (v. infra 68a). In the case of a remarried divorcee these restrictions do not apply, since she is permitted to eat terumah if she is a priest's daughter (v. infra 69a) while her prohibition to marry a priest is not due to her remarriage, but to her previous divorce.
(8) Deut. XXIV, 4.
(9) היא rendered by E.V., it; lit, 'she', is taken to refer to the woman. The Talmudic text here is not very clear. (V. supra 11b for a smoother text and further notes, and cf. Bah a.l.).
(10) Unions subject to the penalty of flogging are in his opinion invalid.
(11) May not marry a priest.
(12) Being deemed a bastard.
(13) Is the child regarded as fit. I.e. fit to marry a proper Israelite; v, Deut. XXIII, 1ff.
(14) Which is contrary to the conclusion arrived at by the argument a minori ad majus!
(15) The remarried divorcee.
(16) I.e., contracted a forbidden marriage.
(17) Lit., 'that as it is and that etc,'. The term 'untainted' in the case of the woman may have reference to priesthood, but in the case of the child it may refer to entry into the congregation; while in respect of the priesthood the child may well be regarded as tainted.
(18) The thesis that the interpretation of the same term may vary in harmony with its respective subjects though both appear in the same context.
(19) Of the cited Baraitha.
(20) I.e., contracted a forbidden marriage.
(21) Who may not enter into the congregation. (V. Deut. XXIII, 3).
(22) Although the same term, in the same context, when applied to the mother, referred to the priesthood.
(23) V. supra p. 289. n. 10, for lit. meaning.
(24) From which it has been sought to prove supra that the inference from the case of a widow married to a High Priest cannot be upheld.
(25) I.e., the exclusion refers to her rival who may contract levirate marriage.
(26) I.e., disqualified from the priesthood. as has been inferred supra.
(27) I.e., her son may indeed be tainted.
(28) V. supra p. 288, n. 13.
(29) Which leads to the conclusion that no inference a minori ad majus may be drawn from the case of the widow. How, then, could R. Joseph state in the name of R. Simeon, supra, that all agree that the child is disqualified?
(30) By R. Joseph in the name of R. Simeon, on the subject under discussion.
(31) Lit., 'thus it was said'.
(32) For that cohabitation.
(33) The offspring of such a union.
(34) V. supra p. 282, no. 8ff.
(35) And disqualified for the priesthood.
(36) A widow is forbidden to a High Priest only, but not to an ordinary priest or Israelite.
(37) The offspring of such a union.
(38) No one, priest or Israelite, may remarry his divorced wife after she had been married to another man.
(39) I.e., her son may indeed be tainted.

(40) V. supra p. 288, n. 13.
(41) Because of the forbidden union, and she, like the widow who was married to a High Priest, is in consequence forbidden to marry even a common priest.

Talmud - Mas. Yevamoth 45a

to the offspring of a union forbidden under the penalty of flogging, since the betrothal in such a case is valid[1] but here, in the case of an idolater and a slave, since betrothal in their case is invalid,[2] they are like those whose union is subject to the penalty of kareth.[3]

An objection was raised: If a slave or an idolater had intercourse with the daughter of an Israelite the child [born from such a union] is a bastard. R. Simeon b. Judah said: A bastard is only he who [is the offspring of a union which] is forbidden as incest and is punishable by kareth![4] — No, said R. Joseph, who [is referred to by] 'all cable only according to the view of R. Akiba who regards a haluzah as a forbidden relative',[5] while he himself does not share the same view,[6] he agrees[7] in the case of an idolater and a slave. For when R. Dimi came[8] he stated in the name of R. Isaac b. Abudimi in the name of our Master,[9] 'If an idolater or a slave had intercourse with the daughter of an Israelite the child [born from such a union] is a bastard'.

R. Aha, the governor of the castle,[10] and R. Tanhum son of R. Hiyya of Kefar Acco[11] once redeemed some captives who were brought from Armon to Tiberias,[12] [Among these] was one who had become pregnant from an idolater. When they came before R. Ammi he told them: It was R. Johanan and R. Eleazar and R. Hanina who stated that if an idolater or a slave had intercourse with the daughter of an Israelite the child born is a bastard.

Said R. Joseph: Is it a great thing to enumerate persons?[13] Surely it was Rab and Samuel in Babylon and R. Joshua b. Levi and Bar Kappara in the Land of Israel — (others say, 'Bar Kappara' is to be altered to[14] the 'Elders of the South')[15] — who stated that if an idolater or a slave had intercourse with a daughter of an Israelite, the child born is untainted! — No, said R. Joseph, it[16] is [the opinion of] Rabbi.[17] For when R. Dimi came[8] he stated in the name of R. Isaac b. Abudimi that it was reported in the name of our Masters that if an idolater or a slave had intercourse with the daughter of an Israelite the child [born from such a union] is a bastard.

R. Joshua b. Levi said: The child[18] is tainted. In respect of what?[19] If it be suggested in respect of entry into the congregation, surely [it may be retorted] R. Joshua b. Levi stated that the child was fit! It must be then in respect of the priesthood;[19] for all Amoraim who declare the child[18] fit admit that he is ineligible for the priesthood.[20] This is inferred by deduction from the case of a widow a minori ad majus. If in the case of a widow who was married to a High priest whose prohibition is not equally applicable to all[21] her son[22] is tainted,[23] how much more should the son of this woman[24] be tainted whose prohibition is equally applicable to all.[25] The case of a widow who was married to a High Priest may be different, since she herself becomes profaned![26] — Here also,[27] as soon as cohabitation occurred the woman is disqualified;[28] for R. Johanan stated in the name of R. Simeon:[29] Whence is it inferred that if an idolater or a slave had intercourse with the daughter of a priest, of a Levite or of an Israelite, he disqualified her?[30] It was stated But if a priest's daughter be a widow, or divorcee;[31] Only in the case of a man in relation to whom widowhood or divorce is applicable;[32] an idolater and a slave are consequently excluded since in relation to them no widowhood or divorce is applicable.[33]

Said Abaye to him:[34] What reason do you see for relying upon R. Dimi?[35] Rely rather on Rabin![36] For when Rabin came[37] he reported that R. Nathan and R. Judah the Prince ruled that such a child is legitimate;[38] and[39] R. Judah the Prince is, of course, Rabbi!

And Rab also ruled that the child is legitimate.[40] For once a man[41] appeared before Rab and asked him, 'What [is the legal position of the child] where an idolater or a slave had intercourse with the daughter of an Israelite'? 'The child is legitimate', the Master replied. 'Give me then your daughter' said the man. 'I will not give her to you' [was the Master's reply]. Said Shimi b. Hiyya to Rab. 'People say that in Media[42] a camel can dance on a kab;[43] here is the kab, here is the camel and here is Media, but there is no dancing'![44] 'Had he been[45] equal to Joshua the son of Nun I would not have given him my daughter', the Master replied. 'Had he been like Joshua the son of Nun', the other retorted, 'others would have given him their daughters, if the Master had not given him his; but with this man, if the Master will not give him, others also will not give him'.[46] As the man refused to go away he fixed his eye upon him and he died. R. Mattena also ruled that the child is legitimate.[47] Rab Judah also ruled that the child is legitimate.[47] For when one[48] came before Rab Judah, the latter told him, 'Go and conceal your identity[49] or marry one of your own kind'.[50] When such a man[51] appeared before Raba he told him, 'Either go abroad or marry one of your own kind'.[52]

The men of Be-Mikse[53] sent [the following enquiry] to Rabbah: What [is the law in respect of the legitimacy of the child of] one who is a half slave and half freed man[54] who cohabited with the daughter of an Israelite? — He replied: If [the child of] one who is fully a slave has been declared legitimate, is there any need [to question the case of the child of one who is only] a half slave!

R. Joseph said: The author of this traditional ruling[55]

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(1) V. supra 23a.

(2) V. Kid. 68b.

(3) The offspring from which is a bastard.

(4) Now this Tanna, whose view is exactly the same as that of Simeon the Temanite, indicates quite clearly that the offspring of a union with an idolater or slave is not a bastard! (V. supra n. 10). (12) That cohabitation with a deceased brother's wife after halizah with her rival has not the force of marriage and no divorce is required. The child from such a union would consequently be deemed a bastard.

(5) Infra 52b.

(6) But maintains that the child of such a union is no bastard.

(7) With R. Akiba; and the child is consequently a bastard.

(8) From Palestine to Babylon.

(9) Rabbi, R. Judah the Prince.

(10) Cf. Neh. VII, 2.

(11) כפר עכו in lower Galilee, v. Sanh., Sonc. ed. p. 484, n. 7.

(12) [Rashi reads: Antioch. Armon has not been identified. V. Horowitz I.S. Palestine, s.v.].

(13) Just as a string of names could be quoted in support of the view that the child is a bastard, an equally imposing number could be quoted in opposition.

(14) Lit., 'and bring in'.

(15) [With particular reference to the scholars of Lydda among whom Bar Kappara and R. Joshua b. Levi were included.]

(16) The ruling that the child is a bastard.

(17) And it is Rabbi's fame and position, and not the number of comparatively minor authorities (v. supra n. 9), that imparted the force of law to this view.

(18) Born from a union between a Jewish woman and an idolater or a slave.

(19) Is the child deemed tainted. This applies to a female child who is disqualified from marrying a priest. A male child, being the son of an idolater or slave, cannot obviously ever be himself a priest.

(20) V. supra note 2.

(21) A widow is only forbidden to marry a High Priest but not an Israelite or an ordinary priest.

(22) Born from her union with the High Priest.

(23) If a male; and if a female she is ineligible to marry a priest.

(24) Who had intercourse with an idolater or a slave.

(25) The daughters of priests, of Levites and of Israelites are all equally forbidden to marry an idolater or a slave.
(26) V. supra p. 288, n. 23.
(27) Where intercourse took place between a Jewess and an idolater or a slave.
(28) From ever marrying a priest.
(29) Others, 'Ishmael'. V. Bah. a,l.; and Tosaf., infra 68b, s.v. כמאן.
(30) From eating terumah if she is the daughter of a priest. If the daughter of a Levite or an Israelite who was married to a priest and left with children after her husband's death, she loses her right to the eating of terumah (to which she was entitled by virtue of her children) and, of course, becomes ineligible to marry a priest, as soon as Intercourse with the idolater or slave had taken place.
(31) Lev. XXII, 13. The conclusion of the verse reads, And is returned unto her father's house . . . she shall eat of her father's bread (i.e., terumah),
(32) I.e., an Israelite. Only then does she regain her right of eating her father's bread. V. n. 14.
(33) Their very betrothal and marriage having no validity.
(34) R. Joseph.
(35) Who, on the authority of Rabbi supra, declared the child to be a bastard.
(36) Who, also on the authority of Rabbi, does not regard such a child as a bastard.
(37) From Palestine to Babylon.
(38) Lit., 'rule concerning it towards permissibility'.
(39) Lit., 'and who'.
(40) Cf. supra n. 6.
(41) The offspring of union between a Jewess and an idolater.
(42) I.e., in foreign lands where wonders occur, (Golds.).
(43) The kab is a small measure of capacity equal to four log or a sixth of a se'ah.
(44) I.e., Rab had displayed originality and marvelous courage by his ruling, and yet stops short of carrying it into practice.
(45) V. Bah a.l.
(46) They would regard the Master's refusal as an indication that the man is really illegitimate.
(47) Lit., 'rule concerning it towards permissibility'.
(48) The issue of a union between a Jewess and an idolater.
(49) I.e., 'go to a place where you are unknown and where you might in consequence pass as a legitimate Israelite and be allowed to marry a Jewess'. Since Rab Judah counselled him to marry a Jewess if he could, by concealing his origin, it is obvious that in his opinion the man was legitimate. A bastard would not have been allowed marriage with a Jewess under any circumstances.
(50) V. infra n. 3.
(51) Cf. supra p. 294, n. 7.
(52) I.e., a woman born from a similar union. Raba did not allow him, however, to marry a bastard or a slave; which proves that in his opinion the man was legitimate and therefore forbidden to marry either a bastard or a slave,
(53) [A frontier town between Babylon and Arabia, v, Obermeyer, p. 334].
(54) V. Git., Sonc. ed. pp, 175ff.
(55) That the offspring of a union between a Jewess and an idolater or slave is legitimate.

Talmud - Mas. Yevamoth 45b

is, of course,[1] Rab Judah.[2] But surely Rab Judah had explicitly stated: Where one who is a half slave and half freed man cohabited with the daughter of an Israelite the child born from such a union can have no redress![3] — Rab Judah's ruling[4] was made only in the case where he[5] betrothed[6] the daughter of an Israelite,[7] in consequence of which his partial slavery cohabits with a married woman.[8]

But did not the Nehardeans state in the name of R. Jacob that according to him who regards [the offspring][9] as illegitimate, the child is so regarded even [where cohabitation had taken place] with an unmarried woman; and according to him who regards [the child] as legitimate, the child is so

regarded even [if the cohabitation had taken place] with a married woman! And the deduction by both[10] was made from none other than the wife of one's father.[11] He who regards the child[9] as illegitimate is of the opinion that as with the wife of one's father, betrothal with whom is invalid, the child is a bastard. So is the child a bastard in the case of all those[12] betrothal with whom is invalid. And he who regards the child as legitimate is of the opinion [that the comparison is]: As with the wife of one's father, betrothal with whom is invalid in the case of the son only,[13] but is valid in the case of others;[14] an idolater and a slave betrothal with whom is in all cases invalid are consequently excluded![15]

Hence the statement of R. Judah[16] must have been made in respect of one[17] who had intercourse with a married woman, so that his emancipated side[18] cohabits with a married woman.[19]

Rabina said: R. Gaza told me, 'R. Jose b. Abin happened to be at our place when an incident[20] occurred with an unmarried woman and declared the child to be legitimate: [and when it occurred] with a married woman he declared the child to be illegitimate'.

R. Shesheth said: R. Gaza told me that it was not R. Jose b. Abin but R. Jose son of R. Zebida, and that he declared the child to be legitimate, both in the case of the married, as well as in that of the unmarried woman.[21]

R. Aha son of Raba[22] said to Rabina: Amemar once happened to be in our place and he declared the child[23] to be legitimate in the case of a married, as well as in that of an unmarried woman.

And the law is that if an idolater or a slave had cohabited with the daughter of an Israelite the child [born from such a union] is legitimate, both in the case of a married, and in that of an unmarried woman.[21]

Raba declared R. Mari b. Rachel[24] to be a legitimate Israelite and appointed him among the pursers[25] of Babylon. And although a Master said: Thou shalt in any wise set him king over thee . . . one from among thy brethren,[26] all appointments which you make must be made only 'from among thy brethren', [means that] such a man,[27] since his mother was a descendant of Israel, may well 'be regarded as 'one from among thy brethren'.

The slave of R. Hiyya b. Ammi once made a certain idolatress bathe for a matrimonial purpose.[28] Said R. Joseph: I could declare her to be a legitimate Jewess[29] and her daughter[30] to be of legitimate birth.[31] In her case, in accordance with the view of R. Assi; for R. Assi said, 'Did she not bathe for the purpose of her menstruation'?[32] In the case of her daughter, because when an idolater or a slave has intercourse with a daughter of an Israelite, the child [born of such a union] is legitimate.[33]

A certain person was once named 'son of the female heathen'.[34] Said R. Assi, 'Did she not bathe for the purpose of her menstruation'?'

A certain person was once named 'son of the male heathen'.[35] Said R. Joshua b. Levi, 'Did he[36] not bathe in connection with any mishap[37] of his'?[38]

R. Hama b. Guria said in the name of Rab: If a man bought a slave from an idolater and [that slave] forestalled him and performed ritual ablution with the object of acquiring the status of a freed man, he acquires thereby his emancipation. What is the reason?

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(1) Lit., 'who is it'?

(2) So that Rabbah's decision in the case of the half slave is based on a ruling of Rab Judah.

(3) I.e., he is a bastard, and may never marry a Jewess, How, then, could Rabbah regard the child of such a union as

legitimate?
(4) That he can have no redress.
(5) The half slave,
(6) Not merely cohabited without betrothal.
(7) The betrothal, as far as his partial status of a slave is concerned, is invalid, while in respect of his partial state of emancipation it is valid. The Jewess is consequently his legal wife.
(8) The slave in him having cohabited with the woman who is legally betrothed to the emancipated part of him causes the offspring of the union to be deemed a bastard, as is the case with the offspring of any union between a betrothed or married woman and a stranger, be the latter Israelite, idolater or slave. If, however, cohabitation only between the half slave and a Jewess took place, 'without previous betrothal, the woman is not the legal wife of the 'half freed man' and the child born from the union is the child of an unmarried woman and is consequently legitimate, as Rabbah ruled. In the case of a full slave the question of betrothal does not arise since even if betrothal did take place it is invalid and the woman is legally deemed to be unmarried.
(9) Of a union between a Jewess and an idolater or a slave.
(10) He who regards the child as legitimate and the other who regards him as illegitimate.
(11) Betrothal of whom by the son is invalid and the offspring of any union between them is a bastard.
(12) Such as an idolater or a slave,
(13) Lit,, 'to him'.
(14) So in all such cases, A child born from such unions only is illegitimate.
(15) The cases of these being different from that of 'father's wife', the child born from a union between a Jewess and any of these must be deemed to be legitimate. The father is entirely eliminated and the child is ascribed to the mother. Now, since the statement of the Nehardeans proves that there is no difference between an unmarried and a married (or betrothed) woman, the distinction drawn supra between cohabitation after a betrothal and one in the absence of betrothal is obviously untenable. The objection then against Rabbah's ruling remains!
(16) That the child has no redress.
(17) The half slave and half freed man spoken of.
(18) Which has the same status as that of an Israelite,
(19) Cf. supra p. 295, n. 14. As the offspring of a union between an Israelite and a married woman is a bastard, so is that of the union between the semi-emancipated (cf. supra n. 10) and a married woman.
(20) A child was born from a union between a slave and a Jewess.
(21) For the reason given supra Cf. supra p. 296, nn. 6. 7 and text.
(22) So Emden a.l, Cur. edd., 'Rabbah'.
(23) Cf. supra n. 1.
(24) Rachel was one of Mar Samuel's captive daughters, who, while in captivity, was married to an idolater and gave birth to Mari, Issur, the father of the child, embraced Judaism while Rachel was still in her pregnancy, and he is several times referred to in the Talmud as Issur the proselyte. (V. Keth. 23a; B.B. 149a. Sonc. ed. p. 644, and notes a.l.).
(25) פורסי, sing. פורסא cf. Gr. **, 'supervisor', 'purser' or 'collector'. The appointment gave its holder authority over the Jews under its jurisdiction.
(26) Deut. XVII, 15. Cf. Bah a.I.
(27) R. Mari.
(28) The slave wished to take her as wife. Lit,, 'wife', or 'wifehood'. He made her take a ritual bath in accordanee with the requirements prescribed for the menstruant before she can be permitted connubial intercourse.
(29) Though the bath was taken for menstrual purification yet since an idolatress takes no such baths, it may be regarded as one for the purpose of her conversion also. Usually, before he may be admitted as a legitimate proselyte, the convert most both be circumcised and bathe in a ritual bath for the specific purpose of the conversion. V, infra 46b.
(30) Born from the slave and herself,
(31) Though she is the offspring of a union between a slave and a woman who, at the time of giving birth to her, had already enjoyed the status of a Jewess.
(32) So long as she bathed for one purpose she may be deemed to have bathed for the other also. (V. infra).
(33) For the reason given supra. Cf. supra p. 296. on. 6, 7 and text.
(34) Because his mother did not take a ritual bath at the time of her conversion to Judaism.
(35) Cf. note 6 mutatis mutandis.

(36) The father.
(37) Keri, the emission of semen,
(38) V. supra note 4.

Talmud - Mas. Yevamoth 46a

— The idolater has no title to the person [of the slave][1] and he can transfer to the Israelite only that which is his. And [the slave], since he forestalled him and performed ritual ablution for the purpose of acquiring the status of a freed man, has thereby cancelled the obligations of his servitude, in accordance with the ruling of Raba. For Raba stated: Consecration,[2] leavened food[3] and manumission[4] cancel a mortgage.[5]

R. Hisda raised an objection: It happened with the proselyte Valeria[6] that her slaves forestalled her and performed ritual ablutions[7] before her. And when the matter came before the Sages they decided that the slaves had acquired the status of freed men.[8] [From here it follows that] only if they performed ablution before her,[9] but not if after her![10] — Raba replied: 'Before her' they acquire their emancipation whether the object of their bathing had, or had not been specified;[11] 'after her' emancipation is acquired only when the object had been specified,[12] but not when it had not been specified.[13]

R. Iwya said: What has been taught[14] applies only to one[15] who buys[16] from an idolater; but the idolater himself[17] may well be acquired;[18] for it is written in Scripture, Moreover from the children of the strangers that do sojourn among you, of them may ye buy:[19] you may buy of them but they may not buy of you, nor may they buy of one another.[20] 'But they may not buy of you'. — What can this refer to? If it be suggested [that it refers] to one's manual labour, may not an idolater, [it may be asked,] buy an Israelite to do manual labour? Surely it is written, Or to the offshoot of a stranger's family,[21] and a Master said that by 'stranger's family' an idolater was meant?[22] Consequently it must refer to his person;[23] and the All Merciful said, 'You may buy of them,[24] even their persons'. R. Aha objected: It[25] might be said [to refer to acquisition] by means of money and ritual ablution![26] — This is a difficulty.

Samuel said: He[27] must be firmly held[28] while he is in the water;[29] as [was done with] Menjamin, the slave of R. Ashi who wished to perform ritual ablution,[30] and was entrusted to Rabina and R. Aha son of Raba. 'Note', [R. Ashi] said to them, 'that I shall claim him from you'.[31] They put a chain[32] round his neck, and loosened it and again tightened it. They loosened it in order that there might be no interposition.[33] They then tightened it again in order that he might not forestall them and declare,[34] 'I perform the ablution in order to procure thereby the status of a freed man'. While he was raising his head from the water they placed upon it a bucket full of clay and told him, 'Go, carry it to your master's house.

R. Papa said to Raba: The master must have observed the men of Papa b. Abba's house who advance sums of money on people's accounts in respect of their capitation taxes,[35] and then force them into their service. Do they,[36] when set free, require a deed of emancipation or not? He replied: Were I now dead I could not have told you of this ruling. Thus said R. Shesheth: The surety for these people[37] is deposited in the king's archive, and the king has ordained that whosoever does not pay his capitation tax shall be made the slave of him who pays it for him.[38]

R. Hiyya b. Abba once came to Gabla[39] where he observed Jewish women who conceived from proselytes who were circumcised but had not performed the required ritual ablution;[40] he also noticed that idolaters were serving[41] Jewish wine and Israelites were drinking it,[42] and he also saw that idolaters were cooking lupines and Israelites ate them;[43] but he did not speak to them on the matter at all. He called, however, upon R. Johanan who instructed him: Go and announce that their

children are bastards; that their wine is forbidden as nesek wine;[44] and that their lupines are forbidden as food cooked by idolaters, because[45] they[46] are ignorant of the Torah.

'That their children are bastards', R. Johanan ruling in accordance with his view. For R. Hiyya b. Abba stated in the name of R. Johanan: A man cannot become a proper proselyte unless he has been circumcised and has also performed ritual ablution; when, therefore, no ablution has been performed he is regarded as an idolater; and Rabbah b. Bar Hana stated in the name of R. Johanan that if an idolater or a slave cohabited with the daughter of an Israelite the child [born from such a union] is a bastard.

'That their wine is forbidden as nesek wine', because a nazirite[47] is told, 'Keep away; go round about; approach not the vineyard'.[48]

'That their lupines are forbidden as food cooked by idolaters, because they are ignorant of the Torah'. [Would their lupines have been] permitted if the men had been acquainted with the Torah? Surely R. Samuel b. R. Isaac stated in the name of Rab, 'Any foodstuff that may be eaten raw does not come under the prohibition of food cooked by idolaters', and since lupines cannot be eaten raw the prohibition of food cooked by idolaters should apply![49] — R. Johanan holds the view as expressed in a second version. For R. Samuel b. R. Isaac stated in the name of Rab, 'Whatever is not served on a royal table as a dish to be eaten with bread is not subject to the prohibition of food cooked by idolaters The reason, therefore,[50] is because they were ignorant of the Torah;[51] for had they been acquainted with the Torah [their lupines would have been] permitted.

Our Rabbis taught: 'If a proselyte was circumcised but had not performed the prescribed ritual ablution, R. Eliezer said, 'Behold he is a proper proselyte; for so we find that our forefathers[52] were circumcised and had not performed ritual ablution'. If he performed the prescribed ablution but had not been circumcised, R. Joshua said, 'Behold he is a proper proselyte; for so we find that the mothers[53] had performed ritual ablution but had not been circumcised'. The Sages, however, said, 'Whether he had performed ritual ablution but had not been circumcised or whether he had been circumcised but had not performed the prescribed ritual ablution, he is not a proper proselyte, unless he has been circumcised and has also performed the prescribed ritual ablution.

Let R. Joshua also infer from the forefathers, and let R. Eliezer also infer from the mothers! And should you reply[54] that a possibility[55] may not be inferred from an impossibility,[56] surely [it may be retorted] it was taught: R. Eliezer said, 'whence is it deduced that the paschal lamb[57] of later generations[58] may be brought from hullin[59] only? Those in Egypt were commanded to bring[60] a Paschal lamb and those of later generations were commanded to bring a Paschal lamb; as the Paschal lamb spoken of in Egypt could be brought from hullin[59] only, so may also the paschal lamb which had been commanded to later generations be brought from hullin only'. Said R. Akiba to him, 'may a possibility be inferred from an impossibility!'[61] The other replied. 'Although an impossibility, it is nevertheless a proof of importance and deduction from it may be made'![62] — But

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(1) As will be explained infra, no idolater may acquire the person of another idolater.

(2) For the altar, of a pledged animal,

(3) Which is pledged to a non-Israelite but kept in the possession of an Israelite when the time for its destruction on the Passover Eve arrived. No leavened food may be kept in Jewish possession (though pledged to a non-Jew) from midday of Passover Eve until the conclusion of the Passover festival.

(4) Of a mortgaged slave, v, Git. 40b.

(5) Similarly here, the ritual ablution of the slave, for the purpose of procuring his manumission, cancelled his obligations to his idolatrous master, and ipso facto to his Jewish master who is only the representative of the former and can lay no greater claim to the slave than he.

(6) Heb. בלוריא.

(7) For the purpose of conversion to Judaism, and thereby procuring their manumission.
(8) Infra 66b, Keth, 59b, Git, 40b, Ned, 86b, B.K. 89b.
(9) Are they manumitted; because, in that case, they were already proselytes while she was still an idolatress with no title to them.
(10) Lit,, 'before her, yes: after her, no'. Thus it has been shewn that if the owner is an Israelite, ritual ablution does not procure the slave's manumission, which is in contradiction to what R. Hama stated in the name of Rab!
(11) Lit., 'whether specified or unspecified'.
(12) When the slave specifically stated that his ablution was performed for the purpose of procuring his manumission: cf. the statement of R. Hama b. Guria.
(13) Lit., 'by specified, yes: by unspecified. no'.
(14) That by ritual ablution a slave procures his emancipation.
(15) Lit., 'they did not teach but'.
(16) A slave.
(17) If he sold his own person.
(18) And a ritual ablution does not procure his liberation.
(19) Lev, XXV, 45.
(20) Git. 37b.
(21) Lev. XXV, 47.
(22) How then could it be suggested that an Israelite may not sell his manual labour to an idolater!
(23) An idolater cannot acquire the person of an Israelite,
(24) Of then, may ye by, Lev, XXV, 45.
(25) The authorization to buy the person of an idolater.
(26) As a slave of a Jew. A heathen, bought as a slave by a Jew, had to submit to circumcision and ritual ablution and thereby acquired partly the status of a Jew: in respect of observances he was on the same footing as Jewish women and minor sons. What proof, however, is there that an idolater does not acquire his freedom if he performed ritual ablution with the specific object of procuring thereby his manumission?
(27) An idolatrous slave who is performing his ablution on his initiation into Judaism as a slave of a Jew.
(28) To indicate that he is performing his ablution as a slave.
(29) Unless some outward mark of slavery accompanied the ablution the slave can procure his manumission by making a declaration, while he is still in, the water, that he performs his ablution for the purpose of procuring thereby his freedom.
(30) On his initiation as the slave of a Jew.
(31) If, while in the water, he will declare that his ablution was performed for the purpose of procuring his emancipation.
(32) **ארויסא** 'chain' (Aruk): — Persian arvis, 'rope' (Perles, Ety. Stud.); 'halter' (Jast.); v. Levy.
(33) Between his body and the water. In all cases of ritual ablution the water must come in direct contact with every external part of the body.
(34) So Bah. Cur. edd., add, 'to them'.
(35) Which they themselves are unable to pay to the government when due.
(36) These temporary slaves who were heathens.
(37) **מוהרקייהן** v. Jast **מוהרקי**'signatures' (Rashi) or 'registers of tax payers' (V. Aruk), 'written document V. Levy.
(38) The temporary service is consequently regarded as proper slavery, and a deed of emancipation is necessary should such slaves ever desire to embrace Judaism and to be permitted to marry a Jewess.
(39) Gebal of Ps. LXXXIII, 8. i.e. , the northern part of Mt. Seir.
(40) Ritual ablution is an essential part of the ceremonial of initiation into Judaism.
(41) The verb **מזג** (cf. Gr. ** Lat. misceo). lit., 'to mix', sc. wine with water or spices, also signifies 'to fill the cup, 'to serve'.
(42) Wine that has been touched by an idolater suspected of dedicating it to idolatrous purposes is forbidden to an Israelite.
(43) Although an Israelite is forbidden to eat of the food which an idolater has cooked.
(44) **ייו נסך** 'wine of libation', applied to wine that has been, or is suspected of having been dedicated as a 'drink offering' to an idol or idolatrous purpose.
(45) The reason applies to the prohibition of the lupines. v. infra.

(46) The men of Gabla.
(47) V. Num. VI, 2ff.
(48) I.e,, a man must be so careful in the observance of a commandment that he must not only keep away from a prohibition itself but also from that which is permitted but might lead to an infringement of a prohibition, A nazirite who is forbidden to drink wine must not even approach a vineyard. Similarly nesek wine is forbidden only when an idolater has actually touched it; but as a preventive measure it has been forbidden, as here, even when contact was indirect.
(49) What need then was there to give as a reason, 'because they are ignorant of the Torah'?
(50) Why the lupines of the men of Gabla were forbidden,
(51) The restriction having been imposed upon them as a preventive measure against their possible laxity in the general laws concerning food cooked by idolaters; cf. parallel passage 'A.Z. 59a.
(52) Those who departed from Egypt as heathens and received the Torah on Mount Sinai when they were, so to speak. converted to Judaism.
(53) V. supra p. 302, n. 6.
(54) To the second query.
(55) It is possible to circumcise a male proselyte.
(56) The mothers who left Egypt may have been admitted to Judaism by ritual ablution only because the other rite was in their case an impossibility.
(57) V. Ex. XII, 3ff.
(58) Subsequent to the generation that brought the first Paschal lamb in Egypt.
(59) חולין 'profane', animals that had not previously been consecrated. In the case of the Paschal lamb consecrated animals could only be such as had been set aside as 'second tithe' the law of which had not been promulgated till after the Exodus.
(60) Lit., 'it was said'.
(61) The Paschal lamb in Egypt could not possibly have been brought from consecrated animals. V. supra n. 7, second clause.
(62) Men. 82a, which proves that even from an impossibility an inference may be drawn. The difficulty, therefore, remains, why does not R. Eliezer, like R. Joshua, infer from the mothers?

Talmud - Mas. Yevamoth 46b

all agree[1] that ritual ablution without circumcision is effective; and they differ only on circumcision without ablution. R. Eliezer infers from the forefathers,[2] while R. Joshua [maintains that] in the case of the forefathers also ritual ablution was performed. Whence does he[3] deduce it?[4] If it be suggested, 'From that which is written, Go unto the people, and sanctify them to-day and to-morrow, and let them wash their garments,[5] if where washing of the garments is not required[6] ablution is required,[7] how much more should ablution be required where washing of the garments is required',[8] [it may be retorted that] that[9] might have been a mere matter of cleanliness.[10] — It is rather from here:[11] And Moses took the blood, and sprinkled it on the people,[12] and we have a tradition that there must be no sprinkling without ritual ablution.[13]

Whence does R. Joshua infer that the mothers performed ritual ablution? — It is a logical conclusion, for, otherwise,[14] whereby did they enter under the wings of the Shechinah![15]

R. Hiyya b. Abba stated in the name of R. Johanan: A man can never become a proselyte unless he has been circumcised and has also performed the prescribed ritual ablution.[16] Is not this obvious? [In a dispute between] an individual and a majority the halachah is, surely, in agreement with the majority![17] — The expression 'Sages' is in fact meant for[18] 'R. Jose'. For it was taught: If [a proselyte] came and stated, 'I have been circumcised but have not performed ritual ablution' he is 'permitted to perform the ablution[19] and [the proper performance of the previous circumcision] does not matter;[20] so R. Judah.

R. Jose said: He is not to be allowed ablution,[21] Hence[22] it is permissible for a proselyte[23] to

perform the prescribed ablution on the Sabbath;[24] so R. Judah. R. Jose, however, said: He is not to be allowed to perform the ablution.[25]

The Master said, 'Hence it is permissible for a proselyte to perform the prescribed ablution on the Sabbath; so R. Judah'.[26] Seeing that R. Judah stated that one[27] suffices is it not obvious that, if circumcision has been performed in our presence, he is permitted to perform ablution! Why then, 'Hence'?[28] — It might have been assumed that in the opinion of R. Judah, ablution forms the principal [part of the initiation],[29] and that ablution is not to take place on the Sabbath because, thereby, a man is improved;[30] hence we were taught[31] that R. Judah requires either the one or the other.[32]

'R. Jose, however, said: He is not to be allowed to perform the ablution'. Is not this obvious? Since R. Jose said that both[33] are required [ablution must be forbidden as] the improvement of a man[34] may not be effected on the Sabbath! — It might have been assumed that in the opinion of R. Jose circumcision forms the principal [part of the initiation] and that the reason there[35] is because the circumcision had not been performed in our presence[36] but where the circumcision had taken place in our presence[37] it might have been assumed that a proselyte in such circumstances[38] may perform the prescribed ablution even on the Sabbath, hence we were taught[39] that R. Jose requires both.[33]

Rabbah stated: It happened at the court of R. Hiyya b. Rabbi(and R. Joseph taught: R. Oshaia b.[40] Rabbi;[41] and R. Safra taught: R. Oshaia b. Hiyya)[41] — that there came before him a proselyte who had been circumcised but had not performed the ablution.[42] The Rabbi told him, 'Wait here until tomorrow[43] when we shall arrange for your ablution'. From this incident three rulings may be deduced. It may be inferred that the initiation of a proselyte requires the presence of three men;[44] and it may be inferred that a man is not a proper proselyte unless he had been circumcised and had also performed the prescribed ablution; and it may also be inferred[45] that the ablution of a proselyte may not take place during the night.

Let it be said that from this incident it may also be inferred that qualified scholars are required![46] — Their presence might have been a mere coincidence.[47]

R. Hiyya b. Abba stated in the name of R. Johanan: The initiation of a proselyte requires the presence of three men; for law[48] has been written in his case.[49]

Our Rabbis taught: As it might have been assumed that if a man came and said, 'I am a proselyte' he is to be accepted,[50] hence it was specifically stated in the Scriptures With thee,[51] only when he is well known to thee. Whence is it inferred that if he came, and had his witnesses with him, [that his word is accepted]? — It was specifically stated in Scripture, And if a proselyte sojourn . . . in your land.[52]

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(1) Even R. Eliezer.

(2) Who, he maintains, did not perform any ritual ablution when they were admitted to Judaism.

(3) R. Joshua.

(4) That the forefathers had performed ritual ablution.

(5) Ex. XIX, 20,

(6) E.g.. after nocturnal pollution; keri. v. Glos.

(7) V. Lev. XV, 26,

(8) As was the case when Israel received the Torah and were thus admitted into Judaism. (V. Ex, XIX, 10).

(9) The washing of the garments.

(10) And had no reference to Levitical purity. Such washing, therefore, can have no bearing on the question of the ritual ablution of proselytes.

(11) Is R. Joshua's deduction made.

(12) Ex. XXIV, 8.
(13) Ker, 9a.
(14) Lit,, 'for if so', if even ablution was not performed.
(15) V. Glos. They could not have been initiated without any ceremonial whatsoever.
(16) Ber. 47b.
(17) And this view is held (supra 46a) by the Sages who obviously form a majority against the individual or joint opinions of R. Eliezer and R. Joshua.
(18) Lit,, 'who are the Sages'?
(19) And by this act alone he is admitted as a proper proselyte.
(20) Lit., 'and what is there in it'. Whether the circumcision had been valid, having been performed for the specific ritual purpose of the proselyte's initiation into Judaism, or whether it had been invalid because it was carried out as a mere surgical operation or as a non-Jewish sectarian rite, is of no consequence, since the present performance of the ritual ablution is alone sufficient for the initiation.
(21) Because both circumcision and ablution are required. As the validity of the former is in doubt (v. supra note 1) the latter most nut be allowed unless some act of circumcision (causing a few drops of blood to flow) had again been carried out specifically for the purpose of the initiation.
(22) Since according to R, Akiba one act, either ablution or circumcision, suffices.
(23) Who had been circumcised on Sabbath Eve in the ritually prescribed manner.
(24) The ablution being of no consequence (v. supra on. 3 and 4), the proselyte's person in no way being improved by it, it is an act which is permitted on the Sabbath.
(25) The ablution completes the initiation and thus effects the proselyte's improvement, which is an act forbidden on the Sabbath. Thus it has been shewn that the author of the view that both ablution and circumcision are required, given supra as the opinion of 'the Sages', is in fact R. Jose.
(26) V, Bah. Cur. edd. omit the last three words.
(27) Either circumcision or ablution.
(28) — Hence etc.'. There is no need, surely, to state the obvious.
(29) Since circumcision he stated supra does not matter.
(30) V. supra note 6.
(31) By the addition of 'Hence etc,'.
(32) Either circumcision or ablution.
(33) Circumcision and ablution,
(34) Which is completed by the ablution (v. supra p. 305, n. 6).
(35) Supra. Where a proselyte who declared, 'I have been circumcised but have not performed ritual ablution' is not to be allowed ablution.
(36) And may be presumed to have been invalid.
(37) And is known to us to have been carried out in accordance with the requirements of the law.
(38) Lit., 'this'.
(39) By R. Jose's apparently superfluous statement,
(40) Alfasi: Berabbi, v. Nazir Sonc. ed. p. 64, n. 1.
(41) Was also present.
(42) Requesting that he be allowed to perform the prescribed ablution, so as to complete his initiation.
(43) The incident having occurred during the night.
(44) Since R. Safra insisted that three scholars (R. Hiyya and the two R. Oshaias) were present at the time the proselyte's request for his initiation was dealt with.
(45) Since the ablution was postponed till the following morning.
(46) To witness the initiation of a proselyte, as was the ease here where all the three were qualified men, v, Glos. s.v. Mumhe.
(47) And provides no proof that in all other cases the presence of qualified scholars is essential.
(48) Num, XV, 16, One law . . . for the proselyte גר (E.V. 'Stranger').
(49) As no point of law can be authoritatively decided by a court of less than three men who constitute a Beth din, so may no initiation of a proselyte take place unless it is witnessed by three men.
(50) As a legitimate proselyte, and he should require no [initiation ceremonial.

(51) Lev. XIX, 33. And if a proselyte (גר E.V., 'stranger') sojourn with thee.
(52) Ibid., i.e., as lung as he is in your land even if he is not well known to you. Cf. n. 4, supra. Cur. edd. include here 'with thee' which should be omitted since the phrase has been previously employed as proof to the contrary that the proselyte must be well known.

From this I only know [that the law is applicable] within the Land of Israel, whence is it inferred [that it is also applicable] within the countries outside the Land? — It was specifically stated in Scripture, With thee, i.e., 'wherever he is with thee'.[1] If so, why was the Land of Israel specified? — In the Land of Israel[2] proof must be produced;[3] outside the Land of Israel[4] no such proof need be produced; these are the words of R. Judah. But the Sages said: Proof must be produced both within the Land of Israel and outside the Land.

'If he came and had witnesses with him,' what need is there for a Scriptural text?[5] R. Shesheth replied: Where they[6] state, 'We heard that he be came a proselyte at a certain particular court'. As It might have been taught that we are not to believe them,[7] we were taught [that we do believe them].

'In your land;[8] from this I only know [that the law is applicable] within the Land of Israel, whence is it inferred [that it is also applicable] within the countries outside the Land? — It was specifically stated in Scripture, With thee, i.e., wherever he is with thee'. But this,[9] surely, had been expounded already![10] — One is derived from With thee[11] and the other from With you.[12]

'But the Sages said: Proof must be produced both within the Land of Israel and outside the Land'. But, it is written, surely, in your land![13] — That expression is required [for the deduction] that proselytes may be accepted even in the Land of Israel. As it might have been assumed that there they become proselytes only on account of the prosperity of the Land of Israel, and at the present time also, when there is no prosperity, they might still be attracted[14] by the Gleanings,[15] the Forgotten Sheaf,[16] the Corner[17] and the Poor Man's Tithe,[18] hence we were taught [that they may nevertheless be accepted].

R. Hiyya b. Abba stated in the name of R. Johanan, 'The halachah is that proof must be produced[19] both in the Land of Israel and outside the Land'. Is this not obvious? [In a dispute between] an individual and a majority the halachah is, of course, in agreement with the majority![20] — It might have been suggested that R. Judah's view is more acceptable since he is supported by Scriptural texts, 'A hence we were taught [that the halachah is in agreement with the Sages].

Our Rabbis taught: And judge righteously between a man and his brother, and the proselyte that is with him;[21] from this text[22] did R. Judah deduce that a man who becomes a proselyte[23] in the presence of a Beth din is deemed to be a proper proselyte; but he who does so privately is no proselyte.[24]

It once happened that a man came before R. Judah and told him, 'I have become a proselyte privately'. 'Have you witnesses'? R. Judah asked. 'No', the man replied. 'Have you children'? — 'Yes', the man replied. 'You are trusted', the Master said to him, 'as far as your own disqualification is concerned but you cannot be relied upon to disqualify your children.[25]

Did R. Judah, however, state that a proselyte is not trusted in respect of his children? Surely it was taught: He shall acknowledge[26] implies, 'he shall be entitled to acknowledge him before others?[27] From this did R. Judah deduce that a man is believed when he declares, 'This son of mine is firstborn',[28] And as a man is believed when he declares, 'This son of mine is firstborn' so is he believed when he declares, 'This son of mine is the son of a divorced woman' or 'the son of a haluzah'.[29] But the Sages say: He[30] is not believed![31] — R. Nahman b. Isaac replied: It is this that he[32] really told him,[33] 'According to your own statement you are an idolater, and no idolater is eligible to tender evidence'.[34]

Rabina said: It is this that he[35] really told him,[36] 'Have you children'? [And when the other

replied] ‘Yes’ [he asked] ‘Have you grandchildren’. [The reply being again] ‘Yes’, he told him ‘You are trusted so far as to disqualify your own children[37] but you cannot be trusted so far as to disqualify your grandchildren’.

Thus it was also taught elsewhere: R. Judah said, ‘A man is trusted in respect [of the status of] his young son but not in respect of that of his grown-up son; and R. Hiyya b. Abba explained in the name of R. Johanan that ‘young’ does not mean actually a minor and ‘grown-up’ does not mean one who is actually ‘of age’, but any young son who has children is regarded as of age while any grown-up son who has no children is deemed to be a minor. And the law is in agreement with R. Nahman b. Isaac.[38] But, surely, [a Baraitha] was taught in agreement with Rabina![39] — That statement was made with reference to the law of acknowledgement.[40]

Our Rabbis taught: If at the present time a man desires[41] to become a proselyte, he is to be addressed as follows: ‘What reason have you for desiring[42] to become a proselyte; do you not know that Israel at the present time are persecuted and oppressed, despised, harassed and overcome by afflictions’? If he replies, ‘I know and yet am unworthy’,[43] he is accepted forthwith, and is given instruction in some of the minor and some of the major commandments. He is informed of the sin [of the neglect of the commandments of] Gleanings,[44] the Forgotten Sheaf,[45] the Corner[46] and the Poor Man's Tithe.[47] He is also told of the punishment for the transgression of the commandments. Furthermore, he is addressed thus: ‘Be it known to you that before you came to this condition, if you had eaten suet[48] you would not have been punishable with kareth, if you had profaned the Sabbath you would not have been punishable with stoning; but now were you to eat suet[48] you would be punished with kareth; were you to profane the Sabbath you would be punished with stoning’. And as he is informed of the punishment for the transgression of the commandments, so is he informed of the reward granted for their fulfilment. He is told, ‘Be it known to you that the world to come was made only for the righteous, and that Israel at the present time are unable to bear

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(1) Even outside the Land of Israel. This exposition is discussed infra.

(2) Where it is an advantage to be a proselyte.

(3) By the proselyte, that his circumcision was duly performed at the Beth din for the specific purpose of his initiation. Otherwise he is not to be trusted.

(4) Where no material advantage is to be gained in claiming to be a proselyte.

(5) To prove that the proselyte is accepted.

(6) The witnesses.

(7) Since they were not eye witnesses.

(8) V. Bah. Cur. edd., ‘in the land’.

(9) The Scriptural expression, with thee.

(10) Lit., ‘thou hast brought it out’, supra, to exclude the acceptance of a proselyte when not well known. How then could the same phrase be used for two different expositions?

(11) אתך Lev. XIX, 33.

(12) אתכם ibid. 34. V. הגות הגר א a.l. and Torath Kohanim. Cur. edd. read, מעמך ‘from with thee’ which occurs in Lev, XXV, 47.

(13) Lev. XIX, 33. (Cf. Bah. Cur. edd., ‘in the land’) which excludes other countries.

(14) Lit., ‘there is’.

(15) לקט ‘gleaning’: the gleanings of the harvest which must be left for the poor. V. Lev. XIX, 9, XXIII, 22, Peah IV, 10f.

(16) שכחה ‘forgetting’; any sheaf forgotten when a field is reaped belongs to the pour. V. Deut. XXIV, 19, Peah V, 7f, VIf.

(17) פאה, ‘corner’, sc. of the field, the produce of which most nut be harvested by the owner, it being the portion of the poor. V. Lev. XIX, 9, XXIII, 22, Peah 1ff.

(18) מעשר עני given to the poor in the third and sixth years of the septennial cycle.

(19) By a man who claims to have been properly initiated as a proselyte.

(20) In the law under discussion the Sages are in the majority against R. Judah's individual opinion. (14) With thee' and 'In your land'. V. supra.
(21) Deut. I, 16. גר 'proselyte' (E.V. 'stranger').
(22) Since 'proselyte' was mentioned in the same context as 'judge'.
(23) I.e., who had been circumcised and performed the prescribed ablution.
(24) As a judicial matter requires a Beth din so does the initiation of a proselyte.
(25) [As children of a heathen father they would be disqualified, even if the mother was a Jewess, R. Judah being of the opinion that the offspring of the union of a heathen with a Jewess is mamzer, v. Tosaf. s.v. נאמן.
(26) Sc. the firstborn (Deut. XXI, 17).
(27) יכיר E.V., he shall acknowledge, being a Hif., may also be rendered as here, 'he shall make known', viz., to others.
(28) Though another was hitherto reputed to be his firstborn son.
(29) V. Glos.
(30) If another son of his was reputed to be the firstborn.
(31) Kid. 74a. 78b, B.B. 127b. Thus it has been shown that, according to R. Judah, a father's word is accepted in respect of the status of his children. How, then, could it be stated here that the word of a proselyte was not to be relied upon as far as the eligibility of his children is concerned?
(32) R. Judah.
(33) The proselyte.
(34) As his children have hitherto been reputed to be legitimate, his ineligible evidence cannot disqualify them.
(35) R. Judah.
(36) The proselyte.
(37) In accordance with the deduction from 'He shall acknowledge' in the Baraitha cited from Kid. and B.B. supra.
(38) Who regarded the proselyte, on the strength of his own testimony, as an idolater whose evidence is inadmissible even in the case of his own children.
(39) That a father is to be trusted in respect of a son of his who has no children. The assumption at the moment is that this referred to the case of a proselyte.
(40) Lit., 'he shall acknowledge' (Deut. XXI, 17), i.e., the reference is nut to a proselyte but to an Israelite whose word is accepted when he testifies that his sun is either a firstborn, or the sun of a divorced woman or the son of a haluzah. It is in connection with this only that it was stated that the father, being believed in respect of his children, but not his grandchildren, is trusted in the case of his son who has no children, but not in the case of one who has children.
(41) Lit., 'who comes'.
(42) Lit., 'what have you seen that you came'.
(43) Of the privilege of membership of Israel.
(44) V. supra p. 308. n. 8.
(45) V. loc. cit. n. 9.
(46) V. loc. cit. n. 10.
(47) V. loc. cit. n. 11.
(48) I.e., forbidden fat.

Talmud - Mas. Yevamoth 47b

either too much prosperity. or too much suffering'. He is not, however, to be persuaded or dissuaded too much.[1] If he accepted,[2] he is circumcised forthwith. Should any shreds[3] which render the circumcision invalid remain, he is to be circumcised a second time. As soon as he is healed arrangements are made for his immediate ablution, when two learned men must stand by his side and acquaint him with some of the minor commandments and with some of the major ones.[4] When he comes up after his ablution he is deemed to be an Israelite in all respects.

In the case of a woman proselyte, women make her sit in the water up to her neck, while two learned men stand outside and give her instruction in some of the minor commandments and some of the major ones.

The same law[5] applies to a proselyte and to an emancipated slave; and only where a menstruant may perform her ablution[6] may a proselyte and an emancipated slave perform this ablution;[7] and whatever is deemed an interception in ritual bathing[8] is also deemed to be an interception in the ablutions of a proselyte, an emancipated slave and a menstruant.[9]

The Master said, 'If a man desires to become a proselyte . . . he is to be addressed as follows: "What reason have you for desiring to become a proselyte . . ." and he is made acquainted with some of the minor, and with some of the major commandments'. What is the reason? — In order that if he desire to withdraw let him do so;[10] for R. Helbo said: Proselytes are as hard for Israel [to endure] as a sore,[11] because it is written in Scripture. And the proselyte[12] shall join himself with them, and they shall cleave[13] to the house of Jacob.[14]

'He is informed of the sin [of the neglect of the commandment of] Gleanings, the Forgotten Sheaf, the Corner and the Poor Man's Tithe'. What is the reason? — R. Hiyya b. Abba replied in the name of R. Johanan: Because a Noahide[15] would rather be killed than spend so much as a perutah[16] which is not returnable.[17]

'He[18] is not, however, to be persuaded, or dissuaded too much'. R. Eleazar said: What is the Scriptural proof? — It is written, And when she saw that she was steadfastly minded to go with her, she left off speaking unto her.[19] 'We are forbidden', she[20] told her,[21] '[to move on the Sabbath beyond the] Sabbath boundaries'![22] — 'Whither thou goest' [the other replied] 'I will go'.[23]

'We are forbidden private meeting between man and woman'![24] — 'Where thou lodgest. I will lodge'[23]

'We have been commanded six hundred and thirteen commandments'! — 'Thy people shall be my people'.[23]

'We are forbidden idolatry'! — 'And thy God my God'.[23]

'Four modes of death[25] were entrusted to Beth din'![26] — 'Where thou diest, will I die'.[27]

'Two graveyards[28] were placed at the disposal of the Beth din'! — 'And there will I be buried'.[27] Presently she saw that she was steadfastly minded etc.[19]

'If he accepted, he is circumcised forthwith'. What is the reason? — The performance of a commandment must not in any way be delayed.

'Should any shreds which render the circumcision invalid remain etc.', as we learned: These are the shreds which render the circumcision invalid: Flesh which covers the greater part of the corona,[29] [a priest having been so circumcised] is not permitted to eat terumah; and R. Jeremiah b. Abba explained in the name of Rab: Flesh which covers the greater part of the height of the corona.[30]

'As soon as he is healed arrangements are made for his immediate ablution'. Only after he is healed but not before![31] What is the reason? — Because the water might irritate the wound.

'When two learned men must stand by his side'. Did not R. Hiyya, however, state in the name of R. Johanan that the initiation of a proselyte requires the presence of three? — But, surely. R. Johanan told the tanna:[32] Read, 'three'.

'When he comes up after his ablution he is deemed to be an Israelite in all respects'. In respect of

what practical issue? — In that if he retracted and then betrothed the daughter of an Israelite he is regarded as a non-conforming Israelite and his betrothal is valid.[33]

'The same law applies to a proselyte and to an emancipated slave'. Assuming this[34] to apply to the acceptance of the yoke of the commandments,[35] the following contradiction may be pointed out: This[36] applies only to a proselyte. but an emancipated slave need not accept![37] — R. Shesheth replied: This is no contradiction, One statement is that of R. Simeon; the other, that of the Rabbis. For it was taught: And bewail her father and her mother etc.[38] This only applies when she did not accept,[39] but if she did accept,[39] her ablution may be arranged, and he is permitted to marry her forthwith. R. Simeon b. Eleazar said: Even though she did not accept[39] he may force her to perform one ablution as a mark of her slavery and a second ablution as a mark of her emancipation, and having liberated her

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(1) Lit., 'and they do not increase upon him nor do they enter with him in details'.

(2) All the restrictions and disabilities pointed out to him.

(3) Round the corona of the membrum virile.

(4) With the ablution the proselyte completes his ritual initiation. Hence it is necessary that at that moment he shall submit to the 'yoke of the commandments'.

(5) This is explained infra.

(6) I.e. — a ritual bath containing no less than forty se'ah of water.

(7) Though the ablutions of the latter are not in connection with levitical uncleanness.

(8) The water most come in direct contact with the bather. Should any foreign matter intervene between his body and the water the ablution is thereby rendered invalid.

(9) Although the purpose of these ablutions is not, like that of the usual ablutions, to qualify for the eating, or the handling of, levitically clean things. The ablutions of the proselyte and the slave are only a part of their initiation ceremonial, while that of the menstruant has for its object the woman's permissibility to her husband.

(10) Lit., 'that if he separates let him separate'.

(11) ספחת cf. Lev. XIII, 2.

(12) הגר (E.V., 'stranger').

(13) ונספחו of the same rt. as ספחת (v. supra note 7), 'they will be like a sure'.

(14) 15a. XIV, 1. Cf. Kid. 70b, Nid. 13a. infra 109b. An influx of proselytes tends to lower the moral standards of Judaism.

(15) A descendant of Noah, i.e., all idolaters.

(16) The smallest coin.

(17) Hence he is informed of the laws of the yearly gifts to the poor. On learning of the Israelite's financial obligations to the causes of charity he would either resign himself to the inevitable or withdraw altogether from his intended conversion. For another interpretation of this dictum, v. 'A.Z. Sonc. ed. p. 343.

(18) V. Rashal a.l. Cur. edd. contain in parentheses: 'And he is informed of the sin of the Forgotten Sheaf and the Corner'.

(19) Ruth I, 18.

(20) Naomi.

(21) Ruth.

(22) תחום שבת a distance of two thousand cubits in every direction from one's town, abode or resting place, within which alone one is permitted to move on the Sabbath.

(23) Ruth I, 16.

(24) יחוד lit., 'uniting'. Unless married, man and woman may not remain in privacy with one another for any length of time.

(25) Penalties for various offences.

(26) V. Sanh. 49b.

(27) Ruth I, 17.

(28) One for the gravest offenders who suffered the death penalties of stoning or burning, and another for such as were executed by decapitation or strangulation.

(29) Of the membrum virile.
(30) I.e., even if only on a minor portion of the circumference.
(31) Lit., 'he was healed, yes; he was not healed, no'.
(32) Who recited before him the Baraitha under discussion.
(33) Separation cannot be effected except by means of a letter of divorce. The betrothal of an idolater is of no validity at all and no divorce is required.
(34) The comparison between the proselyte and the slave.
(35) As the proselyte who must at the time of his ablution accept the yoke of the commandments is made acquainted with some of them so must an emancipated slave when he performs ablution on the occasion of his emancipation.
(36) That at the ablution a declaration of acceptance most be made.
(37) His duty to observe the commandments having commenced at the moment he had performed his first ablution on the occasion of his initiation as the slave of an Israelite.
(38) Deut. XXI, 13.
(39) The obligations of a proselyte.

Talmud - Mas. Yevamoth 48a

he is permitted to marry her forthwith.[1]

Raba said: What is R. Simeon b. Eleazar's reason?[2] — Because it is written, Every man's slave that is bought for money;[3] [could it mean] the slave of a man and not the slave of a woman?[4] But [this is the implication]: The slave[5] of a man may be forcibly circumcised but no son of a man[6] may be forcibly circumcised. And the Rabbis?[7] — 'Ulla replied: As you, admittedly, may not by force circumcise the son of a man[8] so you may not forcibly circumcise the slave of a man. But, surely, there is the Scriptural text, Every man's slave![9] — That text is required for a deduction made by Samuel. For Samuel stated: If a man declared his slave to be ownerless that slave acquires thereby his freedom and requires no deed of emancipation; for it is stated in Scripture. Every man's slave that is bought for money,[3] [could it mean] the slave of a man and not the slave of a woman?[10] But [the meaning is that] a slave who is under his master's control is a proper[11] slave but he who is not under his master's control is not a proper[11] slave.[12]

R. Papa demurred: It might be suggested that the Rabbis were heard[13] in respect of a woman of goodly form[14] only,[15] because she[16] is under no obligation to observe the commandments; but that in respect of a slave,[17] who is under the obligation of observing commandments, even the Rabbis agree![18] For it was indeed taught. 'Both a proselyte and a slave bought from an idolater must make[19] a declaration of acceptance'.[20] Thus it follows[21] that a slave bought from an Israelite need not make a declaration of acceptance.[20] Now, whose view is this? If that of R. Simeon b. Eleazar, he, surely, had stated that even a slave bought from an idolater need make no declaration of acceptance![22] Consequently it must be the view of the Rabbis; and so it may be inferred that only a slave bought from an idolater is required to make a declaration of acceptance[20] but a slave bought from an Israelite is not required to make a declaration of acceptance.[23] But then the contradiction from the statement 'The same law applies to a proselyte and to an emancipated slave'[24] remains! — That[25] was taught only with reference to the ablution.[26]

Our Rabbis taught: And she shall shave her head, and do[27] her nails,[28] R. Eliezer said, 'She shall cut them'.[29] R. Akiba said, 'She shall let them grow'. R. Eliezer said:[30] An act[31] was mentioned in respect of the head, and an act was mentioned in respect of the nails;[32] as the former signifies removal, so does the latter also signify removal. R. Akiba said:[30] An act[31] was mentioned in respect of the head and an act was mentioned in respect of the nails;[32] as disfigurement is the purpose of the former so is disfigurement the purpose of the latter. The following, however, supports the view of R. Eliezer: And Mephibosheth the son of Saul came down to meet the king, and he had neither dressed his feet, nor had he done[33] 'his beard;[34] by 'doing'[35] removal was meant.

Our Rabbis taught: And bewail her father aid her mother;[36]

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(1) Thus it has boon shown that while the first Tanna requires the slave's acceptance of the obligation of Judaism, R. Simeon maintains that acceptance is not required, the ablution for the purpose of the emancipation is alone sufficient, even though its performance had been forced upon the slave.
(2) That compulsion is permitted. Cf. p. 324, n. 10.
(3) Ex. XII. 44.
(4) Is not a woman's slave subject to the same laws!
(5) The emphasis in man's slave is not on 'man' but on slave.
(6) The sun of an idolater who is not a slave, or the sun of a proselyte if he is of age.
(7) How could they oppose R. Simeon b. Eleazar's view which has Scriptural support!
(8) V.supra n. 6 since there is no Biblical authority for such force.
(9) From which forcible circumcision has been deduced supra.
(10) Is not a woman's slave subject to the same laws!
(11) Lit., 'called'.
(12) V. Git. 38a.
(13) To forbid forcible conversion to Judaism.
(14) V. Deut. XXI, 11.
(15) The text from Deut. XXI, 23. cited supra deals with such a woman.
(16) Prior to conversion.
(17) Who has been with an Israelite for some time and has in consequence become subject to the commandments that are incumbent upon such a slave.
(18) That no acceptance is needed, and that the slave may be forced into observance of the commandments.
(19) At the time of his ablution as proselyte or slave respectively.
(20) Of the observance of the commandments.
(21) Since 'slave' is qualified by the condition of 'bought from an idolater'.
(22) He can be forced into the observance of the commandments.
(23) Having previously served an Israelite he has oven without any declaration on his part become subject to the laws of Judaism. (Cf. supra p. 315, n. 16). This confirms R. Papa's contention that the Rabbis' view had reference only to the woman spoken of in Deut. XXI, 11ff, but not to the slave of an Israelite.
(24) Supra 47b.
(25) The comparison between the proselyte and the slave. Lit., when that was taught'.
(26) Both require ablution on their admission as a proselyte and as a slave of an Israelite respectively. In respect of acceptance of the laws of Judaism, however, they come under different categories. While the former's initiation is not complete without his formal acceptance of the laws of Judaism, that of the latter (v. supra p. 323. n. 16) requires no acceptance at all on his part, the ablution alone being sufficient.
(27) ועשתה. E.V. 'pare'.
(28) Deut. XXI, 22.
(29) Her nails.
(30) In explanation of his view.
(31) She shall shave, ibid.
(32) And do, v. supra note 8.
(33) עשה E.V. 'trimmed'.
(34) II Sam, XIX, 25.
(35) עשיה v. supra n. 1.
(36) Deut. XXI, 23.

Talmud - Mas. Yevamoth 48b

R. Eliezer said: 'Her father' means her actual father; 'Her mother', her actual mother. R. Akiba said: 'Her father and her mother' refer to idolatry; for so Scripture says, Who say to a stock;[1] 'Thou art

my father', etc.[2] A full month, 'month' means thirty days. R. Simeon b. Eleazar said: Ninety days. For 'month' means thirty days; 'full',[3] thirty days; 'and after that' thirty days. Rabina demurred: Might it not be suggested that 'month' means thirty days; 'full', thirty days; 'and after that' as many again![4] — This is a difficulty.

Our Rabbis taught: Uncircumcised slaves may be retained; this is the opinion of R. Ishmael. R. Akiba said: They may not be retained.[5] Said R. Ishmael to him: Behold it is written, And the son of thy handmaid may be refreshed![6] 'This text', the other replied. speaks of a slave that has been bought at twilight,[7] when there was not time enough to circumcise him.[8]

All at any rate agree that And the son of thy handmaid may be refreshed[6] was written in respect of an uncircumcised slave; whence may this be inferred? — From what has been taught: And the son of thy handmaid may be refreshed,[6] Scripture speaks of an uncircumcised slave. You say. 'Of an uncircumcised slave'; perhaps it is not so[9] but of a circumcised slave? Since it has been stated 'That thy man-servant and thy maid-servant may rest as well as thou,[10] the circumcised slave has already been spoken of; to what then is one to apply 'And the son of thy handmaid may be refreshed?'[11] Obviously to an uncircumcised slave. And the stranger[12] refers to a domiciled proselyte.[13] You say. 'It refers to a domiciled proselyte'; perhaps it is not so,[14] but to a true proselyte?[15] Since it was stated, No' thy strange' that is with its thy gates,[10] the true proselyte has already been mentioned; to what then is one to apply, and the stranger?[12] Obviously, to the domiciled proselyte.

R. Joshua b. Levi said: If a man bought a slave from an idolater, and the slave refused to be circumcised, he may bear with him for twelve months. [If by that time he had] not been circumcised, he must re-sell him to idolaters.

The following was said by the Rabbis in the presence of R. Papa: In accordance with whose view?[16] Obviously not in accordance with that of R. Akiba, since he[17] stated [that uncircumcised slaves] may not be retained.[18] R. Papa answered them: It may be said to be the view even of R. Akiba; for this[19] applies when no definite consent has ever been given;[20] but where definite consent[21] had once been given,[22] his original decision is taken into consideration.[23]

R. Kahana stated: I mentioned this reported discussion in the presence of R. Zebid of Nehardea and he said to me: If so, instead of R. Akiba replying[24] that '[the text speaks] of a slave that has been bought at twilight'. he should rather have given this reply![25] — He gave him one of the two available solutions.

Rabin sent a message in the name of R. Il'ai, [adding]. 'All my masters have so reported in his name': Who is an uncircumcised slave that may be retained? He who was bought by his master with the intention of not having him circumcised.

The Rabbis argued the following in the presence of R. Papa; In accordance with whose view?[26] Obviously not in accordance with that of R. Akiba, since he[27] stated that [uncircumcised slaves] may not be retained! R. Papa answered: It may be said to be the view even of R. Akiba, for this[28] applies where he had made no stipulation with him,[29] but where a stipulation[29] was made, that stipulation must be taken into consideration.[30]

R. Kahana said: When I mentioned the reported discussion in the presence of R. Zebid of Nehardea, he said to me: If so, instead of R. Akiba having recourse to the answer[31] [that 'the text speaks] of a slave who has been bought at twilight when there was not time enough to circumcise him' he should rather have given this reply![32]

But even if your argument is admitted he should rather have given that reply![33] But [the fact is],

he mentioned one of two or three solutions.

R. Hanina b. Papi. R. Ammi, and R. Isaac Nappaha once sat in the ante-chamber[34] of R. Isaac Nappaha, and while there, they related: There was a certain town in the Land of Israel where slaves refused to be circumcised, and after bearing with them for twelve months they re-sold them to idolaters. In accordance with whose view? — In accordance with that of the following Tanna. For it was taught: If one bought a slave from an idolater, and the slave refused to be circumcised, he bears with him for twelve months. [If by that time] he has not been circumcised, he re-sells him to idolaters. R. Simeon b. Eleazar said: In the Land of Israel he must not be kept owing to [possible] damage to levitically clean foodstuffs,[35] and in a town which is near the frontier[36] he must not he kept at all, since he might overhear some secret and proceed to report it to a fellow idolater.[37]

It was taught: R. Hanania son of R. Simeon b. Gamaliel said: Why are proselytes at the present time oppressed and visited with afflictions? Because they had not observed the seven Noahide[38] commandments.[39]

R. Jose said: One who has become a proselyte is like a child newly born.[40] Why then are proselytes oppressed? — Because they are not so well acquainted with the details of the commandments as the Israelites.[41]

Abba Hanan said in the name of R. Eleazar: Because they do not do it[42] out of love[43] but out of fear.[44] Others said: Because they delayed their entry under the wings of the Shechinah. Said R. Abbahu, or it might be said R. Hanina: What is the Scriptural proof?[45] — The Lord recompense thy work, and be thy reward complete from the Lord, the God of Israel, under whose etc. thou art cone to take refuge.[46]

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(1) The idol.

(2) Jer. II, 27.

(3) ימים lit., ‘days’.

(4) Lit., ‘like these’, i.e., equal to the sum of these two numbers, sixty: the meaning of the text being: And after another one like that, i.e., after the completion of another period equal in duration to the former (a total of a hundred and twenty days) thou mayest go in unto her etc. (Deut. XXI, 23).

(5) Even for one day.

(6) Ex. XXIII, 12. This text, as will be explained infra, deals with an uncircumcised slave.

(7) On the Sabbath Eve.

(8) Circumcision in such a case being forbidden on the Sabbath. Only a circumcision which takes place on the eighth day of a child's birth, מילה מזמנה may be performed on the Sabbath. Since circumcision of the slave could not be performed until after the Sabbath, Scripture indicated by the injunction And the son of thy handmaid may be refreshed that oven on the first Sabbath on which he is still uncircumcised he must observe the Sabbath rest.

(9) Lit., ‘or it is not’.

(10) Deut. V, 24.

(11) V. p. 317, n. 10.

(12) Ex. XXIII, 22, והגר.

(13) Or, resident alien. גר תושב, a non Israelite domiciled in Palestine who renounces idolatry and observes also the other six of the seven Noahide commandments (V. Sanh. 56a). Opp. to גר צדק infra. Working on the Sabbath while in the employ of an Israelite (v. Tosaf. s.v. זה a.l.) is regarded as idolatry (Rashi a.l.); hence it is forbidden even to the domiciled proselyte.

(14) Lit., ‘or it is not’.

(15) גר צדק ‘the proselyte of righteousness’ who accepts all the obligations of an Israelite.

(16) Was R. Joshua b. Levi's statement made,

(17) Lit., ‘for if R. Akiba, surely’.

(18) Even for one day.

(19) R. Akiba's ruling that an uncircumcised slave may not be kept at all.
(20) By the slave. He never agreed to the circumcision and to the adoption of the obligations of an Israelite slave.
(21) Cf.supra n. 22.
(22) Lit., 'the thing was not definitely decided'. If at the time he was bought he consented, though he subsequently retracted,
(23) Lit., it was definitely decided'. Once he has consented he may be kept for twelve months in the expectation that he will consent again. (Cf. Rashi and Tosaf. s.v. היכא and תוספות ישנים a.l. for other interpretations).
(24) To R. Ishmael's objection supra.
(25) That the text speaks of a slave who has once consented. (V. p. 328, n. 23).
(26) Was the ruling in the name of R. Il'ai made.
(27) Lit., 'for if R. Akiba surely'.
(28) V. supra p. 318, n. 20.
(29) That he would not circumcise him.
(30) Lit., 'surely he had made a stipulation.'
(31) To R. Ishmael's objection supra.
(32) That the text refers to a slave with whom his master had stipulated not to circumcise him.
(33) The first answer of R. Papa. V. supra note 2.
(34) קילעא 'curtained enclosure' (Jast.). 'door' (Golds.).
(35) E.g., terumah which would be defied by the touch of the idolater who is always deemed to be levitically unclean.
(36) Of the Land of Israel.
(37) Across the frontier.
(38) V. Sanh. 56a.
(39) While they wore still idolaters. Though they have now embraced Judaism they have yet to atone by their sufferings for their sins of the past.
(40) All his previous sins are forgiven.
(41) And cannot properly observe them.
(42) The performance of the commandments.
(43) Of the faith and the commandments.
(44) Of divine punishment.
(45) For the opinion advanced by the 'Others'.
(46) Ruth II, 22. 'Thou art come' before 'to take refuge' implies haste. Ruth was given credit for the haste she made in entering under the divine wings. Delay in such action is culpable.

Talmud - Mas. Yevamoth 49a

MISHNAH. WHO IS DEEMED TO BE A BASTARD?[1] [THE OFFSPRING OF A UNION WITH] ANY CONSANGUINEOUS RELATIVE WITH WHOM COHABITATION IS FORBIDDEN;[2] THIS IS THE RULING OF R. AKIBA. SIMEON THE TEMANITE SAID: [THE OFFSPRING OF ANY UNION] THE PENALTY FOR WHICH IS KARETH AT THE HANDS OF HEAVEN; AND THE HALACHAH IS IN AGREEMENT WITH HIS VIEW, AND R. JOSHUA SAID: [THE OFFSPRING OF ANY UNION]. THE PENALTY FOR WHICH IS DEATH AT THE HANDS OF BETH DIN.

SAID R. SIMEON B. 'AZZAI: I FOUND A ROLL OF GENEALOGICAL RECORDS IN JERUSALEM, AND THEREIN WAS WRITTEN, SO-AND-SO IS A BASTARD [HAVING BEEN BORN] FROM [A FORBIDDEN UNION WITH] A MARRIED WOMAN',[3] WHICH CONFIRMS THE VIEW OF R. JOSHUA.

IF A MAN'S WIFE DIED, HE IS PERMITTED TO MARRY HER SISTER. IF HE DIVORCED HER AND THEN SHE DIED HE IS PERMITTED TO MARRY HER SISTER. IF SHE WAS[4] MARRIED TO ANOTHER MAN AND DIED, HE IS PERMITTED TO MARRY HER SISTER.

IF A MAN'S SISTER-IN-LAW[5] DIED, HE MAY MARRY HER SISTER. IF HE SUBMITTED TO HER HALIZAH AND THEN SHE DIED, HE IS PERMITTED TO MARRY HER SISTER. IF SHE WAS MARRIED[6] TO ANOTHER MAN AND THEN DIED HE IS PERMITTED TO MARRY HER SISTER.

GEMARA. What is R. Akiba's reason? — Because it is written A man shall not take his father's wife and shall not uncover his father's skirt,[7] he shall not uncover the skirt which his father saw; and he[8] holds the same opinion as R. Judah who said that this Scriptural text[7] speaks of a woman whom his father had outraged,[9] and who is classed among those forbidden to him under the penalty for a negative precept;[10] and since close to this [text occurs the commandment], A bastard shall tot enter the assembly of the Lord,[11] it is obvious that the offspring of any such union[12] is deemed to be a bastard. According to R. Simai also who includes[13] [the offspring of] any other union that is forbidden by a negative precept even though [the offenders are] not consanguineous relatives,[14] and according to R. Yeshebab who includes[13] even the offspring of a union forbidden under a positive commandment,[15] the deduction[16] is made from And . . . not.[17]

And Simeon the Temanite?[18] — He holds the same opinion as the Rabbis who stated that the text[17] speaks of a woman[19] awaiting the levirate decision of his father,[20] the union with such a woman[21] being forbidden under the penalty of kareth; and since close to this text appears. A bastard shall not enter,[11] it proves that the offspring of a union forbidden under the penalty of kareth is deemed to be a bastard.

And R. Joshua?[22] — The All Merciful should have written[23] 'Shall not uncover' only![24] What need was there for 'Shall not take'?[25] Must it not, consequently. be concluded that it is this that was meant:[26] [The offspring] of [a union with her who is explicitly mentioned between] 'Shall not take' and 'Shall not uncover'[27] is deemed to be a bastard, but no others[28] are to be regarded as bastards.[29]

Abaye said: All agree that if one cohabited with a menstruant

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(1) V. Deut. XXIII, 2.

(2) Under the penalty of flogging (incurred for the infringement of a negative precept).

(3) Such a union is punishable by death at the hands of Beth din,

(4) After her divorce.

(5) The widow of his brother who died without issue.

(6) After the halizah.

(7) Deut. XXIII, 1.

(8) R. Akiba.

(9) Not his lawful wife. Infra 97a.

(10) Flogging (v. supra note 1).

(11) Deut. XXIII, 3.

(12) Forbidden under the penalty for a negative precept (v. supra p. 321, n. 1).

(13) In R. Akiba's category of bastards.

(14) Keth, 29b, Kid. 68a, the marriage, e.g., with one's divorced wife.

(15) The union, e.g., with an Edomite or an Egyptian (v. Deut. XXIII, 8-9) the prohibition of which is derived from the positive precept. The third generation that are born unto then, may enter into the assembly of the Lord (ibid. 9) from which it follows that only the third generation may enter; but not the first, or the second generation. Any prohibition that is derived from a positive precept has only the force of a positive precept and dues not involve the penalty of flogging, much less that of kareth. V. Keth. 29b.

(16) That these categories are also classed as bastards.

(17) Deut. XXIII, 1b.

(18) Whence, in view of R. Akiba's deduction, dues he derive his ruling in our Mishnah?

(19) Whose husband died without issue.

(20) Who most decide whether to contract with her the levirate marriage or to submit to halizah from her.
(21) As one's father's brother's wife.
(22) Whence does he derive his ruling in out Mishnah?
(23) If the text of Deut. XXIII, 1b speaks of a woman outraged by one's father (as R. Judah maintains) or of a widow awaiting the decision of the levir (as Simeon the Temanite asserts).
(24) From which text alone R. Judah and the Rabbis could have deduced their respective rulings, while the case of one's father's wife would follow logically by inference a minori ad majus.
(25) Cf. Rashal. Cur. edd. insert in parentheses, 'And shall not uncover.
(26) By the addition of the text Shall not take.
(27) I.e., one's father's wife, forbidden under the death penalty at the hands of Beth din.
(28) The offspring of unions which are forbidden under the penalty of kareth or flogging.
(29) The proximity of Deut, XXIII, 3 (the text relating to the bastard) to that of v. 1, according to R. Joshua, beats on the case of a father's wife only (v. 2a). The mention of 'shall not uncover' (v. 1b) implies, if it refers to one's father's brother's widow awaiting the levir's decision (the view of the Rabbis and Simeon the Temanite), that cohabitation with her is forbidden to the levir's sun by two negative precepts, those of Lev. XVIII, 24 and Deut. XXIII, 1b; and if it refers to a woman whom one's father has outraged (the view of R. Akiba and R. Judah). the text is required to lay down this very prohibition.

Talmud - Mas. Yevamoth 49b

or with a sotah,[1] the child [born from either union] is no bastard.[2] 'A menstruant', since betrothal with her is valid because it is said, And her impurity be upon him,[3] even at the time of her menstruation betrothal with her is valid.[4] 'A sotah' also, since her betrothal is valid.[5] It has been taught likewise: All agree that if one cohabited with a menstruant or with a sotah or with a widow awaiting the decision of a levir, the child [born from any such union] is no bastard.[6] And Abaye?[7] — He was in doubt in the case of a widow awaiting the decision of the levir as to whether [the law[8] is] in agreement with Rab or with Samuel.[9]

SAID R. SIMEON B. AZZAI etc. [A tanna] recited: Simeon b. 'Azzai said, 'I found a roll of genealogical records in Jerusalem and therein was written "So-and-so is a bastard [having been born] from a forbidden union with] a married woman" and therein was also written "The teaching of R. Eliezer b. Jacob is small in quantity[10] but thoroughly sifted".[11] And in it was also written, "Manasseh slew Isaiah"'.

Raba said: He[12] brought him to trial and then slew him. He[12] said to him: Your teacher Moses said, 'For men shall not see Me and live'[13] and you said, 'I saw the Lord sitting on a throne, high and lifted up'.[14] Your teacher Moses said , 'For what [great nation is there, that hath God so nigh unto them], as the Lord our God is whensoever we call upon him',[15] and you said, 'Seek ye the Lord when he may be found'.[16] Your teacher Moses said, 'The number of thy days I will fulfil'[17] but you said, 'And I will add on to your days fifteen years'.[18] 'I know', thought Isaiah, 'that whatever I may tell him he will not accept; and should I reply at all, I would only cause him to be a wilful [homicide]'. He thereupon pronounced [the Divine] Name and was swallowed up by a cedar. The cedar, however, was brought and sawn asunder. When the saw reached his month he died. [And this was his penalty] for having said, 'And I dwell in the midst of a people of unclean lips'.[19]

[Do not] the contradictions between the Scriptural texts, however, still remain? — 'I saw the Lord',[20] [is to be understood] in accordance with what was taught: All the prophets looked into a dim glass,[21] but Moses looked through a clear glass.[22] As to 'Seek ye the Lord when he may be found [etc.'] one [verse][16] applies to an individual,[23] the other[24] to a congregation. When [is the time for] an individual? — R. Nahman replied in the name of Rabbah b. Abbuha: The ten days between the New Year[25] and the Day of Atonement.[25] Concerning the number of thy days I will fulfil,[26] Tannaim are in disagreement. For it was taught: The number of thy days I will fulfil[26]

(1) סוטה a woman known to be, or suspected of being faithless to her husband. V. Num. V, 22ff. Such a woman is forbidden to her husband under the penalty of flogging. (V. supra 11b).
(2) Even R. Akiba admits in the latter case though the penalty is flogging (v. supra n. 5), and even Simeon the Temanite admits in the former case though the penalty is kareth.
(3) Lev. XV, 24; emphasis on him.
(4) The offspring of a forbidden but valid union cannot be considered a bastard.
(5) Her certain or suspected adultery does not annul her original betrothal to her husband (Rashi) or alternatively, the betrothal of a sotah by her husband after he had divorced her is valid (Tosaf. s.v. סוטה a.l.).
(6) Kid. 68a.
(7) Why did he omit the mention of the third case?
(8) As to the validity of her betrothal by a stranger.
(9) The former regards such betrothal as in. valid and maintains that no divorce is required, while the latter holds that a divorce is necessary (infra 92b). Being uncertain of the validity of such betrothal Abaye could not determine the legitimacy of the child,
(10) קב a small measure of capacity (v. Glos.). His rulings in the Mishnah and Baraitha ate only few.
(11) נקי lit., 'clean', 'pure'. The halachah is always in agreement with R. Eliezer b. Jacob's rulings.
(12) Manasseh.
(13) Ex. XXXIII, 20.
(14) Isa. VI, 1.
(15) Deut. IV, 7, implying 'at all time'.
(16) Isa. LV, 6 which implies 'but not always'.
(17) Ex. XXIII, 26, but will not make any additions.
(18) II Kings XX, 6.
(19) Isa. VI. 5.
(20) Isa. VI, 2.
(21) In their prophetic visions they, like Isaiah, only imagined that they saw the deity. In reality they did not (v. Rashi).
(22) In his prophetic insight he knew that the deity could not be seen with mortal eye.
(23) Who may seek the Lord at stated periods only.
(24) Deut. IV, 7, implying 'at all time'.
(25) V. Glos.
(26) Ex. XXIII, 26, but will not make any additions.

Talmud - Mas. Yevamoth 50a

refers to the years of the generations.[1] If one is worthy one is allowed to complete the full period; if unworthy. the number is reduced; so R. Akiba. But the Sages said: If one is worthy years are added to one's life;[2] if unworthy, the years of his life are reduced. They said to R. Akiba: Behold, Scripture says,[3] And I will add unto your days fifteen years![4] He replied: The addition was made of his own,[5] You may know [that this is so][6] since the prophet[7] stood up and prophesied: Behold, a son shall be born to the house of David, Josiah by name,[8] while Manasseh[9] had not yet been born.[10] And the Rabbis![11] — Is it written 'from Hezekiah'? It is surely written, 'To the house of David';[8] he[12] might be born either from Hezekiah or from any other person.[13]

IF A MAN'S WIFE DIED etc. IF A MAN'S SISTER-IN-LAW DIED etc. R. Joseph said: Here Rabbi taught an unnecessary Mishnah.[14]

C H A P T E R V

MISHNAH. R. GAMALIEL SAID: THERE IS NO [VALIDITY IN A] LETTER OF DIVORCE AFTER ANOTHER LETTER OF DIVORCE,[15] NOR IN A MA'AMAR AFTER ANOTHER MA'AMAR[16] NOR IN AN ACT OF COHABITATION AFTER ANOTHER ACT OF

COHABITATION,[17] NOR IN A HALIZAH AFTER ANOTHER HALIZAH.[18] THE SAGES, HOWEVER, SAID: A LETTER OF DIVORCE HAS VALIDITY AFTER ANOTHER LETTER OF DIVORCE,[19] AND A MA'AMAR AFTER ANOTHER MA'AMAR;[20] BUT THERE IS NO VALIDITY IN ANY ACT AFTER COHABITATION OR HALIZAH.[21]

HOW [IS THE RELEASE FROM THE LEVIRATE BOND[22] EFFECTED]? — IF A LEVIR ADDRESSED A MA'AMAR TO HIS SISTER-IN-LAW AND SUBSEQUENTLY GAVE HER A LETTER OF DIVORCE, IT IS NECESSARY FOR HER TO PERFORM THE HALIZAH WITH HIM.[23] IF HE ADDRESSED TO HER A MA'AMAR AND PARTICIPATED IN THE HALIZAH, IT IS NECESSARY FOR HER TO OBTAIN FROM HIM A LETTER OF DIVORCE.[24] IF HE ADDRESSED TO HER A MA'AMAR AND THEN COHABITED WITH HER, BEHOLD THIS IS IN ACCORDANCE WITH THE PRESCRIBED PRECEPT.[25]

IF THE LEVIR GAVE HER A LETTER OF DIVORCE AND THEN ADDRESSED TO HER A MA'AMAR, IT IS NECESSARY FOR HER TO OBTAIN [A SECOND] LETTER OF DIVORCE[26] AND TO PERFORM THE HALIZAH.[27] IF HE GAVE HER A LETTER OF DIVORCE AND THEN COHABITED WITH HER, IT IS NECESSARY FOR HER TO OBTAIN A LETTER OF DIVORCE AND TO PERFORM THE HALIZAH.[28] IF HE GAVE HER A LETTER OF DIVORCE AND THEN SUBMITTED TO HALIZAH, THERE IS NO VALIDITY IN ANY ACT[29] AFTER HALIZAH HAD BEEN PERFORMED.

IF THE LEVIR SUBMITTED TO HALIZAH AND THEN ADDRESSED TO HER A MA'AMAR, GAVE HER A LETTER OF DIVORCE, OR COHABITED WITH HER; OR IF HE COHABITED WITH HER AND THEN ADDRESSED TO HER A MA'AMAR, GAVE HER A LETTER OF DIVORCE, OR SUBMITTED TO HER HALIZAH, NO ACT IS VALID AFTER HALIZAH[30]

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(1) The span of life allotted to every human being at his birth.

(2) The meaning of fulfil is addition to the allotted span of life.

(3) II Kings XX, 6.

(4) Emphasis on add.

(5) Years which were originally allotted to him and then curtailed.

(6) That the years added were only those allotted to Hezekiah at his birth and reduced at his illness.

(7) In the days of Jeroboam, long before the birth of Hezekiah.

(8) I Kings XIII, 2.

(9) From whom Josiah descended.

(10) At the time of Hezekiah's illness. Manasseh, in fact, was born three years after his father's illness (v. II Kings XXI, 2); and since the birth of his sun Josiah was prophetically announced long before the birth of his father Hezekiah, it is obvious that the years allotted to Hezekiah at his birth extended beyond the year of his illness (to include the year of Manasseh's birth). Consequently, the original number must have been reduced at his illness; and, at his recovery, only that was added which was first reduced.

(11) How could they, in view of the argument advanced, maintain that view years were added to Hezekiah's life?

(12) Josiah.

(13) Of the house of David.

(14) Since the laws therein enumerated are self-evident. Lev. XVIII, 18, from where the prohibition of marrying the sister of one's wife originates, distinctly limits the prohibition to the wife's life-time: And thou shalt not take a woman to her sister . . . in her life-time. V. Rashi a.l. According to Tosaf (s.v. שנה a.l. q.v.) the unnecessary Mishnah is only that portion which relates to the sister-in-law whose case could be inferred from that of the wife a minori ad majus.

(15) Given in succession by one levir to two sisters-in-law, i.e., the widows of a deceased childless brother, or by two levirs to one sister-in-law. (The term sister-in-law used throughout this chapter is to be understood in the sense defined). The second divorce is invalid and the relatives of the second widow are, therefore, permitted to the levir, and so are the relatives of the one widow to the second levir. Whether the first divorce is valid or not, the second is at all events

valueless. For if the first is valid the levirate bond with both the widows is thereby severed and the second widow (in the case of one levir) or the one widow (in the case of two Levirs) when receiving the second letter of divorce, is a complete stranger to the levir. If, on the other hand, the first divorce was invalid, the second also, for the same reason, is invalid.

(16) Addressed in succession (a) by one levir to two sisters-in-law or (b) by two levirs to one sister-in-law. The first ma'amar has satisfied all the requirements of the levirate obligations and, consequently, (a) the second widow, or (b) the one widow to whom the second ma'amar was addressed, requires no letter of divorce from (a) the one levir or (b) the second levir respectively. The second widow, moreover, does nor cause the prohibition to the levir of the first widow, and her relatives also are permitted to the levir as are those of the one widow to the second levir.

(17) The second act by the one levir with the second widow or by the second levir with the one widow respectively, is deemed to be one of mere adultery and has no matrimonial validity to cause the prohibition of her relatives to the levir.

(18) Cf. supra n. 2. The first halizah has finally severed the levirate bond between the levir or the levirs and the widow or the widows. The second halizah is, therefore, valueless.

(19) The relatives of the second widow are, therefore, forbidden to the levir (as relatives of his legal divorcee), and the relatives of the one widow are similarly forbidden to the second levir. The first letter of divorce, the Sages maintain, is only partially valid since halizah also is required. The levirate bond consequently is not thereby completely severed and the second divorce brings the widow under the category of a divorced woman. Cf supra 327 n. 1.

(20) The first ma'amar effected only partial matrimony and the levirate obligations were not fully satisfied before the consummation of the marriage took place. The second ma'amar, since it was made before consummation had taken place, is, therefore, valid.

(21) Either of these acts satisfies fully all the requirements of the levirate obligations. The former effected complete union; the latter final severance. No act in connection with the levirate obligations that follows either of these can, therefore, have any validity.

(22) Between one levir and one sister-in-law. This section has no reference to the dispute in the previous section. V. Gemara infra.

(23) But no levirate marriage may now he contracted. The ma'amar alone has not completely satisfied the requirements of the levirate obligations (cf. supra n. 1), hence the need for halizah. Since, however, a divorce had been given the levir had placed himself under the prohibition of Deut. XXV, 9 ‘That doth not build’: if he once refused to build he must never again build (v. supra 10b), hence the prohibition of the levirate marriage.

(24) To annul the ma'amar which, in some respects, has the force of a betrothal. The halizah alone is not enough since it only severs a levirate bond but does not annul a ma'amar.

(25) This is discussed in the Gemara infra.

(26) Even according to R. Gamaliel. The divorce is required to annul the ma'amar since it is possible that the first divorce was invalid and the ma'amar had, therefore, been valid. According to the Sages, who regard the divorce as partially valid, the ma'amar also is partially valid and a divorce is required to annul that part.

(27) In order to sever thereby the levirate bond. Levirate marriage, however, must not take place now after the delivery of the first letter of divorce (v. supra p. 325, n. 4 final clause).

(28) Levirate marriage is forbidden owing to the first divorce (v. supra p. 325, n. 4, final clause), a letter of divorce is required owing to the act of cohabitation, while halizah is necessary to sever the levirate bond.

(29) Whether it be the addressing of a ma'amar or cohabitation. The levirate bond has completely disappeared.

(30) Cf. supra n. 3. This refers to the cases where halizah was performed first. With reference to the last three cases, where cohabitation took place first, the expression should be ‘no act is valid after cohabitation’. V. Gemara infra.

Talmud - Mas. Yevamoth 50b

AND THE LAW IS THE SAME WHETHER THERE IS ONE SISTER-IN-LAW TO ONE LEVIR OR TWO SISTERS-IN-LAW TO ONE LEVIR.

HOW?[1] — IF THE LEVIR ADDRESSED A MA'AMAR TO THE ONE[2] AND A MA'AMAR TO THE OTHER,[2] TWO LETTERS OF DIVORCE[3] AND ONE HALIZAH[4] ARE REQUIRED.[5] IF HE ADDRESSED A MA'AMAR TO ONE AND GAVE A LETTER OF DIVORCE TO THE OTHER, [THE ONE] REQUIRES A LETTER OF DIVORCE[6] AND [THE OTHER MUST PERFORM] THE HALIZAH.[7] IF HE ADDRESSED A MA'AMAR TO ONE AND COHABITED WITH THE

OTHER, BOTH REQUIRE LETTERS OF DIVORCE[8] AND [ONE MUST PERFORM] THE HALIZAH.[9] IF HE ADDRESSED A MA'AMAR TO ONE AND SUBMITTED TO HALIZAH FROM THE OTHER, IT IS NECESSARY FOR THE FIRST TO OBTAIN A LETTER OF DIVORCE.[10]

IF THE LEVIR GAVE A LETTER OF DIVORCE TO ONE AS WELL AS TO THE OTHER, HALIZAH IS NECESSARY FOR BOTH.[11] IF HE GAVE A LETTER OF DIVORCE TO ONE AND COHABITED WITH THE OTHER, [THE SECOND] REQUIRES A LETTER OF DIVORCE[12] AND MUST ALSO PERFORM THE HALIZAH.[13] [IF HE GAVE] A LETTER OF DIVORCE TO ONE AND ADDRESSED A MA'AMAR TO THE OTHER, [THE SECOND] REQUIRES A LETTER OF DIVORCE AND [ONE OF THEM MUST PERFORM] THE HALIZAH. [IF HE GAVE] A LETTER OF DIVORCE TO ONE AND SUBMITTED TO HALIZAH FROM THE OTHER, THERE IS NO VALIDITY IN ANY ACT THAT FOLLOWS THE HALIZAH.[14]

IF THE LEVlr SUBMITTED TO HALIZAH FROM THE ONE AND FROM THE OTHER, OR SUBMITTED TO HALIZAH [FROM ONE] AND ADDRESSED [TO THE OTHER] A MA'AMAR, GAVE HER A LETTER OF DIVORCE, OR COHABITED WITH HER; OR IF HE COHABITED WITH THE ONE AND WITH THE OTHER, OR COHABITED [WITH THE ONE] AND ADDRESSED [TO THE OTHER] A MA'AMAR, GAVE HER A LETTER OF DIVORCE, OR SUBMITTED TO HER HALIZAH, NO ACT IS VALID AFTER THE HALIZAH.[15] [THERE IS NO DIFFERENCE IN THE LAW] WHETHER THERE WAS ONE LEVIR TO TWO SISTERS-IN-LAW OR TWO LEVIRS TO ONE SISTER-IN-LAW.[16]

[IF THE LEVIR][17] SUBMITTED TO HALIZAH AND THEN ADDRESSED TO HER[18] A MA'AMAR, GAVE HER A LETTER OF DIVORCE, OR COHABITED WITH HER; OR IF HE COHABITED WITH HER AND THEN ADDRESSED TO HER A MA'AMAR, GAVE HER A LETTER OF DIVORCE, OR SUBMITTED TO HALIZAH, NO ACT IS VALID AFTER THE HALIZAH, WHETHER [IT WAS PERFORMED] IN THE BEGINNING, IN THE MIDDLE,[19] OR AT THE END.[20] IN THE CASE OF COHABITATION, IF IT TOOK PLACE FIRST NO ACT THAT FOLLOWS IT HAS ANY VALIDITY; IF IT OCCURRED, HOWEVER, IN THE MIDDLE[21] OR AT THE END[22] SOMETHING VALID[23] STILL REMAINS.[24] R. NEHEMIAH SAID: WITH COHABITATION AS WITH HALIZAH, WHETHER IT TOOK PLACE IN THE BEGINNING, IN THE MIDDLE, OR AT THE END, THERE IS NO VALIDITY IN ANY ACT THAT FOLLOWS IT.[25]

GEMARA. Their difference[26] concerns only a letter of divorce after another letter of divorce and a ma'amar after another ma'amar, but one letter of divorce to one sister-in-law or one ma'amar to one sister-in-law is valid.[27]

Why did the Rabbis say that a letter of divorce to one sister-in-law is valid?[28] — Because it is also valid elsewhere.[29] For should you suggest that it is not valid,[30] it might be argued that since a letter of divorce serves to release a woman and halizah serves to release a woman, as the letter of divorce is of no effect,[31] so is the halizah also of no effect, and thus one would come to consummate marriage after halizah.[32]

And why did the Rabbis say that a ma'amar with one sister-in-law is valid?[33] — Because it is valid elsewhere.[34] For should you say that it is not valid,[35] it might be argued that since a ma'amar serves the purpose of acquisition[34] and cohabitation serves the purpose of acquisition,[36] as a ma'amar is of no effect,[37] so is cohabitation also of no effect[38] and one would thus consummate marriage[39] after an act of cohabitation.[40]

And why did the Rabbis say that after an invalid cohabitation something[41] lingers?[42] — It might be replied that if it is a cohabitation[43] after a letter of divorce,[44] a preventive measure was made[45] against cohabitation after halizah;[46] and if it is a cohabitation[43] after a ma'amar[44] a preventive measure had to be made[47] against cohabitation after cohabitation.[48]

And why did the Rabbis say that after the invalid halizah[49] nothing lingers?[50] — It may be replied: What kind of preventive measure could have been enacted! Should halizah after a letter of divorce be forbidden as a preventive measure against halizah after halizah?[51] Under such circumstances, surely, halizah might well be indefinitely continued![52] And should halizah after a ma'amar be forbidden as a preventive measure against halizah after cohabitation?[53] Surely [it may be replied] is not in the case of halizah after a ma'amar, a letter of divorce required in respect of one's ma'amar? So also in the case of halizah after cohabitation, a letter of divorce is required in respect of one's cohabitation.[54]

Raba said:

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(1) How are the obligations of the levirate carried out where there is one levir and two sisters-in-law?

(2) Sister-in-law.

(3) One for each woman, in accordance with the view of the Sages in our Mishnah that a ma'amar after a ma'amar is valid.

(4) With either. The halizah with one exempts her rival.

(5) Levirate marriage, however, is now forbidden since one must not build two houses'. V. supra.

(6) Marriage with her must not be consummated on account of the divorce of the second; hence the necessity for a divorce to annul the ma'amar which the halizah cannot do.

(7) To sever thereby the levirate bond which a letter of divorce cannot do.

(8) On account of the ma'amar and the cohabitation respectively. The second widow may not be retained in matrimony owing to the bond of the ma'amar with the first.

(9) The other becoming thereby exempt from the levirate obligations. The divorce alone does not set the second free because the cohabitation with her was not the performance of a legal commandment but an unlawful act.

(10) The halizah of this second cannot annul the force of the ma'amar of the first.

(11) The halizah is performed by one who thereby exempts the other. V. Gemara infra.

(12) She is forbidden to the levir on account of the divorce of the first.

(13) Divorce alone is not enough since the cohabitation was unlawful (cf. supra note 3).

(14) The halizah of the second sets both widows free; and the divorce of the first is of no consequence.

(15) Cf p. 329, n. 4. The relatives of the second widow are permitted to him as if he had not acted at all after the first halizah.

(16) And the two levirs performed the above mentioned acts with the same widow.

(17) Where there was only one levir and one sister-in-law.

(18) The same sister-an-law.

(19) Between a ma'amar and a divorce. If, e.g., he gave a letter of divorce to one, submitted to halizah from the other and then addressed a ma'amar to one of them.

(20) After a ma'amar and a divorce. The halizah is invariably valid, and any ma'amar addressed subsequently has no validity at all, and the widow requires no divorce.

(21) If. e.g.. he divorced one, cohabited with the other and addressed a ma'amar to a third, in which case the cohabitation, owing to the previous divorce, was unlawful.

(22) If he divorced one, addressed a ma'amar to the other, and then cohabited with one of them. V. supra n. 7.

(23) Of the levirate bond.

(24) Hence, in the first case (v. supra n. 7), the relatives of the last widow are forbidden to him, and in the second case (v. supra n. 8), halizah is required, since the levirate bond cannot be severed by a letter of divorce.

(25) After cohabitation a letter of divorce without halizah is enough, and betrothal of the other after cohabitation with the first is invalid.

(26) That of R. Gamaliel and the Sages in our Mishnah.

(27) The divorce prevents subsequent levirate marriage under the prohibition of 'that doth not build' etc. (v. supra p. 328, n. 4, second clause); and the ma'amar prevents the levirate marriage of a rival under the injunction, 'a levir may build one house but not two houses', and necessitates also a letter of divorce should it be desired to cancel the ma'amar.
(28) In the Pentateuch, surely, only halizah was prescribed and the prohibition under 'that doth not build' should apply to the prescribed ceremony only!
(29) In the release of all married women.
(30) And that the levir may marry the widow even after he gave her a letter of divorce.
(31) v. supra n. 4.
(32) And thus infringe a Pentateuchal prohibition.
(33) Forbidding levirate marriage with her rival. Since, according to the Pentateuch, acquisition of the sister-in-law is effected by the consummation of the levirate marriage, that consummation only should have had the force of forbidding marriage with the rival.
(34) The usual betrothal between man and woman, which is as binding as the consummation of marriage.
(35) And that after a ma'amar had been addressed to a sister-in-law her rival may be married.
(36) Cf. supra n. 7.
(37) Without subsequent cohabitation.
(38) Unless there was also a ma'amar.
(39) With a rival.
(40) With one of the widows. Such a marriage. however, would infringe (v. supra note 1) a Pentateuchal prohibition.
(41) Of the levirate bond.
(42) Halizah being required in the case of the second widow in addition to the letter of divorce. V. supra p. 330, nn. 6 and 7.
(43) With one sister-in-law.
(44) To the other.
(45) V. p. 332. n. 16.
(46) Were a letter of divorce alone, without halizah, permitted, it might have been assumed that as unlawful cohabitation is so effective it might also be effective enough to annul a previous halizah.
(47) Cf. p. 332, n. 26, and p. 330, nn. 2 and 3.
(48) It might have been assumed that as unlawful cohabitation has the force of validity even after a ma'amar which is a legal kinyan, it has also the same force after a kinyan that had been effected through lawful cohabitation. Acting on this argument one would infringe the prohibition of marriage with one's brother's wife.
(49) Performed after a divorce or a ma'amar.
(50) Should the levir subsequent to such a halizah address a ma'amar or give a letter of divorce to a third sister-in-law his act would have no validity whatsoever.
(51) So that a levir does not submit to the halizah of two sisters-in-law in succession, and two levirs do not submit in succession to the halizah of one sister-in-law.
(52) And none will be the worse for it.
(53) That it be not assumed that halizah without a letter of divorce is sufficient after an act of cohabitation.
(54) The implication of 'nothing lingers after an unlawful halizah' is the invalidity of all subsequent acts. Any previous act such as ma'amar or cohabitation is valid, and a letter of divorce to annul it is certainly required.

Talmud - Mas. Yevamoth 51a

What is R. Gamaliel's reason?[1] — Because he was in doubt whether a letter of divorce does, or does not set aside [the levirate bond, and whether] a ma'amar does, or does not effect a kinyan.[2] ' Whether a letter of divorce does, or does not set aside the levirate bond': If the first[3] does set aside [the levirate bond], what purpose could the latter serve?[4] If the first[3] does not set aside [the levirate bond] , the latter also does not set it aside. 'Whether a ma'amar does, or does not effect a kinyan': if the first[5] does effect a kinyan, what purpose could the latter serve?[4] And if the first[5] effects no kinyan, the latter also does not.

Abaye raised the following objection against him: R. Gamaliel, however, admits that 'there is

[validity in] a letter of divorce after a ma'amar,[6] in a ma'amar after a letter of divorce,[7] in a letter of divorce after cohabitation and a ma'amar,[8] and in a ma'amar after cohabitation and a letter of divorce'.[9] Now, if R. Gamaliel was in doubt,[10] the cohabitation[11] should be regarded as if it had taken place at the beginning,[12] and thus constitute a kinyan; for surely we have learnt, IN THE CASE OF COHABITATION, IF IT TOOK PLACE FIRST, NO ACT THAT FOLLOWS IT HAS ANY VALIDITY!

But, said Abaye, though obvious to R. Gamaliel that a letter of divorce does set aside the levirate bond and that a ma'amar does effect a kinyan,[13] the Rabbis have nevertheless ruled that with the sister-in-law a letter of divorce is partially valid and a ma'amar is partially valid. Consequently, a letter of divorce after another letter of divorce does not set aside the levirate bond since this[14] was already set aside by the first,[15] and a ma'amar after a ma'amar does not constitute a kinyan since this kinyan[16] has already been constituted by the first;[15] with a letter of divorce after a ma'amar, and a ma'amar after a letter of divorce, however, the one act[17] sets aside[18] while the other[19] effects a kinyan.[20] (And the Rabbis?[21] — [They hold that] the Rabbis have instituted for every levir a letter of divorce and a ma'amar in respect of every sister-in-law.)[22]

But as to an invalid cohabitation[23] [according to R. Gamaliel][24] it is [in one respect] of superior force to a ma'amar and [in another respect] of inferior force to a ma'amar. It is superior to a ma'amar, since whereas a ma'amar after another ma'amar is not effective,[25] an act of cohabitation after a ma'amar is effective.[26] It is inferior to a ma'amar, for whereas a ma'amar after a letter of divorce constitutes a kinyan of all that the letter of divorce has left,[27] cohabitation after a letter of divorce does not constitute a kinyan of all that the divorce has left.[28]

Our Rabbis taught; How [are we to understand] R. Gamaliel's statement that there is [no validity in] a letter of divorce after another letter of divorce? If two sisters-in-law have fallen to the lot of one levir, and he gave a letter of divorce to one as well as to the other, he submits, in accordance with R. Gamaliel's statement, to halizah from the first,[29] and is forbidden to marry her relatives,[30] though the relatives of the second one are permitted to him.[31] But the Sages said: If he gave a letter of divorce to one and to the other, he is forbidden to marry the relatives of both[32] and he submits to halizah from either of them. And the same law applies where there are two Ievirs[33] and one sister-in-law.

What did R. Gamaliel mean by his statement that[34] there is no [validity in] a ma'amar after another ma'amar'? If two sisters-in-law have fallen to the lot of one levir, and he addressed a ma'amar to the one as well as to the other, he gives, according to R. Gamaliel, a letter of divorce to the first, submits also to her halizah, and is in consequence forbidden to marry her relatives,[35] though the relatives of the second are permitted to him.[36] The Sages, however, said: He gives letters of divorce to both, and the relatives of both are forbidden to him,[32] while he submits to halizah from one of them. And the same law is to be applied where there are two levirs and one sister-in-law.[37]

The Master said, 'If he gave[38] a letter of divorce to one as well as to the other, he submits, according to R. Gamaliel's statement, to halizah from the first and is forbidden to marry her relatives, though the relatives of the second are permitted to him'. Must this be assumed to present an objection against a ruling of Samuel, since Samuel stated, 'If he submitted to halizah from the one[39] who had been divorced,[40] her rival[41] is not thereby exempt'![42] — Samuel can answer you: What I said was in agreement with him who maintains that a levirate bond exists,[43] while R. Gamaliel holds the opinion that no levirate bond exists.[44]

Since R. Gamaliel, however, is of the opinion that no levirate bond exists,

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(1) In our Mishnah, v. supra p. 327, nn. 1 and 2.

(2) To constitute a legal marriage.

(3) Letter of divorce.
(4) Obviously none. Consequently it is valueless.
(5) Ma'amar.
(6) If the ma'amar was addressed to one of the widows and the letter of divorce was subsequently given to the other, the first also is forbidden levirate marriage, while the relatives of both are forbidden to the levir.
(7) If a letter of divorce was given to one of the widows first, and a ma'amar was subsequently addressed to the second, a letter of divorce must also be given to the second in order to annul thereby the force of the ma'amar.
(8) Which was addressed to one of the widows prior to the cohabitation with the second that preceded the letter of divorce to the third. The validity of the letter of divorce causes the prohibition to the levir of the relatives of the third widow.
(9) Given to one of the widows prior to the cohabitation with the second that preceded the ma'amar addressed to the third. The ma'amar constitutes a kinyan, and the relatives of the third widow are forbidden to the levir, while she herself can be released by a letter of divorce only.
(10) As to the validity of a letter of divorce and a ma'amar given or addressed respectively to a sister-in-law.
(11) Which took place between the other two acts.
(12) And the act that follows it, whether it be the delivery of a letter of divorce or the addressing of a ma'amar, should in any case be invalid: In the case of a ma'amar, cohabitation, and divorce, if the ma'amar with the first was valid and effected kinyan, the cohabitation with the second was obviously invalid and much more so the letter of divorce that was given to the third. If, on the other hand, the ma'amar to the first was invalid, the cohabitation with the second widow that followed was obviously valid and there could consequently be no validity in the letter of divorce that was subsequently given to the third. Similarly in the case of divorce, cohabitation and ma'amar, if the letter of divorce given to the first widow was valid the cohabitation that followed had no validity and much more so the ma'amar that came last. If, on the other hand, the letter of divorce given to the first widow was invalid, the cohabitation with the second widow that followed was obviously valid and consequently there could be no validity in the ma'amar that was subsequently addressed to the third widow. In both cases, then, cohabitation which took place between the other two acts should be as valid as if it had taken place at the beginning.
(13) Cohabitation, therefore, that follows either of these acts cannot have the same force as cohabitation that takes place first.
(14) Whatever part of the levirate bond a divorce can set aside.
(15) And the second can add nothing to it.
(16) As far as a ma'amar has the force of constituting it.
(17) The divorce.
(18) Partially.
(19) The ma'amar.
(20) V. supra n. 4. In the case of a divorce after a ma'amar, that part of the levirate bond with the first widow which the ma'amar did not effect is set aside by the letter of divorce that was given to the second. Similarly, where there are two levirs and one widow, whatever was not covered by the kinyan of the ma'amar of the first levir is set aside by the letter of divorce of the second. So also in the case of a ma'amar after a letter of divorce, whatever part of the levirate bond remained after the letter of divorce had been given to the first widow (or to one widow by the first levir) is brought under the kinyan constituted by the ma'amar that has been addressed to the second widow (or to the one widow by the second levir).
(21) The Sages in our Mishnah. How, in view of what has just been explained — can they maintain that A LETTER OF DIVORCE HAS VALIDITY AFTER ANOTHER LETTER OF DIVORCE, AND A MA'AMAR AFTER ANOTHER MA'AMAR?
(22) The divorce or ma'amar of one levir does not in any way affect the validity of that of any other levir, nor does any of these acts, performed by a levir in respect of one sister-in-law, affect his performance of these acts in respect of another sister-in-law. The divorce or ma'amar in respect of the first sister-in-law does not, therefore, affect that of the second, and the performance of the same acts by the first levir in respect of one sister-in-law does not invalidate the performance of these acts in respect of the same sister-in-law by the other levir. Hence the opinion of the Rabbis in our Mishnah.
(23) That which was preceded by divorce or ma'amar.
(24) Who stated that a letter of divorce following a cohabitation which followed a ma'amar, and a ma'amar following a

cohabitation which followed a letter of divorce are valid.
(25) As has been stated supra.
(26) As may be inferred from the ruling concerning ‘a letter of divorce after cohabitation and a ma'amar’, which implies that cohabitation after a ma'amar is valid (Rashi). Cf. Tosaf. s.v. עדיפא, and תוספות ישנים a.l.
(27) For should a ma'amar, subsequent to the first, be addressed to a third widow it would be altogether invalid, R. Gamaliel invariably admitting no ma'amar after another ma'amar whether the first one was, or was not preceded by a letter of divorce.
(28) A ma'amar being valid even if it was addressed after an act of cohabitation that followed a letter of divorce.
(29) Though he could certainly submit to halizah from the second, the letter of divorce to whom is invalid, and thereby exempt the first also. He is advised, however, to submit to halizah from the first because by so doing he averts the prohibition to him of the second widow's relatives who, had he submitted to her halizah, would have become forbidden to him as the ‘relatives of his haluzah’. The prohibition to him of the relatives of the first as ‘relatives of his haluzah’ is of no practical consequence since they are already, owing to the divorce he had given her forbidden to him as the ‘relatives of his divorcee.
(30) They being the relatives of both his divorcee and his haluzah. Cf. supra p. 336, n. 7.
(31) Because she is neither his haluzah nor his divorcee, the halizah not having been performed by her and the letter of divorce that was given to her being invalid.
(32) Both divorces being valid.
(33) And each of them gave a letter of divorce to the one sister-in-law. According to R. Gamaliel, halizah is performed with the first levir and the second levir is permitted to marry her relatives; while according to the Rabbis her relatives are forbidden to both levirs and the halizah is performed with either of them.
(34) Lit., ‘how’.
(35) As the ‘relatives of his haluzah’.
(36) Since she is neither his wife nor his haluzah nor his divorcee.
(37) Cf. supra n. 4.
(38) The Heb. uses here the present participle instead of the perfect used supra in the original.
(39) Of two sisters-in-law, the widows of his deceased childless brother.
(40) By him, prior to the performance of the halizah.
(41) Who had not been divorced and whose levirate bond has consequently still its full force.
(42) Supra 27a. A halizah performed by one whose levirate bond had been weakened by divorce cannot sever the levirate bond of the other which had never been weakened by divorce and had retained therefore its full force (v. supra n. 2). This is contradictory to R. Gamaliel's view according to which the halizah of the first, though it followed her divorce which had weakened her levirate bond, is effective enough to exempt her rival whose levirate bond retained its full force, since her divorce was invalid and might be regarded as never having taken place.
(43) Between the levir and the sister-in-law. This levirate bond can only be severed by a halizah which is free from all objection.
(44) v. infra 109a. Hence, even a halizah which is not free from objection is effective enough to sever it.

Talmud - Mas. Yevamoth 51b

the Rabbis are presumably of the opinion that a]Ievirate bond does exist,[1] and yet it was stated in the final clause, ‘And the same law applies where there are two levirs and one sister-in-law’![2] Must it then be said that this represents an objection to a statement made by Rabbah son of R. Huna in the name of Rab? For Rabbah son of R. Huna stated in the name of Rab: A halizah of an impaired character must go the round of all the brothers![3] — Rabbah son of R. Huna can answer you: Both according to the view of R. Gamaliel and that of the Rabbis no levirate bond exists,[4] and their difference here extends only to the question of a divorce that followed another divorce and a ma'amar that followed another ma'amar.

The Master said, ‘If he addressed a ma'amar to the one as well as to the other, he gives, according to R. Gamaliel, a letter of divorce to the first, submits also to her halizah, and is in consequence forbidden to marry her relatives, though the relatives of the second are permitted to him’. Now,

consider! Since R. Gamaliel holds that there is no [validity in a] ma'amar that follows another ma'amar, the first [sister-in-law] should even be permitted to contract the levirate marriage![5] — A preventive ordinance had to be made[6] against the possibility of the levir's marrying the second.

R. Johanan said: R. Gamaliel, Beth Shammai, R. Simeon b. ‘Azzai and R. Nehemiah are all of the opinion that a ma'amar constitutes a [fairly][7] perfect kinyan:[8]

As to R. Gamaliel, there is the statement already mentioned.[9]

Beth Shammai? — For we learned: If two of three brothers were married to two sisters and the third was unmarried, and when one of the sisters’ husbands died, the unmarried brother addressed to her a ma'amar and then his second brother died, Beth Shammai say: His wife[10] [remains] with him[11] while the other is exempt[12] as being his wife's sister.[13] cannot have any validity[14] if, however, the cohabitation of the first has no validity, then that of the second also has no validity.[15] Now, the cohabitation of one who is nine years of age has been given by the Rabbis[15] the same force as that of a ma'amar[16] and yet R. Simeon stated that such cohabitation[17] has no validity.[18]

Ben ‘Azzai? — For it was taught: Ben ‘Azzai stated, ‘A ma'amar is valid after another ma'amar where it concerns two levirs[19] and one sister-in-law,[20] but no ma'amar is valid after a ma'amar where it concerns two sisters-in-law and one levir’.[21]

R. Nehemiah? — For we learned, R. NEHEMIAH SAID: WITH COHABITATION AS WITH HALIZAH WHETHER IT TOOK PLACE AT THE BEGINNING, IN THE MIDDLE, OR AT THE END, THERE IS NO VALIDITY IN ANY ACT THAT FOLLOWS IT. Now, an invalid cohabitation has been given by the Rabbis the same force as a ma'amar,[22] and yet it was stated, THERE IS NO VALIDITY IN ANY ACT THAT FOLLOWS IT.[23]

HOW . . . IF A LEVIR ADDRESSED A MA'AMAR etc.

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(1) It is now assumed that, as the Rabbis disagreed with R. Gamaliel on the question of a divorce that followed another divorce, they disagreed also on that of the levirate bond.

(2) According to which the Rabbis maintain that either levir may submit to the halizah (v. supra p. 337, n. 4) and the performance of this impaired halizah exempts the other brother,

(3) V. supra 26b. The performance of it by one brother does not exempt any of the others!

(4) While Rabbah son of R. Huna himself does not follow this view but that of the authority who maintains that a levirate bond does exist.

(5) Since the ma'amar to the second had no validity at all.

(6) That levirate marriage shall not be contracted with the first.

(7) V. Rashi, a.l.

(8) I.e., it is regarded as a perfect kinyan in some, though not in all respects. Cf. Tosaf. s.v. דתניא supra 19a.

(9) Supra, that a ma'amar is invalid after another ma'amar, because the first had already constituted an kinyan.

(10) I.e., the widow to whom he had addressed the ma'amar.

(11) Because the ma'amar he had addressed to her constituted a kinyan and she is regarded as his wife. Her sister, when she subsequently became subject to the levirate marriage through the death of her husband, could no more be married to him since at that time she was already ‘his wife's sister’.

(12) Even from halizah.

(13) ‘Ed. IV, 9, supra 29a. (10) Of two young levirs of the ages of nine years and one day. According to the Rabbis, if two levirs of such an age cohabited successively with their sister-in-law, the widow of their deceased brother, their acts have the same force as that of a ma'amar that followed a ma'amar. As with a ma'amar the second has also the validity of a betrothal and causes the prohibition of the sister-in-law to the first, so with cohabitation, the act of the second levir causes the sister-in-law to be forbidden to the first levir also. R. Simeon, however, regards the first act only as a valid kinyan. The other consequently is invalid. V. infra 96b. (11) Effecting a kinyan.

(14) The kinyan of the first would not admit it.

(15) Infra 96b.

(16) V. supra p. 339, n. 10.

(17) By the second levir.

(18) Obviously because the kinyan had been effected by the cohabitation of the first. Thus it follows that a ma'amar also (cohabitation and ma'amar having equal validity) effects kinyan.

(19) Each one of whom had addressed to the widow only one ma'amar.

(20) Since each levir is entitled to a ma'amar. V. supra 51a.

(21) The second ma'amar has no validity, because by the first ma'amar the levir had already effected the k,in;/an of the sister-in-law to whom he had addressed it.

(22) Since in both cases, divorce alone is not enough to sever the levirate bond, halizah also being required.

(23) Obviously because the cohabitation like a ma'amar had constituted a kinyan.

Talmud - Mas. Yevamoth 52a

Is this an illustration of a letter of divorce after a letter of divorce?[1] Rab Judah replied it is this that was meant: [The illustration of] A LETTER OF DIVORCE AFTER ANOTHER LETTER OF DIVORCE and OF A MA'AMAR AFTER AN OTHER MA'AMAR is as stated;[2] but[3] HOW IS THE RELEASE [FROM THE LEVIRATE BOND EFFECTED] where there is one levir and one sister-in-law? — IF A LEVIR ADDRESSED A MA'AMAR TO HIS SISTER-IN-LAW AND SUBSEQUENTLY GAVE HER A LETTER OF DIVORCE, IT IS NECESSARY FOR HER TO PERFORM THE HALIZAH WITH HIM.[4]

IF HE ADDRESSED TO HER A MA'AMAR AND THEN COHABITED WITH HER, BEHOLD THIS IS IN ACCORDANCE WITH THE PRESCRIBED PRECEPT. Might it be suggested that this provides support for R. Huna? For R. Huna stated: The precept of marriage with a sister-in-law is properly performed when the levir first betroths, and then cohabits with her.[5] — One might read,[6] THIS IS also IN ACCORDANCE WITH THE PRESCRIBED PRECEPT. Is not this obvious? — It might have been presumed that since a Master stated, 'If the levir addressed a ma'amar to his sister-in-law, the levirate bond disappears, and he comes under the bond of betrothal and marriage',[7] he[8] is not performing the commandment,[9] hence we were taught [that he does].

[To turn to] the main text. 'R. Huna said: The precept of marriage with a sister-in-law is properly performed when the levir first betroths and then cohabits with her. If he cohabited with her, and then addressed to her a ma'amar a kinyan is nevertheless constituted.' 'If he cohabited with her and then addressed to her a ma'amar is so obvious,[10] since he had acquired her by the cohabitation![11] — Read, rather, 'If he cohabited with her without previously addressing to her a ma'amar a kinyan is nevertheless constituted'. But was it not taught that the penalty of flogging[12] is inflicted upon him?[13] — Chastisement[14] was meant, which is a Rabbinical penalty.[15] For Rab ordered the chastisement[16] of any person who betrothed by cohabitation,[17] who betrothed in the open street,[18] or who betrothed without previous negotiation;[19] who annulled a letter of divorce,[20] or who made a declaration against a letter of divorce;[21] who was insolent[22] towards the representative of the Rabbis,[23] or who allowed a Rabbinical ban upon him to remain for thirty days and did not come to the Beth din to request the removal of that ban; and of a son-in-law who lives in his father-in-law's house. [You say,] only if he lives,[24] but not if he only passes by? Surely, a man once passed by the door of his father-in-law's house, and R. Shesheth ordered his chastisement! — That man was suspected of immoral relations with his mother-in-law. The Nehardeans stated: Rab ordered the chastisement of none of these[25] except him who betrothed by cohabitation without preliminary negotiation. Others say: Even with preliminary negotiation; because [such a practice is sheer] licentiousness. Our Rabbis taught: How is betrothal effected with a ma'amar? — If he gave her[26] some money or anything of value.[27] And how is it effected by a deed? — 'How is it effected by a deed'? Surely as has been stated:[28] If he wrote for her on a piece of paper or on a sherd, although it was not worth even a perutah,[29] 'Behold thou

art be trothed unto me'![30] Abaye replied, It is this that was meant: How is the deed of the kethubah[31] in a levirate marriage [to be drawn up]? He writes for her. 'I, So-and-so, son of So-and-so, undertake to feed and maintain in a suitable manner my sister-in-law So-and-so, provided that her kethubah remains a charge upon the estate of her first husband'.[32] If, however, she is unable to obtain it from her first husband, provision was made by the Rabbis [that she is to receive it] from the second,[33] in order that it may not be easy for him to divorce her.[34]

Abaye enquired of Rabbah: What is the law if he gave her[35] a letter of divorce and said, 'Behold thou art divorced from me, but thou art not permitted to any other man'?[36] The divorce of a sister-in-law being Rabbinically valid, [shall I say that] only a divorce which is valid in the case of a married woman is valid in the case of a sister-in-law, but a divorce which is invalid in the case of a married woman is also invalid in the case of a sister-in-law,[37] or [had provision to be made here[38] against] the possibility of mistaking it for an unqualified divorce?[39] — The other replied: Provision has to be made against the possibility of mistaking it for an unqualified divorce.[34] Rabbah b. Hanan demurred: Now then,[40] had he given her a mere scrap of paper would he also have disqualified her?[41] The other replied: There [the scrap of paper] does not cause the woman to be unfit for a priest;[42] here, however, [the qualified divorce] does cause the woman to become unfit for a priest[43] , for it was taught, Neither shall they take a woman put away from her husband,[44] even if she was only divorced from her husband[45] they may not take her,[46] and that is what was meant by the 'scent of the divorce' that causes a woman's unfitness for a priest.[47]

Rami b. Hama said: It has been definitely[48] stated that if a man said to a scribe , 'Write a letter of divorce for my betrothed so that when I have married her I may divorce her' the letter of divorce is valid,[49] because it was in his power[50] to divorce her;[51]

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(1) The Sages speak of a letter of divorce another letter of divorce, while the illustration which follows describes a ma'amar that was followed by a letter of divorce!

(2) In the Baraitha supra 51a, 'Our Rabbis taught: How . . . R. Gamaliel's statement etc.' The Mishnah, however, provides no explanation of illustration of these cases, and proceeds to another point.

(3) This is the meaning of what follows.

(4) V. supra p. 325, n. 4.

(5) And ma'amar and betrothal are essentially the same form of kinyan

(6) In our Mishnah.

(7) Supra 29b. It will be noted that the text there slightly differs from the text here.

(8) Because of the ma'amar he had addressed.

(9) Of the levirate marriage, even though cohabitation had taken place subsequently.

(10) That a kinyan had been effected.

(11) What need then was there to state the obvious?

(12) Malkoth (v. Glos.) inflicted for the transgression of Pentateuchal negative precepts.

(13) For the omission of the ma'amar, prior to his cohabitation, A ma'amar is consequently (v. supra n. 9) a Pentateuchal requirement. How, then, could it be said that a kinyan may be constituted though the ma'amar had been omitted!

(14) Makkath marduth, v. Glos.

(15) For offences that are not Pentateuchal.

(16) Makkath marduth, v. Glos.

(17) Regarding such a practice as immoral.

(18) V. supra note 3, even if in a legal manner,

(19) Regarding such a practice as immoral.

(20) Such an act might lead a divorced woman, who was unaware of the annulment, to an illegal marriage.

(21) That it was invalid. If he stated, e.g., that he gave it under compulsion.

(22) Cf. Rashi a.l. Or, 'who offends'. V. Tosaf. s.v. דמתפקר a.l.

(23) A messenger (a) of the Beth din (Rashi); (b) of any Rabbi (Tosaf.).

(24) At his father-in-law's.

(25) Cases, enumerated supra.
(26) The levir to the sister-in-law.
(27) And addressed to her the ma'amar in the prescribed form: 'Be thou betrothed unto me by this levirate ma'amar. Though betrothal with money in the case of an ordinary union constitutes perfect kinyan, in the case of betrothal by a levir (to whom a sister-in-law is ordinarily forbidden, and betrothal with whom is consequently invalid) betrothal alone, even when it concerns a levirate union, is not sufficient to constitute a kinyan until consummation of the marriage has taken place.
(28) In the case of any other betrothal that is effected by means of a deed.
(29) V. Glos.
(30) Kid. 9a. As betrothal by money in the case of a levirate union takes the same form as that of an ordinary betrothal so should betrothal by deed!
(31) By 'deed' the kethubah (v. Glos.) was meant and not the 'deed of the ma'amar'.
(32) The deceased brother (supra 38a) because 'a wife has been given to him from heaven' (v. supra 39a and notes).
(33) The levir who married her.
(34) Cf. supra 39a.
(35) The levir to the sister-in-law.
(36) Does such a qualified divorce effect the prohibition of the widow to the levir and to his brother as if an unqualified divorce had been given to her? In the case of a married woman no divorce can release her unless it was free from all qualifying conditions.
(37) Hence there is no validity in this divorce, and the sister-in-law remains permitted to the levirs as if no divorce had ever been given.
(38) That the divorce is valid despite its qualification (v. supra n. 7).
(39) Were the widow to be permitted to the levir after a qualified divorce she might erroneously be permitted even after an unqualified, and valid, divorce.
(40) If provision has to be made against mistaking a valid, for an invalid document.
(41) From subsequently marrying the levir.
(42) Having no validity whatsoever it could never be mistaken for a proper divorce.
(43) A priest causes his wife to be forbidden to him even if the divorce he gave her was only a qualified one.
(44) Lev. XXI, 7.
(45) I.e., if she was given a qualified divorce which does not set her free to marry any other man.
(46) Since such a divorce has the validity of causing the woman's prohibition to her husband who is a priest it might easily be mistaken for a valid divorce. Hence the provision mentioned.
(47) Git. 82b, infra 94a.
(48) Lit., 'behold'.
(49) If he gave it to her after marriage.
(50) At the time the letter of divorce was written.
(51) As his betrothed.

Talmud - Mas. Yevamoth 52b

if[1] for any other woman, the letter of divorce has no validity,[2] because it was not in his power to divorce her.[3] Rami b. Hama inquired, however, what is the law if[4] for one's sister-in-law?[5] Is she, because she is bound to him,[6] regarded as his betrothed[7] or perhaps, since he addressed no ma'amar to her, she is not so regarded. This is undecided.[8]

R. Hanania inquired: What is the law if he[9] wrote a letter of divorce in respect of his levirate bond but not in respect of his ma'amar, or in respect of his ma'amar and not in respect of his levirate bond?[10] Is the ma'amar imposed upon the levirate bond,[11] so that the levir's action[12] is like that of divorcing half a woman,[13] and when a man divorces half a woman his action, surely, has no validity at all; or do they remain independent of one another?[14] — Might not this enquiry be solved by reference to Raba's ruling? For Raba ruled: If he[15] gave her a letter of divorce in respect of his ma'amar, her rival[16] is permitted![17] — This was obvious to Raba; to R. Hanania, however, it was a

matter of doubt. What, then, is the decision? — This remains undecided.[18]

IF THE LEVIR SUBMITTED TO HALIZAH AND THEN ADDRESSED TO HER A MA'AMAR. Rab Judah said in the name of Rab: This[19] is the view of R. Akiba who holds that betrothal with those whose intercourse involves the penalties of a negative precept is of no validity; the Sages, however, maintain that there is some validity in acts after halizah. But how can you ascribe it[20] to R. Akiba? In the first section, surely, it was stated, IF THE LEVIR GAVE HER A LETTER OF DIVORCE AND THEN ADDRESSED TO HER A MA'AMAR, IT IS NECESSARY FOR HER TO OBTAIN [A SECOND] LETTER OF DIVORCE AND TO PERFORM THE HALIZAH, while if [this Mishnah represented the view of] R. Akiba would a ma'amar to her be valid after a letter of divorce had already been given to her? Surely it was taught: R. Akiba said, 'Whence is it deduced that if a man gives a letter of divorce to his sister-in-law she is thereby forbidden to him for ever? Because it was stated Her former husband, who sent her away, may not [take her again to be his wife],[21] [i.e., immediately] after sending her away'![22] R. Ashi replied: A divorce given by levirs is only Rabbinically valid,[23] and the Scriptural text is a mere prop.[24] Likewise it was also taught: Rabbi said, this statement[25] was made only in accordance with the view of R. Akiba who treated a haluzah as a forbidden relative;[26] the Sages, however, maintain that there is some validity in acts after halizah; and I say, 'When [is betrothal after halizah valid]? Only when he betrothed her as in ordinary matrimony,[27] but if he betrothed her for levirate union,[28] there is no validity in any such act after the halizah.[29] It was taught elsewhere: If a man submitted to halizah from his sister-in-law and then betrothed her, Rabbi said, 'If he betrothed her as in ordinary matrimony it is necessary for her to obtain from him a letter of divorce, but if as for a levirate union there is no need for her to obtain from him a letter of divorce'. The Sages, however, said: 'Whether he betrothed her as in ordinary matrimony or as for the levirate union it is necessary for her to obtain from him a letter of divorce'.

Said R. Joseph: What is Rabbi's reason?[30] — It was given the same legal force as that of the action of a person digging in the estate of a proselyte[31] believing it to be his own,[32] which constitutes no kinyan.[33] Said Abaye to him:[34] Are the two cases alike? There[35] he[36] had no intention at all of acquiring possession,[37] but here[38] his intention, surely, was to acquire possession![39] This, indeed, could only be compared to the case of a person who digs in the estate of one proselyte and believes it to be that of another, where he does acquire possession![40] No, explained Abaye, here we are dealing with a case where the levir said to her, 'Be thou betrothed to me by the ma'amar of the levirate union'. Rabbi is of the opinion that the ma'amar can only be imposed upon the levirate bond,[41] but here[42] the halizah had already previously removed the levirate bond.[43] The Rabbis, however, are of the opinion that the one is independent of the other.[44] If, then, the levir had said to her at first,[45] 'Be thou betrothed unto me by this ma'amar of the levirate union', would not his kinyan have been valid?[46] Consequently it is now also valid.

Raba said: Had he said to her,[47] 'By the ma'amar of the levirate union', there would be no disagreement [among the authorities] that it is valid; but here[48] we are dealing with a case where the levir said, 'Be thou betrothed unto me by the bond of the levirate'. Rabbi is of the opinion

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(1) The scribe was asked to write the letter of divorce.

(2) Even if it was given to the woman after he had married her.

(3) Since at that time she was to him a complete stranger.

(4) The scribe was asked to wrote the letter of divorce.

(5) The letter of divorce having been written before the levirate marriage, and delivered to the widow after it had taken place.

(6) By the levirate bond.

(7) And the divorce is consequently valid.

(8) Teku, v. Glos.

(9) A levir after he addressed a ma'amar to his sister-in-law.
(10) Is she thereby forbidden to him as if a valid divorce had been given to her?
(11) And becomes united with, and inseparable from it.
(12) In severing the bond or annulling the ma'amar.
(13) Since the divorce in respect of his one connection with the woman has no validity in respect of his other connection which forms together with the first one complete whole.
(14) Lit., 'that stands alone' (bis). The ma'amar and the levirate bond constitute separate and independent connections between the levir and the widow. Hence, if the divorce was for the levitate bond alone, the widow is forbidden to the levir who gave her the divorce (under the prohibition 'that doth not build etc.') as well as to his brothers (the levirate bond saving been severed); and if the divorce was for the ma'amar only, the widow, though forbidden to the levir who gave her the divorce (for the reason stated), is nevertheless permitted to his brothers, since the levirate bond has never been severed.
(15) The second of three brothers who had addressed a ma'amar to the first brother's widow. V. Mishnah supra 31b.
(16) The second brother's first wife who, while the ma'amar remained in force, was forbidden to the third brother.
(17) To the third surviving brother if the second brother also died without issue. The two widows, owing to the divorce which had annulled the ma'amar, are no longer rivals; and being now the widows of two different brothers, are in fact both permitted to the third brother. The widow to whom the divorce had been given is forbidden only as a preventive measure (v. supra 32b). From the fact, however, that the second brother's first wife is permitted to the third surviving brother it follows that the divorce (a) annuls the ma'amar and (b) does not sever the levitate bond. Had it not annulled the ma'amar, the widow would have been forbidden owing to the levitate bond emanating from two levirs; while if the levirate bond also had been severed she would have been forbidden to the third brother as 'brother's wife'. Why then was R. Hanania doubtful on the point?
(18) Teku, v. Glos.
(19) That no act is valid after halizah.
(20) The quoted section of our Mishnah, and presumably all our Mishnah.
(21) Deut. XXIV, 4.
(22) Even before she had been married to a second husband. (V. Deut, XXIV, 2-4). The superfluous expression 'who sent her away' implies that divorce in a certain case, viz., in that of a sister-in-law, causes the permanent prohibition of the divorced woman to the man who divorced her immediately after divorce had taken place. Now, since betrothal of a sister-in-law by a levir who divorced her is forbidden by the negative precept of Deut. XXIV, 4, how could a ma'amar addressed to her after divorce have any validity?
(23) Pentateuchally it has no validity at all.
(24) Since the prohibition is not Pentateuchal the ma'amar is obviously valid.
(25) That no act is valid after halizah.
(26) As no act of betrothal is valid in the case of the latter so is no such act valid in that of the former.
(27) By a form of betrothal prescribed in ordinary cases other than those of a levir. Such betrothal is valid even where it involves the transgression of a negative precept.
(28) By addressing to her a ma'amar.
(29) The halizah having severed the levirate bond, there is no room any more for the levirate betrothal. The action of any levir using it is consequently null and void.
(30) For regarding as invalid a betrothal for a levirate union, when ordinary betrothal with the same woman would have been valid.
(31) Who was survived by no Jewish heirs. Anyone digging in such ownerless property with the intention of acquiring it gains thereby full legal title thereto.
(32) It having been situated in close proximity to his own estate.
(33) As the digging (though a legal form of kinyan) is invalid because there was no intention to constitute a kinyan thereby, so also betrothal (though a legal kinyan) is invalid because the levir's intention was not to constitute an ordinary betrothal (which would indeed have been valid) but a levirate betrothal which after a halizah has no validity.
(34) R. Joseph.
(35) Digging in the estate of a proselyte.
(36) The digger.
(37) Since he believed the field to be his own.

(38) Betrothal by the levirate formula.

(39) Of his sister-in-law as his legal wife.

(40) Since his intention was to execute by his act a legal kinyan, the mistake he made as to its owner is of no consequence. Similarly, here, the mistake in the nature of the union he was contracting should not affect the legality of the kinyan which he at all events intended.

(41) Only where the levirate bond is still in force has the ma'amar the required validity.

(42) Where halizah had been performed.

(43) Hence the invalidity of the ma'amar.

(44) A ma'amar is consequently valid even where no levirate bond exists.

(45) Before the performance of the halizah.

(46) Certainly it would. The force of the ma'amar irrespective of the levirate bond (v. supra n. 2) would have executed the kinyan.

(47) After the introductory formula, 'Be thou betrothed unto me'.

(48) The dispute between Rabbi and the Rabbis.

Talmud - Mas. Yevamoth 53a

that a levirate bond does exist[1] but the halizah had previously removed that [levirate] bond.[2] The Rabbis, however, hold that no levirate bond exists.[3] If, then, he had said to her at first,[4] 'Be thou betrothed unto me by the bond of the levirate' would not his word have been valid?[5] Consequently it is now also valid.

R. Sherabia said: Had a proper halizah been performed all would agree that if he said to her,[6] 'Be thou betrothed unto me by the bond of the levirate', there is no validity in his betrothal. Here, however, the dispute relates to a halizah of an impaired character. One Master[7] holds that a halizah of an impaired character provides [all the necessary] exemption,[2] and the Masters hold that a halizah of an impaired character provides no exemption.[8]

R. Ashi said: [No;] All agree that a halizah of an impaired character provides no exemption. Here,[9] however, the dispute centres round the question whether a condition[10] may affect the validity of halizah.[11] The Masters hold that a condition[11] does affect the validity of a halizah[12] and the Master[13] holds that no condition may affect the validity of a halizah.[14]

Rabina said: [No;] All agree that a condition does affect a halizah. Here,[9] however, the dispute is dependent on the question of the doubled condition.[15] The Master[13] holds that a doubled condition is essential[16] and the Masters hold the opinion that a doubled condition is unnecessary.[17]

IF THE LEVIR SUBMITTED TO HALIZAH AND THEN ADDRESSED TO HER A MA'AMAR, GAVE HER A LETTER OF DIVORCE, OR COHABITED WITH HER etc. It should also have been stated, 'No act is valid after cohabitation'![18] — Both Abaye and Raba replied: Read,[19] 'NO ACT IS VALID AFTER cohabitation'. But our Tanna?[20] — [The statement regarding] the permissibility of the sister-in-law to marry anyone[21] was preferred by him.[22]

THE LAW IS THE SAME WHETHER THERE IS ONE SISTER-IN LAW . . . OR TWO SISTERS-IN-LAW. Our Mishnah[23] is not in agreement with the ruling of Ben 'Azzai. For it was taught: Ben 'Azzai stated: A ma'amar is valid after another ma'amar where it concerns two levirs[24] and one sister-in-law,[25] but no ma'amar is valid after a ma'amar where it concerns two sisters-in-law and one levir.[26] HOW? . . . A MA'AMAR TO THE ONE etc. May it be suggested that this[27] provides support to a ruling of Samuel, Samuel having stated that if the levir had participated in the halizah with her to whom he addressed a ma'amar, her rival was not thereby exempt; and an objection to the ruling of R. Joseph?[28] — Does it state: He may participate in the halizah? What it states is 'had participated', implying a fait accompli.[29]

A LETTER OF DIVORCE TO THE ONE AS WELL AS TO THE OTHER etc. May it be suggested that this[30] provides support to Rabbah son of R. Huna. For Rabbah son of R. Huna stated, 'A halizah of an impaired character must go the round of all the brothers'?[31] — By IT IS NECESSARY FOR BOTH, widows generally[32] were meant.[33]

IF HE GAVE A LETTER OF DIVORCE TO ONE AND SUBMITTED TO HALIZAH FROM THE OTHER. May it be suggested that this[34] provides support to the ruling of Samuel[35] and presents an objection against the ruling of R. Joseph?[36] — Does it state: He may participate in the halizah? What it states is 'had participated', implying a fait accompli.[37]

IF THE LEVIR SUBMITTED TO HALIZAH FROM THE ONE AND FROM THE OTHER, OR SUBMITTED TO HALIZAH etc. It should also have been stated, 'No act is valid after cohabitation'![38] Both Abaye and Raba replied: Read,[39] 'no act is valid after cohabitation'.

But our Tanna?[40] — [The statement on] the permissibility of the sister-in-law marrying anyone[41] was preferred by him.[42]

THERE IS NO DIFFERENCE IN THE LAW WHETHER THERE WAS ONE LEVIR TO TWO SISTERS-IN-LAW etc. According to R. Johanan who ruled that the whole house[43] stands under the prohibition of a negative precept,[44] it is intelligible why it was necessary to inform us[45] that betrothal with those whose intercourse involves the penalties of a negative precept is invalid;[46] according to Resh Lakish, however, who ruled that all the house[47] is subject to the penalty of kareth,[48] was there any need to inform us that betrothal with those whose intercourse involves kareth is invalid?[49] — Resh Lakish can answer you: And even according to your conception was it necessary to tell us in the final clause, which speaks of the case where the LEVIR COHABITED WITH HER AND THEN ADDRESSED TO HER A MA'AMAR, that there was no validity in a betrothal with a married woman?[49] But the fact is that as he taught concerning the permissibility[50] of one levir and one sister-in-law,[51] he also taught concerning two sisters-in-law and one levir. And since he taught concerning two sisters-in-law and one levir, he also taught concerning two levirs and one sister-in-law.

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(1) I.e., the validity of such a formula elsewhere is absolutely dependent on the existence of the levirate bond.

(2) Hence the invalidity of the formula that followed it.

(3) The levirate bond does not in any way add to, or subtract from the force of the formula.

(4) Before the performance of the halizah.

(5) V. supra note 4.

(6) After the halizah, for instance, which has been performed after a divorce.

(7) Rabbi.

(8) The original bond remains and the halizah is altogether disregarded. Hence the validity of the formula after an improper halizah.

(9) The dispute between Rabbi and the Rabbis.

(10) Made by the levir. If, e.g., he submitted to the halizah on the understanding that the widow would give him a certain sum of money or render him some service.

(11) Where the condition had not been fulfilled.

(12) As the halizah is invalid (v. supra n. 3) the original bond remains and the formula is consequently valid.

(13) Rabbi.

(14) Even if the condition was not fulfilled the halizah remains valid. Hence there could be no force in the formula that follows it.

(15) תנאי כפול a stipulation and its alternative. The classical example is the condition made by Moses with the children of Gad and Reuben: If they passed the Jordan, the land of Gilead would be given to them; if they did not pass the Jordan, they would take their share in the land of Canaan. V. Num. XXXII, 29f.

(16) As the levir's condition was not a ‘doubled one’ it has no validity. The halizah is consequently valid and the formula following it is invalid.
(17) The condition being valid, the halizah depending on it, where it is unfulfilled, is invalid. Hence the validity of the levirate formula.
(18) Since that section of our Mishnah deals not only with (a) certain acts after halizah but also with (b) certain acts after cohabitation.
(19) [Var. lec., ‘Both Abaye and Raba read’. The reading that follows actually occurs in Tosef. Yeb. VII. Cf. תוספות ישנים]
(20) Why did he omit the mention of cohabitation?
(21) I.e., the permissibility though halizah.
(22) Hence halizah only was mentioned. After cohabitation the sister in-law is permitted to one man (the levir) only. As the Tanna preferred the case of halizah to that of cohabitation and as the invalidity of any acts after cohabitation may be inferred from the invalidity of those after halizah, the Tanna did not consider it necessary to mention cohabitation at all.
(23) Which admits the validity of a ma'amar after another ma'amar in the case of two sisters-in-law and one levir,
(24) Each one of whom in turn addressed a ma'amar to the sister-in-law.
(25) Each levir being entitled to a ma'amar. V. supra 51a.
(26) The second ma'amar, contrary to the ruling of our Mishnah, has no validity because by the first ma'amar, in the opinion of Ben ‘Azzai, the levir had exhausted all his rights.
(27) The statement, THE ONE REQUIRES A LETTER OF DIVORCE AND THE OTHER, but not the first to whom the ma'amar had been addressed, MUST PERFORM THE HALIZAH because, obviously, halizah with the first does not exempt the second, her rival.
(28) ‘Who stated, supra 44a, ‘A man should not pour the water out of his cistern while others may require it’, i.e., a levir shall not cause the disqualification, by halizah, of the widow who is not otherwise disqualified, when the halizah could well be performed by the other widow who was in any case disqualified. In our Mishnah, contrary to R. Joseph's ruling, halizah is performed by the second who would in consequence be disqualified from marrying a priest, and not by the first who is already disqualified by the divorce she had been given.
(29) The proper procedure, however, might still be for the halizah to be performed by the widow to whom the ma'amar had been addressed.
(30) The statement in our Mishnah that HALIZAH IS NECESSARY FOR BOTH, which seems to imply that each widow must perform halizah where there is only one levir and, since the Mishnah also stated THAT THERE IS NO DIFFERENCE IN THE LAW WHETHER THERE WAS ONE LEVIR AND TWO SISTERS-IN-LAW OR TWO LEVIRS AND ONE Slster-IN-LAW, that where there are two levirs and one sister-in-law halizah must be performed with both levirs.
(31) Supra 26b, 51a.
(32) In similar circumstances,
(33) But in every case the halizah is performed by one widow only and the other is thereby exempt. V. supra p. 330, n. 5.
(34) The ruling that halizah is performed by the second widow and not by the first to whom the divorce had been given.
(35) Who stated, supra 27a, that if the levir had participated in the halizah with her whom he had divorced, her rival is not thereby exempt. Consequently, as was stated in our Mishnah, the halizah is to be performed by the second.
(36) V. p. 350, n, 6.
(37) Cf. supra p. 350, n. 7.
(38) Cf. p. 350, n. 6.
(39) Cf. p. 349, n. 11.
(40) Cf. p. 349. n. 12.
(41) Cf. p. 349, n. 13.
(42) Cf. p. 349, n. 14.
(43) I.e., all the brothers of the deceased including the levir who submitted to the halizah.
(44) Both the levir and the other brothers (v. supra n. 13) are forbidden by the negative precept ‘that doth not build’ to marry the halizah or her rival. V. supra 10b.
(45) By the statement that a ma'amar is invalid after halizah.
(46) Had not this been indicated it might have been assumed that a betrothal of a woman forbidden only by a mere negative precept is legally valid.

(47) V. supra p. 351, n. 13.
(48) If any one of the brothers married the rival of the haluzah, or if any of them (other than the levir who participated in the halizah) married the haluzah herself; the prohibition in all these cases being that of marriage with 'a brother's wife' which is punishable by kareth. The prohibition of the levir who participated in the halizah to marry the haluzah herself is, of course, even according to Resh Lakish, only that of a negative precept (v. supra 10b).
(49) Such a ruling is surely obvious!
(50) I.e., that there is no validity in the betrothal.
(51) A ruling which was necessary, even according to Resh Lakish, since he also, like R. Johanan, subjects the marriage between the levir who submitted to the halizah and the haluzah to the penalty of a negative precept only (v. supra n. 3).

Talmud - Mas. Yevamoth 53b

IF THE LEVIR SUBMITTED TO HALIZAH AND THEN ADDRESSED TO HER A MA'AMAR [and] GAVE etc. One can well understand why it was necessary [to lay down a rule[1] where] THE LEVIR SUBMITTED TO HALIZAH AND THEN ADDRESSED TO HER A MA'AMAR; since it might have been assumed that provision was to be made[2] for a ma'amar that followed halizah[3] as a preventive measure against a ma'amar that preceded halizah,[4] it was consequently necessary to tell us that no such preventive measure was to be made. What need, however, was there for the ruling[5] where THE LEVIR SUBMITTED TO HALIZAH AND THEN GAVE HER A LETTER OF DIVORCE?[6] — Read, then, according to your own view, the final clause, IF HE COHABITED WITH HER AND THEN ADDRESSED TO HER A MA' AMAR or if he cohabited with her and then GAVE HER A LETTER OF DIVORCE. One can well understand [it might be argued here also] why it was necessary [to lay down a ruling[7] where] the levir cohabited with her and then GAVE HER A LETTER OF DIVORCE; since it might have been assumed that provision was to be made for a divorce that followed cohabitation[8] as a preventive measure against a divorce that preceded cohabitation,[9] it was consequently necessary to tell us that no such preventive measure was required. But what need was there [for the ruling[10] where] HE COHABITED WITH HER AND THEN ADDRESSED TO HER A MA'AMAR?[11] But [the fact is that] as he taught, IF THE LEVIR SUBMITTED TO HALIZAH AND THEN ADDRESSED TO HER A MA'AMAR,[12] he also taught: IF HE COHABITED WITH HER AND THEN ADDRESSED TO HER A MA'AMAR. And since he desired to teach the rule where 'he cohabited with her and then GAVE HER A LETTER OF DIVORCE' he also taught, IF THE LEVIR SUBMITTED TO HALIZAH and then GAVE HER A LETTER OF DIVORCE.

IF IT TOOK PLACE[13] etc. Our Mishnah cannot be reconciled with the opinion of the following Tanna: For it was taught: Abba Jose b. Johanan of Jerusalem reported in the name of R. Meir, 'Alike in the case of cohabitation or of halizah, [if it took place] first,[14] no act that follows has any validity; but if it occurred in the middle[14] or at the end,[14] something valid still remains'. On this question, in fact, three different views have been expressed. The first Tanna is of the opinion that in the case of cohabitation, where a preventive measure is required,[15] a preventive measure was made,[16] but in the case of halizah where no preventive measure is called for[17] no preventive measure was made. R. Nehemiah, on the other hand, is of the opinion that in the case of cohabitation also no preventive measure is called for.[18] And as to your possible objection that provision should be made where cohabitation followed a letter of divorce as a preventive measure against cohabitation that followed a halizah,[19] [it may be replied that] as halizah is a Pentateuchal law it is well known.[20] And as to your objection that provision should be made where cohabitation followed a ma'amar as a preventive measure against cohabitation that followed another cohabitation, [it may also be replied that] as kinyan by cohabitation is a Pentateuchal law it is certainly well known.[20] And Abba Jose b. Hanan,[21] again, holds the same view as the Rabbis[22] who ordained a preventive measure in the case of cohabitation,[23] and he made similar provision in the case of halizah as a preventive measure against cohabitation.

CHAPTER VI

MISHNAH. IF A MAN COHABITED WITH HIS DECEASED BROTHER'S WIFE,[24] WHETHER IN ERROR[25] OR IN PRESUMPTION,[26] WHETHER UNDER COMPULSION OR OF HIS OWN FREE WILL, EVEN IF HE ACTED IN ERROR AND SHE IN PRESUMPTION, OR HE IN PRESUMPTION AND SHE IN ERROR, OR HE UNDER COMPULSION AND SHE NOT UNDER COMPULSION, OR SHE UNDER COMPULSION AND HE NOT UNDER COMPULSION, WHETHER HE PASSED ONLY THE FIRST, OR ALSO THE FINAL STAGE OF CONTACT, HE CONSTITUTES THEREBY A KINYAN,[27] IRRESPECTIVE OF THE NATURE[28] OF THE INTERCOURSE.[29]

SIMILARLY, IF A MAN HAD INTERCOURSE[30] WITH ANY OF THE FORBIDDEN RELATIVES ENUMERATED IN THE TORAH, OR WITH ANY OF THOSE WHO ARE INELIGIBLE TO MARRY HIM AS, FOR INSTANCE, A WIDOW WITH A HIGH PRIEST, A DIVORCED WOMAN OR A HALUZAH WITH A COMMON PRIEST, A BASTARD OR A NETHINAH[31] WITH AN ISRAELITE OR THE DAUGHTER OF AN ISRAELITE WITH A BASTARD OR A NATHIN, HE HAS THEREBY RENDERED HER INELIGIBLE,[32] IRRESPECTIVE OF THE NATURE OF THE INTERCOURSE.[29] GEMARA. What is the purport of EVEN? — [The formula of] 'It is not necessary' is thereby to be understood: It is not necessary [to state that a kinyan is constituted where] he acted in error[33] and her intention was the performance of the commandment[34] or where he acted in presumption and her intention was the performance of the commandment,[35] but even if he acted in error and she in presumption,[36] or[37] he in presumption and she in error, so that the intention of neither of them was the fulfilment of the commandment,[38] a kinyan is nevertheless effected.

R. Hiyya taught: Even if both acted in error, both in presumption, or both under compulsion.[39] How is one to understand the action UNDER COMPULSION in our Mishnah? If it be suggested [that] idolaters compelled him to cohabit with her, surely [it may be pointed out] Raba stated: There can be no compulsion in sexual intercourse since erection depends entirely on the will! But when he slept?[40] Surely Rab Judah ruled

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(1) That there is no validity in the ma'amar.

(2) Even according to R. Akiba.

(3) By giving to the ma'amar the force of a valid betrothal and by subjecting the sister-in-law, in consequence, to the necessity of a divorce.

(4) Were the former to be regarded as invalid, the latter also might erroneously be so regarded.

(5) That there is no validity in the divorce where there is only one levir and one sister-in-law. (V. supra p. 331, n. 3).

(6) What possible consequences could ensue from the presumed validity of such a divorce that are not already in force as a result of the halizah? The halizah, like a divorce, causes the prohibition of the widow to the levir, and her relatives also are thereby forbidden as the relatives of his haluzah'!

(7) That nothing of the levirate bond remains after cohabitation and that, consequently. the divorce alone is a valid act and there is no need for halizah also.

(8) By requiring halizah in addition to the divorce.

(9) Were halizah to be dispensed with in the former case it might erroneously be presumed that as a letter of divorce alone is valid enough in this case it is also valid in the latter case, and thus divorce might be allowed to supersede the halizah of any sister-in-law.

(10) That there is no validity in the ma'amar.

(11) Of what consequence could the ma'amar be after cohabitation whereby the woman had become the levir's proper wife?

(12) Which was certainly necessary, as has just been explained.

(13) Lit., 'in the time when it is'.

(14) For an explanation of this term v. notes on our Mishnah supra.

(15) Since something of the levirate bond remains after an improper cohabitation.
(16) Hence he ruled that only when cohabitation had taken place at the beginning (but not when in the middle or at the end) does the levirate bond completely disappear.
(17) Because in his opinion even an improper halizah is valid in all respects.
(18) Maintaining as he does that nothing of validity remains either after halizah or after cohabitation.
(19) Were the former to be regarded as valid the latter also might be so regarded.
(20) And no one would draw comparisons between the two.
(21) Abbreviation of 'Johanan'.
(22) In our Mishnah.
(23) V. supra 50b.
(24) The widow of his deceased childless brother.
(25) Not knowing that she was his sister-in-law.
(26) To gratify his passions and with no intention of fulfilling the precept of the levirate marriage.
(27) Lit., 'he acquires her'. The widow is deemed to be his legal wife. He is entitled to the heirship of her estate; and she can be released only by a letter of divorce.
(28) Lit., 'and he made no distinction'.
(29) Whether it was natural or unnatural.
(30) In any of the circumstances mentioned.
(31) Fem. of nathin, v. Glos.
(32) To marry a priest, and to eat terumah even if she had previously been eligible to eat of it. This, of course, does not apply to the bastard and nethinah who are from birth ineligible either to marry a priest or to eat terumah. Their inclusion among the others merely serves the purpose of indicating that in their case also the penalty for illicit intercourse is imposed whether it was ONLY IN THE FIRST, OR ALSO IN THE FINAL STAGE.
(33) Not knowing that she was his sister-in-law.
(34) Of the levirate marriage.
(35) In such cases the validity of the kinyan is obvious.
(36) Cf. supra p. 355, n. 3.
(37) So Bah a.l. Cur. edd. omit 'or he . . . error'.
(38) Of the levirate marriage.
(39) Kinyan is nevertheless constituted.
(40) COMPULSION implying unconsciousness of action.

Talmud - Mas. Yevamoth 54a

that one in sleep cannot acquire his sister-in-law![1] But when accidental insertion occurred?[2] Surely Rabbah stated: One who fell from a roof and his fall resulted in accidental insertion, is liable to pay an indemnity[3] , for four things,[4] and if the woman was his sister-in-law no kinyan is thereby constituted![5] — It is[6] when, for instance, his intention was intercourse with his wife and[7] his sister-in-law seized him and he cohabited with her.

How is one to understand, 'Both under compulsion', taught at the School of R. Hiyya? — When, for instance, his intention was intercourse with his wife and idolaters seized him,[8] brought him and her[9] into close contact and he cohabited with her.

Whence these words?[10] — From what our Rabbis taught: Her husband's brother shall go in unto her[11] is a commandment.[12] Another interpretation: Her husband's brother shall go in unto her whether in error or in presumption, whether under compulsion or of his own free will.[13] But, surely, deduction has already been made from this text that it[14] is a commandment![15] — That it[14] is a commandment[16] may be inferred from And if the man like not[17] which implies that if he likes he contracts the levirate marriage;[16] so that the other text[11] may serve the purpose of deducing,[18] 'whether in error or in presumption, whether under compulsion or of his own free will'.[19]

Another [Baraitha] taught: Her husband's brother shall go in unto her,[11] in the natural way; and take her,[11] even though in an unnatural way;[20] and perform the duty of a husband's brother unto[21] her,[11] only the cohabitation consummates her marriage, but neither money[22] nor deed[22] can consummate her marriage; and perform the duty of a husband's brother unto her,[11] even against her will.[23]

The Master said:[24] 'Another interpretation: Her husband's brother shall go in unto her whether in error etc.' But, surely, deduction has been made from this text[11] that it[25] must be in the natural way! — This may be deduced from To raise up unto his brother a name,[17] [i.e.,] only where a name is raised up;[26] so that the other text[11] may be employed for the deduction,[27] 'whether in error or in presumption, whether under compulsion or of his own free will.'[28]

[To turn to] the main text. 'Rab Judah ruled that one in sleep cannot acquire his sister-in-law, for Scripture stated, Her husband's brother shall go in unto her,[29] only when the cohabitation was intentional'.[30] But, surely, it was taught: Whether he was awake or asleep! — Read: Whether she was awake or asleep. But, surely, it was taught: Whether he was awake or asleep; or whether she was awake or asleep! — This statement refers to one who was in a state of drowsiness. What state of drowsiness is hereby to be understood? R. Ashi replied: When a man is half asleep and half awake[31] as, for instance, when he answers on being addressed but is unable to give any sensible reply, and when he is reminded of anything he can recall it.

[To turn to] the main text. Rabbah stated: One who fell from a roof, and his fall resulted in accidental insertion, is liable to pay an indemnity for four things, and if the woman was his sister-in-law no kinyan is thereby constituted. [He must pay her for] bodily injury, for pain inflicted, for enforced unemployment, and for medical expenses; but he is not liable to indemnify her for indignity, for a Master said, 'One is not liable to pay any indemnity for indignity unless it was intentionally caused'.[32]

Raba said: If a levir's intention was to shoot[33] against a wall and he accidentally shot at his sister-in-law, no kinyan is thereby constituted;[34] if he intended, however, to shoot at a beast and he accidentally shot at his sister-in-law, kinyan is thereby constituted, since some sort of intercourse had been intended.

WHETHER HE PASSED ONLY THE FIRST . . . STAGE. 'Ulla stated: Whence is it proved that the first stage of contact is pentateuchally forbidden?[35] — It is said, And if a man shall lie with a menstruant woman,[36] and shall uncover her nakedness, he hath made naked her fountain[37] it is deduced from this text that the first stage of contact[38] is pentateuchally forbidden. Thus the case of a menstruant has been arrived at; whence that of other forbidden unions?[39] And were you to suggest that [their case] might be inferred from that of the menstruant, [it might be retorted] the menstruant is different since she causes the defilement of the man who cohabited with her.[40] — Rather the deduction[39] is made from 'a brother's wife' concerning whom it is written, And if a man shall take his brother's wife, she is a menstruant.[41] Now is a brother's wife always menstruant?[42] But [the meaning is] 'like a menstruant as with a menstruant the first stage constitutes the offence, so does the first stage constitute an offence with a brother's wife. But a brother's wife [it may be objected] is different since it is in his[43] power to increase the number, for should he wish, he could go on betrothing as many as a thousand![44] — The deduction[45] is rather made from the 'father's sister' and 'the mother's sister'. For it is written in Scriptures And thou shalt not uncover the nakedness of thy mother's sister, nor of thy father's sister, for he hath made naked his near kin.[46] But it may be objected that a father's sister and a mother's sister come under a different category, since the prohibition in their case is natural.[47] — If it[45] cannot be deduced from one category[48] then let it[49] be deduced from the two categories.[50]

From which[51] however shall deduction be made? Were it made from a brother's wife[52] and a father's sister[53] and a mother's sister,[53] [it might be objected that] those stand in a different category, since the prohibition of these is due to relationship![54] — Deduction is rather made[55] from the menstruant[56] and a father's sister and a mother's sister. Those however [it may be objected] are in a different category since the prohibition is natural![57] — The deduction[55] is rather made from the menstruant and a brother's wife; since no[58] objection can be raised [against the two].[59]

R. Aha son of R. Ika demurred: A menstruant and a brother's wife are different,[60] since marriage with them cannot be permitted during the lifetime of the man who caused their prohibition! Would you, then, apply [their restrictions] to a married woman who might be permitted to marry even during the lifetime of the man who caused her prohibition?[61]

Said K. Aha of Difti to Rabina: Are a menstruant and a brother's wife forbidden to marry only during the lifetime of the man who caused their prohibition but permitted after that?[62] With a menstruant, surely,

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(1) An unconscious act having no legal validity.

(2) When in a state of erection the levir fell from a raised bench upon his sister-in-law who happened to be below (v. Rashi).

(3) To the woman with whom the accidental contact had taken place.

(4) Bodily injury, pain, medical expenses and unemployment during illness. The damages or indemnity must be paid even if the injury was inflicted accidentally or under compulsion (v. B.K. 85b). An indemnity for the indignity caused by the injury is payable only when the act was wilful. V. infra.

(5) By the accidental contact. She does not thereby become his lawful wife.

(6) Intercourse under compulsion is possible.

(7) While he was in the state of erection.

(8) While he was in the state of erection.

(9) His sister-in-law'.

(10) The statement in the first clause of our Mishnah.

(11) Deut. XXV, 5.

(12) Halizah is a substitute only, and preference must always be given to levirate marriage.

(13) Whatever the circumstances the kinyan is valid.

(14) The levirate marriage. v. supra note 5.

(15) How then may a second deduction be made from the same text?

(16) V. supra note 5.

(17) Deut. XXV, 7.

(18) Lit., 'comes'.

(19) Whatever the circumstances the kinyan is valid.

(20) Whatever the nature of the intercourse the sister-in-law is thereby acquired by the levir as his lawful wife.

(21) v. Emden, a.l. and cf. M.T.

(22) Whereby kinyan of betrothal is usually executed.

(23) V. Kid. 14a.

(24) So Bah a.l. Cur. edd. omit.

(25) The cohabitation.

(26) From unnatural intercourse there is no issue and no name, of course, can be raised.

(27) Lit., 'comes'.

(28) Whatever the circumstances the kinyan is valid.

(29) Deut. XXV, 5.

(30) Emphasis on 'shall go in'.

(31) Lit., 'asleep and not asleep, awake and not awake'.

(32) Which was not the case here.

(33) A euphemism.

(34) The act of the intercourse having been accidental and unintentional.
(35) In the case of forbidden unions.
(36) דוה rendered by E.V. ibid., having her sickness.
(37) Lev. XX, 18.
(38) העראה (first stage) is of the same rt. as הערה he hath made naked (ibid.).
(39) That with the other relatives also, or with any woman one is forbidden to marry, the first stage constitutes the offence.
(40) He, like herself, remains levitically unclean for seven days (v. Lev. XV, 24). As the restrictions of the menstruant are more rigid in respect of the defilement of the man they may also be more rigid in respect of the first stage of contact. What proofs however, is this that prohibition of the first stage of contact extends to other forbidden unions?
(41) Lev. X, 21. נדה E.V., it is impurity.
(42) Surely not. Why then was she so described?
(43) The brother's.
(44) The number of relatives forbidden through marriage may be indefinitely increased. Hence only such relatives (e.g., a father's wife, daughter-in-law, mother-in-law) may be inferred from a brother's wife who also is a relative forbidden through marriage. What proof, however, does this provide that restrictions applicable to these are also applicable to relatives forbidden from birth (e.g, a mother, sister, daughter) whose number it is not in one's power to increase?
(45) v. supra note 3.
(46) Lev. XX, 19.
(47) I.e., they are relatives forbidden from birth. What proof, however, does this supply in the case of relatives by marriage? (Cf. supra p. 359, n. 8).
(48) Either from that of relatives from birth or from that of relatives by marriage.
(49) Cur. edd. insert in square brackets ‘one’.
(50) Any objection that might be raised against the one could not possibly apply to the other. (Cf. p. 359, nn. 8 and 11).
(51) Particular case or cases in the categories mentioned.
(52) A relative by marriage.
(53) A relative from birth.
(54) No proof would consequently be available that the same restriction is applicable to intercourse, for instance, with any married woman who is neither a relative from birth nor by marriage.
(55) V. supra p. 359, n. 3.
(56) Who may be a stranger.
(57) It is not due to any human act.
(58) Lit., ‘for what’.
(59) A brother's wife is a relative forbidden through marriage and consequently the second objection (v. supra p. 359. n. 1) cannot be advanced; while the first objection (v. supra p. 359, n. 8) and the third objection (v. supra n. 7) cannot be raised in view of the law of the menstruant.
(60) From the other women one is forbidden to marry.
(61) I.e., her husband, if he divorced her.
(62) When the man died.

Talmud - Mas. Yevamoth 54b

the prohibition depends on the number of days,[1] and with a brother's wife the All Merciful made her pro hibition dependent on the birth of children![2] — But the objection may be raised thus: A menstruant and a brother's wife are different,[3] since the man who caused them to be forbidden cannot cause them to be permitted.[4] Would you [then] apply their restrictions to a married woman whose permissibility is brought about[5] by the man who caused her to be forbidden? But, said R. Johanan, or as some say, R. Huna son of R. Joshua, Scripture stated, For whosoever shall do any of these abominations, even the souls that do them shall be cut off,[6] all forbidden unions were compared to the menstruant;[7] as the first stage constitutes the offence with the menstruant so does the first stage constitute the offence with all the others.

What need, then, was there[8] to mention the menstruant in the context of brother's wife?[9] — For an inference like that of R. Huna. For R. Huna stated: Whence in the Torah may an allusion to the sister-in-law[10] be traced? [You ask,] 'Whence'? Surely it is written in Scripture, Her husband's brother shall go in unto her![11] — [The query is] rather, whence the allusion that a sister-in-law is forbidden[12] during the lifetime of her husband?[13] But surely this is a logical inference: Since the All Merciful said that she[14] is permitted to marry after the death of her husband, it may be inferred that during the lifetime of her husband[13] she is forbidden! — [No] for is it not possible [to maintain] that after the death of her husband it[15] is a commandment, and during the lifetime of her husband it[15] is only optional? Or else, [though] indeed,[16] only after the death of the husband,[17] and not during the lifetime of her husband; yet being a negative commandment[18] that is derived from a positive one[19] it has only the force of a positive commandment![20] — Scripture stated: And if a man shall take his brother's wife, she is a menstruant.[21] Now is a brother's wife always a menstruant?[22] But the meaning is, 'like a menstruant': as a menstruant, although permitted afterwards,[23] is forbidden under the penalty of kareth during the period of her prohibition, so also a brother's wife, though permitted afterwards,[24] is forbidden under the penalty of kareth during the lifetime of her husband.

What need, however, was there to mention the first stage in connection with a father's sister or a mother's sister?[25] — For an inference like that mentioned in the following question which Rabina addressed to Raba: What is the law if a man passed the first stage in pederasty? [You ask,] 'What is the law in pederasty'? Surely it is written, As with womankind![26] — But [the query is] what is the law when one passed the first stage with a beast? The other replied: No purpose is served by the text[27] in [forbidding] the first stage in the case of a father's sister and a mother's sister, since in their case the prohibition is arrived at by the comparison of R. Jonah, apply that text to the first stage with a beast.

Observe! Intercourse with a beast is among the offences subject to the death penalties of a Beth din; why then was the first stage in relation to it enumerated among offences that are subject to the penalty of kareth?[28] It should rather have been written among those which are subject to the death penalty of the Beth din,[29] and thus one offence that is subject to the death penalty of a court would be inferred[30] from a similar offence that is subject to the death penalty of a court! — Since the entire context[31] was to serve the purpose of exposition,[32] this thing[33] was also included that it may serve the purpose of exposition.

What is the exposition?[34] — It was taught, Thou shalt not uncover the nakedness of thy father's sister,[35] whether she is paternal or maternal. You say, 'Whether she is paternal or maternal', perhaps it is not so, but only when she is paternal and not when maternal? — This[36] is only logical: A man is subject to a penalty[37] in this case and he is also subject to penalty[37] in the case of his sister; as with his sister it is the same whether she is paternal or maternal, so here also[38] it is the same whether she is paternal or maternal. But might it not be argued[39] in this way: A man is subject to a penalty[37] in this case and is also subject to a penalty[37] in the case of his aunt;[40] as his aunt is forbidden only when she is paternal[41] but not when maternal,[42] so here also[38] when she is paternal and not when maternal! — Let us consider whom it more closely resembles. A prohibition which is natural[43] ought to be inferred from a prohibition which is also natural[44] but let no proof be adduced from an aunt whose prohibition is not natural.[45] But might it not be argued[46] thus: The relatives of a father[47] should be inferred from the relatives of a father[40] but let no proof be adduced from a sister who is one's own relative! Hence it was stated,[48] Thou shalt not uncover the nakedness of thy father's sister,[49] implying[50] whether paternal or maternal, and Thou shalt not uncover the nakedness of thy mother's sister,[51] implying also whether paternal or maternal.

What need was there to write it[52] in respect of a father's sister and also in respect of a mother's sister?[53] — R. Abbahu replied: Both are required. For had the All Merciful written it[52] in respect of a father's sister [it might have been assumed to apply to her alone] because her relationship is legally

recognized,[54] but not to a mother's sister.[55] And had the All Merciful written it[56] in respect of a mother's sister [it might have been assumed to apply to her alone] because her relationship is certain, but not to her father's sister.[57] [Hence both were] required.

As to one's aunt concerning whom the Tanna had no doubt that she must be paternal[58] and not maternal, whence does he derive it? Raba replied: It is arrived at by a comparison between the words 'His uncle' [in two passages]: Here it is written, He hath uncovered his uncle's nakedness,[59] and there it is written, Or his uncle or his uncle's son may redeem him,[60] as there he must be paternal and not [necessarily] maternal[61] so here also, he[62] must be paternal[63] and not [necessarily] maternal. And whence is it[64] proved there? — Scripture stated, Of his family may redeem him,[60] and only a father's family may be called the proper family, but the mother's family cannot be called the proper family.[65]

But surely we learned: If a man was told, 'Your wife is dead', and he married her paternal sister; [and when he was told] 'She[66] also is dead', he married her maternal sister; 'She[67] too is dead', and he married her paternal sister; 'She[68] also is dead', and he married her maternal sister, he is permitted[69] to live with the first,[70] third[71] and fifth[72] who also exempt their rivals;[73] but he is forbidden to live with the second and the fourth,[74] and cohabitation with one of these does not exempt her rival. If, however, he cohabited with the second after the death of the first, he is permitted to live with the second[75] and with the fourth[76] who also exempt their rivals,[73] but he is forbidden to live[77] with the third and with the fifth.[78]

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(1) Even after the death of her husband she remains forbidden to marry anyone until the prescribed number of seven unclean days has passed.

(2) If she gave birth to any child she remains forbidden to her husband's brothers even after his death.

(3) From the other women one is forbidden to marry.

(4) The former is dependent on the prescribed number of days and the latter on the absence of any issue. And thus the original question remains: Whence is deduced the prohibition of the first stage of contact in the ease of all forbidden unions?

(5) Through divorce.

(6) Lev. XVIII, 29.

(7) who also was mentioned in the same Scriptural section.

(8) If all forbidden unions are compared with one another and are consequently equal in their restrictions.

(9) From which it was inferred supra that these two were to be compared with one another in respect of the first stage.

(10) The brother's wife.

(11) Deut. XXV, 5.

(12) To marry her husband's brother.

(13) Even if he had divorced her.

(14) The sister-in-law.

(15) Marriage by the levir.

(16) Lit., yes.

(17) May the levir marry her.

(18) Not to marry one's sister-in-law during the lifetime of her husband, his brother.

(19) Her husband's brother shall go in unto her after the death of his brother.

(20) The penalty for the transgression of which is not that of kareth. Whence therefore can he traced in the Bible that the penalty involved is kareth?

(21) V. supra p. 359, n. 5.

(22) V. supra p. 359, n. 6.

(23) When the days of her uncleanness are over.

(24) After her husband's death.

(25) Who also are included among the others and subject, therefore, to the same restrictions and penalties. Cf. supra p. 362, n. 8.

(26) Lev. XVIII, 22. Since pederasty is compared to natural intercourse it is obviously subject to the same restrictions

and penalties, including that of the first stage!
(27) Lev. XX, 19.
(28) Such as intercourse with a father's sister or a mother's sister.
(29) As, for instance, intercourse with a mother and a mother-in-law.
(30) As supra by R. Jonah's comparison.
(31) In which the cases of father's sister and mother's sister were enumerated.
(32) As will be shewn infra.
(33) The text from which the first stage with a beast is inferred.
(34) Just referred to.
(35) Lev. XVIII, 12.
(36) That a maternal sister is subject to the same restrictions as a paternal one.
(37) For intercourse.
(38) With one's father's sister.
(39) כלך ==כלה ולך 'cease and go', similar to apage, GR.**.
(40) The wife of his father's brother.
(41) When her husband is his father's paternal brother.
(42) If her husband was his father's maternal brother she is not forbidden under this category.
(43) Due to birth. A father's sister is forbidden from birth.
(44) One's own sister, whose prohibition also begins at birth.
(45) Her prohibition being due to the marriage with his father's brother.
(46) Cf. supra note 11.
(47) A father's sister, for instance.
(48) In addition to the prohibition in Lev. XX, 19, And thou shalt not uncover the nakedness of thy mother's sister nor of thy father's sister.
(49) Lev. XVIII, 12.
(50) By the repetition.
(51) Ibid. 13.
(52) The repetition.
(53) Even if one only had been repeated, the other could have been inferred from it.
(54) Children are legally ascribed to their paternal ancestry.
(55) Whose relationship is not legally recognized. V. supra note 7.
(56) The repetition.
(57) Who might not be his sister at all. There is no absolute proof that his father is also her father.
(58) The wife of his father's paternal brother.
(59) Lev. X, 20.
(60) Ibid. XXV,49.
(61) As will be shewn anon.
(62) The husband of his aunt.
(63) His father's paternal brother.
(64) That the relationship must be paternal.
(65) V. supra note 7.
(66) His second wife.
(67) His third wife.
(68) The fourth.
(69) If it is found that all these are alive.
(70) Since the marriage with her was valid.
(71) As the union with the second was unlawful, on account of her being his wife's sister, the marriage with her had no validity. As she is not his wife, her sister is a perfect stranger to the man who married them both in succession. The marriage with her sister (his third wife) is consequently valid.
(72) The union with the fourth being unlawful, owing to the legal marriage with her sister (the third wife) the marriage with the fifth is consequently legal. Cf. note 5.
(73) If he died without issue, and one of his brothers submitted to halizah from one of them.

(74) Because the legality of his marriage with the first and third renders them respectively forbidden as 'his wife's sister'. Cf. note 5.

(75) As the death of the first has removed from her the prohibition of 'wife's sister', the marriage with her is legal.

(76) As the marriage with the second was legally valid, that with the third (as wife's sister) was invalid. The fourth (sister of the third) being in consequence a mere stranger is therefore permitted to be married. Cf. supra note 5.

(77) Cf. previous notes mutatis mutandis.

(78) Infra 96a.

Talmud - Mas. Yevamoth 55a

From this it clearly follows that a wife's sister, whether she is paternal or maternal, is forbidden.[1] Whence, however, is this derived? — Deduction is made from one's sister; as a sister [is forbidden] whether she is paternal or maternal, so here also[2] whether she is paternal or maternal. But let the deduction[3] be made from one's aunt; as one's aunt [is forbidden only when she is] paternal[4] and not when maternal, so here[3] also [the prohibition should apply when she is] paternal and not when maternal! — It stands to reason that the deduction should be made from one's sister, since [laws concerning] his own relatives[5] [should be inferred] from [laws concerning others of] his own relatives.[6] On the contrary! Deduction[7] should have been made from one's aunt, since a relationship effected through betrothal[8] [should be inferred] from one effected through betrothal![9] — The deduction[7] is rather made from a brother's wife, since her relationship[10] is through betrothal, and she is of his own relatives.

Whence, however, is [the law concerning] a brother's wife herself derived? — From what was taught: Thou shalt not uncover the nakedness of thy brother's wife,[11] whether he is paternal or maternal. You say, 'Whether he is paternal or maternal', perhaps it is not so, but only when paternal and not when maternal? This is a matter of logical argument: He is subject to a penalty here[12] and he is also subject to penalty [for intercourse] with his sister; as [the prohibition of] his sister applies whether she is paternal or maternal, so here also[12] [the prohibition applies] whether he[13] was paternal or maternal. But might it not be argued[14] thus: He is subject to a penalty here[12] and he is also subject to penalty [for intercourse] with his aunt. As therefore [the prohibition of] his aunt applies only when she is paternal[15] and not when only maternal, so here[12] also [the prohibition applies only when he[13] is] paternal and not when only maternal! Let us observe whom the case[16] more closely resembles. Deduction concerning one's own relatives should be made from one's own relatives, and let no proof be adduced from one's aunt whose relationship is due to his father. But might it not be argued as follows:[14] Deduction should be made concerning a relationship which is due to betrothal[16] from a relationship that is due to betrothal,[17] but let no proof be adduced from a sister the prohibition of whom is natural![18] — For this reason[19] it was specifically stated in Scriptures, It is thy brother's nakedness,[20] implying[21] whether he is paternal or only maternal.

Might it not be suggested that the one as well as the other[22] speaks of the wife of a paternal brother, the one referring to a brother's wife who had children during the lifetime of her husband,[23] while the other refers to a brother's wife who had no children during the lifetime of her husband! — The case of one who had no children during the lifetime of her husband may be deduced from the statement of R. Huna.[24]

Might not both[25] still speak of the wife of a paternal brother, the one referring to a brother's wife who had children during the lifetime of her husband and the other to one who had children after the death of her husband! — The case of one who had children after the death of her husband requires no Scriptural text; for since the All Merciful said that she who had no children was permitted, it is obvious that if she had children she is forbidden.

Is it not possible that she who has no children is forbidden to all men but permitted to the levir

while she who has children is permitted both to all men and to the levir! Or else: If she has no children it is a commandment[26] but if she has children it is optional! Or else: [Though indeed] the levir may marry her if[27] she has no children but he may not if she has children, yet [as the prohibition[28] is] a negative commandment that is derived from a positive one[29] it has only the force of a positive commandment![30] — For this reason Scripture wrote another text,[31] He hath uncovered his brother's nakedness.[32] But might it be said that the wife of a maternal brother is like the wife of a paternal brother, and that as the wife of a paternal brother is permitted[33] after the death of her husband, so is also the wife of a maternal brother[34] permitted after the death of her husband! — Scripture said, She is,[35] she retains her status.[36]

What need was there to specify the penalty of kareth for intercourse with one's sister?[37] — To infer a ruling like that of R. Johanan. For R. Johanan stated: If one committed all these offences[38] in one state of unawareness, he is liable for every one of them.[39] According to R. Isaac, however, who stated, 'All those who are subject to the penalty of kareth were included in the general rule; and why was the penalty of kareth for [intercourse with] a sister stated separately? In order to indicate that his[40] penalty is kareth and not flogging',[41] whence is the division[42] deduced? — It is deduced from, And unto a woman . . . as long as she is impure by her uncleanness,[43] that guilt is incurred for every single woman.[44]

For what purpose did the All Merciful write, They shall be child less[45] in the case of one's aunt?[46] — It is required for an exposition like that of Rabbah. For Rabbah pointed out the following contradiction: It is written, They shall be childless,[45] and it is also written, They shall die childless![47] How [are these two versions to be reconciled]? If he has children he will bury them; if he has no children, he will be childless.[48]

And it was necessary to write They shall be childless,[45] and it was also necessary to write, They shall die childless.[47] For had the All Merciful written only, They shall be childless,[45] it might have been assumed to refer to children born before the offence[49] but not to those born subsequent to the offence,[50] hence the All Merciful wrote, They shall die childless.[47] And had the All Merciful written, They shall die childless,[47] it might have been assumed to refer to those born subsequent to the offence,[51] but not to those who were born previously,[50] [hence both texts were] required.

Whence [is the prohibition of] the first stage among those who are subject to the penalty of negative commandments[52] to be inferred? — As the All Merciful specified carnally[53] in the case of a designated[54] bondmaid,[55] it may be inferred that among all the others who are subject to the penalty of negative commandments,[56] the first stage by itself constitutes the offence.[57] On the contrary! As the All Merciful specified the first stage in the case of those who are subject to the penalty of kareth,[58] it may be inferred that among those who are subject to the penalty of negative commandments consummation only constitutes the offence! — R. Ashi replied: If so,[59] Scripture should have omitted [the reference][60] in the case of the designated handmaid.[61]

Whence [is the prohibition of] the first stage inferred in the case of offences for which priests alone are subject to the penalty of negative commandments?[62] — This is arrived at by an analogy between the expressions of 'taking'.[63]

Whence [is the prohibition[64] in respect of] those who are subject[65] to the penalty of a positive commandment[66] inferred?

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(1) Since the third, the maternal sister of the second, is permitted only on account of the illegality of the marriage of the second, but is forbidden where the marriage with the second is legal.

(2) A wife's sister is forbidden.

(3) In respect of a wife's sister.

(4) When her husband is his father's paternal brother.
(5) A wife's sister whose relationship to him is due to his own (and not his father's) act of marriage with her sister.
(6) His sister. An aunt's relationship, however, is due not to his own, but his father's relationship with her husband. V. supra.
(7) In respect of a wife's sister.
(8) A man's wife's sister is related to him through betrothal of her sister (his wife).
(9) The aunt whose relationship to him is due to her betrothal by his uncle.
(10) Like that of his wife's sister.
(11) Lev. XVIII, 16.
(12) For intercourse with a brother's wife.
(13) The brother.
(14) V. supra p. 363, n. 11.
(15) When her husband is his father's paternal brother.
(16) A brother's wife.
(17) V. supra note 5.
(18) It is due to vicissitudes of birth and not to any act of his.
(19) To exclude this argument.
(20) Lev. XVIII, 16b.
(21) Since, in view of Lev. XVIII, 16a, it is superfluous.
(22) The two sections of the verse cited.
(23) Who divorced her.
(24) Supra 54b; and no special text is needed for the purpose.
(25) The two sections of the verse cited.
(26) That the levir marries her.
(27) Lit.,'yes'.
(28) Not to marry a wife of a deceased brother if she has children.
(29) Her husband's brother shall go in unto her if she has no children.
(30) The penalty for the transgression of which is not that of kareth!
(31) Which, in view of the texts from Lev. XVIII, 16a and b, is superfluous.
(32) Lev. XX, 21, to indicate that the prohibition is to apply to all cases whether that of a paternal or only that of a maternal brother.
(33) To marry the levir if her husband died without issue.
(34) Who died childless.
(35) E.V. 'it is'. Lev. XVIII, 16, which speaks also, as deduced supra, of the wife of a maternal brother.
(36) As she was forbidden to the levir during the lifetime of her husband she remains so after his death.
(37) Her case, surely, is included in Lev. XVIII, 29, among all the others with whom intercourse is forbidden under the penalty of kareth!
(38) Of forbidden intercourse.
(39) Mak. 14a, Ker. 2b. Because the penalty of kareth was specifically mentioned in the case of intercourse with a sister who is taken as an example for all the others included in the general statement in Lev. XVIII, 29. This is in accordance with the principle that if any case is included in a general rule and is then made the subject of a special statement, that which is predicated of it is to be applied to the whole of the general rule. Had not the sister been mentioned separately it might have been assumed that as all the offences were included in the general prohibition, and as they were all committed in one state of unawareness, one liability only is incurred for all.
(40) The brother's.
(41) Even though he had been duly warned.
(42) That liability is incurred for every single offence even though all were committed in one state of unawareness.
(43) Lev. XVIII. 19, emphasis on woman. Since, instead of the longer expression 'A woman . . . as long as she is impure by her uncleanness', the shorter one, 'a menstruant could have been used.
(44) With whom intercourse took place; v. Mak. Sonc. ed. pp. 97ff.
(45) Lev. XX, 21.
(46) By childless עירים the penalty of kareth is understood: Not only the offender but his children also are thereby

cut off.
(47) Ibid. 20.
(48) V. infra nn. 5ff.
(49) The expression shall be childless would have been taken to imply that the children born prior to the offence would die as a result of the offence. The parents, however, would not die childless because the children born after the offence would live.
(50) Who would live. V. supra note 5.
(51) Shall die childless, being preceded by They shall bear their sin (Lev. XX, 20), implying that the penalty would affect only those children who were born after the sin had been committed.
(52) I.e., to flogging but not to kareth.
(53) Lev. XIX, 20, implying the second stage of consummation.
(54) חרופה This form of the kinyan by a Jewish slave of a Canaanitish bondwoman takes the place of the ordinary betrothal of a free woman.
(55) Intercourse with whom is forbidden by a negative commandment and is consequently subject to the penalty of flogging, in addition to the prescribed guilt-offering (v. Lev. XIX, 21f).
(56) Such as a bastard and an undesignated bondmaid.
(57) As only the designated bondmaid must pass the second stage in order to constitute an offence for which liability to a guilt-offering is incurred, it follows that in all the other cases, where no guilt-offering is ever incurred, the offence is constituted with the first stage alone.
(58) In Lev. XVIII, 29.
(59) That with all the others who are subject to the penalty of negative commandments the offence is not constituted unless, as with the designated bondmaid, the second stage was passed.
(60) 'Carnally'. Lit., 'let the text keep silence.'
(61) Since, however, the second stage was specifically postulated in her case, it follows that with all the others the first stage by itself constitutes the offence.
(62) From the designated maid supra only such prohibitions may he inferred as are applicable to all and not to priests only.
(63) The expression of 'taking' is used in the case of intercourse with a sister (Lev. XX, 17) which is punishable by kareth, and a similar expression is used in the case of marriages forbidden to priests under the penalty of a negative commandment (Lev. XXI, 7).
(64) Of the first stage.
(65) For intercourse with an Israelite's daughter.
(66) An Egyptian or an Edomite, for instance, (v. Deut. XXIII, 8, 9) whose prohibition to marry an Israelite's daughter is based on the positive precept, The third generation . . . shall (E.V. may) enter into the assembly of the Lord, which implies that the first and second generations must not. A negative precept derived from a positive one has the force of a positive precept.

Talmud - Mas. Yevamoth 55b

— It is arrived at by an analogy between the two expressions of 'coming'.[1]

Whence [the prohibition of a yebamah][2] to a stranger?[3] — If [one follows] him who holds that it[4] is a negative precept,[5] [it would be subject to the same restrictions as any other] negative precept;[6] if [one follows] him who holds that it[7] is a positive precept,[8] [it would be subject to the same restrictions as any other] positive precept.[6] Whence, however, [its[9] force[10] in respect of] the yebamah and the levir? — It is arrived at by the analogy between the two expressions of 'coming'.[11]

Whence [its[9] force[12] in respect of the kinyan], between husband and wife? — It is arrived at by comparison between the expressions of 'taking'.[13]

Raba said: For what purpose did the All Merciful write 'carnally' in connection with the designated bondmaid,[14] a married woman,[15] and a sotah?[16] That in connection with the designated

bondmaid [is required] as has just been explained.[17] That in connection with a married woman excludes intercourse with a relaxed membrum.[18] This is a satisfactory interpretation in accordance with the view of him who maintains that if one cohabited with forbidden relatives with relaxed membrum he is exonerated;[19] what, however, can be said, according to him who maintains [that for such an act one is] guilty? — The exclusion is rather that of intercourse with a dead woman.[20] Since it might have been assumed that, as [a wife], even after her death, is described as his kin,[21] one should be guilty for [intercourse with] her [as for that] with a married woman, hence we were taught [that one is exonerated]. What was the object of that[22] of the sotah? — Such as was taught: Carnally[22] excludes [the case where the husband's warning was] concerning something else. What is meant by 'something else'? R. Shesheth replied: The exclusion is the case where he warned her concerning unnatural intercourse. Said Raba to him: The text reads, As with womankind![23] — Rather, said Raba, the exclusion is the case where the husband's warning concerned lecherous contact of her limbs. Said Abaye to him: Has the All Merciful forbidden [a wife to her husband] because of obscenity?[24] — Rather, said Abaye, the exclusion is the case where the husband's warning was concerning superficial contact.[25] This is a satisfactory explanation according to him who maintains that the first stage of contact[26] is the insertion of the corona;[27] what can be said, however, according to him who maintains that it[28] is the superficial contact![29] — The exclusion is rather the case where he warned her concerning lecherous contact of her limbs; but[30] it was necessary [to state it, because] it might have been assumed that, as the All Merciful has made the prohibition[31] dependent on the objection of the husband,[32] [the woman should here be forbidden] since he objected,[33] hence we were taught [that such a case is excluded].

Samuel stated: The first stage is constituted by superficial contact.[25] This may be compared to a man who puts his finger to his mouth; it is impossible for him not to press down the flesh. When Rabbah b. Bar Hana came[34] he stated in the name of R. Johanan: Consummation in the case of a designated bondmaid is constituted by the insertion of the corona.

R. Shesheth raised an objection: 'Carnally[35] implies that guilt is incurred only when intercourse was accompanied by friction';[36] does not this refer to friction of the membrum! — No; friction of the corona.

When R. Dimi came[34] he stated in the name of R. Johanan: The first stage is constituted by the insertion of the corona. They said to him: But, surely, Rabbah b. Bar Hana did not say so! — He replied: Then either he is the story-teller[37] or I.[38]

When Rabin came[34] he stated in the name of R. Johanan, 'The first stage is constituted by the insertion of the corona'. He is certainly in disagreement with the report of Rabbah b. Bar Hana.[39] Must it be said, however, that he differs also from Samuel?[40] — No; [the entire process] from the superficial contact until the insertion of the corona is described as the first stage.[41]

When R. Samuel b. Judah came[34] he stated in the name of R. Johanan, 'The first stage is constituted by the insertion of the corona; and the final stage, by actual consummation.

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(1) The expression of 'coming' is used with a case that is forbidden by a negative precept (Deut. XXIII, 3) as well as with those whose prohibition is derived from a positive precept (ibid. 9) and whose penalty is kareth. Cf. note 9 supra.

(2) Prior to halizah.

(3) Lit., 'to the street'.

(4) The marriage with a stranger before halizah had been performed.

(5) Derived from Deut. XXV, 5, Shall not be married abroad.

(6) And, as has been shewn supra, the first stage is included in the restrictions.

(7) The marriage with a stranger before halizah had been performed.

(8) From Deut. XXV, 5, it follows that the levir shall marry her (positive); hence no other (negative); and a negative

precept derived from a positive one has the force of the positive.
(9) Of the first stage.
(10) To constitute levirate marriage as if actual cohabitation had taken place.
(11) Cf. supra p. 370, n. 10. The expression of 'coming' is also used in respect of the levir (v. Deut. XXV, 5).
(12) Cf. supra note 5.
(13) Used in the case of husband and wife (Deut. XXIV, 1) as well as in that of those whose penalty is kareth. Cf. supra p. 370, n. 10.
(14) Lev. XIX, 20.
(15) Ibid. XVIII, 20.
(16) Num. V, 13.
(17) Supra 55a.
(18) Since no fertilisation can possibly result.
(19) Shebu. 18a, Sanh. 55a.
(20) Even though she died as a married woman.
(21) In Lev. XXI, 2, where the text enumerates the dead relatives for whom a priest may defile himself. As was explained, supra 22b, his kin refers to one's wife.
(22) The expression 'carnally' in Num. V, 13.
(23) Lev. XVIII, 22, in which natural and unnatural intercourse are regarded as analogous (v. Sanh. 54a). What matters it then for which she was warned!
(24) Surely not. For mere laxity, in the absence of adultery, a wife would not have been subjected to such a severe penalty. What need then was there to state the obvious?
(25) Lit., 'kissing'.
(26) Which is forbidden.
(27) Infra. As this stage only constitutes cohabitation and causes the prohibition of the woman to her husband, it is possible to exclude from such prohibition the earlier stage of superficial contact.
(28) The 'first stage' that is forbidden.
(29) How can this be excluded from the prohibition in view of the ruling that the first stage does constitute cohabitation!
(30) Despite Abaye's objection (v. supra note 3).
(31) Of a sotah to her husband.
(32) The laws of the sotah apply only where such an objection or warning has been expressed.
(33) By his warning.
(34) From Palestine to Babylon.
(35) Lev. XIX, 20, dealing with a designated bondmaid.
(36) מירוק 'friction', Syr.-Aram. rt. מרק So Golds. against Levy's (III, p. 260) Ergiessung which he regards as an error based on a misunderstanding of Rashi.
(37) Lit., 'liar'. Rabbah h. Bar Hana was a well known teller of hair-raising stories (Cf. B.B. 73aff). and sometimes made self-contradictory statements on questions of halachah also (cf. Hul. 97a, Kid. 75b).
(38) Lit., 'I lied', i.e., they had his word against Rabbah b. Bar Hana's, and it was for them to decide the report of which of them was the more reliable.
(39) Who regards this act as consummation.
(40) Who reported that superficial contact alone constitutes the first stage.
(41) On this both Samuel and Rabin agree; the one mentioning the beginning of the process and the other the conclusion.

Talmud - Mas. Yevamoth 56a

Beyond this, the act is no more than superficial contact and one is exonerated in regard to it'. He thus differs from Samuel.

WHETHER HE PASSED ONLY THE FIRST, OR ALSO THE FINAL STAGE OF CONTACT HE CONSTITUTES THEREBY A KINYAN. In what respect is kinyan constituted? — Rab replied: Kinyan is con stituted in all respects;[1] and Samuel replied: Kinyan is constituted only in respect of the things specified in the section,[2] viz., to inherit the estate of his brother[3] and to exempt her[4] from

the levirate marriage.[5] If [she[6] became subject to the levir] after her marriage[7] she may, according to the view of all,[8] eat [terumah],[9] since she has been eating it before.[10] They differ only [where she became subject to the levir] after betrothal.[7] Rab maintains that she may eat, since the All Merciful has included cohabitation in error, [giving it the same validity] as when done presumptuously. But Samuel maintains that the All Merciful has included it[11] in so far only as to put him[12] in the same position as the husband,[13] but not to confer upon him more power than upon the husband.[14] And [in giving this ruling] Samuel is consistent with his own view, for R. Nahman stated in the name of Samuel: wherever the husband entitles her to eat, the levir also entitles her to eat; and wherever the husband does not entitle her to eat the levir also[15] does not entitle her to eat.

An objection was raised: 'If the daughter of an Israelite, capable of bearing, was betrothed to a priest capable of hearing, who became deaf before he had time to marry her, she may not eat [terumah].[16] If he died[17] and she became subject to a deaf levir, she may eat;[18] and in this respect the power of the levir is superior to that of the husband'. Now, according to Rab, this statement is perfectly satisfactory.[19] According to Samuel, however, a difficulty arises![20] Samuel can answer you: Read thus . . . who became deaf before he had time to marry her, she may not eat [terumah]; if, however, he married her and then became deaf she may eat it; if he died and she became subject to a deaf levir, she may eat it'.[21] 'Then what is meant by 'in this respect'?[22] — While if the husband had been deaf before,[23] she would not have been entitled to eat, if the levir had been deaf before[23] she may eat.

Others say: If [she[24] became subject to the levir] after her betrothal[25] all[26] agree that she may not eat [terumah], since 'she was not allowed to eat it during the lifetime of her husband. They differ only [when she became subject to the levir] after her marriage.[25] Rab maintains that she may eat, since she has been eating before; but Samuel maintains that she may not eat, because the All Merciful has included cohabitation in error, [giving it the same force] as cohabitation in presumption, only in respect of the things that were enumerated in the section,[27] but not in all other respects. But surely R. Nahman stated in the name of Samuel, 'Wherever the husband entitles her to eat the levir also entitles her to eat'![28] — Read: Every cohabitation whereby a husband entitles her to eat also entitles her to eat if performed by the levir, and every cohab itation whereby the husband does not entitle her to eat, does not entitle her to eat if performed by the levir.

An objection was raised: 'If the daughter of an Israelite capable of hearing was betrothed to a priest capable of hearing, who became deaf before he had time to marry her, she may not eat [terumah].[29] If he died[30] and she became subject to a deaf levir she may eat;[31] and in this respect the power of the levir is superior to that of the husband'. Now, according to Rab,[32] this[33] might well be explained as was explained above;[34] according to Samuel, however, a difficulty arises![35] — This is indeed a difficulty.

Our Rabbis taught: If the daughter of an Israelite capable of hearing was betrothed to a priest capable of hearing, who became deaf before he had time to marry her, she may not eat [terumah].[36] If a son was born to her she may eat.[37] If the son died,[38] R. Nathan said, she may eat;[39] but the Sages said: She may not eat. What is R. Nathan's reason?[40] Rabbah replied: Because she was eating[41] before. Said Abaye to him: What now? would the daughter of an Israelite who was married to a priest who subsequently died[42] be entitled to eat [terumah] because she was eating it before? But[43] [the fact is that] as soon as [her husband] died his sanctity is withdrawn from her; so here also as soon as [the son] died his sanctity is withdrawn from her![44] — Rather, said R. Joseph, R. Nathan holds that marriage with a deaf [priest][45] does entitle the woman to eat terumah,[46] and that no prohibition[47] is to be made in respect of the marriage of a deaf priest[48] as a preventive measure against the betrothal of a deaf priest.[49] Said Abaye to him: If so,[50] what need was there [to state] 'If a son was born to her'? — Because of the Rabbis.[51] Then[52] R. Nathan should have expressed his disagreement with the Rabbis in the first clause![53] — He allowed the Rabbis to finish their statement

and then expressed his disagreement with them.[54] If so,[55] the statement should have read, 'If the son died she may not eat;[56] R. Nathan said: She may eat'?[57] — This is a difficulty.

SIMILARLY, IF A MAN HAD INTERCOURSE WITH ANY OF THE FORBIDDEN RELATIVES. R. Amram said: The following statement was made to us by R. Shesheth

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(1) The yebamah may even eat of terumah if the levir was a priest.

(2) Deut. XXV, 5ff, which deals with the obligations and privileges of the levir and the yebamah.

(3) Inferred from v. 6 in the section.

(4) If he died without issue from her but had children from another wife, or if he divorced her.

(5) The first stage having the same validity as actual marriage.

(6) The sister-in-law upon whom one of the forms of kinyan, including cohabitation in error, spoken of in our Mishnah had been executed.

(7) With her husband, the levir's deceased brother.

(8) Rab and Samuel.

(9) If the levir was a priest.

(10) While she was still with her husband.

(11) Cohabitation in error.

(12) The levir.

(13) He is entitled to confer upon his sister-in-law the same rights that had been conferred upon her by her husband. Hence, if she was married and entitled to eat terumah the levir also may confer upon her this privilege.

(14) As her husband's priesthood did not entitle her to eat terumah during the period of their betrothal, since only actual marriage can confer this privilege, the levir also cannot now confer this privilege upon her.

(15) If the kinyan was in one of the imperfect forms spoken of in our Mishnah.

(16) Even after their marriage. The reason will be explained infra.

(17) After the marriage.

(18) After the levirate marriage. The cohabitation of a deaf levir is considered to be no less valid to constitute a kinyan than the imperfect forms of kinyan mentioned in our Mishnah which constitute kinyan in the case of any levir.

(19) Because he regards an imperfect cohabitation which in ordinary cases constitutes no kinyan as valid in the case of the levir.

(20) According to him, imperfect cohabitation confers no more rights through the levir than through the husband; and here it is stated that the levir entitles her to eat terumah though her husband could not confer this privilege upon her!

(21) Because she was entitled to the same privilege during the lifetime of her husband,

(22) If she is only entitled to the privilege she enjoyed during the lifetime of her husband, in what respect is 'the power of the levir superior to that of the husband'?

(23) He married her.

(24) V. supra p. 374, n. 6.

(25) V. loc. cit., n. 7.

(26) V. loc. cit., n. 8.

(27) V. loc. cit., n. 2.

(28) How then could Samuel maintain that 'she may not eat' even though she had enjoyed that privilege while her husband was alive?

(29) V. supra p. 374, n. 16.

(30) V. loc. cit., n. 17.

(31) V. p. 375, n. 1.

(32) Though he maintains (according to the second version) that the levir does not confer any privileges that were not previously conferred by the husband.

(33) The statement just cited that she may eat terumah if the levir is deaf though she was not permitted to eat it while her husband was alive.

(34) I.e., the explanation given supra, in reply to the objection raised against Samuel, may now be given as a reply to the objection against Rab, viz., that the clause, 'If however, he married her and then became deaf she may eat it', is to be inserted before 'If he died and she became subject to a deaf levir, she may eat', the last clause thus referring to a married

woman that was permitted to eat terumah during the lifetime of her husband.
(35) Since, in his opinion (according to the second version), the deaf levir (whose kinyan has the same validity as that effected through the imperfect forms mentioned in our Mishnah) does not confer the privilege of eating terumah even if the woman had enjoyed the privilege while her husband was alive.
(36) V. supra p. 374. n. 16.
(37) The terumah; by virtue of her son, as deduced from Lev. XXII, 11, infra 67a.
(38) But was survived by his father.
(39) By virtue of her husband.
(40) Why may she eat now by virtue of her husband while in the previous case, where she never had a son, her husband could not confer that privilege upon her?
(41) V. supra note 9.
(42) Not being survived by any son.
(43) Since the law is that she may not.
(44) How, then, could R. Nathan allow her to continue to eat terumah?
(45) Where the betrothal took place while he was still capable of hearing.
(46) Because Pentateuchally the betrothal confers the privilege upon her. Its postponement until after the marriage is merely a preventive measure Rabbinically instituted (v. Keth. 57b). which is, of course, not applicable here where marriage with the deaf man had already taken place.
(47) Against the woman's eating of terumah.
(48) V. supra note 3.
(49) There is no need to provide against the possibility of mistaking betrothal for marriage and for thus allowing a woman to eat terumah immediately after betrothal, since it is well known that the betrothal of a deaf man has no validity. The Rabbis who forbid the woman to eat terumah even after the marriage, it may be explained, provided against the possibility of mistaking such a marriage which followed a betrothal that took place while the priest was still capable of hearing (which Pentateuchally entitles the woman to the privilege) for one which followed a betrothal that took place when he was already deaf and which is Pentateuchally invalid.
(50) If according to R. Nathan it is the marriage, even though there was no son, that entitles the woman to the terumah.
(51) Who in such a case only agree with R. Nathan that the woman may eat terumah.
(52) Since he maintains that after the marriage, though there was no son, the woman is entitled to the privilege.
(53) Where the woman is prohibited to eat terumah even after the marriage.
(54) With their views in both the first and the final clause.
(55) That R. Nathan reserved his opinion until the Rabbis had finished their full statement.
(56) Which would have concluded the statement of the Rabbis.
(57) I.e., R. Nathan's view would thus have come at the very end. As, however, his opinion is inserted before ‘she may not eat’ which is the statement of the Rabbis, it cannot he maintained any more that he was waiting until they had concluded their full statement, and the original difficulty consequently arises again.

Talmud - Mas. Yevamoth 56b

who enlightened us on the subject[1] from our Mishnah. ‘An Israelite's wife who was outraged, though she is permitted to her husband, is disqualified from the priesthood;[2] and so it was taught by our Tanna:[3] SIMILARLY, IF A MAN HAD INTERCOURSE WITH ANY OF THE FORBIDDEN RELATIVES ENUMERATED IN THE TORAH, OR WITH ANY OF THOSE WHO ARE INELIGIBLE TO MARRY HIM; now, what is the purport of SIMILARLY? Does it not mean, WHETHER IN ERROR OR IN PRESUMPTION, WHETHER UNDER COMPULSION OR OF HIS OWN FREE WILL? And yet it was stated, HE HAS THEREBY RENDERED HER INELIGIBLE’.[4] — No; SIMILARLY might refer[5] to the FIRST STAGE.[6] ‘To the first stage’ with whom? If it be suggested, ‘With one of the forbidden relatives’, does this then imply [it might be retorted] that the case of the forbidden relatives is derived from that of the sister-in-law?[7] On the contrary, the case of the sister-in-law was derived from the forbidden relatives, since the original prohibition of the first stage was written in connection with the forbidden relatives! — Rather, SIMILARLY refers[8] to Unnatural intercourse with forbidden relatives.[9] On the contrary; the original

prohibition of the various forms of intercourse with a woman was written in connection with the forbidden relatives![10] — Rather, SIMILARLY refers[8] to unnatural intercourse with those [cohabitation with whom is] subject to the penalty of negative precepts.[11]

Rabbah[12] stated: If the wife of a priest had been outraged, her husband suffers the penalty of flogging on her account[13] for [cohabiting with] a harlot.[14] Only for [cohabiting with] a harlot, but not for 'defilement'?[15] — Read, 'Also for [cohabitation with] a harlot'.[16]

R. Zera raised an objection: And she be not seized,[17] she is forbidden; if, however, she was seized[18] she is permitted.[19] But there is another woman who is forbidden[19] even though she was seized.[18] And who is that? The wife of a priest. Now, a negative precept[20] that is derived from a positive one[21] has only the force of a positive precept![22] — Rabbah replied: All[23] were included in the category of harlot.[24] When, therefore, Scripture specified in the case of the wife of an Israelite that only if she be not seized[17] she is forbidden but if she was seized[18] she is permitted, it may be inferred that the wife of a priest retains her forbidden status.[25]

Others say: Rabbah stated, If the wife of a priest had been outraged, her husband suffers for her the penalty of flogging[26] on account of 'defilement'.[27] Only on account of 'defilement' but not for [connubial relationship with] a harlot. Thus it is obvious that [when the woman acted] under compulsion she is not to be regarded as a harlot. R. Zera raised an objection: 'And she be not seized,[28] she is forbidden; if, however, she was seized[29] she is permitted. But there is another woman who is forbidden[30] even though she was seized.[29] And who is that? The wife of a priest'. Now, a negative precept[31] that is derived from a positive one[32] has only the force of a positive precept![33] — Rabbah[34] replied: All[35] were included in [the prohibition to live with her] after that she is defiled.[36] When, therefore, Scripture specified in the case of the wife of an Israelite that only when she be not seized[37] she is forbidden, but if she was seized[38] she is permitted, it may be inferred that the wife of a priest retains her forbidden status.[39]

MISHNAH. THE BETROTHAL OF A WIDOW TO A HIGH PRIEST AND OF A DIVORCED WOMAN OR A HALIZAH TO A COMMON PRIEST[40] DOES NOT CONFER UPON THEM THE RIGHT TO EAT TERUMAH.[41] R. ELEAZAR AND R. SIMEON, HOWEVER, DECLARE THEM ELIGIBLE.[42] IF THEY BECAME WIDOWS OR WERE DIVORCED AFTER MARRIAGE THEY REMAIN INELIGIBLE;[43] IF AFTER BETROTHAL THEY BECOME ELIGIBLE.[44]

GEMARA. It was taught: R. Meir said, [this[45] may be arrived at by an inference] a minori ad majus: If permissible betrothal[46] does not confer the right of eating terumah, how much less forbidden betrothal.[47] They, however, replied: No; if you have said it[48] in respect of permissible betrothal[46] where the man may never confer the right of eating,[49] would you also say it[48] in respect of sinful betrothal[47] where the [priest], in other circumstances,[50] is entitled to confer the right of eating?[51]

R. Eleazar stated in the name of R. Oshaia: In the case where a priest who was wounded in the stones[52] betrothed a daughter of an Israelite,[53] we have a difference of opinion between R. Meir and R. Eleazar and R. Simeon. According to R. Meir who holds that a woman awaiting a pentateuchally forbidden cohabitation[54] may not eat terumah, this woman also[55] may not eat; but according to R. Eleazar and R. Simeon who maintain that a woman awaiting a pentateuchally forbidden cohabitation[54] may eat

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(1) Lit., 'and lit up our eyes'.

(2) Supra 35a. She may not marry a priest even after the death of her husband.

(3) In our Mishnah תונא == our Tanna (Rashi). ותנא תונא == and our Tanna also taught so. Others render תונא 'confirmation: ותוא תונא == and the Tanna is (or provides) confirmation (v. Jast.). [Or, ותוא תונא

'The Tanna teaches', v. Epstein, Schwarz-Festschrift pp. 319ff].

(4) To marry a priest. Since a married woman is subject to the same restrictions as the 'forbidden relatives', she being included in the penalty of incestuous unions in Lev. XVIII (v. verse 20), it follows that whatever renders the forbidden relatives in our Mishnah ineligible to marry a priest renders a married woman also ineligible. As 'outrage' or 'intercourse under compulsion' is included, our Mishnah must be in agreement with the ruling of R. Shesheth.

(5) Lit., 'what'.

(6) I.e., as in the previously mentioned cases so in the following, the first stage has the same force as consummation. The ineligibility of an outraged woman, therefore, does not at all come within the purview of our Mishnah.

(7) Since the law in the latter is made to apply by comparison also to the former.

(8) Lit., 'what'.

(9) The meaning being that as with the sister-in-law so with the other forbidden relatives kinyan is constituted IRRESPECTIVE OF THE NATURE OF THE INTERCOURSE, even if it was unnatural. Cf. supra p. 378, n. 6 second clause.

(10) The case of the sister-in-law is derived from them; not theirs from hers.

(11) Cf. supra p. 378, n. 6 and supra n. 2 mutatis mutandis.

(12) Cur. edd., 'Raba'.

(13) If he has intercourse with her.

(14) Who is forbidden to a priest (v. Lev. XXI, 7) whether her adultery was committed willingly or under compulsion. It is in the case of an Israelite only that a distinction is made between a woman's voluntary and compulsory adultery.

(15) If to an Israelite she is forbidden on account of her defilement when her act was voluntary (v. supra 11b), she should be forbidden to a priest on the same account even when her act was under compulsion!

(16) He suffers for both.

(17) Num. V, 13. E.V., neither she be taken in the act.

(18) I.e., if she acted under compulsion.

(19) To her husband.

(20) That a priest must not live with his outraged wife.

(21) An Israelite only may live with such a wife.

(22) It is not punishable by flogging. How then could Rabbah subject the husband to such a penalty?

(23) Married women who played the harlot whether willingly or under compulsion.

(24) Who is forbidden to her husband by a negative precept.

(25) Her prohibition to the priest, even if she acted under compulsion, is consequently derived from the original negative precept, and not, as had been assumed, from the positive precept relating to an Israelite.

(26) If he has intercourse with her.

(27) V.supra p. 379, n.8.

(28) Num. V, 13. E.V., neither she be taken in the act.

(29) I.e., if she acted under compulsion.

(30) To her husband.

(31) Cf. supra p. 379, n. 13 mutatis mutandis.

(32) An Israelite only may live with such a wife.

(33) V. supra p. 379, n. 15.

(34) So Bah. Cur. edd., 'Raba'.

(35) V. supra p. 379, n. 16.

(36) Deut. XXIV, 4.

(37) Num. V, 13, E.V., neither she be taken in the act.

(38) I.e., if she acted under compulsion.

(39) Cf. supra note 1.

(40) Since such betrothal is unlawful.

(41) If they were the daughters of Israelites. If they were the daughters of priests, their right to the eating of terumah which they enjoyed prior to their betrothal, ceases with the forbidden betrothal. (V. Rashi s.v. לשון אחר a.l.) According to Tosaf. (s.v. מן a.l.) the Mishnah refers to the daughters of priests only. Cf. also תוספות ישנים a.l.

(42) During the period of betrothal, so long as actual marriage has not taken place.

(43) Since, in the case of priests' daughters, marriage caused their permanent profanation, and in that of others the

privilege had never been conferred upon them.
(44) Even according to the first Tanna. Priests' daughters lose the privilege only during the period of betrothal. As soon as the betrothal period ends either through death or divorce they may again eat terumah; and in the case of widowhood they may also marry a common priest. Daughters of Israelites are entitled to the same privileges except that of eating of terumah to which, of course, they had never been entitled.
(45) The ruling that the betrothals spoken of in our Mishnah do not confer upon the daughter of an Israelite the privilege of eating terumah (v. Rashi, second explanation).
(46) When an Israelite betroths the daughter of an Israelite.
(47) Of which our Mishnah speaks. [Var. lec.: 'If permissible betrothal renders her ineligible (a priest's daughter is not allowed to eat terumah after her betrothal to an Israelite), how much more forbidden betrothal'. This reading — a reading which it must be confessed appears more feasible — is adopted by Tosaf. in view of their interpretation (v. supra p. 380, n. 17) that the Mishnah refers only to daughters of priests].
(48) That betrothal does not confer the privilege of eating terumah.
(49) An Israelite is neither himself entitled to the eating of terumah nor can he confer the right upon others.
(50) If he married a woman permitted to him.
(51) Obviously not. Hence the ruling in our Mishnah that the betrothals confer the privilege.
(52) One so incapacitated is not permitted to marry even the daughter of an Israelite, v. Deut. XXIII, 2.
(53) [Var. lec.: 'a daughter of a priest'. A reading adopted by Tosaf. on their interpretation (cf. n. 6)].
(54) I.e., if she was betrothed to a man whom she is forbidden to marry.
(55) Who married the incapacitated priest.

Talmud - Mas. Yevamoth 57a

this woman also may eat.[1]

Whence [is this[2] proved]? Is it not possible that R. Eleazar and R. Simeon maintain [their opinion] only there because in other circumstances[3] he is entitled to confer the right of eating, but not here where he is never entitled to confer the right of eating![4] And were you to reply that here also he[5] is entitled to confer upon the daughter of proselytes[6] the right of eating, surely [it may be retorted] this very question was addressed by R. Johanan to R. Oshaia[7] who gave him no answer![8]

It was stated:[9] Abaye said,[10] Because[11] he is entitled to confer upon [his wife][12] the right to eat [terumah] so long as he does not cohabit with her.[13] Raba said,[10] Because[11] he may confer the right of eating[14] [terumah] upon his Canaanitish bondmen and bondwomen.[15]

Abaye did not give the same explanation as Raba because matrimonial kinyan may be inferred from matrimonial kinyan, but matrimonial kinyan may not be inferred from the kinyan of slaves. And Raba does not give the same explanation as Abaye because there[16] it is different, since she has already been eating it previously.[17] And Abaye?[18] — [The argument], 'since she has already been eating' cannot be upheld;[19] for should you not admit this,[20] a daughter of an Israelite who was married to a priest who subsequently died should also be allowed to eat terumah since she has already been eating it![21]

And Raba?[22] — There,[23] his kinyan had completely ceased;[24] here, however, his kinyan did not cease.[25]

[To turn to] the main text. R. Johanan enquired of R. Oshaia: If a priest who was wounded in the stones married the daughter of proselytes does he confer upon her the right of eating terumah? The other remained silent and made no reply at all. Later, another great man came and asked him a different question which he answered. And who was that man? Resh Lakish. Said R. Judah the Prince to R. Oshaia: Is not R. Johanan a great man?[26] The other replied: [No reply could be given] since he submitted a problem which has no solution.

In accordance with whose view?[27] If according to R. Judah,[28] she is not entitled to eat terumah whether he[29] does or does not retain his holiness. For if he retains his holiness she may not eat since the Master said[30] , 'The daughter of a male proselyte is like the daughter of a male who is unfit for the priesthood';[31] and if he does not retain his holiness,[32] she may not eat either, since it has been said that the assembly of proselytes is called an 'assembly'![33] If, however, according to R. Jose,[34] she is entitled to eat terumah whether he does or does not retain his holiness. For if he retains his holiness she may eat, since he[35] stated that even when a proselyte married a proselyte his daughter is eligible to marry a priest;[36] and if he does not retain his holiness, she may also eat since he[35] said that the assembly of proselytes is not called an 'assembly'![37] It must rather be[38] in accordance with the view of the following Tanna. For we learned: R. Eliezer b. Jacob said, 'A woman who is the daughter of a proselyte must not be married to a priest unless her mother was of Israel',[39] And it is this that his question amounts to: Has only her eligibility[40] increased[41] and consequently she is entitled to eat terumah[42] or has perhaps her sanctity also increased[43] and consequently she is not permitted to eat?[44]

Come and hear: When R. Aha b Hinena arrived from the South, he came and brought a Baraitha with him: Whence is it deduced that if a priest, who is wounded in the stones, married the daughter of proselytes, he confers upon her the right to eat terumah? For it was stated, But if a priest buy any soul, the purchase of his money[45] etc.,[46] he may eat of it. Now, in accordance with whose view?[47] If it be suggested, 'according to R. Judah', surely [it may be retorted] he stated that whether he[48] does or does not retain his holiness she[49] is not permitted to eat.[50] And if[51] 'in accordance with the view of R. Jose', what need [it may be asked] was there for a Scriptural text? Surely, he[52] stated that whether he[48] does or does not retain his holiness she[49] is permitted to eat! Must it not [consequently be assumed that it[53] is] in accordance with the view of R. Eliezer b. Jacob? And so it may be inferred that only her eligibility[54] had been increased and that she is consequently permitted to eat. This proves it.

It was stated: Rab said,

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(1) Since through the kinyan of the betrothal the woman becomes the priest's acquisition and is, therefore, like himself, entitled to eat terumah so long as she does not become profaned (a halalah) through actual marriage.

(2) The ruling according to R. Eleazar and R. Simeon just deduced.

(3) If he married a woman permitted to him.

(4) Since he is not permitted to marry any woman.

(5) The incapacitated priest, since he is only forbidden to enter into the assembly of the Lord (Deut. XXIII, 2), i.e., to marry a Jewess, but he is permitted to marry a proselyte.

(6) Who is not included in the assembly of the Lord. V. supra n. 7.

(7) Infra.

(8) As to whether such an incapacitated priest may confer upon the daughter of a proselyte the right of eating terumah. Since no answer was given, there is no proof that the right may be conferred at all. The difficulty consequently remains: How could the case of the incapacitated priest who can never confer the right upon others be inferred from the case of one who is, in certain circumstances, entitled to confer such a right?

(9) In reply to the difficulty raised. V. supra n. 10.

(10) The incapacitated priest is entitled to confer upon the woman he betrothed the right to eat terumah.

(11) In certain other circumstances.

(12) Whom he married before he had been incapacitated.

(13) After becoming incapacitated (v. infra 70a). Since he may confer the privilege of eating terumah in this case he may also confer it where the betrothal was unlawful, so long as the woman had not been profaned by him through marriage.

(14) מאכיל so MS.M. (Cur. edd מאכילה 'enables her to eat').

(15) As he may confer the privilege in that case he may also confer it upon the woman he betrothed.

(16) Where the incapacity occurred after marriage.

(17) Prior to the man's incapacity. This, therefore, provides no proof that a man who is already incapacitated can also confer the privilege.
(18) How does he reconcile the difference in two cases?
(19) Lit., 'we do not say'.
(20) But insist on upholding Raba's distinction.
(21) Prior to her husband's death. As in this case the argument is obviously untenable so it is untenable in the case of the incapacitated priest.
(22) How can he advance an argument that is untenable in the case cited?
(23) Where the priest died.
(24) As soon as the priest died, leaving no sons, their marital relationship was completely severed.
(25) He is still her husband.
(26) And so entitled to a reply.
(27) Did R. Johanan ask his question.
(28) Who, in Kid. 77a, differs from R. Jose on the question of the daughter of a proselyte.
(29) The incapacitated Priest.
(30) R. Judah.
(31) חלל halal. As he may not consequently marry a proselyte's daughter she is obviously forbidden to eat of the terumah.
(32) And the priestly sanctity is consequently no reason for her prohibition to marry a halal.
(33) An 'assembly of the Lord' into which an incapacitated person may not enter. (Cf. supra p. 382, nn. 7 and 8). The marriage is consequently forbidden and, therefore, confers upon the woman no right to the eating of terumah.
(34) Did R. Johanan ask his question.
(35) R. Jose. [So MS.M. cur. edd.,'a Master said'].
(36) Kid. 77a. Hence she is not inferior in this respect to the daughter of an Israelite.
(37) The marriage with her being consequently permissible, the right of eating terumah should obviously be conferred upon her.
(38) R. Johanan raised his question.
(39) Bik. I,5.
(40) Where her mother was of Israel.
(41) I.e., is she, if her mother was of Israel, thereby only enabled to marry a priests but is not regarded as a proper daughter of Israel to be included in the 'assembly of the Lord', so as to be forbidden to one incapacitated.
(42) In any ease. Even if the incapacitated priest is holy he may marry her. And, as she is not included in the 'assembly' (v. supra n. 13), she is not forbidden to marry him.
(43) And she is thus included in the 'assembly' and hence forbidden to marry one incapacitated.
(44) Since the marriage was a forbidden one.
(45) Lev. XXII, 11.
(46) The Heb. 'וגו in the original seems to be a mistake for הוא which is the only word omitted from the Scriptural quotation.
(47) Was R. Aha's Baraitha necessary.
(48) A priest suffering from the incapacity mentioned in the Baraitha.
(49) The woman who married him.
(50) Which is contrary to the Baraitha which permits it.
(51) Cf. supra n. 3.
(52) R. Jose.
(53) R. Aha's Baraitha,
(54) V. supra p. 384, nn 13 and 14.

Talmud - Mas. Yevamoth 57b

'The bridal chamber[1] constitutes kinyan[2] with ineligible women'[3] and Samuel said, 'The bridal chamber[4] does not constitute kinyan[2] with ineligible women'.[3] Said Samuel: Abba[5] agrees with me in the case of a girl who is under three years of age and one day; since cohabitation with her

constitutes no kinyan,[6] the bridal chamber[7] also constitutes no kinyan.[6]

Raba said, We also learned a similar Baraitha:[8] A girl who is three years of age and one day may be betrothed by cohabitation; if a levir cohabited with her, he has thereby acquired her;[9] one incurs through her the guilt of intercourse with a married woman; she[10] defiles her cohabitor in respect of his imparting defilement to the lower, as well as to the upper couch;[11] if she was married to a priest she may eat terumah, and anyone ineligible[12] who cohabited with her causes her ineligibility.[13] Thus only a girl of the age of three years and one day, who is rendered ineligible by cohabitation, is also rendered ineligible through the bridal chamber; but a girl younger than three years and one day, who is not rendered ineligible by cohabitation, is not rendered ineligible through the bridal chamber either.[14] This proves it.

Rami b. Hama stated: [In regard to the question whether] the bridal chamber[15] constitutes kinyan[16] with ineligible women,[17] we arrive at a difference of opinion between R. Meir and R. Eleazar and R. Simeon.

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(1) Lit., 'there is huppah' (v. Glos.), even if it was unaccompanied by any other form of betrothal such as money, deed, or cohabitation (Rashi). On huppah v. Kid., Sonc. ed. p. 5, n. 7,

(2) To deprive the woman of her right to eat terumah where, as the daughter of a priest, she had previously been entitled to this privilege.

(3) Whom one is not permitted to marry; a widow, e.g., to a High Priest or a divorcee to a common priest. [On Rashi's interpretation which is followed here, both Rab and Samuel hold with R. Huna (v. Kid. 3a) that huppah by itself constitutes kinyan. They differ, however, in the case of ineligible women, Samuel being of the opinion that huppah with them constitutes no kinyan, since it does not allow them to enter into marital union. Rabbenu Tam, on the other hand, explains huppah here as having been preceded by kiddushin and with reference to the last clause of our Mishnah, the point at issue being whether with ineligible women it is considered nissu'in disqualifying the widow, or erusin; v. Tosaf s,v. רב].

(4) If unaccompanied by any other forms of matrimonial kinyan. V. supra n. 11.

(5) I.e., Rab, whose proper name was Abba. The former name (Rab == Master) was a title of honour conferred upon him as the Master par excellence of his time. According to Rashi, a.l., 'Abba' was a term of respect synonymous with 'prince' and 'master' by which Samuel, his younger contemporary, referred to Rab.

(6) V. supra p. 385, n. 12.

(7) Which constitutes kinyan only where cohabitation is possible, but which is not the case with a child under the age mentioned.

(8) From which the ruling on which Rab and Samuel are in agreement may he inferred.

(9) She is deemed to be his legal wife,

(10) During her period of menstruation.

(11) If he lies on a number of couches (coverlets, bed-spreads, and the like) resting one upon the other, he imparts levitical defilement to all, though he comes in direct contact with the uppermost one only.

(12) A bastard, for instance,

(13) V, supra p. 385, n, 12. Cf. Kid. 10af, v. Sanh. Sonc. ed. p. 376, n. 2.

(14) Cf. supra note 3.

(15) V. p. 385, n, 11.

(16) V. loc. cit., n. 12.

(17) V. loc. cit., n. 13.

Talmud - Mas. Yevamoth 58a

According to R. Meir who holds that the betrothal causes ineligibility, the bridal chamber[1] also causes ineligibility, while according to R. Eleazar and R. Simeon who maintain that betrothal causes no ineligibility the bridal chamber also causes no ineligibility. But whence [is this proved]? Is it not possible that R. Meir advanced his view only there, in respect of betrothal, whereby kinyan is

effected, but not in respect of the bridal chamber whereby no kinyan is effected![2] Or else: R. Eleazar and R. Simeon may have advanced their view there only, in respect of betrothal, since it is not close to the act of intercourse; but the bridal chamber which is close to the act of intercourse, may well cause ineligibility.

But if anything can be said[3] [it is, that the question[4] depends] on the dispute between the following Tannaim: For it was taught, 'This class or that, [viz.,] eligible or ineligible women, who were married [to a priest], or who only entered [with him] into the bridal chamber without any intercourse having taken place, are entitled to sustenance from his estate and are also permitted to eat terumah'. 'Who only entered [etc.]' implies that 'were married' means that they were actually married![5] Must it not [consequently be concluded that the meaning is], 'as, for instance,[6] when they entered the bridal chamber without any intercourse having taken place'? And yet it was stated that 'they are entitled to sustenance from his estate and are also permitted to eat terumah'.[7] R. Ishmael son of R. Johanan b. Beroka said: Any woman whose cohabitation entitles her to the eating of terumah is also entitled to the eating of it through her entry into the bridal chamber, and any woman upon whom cohabitation does not confer the right to eat terumah is not entitled through her entry into the bridal chamber also to the eating of it.[8]

Whence, [however, the proof]? Is it not possible that R. Ishmael son of R. Johanan b. Beroka is of the same opinion as R. Meir, who maintains that through betrothal alone a woman is not entitled to eat! — Instead, then, of the statement 'Any woman upon whom cohabitation does not confer the right to eat terumah is not entitled through her entry into the bridal chamber also to the eating of it', the statement should have run, 'Any woman upon whom cohabitation does not confer the right to eat terumah, is not entitled through her money[9] also to the eating of terumah'. But is it not possible that as the first Tanna spoke of the bridal chamber he also spoke of the bridal chamber!

R. Amram stated, The following ruling was given to us by R. Shesheth and he threw light on the subject[10] from a Mishnah: The bridal chamber constitutes kinyan with ineligible women.[11] And the following Tanna taught the same thing:[12] 'Amen[13] that I[14] have not gone aside[15] as a betrothed, as a married woman, as one awaiting the decision of the levir or as one taken [by the levir]'.[16] Now, how is one to imagine the case of the 'betrothed'? If it be suggested that she was one who was warned[17] while she was betrothed, and then she secluded herself[18] and is now made to drink[19] while she is still only betrothed; is a betrothed [it may be asked] subject to the drinking? Surely we learned: A betrothed or one awaiting the decision of a levir neither drinks[20] nor receives a kethubah![21] Should it, however, [be suggested that she is one] who was warned while she was betrothed, and then she secluded herself,[22] and is now made to drink when she is already married; do the waters [it may be asked] test her? Surely it was taught: And the man shall be clear from iniquity,[23] only when the man is 'clear from iniquity' do the waters test his wife; when, however, the man is not 'clear from iniquity'[24] the waters do not test his wife![25] Consequently [she[26] must be one] who was warned while she was betrothed and then she secluded herself,[22] and subsequently entered the bridal chamber but there was no cohabitation. Thus[27] it may be inferred that the bridal chamber alone constitutes kinyan[28] with ineligible women.[29] Said Raba: Do you think that this[30] is an authenticated statement?[31] Surely when R. Aha b. Hanina[32] arrived from the South, he came and brought a Baraitha with him: Besides thy husband,[33] only when the cohabitation of the husband preceded that of the adulterer, but not when the cohabitation of the adulterer preceded that of the husband! Rami b. Hama replied: This[34] is possible where, for instance, he[35] cohabited with her while she was only betrothed and still in the house of her father. Similarly in respect of the woman awaiting the decision of the levir[36] [it must obviously be a case] where the man cohabited with her in the house of her father-in-law![37]

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(1) Even in the absence of betrothal.

(2) The bridal chamber alone without the additional kinyan of money, deed, or cohabitation is of no validity. V. Kid. 5a.

(3) On the lines of Rami b. Hama's statement.
(4) Whether the bridal chamber constitutes kinyan with ineligible women. (Cf. supra p. 385, nn. 11 and 13).
(5) Otherwise both expressions would have meant exactly the same classes. But this meaning is impossible in view of the fact that after actual marriage it is unanimously agreed that the woman is ineligible to eat terumah!
(6) I.e., the expression 'or', **או** is to be understood as the equivalent of 'as for instance' **כגון** , and the clause following is an illustration of the preceding one.
(7) Which proves that, even where the union was a forbidden one, the entry into the bridal chamber alone does not deprive a woman of the right of eating terumah if she was previously entitled to it.
(8) If she was the daughter of an Israelite (v. Keth. 57a). As the bridal chamber and cohabitation are in this case placed on the same level, it follows that in the case of the daughter of a priest also, if she loses her right to the terumah by cohabitation, she also loses it by entry into the bridal chamber. Thus it has been shewn that the question referred to by Rami b. Hama is a matter of dispute between the first Tanna and R. Ishmael son of R. Johanan b. Broka.
(9) The token of betrothal.
(10) Lit., 'and he lit up our eyes'.
(11) Cf. supra p. 385, nn. 11 and 13.
(12) **ותנא תונא** v. supra p. 378, n. 3.
(13) As the term was repeated (v. Num. V, 22) it includes all the following.
(14) I.e., the sotah who confirms the declaration (v. Num. V, 19).
(15) 'Have not been faithless'. Cf. ibid. vv. 19, 20.
(16) Where the levir suspects her of infidelity, v. Sotah 18a, Kid. 27b.
(17) That she must not hold secret meetings with a certain man.
(18) With the man. V. Bah. Cur. edd. omit, 'and then . . . herself'.
(19) The 'water of bitterness (cf. Num. V, 18 and ibid. 17).
(20) The 'water of bitterness' (cf. Num. V, 18 and ibid. 17.
(21) If she secluded herself with the suspected man and if, in consequence of this, she is divorced by her husband. V. Sotah 23b, Kid. 27b, Sifre, Nasso,
(22) With the suspected man, during the period of her betrothal.
(23) Num. V, 31.
(24) As in this case where he married her, despite her intimacy with the suspected man during her betrothal which had caused her prohibition to him.
(25) Sotah 28a, 47b, Shebu. 5a, Kid. 27b.
(26) The betrothed spoken of,
(27) Since the woman is subjected to the test of the water though no cohabitation had taken place.
(28) In the absence of cohabitation. Had not the bridal chamber constituted the kinyan, which brought the woman within the category of marriage, she would not have been subject to the test to which a married woman only must submit. (Cf. Num. V, 19, being under thy husband).
(29) Among whom the Sotah is, of course, included. Cf. supra n. 5.
(30) The Mishnah cited by R. Shesheth.
(31) **מתרצתא** (rt. **תרין**, 'to be right'), a version the correctness of which has been upheld by refuting all objections raised against it.
(32) Cf. supra 57a where the reading is 'Hinena'.
(33) Num. V, 20.
(34) The Mishnah cited by R. Shesheth.
(35) The husband.
(36) Since in her case also the cohabitation of the levir must precede that of the adulterer. Alternatively: Since she also is not subject to the test of the water.
(37) So that his cohabitation took place prior to that of the suspected adulterer, which was also preceded by the warning of the levir and followed by the bridal chamber but by no cohabitation; and the woman is submitted to the test of the water of bitterness in respect of her suspected act during her betrothal! Alternatively: Since in her case, unlike that of the betrothed, the kinyan of the bridal chamber is not applicable.

Talmud - Mas. Yevamoth 58b

Why then, do you call her 'a woman awaiting the decision of the levir' [when such a woman] is in fact his proper wife, since Rab had stated, 'kinyan is constituted in all respects'?[1] — [The Mishnah is] in accordance with the view of Samuel who stated, 'Kinyan is constituted only in respect of the things specified in the section' .[2]

Is not this[3] adduced only as a reason and support for the opinion of Rab?[4] And Rab, surely, had said that 'Kinyan is constituted in all respects'![5] — Here we are concerned with a case where for instance he[6] addressed to her a ma'amar,[7] and it[3] represents the view of Beth Shammai who maintain that a ma'amar constitutes a perfect kinyan.[8] If so, she would be identical with the 'betrothed woman'![9] — And according to your view, has not a 'married woman' and 'one taken [by the levir]' the same status?[10] But [the explanation must be that] 'a married woman' refers to one's own wife, and 'one taken [by the levir]' refers to that of another man.[11] So here also 'betrothed' means his own and 'a woman awaiting the decision of the levir', that of another.[11]

R. Papa said: It[12] represents the view of the following Tanna.[13] For it was taught: It is not permissible to warn a betrothed woman in order that she may be made to drink[14] while she is betrothed. She may, however, be warned in order that she may be made to drink when she is already married.[15] R. Nahman b. Isaac explained: By implication.[16]

R. Hanina sent [an instruction] in the name of R. Johanan: A levir who addressed a ma'amar to his yebamah, while he has a living brother, causes her disqualification from the eating of terumah[17] even if he is a priest and she the daughter of a priest.[18] According to whom?[19] If it be suggested, according to R. Meir, it is possible [it might be objected that] R. Meir said that one that is subject to an illegitimate cohabitation[20] is not permitted to eat terumah [only when the cohabitation is] Pentateuchally forbidden;[21] did he, however, say [that the same law holds when the prohibition is only] Rabbinical? [Is it], however, [suggested that it was made] according to R. Eleazar and R. Simeon? [It may be objected]: If the eating of terumah is permitted to one who is subject to a cohabitation which is pentateuchally forbidden, is there any need to speak of one which is only Rabbinically forbidden! When Rabin, however, came[22] he stated: Where a levir addressed a ma'amar to his yebamah, all[23] agree that she is permitted to eat terumah. If he has a profaned brother,[24] all[23] agree that she is not permitted to eat.[25] They only differ where he[26] gave her[27] a letter of divorce:[28] R. Johanan maintains that she may eat, and Resh Lakish maintains that she may not eat. 'R. Johanan maintains that she may eat',for even the statement of R. Meir who holds that she may not eat applies only to one subject of a Pentateuchally forbidden cohabitation; where, however, it is only Rabbinically forbidden she may eat. 'And Resh Lakish maintains that she may not eat' for even the statement of R. Eleazar and R. Simeon, who hold that she may eat, applies only to one who has elsewhere the right[29] to confer the privilege of eating, but not in this case,[30] since he has no right[31] to confer the privilege elsewhere. And should you suggest that here also he has the right[31] to confer the privilege of eating in the case where she returns,[32] [it may be retorted that] one who returns[32] severs her connection with him and resumes her relationship with her father's house;[33] but this woman[34] remains bound to him.[35]

IF THEY BECAME WIDOWS OR WERE DIVORCED etc. R. Hiyya b. Joseph enquired of Samuel: If a High priest betrothed a minor, who became adolescent[36] during her betrothal with him,[37]

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(1) Supra 56a, and the woman is regarded as his wife even if the cohabitation was not intended to serve as a legal matrimonial kinyan.

(2) Cf. loc. cit. and notes.

(3) The Mishnah cited by R. Shesheth.

(4) Who, contrary to the opinion of Samuel, maintains that the bridal chamber does constitute kinyan with ineligible

women (supra 57b).
(5) V. supra note 3.
(6) The levir.
(7) And then cohabited with her adulterously in her father-in-law's house, with no intention of effecting a legal kinyan. Alternatively: Only a ma'amar was addressed to her but no cohabitation at all took place. The cohabitation of the adulterer which, according to this interpretation, precedes that of the levir does not affect the legality of the water test since in any case the cohabitation of the first husband (the deceased brother) preceded.
(8) Supra 29b. The sister-in-law thus loses entirely her former status of 'widow of a deceased brother' and assumes that of a 'betrothed woman'. Subsequent intercourse with her unless accompanied by the entry into the bridal chamber does not, therefore, change her status, as is the case where no ma'amar had been addressed, to that of a married woman. Her description, consequently, can only be that of 'one awaiting the decision of the levir'.
(9) Whose case had been specifically mentioned. Why should the same law be mentioned twice?
(10) And both were nevertheless specified.
(11) I.e., his brother's widow whom he married.
(12) The Mishnah cited by R. Shesheth.
(13) It being a case where the warning was given during betrothal, and the seclusion with the man took place after marriage and cohabitation. The water test is applied on the basis of that warning. Alternatively: The warning was given during betrothal and it was followed by the seclusion with the man, the test being applied after marriage. The previously cited deduction, that when the husband is not clear from iniquity the test is not admissible, is not accepted by this authority.
(14) The water of bitterness.
(15) Sotah 25a. The man in such a case is clear from iniquity. No proof may consequently be adduced from the Mishnah cited by R. Shesheth that the bridal chamber constitutes kinyan. Alternatively: This Tanna does not accept the deduction in respect of the husband's clearness from iniquity. (V. supra n. 4, end).
(16) גלגול , v. Kid. 27b. The oath the woman is made to take at the drinking of the water of bitterness in respect of the days of her betrothal is not a direct oath but one added to that which she takes in connection with a suspected act after her marriage.
(17) Until marriage had been consummated.
(18) Because (v. infra) his brother might cohabit with her and thus cause her prohibition to marry either of them (v. supra 50b).
(19) Was R. Johanan's statement made.
(20) As, e.g., in this case, where either brother might marry her, while the cohabitation of one of them is Rabbinically forbidden.
(21) E.g., a widow to a High Priest.
(22) From Palestine to Babylon.
(23) R. Johanan as well as Resh Lakish.
(24) Halal (v. Glos.) whose cohabitation would disqualify her.
(25) Even though she is the daughter of a priest and even where the ma'amar had been addressed to her by a qualified priest, she is forbidden to eat terumah, owing to her being subject at least to one Pentateuchally forbidden cohabitation. Even R. Eleazar and R. Simeon who allow terumah in the case of a widow to a High priest do not allow it here since, unlike the High Priest who in cases other than that of the widow and the like is entitled to confer the right, the halal can never confer such a privilege upon anyone.
(26) A levir who was a priest.
(27) His yebamah who was the daughter of a priest.
(28) Which Rabbinically causes her prohibition to the levir, while Pentateuchally she is still awaiting cohabitation with him. She is thus awaiting a cohabitation which is Rabbinically forbidden.
(29) Through a similar act of betrothal.
(30) Where a letter of divorce was given.
(31) By means of a similar act of divorce.
(32) To the house of her father, if she was the daughter of a priest. Cf. Lev. XXII, 13.
(33) Her regaining the privilege of eating terumah is due to her relationship not with him but with her father's family.
(34) To whom the letter of divorce was given.

(35) Since a letter of divorce does not sever the levirate bond.
(36) בגרה v. infra p. 394 n. 7; perhaps of advanced age, when she is no more in possession of her full virgin powers (cf. Golds. a.l.). Such a woman is forbidden to a High priest by deduction from Lev. XXI, 13 And he shall take a wife in her virginity.
(37) Lit., 'under him'.

Talmud - Mas. Yevamoth 59a

what [is the law]:[1] Are we guided by the marriage[2] or by the betrothal?[3] — The other replied to him: You have learned it: IF THEY BECAME WIDOWS OR WERE DIVORCED AFTER MARRIAGE THEY REMAIN INELIGIBLE; IF AFTER BETROTHAL THEY BECOME ELIGIBLE.[4] The first said to him: With reference to rendering her a halalah,[5] I have no doubt that it is the forbidden cohabitation[6] that causes her to be a halalah. My question is only: What is implied by, And he shall take a wife in her virginity:[7] Is the 'taking' of betrothal required,[8] or is it the 'taking' of marriage that is required?[9] The other replied, You have learned this also: [A priest who] betrothed a widow, and was subsequently appointed to be a High Priest, may consummate the marriage![10] — There it is different because it is written, Shall he take to wife.[11] Here also it is written wife![12] — Only one[13] but not two. And what is the reason?[14] — In the case of the one,[15] her body has undergone a change;[16] in that of the other her body underwent no change.

MISHNAH. A HIGH PRIEST SHALL NOT MARRY A WIDOW[17] WHETHER SHE BECAME A WIDOW AFTER A BETROTHAL OR AFTER A MARRIAGE. HE SHALL NOT MARRY ONE WHO IS ADOLESCENT.[18] R. ELEAZAR AND R. SIMEON PERMIT HIM TO MARRY ONE WHO IS ADOLESCENT,[18] BUT HE MAY NOT MARRY ONE WHO IS WOUNDED.[19]

GEMARA. Our Rabbis taught: A widow . . . shall he not take,[17] whether she became a widow after a betrothal or after a marriage. Is not this obvious?[20] — It might have been assumed that [the meaning of] widow[21] is to be inferred from widow[22] in the case of Tamar; as there[22] it was one after marriage, so here[21] also it is one after marriage; hence we were taught [that any widow was meant]. But might it not be suggested that it is indeed so?[23] — [It is compared] to a divorced woman:[24] As 'divorced woman'[24] [includes any divorcee] whether after betrothal or after marriage,[25] so also 'widow'[24] [includes any widow] whether after betrothal or after marriage.

HE SHALL NOT MARRY ONE WHO IS ADOLESCENT. Our Rabbis taught: And he shall take a wife in her virginity[26] excludes one who is adolescent, whose virginity is ended; so R. Meir. R. Eleazar and R. Simeon permit the marriage of one who is adolescent. On what principle do they differ? — R. Meir is of the opinion that virgin[27] implies even [one who retains] some of her virginity; her virginity[28] implies only one who retains all her virginity;[29] in her virginity[30] implies only [when previous intercourse with her took place] in the natural manner,[31] but not when in an unnatural manner.[32] R. Eleazar and R. Simeon, however, are of the opinion that virgin would have implied a perfect virgin; her virginity implies even [one who retains] only part of her virginity;[33] in her virginity implies only one whose entire virginity is intact,[34] irrespective of whether [previous intercourse with her was] of a natural or unnatural character.[35]

Rab Judah stated in the name of Rab: A woman who was subjected to unnatural intercourse is disqualified from marrying a priest.[36] Raba raised an objection: And she shall be his wife,[37] applies to a woman eligible to marry him. This excludes [the marriage of] a widow[38] to a High Priest,[39] of a divorced woman[38] and a haluzah[38] to a common priest. Now, how is one to understand [the outrage]?[40] If it be suggested that it was one of natural intercourse, what [it may be asked] was the object of pointing to her widowhood[41] when [her prohibition] could be inferred from the fact that she had had carnal intercourse with a man?[42] Must it not consequently [be assumed to be] a case of unnatural intercourse; and the only reason[43] [why the woman is forbidden[44] is] because she is a

widow, and not because she had had carnal intercourse![45]

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(1) May he marry her despite her advanced age?
(2) When she was already of age and consequently forbidden to him.
(3) When she was still permitted.
(4) From which it appears that, in respect of those who are ineligible to marry priests, marriage is the main factor. Had not the marriage to be taken into consideration a widow, for instance, who was betrothed to a High Priest would also be ineligible after his death.
(5) 'Profaned' and forbidden to a priest.
(6) I.e., the consummation of marriage.
(7) Lev. XXI, 13.
(8) And as at that time she was eligible he may now marry her.
(9) As by that time she is already forbidden, he may not marry her, despite their permitted betrothal.
(10) Infra 61a, which proves that betrothal is the main factor.
(11) Lev. XXI, 14. From the superfluous word wife it is deduced (v. infra 61a) that in the case mentioned the High Priest may consummate the marriage. This, however, supplies no answer to the question under consideration.
(12) Lev. XXI, 13.
(13) Deduction may be made from the term 'wife'.
(14) Lit., 'what do you see'? Why should the deduction be made to permit the marriage of the widow to a High Priest and not that of the minor who became adolescent?
(15) The minor who became of age.
(16) And she may, therefore, be regarded as a different person.
(17) V. Lev. XXI, 14.
(18) בוגרת, one over twelve years and six months of age. Cf. supra p. 393, n. 5.
(19) מוכת עץ lit., 'struck by wood', one who lost her hymen as the result of a blow.
(20) The expression widow surely does not imply any distinction between the one and the other!
(21) Spoken of in connection with a High Priest (Lev. XXI, 14).
(22) Gen. XXXVIII, 11.
(23) That only one after marriage was meant, as in the case of Tamar.
(24) Spoken of in the same context in connection with a High Priest (Lev. XXI, 14).
(25) So Yalkut. Cur. edd. reverse the order.
(26) Lev. XXI,13.
(27) בתולה .
(28) בתוליה .
(29) Which excludes the one who is adolescent, whose virginity has ended.
(30) בבתוליה , (Lev. XXI, 13).
(31) Is she forbidden to a High Priest.
(32) The superfluous ב (= in), in בבתוליה excludes unnatural intercourse, whereby 'virginity' is not affected.
(33) Which includes the one who is adolescent.
(34) Is permitted to be married by a High priest.
(35) Even if it was unnatural she is forbidden, unless her virginity remained completely intact. Cf. supra n. 7. As, according to R. Eleazar and R. Simeon, one who is adolescent is permitted it was necessary to have the Scriptural text to exclude this case. According to R. Meir, however, who excludes one who is adolescent, there is no need any more to exclude this case which is easily inferred a minori ad majus from the former.
(36) I,e., a High Priest who is permitted to marry a virgin only.
(37) Deut. XXII, 29, referring to a virgin who had been outraged.
(38) After her betrothal.
(39) If it was he who committed the outrage.
(40) If committed by a High Priest.
(41) Lit., 'on account of widow'.
(42) With the High Priest himself, who is forbidden to marry an outraged or seduced woman even if he himself had committed the offence.

(43) Lit., ‘yes’.

(44) To the High Priest.

(45) Which proves that unnatural intercourse does not cause a woman to be forbidden to marry a High Priest. How then could Rab state that a woman in such circumstances is forbidden?

Talmud - Mas. Yevamoth 59b

— This[1] represents the view of[2] R. Meir,[3] while Rab holds the same view as R. Eleazar.[4] If [Rab holds the same view] as R. Eleazar, what was the object of pointing to her previous carnal intercourse[5] when [her prohibition] could have been inferred from the fact that she was a harlot,[6] R. Eleazar having stated that an unmarried man who cohabited with an unmarried woman with no matrimonial intention renders her thereby a harlot![7] — R. Joseph replied:[8] When, for instance, the woman was subjected to intercourse with a beast, where the reason of ‘previous carnal intercourse may be applied but not that of harlot.[9] Said Abaye to him: Whatever you prefer [your reply cannot be upheld], If she is a be'ulah[10] she must also be a harlot; and if she is not a harlot[11] she cannot be a be'ulah either! And were you to reply: This case is similar to that of a wounded woman,[12] [it may be pointed out] that if [the disqualification should be extended to] unnatural intercourse also,[13] you will find no woman eligible to marry a [High Priest [since there is not one] who has not been in some way wounded[14] by a splinter! No, said R. Zera,[15] in respect of a minor who made a declaration of refusal.[16]

R. Shimi b. Hiyya stated: A woman who had intercourse with a beast is eligible to marry a priest.[17] Likewise it was taught: A woman who had intercourse with that which is no human being,[18] though she is in consequence subject to the penalty of stoning,[19] is nevertheless permitted to marry a priest.[20]

When R. Dimi came[21] he related: It once happened at Haitalu[22] that while a young woman was sweeping the floor[23] a village dog[24] covered her from the rear,[25] and Rabbi permitted her to marry a priest. Samuel said: Even a High Priest. But was there a High Priest in the days of Rabbi?[26] — Rather, [Samuel meant]: Fit for a High Priest.

Raba of Parzakaia[27] said to R. Ashi: Whence is derived the following statement which the Rabbis made: Harlotry is not applicable to bestial intercourse? — It is written, Thou shalt not bring the hire of a harlot, or the price of a dog,[28] and yet we learned that the hire of a dog[29] and the price of a harlot[30] are permitted[31] because it is said, Even both these,[28] two only but not four.

Our Rabbis taught: [A High Priest] shall not marry the woman he himself has outraged or seduced.[32] If, however, he married her, the marriage is valid.[33] He shall not marry a woman whom another man has outraged or seduced. If he did marry her, the child, said R. Eliezer b. Jacob, is profaned:[34] but the Sages said: The child is legitimate.[35]

‘If, however, he married her, the marriage is valid’. Said R. Huna in the name of Rab: But he must put her aside by a letter of divorce. What, then, [is the explanation] of the statement ‘If, however, he married her, the marriage is valid’? — R. Aha b. Jacob replied: It was meant to imply

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(1) The Baraitha cited by Raba.

(2) Lit., ‘this, according to whom’?

(3) Cf. supra p. 395, n. 7.

(4) Cf. supra p. 395, n. 10.

(5) As a reason for prohibition.

(6) Who is forbidden not only to a High Priest but also to a common priest (v. Lev. XXI, 7). Why, then, did Rab refer to a High Priest only?

(7) Infra 61b, 76a, Sanh. 51a, Tem. 30a.
(8) Rab's reason of 'previous carnal intercourse was necessary.
(9) A term which is not applicable to bestial intercourse. V. infra.
(10) בעולה one who had experienced carnal intercourse.
(11) Presumably because her act cannot be regarded as 'sexual intercourse'.
(12) V. supra p. 394, n. 8. As in her case marriage with a High Priest is forbidden (v. our Mishnah), though she is no harlot, so also in the case of bestial intercourse.
(13) I.e., if injury to the anus is to be subject to the same restrictions as injury to the hymen.
(14) Cf. supra p. 394, n. 8.
(15) Rab's reason of 'previous carnal intercourse' was necessary.
(16) Mema'eneth, v. Glos. Unnatural intercourse with her by her husband places the minor in the status of be'ulah (v. Glos.) but not in that of harlot, while her refusal to live with him does not give her the status of divorcee or widow but that of mema'eneth. Hence the necessity for Rab's statement that such a minor also is forbidden to marry a High Priest.
(17) Even a High Priest, The result of such intercourse being regarded as a mere wound, and the opinion that does not regard an accidentally injured hymen as a disqualification does not so regard such an intercourse either.
(18) A beast.
(19) If the offence was committed in the presence of witnesses after due warning.
(20) In the absence of witnesses and warning.
(21) From Palestine to Babylon.
(22) [Babylonian form for Aitalu, modern Aiterun N.W. of Kadesh, v, S. Klein, Beitrage p. 47].
(23) Lit., 'house'.
(24) Or 'big hunting dog' (Rashi), 'ferocious dog' (Jast.), 'small wild dog' (Aruk).
(25) A case of unnatural intercourse.
(26) Judah ha-nasi (the Prince or Patriarch) I, who flourished 170-217 C.E., above a hundred years after the destruction of the second Temple.
(27) So Bomberg ed.; MS.M., 'Parazika' (cf. Golds.); Cur. edd., 'Parkin'.
(28) Deut. XXIII, 19.
(29) The beast which a harlot receives for her intercourse with a dog.
(30) A beast received as the price of a harlot who has been sold.
(31) To be consecrated to the altar.
(32) Cf. Lev. XXI, 14: But a virgin . . . shall he take, i.e., she must be a virgin at the time he marries her.
(33) Lit., 'he is married'.
(34) Halal, v. Glos.
(35) He is not subject to any disabilities, religious or civil,

Talmud - Mas. Yevamoth 60a

that he pays no fine[1] in the case of a seduced woman.[2]

R. Gebiha of Be Kathi[3] came and repeated the reported ruling[4] in the presence of R. Ashi, whereupon the other said to him: Surely both Rab and R. Johanan stated '[a High Priest] must not marry a woman who is adolescent[5] or "wounded",[6] but if he married her, the marriage is valid',which clearly proves [that he may continue to live with the woman because in any case] she would ultimately have become adolescent and would ultimately have been 'wounded' by living with[7] him; here also[8] [she should be permitted to live with him because] ultimately she would have become a be'ulah by living with[7] him! — This is a difficulty.

'He shall not marry a woman whom another man has outraged or seduced. If he did marry her, the child, said R. Eliezer[9] b.Jacob, is profaned; but the Sages said: The child is fit'.[10] Said R. Huna in the name of Rab: The halachah is in agreement with R. Eliezer b. Jacob; and so said R. Giddal in the name of Rab: The halachah is in agreement with R. Eliezer b. Jacob. Others say: R. Huna stated in the name of Rab. What is R. Eliezer b. Jacob's reason?[11] — He is of the same opinion as R.

Eleazar.[12] But is the former of the same opinion as the latter? Surely we have an established tradition that 'the teaching of R. Eliezer b. Jacob is small in quantity, but select',[13] while in this case R. Amram[14] stated that the halachah is not in accordance with R. Eleazar![15] — This is a difficulty.

R. Ashi explained: They[16] differ [on the question whether the offspring] of a union forbidden by a positive commandment[17] is deemed to be a halal. R. Eliezer b. Jacob is of the opinion [that the offspring] of a union forbidden by a positive commandment is deemed to be a halal while the Rabbis are of the opinion that the offspring of a union forbidden by a positive commandment is no halal. What is R. Eliezer b. Jacob's reason? — Because it is written, A widow, or one divorced, or a profaned woman, or a harlot, these shall he not take,' but a virgin etc.,[18] and this is followed by the Scriptural injunction, And he shall not profane[19] his seed among his people,[20] which refers to all.[21] And the Rabbis?[22] — [By the expression] these[18] the context is broken up.[23] But R. Eliezer b. Jacob maintains that the expression, these,[18] serves the purpose of excluding the menstruant.[24]

Whose view is represented in the following statement wherein it was taught: [Only the offspring] of these[25] is to be regarded a halal but no offspring of a menstruant is to be deemed a halal.[26] — Whose view? That of R. Eliezer b. Jacob. But on the view of R. Eliezer b. Jacob, the expression these[26] should have been written at the end![27] — This is a difficulty.[28]

Our Rabbis taught: For a betrothed sister,[29] R. Meir and R. Judah said, [a common priest][30] may defile himself.[31] R. Jose and R. Simeon said: He may not defile himself for her. For [a sister who was] outraged or seduced, all agree that he may not defile himself.[31] As to one 'wounded',[32] R. Simeon says he may not defile himself for her; for R. Simeon maintains that he may defile himself for one who is fit for a High Priest,[33] but he may not defile himself for one who is not fit for a High Priest.[34] For one who is adolescent, all agree[35] that he may defile himself.[36]

What is R. Meir's and R. Judah's reason? — They make the following exposition: And for his sister a virgin,[37] excludes one who had been outraged or seduced.[38] It might be assumed that one who was 'wounded' is also to be excluded.[39] Hence it was specifically stated, That hath had no husband,[37] only she whose condition is due to a man [is excluded][39] but not one[40] whose condition is not due to a man. That is near,[37] includes a betrothed [sister]; unto him,[37] includes a sister who is adolescent.

What need was there for a Scriptural text in this case?[41] Surely R. Meir stated, 'virgin implies even [one who retains] some of her virginity'![42] — It was required, because it might have been assumed that the expression of virgin[43] shall be deduced from virgin elsewhere;[44] as there it refers to a na'arah[45] only, so here also it refers to a na'arah[45] only, hence we were taught [that the case here is different]. And what are the reasons of R. Jose and R. Simeon? — They make the following exposition: And for his sister a virgin,[43] excludes one who has been outraged, seduced or wounded;[46] that hath had no,[43] excludes one who is betrothed; that is near,[43] includes a betrothed who had been divorced; unto him,[43] includes one who is adolescent. 'That is near, includes a betrothed who had been divorced';

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(1) Prescribed in Ex. XXII, 16.

(2) The marriage exempts him from the fine (v. ibid. 15-16).

(3) [On the Tigris N. of Bagdad, v. Obermeyer, pp. 143 ff].

(4) That of R. Huna in the name of Rab, supra 59b ad fin.

(5) Bogereth, v. Glos.

(6) V. our Mishnah.

(7) Lit., 'under'.

(8) Cf.supra note 8.

(9) Cur. edd., 'Eleazar' is apparently a misprint.

(10) Supra 59b.
(11) For declaring the child to be a halal.
(12) Who stated, infra 61b, that intercourse for a non-matrimonial purpose between an unmarried man and an unmarried woman renders the latter a harlot, cohabitation with whom is forbidden by a negative commandment, and any issue therefrom is deemed to be a halal.
(13) Supra 49b, q.v. for notes.
(14) V. Bah. Cur. edd. add, 'in the name of Rab'.
(15) V. infra 61b.
(16) R. Eliezer b. Jacob (who in fact is in disagreement with R. Eleazar), and the Rabbis.
(17) Such as that between a High Priest and a be'ulah which is forbidden owing to the positive commandment that he must marry a virgin.
(18) Lev. XXI, 14.
(19) I.e., cause the child to be a halal.
(20) Ibid. 15.
(21) That were previously enumerated, including the prohibition to marry a be'ulah, which is derived from the positive commandment a virgin . . ' shall he take to wife'.
(22) Why, in view of this Scriptural proof do they not regard such offspring as a halal?
(23) Thus separating those subject to the penalty of a negative commandment from those who are subject to the penalty of a positive commandment. The reference to profanation (halal) applies only to the former.
(24) If a priest cohabited with his wife while she was in such a condition, the child is not to be regarded as a halal.
(25) Those enumerated in Lev. XXI, 14.
(26) Lev. XXI, 14.
(27) Of Lev, XXI, 14, since in his opinion it was not meant to break up the text. Cf. supra p. 399, n. 13.
(28) According to R. Ashi who explained the dispute to be dependent on the interpretation of Lev. XXI. 14, 15.
(29) Who died,
(30) Who is forbidden to defile himself for his married sister. V. Lev. XXI, 3,
(31) The reason is given infra.
(32) V. our Mishnah,
(33) I.e., a virgin.
(34) Since virgin was mentioned in both cases (v. Lev. XXI, 3 and 14). As the 'wounded' is not permitted to a High Priest she is obviously not deemed to be a virgin. Hence she can no longer be regarded as a virgin in the matter of a priest's defilement either.
(35) Even R. Meir who forbids a High Priest to marry her.
(36) The reason is given infra.
(37) Lev. XXI, 3.
(38) Who cannot be regarded as a virgin.
(39) From the term of virgin. Since she also has lost her virginity.
(40) Lit., 'this went out'.
(41) To include one who is adolescent.
(42) Supra 59a and notes. Since virgin includes one who is adolescent, what need was there again for the text of 'unto him' to include her?
(43) Lev. XXI, 3.
(44) Deut, XXII, 28, dealing with a case of outrage.
(45) נערה one of the age of twelve to twelve and a half years.
(46) V. our Mishnah.

Talmud - Mas. Yevamoth 60b

but, surely, R. Simeon said, 'He may defile himself for one who is fit for a High Priest, but may not defile himself for one who is not fit for a High Priest'![1] — There[2] it is different, because the All Merciful has included her [by the expression] near.[3] If so, the 'wounded' also should be included! — Near[3] implies one and not two. And what [reason for this][4] do you see? — To the body of the one

something had been done while to that of the other nothing had been done.

As to R. Jose, since his colleague[5] had left him,[6] it may be inferred that in respect of the 'wounded', he himself is of the same opinion as R. Meir.[7] Whence, however, does he derive it? — From That hath had no man. But deduction,[8] surely, had already been made[9] from this text! — One[8] is deduced from That hath had no and the other[10] from man.[11]

'"Unto him", includes one who is adolescent'. But surely R. Simeon stated that 'virgin' implied a perfect virgin![12] — His reason there is also derived from here, because he makes the following exposition: since [the Scriptural text], 'unto him', was required to include one who is adolescent, it is to be inferred that 'virgin' implies a perfect virgin.

It was taught: R. Simeon b. Yohai stated: A proselyte who is under the age of three years and one day is permitted to marry a priest,[13] for it is said, But all the women children that have not known man by lying with him, keep alive for yourselves[14] , and Phinehas[15] surely was with them. And the Rabbis?[16] — [These were kept alive] as bondmen and bondwomen.[17] If so,[18] a proselyte whose age is three years and one day[19] should also be permitted! — [The prohibition is to be explained] in accordance with R. Huna. For R. Huna pointed out a contradiction: It is written, Kill every woman that hath known man by lying with him,[20] but if she hath not known, save her alive; from this it may be inferred that children are to be kept alive whether they have known or have not known [a man]; and, on the other hand, it is also written, But all the women children, that have not known man by lying with him, keep alive for yourselves,[14] but do not spare them if they have known. Consequently[21] it must be said that Scripture speaks of one who is fit[22] for cohabitation.[23]

It was also taught likewise: And every woman that hath known man;[20] Scripture speaks of one who is fit[23] for cohabitation. You say, 'Of one who is fit for cohabitation'; perhaps it is not so but of one who had actual intercourse? — As Scripture stated, But all women children, that have not known man by lying with him,[24] it must be concluded that Scripture speaks of one who is fit for cohabitation.[23]

Whence did they know?[25] — R. Hana[26] b. Bizna replied in the name of R. Simeon the Pious: They were made to pass before the frontplate.[27] If the face of anyone turned pale[28] it was known that she was fit for cohabitation; if it did not turn pale[28] it was known that she was unfit for cohabitation.

R. Nahman said: Dropsy is a manifestation of lewdness.

Similarly, it is said, And they found among the inhabitants of Jabesh-gilead four hundred young virgins, that had not known man by lying with him;[29] whence did they know it?[30] R. Kahana replied: They made them sit upon the mouth of a wine-cask. [Through anyone who had] had previous intercourse, the odour penetrated; through a virgin, its odour did not penetrate. They should have been made to pass before the frontplate![31] — R. Kahana son of R. Nathan replied: It is written, for acceptance,[32] for acceptance but not for punishment. If so, the same should have applied at Midian also![33] R. Ashi replied: It is written, 'unto them', implying unto them[34] for acceptance but not for punishment; unto idolaters,[35] however, even for punishment.[36]

R. Jacob b. Idi stated in the name of R. Joshua b. Levi: The halachah is in agreement with R. Simeon b. Yohai.[37] Said R. Zera to R. Jacob b. Idi: Did you hear this[37] explicitly or did you learn it by a deduction? What [could be the] deduction? — As R. Joshua b. Levi related: There was a certain town in the Land of Israel the legitimacy of whose inhabitants was disputed, and Rabbi sent R. Romanos who conducted an enquiry and found in it the daughter of a proselyte who was under the age of three years and one day,[38] and Rabbi declared her eligible to live with a priest.[39] The other[40] replied:[41] I heard it explicitly. And what [matters it] if it[42] was learned by deduction?[43] — It is

possible that there[44] it was different; since the marriage had already taken place he sanctioned it; for, indeed, both Rab and R. Johanan stated: A priest may not marry one who is adolescent or 'wounded', but if already married, he may continue to live with her. How now! There it is quite correct [to sanction the marriage since in any case] she would ultimately become adolescent while she[45] will be with him,[46] and she would also ultimately become a be'ulah while with him;[46] but here, would she ultimately become a harlot[47] while with him?[48] R. Safra taught [that he[40] arrived at it][42] by deduction, and, having raised the difficulty,[49] answered it in the same way.[50]

A certain priest married a proselyte who was under the age of three years and one day. Said R. Nahman b. Isaac to him: What [do you mean by] this?[51] — The other replied: Because R. Jacob b. Idi stated in the name of R. Joshua b. Levi that the halachah is in agreement with R. Simeon b. Yohai.[52] 'Go', the first said, 'and arrange for her release, or else I will pull R. Jacob b. Idi out of your ear'.[53]

It was taught: And so did R. Simeon b. Yohai state

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(1) One divorced is not fit for a High Priest!
(2) Defilement by a common priest.
(3) קרובה sing.
(4) To exclude the one and include the other.
(5) R. Simeon who, in respect of the betrothed, expressed the same opinion as R. Jose (supra 60a).
(6) So Bah. Cur. edd., 'since he left his colleague'. R. Simeon only is mentioned in the case of the wounded.
(7) That the priest may defile himself for her.
(8) The exclusion of the betrothed.
(9) By R. Jose.
(10) Permission to marry the wounded.
(11) Only when her condition was due to the action of a man is she forbidden.
(12) Supra 59a. One who is adolescent is no more a perfect virgin.
(13) She is not regarded as a harlot.
(14) Num. XXXI, 18.
(15) Who was a priest.
(16) How could they, contrary to the opinion of R. Simeon b. Yohai, which has Scriptural support, forbid the marriage of the young proselyte?
(17) Not for matrimony.
(18) That, according to R. Simeon, Num. XXXI, 18 refers to matrimony.
(19) So long as she has 'not known man'.
(20) Num. XXXI, 17.
(21) To reconcile the contradiction.
(22) I.e., one who had attained the age of three years and one day.
(23) Not one who had actually experienced it.
(24) Implying that any grown-up woman is not to be spared, even if she hath not known man.
(25) Which of the Midianite women, referred to in the texts quoted, was, or was not fit for cohabitation.
(26) Cur. edd., 'Huna'.
(27) ציץ the gold plate which was worn by the High Priest on his forehead. V, Ex. XXVIII, 36ff.
(28) Lit., '(sickly) green'.
(29) Judges XXI, 12.
(30) Cf. supra n. 1 mutatis mutandis.
(31) As was done in the case of the Midianites (v. supra).
(32) Ex. XXVIII, 38, referring to the front-plate.
(33) Why then was the test there performed before the plate?
(34) Israelites, as were the inhabitants of Jabesh-gilead.
(35) As were the Midianites.

(36) By the front-plate.
(37) That a proselyte under the age of three years and one day may be married by a priest.
(38) And was married to a priest.
(39) I.e., permitted her to continue to live with her husband.
(40) R. Jacob b. Idi.
(41) To R. Zera.
(42) V. supra p. 403. n. 13.
(43) From the incident in the Palestinian city. Why then was R. Zera anxious to ascertain the manner whereby the ruling was obtained?
(44) The incident in Palestine.
(45) Even if she were now virgo intacta.
(46) The union is consequently allowed to remain.
(47) Which is the prohibition under which a priest may not marry the proselyte mentioned.
(48) Obviously not. Hence, it may well be concluded that were she not allowed to marry a priest, the union would have had to be dissolved even after marriage had taken place.
(49) Mentioned supra. that an ex post facto may be different.
(50) Had it not been permitted originally the marriage would have had to be annulled even ex post facto.
(51) I.e., on what authority did you contract the marriage.
(52) V. supra p. 403. n. 13.
(53) He would place him under the ban and thus compel him to carry out his decision which is contrary to that of R. Jacob b. Idi.

Talmud - Mas. Yevamoth 61a

that the graves of idolaters do not impart levitical uncleanness by an ohel,[1] for it is said, And ye My sheep the sheep of My pasture, are men;[2] you are called men[3] but the idolaters are not called men.[3]

An objection was raised: And the persons were sixteen thousand![4] — This is due to [the mention of] cattle.[5] Wherein are more than six-score thousand persons that cannot discern between their right and their left hand![6] — This is due [to the mention of] cattle.[7] Whosoever hath killed any person, and whosoever hath touched any slain, purify yourselves![8] — One of the Israelites might have been slain. And the Rabbis?[9] — [Scripture states]. There lacketh not one man of us.[10] And R. Simeon b. Yohai? — There lacketh not one man of us, through indulgence in sin.

Rabina replied: Granted that Scripture excluded them[11] from imparting uncleanness through an ohel,[12] because of the written text, When a man dieth in the tent,[13] did Scripture also exclude them from [imparting uncleanness by] touch and carriage?[14]

MISHNAH. [A PRIEST WHO] BETROTHED A WIDOW, AND WAS SUBSEQUENTLY APPOINTED HIGH PRIEST, MAY CONSUMMATE THE MARRIAGE. IT ONCE HAPPENED WITH JOSHUA B. GAMALA THAT HE BETROTHED MARTHA THE DAUGHTER OF BOETHUS, AND THE KING APPOINTED HIM HIGH PRIEST, AND HE, NEVERTHELESS, CONSUMMATED THE MARRIAGE.

IF ONE AWAITING THE DECISION OF THE LEVIR[15] BECAME SUBJECT TO A COMMON PRIEST WHO WAS SUBSEQUENTLY APPOINTED HIGH PRIEST, [THE LATTER], THOUGH HE ALREADY ADDRESSED TO HER A MA'AMAR, MUST NOT CONSUMMATE THE MARRIAGE.

GEMARA. Our Rabbis taught: Whence is it deduced that [a priest] who betrothed a widow and was afterwards appointed High Priest may consummate the marriage? It is specifically stated in Scripture, Shall he take to wife.[16] If so, [the same law should apply to] a yebamah awaiting the

decision of the levir also! — A 'wife' but not a yebamah.

IT ONCE HAPPENED TO JOSHUA etc. He APPOINTED HIM[17] but he was not elected![18] Said R. Joseph: I see here a conspiracy;[19] for R. Assi, in fact, related that Martha the daughter of Boethus brought to King Jannai[20] a tarkab[21] of denarii before he gave an appointment to Joshua b. Gamala among the High Priests.[22]

MISHNAH. A HIGH PRIEST WHOSE BROTHER DIED[23] MUST SUBMIT TO HALIZAH BUT MAY NOT CONTRACT THE LEVIRATE MARRIAGE.[24]

GEMARA. He lays down a general rule implying[25] that there is no difference whether [the yebamah became a widow] after betrothal or after marriage! One can well understand [the case of the widow] after marriage, [since marriage with her is forbidden by] a positive[26] as well as by a negative commandment,[27] and no positive commandment[28] may override a negative and a positive commandment;[29] but [in the case of a widow] after betrothal, the positives should override the negative commandment![30] — The first act of cohabitation[31] was forbidden as a preventive measure against the second act of cohabitation.[32]

MISHNAH. A COMMON PRIEST SHALL NOT MARRY A WOMAN INCAPABLE OF PROCREATION,[33] UNLESS HE HAD ALREADY A WIFE[34] OR CHILDREN.[35] R. JUDAH SAID: EVEN THOUGH HE HAS HAD A WIFE AND CHILDREN HE SHALL NOT MARRY A WOMAN INCAPABLE OF PROCREATION, SINCE SUCH[36] [IS INCLUDED IN THE TERM OF] HARLOT MENTIONED IN THE TORAH.[37] BUT THE SAGES SAID: THE TERM HARLOT IMPLIES ONLY A FEMALE PROSELYTE,[38] FREED BONDMAID[38] AND ONE WHO HAS BEEN SUBJECTED TO MERETRICIOUS INTERCOURSE. GEMARA. Said the Exilarch[39] to R. Huna: What is the reason?[40] Obviously because of the duty of the propagation of the race; are, then, only priests commanded concerning the propagation of the race while Israelites are not commanded?[41] The other replied:[42] Because it was desired to state in the final clause, R. JUDAH SAID: EVEN THOUGH HE HAS HAD A WIFE

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(1) אהל , lit., 'tent', i.e., on the man who stands on, or bends over such a grave, constituting his body, as it were, a tent.

(2) Ezek. XXXIV, 31.

(3) אדם (Adam), in respect of levitical uncleanness by ohel. The expression אדם is also used in the Pentateuchal text dealing with the laws of the uncleanness of objects found in a tent in which lay a corpse. V. Num, XIX, 14ff. [This is held by R. Simeon b. Yohai to denote, as distinct from the other terms for 'man' (אנוש , גבר , איש), only an Israelite who, as a worshipper of the true God, can be said to have been like Adam created in the image of God. (Cf. Gen. I, 27 and V, I, where the Heb. text has in each case Adam for 'man'). Idol worshippers having marred the Divine image forfeit all claim to this appelation. V. also B.M. Sonc. ed. p. 651, n. 6].

(4) Num. XXXI, 40. Here also the Heb. equivalent for persons is אדם though it refers to the Midianites who were idolaters.

(5) V, ibid. 37ff. In contrast to cattle, idolaters also may be described as Adam (men).

(6) Jonah IV, 11. Cur, edd. add in parentheses 'and much cattle', Here also אדם is the original word rendered persons, though it refers to the idolaters of Nineveh.

(7) The conclusion of the verse reads, and also much cattle. Cf, supra n. 4.

(8) Num. XXXI, 19, speaking of the slain Midianites; which proves that the corpses of idolaters also impart levitical uncleanness!

(9) How could they infer from this text that idolaters also impart levitical uncleanness?

(10) Num. XXXI, 49, so that the verse cannot refer to the corpses of Israelites.

(11) Idolaters.

(12) V. Glos.

(13) Num. XIX, 14. V. supra note 2.

(14) Of a corpse. Certainly not. Hence no objection may be raised from texts which may refer to uncleanness through

carriage or touch.
(15) Shomereth yabam, v. Glos.
(16) Lev. XXI, 14. The word 'wife' is superfluous; hence the deduction.
(17) מוהו Piel of מנה is the form of the verb used for an appointment by the State without previous nomination by the religious authorities. Such appointments were not made on the merits of the candidates but were procured by bribe or political intrigue.
(18) נתמוה Nithpael of מנה is the form of the verb usually used for the appointment of High Priests who were duly nominated by the priests and the Sanhedrin.
(19) Political intrigue against the wishes of the religious authorities.
(20) [Jannai is often employed in the Talmud as a general patronym for Hasmonean and Herodian rulers. Here it stands for Agrippa II, v. Josephus Antiquities XX, 9, 4, and Derenbourg, Essai, pp. 248ff].
(21) A measure of capacity. V, Glos.
(22) Yoma 18a.
(23) Without issue,
(24) His sister-in-law, being a widow, is forbidden to him.
(25) Lit., 'he cuts off (decides) and teaches'.
(26) And he shall take a wife in her virginity, Lev. XXI, 13.
(27) A widow . . . shall he not take, ibid. 14.
(28) That of the levirate marriage, v. Deut, XXV, 5.
(29) V. supra nn. 3 and 4.
(30) V. supra n. 4. The positive commandment that 'he must marry a virgin' (v. supra n. 3) is not thereby infringed!
(31) Which is indeed Pentateuchally permitted. Cf. supra n. 5.
(32) Which is not required for the fulfillment of the precept of the levirate marriage.
(33) אילונית v. Glos. s.v. Ilonith.
(34) So Maimonides. Rashi seems to omit 'wife'.
(35) Because it is one's duty to propagate the race. V. Gemara infra.
(36) A woman one marries for the gratification of one's passions and not for the propagation of the race.
(37) V. Lev. XXI, 7.
(38) Who is disqualified through her presumed intercourse with idolaters and slaves.
(39) ריש גלותא.
(40) Why a priest may not marry a woman incapable of procreation?
(41) Why then was only the priest mentioned?
(42) Priest only had to be mentioned.

Talmud - Mas. Yevamoth 61b

AND CHILDREN HE SHALL NOT MARRY A WOMAN INCAPABLE OF PROCREATION, SINCE SUCH [IS INCLUDED IN THE TERM OF] HARLOT MENTIONED IN THE TORAH. Since priests only were commanded concerning the harlot while Israelites were not so commanded, therefore PRIEST only was mentioned.

Said R. Huna: What is R. Judah's reason? — Since it is written, And they shall eat, and not have enough, they shall commit harlotry and shall not increase,[1] any cohabitation which results in no increase is nothing but meretricious intercourse.

It was taught: R. Eliezer stated, A priest shall not marry a minor. Said R. Hisda to Rabbah: Go and consider this matter,[2] for in the evening R. Huna will question you on the subject. When he went out he considered the point [and came to the conclusion that] R. Eliezer was of the same opinion as R. Meir and also of the same Opinion as R. Judah. 'He is of the same opinion as R. Meir' who takes exceptional cases[3] into consideration;[4] and 'also of the same opinion as R. Judah', who holds that a woman incapable of procreation is regarded as a harlot.[5] But does he[6] hold the same opinion as R. Meir? Surely it was taught: A minor, whether male or female, may neither perform, nor submit to

halizah, nor contract levirate marriage; so R; Meir. They said to R. Meir: You spoke well [when you ruled], may neither perform, nor submit to halizah', since in the Pentateuchal section[7] man was written,[8] and we also draw a comparison between woman and man.[9] What, however, is the reason why they may not contract levirate marriage? He replied: Because a minor male might be found to be a saris;[10] a minor female might be found to be incapable of procreation; and thus the law of incest would be violated.[11] And it was also taught: A minor female may contract the levirate marriage[12] but may not perform halizah;[13] so R. Eliezer![14]

And does he hold the same opinion as R. Judah? Surely it was taught: Zonah[15] implies, as her name [indicates, a faithless wife];[16] so R. Eliezer. R. Akiba said: Zonah implies one who is a prostitute.[17] R. Mathia b. Heresh said: Even a woman whose husband, while going[18] to arrange for her drinking,[19] cohabited with her on the way,[20] is rendered a zonah. R. Judah said: Zonah implies one who is incapable of procreation.[21] And the Sages said: Zonah is none other than a female proselyte, a freed bondwoman, and one who has been subjected to any meretricious intercourse. R. Eleazar[22] said: An unmarried man who had intercourse with an unmarried woman, with no matrimonial intent, renders her thereby a zonah![23] No, said R. Adda b. Ahabah, the reference here[24] is to[25] a High Priest. For when does he acquire her [as his lawful wife]? Only when she grows up;[26] but, then, she is already a be'ulah.[27] Said Raba:[28] What thoughtlessness![29] If her father had arranged her betrothal, then [the High Priest] would have acquired her from that very moment;[30] and if she herself had accepted the betrothal, is this[31] then the view of R. Eliezer only[32] and not that of the Rabbis![33] No, explained Raba, it[34] refers indeed to a common priest, but [the prohibition to marry the minor] is a precaution against the possibility of her seduction[35] while living with him. If so, [the same should apply to] an Israelite also! — The seduction of a minor is regarded as an outrage, and an outraged woman is permitted in the case of an Israelite.[36] R. Papa replied: [It[34] speaks] of a High Priest, and it represents the opinion of the following Tanna. For it was taught: A virgin;[37] as one might assume it to mean a minor, it was explicitly stated wife. If only 'wife' [had been written], it might have been assumed to mean one who is adolescent,[38] hence it was explicitly stated, 'a virgin'. How, then [is the text to be understood]? One who has emerged from her minority but has not yet attained adolescence.[39]

R. Nahman b. Isaac explained:[40] It is the opinion of the following Tanna. For it was taught: A virgin;[37] the only meaning of 'virgin' is damsel;[41] and so it is said in Scripture, And the damsel[42] was very fair to look upon, a virgin.[43] 'R. Eleazar said: An unmarried man who had intercourse with an unmarried woman, with no matrimonial intent, renders her thereby a zonah.' R. Amram said: The halachah is not in agreement with the opinion of R. Eleazar.

MISHNAH. A MAN SHALL NOT ABSTAIN FROM THE PERFORMANCE OF THE DUTY OF THE PROPAGATION OF THE RACE[44] UNLESS HE ALREADY HAS CHILDREN. [AS TO THE NUMBER]. BETH SHAMMAI RULED: TWO MALES, AND BETH HILLEL RULED: MALE AND A FEMALE, FOR IT IS STATED IN SCRIPTURE, MALE AND FEMALE CREATED HE THEM.[45]

GEMARA. [This implies] if he has children, he may abstain from performing the duty of propagation but not from that of living with a wife.[46] This provides support for a statement R. Nahman made in the name of Samuel who ruled that although a man may have many children he must not remain without a wife, for it is said in the Scriptures, It is not good that the man should be alone.[47]

Others read: [This[48] implies] if he has children he may abstain from performing the duty of propagation and also from that of living with a wife. May it, then, be said that this presents an objection against the statement R. Nahman made in the name of Samuel?[49] — No; if he has no children he must marry a woman capable of procreation; and if he has children he may marry a

woman who is incapable of procreation. What is the practical difference?[50] — In respect of selling a Scroll of the Law for the sake of children.[51] BETH SHAMMAI RULED: TWO MALES. What is Beth Shammai's reason? We make an inference from Moses, in connection with whom it is written, The sons of Moses: Gershom and Eliezer.[52] And Beth Hillel? — We infer from the creation of the world. Let Beth Shammai also infer from the creation of the world! — The possible cannot be inferred

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(1) Hos. IV, 10.

(2) Why R. Eliezer ruled a priest shall not marry a minor.

(3) Lit., 'minority'.

(4) It is possible,though not usual, that the minor would be found to be sterile.

(5) If she marries. Cf. supra p.407, n.13, and text.

(6) R. Eliezer.

(7) Dealing with halizah.

(8) V. Deut. XXV, 7.

(9) As the male must be a grown-up man and not a minor so must the female be a grown-up woman.

(10) Wanting in generative powers. V. Glos.

(11) Bek. 19b, infra 119a; they not being capable of procre- ation, there would be no offspring to succeed to the name of the deceased brother. The woman, therefore, is forbidden to the man as 'his brother's wife'.

(12) Though the act of a minor has no validity, she may contract the marriage, since the commandment of the levirate marriage will be fulfilled as soon as she becomes of age.

(13) Since her action has no validity and cannot, therefore, set her free to marry a stranger.

(14) How then, could R. Eliezer be said to hold the same view as R. Meir?

(15) E.V. harlot (Lev. XXI, 7) who is forbidden to marry a priest (ibid.).

(16) V. Rashi. זונה from rt. זנה 'to go astray', 'to run away' sc. from her husband.

(17) Though unmarried.

(18) To the supreme court in Jerusalem.

(19) Of the water of bitterness; v. Num. V, 8.

(20) When she is forbidden to him. From the moment of her seclusion with a stranger, after her husband had warned her to hold no secret meetings with that man, until after the test of the water, cohabitation between husband and wife is forbidden.

(21) If she marries. Cf. supra p. 407, n. 13 and text.

(22) Cur. edd. 'Eliezer'.

(23) How, then, could it be said that R. Eliezer is of the same opi- nion as R. Judah?

(24) The statement of R. Eliezer supra.

(25) Lit., 'here we are engaged in'.

(26) While she is a minor, her betrothal has no validity.

(27) V. Glos. Owing to his own cohabitation which had no lawful sanction and was in the nature of an outrage or seduction.

(28) With reference to R. Adda b. Ahabah's reply.

(29) מכלי לב == מבלי לב (v. Rashi) without heart. מכלי לב may perhaps mean 'consumption of the heart', i.e., 'what annoyance' to hear such an illogical explanation!

(30) A father is fully entitled to arrange the betrothal of his minor daughter (v. Kid. 3b).

(31) The ruling that a High Priest may not marry her.

(32) As seems to be implied by the statement supra where only R. Eliezer is mentioned as if the Rabbis differed from him.

(33) In such a case, surely, even the Rabbis agree.

(34) The statement of R. Eliezer supra.

(35) Owing to her youth and inexperience.

(36) To a priest, however, she is forbidden. Hence R. Eliezer's restriction of his ruling to the priest only:

(37) Lev. XXI, 4.

(38) A bogereth (v. Glos.).

(39) A minor is thus forbidden, and R. Eliezer's ruling is based on a Pentateuchal deduction.
(40) Following the line of R. Papa.
(41) נערה , one between twelve and twelve and a half years of age.
(42) והנערה.
(43) בתולה, Gen. XXIV, 16.
(44) פריה ורביה. V, Gen. I, 28: פרו ורבו , be fruitful and multiply.
(45) Gen. V, 2.
(46) Since our Mishnah mentions only the exemption from the former and not from that of the latter.
(47) Gen. II, 18.
(48) [Since the Mishnah does not state, A man shall not marry a woman who is incapable of bearing children unless he already has children (Tosaf.)].
(49) Supra, that a man must never remain unmarried.
(50) As regards the duty of marriage. In either case one must not remain single.
(51) Only a man who has no children must sell even such a precious object if thereby he is enabled to marry a woman capable of procreation. If he has children such a sale is forbidden, and he must contract a less expensive marriage with an old or sterile woman.
(52) I Chron. XXIII, 15.

from the impossible.[1] Let Beth Hillel, then, make the inference from Moses! — They can answer you: Moses did it with His consent.[2] For it was taught: Moses did three things on his own initiative and his opinion coincided with that of the Omnipresent. He separated himself from his wife,[3] broke the Tables of Testimony[4] and added one day.[5]

'He separated himself from his wife'; what exposition did he make?[6] — He said, 'If to the Israelites, with whom the Shechinah spoke only for a while and for whom a definite time was fixed, the Torah nevertheless said, Come not near a woman,[7] how much more so to me, who am liable to be spoken to at any moment and for whom no definite time has been fixed'. And his view coincided with that of the Omnipresent; for it is said, Go say to them: Return ye to your tents; but as for thee, stand thou here by Me.[8]

'He broke the Tables of Testimony'; what exposition did he make?[6] — He said, 'If of the Paschal lamb, which is only one of the six hundred and thirteen commandments, the Torah said, There shall no alien eat thereof,[9] how much more should this apply to the entire Torah when all Israel are apostates'. And his view coincided with that of the Omnipresent; for it is written, Which thou didst break[10] and Resh Lakish explained: The Holy One, blessed be He, said to Moses, 'I thank you for breaking them'.[11]

'He added one day' on his own initiative. What exposition did he make?[12] — 'As it is written, And sanctify them to-day and to-morrow[13] [It implies that] to-day shall be the same as to-morrow; as to-morrow includes the previous night[14] so to-day must include the previous night. As, however, to-day's previous night has already passed away,[15] it must be inferred that two days exclusive of to-day must be observed'. And his view coincided with that of the Omnipresent, for the Revelation did not take place[16] before the Sabbath.[17]

It was taught: R. Nathan stated: Beth Shammai ruled: Two males and two females;[18] and Beth Hillel ruled: A male and a female.[18] Said R. Huna: What is the reason which R. Nathan assigns for the opinion of Beth Shammai? Because it is written, And again she bore his brother Abel[19] [which[20] implies:] Abel and his sister; Cain and his sister.[21] And it is also written, For God hath appointed me another seed instead of Abel;[22] for Cain slew him.[23] And the Rabbis? She was merely expressing her gratitude.[24]

Elsewhere it was taught: R. Nathan stated that Beth Shammai ruled: A male and a female;[25] and Beth Hillel ruled: Either a male or a female.[25]

Said Raba: What is the reason which R. Nathan assigns for the view of Beth Hillel? — Because it is said, He created it not a waste, He formed it to be inhabited,[26] and he[27] has obviously helped it to be inhabited.

It was stated: If a man had children while he was an idolater and then he became a proselyte, he has fulfilled, R. Johanan said, the duty of propagation of the race; and Resh Lakish said: He has not fulfilled the duty of propagation of the race. 'R. Johanan said: He has fulfilled the duty of propagation', since he had children. 'And Resh Lakish said: He has not fulfilled the duty of propagation' because one who became a proselyte is like a child newly born.

And they[28] follow their views.[29] For it was stated: If a man had children while he was an idolater and then he became a proselyte, he has, R. Johanan said, no firstborn in respect of inheritance,[30] since he already had[31] the first-fruits of his strength.[32] Resh Lakish, however, said: He has a firstborn son in respect of inheritance, for a man who became a proselyte is like a child newly born.

And [both statements[33] were] necessary. For if the first only had been stated [it might have been assumed that] only in that state- ment did R. Johanan maintain his view, since formerly he[34] was also subject to the obligation of propagation,[35] but in respect of inherit- ance, since [the proselyte's former children] are not entitled to heirship, it might have been presumed that he agrees with Resh Lakish. And were only the second stated [it might have been assumed that] only in that did Resh Lakish maintain his view but that in the former he agrees with R. Johanan. [Hence both were] necessary.

R. Johanan raised an objection against Resh Lakish. At that time Berodach-baladan the son of Baladan, King of Babylon etc.![36] — The other replied: While they are idolaters they have legally recognized ancestry, but when they become proselytes they have no longer any legally recognized ancestry.

Rab[37] said: All agree that a slave has no legally recognized relatives, since it is written, Abide ye here with[38] the ass,[39] people who are like the ass.[40]

An objection was raised: Now Ziba had fifteen sons and twenty servants![41] — R. Aba b. Jacob replied: Like a young bullock.[42] If so, [the same reply could be given] there also![43] — There it is different, since Scripture mentioned his[44] own name as well as his father's[45] name, while here[46] [the son's names] were not specified. If you prefer I might say: They[47] were elsewhere ascribed to their father and their father's father; as it is written, And King Asa sent them to Ben-hadad, the son of Tabrimmon, the son of Hezion, the King of Aram, that dwelt at Damascus, saying.[48]

It was stated: If a man had children and they died, he has fulfilled, said R. Huna, the duty of propagation. R. Johanan said: He has not fulfilled it. 'R. Huna said: He fulfilled' because [he follows the tradition] of R. Assi. For R. Assi[49] stated: The Son of David[50] will not come before all the souls in Guf[51] will have been disposed of, since it is said, For the spirit that unwrappeth itself is from Me etc.[52] And 'R. Johanan said: He has not fulfilled the duty of propagation' because we require [the fulfilment of the text] He formed it to be inhabited,[53] which is not the case here.[54] An objection was raised:

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(1) It would have been impossible for the human race to propagate had not one of each sex been created. For the preservation of the race, however, it is not necessary for every man to have children of both sexes.

(2) God approved of Moses' action. No inference for other people may be drawn from an exceptional case.

(3) Though no daughter had been born from their union.

(4) When, on descending from the mountain, he found the people worshipping the golden calf (v. Ex. XXXII, 19).

(5) To the prescribed period of sanctification that preceded the revelation on Sinai (v. Ex. XIX, 10 and 15).

(6) In support of his action.

(7) Ex. XIX, 15.

(8) Deut. V, 27f.

(9) Ex. XII, 43.

(10) Ibid. XXXIV, 1, אשר שברת .

(11) יישר כחך , lit., 'may thy strength be firm'. יישר and אשר are regarded as coming from the same rt. אשר .

(12) In support of his action.

(13) Ex. XIX, 10.

(14) The day always beginning after the sunset of the previous day.

(15) At the time Moses received his instructions.

(16) Lit., 'the Shechinah did not dwell'.

(17) The sanctification began on Wednesday. They observed all Thursday and Friday; and the Shechinah descended on the Sabbath which was the third of the two complete days (V. Shab. 86a), thus, as Moses expected, disregarding the first

day which was incomplete.
(18) Are the minimum required to fulfil the duty of the propagation of the race. V. Tosef. Yeb. VIII.
(19) Gen. IV, 2.
(20) את , (the sign of the defined accusative) which could be omitted (as in many other instances), appearing both before brother and before Abel.
(21) Two males and two females.
(22) Obviously to make up the minimum.
(23) Gen. IV, 25.
(24) The duty of propagation, however, would have been fulfilled without the additional birth.
(25) V. supra note 8.
(26) Isa. XLV, 18. It is the duty of man to assist in making the world inhabited.
(27) The man who has even only one son or one daughter.
(28) R. Johanan and Resh Lakish.
(29) Expressed elsewhere.
(30) The first son born after his conversion is not entitled to the double portion of the firstborn.
(31) Before his conversion.
(32) V. Deut. XXI, 17.
(33) That relating to the duty of propa- gation and that in respect of the firstborn.
(34) Lit., 'they', sc. idolaters.
(35) It being one of the seven Noahide commandments. V. Gen. IX, 7.
(36) II Kings, XX, 12; which shews that an offspring of an idolater is also described as a son!
(37) Others, 'R. Abba', v. Alfasi and ראש.
(38) עם , the same consonants as עם 'a people'.
(39) Gen. XXII, 5.
(40) With reference to Abraham's slaves v. Gen. ibid. The slave, like the ass, is considered the chattel of the master.
(41) II Sam. IX, 10. Ziba was a slave (v. ibid. 9) and yet he is described as having sons.
(42) פר בן בקר , lit., 'a bullock the son of a herd'. The expression of son in the case of the slave Ziba had no greater significance than the expression of 'son' in the case of cattle.
(43) In the description of Berodach in II Kings XX, 12.
(44) Cf. supra p. 414, n. 9.
(45) Which may indeed be taken as proof that idolaters' children are legal descendants and may be described as 'sons'.
(46) Ziba's descendants.
(47) Idolaters.
(48) I Kings XV, 18. Cf. supra n. 9.
(49) Others, 'Jose'. V. 'A.Z. 5a, Nid. 13b.
(50) The Messiah.
(51) Lit., 'body', the region inhabited by the souls of the unborn.
(52) Isa. LVII, 16. This being the reason for the duty of propagation, the duty is fulfilled as soon as a child is born, i.e., as soon as his soul has left the region of Guf irrespective of whether he survives or not.
(53) Isa. XLV, 18.
(54) The children being dead.

Talmud - Mas. Yevamoth 62b

Grandchildren are like children![1] — This was taught only in respect of supplementing.[2]

An objection was raised: Grandchildren are like children. If one of them died or was found to be a saris[3] the father has not fulfilled the duty of propagation.[4] Is not this a refutation against R. Huna?[5] — It is indeed a refutation.

'Grandchildren are like children'. Abaye intended to say: A grandson for a son and a granddaughter for a daughter, and certainly a grandson for a daughter; but not a granddaughter for a

son.[6] But Raba said to him: We only require [the fulfilment of the text] He formed it to be inhabited,[7] which is the case here.

All, at any rate, agree[8] that two children of one[9] are not sufficient. But [are they] not? The Rabbis surely said to R. Shesheth,[10] 'Marry a wife and beget children', and he answered them, 'My daughters' children are mine'! — There he was merely putting them off, because R. Shesheth became impotent owing to the long discourses of R. Huna.[11]

Said Rabbah to Raba b. Mari: Whence the statement made by the Rabbis that grandchildren are like children? If it be suggested that it is deduced from the Scriptural text, The daughters are my daughters and the children are my children,[12] would then [it may be objected] the same [meaning be given to the text] And the flocks are my flocks?[12] But [the meaning there is obviously] 'which you have acquired from me', so here also [the meaning may be], 'which you have acquired from me'! The deduction is rather made from the following:[13] And afterwards Hezron went to the daughter of Machir the father of Gilead; . . . and she bore him Segub,[14] and it is also written, Out of Machir came down lawgivers,[15] and furthermore it is written, Judah is my lawgiver.[16]

Our Mishnah[17] cannot represent the opinion of R. Joshua. For it was taught: R. Joshua said, If a man married in his youth, he should marry again in his old age; if he had children in his youth, he should also have children in his old age; for it said, In the morning[18] sow thy seed and in the evening[19] withhold not thine hand; for thou knowest not which shall prosper, whether this or that, or whether they shall both be alike good.[20] R. Akiba said: If a man studied Torah in his youth, he should also study it in his old age; if he had disciples in his youth, he should also have disciples in his old age. For it is said, In the morning sow thy seed etc.[20]

It was said that R. Akiba had twelve thousand pairs of disciples, from Gabbatha[21] to Antipatris;[22] and all of them died at the same time because they did not treat each other with respect. The world remained desolate[23] until R. Akiba came to our Masters in the South and taught the Torah to them. These were R. Meir, R. Judah, R. Jose, R. Simeon and R. Eleazar b. Shammua; and it was they who revived the Torah at that time. A Tanna taught: All of them[24] died between Passover and Pentecost. R. Hama b. Abba or, it might be said, R. Hiyya b. Abin said: All of them died a cruel death. What was it?-R. Nahman replied: Croup.[25]

R. Mattena stated: The halachah is in agreement with R. Joshua.[26]

R. Tanhum stated in the name of R. Hanilai: Any man who has no wife lives without joy, without blessing, and without goodness. 'Without joy'. for it is written. And thou shalt rejoice, thou and thy house.[27] 'Without blessing', for it is written, To cause a blessing to rest on thy house.[28] 'Without goodness', for it is written, It is not good that the man should be alone.[29]

In the West[30] it was stated:[31] Without Torah and without a [protecting] wall. 'Without Torah', for it is written. Is it that I have no help[32] in me, and that sound wisdom[33] is driven quite from me.[34] 'Without a [protecting] wall', for it is written, A woman shall encompass a man.[35]

Raba b. 'Ulla said:[31] Without peace, for it is written, And thou shalt know that thy tent[36] is in peace; and thou shalt visit thy habitation and shalt miss nothing.[37]

R. Joshua b. Levi said: Whosoever knows his wife to be a God-fearing woman and does not duly visit her is called a sinner; for it is said, And thou shalt know that thy tent is in peace[38] etc.[39]

R. Joshua b. Levi further stated: It is a man's duty to pay a visit to his wife when he starts on a journey; for it is said, And thou shalt know that thy tent is in peace etc.[37] Is this[40] deduced from

here? Surely it is deduced from the following:[41] And thy desire shall be to thy husband[42] teaches that a woman yearns for her husband when he sets out on a journey! — R. Joseph replied: This[43] was required only in the case where her menstruation period was near.[44] And how near? Rabbah[45] replied: Twelve hours.[46] And this[47] applies only [when the journey is] for a secular purpose, but when for a religious purpose [it does not apply, since then] people are in a state of anxiety.[48] Our Rabbis taught: Concerning a man who loves his wife as himself, who honours her more than himself, who guides his sons and daughters in the right path and arranges for them to be married near the period of their puberty, Scripture says, And thou shalt know that thy tent is in peace.[49] Concerning him who loves his neighbours, who befriends his relatives, marries his sister's[50] daughter,

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(1) Infra 70a. It is now assumed that whenever one's own child died the grandchild may take his place in exempting his grandfather from the duty of propagation. From this it follows that only living children or grandchildren exempt a man from the duty of further propagation. How then could R. Huna maintain that dead children also exempt one from this duty?

(2) If a man had only one son he is exempt from the duty of propagation if his son had a daughter. If, however, he once had a male and a female who subsequently died he is in any case exempt.

(3) V. Glos.

(4) Tosef. Yeb. VIII.

(5) Cf. supra note 1, final clause.

(6) I.e., a granddaughter cannot take the place of a son to exempt one from the duty of further propagation.

(7) Isa. XLV, 18.

(8) Lit., 'all the world', i.e., Abaye and Raba.

(9) Son or daughter.

(10) Others, 'Abba b. Zabda'. V. She'iltoth. Sec. ha-Berakah.

(11) The discourses being long, R. Shesheth, in his desire not to interrupt them, suppressed his needs and thus impaired his generative organs. V. Bek. 44b.

(12) Gen. XXXI, 43.

(13) Lit., 'from here'.

(14) I Chron. II, 21.

(15) Judges V, 14.

(16) Ps. LX, 9. As this text implies that the lawgivers were descendants of Judah, Machir (Judges V, 14), a descendant of Manasseh, could not have been the paternal, but only the maternal ancestor of the lawgivers that descended from him. The lawgivers were thus the offspring of the union mentioned in I Chron. II, 21, between Hezron, a descendant of Judah, and a daughter of Machir. This then proves that the sons of one's daughter are also regarded as one's own sons.

(17) Which permits abstention from further propagation after the birth of the prescribed number of children.

(18) I.e., 'the morning of life', youth.

(19) I.e., 'old age'. V. supra n. 5.

(20) Eccl. XI, 6.

(21) Gibbethon, in the territory of Dan.

(22) N.N.W. of Jerusalem.

(23) Through lack of learning.

(24) The disciples of R. Akiba.

(25) אסכרה (rt. סכר , 'stop', 'choke').

(26) Supra, that the duty of propagation never ceases.

(27) Deut. XIV, 26. House, בית refers to one's wife. Cf. Yoma 2a.

(28) Ezek. XLIV, 30. Cf. supra n. 3.

(29) Gen. II, 18.

(30) Palestine.

(31) Concerning the unmarried man.

(32) I.e., 'a wife'. Cf. A help meet for him, Gen. II, 18.

(33) תושיה , the Torah.

(34) Job VI, 13.

(35) Jer. XXXI, 22. Cf. R.V.
(36) I.e., wife. Cf. M.K. and supra note 3.
(37) Job V, 24.
(38) I.e., 'that thy wife is in peace with God' sc. 'chaste', or. reading שלום as שלם , 'perfect'.
(39) Ibid., then thou shalt visit etc.
(40) The duty of visiting prior to setting out on a journey.
(41) Lit., 'from there'.
(42) Gen. III, 16.
(43) The statement as to the duty of visiting.
(44) At the time he sets out on his journey. When no journey is contemplated one must keep away from his wife when the menstruation period is near. V. Shebu. 18b.
(45) Cur. edd., 'Raba'.
(46) עונה lit., 'period'. i.e., a whole day or a whole night. If the menstruation occurs during the day, he must keep away throughout that day, and if during the night, he must keep away during all that night.
(47) The duty of visiting prior to setting out on a journey.
(48) Or, 'they might be preoccupied' and thus delay the journey and neglect the performance of the religious act.
(49) Job V, 24.
(50) This is a meritorious act, because the affection a man has for his sister will be extended to her daughter, his wife.

Talmud - Mas. Yevamoth 63a

and lends a sela'[1] to a poor man in the hour of his need, Scripture says, Then shalt thou call, and the Lord will answer; thou shalt cry and He will say: 'Here I am'.[2]

(Mnemonic: Woman and land help this two shoots, tradesmen inferior.)[3]

R. Eleazar said: Any man who has no wife is no proper man; for it is said, Male and female created He them and called their name Adam.[4]

R. Eleazar further stated: Any man who owns no land is not a proper man; for it is said, The heavens are the heavens of the Lord; but the earth hath he given to the children of men.[5]

R. Eleazar further stated: What is the meaning of the Scriptural text, I will make him a help meet for him?[6] If he was worthy she is a help to him;[7] if he was not worthy she is against him.[8] Others say: R. Eleazar pointed out a contradiction: It is written kenegedo[9] but we read kenegedo![10] — If he was worthy she is meet for him;[10] if he was not worthy she chastises him.[9]

R. Jose met Elijah and asked him: It is written, I will make him a help;[11] how does a woman help a man? The other replied: If a man brings wheat, does he chew the wheat? If flax, does he put on the flax?[12] Does she not, then, bring light to his eyes and put him on his feet!

R. Eleazar further stated: What is meant by the Scriptural text, This is now bone of my bones, and flesh of my flesh?[13] This teaches that Adam had intercourse with every beast and animal but found no satisfaction until he cohabited with Eve.

R. Eleazar further stated: What is meant by the text, And in thee shall the families of the earth be blessed?[14] The Holy One, blessed be He, said to Abraham, 'I have two goodly shoots to engraft[15] on you: Ruth the Moabitess and Naamah the Ammonitess'.[16] All the families of the earth,[14] even the other families who live on the earth are blessed only for Israel's sake. All the nations of the earth,[17] even the ships that go from Gaul to Spain are blessed only for Israel's sake.

R. Eleazar further stated: There will be a time when all craftsmen will take up agriculture;[18] for it

is said, And all that handle the oar, the mariners, and all the pilots of the sea, shall come down from their ships; they shall stand upon the land.[19]

R. Eleazar further stated: No[20] occupation is inferior to that of agricultural labour; for it is said, And they shall come down.[21]

R. Eleazar once saw a plot of land that was ploughed across its width.[22] 'Wert thou to be ploughed along thy length also',[23] he remarked, 'engaging in business would still be more profitable'. Rab once entered among growing ears of corn. Seeing that they were swaying[24] he called out to them, 'Swing as you will,[25] engaging in business brings more profit than you can do'.

Raba said: A hundred zuz[26] in business means meat and wine every day; a hundred zuz in land, only salt and vegetables.[27] Furthermore it causes him to sleep on the ground[28] and embroils him in strife.[29]

R. Papa said, 'Sow[30] but do not buy,[31] even if the cost is the same; there is a blessing in the former. Sell out[32] to avoid disgrace;[33] but only mattresses, [not] however, a cloak, [since one] might not always again obtain [a suitable one].[34] Stop up[35] and you will need no repair;[36] repair[37] and you will not need to rebuild; for whosoever engages in building grows poor. Be quick in buying land; be deliberate in taking a wife. Come down a step in choosing your wife;[38] go up a step in selecting your shoshbin.[39]

R. Eleazar b. Abina[40] said: Punishment comes into the world only on Israel's account; for it is said, I have cut off nations, their corners are desolate; I have made their streets waste,[41] and this is followed by the text, 'I said: Surely thou wilt fear Me, thou wilt receive correction'.[42]

Rab was once taking leave of R. Hiyya. The latter said to him, 'May the All Merciful deliver you from that which is worse than death'. 'But is there' [Rab wondered] 'anything that is worse than death'? When he went out he considered the matter and found [the following text]: And I find more bitter than death the woman etc.[43]

Rab was constantly tormented by his wife. If he told her, 'Prepare me lentils', she would prepare him small peas; [and if he asked for] small peas, she prepared him lentils. When his son Hiyya grew up he gave her [his father's instruction] in the reverse order.[44] 'Your mother', Rab once remarked to him, 'has improved'![45] 'It was I', the other replied, 'who reversed [your orders] to her'. 'This is what people say', the first said to him, 'Thine own offspring teaches thee reason';[46] you, however, must not continue to do so' for it is said, They have taught their tongue to speak lies, they weary themselves etc'.[47]

R. Hiyya was constantly tormented by his wife. He, nevertheless, whenever he obtained anything suitable wrapped it up in his scarf and brought it to her. Said Rab to him, 'But, surely, she is tormenting the Master!' — 'It is sufficient for us', the other replied, 'that they rear up our children and deliver us

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(1) A coin. V. Glos.

(2) Isa. LVIII, 9. This refers to the preceding text: If then thou seest the naked, that thou cover him (ibid. 7), i.e., helping the poor at the hour of his need; and that thou hide not thyself from thine own flesh (ibid.) implies benefiting relatives including the marriage of a sister's daughter and loving one's neighbours who are regarded as relatives.

(3) The words in the mnemonic correspond to terms outstanding in the respective statements of R. Eleazar, that follow.

(4) Gen. V, 2. Adam == man. Only when the male and female were united were they called Adam.

(5) Ps. CXV, 16, emphasis on man and earth.

(6) Gen. II, 18.

(7) עזר , 'help'.
(8) כנגדו , meet for him may also be rendered 'against him'.
(9) כנגדו (rt. נגד , 'to strike').
(10) כנגדו meet for him.
(11) Gen. II, 18.
(12) Obviously not. His wife grinds the wheat and spins the flax.
(13) Gen. II, 23, emphasis on This is now.
(14) Ibid. XII, 3, ונברכו.
(15) להבריך in Hif. is of the same rt. (ברך) as ונברכו in Nif.
(16) Both belonged to idolatrous nations and were 'grafted' upon the stock of Israel. The former was the ancestress of David (V. Ruth IV, 13ff), and the latter the mother of Rehoboam (v. I Kings XIV, 31) and his distinguished descendants Asa, Jehoshaphat and Hezekiah.
(17) Gen. XVIII, 18.
(18) Lit., 'they shall stand upon the land'.
(19) Ezek. XXVII, 29.
(20) Lit., 'not to thee'.
(21) V. supra note 11, emphasis on down.
(22) Apparently as a measure of economy.
(23) I.e., were it to be ploughed ever so many times.
(24) Suggestive of a swaggering motion; pride.
(25) Other readings and interpretations: 'Eh! thou desirest to be winnowed with the fan'; 'Thou swingest thyself like a swing'; 'Swing thyself' i.e., 'be as proud as thou wilt' (v. Aruk and Jast.).
(26) A coin. V. Glos.
(27) חפורה may be compared with Arab. hafire 'the beginning of a thing', hence the first stage in the ripening of the corn (cf. Levy), 'unripe ears' (v. Rashi); 'grass' (Golds.); 'common vegetables' (Jast.).
(28) Since he must remain in his field during the night to watch the crops.
(29) With the owners of adjoining fields.
(30) Crops for the requirements of one's household.
(31) Corn in the market.
(32) Possessions or household goods.
(33) Of starvation or begging (v. Rashi). Other readings and interpretations: 'Buy ready-made cloth and do not wind skeins' (read תידויל for תיזול); 'Buy etc. and do not spin' (v. Jast. and Aruk).
(34) V. Bah. a.l.
(35) A small hole in a building.
(36) Cf., 'a stitch in time saves nine' (Eng. prov.).
(37) If it is too late to stop up the cracks.
(38) A wife of superior position or rank might put on airs. or not be contented with her husband's social or financial position.
(39) The bridegroom's best man. By associating with superior men one has a good example to emulate.
(40) The last two words are missing in Yalkut.
(41) Zeph. III, 6.
(42) Ibid, 7.
(43) Eccl. VII, 26.
(44) So that when his mother, as usual, did the reverse of what she was requested by Hiyya in the name of his father, Rab had exactly what he had wished for.
(45) Lit., 'improved for you', (dative of advantage).
(46) The expedient had not occurred to him before his son had thought of it.
(47) Jer. IX, 4.

Talmud - Mas. Yevamoth 63b

from sin'.

Rab Judah was reading with his son R. Isaac the Scriptural text, And I find more bitter than death the woman. When the latter asked him, 'Who, for instance'? — 'For instance, your mother'. But,[1] surely, Rab Judah taught his son R. Isaac, 'A man finds happiness[2] only with his first wife; for it is said, Let thy fountain be blessed and have joy of the wife of thy youth';[3] and when the latter asked him, 'Who for instance?' [he answered:] 'For instance, your mother'![4] — She was indeed irascible but could be easily appeased with a kindly word.[5]

How is one to understand the term a 'bad wife'? Abaye said: One who prepares for him[6] a tray[7] and has her tongue[8] also ready for him. Raba said: One who prepares for him[6] the tray and turns her back upon him.[9]

R. Hama b. Hanina stated: As soon as a man takes a wife his sins are buried;[10] for it is said: Whoso findeth a wife findeth a great good and obtaineth[11] favour of the Lord.[12]

In the West,[13] they used to ask a man who married, 'findeth or find?'[14] Findeth, because it is written, Whoso findeth a wife, findeth a great good;[12] Find, because it is written, And I find more bitter than death the woman.[15]

Raba said: [If one has] a bad wife it is a meritorious act to divorce her,[16] for it is said, Cast out[17] the scoffer, and contention will go out; yea, strife and shame will cease.[18]

Raba further stated: A bad wife, the amount of whose kethubah[19] is large,[20] [should be given] a rival at her side; as people say, 'By her partner rather than by a thorn'.[21]

Raba further stated: A bad wife is as troublesome as a very rainy day; for it is said, A continual dropping in a very rainy day and a contentious woman are alike.[22]

Raba further stated: Come and see how precious is a good wife and how baneful is a bad wife. 'How precious is a good wife', for it is written: Whoso findeth a wife findeth a great good.[12] Now, if Scripture speaks of the woman herself, then how precious is a good wife whom Scripture praises. If Scripture speaks of the Torah, then how precious is a good wife with whom the Torah is compared. 'How baneful is a bad wife', for it is written, And I find more bitter than death the woman.[23] Now, if Scripture speaks of herself, then how baneful is a bad wife whom Scripture censures. If Scripture speaks of Gehenna, then how baneful is a bad wife with whom Gehenna is compared.

Behold I will bring evil upon them, which they shall not be able to escape.[24] R. Nahman said in the name of Rabbah b. Abbuha: This refers to a bad wife, the amount of whose kethubah[25] is large.[26]

The Lord has delivered me into their hands against whom I am not able to stand.[27] R. Hisda said in the name of Mar 'Ukba b. Hiyya: This refers to a bad wife the amount of whose kethubah[25] is large.[26] In the West[28] it was said: This refers to one whose maintenance depends on his money.[29]

Thy sons and thy daughter's shall be given unto another people.[30] R. Hanan b. Raba stated in the name of Rab: This refers to one's father's wife.[31]

I will provoke them with a vile[32] nation.[33] R. Hanan b. Raba stated in the name of Rab: This refers to a bad wife the amount of whose kethubah[25] is large.[34] R. Eliezer stated: This refers to the Sadducees;[35] for so it is said, The fool[32] has said in his heart: 'There is no God' etc.[36] In a Baraitha it was taught: This refers to the people of Barbaria[37] and the people of Mauretania[38] who go naked in the streets; for there is nothing more objectionable and abominable to the Omnipresent than the man who goes naked in the streets. R. Johanan said: This refers to the Parsees.[39]

When R. Johanan was informed that the Parsees[40] had come to Babylon, he reeled and fell.[41] When however he was told that they accepted bribes he recovered[42] and sat down again.[43]

They[44] issued three decrees as a punishment for three [transgressions]:[45] They decreed against [ritually prepared] meat,[46] because the priestly gifts[47] [were neglected]. They decreed against the use of baths, because ritual bathing [was not observed]. They exhumed the dead,[48] because rejoicings were held on the days of their[49] festivals; as it is said, Then shall the hand of the Lord be against you, and against your fathers,[50] and Rabbah b. Samuel said that that[51] referred to the exhumation of the dead, for the Master said, 'For the sins of the living the dead are exhumed'.

Said Raba to Rabbah b. Mari: It is written, They shall not be gathered, nor be buried, they shall be for dung upon the face of the earth,[52] but it is also written,[53] And death shall be chosen rather than life![54] — The other replied: 'Death shall be chosen' for the wicked, in order that they may not live in this world and thus sin and fall into Gehenna.[55] It is written in the book of Ben Sira: —[56]

A good wife is a precious gift;[57] she will be put in the bosom of the God-fearing man.[58] A bad wife is a plague to her husband. What remedy has he? — Let him give her a letter of divorce and be healed of his plague.

A beautiful wife is a joy to her husband;[59] the number of his days shall be double.[60]

Turn away thy eyes from [thy neighbour's] charming wife lest thou be caught in her net. Do not turn in to her husband to mingle with him wine and strong drink; for, through the form of a beautiful woman, many were destroyed and a mighty host are all her slain.[61]

Many were the wounds of the spice-peddler,[62] which lead him on to lewdness like a spark that lights the coal.[63]

As a cage is full of birds so are [the harlots'] houses full of deceit .[64]

Do not worry about to-morrow's trouble, for thou knowest not what the day may beget. To-morrow may come and thou[65] wilt be no more and so thou hast worried about a world which is not thine.[66]

Keep away many from thy house; and do not bring everyone into thy house.

Many be they that seek thy welfare; reveal thy secret only to one of a thousand.

R. Assi stated: The son of David[67] will not come before all the souls in Guf[68] are disposed of; since it is said, For the spirit that enwrappeth itself is from Me, and the souls which I have made.[69]

It was taught: R. Eliezer stated, He who does not engage in propagation of the race is as though he sheds blood; for it is said, Whoso sheddeth man's blood by man shall his blood be shed,[70] and this is immediately followed by the text, And you, be ye fruitful and mul tiply.[71] R. Jacob said: As though he has diminished the Divine Image; since it is said, For in the image of God made he man,[72] and this is immediately followed by, And you, be ye fruitful etc.[71] Ben 'Azzai said: As though he sheds blood and diminishes the Divine Image; since it is said,[73] And you, be ye fruitful and mutltiply.[71]

They said to Ben 'Azzai: Some preach well and act well, others act well but do not preach well; you. however, preach well but do not act well![74] Ben 'Azzai replied: But what shall I do, seeing that my soul is in love with the Torah; the world can be carried on by others.

Another [Baraitha] taught : R. Eliezer said, Anyone who does not engage in the propagation of the race is as though he sheds blood; For it is said, Whoso sheddeth mans's blood,[72] and close upon it follows, And you, be ye fruitful etc.[71] R. Eleazar b. Azariah said: As though he diminished the Divine Image. Ben ‘Azzai said etc.[75] They said to Ben ‘Azzai: Some preach well etc.[75]

Our Rabbis taught: And when it rested, he said: ‘Return O Lord unto the ten thousands and[76] thousands of Israel’,[77]

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(1) Bah inserts, ‘it is not so’.

(2) Or ‘satisfaction’, ‘contentment’.

(3) Prov. V, 18.

(4) Sanh. 22b. Which is apparently contradictory to the former character attributed to her!

(5) Cf. Jast. and Golds.

(6) Her husband.

(7) His meal.

(8) Lit., ‘mouth’.

(9) Euphemism.

(10) מתפקקין lit., ‘stopped up’.

(11) ויפק regarded to have the same meaning as מתפקקין supra n. 7.

(12) Prov, XVIII, 22.

(13) Palestine.

(14) Hebr. Moze or Maza.

(15) Eccl. VII, 26.

(16) לגרשה rt. גרש v. infra.

(17) גרש of the same rt. as supra n. 13.

(18) Prov. XXII, 10.

(19) V. GIos.

(20) Which the husband, should he desire to divorce her, cannot afford to pay.

(21) I.e., a bad wife is more easily corrected by subjecting her to the unpleasantness of a rival than by chastising her with thorns.

(22) Prov. XXVII, 15.

(23) Eccl, VII, 26.

(24) Jer. XI, 11.

(25) V. Glos.

(26) Which the husband, should he desire to divorce her, cannot afford to pay.

(27) Lam, I, 14.

(28) Palestine.

(29) Having no land of his own from which to obtain his food, he is subject to the extortionate prices of unscrupulous dealers upon whom he must depend for the supply of his daily food.

(30) Deut. XXVIII, 32.

(31) A stepmother.

(32) נבל .

(33) Deut. XXXII, 21.

(34) Which the husband, should he desire to divorce her, cannot afford to pay.

(35) Bomberg ed., Minim, ‘heretics’.

(36) Ps. XIV, 1.

(37) Tunis.

(38) Britannia? v. Jast.

(39) The followers of an expanded Zoroastrian ritual who, under the guidance of the Magians, in the reign of Ardashir I (226-241), severely oppressed the adherents of other creeds.

(40) V. p. 424, n. 17.

(41) Knowing as he did their intolerance and cruel religious fanaticism.
(42) Lit., 'made (himself) straight'.
(43) All hope, he felt, was not lost when concessions might be obtained by paying for them.
(44) The Parsees who were accepted by Israel as a visitation sent by the divine will for their neglect of the Torah and its commandments.
(45) Of Israel in Babylon.
(46) Under a decree that any animal killed for human consumption must not be eaten unless certain parts of it were first offered on the Parsee altars, Jews were practically excluded from the eating of meat.
(47) Prescribed in Deut. XVIII, 3.
(48) One of the religious laws of the Parsees forbade the pollution of the earth by the burial of corpses. As a result, the graves in the Jewish cemeteries were broken open, and the dead exhumed and thrown to the beasts and birds of prey.
(49) The idolaters'.
(50) I Sam, XII, 15.
(51) The hand of the Lord against the fathers who were no more alive.
(52) Jer. VIII, 2.
(53) Immediately following this text.
(54) Jer. VIII, 3. How could it be said that such an ignominious death as described (ibid. 2) would be chosen rather than life?
(55) The choice of death will not be made, as was assumed, by the sufferers. It is the prophet's oracle on the destiny of the wicked.
(56) Ecclesiasticus,
(57) So Bah. Cur. edd. add, 'to her husband; and it is written, good'.
(58) Cf. Ecclesiasticus XXVI, 3.
(59) Lit., 'happy is her husband'. Cf. Ps. I, 1.
(60) Cf. Ecclesiasticus XXVI, 1. Every happy day is as good as two (v. Rashi).
(61) Cf. Ben Sira (Ben Zeeb ed.) IX, 8, 10, 11.
(62) His business of selling spices and perfumes to women leads him to much temptation.
(63) Cf. Ben Sira (Ben Zeeb ed.) IX suppl. to v. 12.
(64) Cf. Jer. V, 27 and op. cit., second suppl. loc. cit,
(65) Lit., 'he'.
(66) Lit., 'his'. Cf. Ben Sira, op. cit., XXX, 23. 24.
(67) The Messiah,
(68) Lit., 'body', the region inhabited by the unborn souls.
(69) Isa LVII, 16. The previous section of the verse speaks of the redemption (Rashi). Hence the deduction that the redemption that is to come through the Messiah will not take place before all the unborn souls have been made, i.e., passed through the life of this world.
(70) Gen. IX, 6.
(71) Gen. IX, 7.
(72) Ibid. 6.
(73) After both Whoso sheddeth man's blood and In the image of God made he man. (Gen. IX, 6).
(74) He remained a bachelor.
(75) V. supra.
(76) E.V. 'of the'.
(77) Num. X, 36.

Talmud - Mas. Yevamoth 64a

teaches that the Divine Presence does not rest on less than two thousand and two myriads of Israelites.[1] Should the number of Israelites happen to be two thousand and two myriads less one, and any particular person has not engaged in the propagation of the race, does he not thereby cause the Divine Presence to depart From Israel! Abba Hanan said in the name of R. Eliezer: He deserves the penalty of death; for it is said, And they had no children,[2] but if they had children they would not

have died. Others say: He causes the Divine Presence to depart from Israel; for it is said, To be a God unto thee and to thy seed after thee;[3] where there exists 'seed after thee' the Divine Presence dwells [among them]; but where no 'seed after thee' exists, among whom should it dwell! Among the trees[4] or among the stones? MISHNAH. IF A MAN TOOK A WIFE AND LIVED WITH HER FOR TEN YEARS AND SHE BORE NO CHILD, HE MAY NOT ABSTAIN [ANY LONGER FROM THE DUTY OF PROPAGATION].[5] IF HE DIVORCED HER SHE IS PERMITTED TO MARRY ANOTHER, AND THE SECOND HUSBAND MAY ALSO LIVE WITH HER [NO MORE THAN] TEN YEARS.[6] IF SHE MISCARRIED [THE PERIOD OF TEN YEARS] IS RECKONED FROM THE TIME OF HER MISCARRIAGE.

GEMARA. Our Rabbis taught: If a man took a wife and lived with her for ten years and she bore no child, he shall divorce her and give her her kethubah,[7] since it is possible that it was he who was unworthy to have children from her.[8] Although there is no definite proof for this statement[9] there is nevertheless a [Scriptural] allusion to it: After Abram had dwelt ten years in the land of Canaan.[10] This[11] teaches you that the years of his stay outside the Land[12] were not included in the number.[13] Hence, if the man or the woman was ill, or if both were in prison, [these years] are not included in the number.[14]

Said Raba to R. Nahman: Let deduction be made from Isaac, concerning whom it is written, And Isaac was forty years old when he took Rebecca etc.[15] and it is also written, And Isaac was threescore years old when she bore them![16] — The other replied: Isaac was barren.[17] If so,[18] Abraham also was barren![19] — That text[20] is required For a deduction in accordance with the statement of R. Hiyya b. Abba. For R. Hiyya b. Abba stated in the name of R. Johanan: Why were the years of Ishmael counted? In order to determine thereby the years of Jacob.[21]

R. Isaac stated: Our father Isaac was barren; for it is said, And Isaac entreated the Lord opposite[22] his wife.[23] It does not say 'for his wife' but opposite. This teaches that both were barren.[24] If so, And the Lord let Himself be entreated of him[23] should have read, And the Lord let Himself be entreated of them![25] — Because the prayer of a righteous man the son of a righteous man is not like the prayer of a righteous man the son of a wicked man.[26]

R. Isaac stated: Why were our ancestors barren? — Because the Holy One, blessed be He, longs to hear the prayer of the righteous.

R. Isaac further stated: Why is the prayer of the righteous compared to a pitchfork?[27] As a pitchfork turns the sheaves of grain from one position to another, so does the prayer of the righteous turn the dispensations of the Holy One, blessed be He, from the attribute of anger to the attribute of mercy.

R. Ammi stated: Abraham and Sarah were originally of doubtful sex;[28] for it is said, Look unto to the rock

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(1) The pl. number, רבבות (myriads) and אלפי (thousands), having been used in both cases. The pl. signifies not less than two.

(2) Num. III, 4, referring to the deaths of Nadab and Abihu.

(3) Gen. XVII,7.

(4) Or 'wood'.

(5) He must take another wife.

(6) If she had no issue from him also.

(7) V. Glos.

(8) She, therefore, must not be deprived of her kethubah,

(9) As to the period of ten years.

(10) Gen. XVI, 3, with reference to Abram's marriage to Hagar.
(11) The explicit statement, dwelt...in the land.
(12) Palestine.
(13) Living outside Palestine being a sin, it is presumed that this might have been the cause of 'their childlessness.
(14) Since no propagation was possible in such circumstances.
(15) Gen. XXV, 20.
(16) Ibid. 26, which shews that he waited (60 — 40 ==) twenty years!
(17) Knowing that the disability was due to his weakness he waited ten years longer than Abraham.
(18) V. supra n. 13.
(19) Why then did he not wait more than ten years?
(20) The age of Isaac, Gen, XXV, 20.
(21) And for the same reason was it necessary to give the age of Isaac. V. Meg. 17a. As the text is required for this purpose, no other deduction may be made from it. The text of the ten years of Abraham's waiting, however, as it is required for no other deduction, rightly serves the purpose of the allusion mentioned.
(22) So lit., E.V. 'for'.
(23) Gen. XXV, 21.
(24) He had to pray not only for her but for himself also.
(25) Since Isaac's prayer was not on behalf of his wife only but on behalf of himself as well.
(26) Rebekah's father, Bethuel, was a wicked man. The implication of 'him' in 'entreated of him' is that Isaac's prayer was accepted before Rebekah's.
(27) עתר or עתר of the same rt. as ויעתר and he entreated.
(28) טומטומין v, Glos, s.v. tumtum.

Talmud - Mas. Yevamoth 64b

whence you were hewn[1] and to the hole of the pit[2] whence you were digged,[3] and this is followed by the text, Look unto Abraham your father, and unto Sarah that bore you.[4]

R. Nahman stated in the name of Rabbah b. Abbuha: Our mother Sarah was incapable of procreation; for it is said, And Sarai was barren; she had no child,[5] she had not even a womb.[6]

Rab Judah son of R. Samuel b. Shilath stated in the name of Rab: That[7] was taught only in respect of the early generations who lived many years. In respect of the later generations, however, whose years of life are few, only two years and a half, corresponding to three periods of pregnancy[8] [are allowed].[9]

Rabbah stated in the name of R. Nahman: Three years [must elapse],[9] corresponding to three remembrances;[10] For a Master said: Sarah, Rachel and Hannah[11] were remembered on New Year's Day.[12]

Rabbah ruled: These general principles[13] are to be disregarded.[14] For consider: Who compiled our Mishnah? Rabbi, of course; but the years of life were already reduced in the days of David. For it is written, The days of our years are threescore years and ten.[15]

With regard to the assumption that 'it is possible that it was he who was unworthy to have children from her',[16] is it not possible that it was she who was unworthy?[17] — Since she is not commanded to fulfil the duty of propagation she is not so punished.[18] But surely it is not so![19] For the Rabbis once said to R. Abba b. Zabda, 'Take a wife and beget children', and he answered them, 'Had I been worthy I would have had them from my first wife'! — There he was merely evading the Rabbis; for, in fact, R. Abba b. Zabda became impotent through the long discourses of R. Huna.[20]

R. Giddal became impotent through the discourses of R. Huna;[20] R. Helbo became impotent

through the discourses of R. Huna,[20] and R. Shesheth also became impotent through the discourses of R.Huna.[20]

R. Aha b. Jacob was once attacked by dysuria,[21] and when he was supported on the college cedar tree a discharge issued like a green palm shoot.

R. Aha b. Jacob stated: We were a group of sixty scholars, and all became impotent through the long discourses of R. Huna;[20] with the exception of myself who followed the principle, Wisdom preserveth the life of him that hath it.[22]

IF HE DIVORCED HER SHE IS PERMITTED etc. Only a second husband[23] but not a third;[24] whose view, then, is represented by our Mishnah? — It is that of Rabbi. For it was taught: If she circumcised her first child and he died,[25] and a second one who also died,[25] she must not circumcise her third child; so Rabbi. R. Simeon b. Gamaliel, however, said: She circumcises the third, but must not circumcise the fourth child. But, surely, the reverse was taught;[26] now which of these is the latter?[27] — Come and hear what R. Hiyya b. Abba stated in the name of R. Johanan: It once happened with four sisters at Sepphoris that when the first had circumcised her child he died; when the second [circumcised her child] he also died, and when the third [circumcised her child] he also died. The fourth came before R. Simeon b. Gamaliel who told her, 'You must not circumcise [the child]' .[28] But is it not possible that if the third sister had come he would also have told her the same![29] — If so,[30] what could have been the purpose of the evidence of R. Hiyya b. Abba? [No]. It is possible that he meant to teach us the following: That sisters also establish a presumption![31]

Raba said: Now that it has been stated that sisters also establish a presumption, a man should not take a wife either from a family of epileptics, or from a family of lepers. This applies. however, only when the fact had been established by the occurrence of three cases.[32]

What is the decision?[33] — When R. Isaac b. Joseph came he related: Such a case was once submitted to R. Johanan in the Synagogue of Ma'on[34] on the Day of Atonement which fell on a Sabbath. A woman, it happened, had circumcised her child[35] who died; her second [sister circumcised her child] and he also died, and her third sister appeared before him. He said to her, 'Go and circumcise him'. Said Abaye to him:[36] See, you have permitted[37] a forbidden[38] and a dangerous[39] act.

Abaye, however, relying upon this statement[40] married Homa the daughter of Isi son of R. Isaac the son of Rab Judah, although Rehaba of Pumbeditha had married her and died, and R. Isaac son of Rabbah b. Hana had subsequently married her and also died. And after he had married her, he himself died also.

Said Raba: Would any one else have exposed himself to such danger? Surely he himself had said that Abin was reliable[41] but that Isaac the Red was not a person to be relied upon;[41] that Abin was well acquainted with any change[42] [in the views of R. Johanan] but Isaac the Red was not acquainted with any such changes! Furthermore, it might be said that their dispute[43] extended only to the case of circumcision; do they, however, differ also in the case of marriage? — Yes; for so it was taught: If a woman was married to one husband[44] who died, and to a second one who also died, she must not be married to a third; so Rabbi. R. Simeon b. Gamaliel said: She may be married to a third, but she may not be married to a fourth.[45]

In the case of circumcision, one can well understand [why the operation is dangerous with some children and not with others] since the members of one family may bleed profusely[46] while those of another family may bleed little;[47] what, however, is the reason in the case of marriage?[48] — R. Mordecai answered R. Ashi: Thus said Abimi from Hagronia in the name of R. Huna, 'The source[49]

is the cause'.[50] But R. Ashi stated: '[The woman's] ill luck is the cause'.[50] What practical difference is there between them?[51] — The difference between them is the case where the man only betrothed her and died,[52] or also when he fell off a palm-tree and died.[52]

SAID R. JOSEPH SON OF RABA to Raba: I enquired of R. Joseph whether the halachah is in agreement with Rabbi, and he replied in the affirmative. [I asked] whether the halachah is in agreement with R. Simeon b. Gamaliel, and he again replied in the affirmative. Was he thereby merely ridiculing me?' — The other replied: No; there are several anonymous statements [in the Mishnah] and he informed[53] you [that in the matter of] marriage and flogging [the anonymous Mishnah][54] agrees with Rabbi, and that in the matter of menstrual periods and the ox [whose owner has been] fore-warned[55] [the anonymous Mishnah] agrees with R. Simeon b. Gamaliel.

As to marriage, there is the statement just discussed.[56] 'Flogging'? — As we learned: A man upon whom the penalty of flogging had been repeatedly inflicted is to be placed[57] under confinement[58] and fed on barley, until his stomach bursts .[59]

'The menstrual periods'? — As we learned: A woman may not

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(1) Allusion to the male organ. It was hewn but was not there originally.

(2) Allusion to that of the female. Cf supra n. 9. Here the deduction is from digged.

(3) Isa. LI, 1.

(4) Ibid. 2. This verse explains to whom v. 1 alludes.

(5) Gen. XI, 30.

(6) As the second section of the verse is superfluous, child, ולד is taken to imply בית ולד the uterus or womb.

(7) The period of ten years spoken of in our Mishnah,

(8) Each period extending over nine months with the addition of one month after each period to cover the days of levitical uncleanness to which a woman after a confinement is subjected.

(9) Before the husband must take another wife.

(10) Three Rosh Hashanah festivals. The first two days of the new year are a time of prayer on which God remembers the childless women. The festival is also known as the Day of Memorial יום הזכרון

(11) Who were originally barren. (Cf. Gen. XI, 30, XXIX, 31,I Sam. I, 2, 5).

(12) R.H. 11b, Ber. 29a.

(13) Which reduce the period of ten years in the case of later generations.

(14) Lit., 'are not'.

(15) Ps, XC, 10.

(16) Supra 64a.

(17) Why then is she entitled to receive her kethubah?

(18) By barrenness,

(19) This refers to the implication of the statement, supra, that the husband must take another wife, because it is possible that he was unworthy to have children from the first but may have them from the second.

(20) V. supra p. 416, n. 11.

(21) סוסכינתא a painful or difficult discharge of the urine, occasioned by his suppression of his needs. Aruk reads, סמגוניתא 'uratic stone'. Cf. Jast.

(22) Eccl. VII, 12.

(23) Lit., 'second, yes'.

(24) Because, having remained barren after living with two husbands for a period of twenty years, her sterility is regarded as established.

(25) As a result of the operation.

(26) Rabbi's opinion was attributed to R. Simeon and vice versa.

(27) The latter version of a statement is regarded as the more reliable, since the author may have recognized his error and changed his view.

(28) This incident must have occurred in the latter days of R. Simeon b. Gamaliel, since it was witnessed by R. Johanan

who already belonged to the first generation of Amoraim. As the ruling in this incident clearly shews, R. Simeon b. Gamaliel held at that time the view attributed to him in the first cited Baraitha which must consequently be regarded as representing the later, and the more reliable version.
(29) And, consequently, the second Baraitha might represent the later version!
(30) That R. Hiyya b. Abba's statement was not intended to testify that a presumption can only be established by the threefold repetition of an act.
(31) I.e., not only is presumption established when the act or incident is repeated three times in the case of one woman, but also when it is so repeated in the case of three sisters (women).
(32) Lit., 'three times',
(33) Lit., 'what about it'.
(34) [Tell Ma'un, west of Tiberias, v, Klein, S. Beitrage, p. 60].
(35) Lit., 'and the first circumcised'.
(36) To R. Isaac b. Joseph.
(37) [I.e., by reporting R. Johanan's ruling. Var. lec., 'the Master permits a forbidden' etc., referring probably to R. Johanan].
(38) As the third child was not permitted to be circumcised, the operation constituted manual labour which is forbidden on the Sabbath.
(39) The child might have died as a result of the operation as did the other two.
(40) Of R. Isaac in the name of R. Johanan, that a presumption can only be established when an incident has occurred three times.
(41) In the reports he made in the name of R. Johanan. Both Abin and R. Isaac the Red reported rulings in the name of R. Johanan.
(42) חזרה lit., 'retraction'. חזרה may also signify repetition', i.e., Abin is reliable 'because he repeated and revised what he heard' while R. Isaac the Red did not. [Hyman,Toledoth p.794 explains it as: 'return'. Abin had proved reliable and hence entrusted by Babylonian scholars with traditional teachings for him to repeat on his 'return' to Palestine, which was not the case with R. Isaac].
(43) That of Rabbi and R. Simeon b. Gamaliel.
(44) Lit., 'to the first'.
(45) Nid. 64a.
(46) Lit., 'the blood is loose'.
(47) Lit., the blood is held fast'.
(48) Why is marriage with certain women a danger?
(49) Some malignant disease in the womb.
(50) Of the death of successive husbands.
(51) R. Ashi and Abimi.
(52) Here the source cannot have been the cause and the deaths can only be attributed to ill luck. According to the former view, therefore, no presumption would thereby be constituted.
(53) Lit., 'solved', 'made clear'.
(54) The halachah is always in agreement with the anonymous Mishnah.
(55) Mu'ad (מועד) v. Glos.
(56) Supra. Since our Mishnah permits the woman to marry a second husband but not a third, it must obviously represent the view of Rabbi.
(57) If he commits an offence for the third time.
(58) Lit., 'they bring him into a vaulted chamber'.
(59) Sanh. 81b.

Talmud - Mas. Yevamoth 65a

regard her menstrual periods as regular[1] unless the recurrence had been regular three times. Nor is she released from the restrictions of an established regular period unless it has varied three[2] times.[3]

'And the ox [whose owner has been] forewarned'? — As we learned: An ox is not deemed a

mu'ad unless [its owner] has been forewarned three times.[4] Our Rabbis taught: A woman who had been married to one husband and had no children and to a second husband and again had no children, may marry a third man only if he has children. If she married one who has had no children she must be divorced without receiving her kethubah.

The question was raised: Where she married a third husband and bore no children, may her first two husbands reclaim [the respective amounts of her kethubah]?[5] Can they plead, 'It has now been proved that you were the cause',[6] or can she retort, 'It is only now that I have deteriorated'? — It stands to reason that she may plead, 'It is only now that I have deteriorated'.

The question was raised: If she married a fourth husband and gave birth to children, may she claim her kethubah from her third husband? — We advise her: 'Your silence is better than your speech'; for[7] he[8] could tell her, 'I would not have divorced you in such circumstances'.[9] R. Papa demurred: Even if she keeps silence, should we remain silent? The divorce, surely,[10] is annulled,[11] and her children are bastards! In truth,[12] the fact is,[13] that it is assumed that she has now been restored to health.[14]

If the husband[15] pleads, 'The fault is hers'[16] and the wife pleads, 'The fault is his',[17] R. Ammi ruled: In private matrimonial affairs[18] the wife is believed. And what is the reason? — She is in a position to know whether emission is forceful,[19] but he is not in a position to know it.

If the husband states that he intends taking another wife to test his potency.[20] R. Ammi ruled: 'He must in this case also divorce [his present wife] and pay her the amount of her kethubah; for I maintain that whosoever takes in addition to his present wife another one must divorce the former and pay her the amount of her kethubah.'

Raba said: A man may marry wives in addition to his first wife; provided only that he possesses the means to maintain them.

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(1) To be deemed levitically clean until that period actually arrives. A woman of irregular periods is regarded as unclean for twenty-four hours prior to the monthly date on which her previous discharge occurred (v. Nid. 2a). Should a woman, the regularity of whose periods had been established omit to examine her body when menstruation is due, and subsequently find a discharge, we assume her retrospectively to have become unclean at the beginning of her period, while a woman whose periods are irregular cannot, of course, be subject to such restriction.

(2) If the change of date occurred no more than twice the restrictions remain in force (v. supra n. 8 last clause).

(3) Nid. 63b.

(4) B.K. 23b.

(5) Which each of them paid her when their respective divorces had taken place.

(6) Of the absence of any issue.

(7) Should she persist in her claim.

(8) Her third husband.

(9) That she was not really barren. By advancing such a plea the husband might retrospectively annul the divorce altogether.

(10) If the third husband's plea is tenable.

(11) Since it was given under a misapprehension.

(12) The third husband's plea is really untenable. Once he has determined to divorce her, at a time when her sterility was a matter of doubt, he cannot again retract.

(13) The reason why she cannot claim her kethubah.

(14) But was incapable of conception at the time of her divorce; and this is the reason why she has no claim for her kethubah upon the third man.

(15) Refusing to pay his wife's kethubah.

(16) That their union had produced no issue. Lit., from her'.

(17) Lit., 'from him' (cf. supra n. 12).
(18) Lit., 'things which are between him and her'.
(19) Lit., 'shoots like an arrow', which is an essential in fertilization. V. Hag. 15a.
(20) To beget children.

Talmud - Mas. Yevamoth 65b

If the husband pleads[1] that his wife had miscarried within the ten years.[2] and she states, 'I had no miscarriage', '[3] R. Ammi ruled: She is believed in this case also; for if she had really miscarried she would not herself have sought to acquire the reputation of a barren woman.

A woman who miscarried, and then miscarried a second, and a third time,is confirmed as one subject to abortions.[4]

If he[5] said, 'She miscarried two'[6] and she said, 'three'?[7] — R. Isaac b. Eleazar stated: Such a case was dealt with at the college, and it was ruled that she was to be believed; for if she had not miscarried[8] she would not herself have sought to acquire the reputation of producing only miscarriages.

MISHNAH. A MAN IS COMMANDED CONCERNING THE DUTY OF PROPAGATION BUT NOT A WOMAN. R. JOHANAN B. BEROKA, HOWEVER. SAID: CONCERNING BOTH OF THEM[9] IT IS SAID, AND GOD BLESSED THEM; AND GOD SAID UNTO THEM: 'BE FRUITFUL, AND MULTIPLY.'[10] GEMARA. Whence is this[11] deduced? R. Ile'a replied in the name of R. Eleazar son of R. Simeon: Scripture stated, And replenish the earth, and subdue it;[12] it is the nature of a man to subdue but it is not the nature of a woman to subdue. On the contrary! And subdue it[13] implies two![14] R. Nahman b. Isaac replied: It is written, And thou subdue it.[15]

R. Joseph said: Deduction[16] is made from the following. I am God Almighty, be thou fruitful and multiply,[17] and it is not stated, 'Be ye fruitful and multiply'.[18]

R. Ile'a further stated in the name of R. Eleazar son of R. Simeon: As one is commanded to say that which will be obeyed,[19] so is one commanded not to say that which will not be obeyed.[20] R. Abba stated: It[20] is a duty; for it is said in Scripture, Reprove not a scorner, lest he hate thee; reprove a wise man and he will love thee.[21]

R. Ile'a further stated in the name of R. Eleazar son of R. Simeon: One may modify a statement in the interests of peace; for it is said in Scripture, Thy father did command etc. so shall ye say unto Joseph: Forgive, I pray thee now, etc.[22] R. Nathan said: It[23] is a commandment; for it is stated in Scripture, And Samuel said: 'How can I go? If Saul hear it, he will kill me', etc.[24]

At the School of R. Ishmael it was taught: Great is the cause of peace. Seeing that for its sake even the Holy One, blessed be He, modified a statement; for at first it is written, My lord being old,[25] while afterwards it is written, And I am old.[26]

R. JOHANAN B. BEROKA, HOWEVER, SAID. It was stated: R. Johanan and R. Joshua b. Levi [are at variance]. One stated that the halachah is in agreement with R. Johanan b. Beroka, and the other stated that the halachah is not in agreement with R. Johanan b. Beroka. It may be proved that it was R. Johanan who stated that the halachah is not [in agreement etc.]. For R. Abbahu was once sitting [at the college] and reported in the name of R. Johanan that the halachah [was in agreement etc.], and R. Ammi and R. Assi turned away their faces.[27] Others say: R. Hiyya b. Abba made the report,[28] and R. Ammi and R. Assi turned away their faces. Said R. Papa: According to him who maintains that R. Abbahu made the statement[28] it is easy to understand that it was out of respect for

the royal house that they[29] said nothing to him.[30] According to him, however, who maintains that R. Hiyya b. Abba made the statement,[28] they[29] should have told him that R. Johanan did not say so!

Now, what is the decision?[31] — Come and hear what R. Aha b. Hanina stated in the name of R. Abbahu in the name of R. Assi: Such a case[32] once came before R. Johanan at the Synagogue of Caesarea, and he decided that the' husband must divorce her and also pay her the amount of her kethubah. Now, if it be suggested that a woman is not subject to the commandment ,[33] how could she have any claim to a kethubah? — It is possible that this was a case where she submitted a special plea; as was the case with a certain woman who once came to R. Ammi and asked him to order the payment of her[34] kethubah. When he replied, 'Go away, the commandment[35] does not apply to you',[36] she exclaimed, 'What shall become of a woman like myself[37] in her old age!'[38] 'In such a case', the Master said, 'we certainly compel [the husband]'.[39]

A woman once came [with a similar plea][40] before R. Nahman. When he told her, 'The commandment[35] does not apply to you', she replied, 'Does not a woman like myself[37] require a staff in her hand and a hoe for digging her grave'![41] 'In such a case', the Master said, 'we certainly compel [the husband]' ,[39]

Judah and Hezekiah were twins. The features of the one were developed at the end of nine months, and those of the other were developed at the beginning of the seventh month .[42] Judith,[43] the wife of R. Hiyya, having suffered in consequence agonizing pains of childbirth, changed her clothes [on recovery] and appeared[44] before R. Hiyya. 'Is a woman', she asked, 'commanded to propagate the race'? — 'No', he replied. And relying on this decision,[45] she drank a sterilizing potion. When her action finally became known, he exclaimed, 'Would that you bore unto me only one more issue of the womb!'[46] For a Master stated: Judah and Hezekiah were twin brothers and Pazi and Tawi

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(1) When, having lived with his wife for ten years without begetting any issue, he is ordered to divorce her and to pay her the amount of her kethubah. V. supra.

(2) And, consequently, he claims the right to continue to live with her until a period of ten years has passed from the date of the miscarriage (v. our Mishnah).

(3) I.e., she was always sterile.

(4) And, consequently, she must be divorced; but is entitled to her kethubah.

(5) Refusing to pay her kethubah.

(6) And, consequently, her proneness to miscarry is not established.

(7) I.e., that she miscarried three times and has thus established a reputation for miscarriage.

(8) Three times, as she pleaded.

(9) Adam and Eve, i.e., man and woman.

(10) Gen. I, 28.

(11) That only the man, and not the woman, is subject to the duty of propagation.

(12) Gen. I, 28.

(13) וכבשה ibid.

(14) Since וכבשה is the plural of the sec. person imperative.

(15) The written form is וכבשה which, without the M.T. vowels, may also be read וכבשה the imper. sing. with pron. suffix.

(16) V. supra note 1.

(17) Gen. XXXV, 11 פרה ורבה (sing.).

(18) פרו ורבו the sec. masc. pl.

(19) Cf. Lev. XIX, 17, Thou shalt surely rebuke thy neighbour. הוכח תוכיח the repetition of the vb. implies 'rebuke only where rebuke will be effective'. (V. Rashi).

(20) No rebuke should be addressed to one who is sure to ignore it.

(21) Prov. IX, 8.

(22) Gen. L, 16f. It is nowhere found that Jacob commanded it; but the brothers attributed the request to him for the sake

of preserving the peace between themselves and Joseph.
(23) Modification of a statement in the interests of peace.
(24) I Sam. XVI, 2. In response to this, Samuel was advised by God to say that he came to sacrifice to the Lord (ibid.) though his mission, in fact, was the anointing of David (v. ibid. 1 and 13).
(25) Gen. XVIII, 12, a slight on Abraham,
(26) Ibid. 13. Thus God, when speaking to Abraham, modified Sarah's expression concerning him, which he might have resented, to one in which the slight of 'crabbed old age' was directed towards Sarah herself; v. B.M. Sonc. ed. p. 502, n. 4.
(27) Because they knew that R. Johanan said the reverse. Out of respect, however, for the Master they refrained from a direct contradiction.
(28) In the name of R. Johanan.
(29) R. Ammi and R. Assi.
(30) R. Abbahu. He was one of the most prominent men of his time and persona grata with the government. Cf. Hag. 14a, Keth. 17a, Sanh. 14a.
(31) Lit., 'what was (the decision) about it'. V. following note.
(32) Where a woman desired to be divorced on the ground that she had borne no issue from her husband.
(33) Of the propagation of the race.
(34) Lit., 'give me'.
(35) Of the propagation of the race.
(36) Hence divorce in her case was unnecessary and consequently she can lay no claim to her kethubah.
(37) Lit., 'this'.
(38) If there will be no children to provide for her.
(39) To give a divorce and to pay also the kethubah.
(40) V. supra p. 438. n. 8.
(41) I.e., children who would maintain her during her lifetime and provide for her burial when she died.
(42) The former was born three months before the latter. Cf. Nid. 27a.
(43) Their mother.
(44) In her disguise.
(45) Lit., 'she went'.
(46) One other pair of twin sons at least.

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twin sisters.[1]

But does not the commandment apply to women? Surely, R. Aha b. R. Kattina related in the name of R. Isaac: It once happened in the case of a woman who was half slave and half free, that her master was compelled to emancipate her![2] R. Nahman b. Isaac replied: People were taking liberties with her.[3]

CHAPTER VII

MISHNAH. IF A WIDOW [WHO MARRIED] A HIGH PRIEST,[4] OR IF A DIVORCED WOMAN OR A HALUZAH [WHO MARRIED] A COMMON PRIEST BROUGHT IN TO HER HUSBAND MELOG[5] SLAVES AND ZON BARZEL[5] SLAVES. THE MELOG SLAVES MAY NOT EAT TERUMAH BUT THE ZON BARZEL SLAVES MAY EAT OF IT.[6]

THE FOLLOWING ARE MELOG SLAVES: THOSE WHO, IF THEY DIE, ARE THE WIFE'S[7] LOSS AND, IF THEIR VALUE INCREASES, ARE HER PROFIT. THOUGH IT IS THE HUSBAND'S DUTY TO MAINTAIN THEM, THEY MAY NOT EAT TERUMAH.[6]

THE FOLLOWING ARE ZON BARZEL SLAVES: IF THEY DIE, THEY ARE THE LOSS OF

THE HUSBAND AND, IF THEIR VALUE INCREASES, ARE A PROFIT TO HIM. SINCE HE IS RESPONSIBLE FOR THEM,[8] THEY ARE PERMITTED TO EAT TERUMAH.

IF THE DAUGHTER OF AN ISRAELITE WAS MARRIED TO A PRIEST, AND SHE BROUGHT HIM IN SLAVES, THEY ARE PERMITTED TO EAT TERUMAH WHETHER THEY ARE MELOG SLAVES, OR ZON BARZEL SLAVES.[6] IF THE DAUGHTER OF A PRIEST, HOWEVER, WAS MARRIED TO AN ISRAELITE AND SHE BROUGHT HIM IN SLAVES, THEY MAY NOT EAT TERUMAH WHETHER THEY ARE MELOG SLAVES OR ZON BARZEL SLAVES.[6]

GEMARA. And MELOG SLAVES MAY NOT EAT TERUMAH! What is the reason? Let them rather be regarded as a possession that was acquired by one in his possession [who is permitted to eat terumah]. for it was taught: Whence is it deduced that the wife whom a priest married or the slaves which he purchased may eat terumah.? It is said, But if a priest buy any soul the purchase of his money, he may eat of it.[9] And whence is it deduced that if a woman[10] purchased slaves[11] or if a priest's slaves purchased[12] other slaves, these may eat terumah? It is said, But if a priest buy any soul, the purchase of his money, he may eat of it;[9] a possession which his possession has acquired may eat![13] — Whosoever may himself eat may confer the right of eating upon others but whosoever may not himself eat may not confer the right of eating upon others.[14] May he not, indeed?[15] There is, surely, the case of[16] an uncircumcised man and that of all levitically unclean persons who may not themselves eat terumah and yet confer the right of eating it upon others![17] — In those cases[18] they are merely suffering pain in their mouths.[19] But there is, surely, the case of[16] the bastard[20] Who may not eat terumah himself[21] and yet may confer the right of eating it upon others![22] — Rabina replied. He speaks of an acquisition[23] that is permitted to eat: Any acquisition that may eat may confer the right of eating upon others, and any acquisition that may not eat may not confer the right upon others.

Raba, however, stated[24] that pentateuchally they[23] may in fact eat terumah; but it is the Rabbis who instituted the prohibition in order that the woman might complain, 'I am not allowed to eat; my slaves are not allowed to eat; I am only his mistress!', in consequence of which he would be likely to divorce her. R. Ashi stated:[24] The prohibition is a preventive measure against the possibility of her feeding them[25] with terumah after the death [of her husband].[26] Now, then,[27] a daughter of an Israelite who was married to a priest should also be forbidden to feed [her melog slaves with terumah] as a preventive measure against her feeding them after [her husband's] death![28] — But, said R. Ashi, [our Mishnah refers to] a priestly widow[29] who[30] might draw the following conclusion:[31] 'At first[32] they[33] ate terumah at my paternal home;[34] and when I married this man[35] they[33] ate[36] of the terumah of my husband; they[33] should now,[37] therefore, revert to their former condition',[38] and she would not know that at first[39] she had not made of herself a profaned woman[40] while now[41] she has made herself a profaned woman.[40] This explanation is quite satisfactory in the case of a priestly widow;[42] what explanations however, is there in the case of a widow who is the daughter of an Israelite?[43]

The Rabbis made no distinction between one widow and another.[44]

It was stated: If a wife: who brought to her husband[45] appraised goods,[46] demands,[47] 'I will accept only my own goods',[48] and he replies 'I am only paying their value'[49] — in whose favour is judgment to be given? Rab Judah said:

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(1) The two pairs of twins were children of R. Hiyya from Judith.

(2) So that she might be permitted to marry a free man, As a half slave she was not allowed to contract such a marriage. Now, since her master was compelled to give her the opportunity of marrying, it is obvious that the commandment of propagation applies to women also!

(3) And marriage was her only protection; and this was the reason why her master was compelled to emancipate her.
(4) Contracting thereby a forbidden union.
(5) V. infra and Glos.
(6) The reason is given in the Gemara.
(7) Lit., 'died for her'.
(8) He or his heirs must restore them to his wife in a healthy condition should he divorce her or die.
(9) Lev. XXII, 11.
(10) The daughter of an Israelite, who married a priest.
(11) Out of her melog property the principal of which is hers.
(12) With a sum of money that was given to them as their absolute property. on the condition that their master was to have no claim whatsoever upon it.
(13) The expression, 'the purchase of his money is superfluous' and the text is, therefore, expounded thus: If the purchase of his money, i.e., a priest's wife or slave (who is the priest's acquisition) buy any soul, he (i.e., the one purchased) 'may eat of it'. Why then are not melog slaves, being an acquisition of the priest's wife, permitted to eat terumah?
(14) The priest's wife in this case is not herself permitted to eat terumah, since her union with this priest is a forbidden one. V. Lev. XXI, 7,13 and supra p. 441, n. 1.
(15) Lit., 'and not'?
(16) Lit., 'and behold'.
(17) Their slaves, e.g., are permitted to eat terumah. Cf. infra 70a.
(18) Lit., 'there'.
(19) I.e., their disability is restricted to their mouth alone. They are only temporarily forbidden to eat the terumah. At the moment their unclean period is over or circumcision is performed their rights are fully restored. In the case of the priest's wife in our Mishnah, however, the disability is permanent, since by her forbidden marriage she remains for ever a profaned woman.
(20) I.e., mamzer, (v. Glos.) the issue of a union between a slave or idolater and a woman who was the issue of a marriage between a priest and the daughter of an Israelite.
(21) Since he is neither priest nor even a legitimate Israelite.
(22) His grandmother, the wife of the priest, may continue to eat terumah even after the death of her husband so long as the bastard (being a descendant of her husband through their daughter) is alive. As the widow of a priest she would have lost the privilege of eating terumah on her husband's death had there been no surviving descendants. V. infra 69b.
(23) Not of a descendant.
(24) In explaining the reason why MELOG SLAVES MAY NOT EAT TERUMAH.
(25) The melog slaves.
(26) Believing that, as she was allowed to feed them with terumah during the lifetime of her husband though they were her property, she may continue to do so even after his death. In the case of zon barzel slaves, however, no such error need be feared since the slaves are not hers, but his absolute property until the moment when it is surrendered to her by her husband or heir, v. infra.
(27) If such an error as suggested is to be feared.
(28) But our Mishnah distinctly states that her melog slaves also may eat terumah!
(29) The daughter of a priest who, as a widow, married a High Priest, and thus became profaned through their forbidden marriage.
(30) If her melog slaves were permitted to eat terumah while she lived with the High Priest.
(31) After the High Priest's death.
(32) During her first widowhood.
(33) The melog slaves.
(34) As a widow she then returned to her father's priestly house and was again entitled to eat terumah herself and to feed her slaves with it.
(35) The High Priest.
(36) Cf. supra n. 8.
(37) When the High Priest died, though she remained a profaned widow who is, in fact, forbidden to eat terumah.
(38) To be allowed again. as before, to eat terumah.

(39) During her first widowhood.
(40) Halachah (v. Glos.) through ber forbidden marriage.
(41) Having married a High Priest to whom a widow is forbidden.
(42) V. supra p. 443, n. 7.
(43) The error mentioned cannot occur in her case; but as our Mishnah draws no distinction between the two, the question remains: Why should not her melog slaves be permitted to eat terumah?
(44) Lit., 'in her widowhood'. Were the feeding permitted in the case of the one, the other might erroneously be presumed to come under the same law.
(45) As zon barzel property (v. Glos.).
(46) Shum (v. Glos.). V. Ket. Sonc. ed. p 401. n. 11. In consideration of which he guarantees her a specified sum in her kethubah, which is recoverable by her at his death, or earlier if she is divorced.
(47) When she claims her kethubah. v. supra n. 9.
(48) I.e., the actual objects she had brought to her husband.
(49) In accordance with the appraisement in the kethubah.

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Judgment is to be given in her favour;[1] and R. Ammi said: Judgment is to be given in his favour. 'Rab Judah said: Judgment is to be given in her favour because [they represent] assets of her paternal property [which] belong to her. R. Ammi said: Judgment is to be given in his favour' for, as the Master said, [THE FOLLOWING ARE ZON BARZEL SLAVES:] IF THEY DIE, THEY ARE THE LOSS OF THE HUSBAND AND, IF THEIR VALUE INCREASES- ARE A PROFIT TO HIM; [AND] SINCE HE IS RESPONSIBLE FOR THEM THEY ARE PERMITTED TO EAT TERUMAH [they are therefore obviously regarded as his own].[2] R. Safra said: Was it stated, 'and they belong to him? The statements surely. only reads, SINCE HE IS RESPONSIBLE FOR THEM! In fact, then, they may not belong to him at all. But [is it a fact that] those for whom he[3] is responsible invariably eat terumah? Surely we learned: An Israelite who hired a cow from a priest may feed her on vetches of terumah. A priest, however, who hired a cow from an Israelite, though it is his duty to supply her with food,[4] must not feed her on vetches of terumah![5] — How could you understand it thus! Granted that he is liable for theft or loss,is he also liable for accidents, emaciation or reduction In value![6] [The case[7] in our Mishnah], surely, can only be compared to that in the final clause:[8] An Israelite who hired a cow from a priest, guaranteeing him its appraised value,[9] may not feed it on vetches of terumah. A priest, however, who hired a cow from an Israelite, guaranteeing him its appraised value,[9] may feed it on vetches of terumah.[10]

Rabbah and R. Joseph were sitting at their studies at the conclusion of R. Nahman's school session, and in the course of their sitting they made the following statement: [A Baraitha] was taught in agreement with Rab Judah; and [another Baraitha] was taught in agreement with R. Ammi. ['A Baraitha] was taught in agreement with Rab Ammi': Zon barzel slaves procure their freedom when the man,[11] but not when the woman [struck out] a tooth or an eye.[12] ['A Baraitha] was taught in agreement with Rab Judah': If a wife brought in to her husband appraised goods,[13] the husband may not sell them even if it is his desire to do so.[14] Furthermore, even if he brought in to her appraised goods of his own,[15] he may not sell them even if he desired to do so. If either[16] of them sold [any of the appraised goods] for their maintenance. Such an incident was once dealt with by R. Simeon b. Gamaliel, who ruled that the husband[17] may seize them from the buyers.[18]

Raba[19] stated in the name of R. Nahman: The law is in agreement with Rab Judah. Said Raba to R. Nahman: But surely [a Baraitha] was taught in agreement with R. Ammi! Although [a Baraitha] was taught in agreement with R. Ammi, Rab Judah's view is more logical, since any asset of a woman's paternal property [should rightly belong to her].

A woman once brought[20] in to her husband a robe of fine wool [which was appraised and

included] in her kethubah. When the man died it was taken by the orphans and spread over the corpse. Raba ruled that the corpse had acquired it.[21]

Said Nanai son of R. Joseph son of Raba to R. Kahana: But, surely, Raba[22] stated in the name of R. Nahman that the law is in agreement with Rab Judah![23] The other replied: Does not Rab Judah admit that the robe had still to be collected [by the wife]?[24] Since it had still to be collected it remained in the husband's possession.[25] [In this ruling] Raba acted in accordance with his view [elsewhere expressed]. For Raba stated:[26] Consecration,[26] leavened food[26] , and

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(1) Her own objects must be returned to her.

(2) Cf. Bomberg ed. where an amplified version of this text is given including the clause enclosed here in square brackets.

(3) A priest.

(4) And though he is also responsible for the loss, or theft of the animal.

(5) 'A.Z. 15a; which shews that even an animal for which a priest is responsible (v. supra n. 2) is not permitted to eat terumah. How, then, could it be said, SINCE HE IS RESPONSIBLE FOR THEM THEY ARE PERMITTED TO EAT?

(6) Certainly not. Such a restricted responsibility, therefore, is incomplete and does not confer the right to terumah.

(7) Of zon barzel.

(8) Of the Baraitha cited.

(9) Lit., 'if an Israelite appraised a cow from'. I.e., he undertook to make good to the owner any loss in the value of the animal between the date of hire and the date of the return.

(10) The animal being regarded as the priest's own property, in respect of its feeding on terumah, owing to his responsibility for the return of its full value. Thus it follows that, though an animal would be returned in body, should its value on the day of its return be equal to that of its appraised value, it is nevertheless, owing to the priest's complete responsibility, deemed to be the priest's property so long as it remains in his possession; so also in the case of zon barzel slaves: though they would ultimately be returned to the woman in body, they are regarded, in respect of terumah, as the property of the priest, who accepted full responsibility for them, so long as they remain with him.

(11) The husband, who is regarded, in agreement with R. Ammi, as the owner of the slaves.

(12) Cf. Ex. XXI, 26.

(13) Which the husband includes in her kethubah, and undertakes to return to her at their appraised value should he divorce her or die.

(14) It is his duty to keep them intact so that the objects themselves, not merely their value, may be returned to the woman in due course.

(15) Included them in the amount of her kethubah.

(16) Lit., 'both'. V. Rashi a.l.

(17) I.e., even he.

(18) If the woman died; the sale being deemed invalid. That the woman, when her husband dies or divorces her, may seize such property, in the event of a sale by him, is obvious.

(19) Wanting in MSS. which read 'R. Nahman stated'.

(20) In her dowry, as zon barzel.

(21) The shroud, wraps. or any article of dress that has covered the body of a corpse is deemed to be the dead man's property, and no living person may derive any benefit from it. V. Sanh. 47b.

(22) Cf. supra n. 7.

(23) That zon barzel property, such as the robe was, belongs to the wife'!

(24) Of course he does. The robe does not come into the actual possession of the woman until her claim is proved and the robe surrendered to her by the husband or his heirs.

(25) The orphans were, therefore, entitled to use it as part of the dead man's shroud. The woman's claim upon it is undoubtedly valid, but has not any greater force than that of the holder of a mortgage. V. infra note 3.

(26) Supra 46a q.v. for notes. V. also Keth. 59b, Git. 40b, B.K. 89b.

manumission cancel a mortgage.[1]

Rab Judah stated: If a wife brought to her husband[2] two articles worth a thousand zuz, and their value increased to two thousand, she receives one[3] in settlement of her kethubah;[4] and for the other[5] she pays its price and receives it, since it represents assets of her paternal property.[6]

What are we taught by this[7] statement! That assets of her paternal property belong to her? This, surely, has already been stated by Rab Judah![8] — It might have been assumed that that statement[8] applied only where she came to claim [paternal property] as part of her kethubah, but not where she desired to take it in return for payment of its value, hence we were taught [that she may also pay its price and receive it].

MISHNAH. IF THE DAUGHTER OF AN ISRAELITE WAS MARRIED TO A PRIEST WHO DIED AND LEFT HER PREGNANT, HER SLAVES MAY NOT EAT TERUMAH[9] IN VIRTUE OF THE SHARE OF THE EMBRYO,[10] SINCE AN EMBRYO MAY DEPRIVE[11] [ITS MOTHER][12] OF THE PRIVILEGE [OF EATING TERUMAH][13] BUT HAS NO POWER TO BESTOW IT UPON HER;[14] SO R. JOSE. THEY[15] SAID TO HIM: SINCE YOU HAVE TESTIFIED TO US IN RESPECT OF THE DAUGHTER OF AN ISRAELITE WHO WAS MARRIED TO A PRIEST,[16] THE SLAVES OF THE DAUGHTER OF A PRIEST, WHO A MARRIED TO A PRIEST WHO DIED AND LEFT HER WITH CHILD, SHOULD ALSO BE FORBIDDEN TO EAT TERUMAH ON ACCOUNT OF THE SHARE OF THE EMBRYO![17]

GEMARA. A question was raised: Is R. Jose's reason[18] because he is of the opinion that an embryo in the womb of a lay woman[19] is regarded as a nonpriest,[20] or is his reason because only the born may bestow the right of eating but the unborn may not? — In what respect could this difference matter?[21] — In respect of an embryo in the womb of a priest's daughter.[22] Now, what is the reason? Rabbah replied: R. Jose's reason is this. He is of the opinion that an embryo in the womb of a lay woman[19] is regarded as a non-priest.[20] R. Joseph replied: The born may bestow the privilege of eating while the unborn may not.

An objection was raised: They said to R. Jose: Since you have testified to us in respect of the daughter of an Israelite who was married to a priest, what is the law in respect of the daughter of a priest who was married to a priest? 'The first',[23] he replied, 'I heard;[24] but the other[25] I have not heard'.[26] Now, if you agree [that R. Jose's reason is because] an embryo in the womb of a lay woman[27] is regarded as a non-priest,[28] it was correct for him to say, 'The first I heard, but the other I did not'. If you maintain, however, [that R. Jose's reason is because] the born may bestow the right of eating and the unborn may not, what [could he have meant by] 'The first I have heard but the other I have not heard', when the principle is the same! — This is indeed a difficulty.

Said Rab Judah in the name of Samuel: This[29] is the opinion of R. Jose; but the Sages said: If he[30] has children,[31] they[32] may eat [terumah] by virtue of his children;[33] if he has no children, they[32] may eat by virtue of his[34] brothers, and if he has no brothers they[32] may eat by virtue of the entire family.[35] 'This',[36] would imply that he[37] himself does not share the view;[38] but, surely, Samuel said to R. Hana of Bagdad, 'Go bring me a group of ten men that I may tell you in their presence[39] that if title is conferred upon an embryo [through the agency of a third party], it does acquire ownership'![40] The fact is that 'this' here denotes that he[41] also holds the same opinion. What, then, does he[41] teach us?[42] That the Rabbis disagree with R. Jose! But do they, in fact, disagree? Surely R. Zakkai stated:[43] This evidence[44] was submitted by R. Jose in the name of Shemaiah and Abtalion and they[45] agreed with him! — R. Ashi replied: Does it read, 'and they accepted'? It was only said, 'and they agreed', [which may only mean] that his view is logical.[46]

Our Rabbis taught: If he[47] left children,[48] both these and the others[49] may eat terumah.[50] If he[51]

left his widow with child,[52] neither these nor the others[49] may eat it.[53] If he left children and also left his widow with child, the melog slaves may eat as she may eat;[54] but the zon barzel slaves may not eat, on account of the share of the embryo which may deprive [its mother][55] of the privilege [of eating terumah] but has no power to bestow it;[56] so R. Jose. R. Ishmael son of R. Jose stated in the name of his father: A daughter may bestow the right of eating; a son may not.[57] R. Simeon b. Yohai said: [If the children[58] are] males, all [the slaves] may eat.[59] [If however they are] females, [the slaves] are not permitted to eat, since it is possible that the embryo might be a male;[60] and daughters, where there is a son, have no share at all.[61] What need was there to point[62] to the possibility that the embryo might be a male when this[63] might be equally deduced [from the fact] that [even when the embryo is] a female it deprives them of the privilege![64] — He meant to say: There is one reason and also an additional one. 'There is the one reason' that a female embryo also deprives [the slaves] of the privilege; and, furthermore,[65] 'it is possible that the embryo might be a male and daughters, where there is a son, have no share at all'.

'[If the children are] males, [the slaves] may eat'. But, surely, there is an embryo in existence![66] — He is of the opinion

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(1) The prohibition against the use of a dead man's shroud has the same force as that of consecrated objects and invalidates, therefore, the legal force of the wife's mortgage. V. supra note 1.

(2) In her dowry as zon barzel.

(3) Which is now worth one thousand zuz.

(4) Which entitles her only to the one thousand zuz which was the sum at which the two articles were appraised at the time she transferred them to her husband.

(5) The value of the second article, now belonging to the husband since the appreciation took place while the articles were in his possession.

(6) Which property belongs to her.

(7) R. Judah's.

(8) Supra 66b, top.

(9) Even if she had other children by virtue of whom she herself is entitled to the eating of terumah.

(10) A portion of each slave belonging to the embryo who is one of the heirs.

(11) The reasons are explained infra.

(12) If she is the daughter of a priest who was married to an Israelite who died.

(13) Even though there are no other children from that union to deprive her of the right of returning to the priestly house of her father and to enjoy the privilege again.

(14) If she is an Israelite's daughter married to a priest who died leaving her with no children but the embryo. As it cannot bestow such right upon its mother so it cannot bestow it upon its slaves.

(15) The Sages who disagreed with him.

(16) That an embryo does not entitle one (either its mother or slaves) to the privilege of eating terumah.

(17) V. p. 447, n. 12.

(18) In forbidding in our Mishnah the eating of terumah by zon barzel slaves.

(19) The daughter of an Israelite, belonging to no priestly family.

(20) Even if his father was a priest.

(21) Since, whatever the reason, the embryo does not bestow the privilege.

(22) Who had been married to a priest. The first reason does not apply, while the second, does

(23) Lit.. 'this'.

(24) That the slaves are forbidden to eat terumah.

(25) Lit., 'this'.

(26) V. supra p. 448, n. 13. Consequently they are allowed to eat terumah.

(27) V. p. 448,n.8.

(28) V. p. 448,n.9.

(29) The ruling in our Mishnah.

(30) The deceased priest.

(31) Besides the embryo.
(32) The zon barzel slaves.
(33) The embryo is entirely disregarded.
(34) The deceased priest's.
(35) Among the entire family of the priest there must be at least one who is entitled to be his heir; and so long as the embryo is unborn, that born heir, as the owner of the slaves, is fully entitled to confer upon them the right of eating terumah.
(36) The expression, 'This is the opinion of R. Jose'.
(37) Samuel.
(38) That an embryo acquires ownership.
(39) Thus giving the matter due publicity.
(40) B.B. 142b, Keth. 7b, Zeb. 95a.
(41) Samuel.
(42) By pointing out that the statement is that of R. Jose.
(43) V. Bah. Cur. edd., 'R. Zakkai raised an objection'.
(44) Recorded in our Mishnah.
(45) The Rabbis.
(46) They, however, did not accept it.
(47) A deceased priest.
(48) And his widow was not pregnant.
(49) The melog and the zon barzel slaves.
(50) The melog slaves are entitled to the privilege by virtue of the rights of the widow who is entitled to it by virtue of her surviving children; and the son barzel slaves are entitled to the privilege by virtue of the priest's living children who are now their owners.
(51) The deceased priest.
(52) And he is not survived by any other children.
(53) Since the embryo cannot bestow the privilege (cf. supra n. 4) either upon his mother or upon the slaves.
(54) The melog's slaves being the property of the widow and the embryo having no share in them. As by virtue of her living sons the widow is herself entitled to eat terumah she may also feed her slaves on it, Cf. supra n' 4.
(55) V, supra p. 448, n. 1.
(56) v. supra p. 448, n. 3.
(57) This is explained infra.
(58) Who survived the deceased priest.
(59) On their account because the chances that the embryo will be a viable male and thus have a share in the slaves are so uneven that they may be disregarded. For, in the first instance, it is likely that the embryo will be a female and thus have no share at all in the slaves. And secondly, were it to be a male, it might yet be a miscarriage, which again would have no share in the slaves (v. infra).
(60) Who, when born, will become the owner of the slaves.
(61) The slaves, therefore, would be the property of the embryo which cannot bestow upon them the right of eating terumah.
(62) As a reason why the slaves are forbidden to eat terumah in the latter case.
(63) The prohibition upon the slaves.
(64) Since the female embryo, when born, would be entitled to a share among the other daughters and now, therefore, as an embryo, deprives the slaves of the privilege.
(65) Which is the other reason.
(66) And it, owing to its share in them, should deprive the slaves of the privilege.

Talmud - Mas. Yevamoth 67b

that no provision need be made against the less usual cases.[1] Or if you prefer I might say that he[2] is of the opinion that provision in fact must be made against the less usual cases also, [but here] a special arrangement might be made[3] in accordance with a ruling of R. Nahman in the name of

Samuel. For R. Nahman stated in the name of Samuel: Where orphans[4] wish to divide the property of their [deceased] father, Beth din appoint a guardian for [every one of] them, and [each guardian] chooses for his ward a suitable portion. As soon, however, as they reach their majority they are entitled to enter a protest.[5] In his own name, however, R. Nahman stated: Even when they reach majority they are not entitled to protest, for otherwise what validity is there in the authority of a Beth din![6]

Must it be assumed that R. Nahman's ruling is a matter of dispute between Tannaim![7] — No; all accept R. Nahman's [arrange. ment],[8] but the dispute here[9] centres on the question whether[10] provision was to be made against the less usual cases.[11]

'R. Ishmael], son of R. Jose, stated in the name of his father: A daughter may bestow the right of eating; a son may not.[12] Wherein lies the difference [between the son and the daughter]? If a son may not bestow the right of eating on account of the share of the embryo, a daughter also should not be entitled to bestow the right of eating on account of the share of the embryo! — Abaye replied: Here[13] we are dealing with a small estate[14] and in a case where there is a son[15] as well as a daughter, [so that the slaves may eat the terumah] whatever be the assumption [as to the sex of the embryo]. If the embryo is a son then he is not better than the one who is already born.[16] And if it is a daughter, then why does a daughter eat at all?[17] Surely by virtue of an ordinance of the Rabbis.[18] But so long as she has not seen the light[19] no provision for her has been made by the Rabbis.[20] If you take it[21] to refer[22] to a small estate, [how will you] explain the final clause,[23] 'since it is possible that the embryo might be a male, and daughters, where there is a son, have no share at all'? On the contrary; a small estate belongs to the daughters! — The final clause refers to a large estate. But does a small estate belong to the daughters? Surely, R. Assi stated in the name of R. Johanan: Where male orphans forestalled [the ruling of Beth din] and sold a small estate, their sale is valid![24] — But the fact is that by the mention of daughter 'the mother' is to be understood.[25] If so, this is exactly the same statement as that of R. Jose! — The entire statement was made by R. Ishmael son of R. Jose.

MISHNAH. AN EMBRYO,[26] A LEVIR,[27] BETROTHAL,[28] A DEAF-MUTE,[29] AND A BOY WHO IS NINE YEARS AND ONE DAY OLD,[30] DEPRIVE [A WOMAN][31] OF THE RIGHT [OF EATING TERUMAH], BUT CANNOT BESTOW THE PRIVILEGE UPON HER,[32] [EVEN WHEN] IT IS A MATTER OF DOUBT WHETHER THE BOY IS NINE YEARS AND ONE DAY OLD OR NOT,[33] OR WHETHER HE[34] HAS PRODUCED TWO HAIRS[35] OR NOT.

IF A HOUSE COLLAPSED UPON A MAN AND UPON HIS BROTHER'S DAUGHTER,[36] AND IT IS NOT KNOWN WHICH OF THEM DIED FIRST, HER RIVAL MUST PERFORM HALIZAH[37] BUT MAY NOT CONTRACT LEVIRATE MARRIAGE.[38]

GEMARA. AN EMBRYO, for if [its mother] is the daughter of a priest [who was married] to an Israelite [the embryo] deprives her of the privilege,[39] [for it is written]. As in her youth,[40] which excludes one who is with child.[41] And if she is the daughter of an Israelite [who was married] to a priest, the embryo does not bestow the privilege[39] upon her, because the living child does bestow the privileged but not the unborn.[42]

A LEVIR, for if [his yebamah] is the daughter of a priest who was married to an Israelite, [the Ievir] deprives her of the privileged [for it is written], And is returned unto her father's house,[40] which excludes one who is awaiting the decision of the levir;[43] and if she is the daughter of an Israelite [who was married] to a priest [the levir] does not bestow the privilege upon her, because the All Merciful said, The purchase of his money.[44] while she is the purchase of his brother. BETROTHAL, for if [the woman] is the daughter of a priest [who was betrothed] to an Israelite, [betrothal] deprives her of the privilege,

(1) Lit., ‘a minority’. I.e., against the possibility that the embryo might be born a viable male. Against the possibility of male births there is the equal possibility of female births, and by adding the minority of miscarrying women to the half of female births, the male births are found to form only a minority.
(2) R. Simeon.
(3) The embryo is allotted as his share a portion of the estate exclusive of the slaves, who consequently form a portion of the shares of the living brothers, who, as their owners, bestow upon the slaves the right of eating terumah. Where, however, there are only daughters, such an arrangement cannot be made, since in such a case the embryo, in case he is born a viable male, is the sole heir and owner.
(4) Who are minors.
(5) Against the original division, and to demand a new one. The validity of acceptance of the shares by the guardians extends only to the produce or yield of the estate up to the date of the protest.
(6) V. Kid. Sonc. ed., p. 210, notes.
(7) That R. Simeon, who permits the slaves to eat, in the case of sons, by adopting the arrangement mentioned, is of the same opinion as R. Nahman; while R. Jose, who forbids terumah to the slaves, maintaining as he evidently does that the arrangement is of no avail and that the division must be postponed until the heirs reach majority, is in disagreement with R. Nahman.
(8) Wherever such had been made,
(9) Between R. Jose and R. Simeon, supra 6a.
(10) Where R. Nahman's arrangement had not been made,
(11) R. Simeon permits the slaves to eat terumah, because he holds that no provision has to be made against the less usual cases (v. supra p. 451, n. 3) while R. Jose forbids them to eat it, because he maintains that provision must be made even against the less usual case.
(12) This is now assumed to mean that where there is a daughter but no son, she bestows the right of eating terumah upon the slaves, but where there is a son, the slaves are not permitted to eat the terumah.
(13) R. Ishmael's statement.
(14) Which, by an ordinance of the Rabbis, must be handed over to the daughters for their maintenance while the sons receive nothing. v. B.B, 139b.
(15) To whom the estate belongs in accordance with the Pentateuchal law.
(16) Lit., ‘exists’, ‘stands’. Since the Rabbis deprived the living son of his share and gave it to the daughters. they have, even more so, deprived the embryo of its share.
(17) From her father's estate, though he is also survived by sons’
(18) Pentateuchally she has no claim at all in the presence of a son.
(19) Lit., ‘came out into the air of the world’.
(20) The embryo, consequently, cannot possibly have a share in the slaves, who may. therefore, eat terumah by virtue of the rights of the living children. Had there been a daughter only and no son, the slaves would not have been permitted to eat terumah on account of the embryo, which, were it a female, would have had in the slaves an equal share with their sister.
(21) R. Ishmael's statement.
(22) Lit., ‘in what did you place it’.
(23) Which presumably deals with a similar case.
(24) Keth. 103a, Sotah 21b, B.B. 140a. Which proves that the estate, even when small, belongs to the sons also. How then could the slaves be permitted to eat terumah?
(25) I.e., the mother of the embryo may feed her melog slaves with terumah as she herself is permitted to eat it by virtue of her living sons. A son, however, may not feed the zon barzel slaves with terumah owing to the share of the embryo.
(26) Whose mother was (a) the daughter of a priest married to an Israelite, or (b) the daughter of an Israelite married to a priest, and whose father died before he (the embryo) was born.
(27) The widow of whose deceased brother was (a) the daughter of a priest (he and his brother being Israelites), or (b) the daughter of an Israelite (he and his brother being priests).
(28) Of (a) the daughter of a priest to an Israelite, or (b) the daughter of an Israelite to a priest.
(29) Who is (a) an Israelite married to the daughter of a priest, or (b) a priest married to the daughter of an Israelite.
(30) This is explained in the Gemara, infra.
(31) If she is (a) the daughter of a priest (cf. last four notes).

(32) If she is (b) the daughter of an Israelite (cf. supra notes 6-9).
(33) This has no reference to what follows and is explained in the Gemara.
(34) Who betrothed the woman.
(35) Which are the marks of puberty, when he becomes legally entitled to contract a marriage.
(36) To whom he had been married and who, like himself, died childless.
(37) With the daughter's father, the brother of the deceased. Though the dead woman was his forbidden relative, her rival becomes subject to the halizah because it is possible that the woman had been killed before the man, and when the man died her former rival was no longer related to her. V. infra note 6.
(38) Because it is also possible that the man was killed first and that the rival consequently remained forbidden to the levir as the rival of his daughter.
(39) Of eating terumah.
(40) Lev. XXII, 13.
(41) Only when she returned unto her father's house as in her youth (v. ibid.), i.e., if, like a virgin, she has no child at all, not even an embryo, may she eat of her father's bread (ibid.) i.e., terumah.
(42) This is deduced from Such as are born in his house etc. (Lev. XXII, 11) by taking the Kal יאכל in the sense of Hif. יאכיל V Torath Kohanim, a.l., (v. Rashi).
(43) Being dependent on the levir's will she cannot without his release, return to her father's house.
(44) Lev. XXII, 11 emphasis on 'his.'

Talmud - Mas. Yevamoth 68a

since he acquires her by the betrothal;[1] and if she is the daughter of an Israelite [who was betrothed] to a priest, the betrothal cannot bestow the privilege upon her, owing to the ruling of 'Ulla.[2]

A DEAF-MUTE, for if [the woman] is the daughter of a priest [who was married] to [him[3] who is] an Israelite, he deprives her of the privilege, since he[4] acquired her by virtue of a Rabbinical enactment;[5] and if she is the daughter of an Israelite [who was married] to [him[3] who is] a priest, he cannot bestow the privilege upon her, because the All Merciful said, The purchase of his money,[6] while he[3] is not eligible to execute any kinyan.

AND A BOY WHO IS NINE YEARS etc. This was assumed[7] to refer to the case of a yebamah who was awaiting the decision of a levir who was nine years and one day old.[8] Now, in what respect?[9] If in respect of depriving her[10] of the privilege,[11] a younger child would also equally deprive her of the privilege! And if in respect of bestowing the privilege,[12] a grownup levir also cannot bestow this privilege![13] — Abaye replied: We are dealing here with a levir of the age of nine years and one day, who cohabited with his yebamah[14] who, according to Pentateuchal law, becomes his kinyan. Since it might have been assumed that, as Pentateuchally she becomes his kinyan, and his cohabitation also is legal, he should be entitled to bestow the privilege upon her, hence we were taught that the cohabitation of a boy who is nine years and one day old has been given the same validity only as that of a ma'amar by an adult.[15] Said Raba to him: If so,[16] [why] is it stated in the final clause, [EVEN WHEN] IT IS A MATTER OF DOUBT WHETHER THE BOY IS NINE YEARS AND ONE DAY OLD, OR NOT? If a boy who is certainly of the age of nine cannot bestow the privilege, is there any need to speak of a boy whose age is in doubt! — No, said Raba, [the Mishnah] deals with a boy of the age of nine years and one day belonging to one of the classes of disqualified persons who, by their cohabitation, deprive a woman[17] of the privilege of eating terumah;[18] as it was taught: An Ammonite,[19] a Moabite,[19] an Egyptian,[20] or an Idumean[20] proselyte, a Cuthean[21] , a nathin,[21] a halal[21] or a bastard, of the age of nine years and one day, who cohabits with the daughter of a priests of a Levite or of an Israelite, disqualifies her.[22] But since it is stated in the final clause,[23] 'If they are not fit to enter the assembly of Israel they render [a woman] unfit',it may be inferred that the first clause does not deal with such disqualified persons! — The first clause speaks of those who are disqualified to enter the assembly, while the latter clause speaks of those who are disqualified to marry the daughter of a priest.[24]

[To turn to] the main text:[25] An Ammonite,[26] a Moabite,[26] an Egyptian or an Idumean[27] proselyte, a Cuthean,[28] a nathin,[28] a halal[28] or a bastard, of the age of nine years and one day, who cohabits with the daughter of a priest, of a Levite or of an Israelite disqualifies her.[29] R. Jose said: Anyone whose children are disqualified causes disqualification;[30] he whose children are not disqualified does not cause disqualification.[30] R. Simeon b. Gamaliel said: Whenever you may marry his daughter you may marry his widow,[30] and whenever you may not marry his daughter you may not marry his widow.[31]

Whence are these rulings[32] deduced? — Rab Judah replied in the name of Rab: Scripture stated, And if a priest's daughter be married unto to a strange man,[33] as soon as she has had connubial relations with a disqualified person[34] the latter disqualified her. But the text cited is surely required [for another] purpose, viz., that the All Merciful ordained that the daughter of a priest who was married to a layman[35] may not eat terumah! — That[36] may be deduced from the text, And is returned unto her father's house, as in her youth, she may eat of her father's bread.[37] Since the All Merciful ordained, And is returned unto her father's house . . . she may eat,[37] it follows that prior to that[38] she was not permitted to eat. But if [deduction were to be made] from that text,[37] [it may be objected] one might have assumed that as a negative precept[39] which is derived from a positive one[40] it has only the force of a positive precept,[41] hence did the All Merciful write the other text[42] to [indicate that it is] a negative precept! — [That it is] a negative precept may be deduced from, There shall no strange man[43] eat[44] of the holy things.[45]

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(1) And being, therefore, deemed to be his legal wife she is forbidden to eat terumah. V. Lev. XXII, 12.

(2) Though Pentateuchally a woman who is betrothed to a priest is entitled to the privilege of eating terumah, she has been forbidden to eat it during the period of betrothal, when she is still in her father's house, as a preventive measure against the possibility of her treating to it a brother or a sister of hers. V. Keth. 57b.

(3) The deaf-mute.

(4) Though mentally defective and, therefore, Pentateuchally ineligible to execute any kinyan.

(5) V. infra 112b.

(6) Lev. XXII, 11, emphasis on purchase (kinyan).

(7) By him who raised the following objection.

(8) And with whom no connubial intercourse had taken place.

(9) Is the age mentioned of any consequence.

(10) If she is the daughter of a priest, and the levir is an Israelite.

(11) Of the eating of terumah; the purpose of the ruling being to indicate that the levirate bond comes into force simultaneously with the levir's capability of cohabitation.

(12) When he is a priest and she is the daughter of an Israelite; the purpose being to indicate that, though he is capable of cohabitation, his levirate bond is not powerful enough to bestow upon his yebamah the privilege of eating terumah.

(13) As was explicitly stated earlier in out Mishnah.

(14) An act which in the case of a levir who is of age is valid.

(15) Which does not constitute complete kinyan (cf. supra 50a). The boy of the age of nine years and one day CANNOT consequently BESTOW THE PRIVILEGE any more than the others enumerated in our Mishnah. The ruling as to 'depriving a woman of the privilege' applies only to the cases of the EMBRYO, THE LEVIR, BETROTHAL AND THE DEAF-MUTE but not to that of the boy of the age mentioned.

(16) That the boy of the age of nine years and one day was included only because of the ruling that he CANNOT BESTOW THE PRIVILEGE, and that the ruling of 'depriving a woman of the privilege' does not apply to him, cf. supra n. 2.

(17) If she is the daughter of a priest.

(18) The boy of the age of nine years and one day accordingly deprives a woman of the privilege; and it is because of this ruling that the case of the boy was included in our Mishnah. The second ruling that certain persons CANNOT BESTOW THE PRIVILEGE is not, of course, necessary in his case and applies only to the others enumerated, vi., THE EMBRYO, THE LEVIR, BETROTHAL AND A DEAF-MUTE.

(19) Who is forbidden to enter the congregation of the Lord. Cf. Deut. XXIII, 4.
(20) Who, to the third generation, is forbidden to enter the congregation of the Lord. Cf. ibid. 9f.
(21) V. Glos.
(22) Kid. 74b. If the woman is the daughter of a Levite or an Israelite she is forbidden to marry a priest, and if she is the daughter of a priest she may neither marry a priest nor may she continue to eat terumah.
(23) In the continuation of our Mishnah infra 6.
(24) As e.g., a halal who is permitted to enter the assembly (i.e., to marry the daughter of an Israelite), but is forbidden to marry the daughter of a priest. (Cf. supra 37a). Though the expression 'not fit to enter the assembly of Israel' was used in the final clause also, it only implies marriage with the daughter of a priest, since otherwise this part of the Mishnah would have been a mere repetition of the first and, consequently, superfluous.
(25) The full text of the previous citation.
(26) V. supra p. 456, n. 6.
(27) V. loc. cit. n. 7.
(28) V. Glos.
(29) V. p. 456, n. 9.
(30) For explanation v. Gemara infra.
(31) Tosef. Nid. VI.
(32) Concerning the disqualifications enumerated in the cited Baraitha.
(33) So literally. (a) 'one who is not a priest'; (b) 'one strange to her', 'a disqualified person', E. V. a common man'. Lev. XXII, 12.
(34) 'Strange man' is taken in sense (b).
(35) Non-priest, an Israelite. V. supra n. 11.
(36) That a priest's daughter who was married to an Israelite loses the privilege of eating terumah.
(37) Lev. XXII, 13.
(38) Before she returned to her father's house, i.e., while she was still a married woman, 'living with her husband.
(39) Not to eat terumah.
(40) 'When she returned to her father's house she may eat terumah'.
(41) Which is not punishable by flogging.
(42) Lev. XXII, 12.
(43) Non.priest, an Israelite. V. supra p. 457. n. 11.
(44) It is now presumed that as the woman married a stranger she assumes his status and is consequently, like her husband, forbidden to eat terumah.
(45) Lev. XXII, 10.

Talmud - Mas. Yevamoth 68b

But that text is required for its own purpose![1] The expression, 'There shall no strange man', is written twice.[2] But still is not this[3] required for the exposition of R. Jose b. Hanina? For R. Jose b. Hanina stated: There shall no strange man[3] implies, 'I have imposed upon you a prohibition concerning non-priests only but not concerning onan'![4] — R. Jose b. Hanina's exposition may be deduced from the Scriptural use of the longer expression 'And there shall no strange man' instead of 'strange man'.[5]

But still is not this,[6] required for the following which was taught:[7] When she[8] returns,[9] she returns only to [the privilege of eating] terumah, but does not return to [the privilege of eating] the breast and shoulder.[10] And[11] R. Hisda stated in the name of Rabina b. R. Shila, 'What Scriptural text proves this? It is written, but if a priest's daughter be married unto a strange man, she shall not eat of the terumah of the holy things,[12] she must not eat of that which is set apart[13] from the holy things'![14] — If so,[15] Scripture should have written. She shall not eat of the holy things'. why [then the longer expression], of the terumah of the holy things? Two deductions[16] may, consequently be made.

We have now deduced[17] [the law relating to] a priest's daughter;[18] whence, however, is this

deduced in respect of the daughter of a Levite or an Israelite? — As R. Abba stated in the name of Rab [that deduction is made from the Scriptural use of] 'But a daughter' [where only] 'daughter' [could have been used].[19] so here also [deduction is made from the use of] 'and a daughter' [where only] 'daughter' [could have been used].[20] In accordance with whose view?[21] Is it Only in accordance with that of R. Akiba who bases expositions on [superfluous] Wawin![22] — It[23] may be said to have been made even according to the view of the Rabbis, because the entire Scriptural expression, And a daughter[24] is superfluous.[25] [Thus the disqualification] in respect of terumah has been proved;[26] whence, [however, is it deduced that the disqualification extends also] to the prohibition of marrying a priest?[27] — Has not the daughter of a Levite or of an Israelite been included[28] in respect of priestly marriage only? For, as regards terumah, neither of them is ever eligible to eat it.[29]

Are they never eligible?[30] Such eligibility surely occurs when [a mother][31] eats terumah[32] by virtue of the rights of her son![33] — [The case of a mother, who eats terumah] by virtue of the rights of her son, may be deduced by inference a minori ad majus: If the daughter of a priest who eats the terumah by virtue of her own sanctity becomes disqualified[34] how much more so the daughter of a Levite or of an Israelite who eats it only by virtue of the rights of her son.[35] [On the contrary], this [very point][36] provides the reason:[37] A priest's daughter whose body is sacred is rightly disqualified,[34] this woman, however, whose own body is not sacred might not become disqualified![38] — The fact is rather, that the prohibition[39] to marry a priest may be deduced a minori ad majus from a divorced woman: If a divorced woman who is permitted to eat terumah is nevertheless forbidden to marry a priest, how much more reason is there that such a woman[40] who is forbidden to eat terumah should be disqualified from marrying a priest.[35]

May a prohibition, however, be deduced by logical argument![41]

This[42] is a mere elucidation [of the law].[43]

Might it not be suggested [that the statement,] 'she had connubial relations with a disqualified person'[44] [refers to persons cohabitation with whom is] subject to the penalty of kareth![45] — The All Merciful said, If. . . be married,[46] only those with whom marriage is valid;[47] with those who are subject to the penalty of kareth marriage is not valid.[48] If so,[49] no idolater or slave should cause disqualification![50] — These cause disqualification in accordance with a ruling of R. Ishmael. For R. Johanan stated in the name of R. Ishmael: Whence is it deduced that if an idolater or a slave cohabits with the daughter of an Israelite, of a priest or of a Levite, he disqualifies her?[51] — It was stated in, But if a priest's daughter be a widow or divorced etc.,[52]

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(1) For the law concerning a non-priest. What proof then is there that a priest's daughter who married such a man is also subject to the same law?

(2) Once in Lev. XXII, 10, which refers to any non-priest; and a second time, ibid. 13. which speaks of the daughter of a priest who returns to her father's house, and concludes with the expression, There shall no strange etc. referring to the priest's daughter who is married to such a man.

(3) The second text, Lev. XXII, 13.

(4) Infra 70b, 71a. **אנינות** the mourning of an onan, v. Glos.

(5) The superfluous and serves the purpose of R. Jose's deduction, and the remainder of the clause, therefore, indicates the negative precept.

(6) The text of Lev. XXII, 12.

(7) Infra 87a.

(8) The daughter of a priest who was divorced or became a widow and had no child.

(9) To her father's house.

(10) Which are also among the priestly gifts. Cf. Ex. XXIX, 27. Lev. VII, 34. X, 14.

(11) In explanation of the Baraitha.

(12) Lev. XXII, 12. תרומת הקדשים
(13) מורם of the same rt. as צרומת. V. supra n. 3.
(14) From the sacrifices, i.e., the breast and the shoulder. V. supra n. 1.
(15) That only one of the deductions mentioned is to be made from this text.
(16) That (a) a disqualified person disqualifies a priest's daughter with whom he cohabited (supra 68a), and (b) that when a priest's daughter returns as a widow or a divorcee to her father's house she is not permitted to eat of the breast and the shoulder of the peace-offerings.
(17) Lit., 'we found'.
(18) V. supra n. 7 (a).
(19) Infra 6a, 87a.
(20) The superfluous 'and' indicates a comparison between the daughter of the priest and the daughter of a Levite or of an Israelite.
(21) Is the deduction made (v. n. 11).
(22) Plur. of waw 'and'. And not in accordance with the Rabbis who are in the majority? V. Sanh. 51b.
(23) The deduction from 'and a daughter'.
(24) Not only the jaw.
(25) Since the context, But if a priest . . . and such as are born in his house (Lev. XXII, 11) speaks of the relatives of a priest, it would have been obvious to whom v. 12 referred even if a priest's daughter were omitted, reading only. If she be married etc.
(26) Since Scripture mentions it. Lit., 'we found'.
(27) If a disqualified person cohabited with her. V. supra 68a.
(28) In the prohibition.
(29) Lit., 'for if for terumah, are they subjects of eating terumah?' As they are never allowed to eat terumah there is obviously no need to forbid it to them.
(30) To eat terumah. Lit., 'why not'.
(31) The daughter of a Levite or of an Israelite.
(32) After the death of her husband who was a priest.
(33) Who survived his father. A Scriptural text might consequently have been required to forbid a woman in such circumstances from eating terumah if she cohabited with a disqualified person!
(34) Lit., 'he (i.e., the disqualified man who cohabited with her) disqualifies her'.
(35) Hence no Scriptural text was needed to exclude her.
(36) The sacredness of the body of the priest's daughter.
(37) Why a priest's daughter only should be disqualified.
(38) Cf. supra notes 7 and 8 second clause.
(39) On the part of the daughter of a priest who cohabited with one of the disqualified persons mentioned.
(40) Cf. supra n. 13.
(41) A prohibition, which involves the penalty of flogging. must be derived from an explicit Scriptural text. V. Mak. 17b.
(42) The inference a fortiori mentioned.
(43) The actual prohibition, how ever, is based on the fact that she is forbidden to eat terumah; as she is forbidden to eat it owing to the loss of her sanctity, so is she forbidden to marry a priest.
(44) Who, as has been inferred, supra 68a, from a Scriptural text, causes her disqualification.
(45) A brother, for instance, betrothal with whom is invalid. What proof, however, is there that persons, such as a Cuthean, a nathin or a bastard, cohabitation with whom is subject to flogging only and betrothal with whom is valid, also disqualify a priest's daughter from marrying a priest?
(46) Lev. XXII, 12.
(47) Cause disqualification.
(48) Hence there was no need for a Scriptural text to exclude them. The text consequently refers to those who are subject to the penalty of flogging.
(49) That Scripture refers only to those with whom marriage is valid.
(50) But, as stated infra 69b, a slave does cause disqualification.
(51) From (a) marrying a priest; and (b) eating terumah in the case of the daughter of a priest, or in the case of the

daughter of a Levite or an Israelite who was married to a priest who left her with children by virtue of whom she was entitled to the privilege of eating terumah.

(52) Lev. XXII, 13 which concludes, and is returned unto her father's house . . . she may eat of her father's bread, i.e., terumah.

Talmud - Mas. Yevamoth 69a

only in the case of a man in relation to whom widowhood or divorce is applicable;[1] an idolater and a slave, however, are excluded, since in relation to them no widowhood or divorce is applicable.[2]

Thus we have found [the law concerning] the daughter of a priest;[3] whence, however, [is the law concerning] the daughter of a Levite and of an Israelite to be inferred? — As R. Abba stated in the name of Rab [that deduction is made from the Scriptural use of] 'And a daughter', [where only] 'daughter' [could have been used],[4] so here also [deduction is made from the use of] 'And a daughter', [where only] 'daughter' could have been used.[5] In accordance with whose view?[6] Is it only in accordance with that of R. Akiba, who bases expositions on [superfluous] Wawin![7] — It[8] may be said to have been made even according to the view of the Rabbis, because the entire [Scriptural expression] And a daughter[9] is a superfluous text.[10] But might it be suggested that in the case of a man in relation to whom widowhood and divorce is possible,[11] [the woman][12] may eat terumah if she[13] has no children,[14] and may not eat if she has children, but in the case of a man in relation to whom widowhood and divorce are not possible[15] she may eat terumah even if she[13] has children?[16] — If so,[17] what need was there to include the daughter of a Levite and of an Israelite![18]

According to R. Akiba, however, who stated that betrothal with those whose intercourse involves the penalty of a negative commandment has no validity and that the meaning of[19] If . . . be married[20] to a strange man[21] is 'if she cohabits',[22] what need was there[23] [for] 'widow or divorced'?[24] — The widow was stated[25] in order to restrict her privilege;[26] and the divorced woman, in order to relax her restrictions.[27] And [both[28] were] required. For had only the widow been mentioned it might have been assumed that only a widow may eat terumah if she has no children because she is eligible to marry a priests but, a divorced woman who is ineligible to marry a priest may not eat it even if she has no children. And had the divorced woman only been mentioned it might have been suggested that only a divorced woman may not eat terumah if she has children because she is ineligible to marry a priest, but a widow who is eligible to marry a priest may eat it even if she has children. [Hence both were] necessary.

Might it not be suggested [that the statement], 'She had connubial relations with a disqualified person'[29] refers also to one who remarried his divorced wife![30] — The All Merciful said, To a strange man, only one who was formerly a stranger to her.[31] Her former husband[32] is excluded since he was not formerly a stranger to her.

If so, a halal,[33] who is not a stranger[34] to her,[35] should not cause her disqualification! Scripture stated, He shall not profane his seed among his people;[36] 'his seed'[37] is compared to himself, as he disqualifies[38] so does his seed disqualify.[39]

Might it be suggested [that the disqualification[40] is effected] from the moment of betrothal?[41] — [His case[42] must be] similar to that of a High Priest with a widow. As a High Priest, in the case of a widow, [causes her disqualification] by cohabitation only,[43] so does this [person[44] cause disqualification] by cohabitation only.

Might it be suggested [that disqualification[40] is effected] only where there was betrothal as well as cohabitation? — His case[42] must be similar to that of a High Priest with a widow. As the High Priest, [when he marries] a widow, [causes her disqualification] by cohabitation alone[45] so does this

[person[46] cause disqualification] by cohabitation alone.

'R. Jose however said: 'Anyone whose children are disqualified causes disqualification, but he whose children are not disqualified does not cause disqualification'. What is the practical difference between the first Tanna and R. Jose? — R. Johanan replied: The difference between them is the case of an Egyptian proselyte of the second generation and an Idumean proselyte of the second generation.[47] And both of them[48] deduced their respective views from none other than [the disqualification] of a widow by a High Priest. The first Tanna reasons: As a High Priest whose cohabitation with a widow is forbidden causes her disqualification, so does this person[49] also cause disqualification. R. Jose, however, reasons thus: Like a High Priest. As a High Priest whose seed is disqualified causes disqualification, so does any other person cause disqualification only when his seed is disqualified; an Egyptian proselyte of the second generation is thus excluded, since his children are not disqualified, for it is written, The children of the third generation that are born unto them may enter into the assembly of the Lord.[50]

'R. Simeon b. Gamaliel said: Whenever you may marry his daughter, you may marry his widow etc.' What is the practical difference between R. Jose and R. Simeon b. Gamaliel? 'Ullah replied: The difference between them is the case of an Ammonite and a Moabite proselyte.[51] And both of them[52] derived their respective views from none other than [the disqualification] of a widow by a High Priest. R. Jose reasons thus: As with a High Priest who married a widow, his seed is disqualified and he himself causes disqualification, so does any other person cause disqualification only when his seed is disqualified. R. Simeon b. Gamaliel, however, reasons thus: As with a High Priest who married ,a widow, all his seed[53] is disqualified and he himself causes disqualification, so does only such a person cause disqualification, all whose seed is disqualified; an Ammonite and a Moabite are, therefore, excluded since not all their seed are disqualified.[54] For a Master said: An Ammonite,[55] but not an Ammonitess; a Moabite,[55] but not a Moabitess.[56] MISHNAH. THE VIOLATOR, THE SEDUCER AND THE IMBECILE[57] CAN NEITHER DEPRIVE A WOMAN[58] OF THE RIGHT OF EATING TERUMAH NOR CAN THEY BESTOW THE RIGHT UPON HER.[59] IF THEY ARE, HOWEVER, UNFIT TO ENTER INTO THE ASSEMBLY OF ISRAEL[60] THEY DO DEPRIVE A WOMAN[58] OF HER RIGHT TO THE EATING OF TERUMAH.[61] HOW? IF[62] AN ISRAELITE HAD INTERCOURSE WITH THE DAUGHTER OF A PRIEST[63] SHE MAY STILL CONTINUE TO EAT TERUMAH.

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(1) Viz., a legitimate Israelite. Only in such a case does the widow or divorced woman regain her right of eating terumah.

(2) Their betrothal and marriage having no validity.

(3) That intercourse with a slave or an idolater causes her disqualification.

(4) Supra 68b, infra 87b.

(5) Supra 68b, p. 459, n. 11.

(6) Was the deduction made.

(7) V. supra p 459, O. 13.

(8) The deduction from 'And a daughter.'

(9) Lev. XXII, 13.

(10) As Lev. XXII, 13 follows v. 12 which deals with the daughter of a priest, the subject, 'a priest's daughter', of v. 13, could have been omitted as self-evident.'

(11) A legitimate Israelite or Levite.

(12) A priest's daughter after she had been divorced by her husband or become a widow.

(13) Cf. Rashi, Cur. edd., 'to him'.

(14) From that husband. V. supra n. 8.

(15) An idolater, for instance, or a slave.

(16) The cohabitation with such a person having no legal effect whatsoever.

(17) That from the Scriptural text mentioned a relaxation of the law is to be deduced, its purpose being the indication that

a priest's daughter is not disqualified even where she has issue from an idolater or a slave.
(18) If a priest's daughter is not disqualified, how much less the daughter of a Levite or of an Israelite. The purpose of the Scriptural text, therefore, must be taken to be the disqualification of the daughter of a priest. The inclusion of the daughter of a Levite and of an Israelite was, therefore, necessary to indicate that even if either of those was enjoying the privilege of eating terumah, by virtue of the rights of the children she had from a priest, she loses that privilege if she cohabited with an idolater or a slave even though the act resulted in no issue.
(19) Lit., 'and what'.
(20) תהיה lit., 'shall be'.
(21) Lev. XXII, 12.
(22) Since no legal marriage with any of the disqualified persons is at all possible.
(23) When cohabitation with an idolater or a slave had taken place.
(24) To exclude, as stated supra an idolater and slave, in relation to whom no widowhood or divorce is possible since they are surely included among the other disqualified persons betrothal or marriage with whom is invalid!
(25) Not for the purpose of the deduction made by R. Ishmael.
(26) To indicate that a priest's daughter who was the widow of an Israelite may not eat terumah if she has children, even after the death of her husband. Had no Scriptural text indicated this law it might have been assumed that she may eat terumah even if she had children from the Israelite.
(27) To allow her (cf. supra n. 4) to eat terumah where she has no issue from the Israelite. Had not Scripture indicated this law it might have been assumed that as the divorcee was forbidden to marry a priest so she was forbidden to eat terumah even if her union with the Israelite produced no issue.
(28) Widow and divorcee.
(29) Who, as deduced from a Scriptural text, supra 68a, causes the disqualification of the woman with whom he cohabited.
(30) After she had been married to another man. Such a marriage being forbidden (v. Deut. XXIV, 4), the first husband should be regarded as a 'strange man' (Lev. XXII, 12) and consequently included among the persons who cause a woman's disqualification. Why, then, was it stated (supra 44b) that a woman so remarried to her first husband is permitted to marry a priest and, all the more, to eat terumah! (V. Rashi a.l. Cf., however, Tosaf s.v. היא supra 44b).
(31) Who was never allowed to marry her.
(32) Lit., that'.
(33) V. Glos.
(34) V. Rash and Bah. Cut. edd. insert, 'formerly'.
(35) He may marry' a priest's daughter.
(36) Lev. XXI, 15, referring to a High Priest.
(37) I.e., a halal
(38) A widow whom he married from the eating of terumah (v. Kid. 77a).
(39) Any woman he marries.
(40) Of a woman by marrying a 'strange man' , a disqualified person.
(41) הויה havayah as implied in the expression תהיה tihyeh '(she shall) be' Lev. XXII, 12 (of the same rt. היה), the woman remaining disqualified even if, owing to the death of the disqualified person no cohabitation took place.
(42) That of the disqualified person. deduced from the text mentioned.
(43) Since the text specifically mentions his seed (Lev. XXI, 15). V. also supra 56b.
(44) The disqualified person, V. supra n. 10.
(45) Since the disqualification is effected even if there was no betrothal.
(46) V. supra note 10.
(47) Who are themselves forbidden to marry into the congregation (v. Deut. XXIII, 8) but their children, being of the third generation, are permitted. (Ibid. 9). According to the first Tanna one of the second generation causes the disqualification of the woman he marries; while according to R. Jose he does not, because his children are not disqualified.
(48) R. Jose and the first Tanna.
(49) An Ammonite or a Moabite proselyte of the second generation, cohabitation with whom is forbidden. Cf. p. 464, n. 15.
(50) Deut. XXIII, 9.

(51) According to R. Jose such a proselyte causes disqualification; according to R. Simeon b. Gamaliel he does not. V. Gemara infra.

(52) R. Simeon b. Gamaliel and R. Jose.

(53) Daughters as well as sons.

(54) Their daughters being permitted to marry into the congregation.

(55) Shall not enter into the assembly of the Lord. Deut. XXIII, 4.

(56) Infra 76b, Kid. 67b, Keth. 7b, Hul. 62b.

(57) Even if betrothal took place. The action of an imbecile has no legal force.

(58) If she is a priest's daughter entitled to eat terumah.

(59) If they are priests and she is the daughter of an Israelite.

(60) Those, e.g., who are enumerated in Deut. XXIII, 2ff.

(61) Since she becomes profaned through their intercourse with her.

(62) Cur. edd. insert in parenthesis, 'he was'. Bah reads instead, 'behold'.

(63) Against her will or with her consent, but with no matrimonial intention.

Talmud - Mas. Yevamoth 69b

IF SHE BECOMES PREGNANT SHE MAY NO LONGER EAT TERUMAH.[1] IF THE EMBRYO WAS CUT IN HER WOMB SHE MAY EAT.[2] IF[3] A PRIEST HAD INTERCOURSE WITH THE DAUGHTER OF AN ISRAELITE, SHE MAY NOT EAT TERUMAH. [EVEN IF] SHE BECOMES PREGNANT SHE MAY NOT EAT.[4] IF, HOWEVER, SHE GAVE BIRTH TO A CHILD SHE MAY EAT.[5] THE POWER OF THE SON IS THUS GREATER THAN THAT OF THE FATHER.[6]

A SLAVE, BY HIS COHABITATION, DEPRIVES A WOMAN[7] OF THE PRIVILEGE OF EATING TERUMAH[8] BUT NOT AS HER OFFSPRING.[9] HOW? — IF THE DAUGHTER OF AN ISRAELITE WAS MARRIED TO A PRIEST OR THE DAUGHTER OF A PRIEST WAS MARRIED TO AN ISRAELITE, AND SHE BORE A SON BY HIM, AND THE SON WENT AND VIOLATED A BONDWOMAN WHO BORE A SON BY HIM, SUCH A SON IS A SLAVE;[10] AND IF HIS FATHER'S MOTHER WAS AN ISRAELITE'S DAUGHTER WHO WAS MARRIED TO A PRIEST, SHE MAY NOT EAT TERUMAH;[11] BUT IF SHE WAS A PRIEST'S DAUGHTER AND MARRIED TO AN ISRAELITE SHE MAY EAT TERUMAH.[12]

A BASTARD DEPRIVES A WOMAN[13] OF THE PRIVILEGE OF EATING TERUMAH AND ALSO BESTOWS THE PRIVILEGE UPON HER.[14] HOW? IF AN ISRAELITE'S DAUGHTER WAS MARRIED TO A PRIEST OR A PRIEST'S DAUGHTER WAS MARRIED TO AN ISRAELITE, AND SHE BORE A DAUGHTER BY HIM, AND THE DAUGHTER WENT AND MARRIED A SLAVE OR AN IDOLATER AND BORE A SON BY HIM, SUCH A SON IS A BASTARD; AND IF HIS MOTHER'S MOTHER WAS AN ISRAELITE'S DAUGHTER WHO WAS MARRIED TO A PRIEST, SHE MAY EAT TERUMAH; BUT IF SHE WAS A PRIEST'S DAUGHTER WHO WAS MARRIED TO AN ISRAELITE SHE MAY NOT EAT TERUMAH.

A HIGH PRIEST SOMETIMES DEPRIVES A WOMAN[13] OF HER RIGHT TO EAT TERUMAH. HOW? IF A PRIEST'S DAUGHTER WAS MARRIED TO AN ISRAELITE AND SHE BORE A DAUGHTER BY HIM, AND THE DAUGHTER WENT AND MARRIED A PRIEST AND BORE A SON BY HIM, SUCH A SON IS FIT TO BE A HIGH PRIEST, TO STAND AND MINISTER AT THE ALTAR. HE ALSO BESTOWS UPON HIS MOTHER[15] , THE PRIVILEGE OF EATING TERUMAH, BUT DEPRIVES[16] HIS MOTHER'S MOTHER[17] OF THIS PRIVILEGE. THE LATTER[18] CAN RIGHTLY SAY, '[MAY THERE] NOT [BE ANOTHER] LIKE MY GRANDSON THE HIGH PRIEST WHO DEPRIVES ME OF THE PRIVILEGE OF EATING TERUMAH.

GEMARA. [Here][19] we learn what the Rabbis taught: If an imbecile or a minor married and died, their wives are exempt from halizah and from levirate marriage.[20]

IF AN ISRAELITE HAD INTERCOURSE WITH THE DAUGHTER OF A PRIEST SHE MAY STILL CONTINUE TO EAT TERUMAH. IF SHE BECOMES PREGNANT SHE MAY NO LONGER EAT. Since she may not eat when she is definitely with child, precaution should be taken against the possibility that she might be with child![21] Did we not learn, 'They[22] must be kept apart[23] for three months, since it is possible that they are pregnant'?[24] Rabbah son of R. Huna replied: In respect of genealogy[25] precautions were taken;[26] in respect of terumah no such precautions were considered necessary. But was no such precaution considered necessary in respect of terumah? Surely, it was taught: [If a priest said][27] 'Here is your letter of divorce [which shall become effective] one hour before my death', she is forbidden to eat terumah at once![28] — In fact,[29] said Rabbah son of R. Huna, precautions were taken in respect of legitimate marriage,[30] but in respect of illegitimate intercourse[31] no such precaution was considered necessary.[32] But was such precaution, taken in respect of legitimate marriage? Surely, it was taught: If a priest's daughter was married to an Israelite who died,[33] she may perform her ritual immersion[34] and eat terumah the same evening![35] — R. Hisda replied: She performs the immersion but may eat terumah only until the fortieth day. For if she is not found pregnant[36] she never was pregnant;[37] and if she is found pregnant,[38] the semen, until the fortieth day, is only a mere fluid.[39] Said Abaye to him: If so,[40] read the final clause: If the embryo in her womb can be distinguished she is considered to have committed an offence[41] retrospectively![42] — The meaning is that[43] she is considered to have committed an offence[41] retrospectively[44] to the fortieth day.[45]

It was stated: Where a man cohabited with his betrothed in the house of his [future] father-in-law, Rab said: The child is a bastard; and Samuel said: The child is a shethuki.[46] Raba said: Rab's view is reasonable in the case where the betrothed woman was suspected of illicit relations with strangers.[47] Where, however, she is not suspected of illicit relations with strangers the child is ascribed to him.[48] Said Raba: Whence do I infer this? From the statement, IF, HOWEVER, SHE GAVE BIRTH TO A CHILD SHE MAY EAT. For how is this to be understood? If it be suggested to refer to a woman who is suspected of illicit relations with strangers, why should she be allowed to eat terumah when she bore a child![49] Consequently it must refer to a woman[50] who was suspected of illicit relations with him only but not with strangers. Now, if there[51] where she is forbidden to the one as well as to the other,[52] the child is regarded as his[53] how much more so[54] here[55] where she is forbidden to all other men and permitted to him. Said Abaye to him: It may still be maintained that Rab is of the opinion that wherever she is suspected of illicit relations with him,[56] the child is deemed to be a bastard even where she is not suspected of such relations with others. What is the reason? Because it is assumed that as she exposed herself to the man who betrothed her so she exposed herself to others also; but our Mishnah[57] deals with the case where both of them[58] were imprisoned in the same gaol.[59]

Others say: Where he[56] cohabited with her, no one disputes that the child is regarded as his; but the statement made was in the following form. Where a betrothed woman became pregnant, Rab ruled: Such a child is a bastard; and Samuel ruled: The child is a shethuki.[60] Raba said: Rab's view is reasonable where the woman was not suspected of illicit relations with him,[56] but was suspected of such relations with others,[61]

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(1) The embryo causes its mother's disqualification. V. supra 67b.

(2) Immediately. And the same law applies where the embryo was born dead.

(3) Cur. edd., 'he was'; Bah, 'behold'.

(4) An embryo in the womb cannot confer upon its mother the privilege of eating terumah, as deduced from born in his house (Lev. XXII. 11). V. supra 67b.

(5) By virtue of the existence of a son, though he is illegitimate.

(6) While the latter, as a violator or seducer, cannot confer the privilege, the son can.
(7) If she is a priest's daughter entitled to eat terumah.
(8) As explained supra 68b.
(9) If the slave is the offspring of a priest's daughter who was married to an Israelite now dead, he does not deprive her of the right of returning to the house of her father again to eat terumah. V. infra for further explanation.
(10) The child of a bondwoman, though of an Israelite father, is deemed a slave, as deduced from Ex. XXI, 4.
(11) If her husband and her son (the father of the slave) are dead. Though the son of a son (like a son) confers upon his grandmother the right of eating terumah (v. infra 70a), the offspring of a union between an Israelite and a bondwoman is not regarded as the legitimate son of his father but as the child of his mother.
(12) The slave not being regarded as legitimate offspring (cf. supra n. 2) to deprive her of the privilege.
(13) If she is a priest's daughter entitled to eat terumah.
(14) If she was the daughter of an Israelite who was married to a priest now dead.
(15) Even after the death of his father.
(16) As the living offspring of an Israelite.
(17) Though his own mother is dead. Were it not for his existence, his grandmother would have regained her original right of eating terumah on the death of her daughter. V. infra 87a.
(18) Lit., 'this'.
(19) In the statement that an imbecile's betrothal neither confers upon a woman, nor deprives her of the right of eating terumah (v. our Mishnah), thus affirming that an imbecile's kinyan has no validity.
(20) Tosef. Yeb. XI, infra 96b, 2b; because there is no validity whatsoever in the kinyan of his marriage.
(21) And should, in consequence. be forbidden to eat terumah immediately after intercourse had taken place. Why then was it stated, IF AN ISRAELITE HAD INTERCOURSE. . . SHE MAY STILL CONTINUE TO EAT TERUMAH?
(22) Women who have been exchanged for one another. (V. the Mishnah, supra 33b).
(23) I.e., they are forbidden to cohabit with their husbands.
(24) Supra 33b. Similar precaution, then, should have been taken here also!
(25) The Mishnah cited is concerned with safeguarding the status of a legitimate child by taking the necessary precautions to distinguish him from the illegitimate.
(26) In the interests of the purity of family life special precautions were necessary.
(27) To his wife, the daughter of an Israelite.
(28) Suk. 23b, Git. 28a, Ned. 3b; since the priest might die at any moment while the woman was indulging in the consumption of terumah. This proves that in respect of terumah also precautions were taken.
(29) Withdrawing from his first reply.
(30) Of which the Mishnah (supra 33a) cited speaks.
(31) The subject of the section of our Mishnah under consideration.
(32) V. supra 35a.
(33) On the same day, after one act of cohabitation.
(34) Prescribed in Lev. XV, 18.
(35) No precaution being taken against the possibility that the woman may have conceived and thereby remained forbidden to eat terumah.
(36) On the fortieth day.
(37) And is allowed to eat terumah after that day also.
(38) On the fortieth day.
(39) And cannot be regarded as a child.
(40) That prior to the fortieth day the woman is not regarded as pregnant.
(41) Lit., 'injured'.
(42) She pays compensation for any terumah she may have consumed by returning to the priest the principal plus a fifth. V. Lev. XXII, 14.
(43) Lit., 'what'.
(44) If she ate terumah at any time after the fortieth day.
(45) But not earlier. She pays no compensation for any terumah she may have consumed prior to the fortieth day.
(46) Only a doubtful bastard. V. Glos. and Kid. 6.
(47) Lit., 'when she is spoken of in a low voice from (by) the world'.

(48) The man who betrothed her.
(49) There is no proof that the priest was the child's father.
(50) Lit., ‘but no’.
(51) In our Mishnah.
(52) To the violator and seducer as well as to any other man, for it is forbidden to have intercourse with a woman without betrothal.
(53) The violator's or seducer's.
(54) Should the child be regarded as the son of the man who betrothed her.
(55) The case where the man cohabited with his betrothed.
(56) The man who betrothed her.
(57) Which regards the child as the son of the violator or seducer.
(58) The man and the woman.
(59) Where no intercourse with any other man was possible.
(60) Only a doubtful bastard. V. Glos. and Kid. 6.
(61) These being in the majority, the child is deemed to be the son of one of the strangers.

Talmud - Mas. Yevamoth 70a

, but where she is suspected of illicit relations with him, the child is regarded as his, although she is also suspected of such relations with others. Said Raba: Whence do I derive this? From the Statement, IF, HOWEVER, SHE GAVE BIRTH TO A CHILD, SHE MAY EAT. For how is this to be understood? If it be suggested to refer to a woman who is suspected of illicit relations with him but not with strangers, was it at all necessary to state that she may eat terumah?[1] Consequently it must refer to a woman[2] who was suspected of illicit relations with strangers also. Now, if there,[3] where she is forbidden to the one as well as to the other,[4] the child is regarded as his,[5] how much more so[6] here[7] where she is forbidden to any other man and is permitted to him.[8] Said Abaye to him: It may still be maintained that Rab is of the opinion that wherever she is suspected of illicit relations with strangers the child is deemed to be a bastard even if she is also suspected of such relations with him; and our Mishnah deals with one who had not been suspected at all.[9]

A SLAVE, BY HIS COHABITATION, DEPRIVES A WOMAN OF THE PRIVILEGE OF EATING TERUMAH etc. What is the reason?[10] — Scripture stated, The wife and her[11] children shall be etc.[12]

A BASTARD DEPRIVES A WOMAN OF THE PRIVILEGE OF EATING TERUMAH AND ALSO BESTOWS THE PRIVILEGE UPON HER. Our Rabbis taught: And have no child.[13] So far I only know[14] of her own child; whence her child's child? It was consequently stated, And have no child,[13] implying ‘any child whatsoever’.[15] So far I only know of a legitimate child; whence the illegitimate child? It was stated, And have no [en lah][16] child,[13] which implies, ‘hold an enquiry[17] concerning her.’[18] But from this text,[13] surely, the deduction concerning a child's child was made! — No Scriptural text is really required for the inclusion of one's child's child, since children's children are like children;[19] if a text is at all required it is for the inclusion of an illegitimate child.

Said Resh Lakish to R. Johanan: In accordance with whose view?[20] Is it only in accordance with that of R. Akiba who maintains that the offspring of a union between such whose intercourse involves them in the penalty of a negative precept is regarded as a bastard![21] — It may even be said to represent the view of the Rabbis, since in respect of an idolater and a slave they agree.[22] For when R. Dimi came[23] he stated in the name of R. Isaac b. Abdimi in the name of our Master:[24] If an idolater or a slave cohabited with the daughter of an Israelite, the child born from such a union is deemed a bastard.

A HIGH PRIEST SOMETIMES DEPRIVES A WOMAN OF HER RIGHT. Our Rabbis taught:

[The grandmother might justly say], 'I would [willingly] be an atonement[25] for my grandson, the little cruse[26] who bestows upon me the privilege of eating terumah,[27] but would not be an atonement for my grandson, the big jar[28] who deprives me of the privilege of eating terumah.[27]

CHAPTER VIII

MISHNAH. AN UNCIRCUMCISED [PRIEST][29] AND ALL LEVITICALLY UNCLEAN PERSONS MAY NOT EAT TERUMAH. THEIR WIVES AND SLAVES, HOWEVER, MAY EAT TERUMAH.[30] [A PRIEST WHO IS] WOUNDED IN HIS STONES[31] AND ONE WHOSE MEMBRUM IS CUT OFF,[32] AS WELL AS THEIR SLAVES, MAY EAT TERUMAH, BUT THEIR WIVES MAY NOT.[33] IF, HOWEVER, NO COHABITATION TOOK PLACE AFTER THE MAN WAS WOUNDED OR HAD HIS MEMBRUM CUT OFF, THE WIVES[34] ARE PERMITTED TO EAT.[35]

WHO IS TERMED A PEZU' A DAKKAH?[31] A MAN WHO IS WOUNDED EITHER IN BOTH HIS STONES, OR EVEN ONLY IN ONE OF THEM. AND A KERUTH SHOFEKAH ? A MAN WHOSE MEMBRUM IS CUT OFF. IF, HOWEVER, [ANY PART] OF THE CORONA REMAINED, EVEN SO MUCH AS A HAIR'S BREADTH, THE MAN IS REGARDED AS FIT.

GEMARA. It was taught: R. Eliezer[36] stated, Whence is it deduced that an uncircumcised [priest] may not eat terumah? A sojourner and a hired servant were mentioned in connection with the paschal lamb,[37] and A sojourner and a hired servant were also mentioned in respect of terumah,[38] as the paschal lamb, in connection with which 'A sojourner and a hired servant' were mentioned, is forbidden to the uncircumcised,[39] so is terumah, in respect of which 'A sojourner and a hired servant' were mentioned, forbidden to the uncircumcised. R. Akiba stated: This deduction is unnecessary. Since it was stated, What man soever,[40] the uncircumcised also is included.[41]

The Master said, 'R. Eliezer stated, "A sojourner and a hired servant were mentioned in connection with the paschal lamb, and "A sojourner and a hired servant" were also mentioned in respect of terumah,'[42] as the paschal lamb, in connection with which "A sojourner and a hired servant" were mentioned, is forbidden to the uncircumcised, so is terumah, in respect of which "A sojourner and a hired servant were mentioned, forbidden to the uncircumcised'. Is it[43] free for deduction?[44] For if it is not free, the objection might be raised[45] that the paschal lamb may be different[46] since in connection with it one may also incur penalties[47] for pigul,[48] nothar[48] and uncleanness![49] — It is certainly free for the deduction. Which expression[50] is free? Is it that of terumah? Surely it is required for its own purpose. For it was taught: A sojourner[51] means one who is acquired for life[52] and a hired servant[51] means one who is acquired for a number of years.[53] But let 'sojourner' only be mentioned and a 'hired servant' be omitted and one would infer: If one who is acquired for life[54] is not permitted to eat terumah how much less one who is acquired only for a number of years! If so,[55] it might have been assumed that 'a sojourner' means one who is acquired for a number of years [and that only he may not eat terumah],[56] but that one who is acquired for life may eat,[57] hence the insertion of the expression, 'a hired servant', which explains the meaning of sojourner,[58] [viz.,] that it signifies one who, though acquired for life, may not eat![59] — But [in fact] the one[60] mentioned in respect of the paschal lamb is free for deduction. For what could be the meaning of 'A sojourner and a hired servant' which the All Merciful wrote in connection with the paschal lamb?[61] If it be suggested that it means the actual sojourner and hired servant,[62] [could it have been imagined] that [an Israelite][63] is exempt from the Paschal lamb because he is a sojourner or a hired servant? Surely, we have it as an established law in regard to terumah that such a person is not permitted to eat it,[64]

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(1) Certainly not; since the child is obviously the son of the priest.

(2) Lit., 'but no'.

(3) In our Mishnah.
(4) To the violator and seducer as well as to any other man.
(5) The violator's or seducer's.
(6) Should the child be regarded as the son of the man who betrothed her.
(7) The case of the betrothed.
(8) The man who betrothed her.
(9) Either in respect of the violator or seducer on the one hand or in respect of any others. All that our Mishnah teaches is that if cohabitation with the former took place, even if only once, the child is regarded as his.
(10) Why is he not regarded as the offspring of the priest? V. our Mishnah and supra p. 466, n. 16.
(11) Emphasis on her.
(12) Shall be her master's (Ex. XXI, 4), i.e., they are regarded (a) as slaves, and (b) as the offspring of the bondwoman. Hence they cannot be regarded as the offspring of the priest.
(13) וזרע אין לה Lev. XXII, 13.
(14) Had לה been omitted.
(15) Lit., 'from all (any) place'.
(16) אין לה.
(17) עיין ayayn 'examine', 'investigate'. The Aleph of אין is interchangeable with the 'Ayin of עיין.
(18) An enquiry is to be made whether she has any kind of son, i.e., even if only a bastard. Thus a bastard also is deemed to be her child. Cf. supra 22b.
(19) Supra 62b.
(20) Was it stated in our Mishnah that the offspring of a union between the daughter of an Israelite and an idolater or a slave (a union which is forbidden by a negative precept only, no kareth being involved, cf. supra 45a) is regarded as a bastard.
(21) Does our Mishnah, then, represent the view of an individual, which is contrary to the expressed view of the majority.
(22) With R. Akiba.
(23) From Palestine.
(24) Rabbi, Judah the Prince, the Master par excellence of his time. Cf. supra 45a.
(25) הריני כפרת an expression of respect or affection. Cf. Kid. 31b.
(26) Metaph. for bastard. כוזה cf. כום.
(27) As stated in our Mishnah.
(28) The High Priest. Cf. the colloquial expres. 'big pot'.
(29) Though the uncircumcision was not due to any fault of his. If, e.g.. he was forbidden circumcision because his brothers died as a result of such an operation. Cf. supra 64b.
(30) By virtue of the rights of their husband and master. Uncircumcision and uncleanness are only temporary disqualifications which prevent the priest from eating terumah, while they continue. His sanctity and privileges, however, remain in force.
(31) פצוע דכה
(32) כרות שפכה
(33) Because the cohabitation with these maimed priests causes the profanation of the women.
(34) Who were married to them before they were maimed.
(35) Terumah.
(36) Cur. edd. 'Eleazar'. Cf. Tosaf. Sotah 240 s.v. ורבי , and Men. 17b s.v. מאי.
(37) Ex. XII, 45.
(38) Lev. XXII, 10.
(39) Ex. XII, 48.
(40) Lev. XXII, 4.
(41) In the prohibition; the text, according to Rabbinical interpretation, referring to the prohibition of eating terumah.
(42) V. supra p. 473 notes.
(43) The expression. 'A sojourner and a hired servant'.
(44) I.e., is not the expression required in connection with the subject spoken of in the context.
(45) Against deducing terumah from the Paschal lamb.

(46) From terumah, i.e., subject to greater restrictions.
(47) Kareth if the transgression was wilful, and a sin-offering if unwitting.
(48) V. Glos.
(49) How then could terumah which is not surrounded by such restrictions be deduced from it?
(50) Of the two expressions, 'A sojourner and a hired servant'.
(51) Lev. XXII, 20.
(52) Lit., 'an everlasting possession', i.e., a Hebrew servant who, on refusing to go out free, has had his ear bored. (Cf. Ex. XXI, 5f).
(53) The ordinary Hebrew servant who remains the property of his master for six years only, after which he goes out free for nothing (v. Ex. XXI, 2).
(54) Who is in fact his master's absolute property.
(55) If only the sojourner had been mentioned.
(56) Since he is not his master's absolute possession.
(57) Since he is the absolute property of his master.
(58) Since a hired servant implies one who is acquired for a period, the other expression cannot refer to the same class of servant, but to one acquired for life. תושב E.V. a sojourner (rt. ישב 'to abide') implies longer service than that of the שכיר E.V., hired servant.
(59) How, then, since the expression is required for the laws of terumah, could it be suggested that the expression, 'a sojourner and a hired servant', mentioned in connection with terumah, is free for deduction?
(60) The expression 'A sojourner and a hired servant'.
(61) Ex. XII, 45, a sojourner . . . shall not eat thereof.
(62) I.e., a Hebrew servant who (a) serves his master for life or (b) for a period of years. Cf. supra p. 474, nn. 14 and 15.
(63) Who is subject to the fulfilment of the commandments.
(64) Though his master is a priest.

Talmud - Mas. Yevamoth 70b

which proves[1] that his master does not acquire his person[2] so that here also[3] his master does not acquire his person![4] [The expression][5] must consequently [have been written] for the purpose of the deduction.[6]

But is it[7] not free in one direction only,[8] while R. Eliezer[9] was heard to state [that an analogy between expressions of which only] one[10] is free[11] may be drawn, but may also be refuted![12] — Since [the expressions][13] are not required [for their own context][14] one of them is allotted to the law[15] in respect of which the inference is made[16] and the other is allotted to the law from which the inference is made,[17] so that a word analogy is obtained which is free in both directions.

Might[18] [not the deduction be made:][19] As the paschal lamb is forbidden to an onan[20] so is terumah forbidden to an onan[21] — R. Jose son of R. Hanina replied: Scripture stated, 'There shall no common man,[22] I commanded you concerning its prohibition to the common man[23] but not concerning that of the onan. But might it be suggested: But not the uncircumcised![24] Surely 'A sojourner and a hired servant'[25] was written.[26] And what reason do you see?[27] — It is logical to infer that the case of the uncircumcised is to be included, since[28] it involves the absence of an act[29] and that act is one affecting the man's own body; [the uncircumcised] is punishable by kareth;[30] the law[29] was in force before the Revelation;[31] and the [non]-circumcision of one's male children and slaves debars [one from eating of the paschal lamb].[32] On the contrary; the case of the onan should have been included,[33] since mourning is an ever- present possibility,[34] is common to men as well as to women, and no man has the power to cure himself of it![35] — Those[36] are more in number.

Raba said: Even if those[36] were not more in number, you could not suggest that uncircumcision, which is actually mentioned in respect of the Paschal lamb, should be excluded[37] while the mourning of an onan, which in the case of the paschal lamb itself was deduced from that of the tithe,[38] should

be deduced from it.

Might[39] [it not be said:][40] As the [non]-circumcision of one's male children and slaves debars one from the eating of the paschal lamb, so should the [non]-circumcision of one's male children and slaves debar one from the eating of terumah! — Scripture stated, When thou hast circumcised him, then shall he eat thereof,[41] the [non]-circumcision of one's male children and slaves debars one from the eating thereof, of the Paschal lamb only; the [non]-circumcision of one's male children and slaves does not, however, debar one from the eating of terumah. If so,[42] [why not] say, But no uncircumcised person shall eat thereof[43] [also implies:] He may not eat 'thereof' only but may eat terumah![44] — Surely it was written A sojourner and a hired servant.[45] And what reason do you see?[46] — It is only logical to include a man's own circumcision, since the act is performed on his own person and its neglect is punishable by kareth. On the contrary; the circumcision of one's male children and slaves should have been excluded because it may occur at any time! — The former restrictions are more in number. And if you prefer I might say that even if those were not more in number your suggestion could not be entertained; for is there anything which is not debarred by his own state of uncircumcision but is debarred by that of the other!

Now that it has been said that the expression. 'Thereof,' was introduced for expository purposes. what[47] was the purpose of the text, There shall no alien eat of it?[48] — Only with regard to it[49]

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(1) Since a Canaanite slave, whose body is acquired by the master, may eat of his terumah.

(2) The Hebrew servant sells only his labour, while he himself remains a free man.

(3) In respect of the Paschal lamb.

(4) As he is thus a free man, it is obviously his duty to observe the commandment of the Paschal lamb. What need then was there for the specification of A sojourner and hired servant?

(5) A sojourner and a hired servant. Ex. XII, 45.

(6) [The verse would then be referring to a non-jew, 'a sojourner' denoting a resident alien and 'a hired servant' an idolater. This, however, would be included in uncircumcised' (Ex. Xli, 48) and 'alien' (verse 43). Consequently the verse must have been written for deduction (Tosaf.)].

(7) The expression. A sojourner and a hired servant.

(8) That of the Paschal lamb.

(9) Cur. edd. 'Eleazar'.

(10) Lit., 'from one side'.

(11) For interpretation or deduction.

(12) Infra 104a. The analogy in the present instance might be refuted by the objection raised supra 70a.

(13) (a) sojourner and (b) hired servant.

(14) Both being superfluous and free for deduction.

(15) That of terumah.

(16) That terumah may not be eaten by the uncircumcised.

(17) Paschal lamb.

(18) Lit., 'if (you say)'.

(19) Since a word analogy has been established.

(20) V. Glos.

(21) If the two are compared as regards the uncircumcised they should also be compared in respect of the onan!

(22) Lev. XXII, 10.

(23) The non-priest.

(24) I.e., the uncircumcised might have been excluded by the text cited, not the onan.

(25) Ex. XII, 45.

(26) Which includes the uncircumcised in the prohibition.

(27) For excluding onan and including the uncircumcised.

(28) Cur. edd. insert in parenthesis the following mnemonic as an aid to the recollection of the characteristics which distinguish the uncircumcised from the onan: Acts cut (kareth) in the Word (Revelation) of the servant.

(29) Circumcision.
(30) If he wilfully neglects the fulfilment of the precept.
(31) On Sinai. Lit., 'and it is before (divine) speech'. The commandment concerning circumcision was given to Abraham. V. Gen. XVII, 9ff.
(32) A man is forbidden to participate in the eating of the Paschal lamb if any of his sons or slaves who are liable to circumcision remain uncircumcised. Cf. Ex. XII, 44, 48.
(33) In the prohibition to eat terumah.
(34) Lit., 'it is at all hours'; one may have more than one bereavement in his lifetime, but can be circumcised once only.
(35) The cause of an onan's mourning is not controlled by human action. To make oneself fit by circumcision is within man's own power.
(36) The restrictions of circumcision.
(37) Lit.,'leave out' from the prohibition.
(38) v. infra 73a.
(39) Lit., 'if (you say)'.
(40) Since a word analogy has been established.
(41) Ex. XII, 44, emphasis on thereof.
(42) Since the expression 'thereof 'is made the basis of an exposition.
(43) Ibid. 48.
(44) Which, of course, would be contrary to the deduction supra.
(45) From which deduction was made that an uncircumcised person may not eat terumah.
(46) For including in the prohibition one's own circumcision and excluding that of one's sons and slaves.
(47) Bah emends the following version by some transpositions and additions.
(48) Ex. XII, 43. emphasis on the last word, בּוֹ of it (E.V. thereof).
(49) בּוֹ (cf. supra n. 2). the Paschal lamb.

Talmud - Mas. Yevamoth 71a

does apostasy disqualify,[1] but in respect of tithe, apostasy does not disqualify.

What was the purpose of, But no uncircumcised person shall eat thereof?[2] — 'Thereof'[3] only may he not eat, but he may eat of the unleavened bread and bitter herbs.[4] And it was necessary for Scripture to specify[5] both 'Uncircumcised' and 'There shall no alien.' For had the All Merciful mentioned the 'uncircumcised' only it might have been assumed [that the prohibition applies only to him], because he is repulsive. but not to an alien who is not repulsive. And had the All Merciful written only 'There shall no alien' it might have been assumed [that only he is subject to the prohibition]. because his heart is not directed towards heaven, but not the uncircumcised whose heart is directed towards heaven. [Hence both were] required.

What[6] was the purpose of repeating the expression. 'Of it',[7] twice? — As expounded by Rabbah in the name of R. Isaac.[8]

The Master said, 'R. Akiba stated: This deduction is unneces sary. Since it was stated, What man soever,[9] the uncircumcised also was included'.[10] Might it be suggested that it[11] includes the onan?[12] R. Jose b. Hanina replied: Scripture stated, There shall no common man,[13] I commanded you concerning its prohibition to a common man[14] but not concerning that of an onan.[12] Might it be suggested: But not the uncircumcised?[15] — Surely, what man soever' was written.[16] And what reason do you see?[17] — It is logical that the case of the uncircumcised should be included, since[18] it involves the absence of an act[19] and that act is one affecting the man's own body; [the uncircumcised] is punishable by kareth;[20] the law[21] was in force before the Revelation;[22] and the [non]-circumcision of one's male children and slaves debars [one from eating the paschal lamb].[23] On the contrary; the case of the onan should have been included,[24] since mourning is an ever-present possibility,[25] is common to men as well as women, and no man has the power to cure himself of It![26]

— Those[27] are more in number. Raba said: Even if those[27] were not more in number, you could not make your suggestion.[28] For Scripture stated, What man soever.[29] Now what disability is it that is applicable to a man and not to a woman? You must, of course, say that it is uncircumcision.

What expository use does R. Akiba[30] make of the expression A sojourner and a hired servant?[13] R. Shemaia replied: To include[31] a circumcised Arab and a circumcised Gibeonite.[32] Are these, however, regarded as circumcised at all? Surely we learned: [If a man said]. 'Konam[33] , if I benefit from the uncircumcised', he may benefit from uncircumcised Israelites[34] but is forbidden to benefit from circumcised idolaters.[35] [If he said]. 'Konam', if I benefit from the circumcised', he is permitted to benefit from circumcised idolaters but is forbidden to benefit from uncircumcised Israelites![36] — But In truth [the text referred to] includes[37] a proselyte who had been circumcised but did not perform the prescribed ritual immersion,[38] and a child who was born circumcised,[39] he[40] holding that it is necessary to provide for a few drops of the blood of the covenant[41] to flow;[42] while R. Eliezer[43] follows his own view, he having stated that 'A proselyte who has been circumcised, though he has not performed his ritual immersion, is regarded as a proper proselyte'.[44] and he is also of the opinion that it is not necessary to provide for any drops of the blood of the covenant[41] to flow where a child was born circumcised.[39]

What expository use, however, does R. Eliezer make of the expression. What man soever?[45] — The Torah, [he maintains], speaks in the language of [ordinary] men.[46]

R. Hama b. Ukba inquired: May an uncircumcised child[47] be anointed with the oil of terumah?[48] Does non-circumcision in the pre-circumcision period[49] constitute a bar[50] or not? — R. Zera replied: Come and hear: I only know [of the command][51] concerning the circumcision of the male children [which he has] at the time of the preparation[52] [of the paschal lamb].[53] and concerning the slaves [which he has] at the time of the eating thereof;[54] whence, however, is it deduced that the restriction mentioned in respect of this category is to be applied to the other, and that of the other to this one?[55] Then[56] was specifically stated in both categories[57] so that an analogy between the two might be drawn.[58] Now, it is quite possible to imagine a man's slaves as being with him at the time of the eating of the paschal lamb but not at the time of its preparation,[59] when, for instance, he bought them in the meantime.[60] How is it possible, however, that a person's male children should be in existence during the eating and not during the preparation? Obviously only when birth occurred in the interval between the preparation and the eating.[61] Thus it may be inferred that uncircumcision in the pre-circumcision period[62] constitutes a legal status of uncircumcision.[63] Said Rabbah:[64] Do you understand this? The All Merciful said, Let all his males be circumcised, and then let him come near and keep[65] it; but such a child is not fit to be circumcised![66] But what are we dealing with here? With a child[67] who recovered from a fever.[68] Then[69] let him be granted [a period of convalescence of] full seven days.[70] for[71] Samuel said that a child who recovered from a fever must be allowed a period of convalescence of full seven days![72] — Where he was already granted the seven days' period.[73] He should, then,[74] have been circumcised in the morning![75] — We require

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(1) An apostate may not participate in the eating of the Paschal lamb.

(2) Ex. XII, 48, emphasis on '3. Cf. supra note 2.

(3) בו (cf. note 2) the Paschal lamb.

(4) Which were served with the Paschal lamb. V. Ex. XII, 8.

(5) Lit., 'to write', in regard to the prohibition of eating the Paschal lamb.

(6) Since the expression. 'Thereof'. is made the basis of an exposition.

(7) Ex. XII, 9, 10; also mentioned in respect of the Paschal lamb.

(8) Infra 74a. Pes. 96a.

(9) Lev. XXII, 4.

(10) In the prohibition against eating terumah, supra 70a, q.v. for notes.

(11) The Scriptural text cited.

(12) V Glos.
(13) Lev. XXII, 10.
(14) The non-priest.
(15) Cf. supra p. 476. n. 18.
(16) Which includes the uncircumcised in the prohibition.
(17) For including the uncircumcised and excluding the onan.
(18) V. supra p. 476. n. 22, where the mnemonic also is explained.
(19) The circumcision.
(20) V. supra p. 476. n. 24.
(21) Of circumcision.
(22) V. supra p. 476. n. 25.
(23) V. supra p. 477. n. 1.
(24) In the prohibition of eating terumah.
(25) V. supra p. 477. n. 3.
(26) V. supra p. 477, n. 4.
(27) The restrictions of circumcision.
(28) To include the onan and exclude the uncircumcised.
(29) Lev. XXII, 4, איש איש (lit., 'man man'). emphasis on man.
(30) Who deduces the prohibition of the uncircumcised, in respect of terumah, from What man soever.
(31) In the prohibition to eat of the Paschal lamb.
(32) גבעוני (Cf. Josh. IX, 3ff); synonymous with nathin (v. Glos.). Aruk and MSS. read גבנוני 'highlander'. Cf. 'A.Z. 27a. The circumcision of these men was not performed in fulfilment of the Pentateuchal commandment and had, therefore, no religious value.
(33) קונם an expression used in a vow of abstinence. V. Ned. 3lb.
(34) In ordinary speech (the usages of which are the determining factor in vows), even such Israelites are never described as uncircumcised'.
(35) Since such idolaters also are in ordinary speech described as 'uncircumcised'.
(36) V. supra note 2. Now, since circumcised idolaters are never regarded as 'circumcised', they are obviously forbidden to eat of the Paschal lamb; what need then was there for a special text to include them in the prohibition?
(37) In the prohibition to eat of the Paschal lamb.
(38) He may not eat of the Paschal lamb before he has performed the immersion.
(39) I.e., without his foreskin.
(40) R. Akiba.
(41) ברית. V. Gen. XVII, 10.
(42) Though no proper circumcision is necessary. Cf. supra n. 6.
(43) Who does not include these in the prohibition to eat the Paschal lamb.
(44) Supra 46a.
(45) V. supra p. 479. n. 21.
(46) In ordinary speech people repeat certain words. The repetition of the term man (v. supra p. 479. n. 21) has, therefore, no expository significance.
(47) During the days preceding the child's circumcision which is normally due on the eighth day of his birth, v. Gen. XVII, 12.
(48) Anointing with the oil of terumah is forbidden wherever its consumption is forbidden. V. Shab. 86a.
(49) v. p. 480. n: 15.
(50) Against the consumption etc. (v. supra n. 1) of terumah.
(51) In regard to the eating of the Paschal lamb.
(52) Its ritual slaying.
(53) Scripture states, Let all his males (i.e.. his children) be circumcised, and then let him (i.e.. the master) . . . keep it (Ex. XII, 48); one's own keeping (v. supra n. 5) is thus made dependent on the circumcision of one's children.
(54) Since Scripture stated, Every man's servant...when...circumcised. then shall he (i.e., his master) eat (Ex. XII, 44); one's own eating of the lamb is thus dependent on the circumcision of one's slaves.
(55) I.e., that the non-circumcision of a person's children born to him subsequent to the preparation of the Paschal lamb

debars him from the eating of it, and that the non-circumcision of his slave debars him not only from the eating of it but also from its preparation.

(56) אז

(57) In Ex. XII, 44. and ibid. 48.

(58) V. supra note 8.

(59) Its ritual slaying.

(60) Between the preparation and the consumption.

(61) I.e., on the same day. viz., on the fourteenth of Nisan, the Passover Eve.

(62) The child being only one day old (v. supra n. 24).

(63) The answer to R. Hama's enquiry is consequently in the negative.

(64) Cur. edd., 'Raba'.

(65) Ex XII, 48, i.e., in order that a man shall be enabled to observe the commandment of the Paschal lamb he is advised, or instructed, to circumcise all his males.

(66) How, then, could the text possibly have referred to his case!

(67) Over the age of eight days (cf. supra p. 480, n. 15).

(68) Lit., 'fever released him'. The fever from which he suffered during the time of the preparation of the Paschal lamb. While in his fever he was physically unfit for, and hence exempt from circumcision. Now that he has recovered he is, at the time of consumption of the Paschal lamb, physically fit, and consequently subject to circumcision.

(69) If the child recovered from an illness.

(70) Before circumcision is allowed.

(71) Cur. edd. encloses in parenthesis 'for . . . seven days'.

(72) Before the seven days are passed the child remains unfit for circumcision. How, then, could his state of lawful uncircumcision debar his father from the consumption of the Paschal lamb?

(73) And it expired on the Passover Eve.

(74) V. supra n. 9.

(75) I.e., before the time of the preparation of the Paschal lamb; and, since that was not done, the child was in a legal state of uncircumcision not only during the time of eating, but also during the time of the preparation. The difficulty then arises again: What need was there for a Scriptural text to include the prohibition of eating the Paschal lamb while such a child remained uncircumcised, when the preparation that must precede the eating is already forbidden!

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a full period of seven days.[1]

But, surely, Luda'ah learned, 'The day of a child's recovery is like the day of his birth'.[2] Does not this mean that as in respect of the day of his birth no full period is required[3] so is no full period required in respect of the day of his recovery? — No; the day of his recovery is superior to the day of his birth. For, whereas in respect of the day of his birth no full period is required.[3] in respect of the day of his recovery a full period is required.[1] R. Papa replied:[4] Where, for instance, the child had a pain in his eye and recovered[5] in the meantime.[6] Raba replied:[7] Where, for instance, his father and mother were confined in prison.[8] R. Kahana son of R. Nehemiah replied:[7] Where, for instance, the child was a tumtum[9] who in the meantime[10] was operated upon and was found to be a male. R. Sherabia replied:[7] 'Where, for instance, the child put forth his head out of the forechamber [of the uterus]'.[11] But can such a child survive? Surely it was taught: As soon as the child emerges into the air of the world the closed organ[12] is opened and the opened[13] is closed,[14] for otherwise he could not survive even for one hour![15] — Here we deal with a case where the heat of the fever sustained him. Whose fever? If 'his own fever' be suggested, he should, if such was the case, be allowed a full period of seven days![16] — It means, where the fever of his mother sustained him. And if you prefer I might say that the statement[17] applies only when the child does not cry. When, however, it cries it undoubtedly survives.

R. Johanan stated in the name of R. Bana'ah: An uncircumcised [Israelite] is eligible to receive

sprinkling;[18] for so we find that our ancestors[19] received sprinkling[20] while they were still uncircumcised, since it is said, And the people came up out of the Jordan on the tenth day of the first month,[21] but on the tenth they were not circumcised owing to the fatigue of the journey; when, then, [could the sprinkling] have been performed?[22] Obviously[23] while they were still uncircumcised.[24] But is it not possible that they prepared no Paschal lamb at all? — This suggestion cannot be entertained at all, since it is written, And they kept the Passover.[25] Mar Zutra demurred: It is possible that it[26] was a paschal lamb that was prepared in uncleanness![27] — R. Ashi retorted: It was explicitly taught: They were circumcised, they performed their ritual ablutions, and they prepared their paschal lambs in a state of cleanness.

Rabbah b. Isaac stated in the name of Rab: The commandment of uncovering the corona at circumcision[28] was not given to Abraham; for it is said, At that time the Lord said unto Joshua: 'Make thee knives of flint etc.' [19 But is it not possible [that this applied to] those who were not previously circumcised; for it is written, For all the people that came out were circumcised,[29] but all the people that were born etc.?[29] — If so,[30] why the expression. 'Again!' Consequently[31] it must apply to the uncovering of the corona.[32] Why, then,[33] the expression, 'A second time?'[34] — To compare the termination of the circumcision with its commencement; as the commencement of the circumcision is essential[35] so is the termination of circumcision[36] essential;[37] for we learned, 'These are the shreds which render circumcision invalid: Flesh which covers the greater part of the corona; and [a priest whose circumcision was so defective] is not permitted to eat terumah'; and Rabina, or it might be said, R. Jeremiah b. Abba, stated in the name of Rab: Flesh which covers the greater part of the height of the corona.[38]

Why were they not circumcised in the wilderness? — If you wish I might say: Because of the fatigue of the journey;

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(1) Lit., 'from time to time. If the child, for instance, recovered in the afternoon, circumcision may not be performed before the same hour on the afternoon of the eighth day. If this day happens to be the Passover Eve, the child is not fit for circumcision at the time of the preparation though he may be fit at the time of eating.

(2) Shab. 137a.

(3) Circumcision may be performed at any hour on the eighth day of a child's birth without any regard to the hour at which he was born.

(4) It is possible for a child to be unfit for circumcision at the time of the preparation of the Paschal lamb and yet be fit at the time of eating.

(5) On the Passover Eve.

(6) Between the preparation and the eating. At the preparation the child was still unfit for circumcision; at the eating. however, he was fit, since no period of seven days' convalescence is allowed after recovery from such a minor ailment.

(7) V. supra note 1.

(8) At the time the Paschal lamb was prepared for them by an agent. At the time of eating. however, they were free. While in prison they were unable to perform, and consequently were exempt from the duty of circumcising their child. When they were set free they came under the obligation.

(9) V. Glos.

(10) Between the preparation and the eating of the Paschal lamb.

(11) Seven days prior to the Passover Eve; while birth was completed on the Passover Eve between the time of the preparation and the time of the eating. As the protrusion of the head constitutes birth in respect of circumcision (v. Nid. 29a) the operation must be performed as soon as birth is completed.

(12) The mouth.

(13) The navel.

(14) In the embryonic state the mouth is closed and the navel, by means of which it draws sustenance, open.

(15) Nid. 30b. Since it has no means whereby to draw sustenance.

(16) Like any other child recovering from a serious illness.

(17) That the child cannot survive.

(18) Of the water of purification (cf. Num. XIX. 2f) if he was levitically unclean. He is, thereby, enabled to eat holy food, immediately after the circumcision, no other sprinkling being required.
(19) Who were born in the wilderness and were not circumcised until they entered Canaan (cf. Josh. V. 4ff).
(20) To enable them to eat of the Paschal lamb. They were all levitically unclean owing to contact with the dead in the wilderness. Such persons remain unclean for seven days and, before they are allowed to eat of the Paschal lamb, must, on the third and the seventh day, be sprinkled upon with the water of purification.
(21) Josh. IV. 19.
(22) It could not have been performed on the eleventh, since that would not allow a period of four days (v. supra n. 3) between the first and the second sprinkling if they were to participate in the meal of the Paschal lamb which is prescribed for the fourteenth.
(23) Lit., 'not'?
(24) I.e., either on the tenth, when they were still uncircumcised, or earlier. In either case it follows that the sprinkling which was performed while they were still uncircumcised enabled them to eat of the Paschal lamb.
(25) Josh. V, 10.
(26) The Paschal lamb spoken of in the text cited.
(27) As is permitted when the majority of the congregation is in a state of uncleanness; v. Yoma 6b.
(28) פריעת מילה uncovering the corona of the membrum by splitting the membrane that covers it and drawing it towards its base. (12) And circumcise again (Josh. V. 2). Since a second circumcision was necessary (emphasis on 'again') it is assumed that the previous circumcisions performed in accordance with the law given to Abraham, without uncovering the corona, were made invalid in the days of Joshua.
(29) In the wilderness . . . had not been circumcised, Josh. V, 5.
(30) If the instruction to circumcise applied to the non-circumcised only.
(31) Lit., 'but not'?
(32) I.e., a second circumcision for those who were already, but not properly, circumcised.
(33) Since the expression, 'Again', is used for the purpose of an exposition.
(34) Josh. V, 2. As 'Again', so should 'A second time' also he expounded.
(35) Lit., 'prevents'; unless circumcision was performed the Paschal lamb may not be eaten.
(36) The uncovering of the corona.
(37) Cf. supra n. 7.
(38) Shab. 137a and supra 47b q.v. for notes.

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and if you prefer I might say: Because the North wind[1] did not blow upon them. For it was taught: In all the forty years during which Israel was in the wilderness the North wind did not blow upon them. What was the reason? — If you wish I might say: Because they were under divine displeasure.[2] And if you prefer I might say: In order that the clouds of glory[3] might not be scattered.

R. Papa said: Hence, no circumcision may be performed on a cloudy day or on a day when the South wind[4] blows; nor may one be bled[5] on such a day. At the present time, however, since many people are in the habit of disregarding these precautions,[6] The Lord preserveth the simple.[7]

Our Rabbis taught: In all the forty years during which Israel was in the wilderness[8] there was not a day on which the North wind[9] did not blow at the midnight hour; for it is said, And it came to pass at midnight, that the Lord smote all the firstborn etc.[10] How is the deduction arrived at? — By this we were taught that an acceptable time[11] is an essential.[12]

R. Huna said: A mashuk[13] is Pentateuchally permitted to eat terumah but has been forbidden to do so by Rabbinical ordinance, because he appears to be like one uncircumcised.

An objection was raised: The mashuk requires to be [re-] circumcised![14] — Only by Rabbinical ordinance.

But he who raised the objection on what ground did he raise it, when it was definitely stated 'requires'![15] — He misunderstood the final clause: R. Judah said, He[16] should not be circumcised because such an operation is dangerous in his case.[17] They said to him: 'Surely many were circumcised in the days of Ben Koziba[18] and yet gave birth to sons and daughters, [such circumcision being lawful] as, in fact, it is said in Scripture, Must needs be circumcised,[19] even a hundred times. And, furthermore, it is said, He hath broken My covenant,[20] which includes the mashuk'.[21] What need was there for the additional text? — In case you might argue that Must needs be circumcised[22] includes only the shreds which render a circumcision invalid[23] [so he added]. Come and hear, He hath broken My covenant[20] which includes the mashuk.[24] He[25] consequently thought that, as the Talmud[26] made use of a Scriptural text, the law[27] must be pentateuchal; but the fact is that it is only[28] Rabbinical, and the Scriptural text is a mere prop.

An objection was raised: A tumtum[29] may not eat terumah,[30] but his women[31] and slaves may eat of it. A mashuk[32] and one born circumcised[33] may eat of it. The hermaphrodite[34] may eat terumah but not holy food[35] while the tumtum may eat neither terumah nor holy food.[36] At all events, it was taught here that the mashuk and one born circumcised may eat terumah; is not this a refutation against R. Huna![37] — It is indeed a refutation.[38]

The Master said,'A tumtum may not eat terumah, but his women[39] and slaves may eat of it'. By what legal act could a tumtum acquire his wives?[40] If it be suggested, by betrothing them; for it was taught. 'If a tumtum betrothed a woman, his betrothal is valid and if he was betrothed by a man his betrothal is also valid',[41] it might be retorted that the validity was intended only as a restrictive measure;[42] was it, however, intended also as a relaxation of a law?[43] He[44] is possibly a woman, and no woman, surely, may betroth a woman! — Abaye replied: Where his testes can be distinguished externally. Raba replied: 'What is the meaning of "his women"? — His mother'. But [is not the case of his mother] self-evident?It might have been presumed that only one capable of procreation bestows the privilege of eating terumah, but one who is incapable does not bestow it, hence we were taught [that even a tumtum may bestow the privilege].

Come and hear: A tumtum may eat neither terumah nor holy food.[45] According to Abaye, this[46] is quite correct, since the first clause speaks of the certainly non-circumcised person[47] while the final clause speaks of the doubtful one; according to Raba, however, what need was there for the mention of the tumtum in the final clause? — The meaning of[48] tumtum[49] is 'the uncircumcised'.[50] If, however, one whose status as a non-circumcised person is in doubt is not permitted to eat terumah,[51] would any one who is definitely an uncircumcised person be permitted to eat it?[52] — The final clause is an interpretation of the first:[53] Why may not 'a tumtum eat terumah'? Because he might have the status of an uncircumcised person,[54] and a man who is uncircumcised 'may eat neither terumah nor holy food'.

May it be assumed that this[55] is a question in dispute among Tannaim: A mashuk,[56] and[57] a proselyte whose conversion took place while he was already circumcised,[58] and a child, the proper time of whose circumcision had passed,[59] and all other circumcised persons, this means to include one who has two foreskins, may be circumcised in the daytime only. R. Eleazar b. Simeon, however, said: At the proper time[60]

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(1) Which in that part of the world brings fine, mild and wholesome weather.

(2) On account of the sin of the golden calf (Rashi). v. Ex. XXXII; or that of the spies (Tosaf. a.l. s.v. נזופין), v. Num. XIII.

(3) Which surrounded Israel. Cf. Ex. XIII. 21f.

(4) Which brings unwholesome weather.

(5) By blood-letting.

(6) Lit., ‘they tread in it’.
(7) .Ps. CXVI, 6. Providence protects those who are unable to protect themselves.
(8) Though they were in disgrace. (Cf. supra p. 485. n. 22).
(9) Which in that part of the world brings fine, mild, and wholesome weather.
(10) Ex. XII, 29.
(11) Midnight.
(12) In respect of the plague of the firstborn which brought deliverance to the oppressed; and so also in respect of the blessings of the North wind without which life would be intolerable. Cf. Rashi, a.l.
(13) משוך (rt. משך ‘to draw’). a circumcised person whose prepuce has been drawn forward to cover up the corona. V. Glos.
(14) Tosef. Shah. XVI; presumably in accordance with Pentateuchal law.
(15) Which implies a Rabbinical provision only. A Pentateuchal law would have read, ‘the mashuk is regarded as an uncircumcised person’.
(16) The mashuk.
(17) It might fatally injure him.
(18) Or Bar Kokeba, the leader of the Judean revolt against Rome in 132 C.E. In the course of the persecutions that preceded the revolt, many had their prepuces forcibly drawn in order to obliterate the sign of the Abrahamic covenant, and when liberation came they were again circumcised.
(19) Gen. XVII, 13, המול ימול , repetition of the verb.
(20) Gen. XVII. 14.
(21) V. supra p. 486. n. 8.
(22) Gen. XVII. 13. המול ימול repetition of the verb.
(23) A second circumcision being required only when such shreds remained.
(24) Since the former case is covered already by the previous text.
(25) The student who raised the objection against R. Huna, supra.
(26) [So MS. M. Cur. edd.(ששׁ הסדרים) ‘Six orders’. The term Talmud here denotes the discussion of a halachic statement with a view to elucidating the basis on which it is based. V. Strack. Introduction, p. 5].
(27) In respect of the mashuk.
(28) Lit., ‘and it is not (so)’.
(29) One whose sex is uncertain. V. Glos.
(30) Though he is a priest. It is possible that an operation would reveal him to be a male who, prior to his circumcision, is forbidden to eat terumah.
(31) At present this is assumed to mean wives .
(32) V. supra p. 486, n. 8.
(33) I.e., without a prepuce.
(34) If he is a circumcised priest.
(35) This refers to the highest grade of holy food such, for instance, as the sin, and guilt-offerings which may be eaten by priestly males only. The hermaphrodite cannot be regarded as a male.
(36) Tosef. Yeb. X.
(37) Who stated that these are, at least Rabbinically, forbidden to eat of it.
(38) According to another reading (v. Rashi). the Baraitha is cited in support for R. Huna's view, it being interpreted that ‘the mashuk etc. may eat by Pentateuchal law only’ but is Rabbinically forbidden.
(39) At present assumed to mean wives.
(40) Lit., ‘whence to him, to the tumtum, his wives’?
(41) In the latter case the man is forbidden to marry the tumtum's mother or sister; and in either case the betrothal may be annulled by a letter of divorce only. Tosef. Yeb. XI. Bek. 42b.
(42) To require, for instance, a letter of divorce. Cf. supra note 1.
(43) To allow an Israelite woman to eat terumah by virtue of the tumtum's doubtful manhood.
(44) The tumtum.
(45) Tosef. Yeb. X.
(46) The mention of the tumtum in this, as well as in the first clause.
(47) Where the testes may be externally distinguished.

(48) Lit.,'what is'.
(49) In the final clause.
(50) The rt. of tumtum, טמטם also signifies 'stop up'. 'closing up'. sc the foreskin.
(51) The case referred to in the first clause.
(52) Obviously not. What need then was there for the final clause!
(53) Lit., 'what is the reason, he said'.
(54) Lit, 'doubtfully uncircumcised'.
(55) The law concerning the mashuk in R. Huna's statement supra.
(56) V. Glos.
(57) V. Rashal. Cur. edd. insert here in parenthesis. 'and one born circumcised'.
(58) While he was still an idolater, the operation having been performed with no religious motive.
(59) I.e., after the eighth day of his birth. V. Gen. XVII, 12.
(60) On the eighth day. Cf. supra note 4.

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children may be circumcised in the daytime only; and if not at the proper time they may be circumcised both by day and by night,[1] Do they not differ on the following principle: While one Master[2] is of the opinion that the circumcision of a mashuk is a pentateuchal law, the other Master[3] is of the opinion that the circumcision of the mashuk is only a Rabbinical ordinance?[4] — And can you understand this?[5] Is there any authority who maintains that the duty to circumcise a child whose proper time of circumcision had passed[6] is only Rabbinical![7] But the fact is that both[8] agree that the circumcision of a mashuk is a Rabbinical ordinance,[9] and that the duty to circumcise a child whose proper time of circumcision had passed, is Pentateuchal. Here,[10] however, their difference depends on the following principle: One Master[11] holds that [the conjunctive in the expression]. And in the day[12] is to be expounded;[13] and the other Master[3] is of the opinion that [the conjunctive in] And in the day[12] is not to be expounded.[14] [The exposition here is of the same nature] as the following:[15] When R. Johanan was once sitting [at his studies] and expounding that 'nothar[16] at its proper time[17] may be burned in the daytime only,[18] and if not at its proper time,[19] it may be burned either in the day or in the night'. R. Eleazar raised an objection: I only know that a child whose circumcision takes place on the eighth day must be circumcised in the daytime only; whence, however, is it deduced that the case of a child whose circumcision takes place on the ninth, tenth, eleventh or twelfth[20] is also included? Because it was expressly stated, 'And in the day';[21] and even he[22] who bases no expositions on a Waw does base his exposition on the basis of a Waw and a He![23] The other remained silent. After he went out, R. Johanan said to Resh Lakish: I observed that the son of Pedath[24] was sitting and making expositions like Moses in the name of the Almighty. 'Was this his'? Resh Lakish replied.'It is really a Baraitha'. 'Where', the first asked. 'was it taught'? — 'In Torath Kohanim'.[25] He went out and learned it[26] in three days; and was engaged in making deductions and drawing conclusions from it for a period of three months.

R. Eleazar stated: The sprinkling[27] performed[28] by an uncircumcised person is valid, for his status is similar to that of a tebul yom[29] who, though forbidden to eat terumah, is permitted to prepare[30] the red heifer.[31]

The case of the tebul yom,[29] however, might be different, since he is also permitted to eat tithe![32] — Are we speaking of eating?[33] We speak only of touching: If a tebul yom who is forbidden to touch terumah is permitted [to occupy himself] with the red heifer,[30] how much more so the uncircumcised who is permitted to touch terumah!

The same [law] was also taught [elsewhere]: The sprinkling[34] performed[35] by an uncircumcised man is valid; and such an incident once happened, and the Sages declared his sprinkling to be valid.

An objection was raised: If a tumtum[36] performed sanctification,[37] his sanctification is invalid, because he [has the status of the person whose uncircumcision is a matter of] doubt, and such a person is forbidden to perform sanctification.[37] If an hermaphrodite.[38] however, performed sanctification,[37] his sanctification is valid. R. Judah said: Even if an hermaphrodite performed sanctification his act has no validity. because [his sex might] possibly be that of a woman, and a woman is ineligible to perform sanctification.[39] At all events it was taught here that the uncircumcised or the person whose uncircumcision is a matter of doubt is forbidden to perform sanctification![39] R. Joseph replied: This Tanna is one of the school of R. Akiba who include the uncircumcised in the same prohibition as that of the unclean; as it was taught: R. Akiba said, 'What man soever[40] includes also the uncircumcised'.[41]

Raba related: I was once sitting before R. Joseph when I raised the following difficulty: Then[42] the Tanna[43] should not have omitted to state.[44] 'The uncircumcised and the unclean', and one would at once suggest that the author was R. Akiba![45] — But does he not?[46] Surely it was taught: The uncircumcised and the unclean are exempt from appearing at the Festivals![47] — There [the case is different], because he is a repulsive person.[48]

They[49] follow their own respective views. For it was taught: All[50] are permitted to perform sanctification,[51] with the exception of the deaf, the imbecile and the minor. R. Judah permits in the case of the minor but regards a woman and an hermaphrodite as unfit.[52] What is the Rabbi's reason? — Because it is written, And for the unclean they shall take of the ashes of the burning of the purification from sin,[53] those who are ineligible[54] for the gathering[55] are also ineligible for the sanctification,[56] but those who are eligible[57] for the gathering[55] are also eligible for the sanctification.[58] And R. Judah?[59] — He can answer you: If so,[60] Scripture should have used[61] the expression 'He shall take',[62] why then, And they shall take?[63] To indicate that even those who are ineligible there[64] are eligible here. If so, a woman also should be eligible![65] Shall he put[66] but not 'Shall she put'. And the Rabbis? — Had it been written, 'He shall take'[67] and 'Shall he put'.[67] it might have been assumed that only one individual must take[68] and only one must put,[69] hence did the All Merciful write, And they shall take.[70] And had the All Merciful written, 'And they shall take' and also 'Shall they put'.[70] it might have been assumed that two must take[68] and two must put,[69] hence did the All Merciful write, And they shall take[67] and Shall he put.[67] [to indicate that the rites are duly performed] even if two take[68] and one put.[69]

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(1) Tosef. Shab. XVI.

(2) The first Tanna who restricts the time of the circumcision to the day only.

(3) R. Eleazar b. Simeon.

(4) Hence he permits its performance during the night also. Would then R. Huna's ruling agree with the view of one Tanna only!

(5) That the point at issue should be the one suggested.

(6) V. supra note 4.

(7) Certainly not. Being obviously a Pentateuchal law, the point at issue in the Baraitha cited cannot be the one suggested.

(8) Lit., 'but, that all the world', i.e., the first Tanna and R. Eleazar b. Simeon.

(9) In agreement with R. Huna's ruling.

(10) In the Baraitha cited.

(11) V.supra note7.

(12) The Wow (and) in וביום Lev. XII, 3.

(13) Since the statement, In the eighth day the flesh of his foreskin shall be circumcised (ibid.) would have sufficiently indicated that circumcision must be performed in the daytime, the addition of the conjunction waw is regarded as an indication that even a circumcision that takes place after its proper time must be performed in the daytime only. And the case of the mashuk was, by Rabbinical ordinance. given the same force as that of the child.

(14) Nothing may be inferred from the use of the conjunctive Waw, not even the case of the child whose proper time of

circumcision had passed, much less that of the circumcision of the mashuk, which is altogether a Rabbinical enactment. The circumcision of either may consequently be performed in the night also.

(15) In the objection raised by R. Eleazar infra.

(16) V. Glos.

(17) On the third day. V. Lev. VII. 17.

(18) Since the expression day was explicitly used.

(19) After the third day. V. supra n. 5.

(20) Day of its birth. V. Shab. 137a.

(21) Lev. XII. 3.

(22) R. Eleazar b. Simeon. supra.

(23) Both these letters are found in the word והנותר And that which remaineth (ibid. VII. 17), and both are superfluous; which proves that even when burning takes place after the proper time it must be done in the daytime. How then could R. Johanan state that nothar, after its proper time, may be burned either in the day or in the night?

(24) R. Eleazar's father was Pedath.

(25) תורת כהנים 'the law of the priests'. an halachic commentary on Leviticus. sometimes designated Sifra.

(26) The book, Torath Kohanim.

(27) Of the waters of purification. V. Num. XIX. 2ff.

(28) V. ibid. 19.

(29) טבול יום , one who has performed his ritual ablution and is awaiting sunset, when his purification will be completed. V. Glos.

(30) And also to sprinkle the waters of purification. (V. Rashi).

(31) From which the water of purification (p. 490. n. 14) is prepared.

(32) As the law in his case was relaxed in respect of the tithe it might also have been relaxed in respect of purification. How, then, could the uncircumcised, whose case is more restricted, be compared to him?

(33) Of the red heifer. In such a case the objection might be justified.

(34) Of the waters of purification. V. Num. XIX. 2ff.

(35) V. ibid. 19.

(36) V. Glos.

(37) Of the water of purification by mixing the water with the ashes of the red heifer. V. Num. XIX. 27.

(38) Who had been duly circumcised.

(39) Tosef. Parah IV. (12) How then could R. Eleazar maintain that the uncircumcised may touch terumah?

(40) Lev. XXII, 4, lit., 'man man'.

(41) Supra 70a. As he is included there, so he is also included in the prohibition to touch terumah. R. Eleazar need not adopt this view, since the Rabbis are in disagreement with it.

(42) If R. Akiba regards the uncircumcised and the unclean as having the same status in all respects.

(43) Whenever he deals with uncleanness caused by touch.

(44) Lit., 'and (he) should teach'.

(45) Since, however. the uncircumcised is always omitted. it follows that, with the exception of the case of the red heifer, he does not have the same status as the unclean. How then could it be said that according to R. Akiba the uncircumcised may not touch terumah?

(46) Mention the two side by side.

(47) Hag. 4b. Three times a year. on the occasion of the Festivals of Passover, Pentecost and Tabernacles, all males had to appear before the Lord in the Temple at Jerusalem. V. Ex. XXIII. 17 and cf. Hag. 20.

(48) It is revolting to have an uncircumcised man in the Temple. Hence the prohibition. This, however, supplies no proof that in all other respects also the uncircumcised has the same status as the unclean.

(49) R. Judah and the Rabbis, in their difference on the question of the hermaphrodite.

(50) Levitically clean persons, including a woman.

(51) V. supra p. 491. n. 9.

(52) Parah V, 4.

(53) Num. XIX, 17.

(54) Minors.

(55) Of the ashes of the red heifer.

(56) Since the mention of the latter rite, in Num. XIX, follows that of the former, no other rite in respect of the red heifer being mentioned in between.
(57) Women. V. Yoma 43a.
(58) V. p. 492. n. 17.
(59) How, in view of this deduction made by the Rabbis, can he maintain that an hermaphrodite is ineligible?
(60) That sanctification is to be compared to gathering.
(61) In Num. XIX, 17.
(62) The sing., as was done in the case of the verb referring to the gathering. V. ibid. 9.
(63) The plural.
(64) Minors.
(65) Since she is eligible for the gathering.
(66) And running water shall he put. Num. XIX, 17.
(67) In Num. XIX. 17. V. infra nn. 11 and 12.
(68) The ashes.
(69) The water.
(70) The plural.

Talmud - Mas. Yevamoth 73a

And the clean person shall sprinkle upon the unclean;[1] [since] clean [was mentioned][2] the implication must be that he is [somewhat unclean.[3] Thus it was taught that a tebul yom[4] is permitted to prepare the red heifer.

R. Shesheth was asked: Is an uncircumcised person permitted to eat tithe?[5] Is tithe deduced from the paschal lamb in the case of circumcision[6] as the paschal lamb is deduced from tithe in the case of the mourning of an onan,[7] or may only the major [sanctity] be deduced from the minor but not the minor from the major [sanctity]? He replied. You have learned this: In respect of terumah and the first ripe fruits[8] one may incur the penalties of death[9] and a fifth;[10] these furthermore are forbidden to non-priests, they are the [undisputed] property of the priest,[11] they are neutralized[12] in one hundred and one,[13] and they require washing of the hands,[14] and sunset,[15] All these restrictions apply to terumah and bikkurim only but not to tithe.[16] Now, if that were so,[17] it should have been stated here, 'The uncircumcised is forbidden to eat of them, which prohibition is not applicable to tithe'![18] — He might have taught some[19] and omitted others.[20]

What else did he omit that he should have omitted this?[21] — He omitted the following. In the final clause while it was stated: 'Some restrictions apply to tithe and the first ripe fruits, but not to terumah, since tithe and the first ripe fruits must be brought to the appointed place,[22] they require confession[23] and are forbidden to an onan, and R. Simeon permits [the bikkurim to an onan]; they are,[24] furthermore, subject to removal;[25] but R. Simeon exempts them',[26] [the laws that] they may not be burned[27] even when levitically unclean,[28]

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(1) Num. XIX. 19.
(2) Which was unnecessary. it being self-evident that the rite of purification should be performed by a clean person.
(3) The object of the text being to indicate that though he is not clean in all respects he may nevertheless perform the rite of sprinkling.
(4) V. Glos. The tebul yom is in one respect regarded as clean, since he has already performed his ritual ablution (v. Lev. XIV. 9), while in another respect (the eating of holy food),he is still regarded as unclean until sunset.
(5) The 'second tithe' which is permitted to Israelites under certain restrictions. V. Deut. XIV, 22-27.
(6) As the Paschal lamb is forbidden to the uncircumcised so is also the second tithe.
(7) V. Glos. The prohibition of the second tithe to the onan is specifically referred to in Deut. XXVI, 14, while the prohibition to him of the Paschal lamb is arrived at by deduction from the former.
(8) Bikkurim v. Glos.

(9) For unlawfully eating of them (v. Lev. XXII, 9 and Mak. 17a).
(10) Of the value of the food, in addition to its actual cost, which a non-priest must pay if he consumed unwittingly any quantity of terumah or bikkurim. V. Lev. XXII. 24.
(11) He may purchase with them any objects and may also use them as a token of betrothal.
(12) Lit., 'go up'. i.e., lose their sanctity.
(13) If the ratio of the ordinary food to that of the terumah of bikkurim is that or a hundred to one. The priest is then given 1/101 of the mixed quantity and the rest is permitted to be eaten by any person.
(14) On the part of the man who wishes to eat of them, even if they consist of fruit only, which, unlike bread, if not consecrated requires no washing of the hands.
(15) Before an unclean person, though he has performed his ablution, is permitted to eat of them.
(16) Bik. II. 1; B.M. 52b.
(17) That the uncircumcised is permitted to eat the second tithe.
(18) Since, however, this was omitted, it follows that tithe also is forbidden to the uncircumcised.
(19) Of the restrictions that do not apply to tithe.
(20) The uncircumcised among them.
(21) If nothing else was omitted it is unlikely that one single case only should have been omitted.
(22) Jerusalem. V. Deut. XIV, 22ff and XXVI, 2ff.
(23) V. Deut. XXVI, 10 (bikkurim); ibid. 13 (tithe).
(24) Cf. Pes. 36b.
(25) From the house, by the third, and the sixth year of the Septennial cycle. Cf. I have put away the hallowed things out of my house (Deut. XXVI, 13) and v. Maas. V, 6.
(26) From the law of removal. Bik. II, 2.
(27) Oil, for instance, for lighting purposes.
(28) And not fit to be eaten.

Talmud - Mas. Yevamoth 73b

and that the man[1] who eats of them while they themselves are levitically unclean is to be flogged,[2] and that these laws do not apply to terumah, were not stated.[3] This proves clearly that only some were taught and others were omitted.[4]

The Master said,[5] 'And are forbidden to an onan, and R. Simeon permits [the bikkurim to an onan]'.[6] Whence do they derive their views? — From the Scriptural text, Thou mayest not eat within thy gates the tithe of thy corn, or of thy wine, or of thine oil or the firstlings of thy herd[5] etc. nor the offering of thy hand,[2] and a Master said that 'the offering of thy hand' refers to bikkurim;[7] and bikkurim were compared to tithe: As tithe is forbidden to the onan so are bikkurim also forbidden to the onan. And R. Simeon?[8] — The All Merciful called them terumah: As terumah is permitted to the onan[9] so are bikkurim permitted to the onan.

'They are, furthermore, subject to removal; but R. Simeon permits them'. One Master[10] compares [bikkurim to tithe][11] and the other Master does not.

'They may not be burned when levitically unclean, and the man who eats of them while they themselves are levitically unclean is to be flogged'. Whence is this derived? — From what was taught: R. Simeon said, Neither have I burned[12] thereof, being unclean,[13] whether I was unclean and it was clean or I was clean and it was unclean. I do not know, however, where one was forbidden to eat it'.[14] (But, surely, in relation to it, the uncleanness of the body was specifically stated: The soul that touches any such shall be unclean until the even, and shall not eat of the holy things,[15] unless he bathe his flesh in waters — This is the question: Whence the prohibition [to eat it] where the thing itself is unclean?[16] It was expressly stated,[17] Thou mayest not eat within thy gates the tithe of thy corn[18] but further on[19] it was stated. Thou shalt eat it within thy gates; the unclean and the clean may eat it alike as the gazelle, and as the hart,[20] and at the school of R. Ishmael it was taught that the

unclean and the clean may eat together even on the same table, and the same plate, and no precautions need be taken. Thus the All Merciful stated, 'That, concerning which I told you there, Thou shalt eat it within thy gates,[20] you may not eat here'.[21]

'That these laws do not apply to terumah'. Whence do we derive this? — R. Abbahu replied in the name of R. Johanan: Scripture stated, Neither have I burnt thereof, being unclean,[22] you may not burn 'thereof', but you may burn the oil of terumah if it has become unclean.[23] Might it not be suggested: You may not burn any 'thereof'. but you may burn holy[24] oil that became unclean? — This, surely. may be inferred a minori ad majus: If in respect of the tithe, the sanctity of which is of a minor character, the Torah stated, Neither have I burnt thereof, being unclean,[22] how much more so in respect of holy food the Sanctity of which is of a major character. If so, terumah also might be inferred a minori ad majus! — Surely 'thereof' was written. And what reason do you see?[25] It is logical that holy food should not be excluded, since[26] [the following restrictions also apply to it:] piggul,[27] nothar,[27] sacrifice, me'ilah,[27] kareth,[27] and it is also forbidden to an onan.[27] On the contrary; terumah should not be excluded since [to it apply the restrictions of][28] death.[29] a fifth,[30] it cannot be redeemed[31] and it is forbidden to non-priests![32] — Those[33] are more in number. And if you prefer I might say: Kareth[34] is regarded as being of greater importance.

'The man that eats of them while they themselves are levitically unclean is to be flogged, and that these laws do not apply to terumah'. He is apparently[35] exempt only from flogging, but a prohibition[36] remains. Whence is this derived? — Scripture stated. Thou shalt eat it within thy gates.[37] only 'it'[38] but not any other;[39] and a negative precept that is derived from a positive one [has only the force of] a positive.[40]

R. Ashi said:[41] From the first clause also[42] you may infer that the Tanna taught some[43] and omitted others,[44] since he did not state

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(1) Himself levitically clean.

(2) V. infra.

(3) Though, according to the first Tanna who compares bikkurim and tithe in all respects, these laws also should have been included in his statement.

(4) The uncircumcised among them.

(5) V. Bah. Cur. edd. omit.

(6) Supra 73a.

(7) In reference to which 'hand' was mentioned. V. Deut. XXVI. 4. (Tosaf. s.v. תרומת a.l.).

(8) Why does he permit it?.

(9) As shewn supra 70a.

(10) The first Tanna.

(11) In respect of which the prohibition was stated in Deut. XXVI. 13. Cf. supra p 494. n. 18.

(12) E.V. 'put away'.

(13) Deut. XXVI, 14.

(14) The prohibition referring to burning only. The question is assumed to refer to the uncleanness of either the tithe or the one who eats it.

(15) Which, as shewn infra 74b, refers to tithe.

(16) Lev. XXII, 6.

(17) In respect of the 'second tithe'.

(18) Deut. XII, 17.

(19) In reference to dedicated animals which are permitted to a non-priest if they were redeemed after having become blemished.

(20) Deut. XV, 22.

(21) Only there may the clean eat though the unclean had touched the plate and caused the defilement of the food, but not here in the case of the second tithe.

(22) Deut. XXVI, 24.
(23) Which proves that no prohibition is attached to terumah.
(24) Dedicated, for instance, as a meal-offering.
(25) For inferring holy food a minori ad majus, and for excluding terumah by the expression thereof?
(26) The mnemonic פנקעכם represents the initials, or striking letters of Piggul. Nothar, Korban (sacrifice). me'ilah (the ‘Ayin). Kareth. asur (forbidden).
(27) V. Glos.
(28) The mnemonic מהפ״ז (cf. supra n. 1) represents the initials of מיתה ‘death’, חומש fifth’, פדיון ‘redemption’, זר ‘non-priest’.
(29) For the person who eats it while he is in a state of uncleanness.
(30) Payable by a non-priest who eats terumah unwittingly even at a time when it is permitted to priests. The fifth is not payable in respect of holy food when its consumption is permitted to priests.
(31) Holy food, however, may be redeemed in certain circumstances.
(32) Holy food of the minor degree is permissible to non-priests.
(33) The restrictions in respect of terumah.
(34) Which is incurred in connection with holy food and not in connection with terumah.
(35) Since flogging was mentioned.
(36) To eat unclean terumah.
(37) Deut. XV, 22.
(38) May be eaten.
(39) Terumah.
(40) Transgression of which is not punishable by flogging.
(41) With reference to the question supra p. 494. n. 14.
(42) Not only from the second.
(43) Of the restrictions that do not apply to tithe.
(44) The uncircumcised among them.

Talmud - Mas. Yevamoth 74a

‘And they[1] apply in all[2] the years of the septennial cycle[3] and cannot be redeemed’, and that ‘this does not apply to the [second] tithe’. This proves it.

Come and hear: ‘If shreds[4] which render the circumcision invalid remain, he may not eat terumah, nor the paschal lamb, nor holy food, nor tithe’. Does not tithe refer to the tithe of the corn? — No; the tithe of cattle.[5] But is not the tithe of cattle the same as holy food?[6] — Even on your view are we not told here of the paschal lamb and yet ‘holy food’ also is mentioned! — One can well understand why it was necessary to mention both the paschal lamb and holy food; for if the paschal lamb only had been stated it might have been assumed that it only is forbidden, because uncircumcision was written in Scripture in connection with the paschal lamb, but not holy food. And if holy food only had been stated it might have been assumed that what was meant by holy food was the paschal lamb.[7] What need, however, was there for the mention here of the tithe of cattle![8] — [No, say,] rather, tithe refers to the first tithe; and this [teaching] is that of R. Meir who holds that the first tithe is forbidden to non-priests.[9]

Come and hear: Since R. Hiyya b. Rab of Difti has learned, ‘An uncircumcised is forbidden to eat of both tithes’, is not one the tithe of the corn and the other the tithe of the cattle! — Here also the first tithe was meant and the ruling is that of R. Meir.

Come and hear: ‘An onan is forbidden to eat of tithe but is permitted to eat terumah, and [to engage] in the [preparation of] the red heifer;[10] a tebul yom[11] is forbidden to eat terumah, but is permitted [to engage] in [the preparation of] the red heifer, and to eat tithe; and he who was still short of atonement[12] is forbidden [to engage] in [the preparation of] the red heifer, but is permitted to

eat terumah and tithe'. Now, if it were so,[13] it should have been stated, 'The uncircumcised is forbidden to eat terumah but is permitted [to engage] in [the preparation of] the red heifer[14] and to eat tithe'![15] — This represents the view of a Tanna of the school of R. Akiba, who includes the uncircumcised, like the unclean, in the prohibition.[16] As it was taught: Any man soever[17] includes the uncircumcised.

Who is the Tanna who differs from R. Akiba?[18] — It is the Tanna who [is in disagreement with] R. Joseph the Babylonian. For it was taught: The burning[19] by an onan or by one who is still short of atonement is valid; but R. Joseph the Babylonian said: That of the onan is valid but that of him who is short of atonement is not valid.[20]

R. Isaac also is of the opinion that the uncircumcised is forbidden to eat [second] tithe. For R. Isaac stated: Whence is it deduced that the uncircumcised is forbidden to eat [second] tithe? 'Thereof' was stated in respect of [the] tithe,[21] and 'thereof' was also stated in respect of the paschal lamb;[21] as the paschal lamb, in respect of which 'thereof' was used, is forbidden to the uncircumcised, so is [the] tithe, in respect of which 'thereof' was used, forbidden to the uncircumcised. Is it[22] free for deduction? For if it is not free, it could be objected: The Paschal lamb is rightly subject to the restriction[23] since one may incur in respect of it the penalties for piggul,[24] nothar'' and levitical uncleanness![25] — It is indeed free for the deduction. Which[26] is free? Raba replied in the name of R. Isaac: 'Thereof' is written three times in connection with the paschal lamb.[27] One is required for the paschal lamb itself;[28] one for the analogy;[29] and as to the third, according to him who maintains that Scripture intended[30] a positive precept to follow a negative[31] one,[32] 'thereof' was written [a second time],[33] because nothar was written [a second time];[33] and according to him who maintains [that the repetition of until the morning[34] was intended] to allow a second morning for its burning,[35] 'thereof' was written [a second time],[36] because until the morning[34] had to be written [a second time]. Also, in connection with tithe, 'thereof' was written three times. One is required for its own purpose;[37] one is required for the deduction which R. Abbahu made in the name of R. Johanan;[38] and the third is required for the exposition made by Resh Lakish. For Resh Lakish stated in the name of R. Simya: Whence is it deduced that second tithe which has become levitically unclean may be used for anointing? It is said, Nor have I given thereof for the dead,[39] only for a dead man have I not given, but I have given for a living man in the same manner as for the dead. Now, what is it that may be equally applied to the living and to the dead? You must say that it is anointing.[40] Mar Zutra demurred: It[39] might be suggested to refer to the purchase for the dead of a coffin and shrouds![41] — R. Huna son of R. Joshua replied: 'Thereof' means of the tithe itself.[42] R. Ashi replied: Nor have I given[39] must be analogous to I have not eaten,[39] as there[43] it refers to the tithe itself so here also[44] it must refer to the tithe itself. But still it[45] is free, however, in one direction only![46] [The analogy is] quite satisfactory according to him who maintains that deduction may be made [even in such a case]. and may not be refuted.[47] According to him, however, who is of the opinion that deduction may be made but also refuted, what can be said?[48] — R. Abbahu's deduction[49] may be inferred from the text cited in the statement which R. Nahman made in the name of Rabbah b. Abbuha. For R. Nahman stated in the name of Rabbah b. Abbuha: What was meant by the Scriptural text, And I, behold, I have given thee[50] the charge of My heave-offerings?[51] Scripture speaks of two kinds of terumah. One, clean terumah, and the other, unclean terumah; and concerning these the All Merciful said, 'It shall be thine,[50] even for burning under your dish.'[52]

AND ALL LEVITICALLY UNCLEAN PERSONS etc. Whence is this deduced? — R. Johanan replied in the name of R. Ishmael: Scripture stated, What man soever of the seed of Aaron is a leper, or hath an issue etc.[53] Now, what is it that is equally

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(1) Terumah and bikkurim.

(2) Lit., 'other', i.e., even in the third and sixth. V. next note.

(3) And not only, like the second tithe, in the first, second, fourth and fifth years of the cycle.
(4) Of the corona.
(5) Which solves the question put to R. Shesheth.
(6) Which is already mentioned.
(7) Both were therefore necessary.
(8) Which is included in 'holy food'. V. supra n. 2. Hence 'tithe' must mean second tithe, which solves the question put to R. Shesheth.
(9) And owing to its sanctity it was also forbidden to the uncircumcised.
(10) Since it is not offered on the altar, its sanctity is of a lesser degree.
(11) V. Glos.
(12) An unclean person the requirements of whose purification have, with the exception of the sacrifice prescribed for the unclean, been satisfied.
(13) That the uncircumcised is permitted to eat second tithe.
(14) As stated supra 72b.
(15) Since this, however, was omitted it must be assumed that the omission was due to the fact that tithe is permitted to the uncircumcised!
(16) To engage even in the preparation of the red heifer (supra 72b).
(17) Lev. XXII, 4;, lit., 'man man'.
(18) And maintains (v. supra 72b) that the uncircumcised may deal with the red heifer.
(19) Of the red heifer. V. Num. XIX, 5.
(20) As the first Tanna differs from R. Joseph in respect of the man who was short of atonement, he presumably differs also in respect of the uncircumcised.
(21) V. infra for further explanation.
(22) The expression 'thereof' used in the analogy.
(23) Its prohibition to the uncircumcised.
(24) V. Glos.
(25) Hence no analogy between it and tithe would be justified.
(26) Of the expressions, 'thereof'.
(27) Ex. XII, 9,10.
(28) [In 'Ye shall not eat thereof raw' (verse 9) 'thereof' is required as otherwise it might have been assumed to refer to the unleavened bread and bitter herbs mentioned in the preceding verse (Tosaf)].
(29) With second tithe.
(30) By the text, Ye shall burn (that which remains) with fire (Ex. Xli, 10).
(31) Ye shall let nothing thereof remain (ibid.).
(32) In order to exempt the transgressor from the penalty of flogging. v. Mak. 4b.
(33) In Ex. XII, 20., cf. previous note.
(34) Ibid. Earlier in the text it was already stated, And ye shall let nothing thereof remain until the morning.
(35) The morning after the first day of the Passover. V. Pes. 83b.
(36) In Ex. XII. 10.
(37) [The first 'thereof' to exclude the first tithe from the restriction in regard to onan (v. Glos) תום ישנים].
(38) Permitting the burning of unclean oil of terumah for lighting purposes. V. supra 73b.
(39) Deut. XXVI, 24.
(40) It cannot refer to eating which is, of course, inapplicable to the dead.
(41) And not to anointing. The deduction, consequently, would be that though unclean tithe may not be exchanged for money wherewith to buy the requirements of the dead, it being unfit as food, it may be exchanged for the purpose of buying anything for the living.
(42) Not with the money for which it was exchanged.
(43) In respect of eating.
(44) The 'giving'.
(45) The expression. 'Thereof'.
(46) In that of the Paschal lamb; those occurring in the section of tithe being required for other deductions.
(47) Nid. 22b.

(48) In view of the objection that the Paschal lamb is subject to restrictions which are inapplicable to the second tithe.
(49) From one of the expressions of 'thereof'.
(50) לך.
(51) Num. XVIII, 8.
(52) Since R. Abbahu's deduction may be made from this text, one of the expressions of 'thereof' remains free for the purpose of the analogy.
(53) Lev. XXII, 4.

Talmud - Mas. Yevamoth 74b

applicable to all the seed[1] of Aaron? You must say that it is terumah.[2] But might it not be assumed to refer to the breast and the shoulder?[3] — [These are] not [permitted] to [a woman] who returns.[4] But terumah also is not permitted to a halalah![5] — A halalah is not regarded as of the seed of Aaron.[6] And whence is it inferred that until he be clean[7] means 'until sunset',[8] perhaps it means, 'until the atonement is brought'? — This cannot be entertained. For a Tanna of the school of R. Ishmael [taught] that Scripture[7] speaks of a zab[9] who noticed only two issues, and of a leper while under observation,[10] both being cases similar to that of one who is unclean by the dead;[7] as he who is unclean by the dead[7] is not liable to bring an atonement so are these[11] such as are not liable to bring an atonement.[12] Let it be said, then, that this[13] applies only to those who are not liable to bring an atonement, but that for those who are liable to an atonement,[14] purification is incomplete until the atonement has been brought! Furthermore, in respect of what we learned, 'If he performed the prescribed ablution and came up from his bathing he may eat of the [second] tithe; after sunset he may eat terumah; and after he has brought his atonement he may also eat of the holy food';[15] whence, it may also be asked, are these laws derived? — Raba replied in the name of R. Hisda: Three Scriptural texts are recorded: It is written, And shall not eat of the holy things, unless he bathe his flesh in water,[16] implying if he bathed, however, he is clean. It is also written, And when the sun is down, he shall be clean, and afterwards he may eat of the holy things.[17] And finally, it s written, And the priest shall make atonement for her, and she shall be clean.[18] How, [then, are these contradictory conditions[19] to be reconciled]?[20] The first refers to [second] tithe; the second to terumah, and the third to holy food. Might not these be reversed?[21] It is reasonable that terumah should be subject to the greater restriction, since[22] it is also subject to the restrictions of the death penalty,[23] the fifth,[24] it cannot be redeemed,[25] and is also forbidden to the non-priest.[26] On the contrary; [second] tithe might be regarded as subject to the greater restriction, since it[27] has to be brought to the appointed place,[28] requires confession,[29] is forbidden to an onan, must not be burned[30] [even] when unclean, the penalty of flogging is incurred for eating it when it is unclean,[31] and it is also subject to the law of removal![32] — The penalty of death, nevertheless, is of the greatest severity. Raba said: Apart from the fact that the death penalty is of the greatest severity it could not be said so;[33] for Scripture stated, soul.[34] Now, what is it that is equally [permitted] to every soul? You must admit that it is tithe.[35] Still, this[36] might apply only to one who is not liable to bring an atonement;[37] but where a man is liable to an atonement it might be said that [purification is not complete] until he has brought the atonement! — Abaye replied: Two Scriptural texts are recorded in the case of a woman in childbirth.[38] It is written, Until the days of her purification be fulfilled,[39] as soon as her days are fulfilled she is clean; and it is also written, And the priest shall make atonement for her, and she shall be clean,'[40] how, [then, are the two to be reconciled]?[41] The former applies to terumah, the latter to holy food.[42]

But might not these be reversed?[43] — It stands to reason that holy food should be subject to the greater restriction,[44] since it is also subject to the restrictions of[45] piggul[46] nothar,[46] sacrifice, me'ilah,[46] kareth,[46] and is also forbidden to an onan.[46] On the contrary, terumah should be subject to the greater restriction,[47] since it is also subject to the restrictions[48] of[45] the death penalty,[49] the fifth,[50] it cannot be redeemed,[51] and is also forbidden to the non-priest![52] — Those[53] are more in number.

Raba said: Apart from the fact that those[53] are more in number this[54] could not be maintained. For Scripture stated, And the priest shall make atonement for her, and she shall be clean,[55] which implies that [until that moment] she was unclean. Now, were it to be assumed that this text[56] speaks of holy food,[57] the text, And the flesh that toucheth any unclean thing shall not be eaten[58] should apply to it![59] It must, therefore, be concluded that the text[60] speaks of terumah.

R. Shisha son of R. Idi demurred: How could it be said that the law of terumah was prescribed in this text?[60] Surely it was taught: [From the text]. Speak unto the children of Israel.[61] one would only learn [that these laws[62] are applicable to] the children of Israel; whence, however, is one to infer that they also apply to a proselyte or an emancipated slave? Scripture consequently stated,[63] Woman.[64] Now, if it were to be assumed that the text speaks of terumah, are a proselyte and an emancipated slave, [it may be asked,] permitted to eat terumah![65] Said Raba: But does it[66] not?[67]

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(1) Males and females.

(2) It cannot refer to holy food of the higher degree of sanctity which is permitted to male priests only.

(3) Of the peace-offerings which belong to the class of holy food of a minor degree of sanctity, and are permitted to the priestly males and females. (V. Lev. X, 14).

(4) From the home of her husband who was an Israelite and died without issue, to that of her father who is a priest (v. supra 68b). Terumah, however, is permitted in such a case.

(5) V. Glos., though she is the daughter of a priest.

(6) Having been born of a forbidden marriage.

(7) Lev. XXII, 4.

(8) And on the basis of this interpretation the unclean is permitted to eat terumah even before he has brought his atonement.

(9) V. Glos.

(10) Lit., 'a locked-up leper'. V. Lev. XIII, 4ff.

(11) The zab and leper spoken of in this text.

(12) Only a confirmed leper, and a zab who has had three attacks of gonorrhoea are, on recovery and purification, liable to bring sacrifices. Cf. Meg. 8a.

(13) That sunset alone, though no sacrifice had yet been brought, completes the purification of the unclean as far as the consumption of terumah is concerned.

(14) The confirmed leper, and a zab who had three attacks.

(15) Neg. XIV, 3, Pes. 35a, Nid. 71b.

(16) Lev. XXII, 6.

(17) Ibid. 7.

(18) Ibid. XII, 8.

(19) Bathing, sunset and sacrifice.

(20) Each text obviously pointing to a different condition as the essential, or completion of purification!

(21) For terumah bathing alone should suffice; while for tithe, waiting until sunset should be required.

(22) V. supra p 497. n. 3.

(23) V. supra p. 497. n. 4

(24) V. supra p. 497 n. 5.

(25) While tithe may be redeemed.

(26) Tithe is not.

(27) The mnemonic הד״ם ט״ב lit., 'a good myrtle', represents distinctive letters occurring in prominent words describing the following restrictions ה=הבאה ד=ודוי confession; ם = אסור prohibition sc. to an onan; ט = טומאה uncleanness; ב = בעור removal.

(28) Jerusalem. V. Deut. XIV, 22ff.

(29) V. Deut. XXVI, 13.

(30) For lighting purposes, if, for instance, it consisted of oil.

(31) While the man is clean.

(32) V. supra p. 494 n. 18.
(33) V. supra p. 502, n. 15.
(34) Lev. XXII, 6.
(35) This verse then must refer to tithe, and it requires ablution only and no waiting for sunset.
(36) That purification in respect of terumah is complete even before the sacrifice had been brought.
(37) As, for instance, the case of the leper under observation, and that of the zab who had no more than two attacks, of whom the text mentioned speaks.
(38) Who is liable to bring a sacrifice.
(39) Lev. XII, 4.
(40) Ibid. 8.
(41) According to the former text, cleanness is complete at the conclusion of the prescribed period, while according to the latter the woman cannot be clean before her sacrifices are offered.
(42) Thus it follows that even when a sacrifice has been prescribed (cf. p. 505, n. 17) terumah may be eaten before that sacrifice has been brought.
(43) The first text applying to holy food, and the second to terumah.
(44) That its consumption be not permitted before the prescribed sacrifice had been offered.
(45) For explanation of the mnemonics v. supra p. 497 nn. 1 and 3.
(46) V. Glos.
(47) V. supra note 2.
(48) V. supra p. 497, n. 3.
(49) V. supra p. 497 n. 4.
(50) V. supra p. 497 n. 5.
(51) Holy food may be redeemed.
(52) Holy food is not.
(53) The restrictions in connection with holy food.
(54) That the first text, Lev. XII, 4. which permits consumption before the sacrifice is brought, should refer to holy food.
(55) Lev. XII. 8.
(56) V. supra note 12.
(57) Which would accordingly be permitted to be eaten even before the prescribed sacrifice had been offered.
(58) Lev. VII, 29.
(59) Since the person who has not brought the prescribed sacrifice is still regarded as unclean. How then could the consumption of holy food be permitted to him?
(60) Lev. XII. 4.
(61) Ibid. 2.
(62) Relating to uncleanness after childbirth. V. Lev. XII, 2ff.
(63) Lev. XII, 2.
(64) Cf. Ker. 7b.
(65) Certainly not. The text must consequently refer not to terumah but to holy food!
(66) The text cited.
(67) Speak of terumah?

Talmud - Mas. Yevamoth 75a

Surely it is written,[1] She shall touch no hallowed thing[2] [which] includes terumah![3] The fact, however, is that Scripture enumerated a number of distinct subjects.[4] Now what need was there for three distinct texts[5] in respect of terumah! — They are all required. For were terumah to be deduced from Until he be clean,[6] it would not be known whereby,[7] hence did the All Merciful write, And when the sun is down, he shall be clean.[8] And if the All Merciful had written only And when the sun is down,[8] it might have been assumed [to apply to such a person] as is not liable to bring a sacrifice, but in the case of one who is liable it might have been presumed that cleanness is not effected before he has brought his atonement, hence the All Merciful wrote, Until. . . be fulfilled.[9] And had the All Merciful written only, Until . . . be fulfilled,[10] it might have been presumed that cleanness may be

effected even without ablution, hence did the All Merciful write, Until he be clean.[6]

According. however, to that Tanna who disagrees with the Tanna of the school of R. Ishmael, maintaining that the text[6] speaks of a zab who had three attacks of gonorrhoea and of a confirmed leper,[11] and that the deduction from Until he be clean[6] is 'until he brings his atonement,'[12] what need was there for two texts[13] in respect of holy food? — [They are both] required. For had the All Merciful written about the woman after childbirth only,[14] the law[15] might have been said to apply to her only because her uncleanness is of long duration,[16] but not to a zab. And had the All Merciful written the law[17] in connection with a zab only,[18] it might have been assumed to apply to him only since his uncleanness does not automatically cease,[19] but not to a woman after childbirth.[20] [Hence both texts were] necessary.

What was the need[21] for the text, It must be put into water, and it shall be unclean until the even?[22] — R. Zera replied: In respect of touch;[23] as it was taught: And it shall be unclean[24] might have been taken to refer to all cases,[25] hence it was stated, Then shall it be clean.[26] And if only Then shall it be clean[26] had been stated it might have been assumed to refer to all cases,[27] hence it was stated, And it shall be unclean.[28] How then [are the two to be reconciled]? The one[29] refers to [second] tithe and the other[30] to terumah. But might not the deduction be reversed? — It stands to reason that as the eating of terumah is more restricted than the eating of tithe, so shall the touching of terumah be more restricted than the touching of tithe.

If you prefer I might say that the prohibition against the touching of terumah[31] is deduced from the following. It was taught:[32] She shall touch no hallowed thing,[33] is a warning against its consumption.[34] Perhaps it is not so, but against touching it? It was stated, She shall touch no hallowed thing, nor come into the sanctuary;[33] the hallowed thing is thus compared to the sanctuary; as [an offence against] the sanctuary involves loss of life,[35] so [must the offence against] the hallowed thing be such as involves loss of life, while in respect of touch no loss of life is involved; and the reason [why eating] was expressed by a term denoting touch is to indicate that touching and eating are equally [forbidden].[36]

[A PRIEST WHO IS] WOUNDED IN HIS STONES etc. Who is it that taught: A woman subject to a pentateuchally forbidden cohabitation[37] may eat terumah?[38] — R. Eleazar replied: This question is the subject of a dispute, and the ruling here is that of R. Eleazar and R. Simeon.[39] R. Johanan said: [The ruling here] may even be that of R. Meir,[39] the circumstances here being different, since the woman has already been eating.[40] And R. Eleazar? — The argument, 'since she has already been eating' cannot be entertained; for should you not admit this,[41] a daughter of an Israelite who was married to a priest and whose husband subsequently died, should also be permitted to eat terumah since she has already been eating it.[42] And R. Johanan? — There,[43] his kinyan had completely lapsed;[44] here, however, his kinyan did not lapse.[45]

WHAT IS TERMED A PEZU'A? Our Rabbis taught: What is termed a pezu'a dakkah? A man both of whose stones were wounded or even only one of them; even though they were only punctured, crushed, or simply defective. Said R. Ishmael son of R. Johanan b. Beroka: I heard from the mouth of the Sages at the Vineyard[46] at Jabneh that one having only one stone is a natural born eunuch[47] and is, therefore, a fit person. How could it be said that such a person is a natural born eunuch![48] — Say rather, he is like a natural born eunuch and is, therefore, fit.[49]

Is [a man whose stones are] punctured incapable of procreation? Surely, a man once climbed up a palm tree

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(1) In the same section.

(2) Lev. XII, 4.

(3) V. Mak. 14b. The proselyte and emancipated slave are also included in such a prohibition.
(4) One may be applicable to one class of persons. and another to others.
(5) Lev. XXII, 4. ibid. 7, and ibid. XII, 4, which , as explained supra. refer to terumah.
(6) Lev. XXII, 4.
(7) Cleanness is effected.
(8) Ibid. 7.
(9) Ibid. XII, 4. which speaks of a woman after childbirth, who is liable to bring a sacrifice and is, nevertheless, regarded as clean in respect of terumah immediately after the sunset of the last day of the prescribed period.
(10) V. supra n. 24.
(11) Both of whom are liable to bring sacrifices.
(12) The text referring to holy food, terumah having been deduced by him from Lev. XXII, 7.
(13) Lev. XII, 8 and ibid. XXII, 4.
(14) I.e., Lev. XII, 8.
(15) That the prescribed sacrifice must be brought before cleanness is effected.
(16) Eighty days must elapse in the case of the birth of a daughter (v. Lev. XII. 5) before the mother is permitted to eat of terumah or of holy food.
(17) V. supra note 3.
(18) I.e., Lev, XXII, 4.
(19) He remains unclean however long his affliction may last.
(20) Who, in respect of connubial relations, is regarded as clean on the termination of the prescribed period, though the flow may still continue.
(21) In view of Lev. XXII, 7 which makes the consummation of cleanness dependent on sunset.
(22) Lev. XI, 32, which, also making the consummation of cleanness dependent on sunset, must, like Lev. XXII, 7 refer to terumah.
(23) Before sunset on the day of purification no terumah may come in contact with the unclean vessel; and the same restriction applies to the tebul yom (v. Glos.). This could not have been deduced from Lev. XXII, 7 which does not speak of touch or contact but of eating.
(24) Lev. XI, 32, even after it had been put in water.
(25) I.e., that the uncleanness remains in respect of both terumah and [second] tithe.
(26) Ibid. וטהר. The use of this form of the verb (which may also represent the present participle), instead of the imperfect, implies a state of cleanness even before the sun had set. (V. Rashi).
(27) That the state of cleanness arises, as soon as ablution had taken place, in respect of both tithe and terumah.
(28) Lev. XI, 32.
(29) The latter, Be clean.
(30) The former, Be unclean.
(31) On the part of a tebul yom. V. Glos.
(32) So Bah. Cur. edd. omit.
(33) Lev. XII, 4.
(34) Before the sunset of the last day of the prescribed period, the woman being regarded until then as a tebul yom, the 'day' (yom) being a 'long one' embracing all the days of the prescribed period.
(35) The penalty for entering the sanctuary while one is unclean is kareth. Cf. Num. XIX, 20.
(36) To the unclean or the tebul yom.
(37) As is the case in our Mishnah with the wife of the mutilated priest with whom no cohabitation has yet taken place after his mutilation, though such cohabitation may still take place at any moment.
(38) V. our Mishnah.
(39) V. supra 57b.
(40) Before her husband was disabled. She is not deprived of a privilege she had been enjoying though she may not be entitled to new privileges.
(41) That the argument is untenable.
(42) Which is absurd. The argument is consequently untenable.
(43) The case of a priest who married the daughter of an Israelite and died.
(44) When he died. Hence the woman's loss of her privilege.

(45) Since the marriage had not been annulled.
(46) The College. So called because the students were sitting in rows arranged like the vines in a vineyard.
(47) סרים חמה lit., 'a eunuch through heat', i.e., fever, illness (v. Golds.) or 'a eunuch of the sun', i.e., from birth when the child first saw the sun (v. Jast.).
(48) The former surely might be the result of an accident!
(49) The prohibition being restricted to the wounded or crushed.

Talmud - Mas. Yevamoth 75b

and a thorn pierced his stones, [his semen] issued like a thread of pus, and, [despite the accident], he begat children! — In that case, as a matter of fact, Samuel sent word to Rab, telling him, 'Institute enquiries respecting the parentage of his children'.

Rab Judah stated in the name of Samuel: A man whose stones have been injured by a supernatural agency[1] is regarded as a fit person.[2] Said Raba: This is the reason why the Scriptural text reads, Who is wounded[3] and not 'the wounded'.[4]

In a Baraitha it was taught: It was said in Scripture. He who is wounded . . . shall not enter[3] and it was also said, A bastard shall not enter,'[5] as the latter is the result of human action, so is the former the result of human action.[6]

Raba stated: Wounded[3] applies to all,[7] crushed[3] applies to all,[7] and cut off[8] applies to all.[9] 'Wounded applies to all': Whether the membrum, the stones or the spermatic cords of the stones were injured. 'Crushed applies to all': Whether the membrum, the stones or the spermatic cords were crushed. 'Cut off applies to all': Whether the membrum, the stones or the spermatic cords were cut off.

A certain Rabbi asked Raba: Whence is it inferred that the expression pezu'a dakkah[8] refers to an injury in the privy parts; might it not be said to refer to the head? The other replied: As no number of generations is mentioned,[10] it may be inferred that the reference is to the privy parts.[11] But is it not possible that the reason why no number of generations is given in this case is because only he himself[12] is forbidden,[13] while his son and the son of his son are permitted! — [This must be] similar to the case of him whose membrum is cut off; as the latter involves the privy parts, so must the former involve those parts.

And whence is it inferred that the injury of the keruth shafekah[14] himself involves his privy parts? Might it not be one involving his lips![15] — Shafekah[16] is written, implying, 'at the spot where it discharges',[17] But might it not refer to one's nose? — It is not written, '[Cut] at the organ that discharges', but 'a cut organ that discharges'; thus implying that organ which in consequence of a cut discharges, and in the absence of a cut does not discharge but flows out. This excludes the nose which in either case[18] emits a discharge.[19]

In a Baraitha it was taught: It was said in Scripture. He who is wounded in his stones shall not enter,[8] and it was also said. A bastard shall not enter,[20] as the latter refers to the privy parts, so does the former refer to the privy parts.

In a case where a puncture beginning below the corona terminated[21] at the other end of it above the corona, R. Hiyya b. Abba desired to declare the sufferer as fit.[22] Said R. Assi to him: Thus ruled R. Joshua b. Levi, '[A perforation of] any size in the corona constitutes a bar [against fitness]'.

IF, HOWEVER, ANY PART OF THE CORONA REMAINED etc. Rabina, while sitting [at his studies], raised the following question: Must the HAIR'S BREADTH of which they spoke extend

over the entire circumference thereof or only over its greater part? — 'The HAIR'S BREADTH', said Rabbah[23] Tosfa'ah to Rabina, must extend over the greater part of it and towards its upper section'.[24]

R. Huna ruled: If it[25] is cut away like a reed pen it constitutes no disqualification; if like a gutter[26] it causes disqualification. For in the latter case the air penetrates;[27] in the former it does not. R. Hisda, however, ruled: [If the cut was] in the shape of a gutter no disqualification is constituted; if it had the shape of a reed pen disqualification is constituted. For in the first case friction may be produced; in the latter it cannot.

Raba said: It is reasonable to adopt the view of R. Huna that in the latter case the air penetrates while in the former it does not. For in regard to friction it is only like a bung in a cask.[28]

Said Rabina to Meremar: Thus said Mar Zutra in the name of R. Papa, 'The law is that no disqualification is constituted whether the corona was cut away like a reed pen or like a gutter He raised, however, the question. [whether such a cut must be] below the corona or may even be above it?[24] — It is obvious that it may even be above it; for were it to be below the corona, the man would be regarded as fit even if the entire membrum there had been cut off. Rabina, however,[29] only desired to test Meremar.

Such an incident[30] once occurred at Matha Mehasia, and R. Ashi arranged for the corona to be cut into the shape of a reed pen, and then declared the man to be fit. It once happened at Pumbeditha that a man had his semen duct blocked, and the discharge of the semen made its way through the urinal duct. R. Bibi b. Abaye intended to declare the man fit. R. Papi, however, said to him, 'Because you are yourselves

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(1) Lit., 'by the hands of heaven', through lightning, for instance, or from birth.

(2) He is not included in the prohibition to enter the congregation of the Lord. V. infra n. 9.

(3) Deut. XXIII. 2.

(4) The definite article would have implied that the incapacity was of long standing. (Cf. supra note 7).

(5) Deut. XXIII, 3.

(6) Not that of a supernatural force. (Cf. supra note 7).

(7) The organs of procreation.

(8) Deut. XXIII. 2.

(9) The organs of procreation.

(10) Forbidding them to enter into the assembly of the Lord, as is the case with a bastard, an Ammonite, a Moabite etc. V. Deut. XXIII, 2ff.

(11) An injury which deprives one of the power of procreation.

(12) Who is wounded.

(13) To enter into the assembly of the Lord. V. ibid. 2.

(14) Here rendered, 'one whose membrum is cut off'.

(15) From which spittle may be emitted. Shafekah, from rt. שפך 'to pour out', emit'.

(16) Cf. supra n. 8.

(17) Spittle does not flow out of the mouth.

(18) Even when it is not cut.

(19) But does not ejaculate.

(20) Deut. XXIII. 3.

(21) By sloping upwards towards the body.

(22) Since one end of the perforation is below the corona.

(23) So Emden. Cur. edd. 'Raba'.

(24) Which is nearer to the body.

(25) The corona.

(26) The cut running across the centre and leaving the sides intact.
(27) Cooling the membrum and preventing the flow of the semen.
(28) Though the bung is cut away at its lower end it nevertheless closes the hole with its upper part which comes in contact with the sides of the bung hole. The contact produced by the upper part of the membrum is sufficient for the generation of the heat required for fertilization.
(29) In raising a question the answer to which was,so obvious.
(30) The cut having taken the shape of a gutter.

Talmud - Mas. Yevamoth 76a

frail beings you speak frail words;[1] through its proper duct it fertilizes but when not passing through its proper duct it does not fertilize.'

Rab Judah stated in the name of Samuel: If it had a small perforation which was closed up, the man is deemed to be unfit if the wound re-opens when semen is emitted, but if it does not re-open the man is regarded as fit.

In respect of this ruling Raba raised the question: Where? If the perforation is below the corona,[2] [the man should remain fit] even if it were cut off! — It means, in the corona itself. So it was also stated elsewhere: R. Mari b. Mar said in the name of Mar Ukba in the name of Samuel: If a hole that has been made in the corona itself is closed, the man is disqualified if it re-opens when semen is emitted; but if it does not [re-open the man is deemed to be] fit.

Raba the son of Rabbah sent to R. Joseph: Will our Master instruct us how to proceed.[3] The other replied: Warm barley bread is procured, and placed upon the man's anus. Thereby the flow of semen sets in, and the effect can be observed. Said Abaye: Is everybody like our father Jacob concerning whom it is written, My might, and the first-fruits of my strength,[4] because he never before experienced the emission of semen![5] — No, said Abaye, coloured garments[6] are dangled before him.[7] Said Raba: Is everybody then like Barzillai the]Gileadite![8] — In fact it is obvious that the original answer is to be maintained.

Our Rabbis taught: If it[9] was punctured [the man is regarded as] unfit, because the flow is sluggish.[10] If it was closed up [he is deemed to be] fit, because he is then capable of production. And this is a case where the unfit may return to his former state of fitness. What does the expression 'this' exclude? — It excludes the case where a membrane was formed on the lungs in consequence of a wound; since such cannot be regarded as a proper membrane.[11]

R. Idi b. Abin sent the following question to Abaye: How are we to proceed?[12] — A grain of barley is to be procured wherewith the spot[13] is lacerated.[14] Tallow is rubbed in, and a big ant, procured for the purpose, is allowed to bite in, and its head is severed.[15] It must be a grain of barley; an iron instrument would cause inflammation. This procedure, furthermore, applies only to a small perforation; a large one would peel off.

Rabbah son of R. Huna stated: A man who urinates at two points is an unfit person.[16]

Said Raba: The law is in agreement neither with the view of the son nor with that of the father. As to the son, there is the statement just mentioned. As to the father? — Since R. Huna said: Women who practise lewdness with one another are disqualified from marrying a priest.[17] And even according to R. Eleazar, who stated that an unmarried man who cohabited with an unmarried woman with no matrimonial intention renders her thereby a harlot, this disqualification ensues only it, the case of a man;[18] but when it is that of a woman[19] the action is regarded as mere obscenity.

MISHNAH. A MAN WHO IS WOUNDED IN HIS STONES, AND ONE WHOSE MEMBRUM IS CUT OFF, ARE PERMITTED TO MARRY A PROSELYTE OR AN EMANCIPATED SLAVE. THEY ARE ONLY FORBIDDEN TO ENTER INTO THE ASSEMBLY,[20] AS IT IS SAID IN SCRIPTURE, HE THAT IS WOUNDED IN HIS STONES OR HATH HIS PRIVY MEMBRUM CUT OFF SHALL NOT ENTER INTO THE ASSEMBLY OF THE LORD.[21]

GEMARA. R. Shesheth was asked: May a priest who is wounded in his stones marry a proselyte or an emancipated slave;[22] does he[23] remain in his state of holiness and is consequently forbidden[24] or does he not remain in his state of holiness and is consequently permitted?[24] — R. Shesheth replied: You have learned this [law in the following]. 'An Israelite who is wounded in his stones is permitted to marry a nethinah'.[25] Now, were it to be assumed that he[26] retains his holiness, the text, Neither shalt thou make marriages with them[27] should be applicable here.[28] Said Raba: Is the law there[29] due at all to sanctity or non-sanctity? [It is merely due to] the possibility that he[30] might beget a child who[31] would proceed to worship idols. This, then, is applicable only when they[32] are still idol worshippers. When, however, they are converted, they are undoubtedly permitted,[33] and it was only the Rabbis who placed them[34] under a prohibition as a preventive measure.[35] But such a preventive measure was instituted by the Rabbis in respect of those only who are capable of procreation, not in respect of those who are incapable of procreation.[36]

Now, then,[37] a bastard also, since he is capable of procreation,[38] should also be forbidden,[39] while in fact, we have learned, 'Bastards and nethinim may intermarry with one another'![40] — In fact [this is the explanation:] the Rabbis instituted a preventive measure only in the case of the fit but not in that of the unfit.[41]

Subsequently Raba stated: What I said[42] is of no consequence. For while they are still idolaters their marriages are invalid; only when they are converted are their marriages valid.[43]

R. Joseph raised an objection: And Solomon became allied to Pharaoh King of Egypt by marriage, and took Pharaoh's daughter![44] — He caused her to be converted. But, surely, no proselytes were accepted either in the days of David or in the days of Solomon![45] — Was there any reason for it[46] but [that the motive of the proselytes might be the benefits] of the royal table?

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(1) מולית = ממולאי 'frail things', applied to the speaker's clan as well as to his rulings. דאתו, 'because you'. מולאי may also mean 'short lived people' and דאתו according to Bah, should read דאתיתו משום דאתיתו ממולאי 'because you are descendants of short lived people'. R. Bibi was a descendant of the house of Eli who were condemned to die young (v. I Sam. II, 32f). The expression may also, like a similar root in Arabic, bear the meaning of 'foolishness'. (Cf. B.B. Sonc. ed. p. 582, n. 6).

(2) Away from the body.

(3) With the test, when it is desired to ascertain whether the semen will re-open a closed up perforation.

(4) Gen. XLIX, 3, referring to Reuben, Jacob's firstborn son.

(5) Other people are not so saintly. Why then should the elaborate test described be necessary in ordinary cases?

(6) Peculiar to women.

(7) Exciting his passions and thus causing a discharge.

(8) Known for his indulgence in carnal gratification (v. Shab. 152a).

(9) The duct of the semen.

(10) And does not fertilize.

(11) It may easily burst. The lungs are, therefore, regarded as wounded, and the animal from which they were taken is unfit for consumption. Cf. Hul. 42a.

(12) In healing a perforated membrum.

(13) Round the perforation.

(14) The shreds thus formed ultimately join and aid in closing up the perforation.

(15) Thus remaining in the cavity and assisting in the closing up and healing.

(16) He is similar to the disabled persons spoken of in Deut. XXIII, 2.
(17) Shab. 65a.
(18) Who cohabited with a woman.
(19) Indulging in lewdness with another.
(20) They may not marry the daughter of an Israelite.
(21) Deut. XXIII. 2.
(22) I.e., women whom a priest is forbidden to marry.
(23) The disabled priest.
(24) To marry the women mentioned (Cf supra n. 6).
(25) Fem. of nathin for which v. Glos.
(26) A disabled man.
(27) Deut. VII, 3.
(28) How, then, is an Israelite permitted to marry a nethinah! Since, however, the law does permit him to marry such a woman it is obvious that a disabled man loses his sanctity. As the disabled Israelite loses his sanctity so does the disabled priest lose his.
(29) In the case of marriage between a fit or disabled Israelite and an idolatress or a nethinah.
(30) The man who marries an idolatress.
(31) Through the influence of his mother.
(32) The women spoken of in Deut. VII, 3.
(33) Pentateuchally. Cur. edd., 'In Israel' should be omitted with the 1509 Pesaro ed. (cf. Golds.).
(34) The nethinah as well as the idolatress.
(35) V. infra 78b.
(36) This is the reason why a disabled Israelite is permitted to marry a nethinah. No inference, therefore, may be drawn from this in respect of a disabled priest.
(37) Since in respect of those who are capable of procreation the Rabbis did institute a preventive measure.
(38) And is Pentateuchally forbidden to marry an idolatress.
(39) To marry a nethinah, as a preventive measure of the Rabbis.
(40) Kid. 6.
(41) Those, e.g., spoken of in Deut. XXIII, 2f.
(42) V. Bah. That Deut. VII, 3 refers to idolaters only and not to proselytes.
(43) Deut. VII, 3, must consequently refer to proselytes, the prohibition being due to the Israelite's sanctity. As the nethinah was not forbidden to the disabled Israelite it follows that a disabled man, be he priest or Israelite, loses his sanctity; as at first suggested supra.
(44) I Kings III. 1. The term ויתחתן 'allied . . . . by marriage' implies recognition of validity of marriage. The Talmudic text of the verse seems to represent an abbreviation of M.T.
(45) Cf. supra 24b.
(46) For the refusal to admit proselytes.

Talmud - Mas. Yevamoth 76b

Such a woman[1] obviously was in no need of it.[2] But let the inference[3] be drawn from the fact that she[1] was an Egyptian of the first generation![4] And were you to reply that those[5] had already departed, and these[6] are others;[7] surely, it may be pointed out, it was taught: R. Judah stated, 'Menjamin, an Egyptian proselyte, was one of my colleagues among the disciples of R. Akiba, and he told me: I am an Egyptian of the first generation and married an Egyptian woman of the first generation; I shall arrange for my son to marry an Egyptian of the second generation in order that my grandson may be enabled to enter into the congregation of Israel!'[8] R. Papa replied: Are we to take our directions from Solomon! Solomon did not marry at all,[9] for it is written, Of the nations concerning which the Lord said unto the Children of Israel: 'Ye shall not go among them, neither shall they come among you; for surely they will turn away your heart after their gods'; Solomon did cleave unto them in love.[10] The expression. And he become allied. . . in marriage,[11] however, presents a difficulty![12] — On account of his excessive love for her. Scripture regards him as if he

had become allied by marriage to her. Said Rabina to R. Ashi: Surely we learned A MAN WHO IS WOUNDED IN HIS STONES, AND ONE WHOSE MEMBRUM VIRILE IS CUT OFF, ARE PERMITTED TO MARRY A PROSELYTE OR AN EMANCIPATED SLAVE, [from which it follows] that they are forbidden to marry a nethinah![13] — The other replied: According to your view,[14] read the final clause, THEY ARE ONLY FORBIDDEN TO ENTER INTO THE ASSEMBLY, [from which it follows] that they are permitted to marry a nethinah! But [the fact is that] no inference may be drawn from this Mishnah.

MISHNAH. AN AMMONITE AND A MOABITE ARE FORBIDDEN,[15] AND THEIR PROHIBITION IS FOR EVER[16] , THEIR WOMEN, HOWEVER, ARE PERMITTED AT ONCE.[17] AN EGYPTIAN AND AN EDOMITE ARE FORBIDDEN[18] ONLY UNTIL THE THIRD GENERATION.[19] WHETHER THEY ARE MALES OR FEMALES. R. SIMEON, HOWEVER, PERMITS THEIR WOMEN FORTHWITH.[17] SAID R. SIMEON: THIS LAW[20] MIGHT BE INFERRED A MINORI AD MAJUS: IF WHERE THE MALES ARE FORBIDDEN FOR ALL TIME[21] THE FEMALES ARE PERMITTED FORTHWITH,[22] HOW MUCH MORE SHOULD THE FEMALES BE PERMITTED FORTHWITH WHERE THE MALES ARE FORBIDDEN UNTIL THE THIRD GENERATION ONLY.[23] THEY REPLIED: IF THIS[20] IS AN HALACHAH,[24] WE SHALL ACCEPT IT; BUT IF IT IS ONLY AN INFERENCE,[25] AN OBJECTION CAN BE POINTED OUT. HE REPLIED: NOT SO.[26] [BUT IN FACT] IT IS AN HALACHAH THAT I AM REPORTING.

GEMARA. Whence are these laws inferred? — R. Johanan replied: Scripture stated, And when Sail saw David go forth against the Philistine, he said into Abner, the captain of the host: 'Abner, whose son is this youth'? And Abner said: 'As thy soul liveth, O King, I cannot tell'.[27] But did he[28] not know him? Surely it is written, And he loved him greatly; and he became his armour bearer![29] — He rather made the inquiry concerning his father. But did he not know his father? Surely it is written, And the man was an old man in the days of Saul, stricken in years among them;[30] and Rab or, it might be said, R. Abba, stated that this referred to the father of David, Jesse. who came in with an army[31] and went out with an army![31] — It is this that Saul meant: Whether he descended from Perez,[32] or from Zerah.[33] If he descended from Perez he would be king, for a king breaks[34] for himself a way and no one can hinder him. If, however, he is descended from Zerah he would only be an important man.[35] What is the reason why he gave instructions that enquiry be made concerning him? — Because it is written, And Saul clad David with his apparel.[36] being of the same size as his,[37] and about Saul it is written, From his shoulders and upward he was higher than any of the people.[38] Doeg the Edomite then said to him,[39] 'Instead of enquiring whether he is fit to be king or not, enquire rather whether he is permitted to enter the assembly or not'! 'What is the reason'?[40] 'Because he is descended from Ruth the Moabitess'. Said Abner to him,[41] 'We learned: An Ammonite,[42] but not an Ammonitess; A Moabite,[42] but not a Moabitess![43] But in that case[44] a bastard[45] would' imply: But not a female bastard?' — 'It is written mamzer [Which implies] anyone objectionable'.[46] 'Does then[47] Egyptian[48] exclude the Egyptian woman'? — 'Here[49] it is different, since the reason for the Scriptural text is explicitly stated: Because they met you not with bread and with water;[50] it is customary for a man to meet [wayfarers]; It is not, however, customary for a woman to meet [them]'.[51]

'The men should have met the men and the women the women!'

He[52] remained silent, Thereupon. the King said.'[53] 'Inquire thou whose son the stripling is'.[54] Elsewhere he calls him youth;[55] and here[54] he calls him, stripling![56] — It is this that he implied, 'You have overlooked[57] an halachah,' go and enquire at the college!' On enquiry, he was told: An Ammonite,[58] but not an Ammonitess; A Moabite,[58] but not a Moabitess.

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(1) Pharaoh's daughter.

(2) Hence she could be accepted.
(3) That marriage with a forbidden woman is valid.
(4) Who is forbidden to marry into the congregation of Israel. The third generation only is permitted. (V. Deut. XXIII. 9).
(5) The old Egyptians spoken of in the text cited (supra n. 4).
(6) The Egyptians of later times.
(7) Other nations superseded them. Hence the prohibition does not apply to them.
(8) Which shews that even after the days of Solomon the Egyptians were still regarded as the descendants of the ancient inhabitants of Egypt.
(9) His marriage with Pharaoh's daughter was an invalid one, and she could only be regarded as his mistress.
(10) I Kings XI. 2, emphasis on love, sc. he did not marry them.
(11) V.supra p. 514, n. 15.
(12) Here the union is actually described as a marriage!
(13) Had they been permitted to marry such a woman, this should have been stated; and the permission to marry a proselyte and an emancipated slave would be inferred a minori ad majus. How then could it be stated, supra 76a. that a nethinah is permitted to be married to a man wounded in his stones?
(14) That a nethinah is forbidden to marry disabled men.
(15) To enter the assembly of the Lord (v. Deut. XXIII. 4ff).
(16) V. ibid.
(17) Immediately after conversion.
(18) Cf. supra n. 2 and v. Deut. ibid. 8f.
(19) Exclusive. The third generation is permitted.
(20) That Egyptian and Edomite women are permitted to marry an Israelite immediately after their conversion.
(21) Ammonites and Moabites. for instance.
(22) Immediately after conversion.
(23) Egyptians and Edomites.
(24) I.e., a tradition R. Simeon received from his teachers.
(25) Of R. Simeon's own reasoning.
(26) Even though the ruling were based on an inference no valid objection could be advanced against it. V. Gemara infra.
(27) I Sam. XVII, 55.
(28) Saul.
(29) I Sam. XVI, 21.
(30) Ibid. XVII, 12.
(31) He was chief over six hundred thousand men (Rashi).
(32) The son of Judah. (V. Gen. XXXVIII. 29. Ruth, IV. 18ff).
(33) V. Gen. ibid. 30.
(34) Heb. פרץ 'to break', a play upon the rt. of Perez פרץ.
(35) Zerah of the rt. זרח 'to shine'.
(36) I Sam. XVII, 38, his apparel — מדיו.
(37) כמדתו 'like his size', play upon מדיו of the same rt. מדד
(38) Ibid. IX, 2. His unusual stature impressed him.
(39) To Saul.
(40) That his eligibility to enter the congregation should be questioned.
(41) To Doeg.
(42) Deut. XXIII, 4.
(43) Supra 6a. The prohibition to enter into the congregation (v. ibid.). since the masculine gender was used in the text, applies to the males only
(44) If the masculine gender excludes the women.
(45) Deut XXIII,3 ממזר masc.
(46) Man or woman. זר מום lit., 'anything strange', play upon ממזר.
(47) If the masculine gender excludes the women.

(48) Deut. XXIII, 8 מצרי masc.
(49) In the case of the Ammonite and Moabite.
(50) Ibid. 5.
(51) The women were, therefore, excluded from the prohibition.
(52) Abner.
(53) To Doeg. V. infra.
(54) 1 Sam. XVII, 56.
(55) נער ibid. 55.
(56) עלם.
(57) Lit., 'it was concealed'; rt. עלם the same as that of עלם (v. supra n. 9).
(58) Deut. XXIII. 4.

Talmud - Mas. Yevamoth 77a

As, however, Doeg submitted to them all those objections[1] and they eventually remained silent, he desired to make a public announcement against him.[2] Presently [an incident occurred]: Now Amasa was the son of a man, whose name was Ithna the Israelite, that went in to Abigal[3] the daughter of Nahash,[4] but elsewhere it is written, Jether the Ishmaelite![5] This teaches, Raba explained, that he girded on his sword like an Ishmaelite and exclaimed, 'Whosoever will not obey the following halachah will be stabbed with the sword; I have this tradition from the Beth din of Samuel the Ramathite: An Ammonite but not an Ammonitess; A Moabite, but not a Moabitess'![6] Could he, however, be trusted?[7] Surely R. Abba stated in the name of Rab: Whenever a learned man gives directions[8] on a point of law, and such a point comes up [for a practical decision], he is obeyed if his statement was made[9] before the event;[10] but if it was not so made he is not obeyed! Here the case was different, since Samuel and his Beth din were still living.[11]

The difficulty,[12] however, still remains! — The following[13] interpretation was given: All glorious is the king's daughter within.[14] In the West[15] it was explained. others quote it in the name of R. Isaac: Scripture said, And they said unto him: 'Where is Sarah thy wife?' etc.[16]

The question[17] is a matter in dispute between Tannaim: An Ammonite,[18] but not an Ammonitess; A Moabite,[18] but not a Moabitess. So R. Judah. R. Simeon, however, said: Because they met you not with bread and with water;[19] it is customary for a man to meet etc.[20]

Raba made the following exposition: What was meant by, Thou hast loosed my bonds![21] David said to the Holy One, blessed be He, 'O Master of the world! Two bonds were fastened on me,[22] and you loosed them: Ruth the Moabitess[23] and Naamah the Ammonitess.[24]

Raba made the following exposition: What was meant by the Scriptural text, Many things hast Thou done, O Lord my God, even Thy wondrous works, and Thy thoughts toward us?[25] It is not written, 'toward me', but toward us. This teaches that Rehoboam[26] sat on the lap of David when the latter said to him. 'Those two Scriptural verses[27] were said concerning me and you.'[28]

Raba made the following exposition: What was meant by the Scriptural text, Then said I: 'Lo, I am come with the roll of a book which is prescribed for me'?[29] David said,[30] 'I thought I have come[31] only now; but I did not know that in the Roll of the Book[32] it was already[33] written about me'. For there it is written, That are found,[34] and here it is written. l have found[35] David My servant; with My holy oil have I anointed him.[36]

'Ulla said in the name of R. Johanan: The daughter of an Ammonite proselyte[37] is eligible to marry a priest. Said Raba b. 'Ulla to 'Ulla: In accordance with [whose view is your statement made]? If in accordance with that of R. Judah, he surely had stated that the daughter of a male proselyte is like the daughter of a male halal![38] And if in accordance with the view of R. Jose, your statement is self-evident,for surely he had stated: Even where a male proselyte had married a female proselyte his daughter is eligible to marry a priest![39] And were you to reply that this[40] applies to such as are fit to enter the assembly[41] but not to this man who[42] is not fit to enter the assembly[43] whence [it may he asked] is this distinction [inferred]! — It is inferred from the case of a High Priest who married a widow.[44] [But it may be objected] the marriage between a High Priest and a widow is different, since his cohabitation constitutes a transgression![45] — [Then the case of the] halal proves it?[46] [But it may be objected that] a halal is different since his formation was in sin![47] — [Then the case of the] High Priest[48] proves it; and thus the argument will go round;[49] though the aspect of the one is unlike that of the other and the aspect of the other is unlike that of the first, their common characteristic is that either of them is unlike the majority of the assembly[50] and his daughter[51] is ineligible,[52] so here also since he[53] is unlike the majority of the assembly,[54] his daughter should be ineligible.[52] [But it may

again be objected] their common characteristic[55] is different, since it also involves an aspect of sin![56] Did you possibly[57] speak of an Ammonite who married the daughter of an Israelite,[58] [informing us that], though his cohabitation is an act of transgression, his daughter is nevertheless eligible? — The other replied: Yes; for when Rabin came[59] he reported in the name of R. Johanan on the daughter of an Ammonite proselyte[60] and the daughter of an Egyptian of the second generation[60] that R. Johanan declared her eligible[61] while Resh Lakish maintained that she was ineligible.[61]

'Resh Lakish maintained that she was ineligible', for he infers this case from that of a High Priest who married a widow. 'R. Johanan declared her eligible'.

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(1) Addressed to Abner supra.

(2) To brand David publicly as a descendant of a Moabitess, and unfit to enter the congregation of Israel in accordance with Deut. XXIII, 4.

(3) Cur. edd., 'Abigail', is apparently a printer's error (cf. M.T.). V., however, I Chron. II, 17.

(4) II Sam. XVII, 25.

(5) I Chron. II, 17. Some MSS, read Ishmaelite in the [text of Sam. also. How then are the two readings to be reconciled?

(6) V. supra p. 517, n. 17. [On the political issues involved in this controversy v. Aptowitzer, Parteipolitik der Hasmonaerzeit pp. 31ff. He regards the attack on the legitimacy of David as a movement inspired by the Sadducees to support the Hasmoneans' right to the throne against the challenge of their opponents. V. Kid. Sonc. ed. pp. 332ff].

(7) In such circumstances.

(8) Basing his ruling on traditional law which he claims to have received from his teachers.

(9) In the course of his discourses and studies.

(10) Before the point of law assumed practical importance.

(11) Had not the statement been a true on, he would not have ventured to make it when its validity could be so easily tested.

(12) Raised by Doeg (supra 76b) to which no reply was forthcoming

(13) Cf. Bah. a.l.

(14) Ps. XLV, 14. Respectable women remain at home and do not go into the open road even to meet members of their own sex. No blame, therefore, is attached to the Ammonite and Moabite women for not meeting the Israelites with bread and with water. Cf. Deut. XXIII, 5.

(15) Palestine.

(16) Gen XVIII, 9, and he answered, 'Behold in the tent'. Sarah remained indoors attending to the duties of her household, though there were visitors whom Abraham was entertaining in the open under the tree (ibid. 4).

(17) As to the Scriptural text from which the admission of Ammonite and Moabite women is deduced.

(18) Deut. XXIII, 4.

(19) Ibid. 5.

(20) V. supra 76b.

(21) Ps. CXVI, 16.

(22) Upon David's dynasty.

(23) From whom David himself descended. V. Ruth IV. 13. 17ff.

(24) The wife of Solomon and mother of Rehoboam, David's grandson. V. I Kings XIV, 21, 31.

(25) Ps. XL, 6.

(26) V. supra p. 519. n. 17.

(27) Gen. XVIII. 9 and Ps, XLV. 14, from which the permissibility of admitting Ammonite and Moabite women into the congregation of Israel was deduced.

(28) Divine providence which permitted Ammonite and Moabite women to enter the assembly has saved them from being excluded from the congregation of Israel.

(29) Ps. XL. 8.

(30) When he was anointed king.

(31) To the kingship.

(32) The Scroll of the Law, the Pentateuch.

(33) Since the days of Abraham.

(34) Gen. XIX. 1, (rt. מצא) referring to the two daughters of Lot. from whom descended Ammon and Moab respectively.
(35) Rt. מצא.
(36) Ps. LXXXIX. 21.
(37) It is now assumed that the daughter was born from an Ammo- nite father and mother after their conversion.
(38) Who is forbidden to marry a priest! Kid. 77a. For halal v. Glos.
(39) Kid. loc. cit.
(40) The dispute between 'R. Judah and R. Jose.
(41) Those of the nations who are not forbidden by the prohibitions prescribed in Deut. XXIII.
(42) As an Ammonite.
(43) In accordance with the prohibition in Deut. XXIII. 4. (20) Between an Ammonite's daughter who, as a female, is not included in the prohibition, and the daughter of any other people. What proof is there that a father's status deprives a daughter of her rights?
(44) As the daughter of a High Priest who is forbidden to marry a widow, is ineligible to marry a priest, so is the daughter of an Ammonite proselyte.
(45) The marriage between an Ammonite and an Ammonitess, however, is no transgression.
(46) The marriage by a halal (v. Glos.) of the daughter of an Israelite constituting no transgression, and yet his daughter is ineligible to marry a priest.
(47) A halal is the offspring of a forbidden union; the Ammonite proselyte is not. How, then, could the latter be inferred from the former?
(48) Whose formation was not in sin, and yet his daughter is forbidden.
(49) If objection is raised against the case of the High Priest. that of the halal will be adduced as proof; and if objection is raised against that of the halal, the case of the High Priest will be adduced as proof.
(50) As to the High Priest his cohabitation is forbidden, and as to the halal his formation was in sin.
(51) The High Priest's and the halal's.
(52) To marry a priest.
(53) The Ammonite proselyte.
(54) He is forbidden to enter the assembly of the Lord (Deut. XXIII. 4).
(55) That of the High Priest and the halal.
(56) The daughter of the High Priest was born in sin, since the marriage of her parents was a forbidden one, and in the case of the daughter of the halal, the birth of the father was in sin. In the case of the Ammonite proselyte, however, neither the daughter nor her father was born in sin. How, then, could this case be inferred from the two former? And thus the question remains, what need was there for R. Johanan to teach the evident case of the daughter of an Ammonite proselyte?
(57) 'Certainly' is to be deleted. V. Bah.
(58) Not as previously assumed (v. supra p. 520, n. 13)
(59) From Palestine to Babylon.
(60) Who married the daughter of an Israelite and thus contracted a forbidden union.
(61) To marry a priest.

Talmud - Mas. Yevamoth 77b

as R. Zakkai recited[1] in the presence of R. Johanan, '[The expression,] But a virgin of his own people shall he take to wife,[2] includes a woman who is fundamentally a proselyte[3] who is eligible to marry a priest', and the other said to him, 'I learn: ["Since. instead of] 'His people'. Of his people [was written]. a virgin who descended from two peoples[4] is also included", and you mention only a fundamental proselyte and no other!' Now. what is meant by 'two peoples'? If it be suggested that it refers to the case of an Ammonite who married an Ammonitess. and that these are described as of 'two peoples' because the males are forbidden and the females are permitted, such a case [it may be objected] is the same as that of a fundamental proselyte! Consequently it must refer to an Ammonite who married the daughter of an Israelite.[5]

Others say: He said to him,[6] 'I learn: ["Since, instead of] 'His people'. Of his people[2] [was written], a virgin who is descended from two peoples[7] and from a people consisting of two groups of people[8] is included", and you mention only a fundamental proselyte and no other!'[9]

According to this latter version, however,[10] whence is it inferred that the daughter of an Egyptian of the second generation[11] is eligible to marry a priest? And should you suggest that this might be inferred from the case of an Ammonite who married the daughter of an Israelite, [it may be objected that] the case of the Ammonite who married the daughter of an Israelite is different since the Ammonite females are eligible.[12] — An Egyptian of the second generation who married an Egyptian woman of the second generation might prove it.[13] But [it may be objected that the case] of an Egyptian of the second generation who married an Egyptian woman of the second generation is different since his cohabitation constitutes no transgression? — An Ammonite who married the daughter of an Israelite might prove it,[14] and thus the argument would go round etc.[15]

Said R. Joseph: This[16] then it is that I heard Rab Judah expounding on 'His people. Of his people' and I did not [at the time] understand what he meant.[17]

When R. Samuel b. Judah came, he stated: Thus hɛ[18] recited in his[19] presence: An Ammonite woman is eligible;[20] her son that is born from an Ammonite is ineligible; and her daughter that is born from an Ammonite is eligible. This, however, applies only to an Ammonite and an Ammonitess who were converted; but her daughter that was born from an Ammonite is ineligible. [On hearing this] the other said to him, 'Go recite this outside. For your statement that "an Ammonite woman is eligible" [is quite acceptable, since] Ammonite[21] excludes the Ammonitess. That "her son that is born from an Ammonite is ineligible" [is also correct] since he is in fact an Ammonite. In what respect, however, is "her daughter that was born from an Ammonite eligible"? If in respect of entering the assembly, is there, now that her mother is eligible. any need to mention her! The eligibility must consequently be in respect of marrying a priest. [But then what of the statement], "this, however, applies only to an Ammonite and an Ammonitess who were converted; but her daughter that was born from an Ammonite is ineligible"? What is meant by "her daughter that was born of an Ammonite"? If it be suggested that it refers to an Ammonite who married an Ammonitess,[22] then this is the same case as that of a fundamental proselyte![23] Consequently it must refer to an Ammonite who married the daughter of an Israelite'.[24] [Concerning this] he told him. 'Go recite this outside'.[25]

AN EGYPTIAN AND AN EDOMITE ARE FORBIDDEN ONLY etc. What is the OBJECTION?[26] — Raba b. Bar Hana replied in the name of R. Johanan: Because it may be said that the case of forbidden relatives proves it,[27] since in respect of them the prohibition extends to the third generation only[28] [and is nevertheless applicable to] both males and females.[29] [But can it not be argued that the case] of forbidden relatives is different.[30] since in their case the penalty of kareth is involved?[31] — [The case of the] bastard[32] proves it. [But can it not be suggested that the case] of the bastard is different[33] since he is forever ineligible to enter the congregation?[34] — [The case of] forbidden relatives[35] proves it. Thus the argument could go round.[36] The aspects of one are unlike those of the other and the aspects of the other are unlike those of the first. Their common characteristic, however, is that both males and females are equally forbidden; so might one also include the Egyptian man and the Egyptian woman so that in their case also both males and females should be equally forbidden.[37] This common characteristic, however, [it may be retorted,] is different.[33] since in one respect it also involves kareth.[38] And the Rabbis?[39] They infer it[40] from the halal[41] who is the offspring of a union between those who through it, are guilty of transgressing a positive commandment;[42] and in accordance with the view of R. Eliezer b. Jacob.[43] Then what is meant by, NOT SO?[44] — It is this that he said to them: As far as I am concerned, I do not accept the view of R. Eliezer b. Jacob;[45] but according to you, since your view is that of R. Eliezer b. Jacob,[46] [my reply is that] IT IS AN HALACHAH THAT I AM REPORTING.[47]

It was taught: R. Simeon said to them,[48] 'I am reporting an halachah and, moreover, a Scriptural text supports my view, [it having been written] sons[49] but not daughters'.

Our Rabbis taught: Sons,[49] but not daughters; so R. Simeon. R. Judah, however, said: Behold it is said in Scripture. The sons of the third generation that are born unto them;[50] Scripture has made them dependent on birth.[51]

R. Johanan said: Had not R. Judah declared, 'Scripture made them dependent on birth',[52] he would not have found his hands and feet at the house of study.[53] For as a Master said that a congregation of proselytes is also called an assembly.[54]

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(1) I.e., from this statement it is deduced what was R. Johanan's view.

(2) Lev. XXI, 14.

(3) Or 'a proselyte of her own status' (Jast.). who was a proselyte from her birth, i.e., when her father and mother were converted after their marriage and before her birth. Where an Ammonite proselyte marries the daughter of an Israelite, the offspring of such a union is not fundamentally a proselyte and is ineligible to marry a priest since the union was a forbidden one.

(4) This is explained presently

(5) Thus it is proved (v. supra n. 4) that, in the opinion of R. Johanan, such a case is eligible.

(6) R. Johanan to R. Zakkai.

(7) From the daughter of an Israelite who married an Ammonite proselyte.

(8) I.e., whose father is the Ammonite proselyte, a descendant of a people whose males are forbidden and whose females are permitted.

(9) According to this version, unlike the former where it was arrived at by inference. R. Johanan's view is explicitly stated.

(10) Since the case of the Ammonite only was mentioned. (Cf. supra n. 2).

(11) Who married the daughter of an Israelite and thus contracted a forbidden union.

(12) While the Egyptian females, like the man, are forbidden for three generations.

(13) His daughter is permitted since she belongs to the third generation, although she also belongs to the Egyptian people whose males and females are equally forbidden. As this latter restriction is no bar in this case it should form no bar in the case of an Egyptian of the second generation who married the daughter of an Israelite.

(14) His daughter is eligible though his marriage constitutes a transgression.

(15) Continued as supra 77a.

(16) The ruling permitting the daughter of an Ammonite proselyte who married the daughter of an Israelite.

(17) R. Joseph, as a result of a serious illness, lost his memory and only dimly recollected some of the rulings and expositions of his teachers.

(18) R. Zakkai. V. supra.

(19) R. Johanan's.

(20) This is explained presently.

(21) Deut. XXIII, 4.

(22) Who were converted prior to the birth of their daughter.

(23) Who, as stated in the first clause, is eligible!

(24) The daughter being ineligible because of the forbidden marriage of her parents.

(25) In such a case also the daughter is eligible as deduced supra from the expression, Of his people (Lev. XXI. 14) instead of 'his people'.

(26) That can be advanced, according to the Rabbis, against R. Simeon's argument in our Mishnah.

(27) That R. Simeon's argument is untenable.

(28) Both in the ascending and the descending line.

(29) Similarly in the case of the Egyptian and the Edomite.

(30) I.e., it is more restricted than that of marriage with an Egyptian etc.

(31) Since they are subject to the one restriction (kareth) they are also subject to the other (equal prohibition of males

and females). The case of the Egyptian and the Edomite, however, which does not involve kareth might not include the females either!

(32) Cohabitation with whom is not subject to the penalty of kareth, and both males and females are nevertheless equally subject to the prohibition.

(33) I.e., it is more restricted than that of marriage with an Egyptian etc.

(34) As he is subject to this restriction he is also subject to the other (cf. supra n. 1).

(35) Who are only forbidden to intermarry with each other, but are severally permitted to all the other members of the congregation.

(36) Should objection be raised against the case of the forbidden relatives, that of the bastard could be adduced as proof; and should objection be raised against that of the bastard, that of the forbidden relatives might be adduced as proof.

(37) This then, is the objection which the Rabbis could raise against R. Simeon's a minori argument.

(38) Even in the case of the bastard, kareth is involved as the penalty of his parents for the action which was the origin of his birth. In the case of the Egyptian and Edomite, however, there is no aspect whatsoever involving this penalty. The latter, therefore, cannot be deduced from the others.

(39) How could they still maintain their objection against R. Simeon's argument.

(40) The prohibition of the females.

(41) And not, as has previously been assumed, from the bastard.

(42) When, e.g., a High Priest married a seduced woman (cf. supra 60a) who is forbidden to him by virtue of the positive precept of Lev. XXI. 13.

(43) Who, contrary to the view of the Sages, regards such a child as halal (supra 59b and 60a). Thus it has been proved that even where no kareth is involved, both males and females (the halalah like the halal) are included in the prohibition. Similarly in the case of the Egyptians and the Edomites.

(44) The objection of the Rabbis is strong enough!

(45) Cf. supra p. 523. n. 13. ab. init., R. Simeon being of the opinion that the offspring of a union between those who are thereby guilty of transgressing a positive precept only is not regarded as a halal.

(46) And consequently you might derive the prohibition of the females from the law of the halal.

(47) And an objection is of no validity in the face of a definite tradition.

(48) The Rabbis of our Mishnah.

(49) בנים Deut. XXIII, 9.

(50) Ibid. emphasis on are born.

(51) Irrespective of sex. Had the law applied to males only the clause 'that are born etc,' should have been omitted.

(52) I.e., that the females also are forbidden.

(53) His position would have been untenable.

(54) The assembly of the Lord (cf. Deut. XXIII, 2, 3, 4, 9. and Kid. 73a.).

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how[1] could an Egyptian of the second generation ever attain purity![2] But is not this possible when he transgressed and did marry one?[3] — Scripture[4] would not have written of a case of 'when'.[5] Behold the case of the bastard which is one of 'when'[6] and yet Scripture did write it![7] — It wrote of a 'when' [leading] to a prohibition;[8] it would not have written of a 'when' [if it led] to permissibility.[9] Behold the case of the man who remarried his divorced wife,[10] which involves a 'when' [leading] to a permitted act[11] and yet did Scripture write of it! — In that case it was written mainly for the purpose of the original prohibition.[12]

Our Rabbis taught: If the expression of sons[13] was used, why was also that of generations[13] used; and if that of generations was used, why also that of sons?[14] If the expression of 'sons' had been used and not that of 'generations'[15] it might have been assumed that only the first and second son is forbidden but that the third[16] is permitted, the expression of 'generations'[17] was, therefore, used. And had the expression of 'generations' only been used and not that of sons,[18] it might have been assumed that the precept was given only to those who stood at Mount Sinai,[19] the expression of sons' was therefore used.[20] Unto them,[21] Count from them.[22] Unto them.[23] Be guided by the status

of the ineligible among them.[24]

It was necessary [for Scripture] to write unto them,[25] and it was also necessary for it to write, That are born.[25] For had the All Merciful written only. 'That are born', it might have been presumed that the counting must begin from their children,[26] hence did the All Merciful write 'Unto them'.[27] And had the All Merciful written only 'Unto them',[28] it might have been presumed that, where a pregnant Egyptian woman became a proselyte, she and her child are regarded as one generation. hence did the All Merciful write. 'That are born'.[29]

It was, furthermore. necessary to write unto them[28] in this case,[30] and Unto him[31] in respect of the bastard. For had the All Merciful used the expression here only,[30] [the restriction[32] might have been assumed to apply to this case only], because the child descended from a tainted origin.[33] but not to a bastard, since he is descended from an untainted origin.[34] And had the All Merciful written the expression in respect of the bastard, [the restriction[32] might have been presumed to apply to him only]. because he is for all time unfit to enter into the assembly, but not in this case.[35] [Both texts were, therefore,] required.

Rabbah b. Bar Hana stated in the name of R. Johanan: If an Egyptian of the second generation married an Egyptian woman of the first generation, her son is [regarded as belonging to the] third generation. From this it is obvious that he[36] is of the opinion that the child is ascribed to him.[37]

R. Joseph raised an objection: R. Tarfon said, 'Bastards may attain to purity. How? If a bastard married a female slave, their child is a slave. When, however, he[38] is emancipated he becomes a free man'.[39] This[40] clearly proves that the child is ascribed to her! — There it is different, because Scripture said, The wife and her children shall be her master's.[41]

Raba raised an objection: R. Judah related, 'Menjamin, an Egyptian proselyte. was one of my colleagues among the disciples of R. Akiba, and he once told me: I am an Egyptian of the first generation and married an Egyptian wife of the first generation; and I shall arrange for my son to marry an Egyptian wife of the second generation in order that my grandson shall be eligible to enter the congregation'.[42] Now, if it could be assumed that the child is ascribed to his father, [he could have married a wife] even of the first generation![43] — The fact is that[44] R. Johanan said to the Tanna:[45] Read, '[a woman of the] first generation'.

When R. Dimi came[46] he stated in the name of R. Johanan: If an Egyptian of the second generation married an Egyptian wife of the first generation. her son is [regarded as belonging to the] second generation. From this it is obvious that a child is ascribed to his mother.

Said Abaye to him: What then of the following statement of R. Johanan. 'If a man set aside a pregnant beast as a sin-offering and it then gave birth, his atonement may be made, if he desires, with the beast itself, and, if he prefers, his atonement may be made with her young'.[47] This law would be intelligible if you admit that an embryo is not regarded as a part[48] of its mother, since this case would be similar to that of one who set aside as a security two sin-offerings,[49] in respect of which R. Oshaia had stated that a man who set aside two sin-offerings as a security[49] is to be atoned for with either of them, while the other goes to the pasture.[50] If you maintain, however, that an embryo is a part[51] of its mother, the former is like the young of a sin-offering,[52] and the young of a sin-offering is sent to die![53] The other remained silent. 'Is it not possible', the first said to him, 'that there[54] it is different.[55] since it is written That are born,[56] Scripture made it dependent on birth'?[57] — 'Clever man',[58] the other replied, 'I saw your chief[59] between the pillars[60] when R. Johanan gave the following traditional ruling: The reason[61] here is because it was written, That are born;[56] elsewhere, however, the child is ascribed to the father'.[62]

What, however, of the following statement of Raba. 'If a pregnant gentile woman was converted, there is no need for her son to perform ritual immersion'.[63] Why[64] is there no need for him to perform immersion? Should you reply that it[65] is due to a ruling of R. Isaac; for R. Isaac stated: Pentateuchally [a covering of] the greater part,[66] if one objects to it,[67] constitutes legally an interposition,[68] and if one does not object to,[69] no legal interposition is constituted;[70]

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(1) If Egyptian women were not included in the prohibition to enter the assembly.

(2) Entry into the assembly. Egyptian women proselytes being regarded, like Israelites, as an assembly (v. supra n. 12), no Egyptian male proselyte of the first or second generations would ever be permitted to marry them. How then, since he can marry neither a woman of Israel nor a proselyte of his own people, would he ever produce a third generation (v. Deut. XXIII, 9) that would be fit to enter the assembly?

(3) A woman in Israel or an Egyptian woman proselyte.

(4) In permitting the third generation (v. Deut. XXIII, 9).

(5) I.e., of a possibility that a person might transgress and thus produce a generation that will be fit.

(6) The assumption of a bastard's birth is dependent on the possibility that someone will commit an offence.

(7) Ibid. 3.

(8) The case of the bastard was stated in order to forbid his entry into the assembly.

(9) The third generation may enter (ibid.).

(10) After she had been married to another man (v. Deut. XXIV, 1ff).

(11) The children of such a marriage, as deduced from Deut. XXIV, 4, are eligible. (Kid. 77a and supra 11b).

(12) The ineligibility of the woman herself. The eligibility of her children is only indirectly arrived at by a deduction.

(13) Cf. Deut. XXIII, 9: The sons (E.V., children) that are born . . . the third generation.

(14) Either the one expression or the other should have been used throughout the context.

(15) The text reading the 'third son' instead of third generation.

(16) Though the son of a proselyte of the first generation.

(17) Indicating all the sons of the same generation.

(18) Reading 'generations that are born'.

(19) And that Egyptians born three generations later than the date of the promulgation of the Law shall no more be subject to its restrictions.

(20) Indicating respectively individual sons in all subsequent generations.

(21) לָהֶם Deut. XXIII, 9.

(22) From the generation of the proselyte. He represents the first generation; his son, the second; and his grandson, being of the third, is permitted to enter the congregation.

(23) A second לָהֶם (v. p. 527. n. 18) not translated in E.V.

(24) Whether the father is an Egyptian proselyte and the mother is of Israel, or whether the mother is an Egyptian and the father is an Israelite. the children are in either case ineligible until the third generation.

(25) Deut. XXIII. 9.

(26) The proselytes themselves not being counted at all in the generations.

(27) To indicate that the proselytes themselves are regarded as the first generation.

(28) Deut. XXIII, 9.

(29) That birth constitutes a new generation:

(30) In respect of the Egyptian.

(31) Ibid. 3.

(32) That the ineligibility of any one of the parents causes the ineligibility of the child. Cf. supra note 2.

(33) Lit., 'drop'. One of his parents at least was ineligible.

(34) His father and mother may have been proper Israelites.

(35) Since an Egyptian is permitted after the third generation.

(36) R. Johanan.

(37) Had he been ascribed to her he should have been regarded as belonging to the second generation.

(38) The child.

(39) V. Kid. 69a.

(40) Since the child, prior to emancipation, is regarded as a slave.

(41) Ex. XXI, 4, indicating that in this particular case, (that of the children of a female slave), the children are ascribed to their mother. This is no proof, however, that in other cases also children are to be ascribed to their mother.
(42) Tosef. Kid. V; Sotah 9a; supra 76b.
(43) And the child would have been eligible by virtue of his father.
(44) Lit., 'surely'.
(45) Who recited the Baraitha mentioned.
(46) From Palestine to Babylon.
(47) Tem. 25a.
(48) Lit., 'thigh'.
(49) In case one should be lost, the other would take its place.
(50) Until it contracts a blemish, when it is redeemed. As the young and its mother spoken of in R. Johanan's statement are regarded as separate beasts, they also would be subject to the same law, and atonement may be made by either.
(51) Lit., 'thigh'.
(52) Which was without child at the time of its dedication.
(53) How', then, could R. Johanan state that atonement may be made with either?
(54) The ruling about the ascription of the Egyptian child to its mother, reported in the name of R. Johanan.
(55) From other cases. While elsewhere the child may be ascribed to its father, in the case spoken of by R. Johanan it is ascribed to the mother.
(56) Deut. XXIII, 9.
(57) I.e., on its mother.
(58) קרקפנא (adj. of קרקף or קרקפא 'head') 'mann von Kopf'. 'Geistreicher' v. Levy.
(59) Rabbah who was Abayeer's teacher (v. Tosaf. s.v. חזיתיה a.l., and cf. Tosaf. 'Er. 22b, s.v. קרקפנא).
(60) Of the college.
(61) Why the children are ascribed to the mother.
(62) The suggestion was consequently not the result of Abaye's own ingenuity but a mere repetition of what he heard from his Master, Rabbah.
(63) Which forms a part of the conversion ceremonial. The immersion that had been performed by his mother exempts him also.
(64) If the child is elsewhere not regarded as part of its mother.
(65) The exemption of the child from the immersion.
(66) Of a hair (v. Rashi, Suk. 6b); that prevents it from coming in direct contact with the water.
(67) To the object or substance that causes the interposition.
(68) And invalidates the immersion.
(69) The presence of the interposition, when, e.g., it is necessary for it to remain there.
(70) 'Er. 4b, Nid. 67b. As the embryo must necessarily remain within its mother's body during the period of conception, it cannot possibly object, so to speak, to its mother's interposition.

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surely [it may be retorted] R. Kahana stated: This applies only in respect of its greater part, but when the whole of it is effected a legal interposition is constituted![1] — The case of the embryo is different since its position[2] is that of its natural growth.[3]

When Rabina[4] came, he stated in the name of R. Johanan: Among the other nations follow the male.[5] If they are converted[6] follow the more tainted of the two.[7]

'Among the other nations follow the male, as it was taught: Whence is it deduced that if one of the other nations[8] cohabited with a Canaanitish[9] woman and begat a son, that son may be purchased as a slave?[10] It is said, Moreover of the children of the strangers[11] that do sojourn among you, of them may ye buy.[12] As it might have been assumed that even if one of the Canaanites[9] had cohabited with one of the women of the other [gentile] nations[8] and begat a son, you may buy that son as a slave, it was explicitly stated, That they have begotten in your land;[12] only from those who were begotten[13]

in your land, but not from those who dwell in your land.[14]

'If they are converted, follow the more tainted of the two'. In what case? If it be suggested that it refers to an Egyptian[15] who married an Ammonitess,[16] how could the expression 'the more tainted of the two', be applicable when Scripture explicitly said, An Ammonite,'[17] but not an Ammonitess?[18] — Rather, the reference is to an Ammonite[19] who married an Egyptian wife.[20] If [the child of such a marriage] is a male, he is ascribed to the Ammonite;[21] if it is a female, she is ascribed to the Egyptian.[22]

MISHNAH. BASTARDS AND NETHINIM[23] ARE INELIGIBLE,[24] AND THEIR INELIGIBILITY IS FOR ALL TIME, WHETHER THEY BE MALES OR FEMALES.

GEMARA. Resh Lakish said: A woman bastard is eligible[25] after ten generations. This is derived from an analogy between tenth,[26] and tenth[27] mentioned in respect of the Ammonite and the Moabite; as in the latter case the females are permitted[27] so are they permitted in the former case.[28] Should you suggest that as in the latter case eligibility begins forthwith so it does in the former case, [it may be replied] that the analogy can only be effective in respect of the generations after the tenth.[29] But, surely, we learned, BASTARDS AND NETHINIM ARE INELIGIBLE, AND THEIR INELIGIBILITY IS FOR ALL TIME, WHETHER THEY BE MALES OR FEMALES![30] — This is no difficulty: One statement[31] is in agreement with him who holds[32] that a deduction is carried through in all respects,[33] while the other[34] is in agreement with him who maintains[32] that a deduction is restricted by its original basis.[35]

R. Eliezer was asked: What [is the legal position[36] of] a female bastard after ten generations? 'Were anyone to present to me', he replied, 'a third generation. I would declare it pure!' He is obviously of the opinion [that the stock of] a bastard does not survive.[37] So also did R. Huna state: A bastard's stock does not survive. Did we not learn, however, BASTARDS ARE INELIGIBLE, AND THEIR INELIGIBILITY IS FOR ALL TIME? — R. Zera replied: It was explained to me by Rab Judah that those who are known[38] survive;[39] those who are not known[38] do not survive; and those who are partly known and partly unknown survive for three generations but no longer.

A certain man once lived in the neighbourhood of R. Ammi. and the latter made a public announcement that he was a bastard. As the other was bewailing the action,[40] [the Master] said to him: I have given you life.[41]

R. Hana b. Adda stated: David issued the decree of prohibition[42] against the nethinim,[43] for it is said, And the king called the Gibeonites,[44] and said unto them-now the Gibeonites were not of the children of Israel etc.[45]

Why did he issue the decree against them? — Because it is written. And there was a famine in the days of David three years. year after year.[46] In the first year he said to them, 'It is possible that there are idolaters among you, for it is written, And serve other gods, and worship them . . . and he will shut up the heaven, so that there shall be no rain etc.'[47] They instituted enquiries but could not discover any idolaters. In the second year he said to them, 'There may be transgressors among you, for it is written, Therefore the showers have been withheld and there hath been no latter rain; yet thou hadst a harlot's forehead etc.'[48] Enquiries were made but none was found. In the third year he said to them, 'There might be among you men who announce specified sums for charity in public but do not give them, as it is written, As vapours and wind without rain, so is he that boasteth himself of a false gift'.[49] Enquiries were made and none was found. 'The matter', he concluded, 'depends entirely upon me; Immediately, he sought the face of the Lord.[46] What does this mean? — Resh Lakish explained: He enquired of the Urim and Tummim.[50] How is this inferred? R. Eleazar replied: It is arrived at by an analogy between two occurrences of the expression of 'countenance of'; for

here it is written, And David sought the countenance of the Lord,[46] and elsewhere it is written, Who shall enquire for him by the judgment of the Urim before the countenance of the Lord.[51] And the Lord said: 'It is for Saul and his bloody house, because he put to death the Gibeonites'.[52] 'For Saul', because he was not mourned for in a proper manner; 'and his bloody house, because he put to death the Gibeonites'. Where, however, do we find that Saul 'put to death the Gibeonites'! The truth is that, as he killed the inhabitants of Nob, the city of the priests who were supplying them[53] with water and food, Scripture regards it as if he himself had killed them.

Justice is demanded for Saul because he was not properly mourned for, and justice is demanded because he put to death the Gibeonites?[54] — Yes; for Resh Lakish stated: What is meant by the Scriptural text, Seek ye the Lord, all ye humble of the earth, that have executed His ordinance?[55] Where there is his ordinance,[56] there are also his executions.[57]

David said: As to Saul, there have already elapsed

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(1) Even if the person does not mind the interposition. In the case of the embryo, surely, all its body remains untouched by the water. Why, then, should the child be exempt from the immersion!

(2) In utero, during pregnancy.

(3) The mother's body is inseparable from it and cannot, therefore, be regarded as an interposition.

(4) [Read R. Abin, v. Kid 67a].

(5) The child is ascribed to its father; though the mother may belong to a different gentile nation. V. infra.

(6) To Judaism.

(7) V. infra.

(8) Other than the seven enumerated in Deut. VII, 1.

(9) General designation of the seven nations, (v. supra n. 11) the males of which were to be exterminated (ibid. XX, 16).

(10) And, being ascribed to his father, is not subject to the law of extermination. V. supra n. 12.

(11) I.e., not of the seven nations who were the inhabitants of Canaan (v. supra n. 12).

(12) Lev. XXV, 45.

(13) I.e., whose mother that bore him, not his father, was a native of the land of Canaan.

(14) Whose father belonged to one of the seven nations of Canaan (v. supra n. 22). Thus it has been shewn that among the gentile nations also the child is ascribed to its father.

(15) Who until the third generation is ineligible to enter the congregation.

(16) Who is eligible immediately after conversion.

(17) Deut. XXIII. 4.

(18) She is not tainted at all!

(19) Who is ineligible for all time. (Ibid.).

(20) Eligible only after three generations.

(21) His father, and is consequently forbidden for all time to enter the congregation. Had he been ascribed to his mother he would have been eligible after the third generation.

(22) Her mother (cf. supra n. 6). Had she been ascribed to her father she would have been eligible forthwith (cf. supra n. 4).

(23) Pl. of nathin, v. Glos.

(24) To marry the daughter of an Israelite.

(25) To enter the congregation (cf. Deut. XXIII, 3), i.e., to marry an Israelite.

(26) In respect of the bastard (ibid.).

(27) V. supra 69a.

(28) [Rashi gives the fuller version. The Sifre: Just as 'tenth' stated with an Ammonite means for ever' (v. Deut. XXIII, 4). so does 'tenth' stated with mamzer mean 'for ever'. Consequently. as in the former. males (are forbidden) and not females, so in the latter].

(29) Since in the case of the bastard the prohibition of the first ten generations was explicitly stated and includes, as the term mamzer connotes (v. supra 76b), both men and women, whereas the prohibition after ten generations in the case of bastards is not stated explicitly but derived on the basis of analogy from an Ammonite, in respect of whom 'for ever' is

explicitly stated. V. p. 532, n. 14.
(30) How, then, could Resh Lakish maintain that the bastard is permitted after the tenth generation?
(31) The statement of Resh Lakish.
(32) V. Hul. 120b.
(33) Lit., 'judge from it and from it', i.e., all that applies to the case from which deduction is made is also applicable to the case deduced. As the case of the bastard is deduced from that of the Ammonite in one respect, it must also agree with it in all other respects, including eligibility of the females after the tenth generation, as Resh Lakish ruled. It is only in respect of the first ten generations which are explicitly forbidden in Scripture that deduction could not be made (cf. supra p. 532, n. 15).
(34) The ruling in our Mishnah.
(35) Lit., 'judge from it and set it in its (original) place', i.e., the rules of the case deduced limit the scope of the deduction. Though the case of the bastard is deduced from that of the Ammonite in respect of forbidding the former, like the latter, for all time, the exclusion of the females, though applicable to the latter, does not apply to the former, and female bastards (cf. supra p. 532, n. 15) remain, therefore, forbidden for all time.
(36) As regards entry into the congregation.
(37) A third generation would never come into existence.
(38) As bastards.
(39) There being no danger of intermarriage with them or their descendants.
(40) Lit., 'and wept'.
(41) Cf. supra. text and p. 533, nn. 9 and 10.
(42) To enter the assembly.
(43) Pl. of nathin. V. Glos.
(44) I.e., nethinim. Cf. supra n. 4.
(45) II Sam. XXI, 2, the last six words implying that they were excluded from the congregation.
(46) Ibid. 1.
(47) Deut. XI. 16f.
(48) Jer. III, 3.
(49) Prov. XXV, 14.
(50) V. Glos.
(51) Num. XXVII. 21.
(52) II Sam. XXI, 1.
(53) The Gibeonites who, as hewers of wood and drawers of water for the altar (v. Josh. IX, 23, 27), were maintained by the priests.
(54) A simultaneous claim in his favour and against him!
(55) Zeph. II, 3. משפטו בעלו.
(56) משפטו lit., 'his judgment', for Saul's guilt.
(57) Read פעלו his work, sc. Saul's good deeds.

Talmud - Mas. Yevamoth 79a

the twelve months of the [first] year[1] and it would be unusual to arrange for his mourning now. As to the nethinim,[2] however, let them be summoned and we shall pacify them. Immediately[3] the king called the Gibeonites, and said unto them . . . 'What shall I do for you? and wherewith should I make atonement, that ye may bless the inheritance of the Lord'? And the Gibeonites said to him: 'It is no matter of silver or gold between us and Saul, or his house,' neither is it for us [to put] any man etc. . . . Let seven men of his sons be delivered unto us and we will hang them up unto the Lord etc.'[4] . He tried to pacify them but they would not be pacified. Thereupon he said to them: This nation[5] is distinguished by three characteristics: They are merciful, bashful and benevolent. 'Merciful', for is is written, And shew thee mercy, and have compassion upon thee, and multiply thee.[6] 'Bashful', for it is written, That His fear may be before you.[7] 'Benevolent', for it is written, That he may command his children and his household etc.[8] Only he who cultivates these three characteristics is fit to join this nation.[9]

But the king took the two sons of Rizpah the daughter of Aiah, whom she bore into Saul, Armoni and Mephibosheth; and the five sons of Michal the daughter of Saul, whom she bore to Adriel the son of Barzillai the Meholathite.[10] Why just these? — R. Huna replied: They[11] were made to pass before the Holy Ark. He whom the Ark retained [was condemned] to death and he whom the Ark did not retain was saved alive.

R. Hana b. Kattina raised an objection: But the king spared Mephibosheth, the son of Jonathan the son of Saul![12] — He did not allow him to pass.[13] Was there favouritism then! — In fact he did let him pass and it retained him, but he invoked on his behalf divine mercy and it released him. But here, too, favouritism is involved![14] — The fact, however, is that he invoked divine mercy that the Ark should not retain him. But, surely, it is written, The fathers shall not be pit to death for the children etc.![15] — R. Hiyya b. Abba replied in the name of R. Johanan: It is better that a letter be rooted out of the Torah than that the Divine name shall be publicly profaned.[16]

And Rizpah the daughter of Aiah took sackcloth, and spread it for her upon the rock, from the beginning of harvest until water was poured upon them from heaven; and she suffered neither the birds of the air to rest on then by day, nor the beast of the field by night.[17] But, surely, it is written, His body shall not remain all night upon the tree![18] — R. Johanan replied in the name of R. Simeon b. Jehozadak: It is proper that a letter be rooted out of the Torah so that thereby the heavenly name shall be publicly hallowed. For passers-by were enquiring, 'What kind of men are these?' — 'These are royal princes' — 'And what have they done?' — 'They laid their hands upon unattached[19] strangers' — Then they exclaimed: 'There is no nation in existence which one ought to join as much as this one. If [the punishment of] royal princes was so great. how much more that of common people; and if such [was the justice done for] unattached proselytes, how much more so for Israelites

A hundred and fifty thousand men immediately joined Israel; as it is said, And Solomon had threescore and ten thousand that bore burdens, and fourscore thousand that were hewers in the mountain.[20] Might not these have been Israelites? — This cannot be assumed, for it is written, But of the children of Israel did Solomon make no bondservants.[21] But that[22] might have represented mere public service![23] — [The deduction,] however, [is made] from the following: And Solomon numbered all the strangers that were in the Land of Israel, etc. And they were found a hundred and fifty thousand etc. And he set threescore and ten thousand of them to bear burdens, and fourscore thousand to be hewers in the mountains.[24]

Was it David, however, who issued the decree of prohibition against the nethinim? Moses, surely, issued that decree, for it is written, from the hewer of thy wood to the drawer of thy water![25] — Moses issued a decree against that generation only[26] while David issued a decree against all generations.

But Joshua, in fact, issued the decree against them, for it is written, And Joshua made them that day hewers of wood and drawers of water for the congregation, and for the altar of the Lord![27] — Joshua made his decree for the period during which the Sanctuary was in existence[28] while David made his decree for the time during which the Sanctuary was not in existence.

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(1) Of mourning. A year is regarded as the maximum period for mourning after the dead. Cf. M.K. 21b.

(2) Pl. of nathin. V. Glos.

(3) V. Bah.

(4) II Sam. XXI, 2-4, 6.

(5) Israel.

(6) Deut. XIII, 18.

(7) Ex. XX, 17.

(8) To be benevolent, לעשות צדקה lit. 'to practise charity' (E.V. righteousness) Gen. XVIII. 19.
(9) Israel. As the Gibeonites displayed a spirit of revenge and vindictiveness they were excluded from, and forbidden even to enter, the assembly of Israel.
(10) II Sam. XXI, 8.
(11) All the surviving descendants of Saul.
(12) Ibid. 7. Had the selection been made by the Ark, what need was there for David to spare him?
(13) To avoid the risk of being retained.
(14) If he who was retained was released another would have to die in his place!
(15) Neither shall the children be put to death for the fathers (Deut. XXIV, 16). Why then were Saul's descendants made to suffer for the sin of Saul?
(16) Which would have been the case had the crime against the Gibeonites been allowed to go unpunished.
(17) II Sam. XXI, 10.
(18) Deut. XXI, 23.
(19) גרורים lit., 'dragged in'; proselytes who have not been admitted into the congregation, [or, 'self-made proselytes', a class of converts who Judaize in mass under the impulsion of fear. V. Moore, G. F. Judaism I, 337].
(20) I Kings V, 29.
(21) Ibid. IX. 22.
(22) The labour spoken of in I Kings V, 29.
(23) Not the labour of slaves. דוגזר perhaps a corruption of the Persian רוזגר 'day labourer'. Cf. Golds. a.l. and Jast. s.v. רונגר.
(24) II Chron. II, 16f.
(25) Deut. XXIX, 10. Since these were specially singled out they obviously did not form a part of the congregation of Israel, while their services were exactly those which were peculiar to the nethinim or the Gibeonites.
(26) Of his own time.
(27) Josh. IX, 27.
(28) As it was specifically stated, For the altar (ibid.).

Talmud - Mas. Yevamoth 79b

In the days of Rabbi there was a desire to permit the nethinim.[1] Said Rabbi to them, 'We could very well surrender our portion; who could surrender the portion of the altar?'[2] He[3] is thus in disagreement with R. Hiyya b. Abba. For R. Hiyya b. Abba stated in the name of R. Johanan: The portion of the congregation is forbidden for ever,[4] and the portion of the altar is forbidden only when the Sanctuary is in existence, but when the Sanctuary is not in existence it is permitted.

MISHNAH. R. JOSHUA STATED: I HAVE HEARD[5] THAT A SARIS[6] SUBMITS TO HALIZAH[6] AND THAT HALIZAH IS ARRANGED FOR HIS WIFE, AND ALSO THAT A SARIS[6] DOES NOT SUBMIT TO HALIZAH AND THAT NO HALIZAH IS TO BE ARRANGED FOR HIS WIFE, AND I AM UNABLE TO EXPLAIN THIS.[7] R. AKIBA SAID, I WILL EXPLAIN IT: A MAN-MADE SARIS[8] SUBMITS TO HALIZAH AND HALIZAH IS ALSO ARRANGED FOR HIS WIFE, BECAUSE THERE WAS A TIME WHEN HE WAS IN A STATE OF FITNESS. A SARIS BY NATURE[9] NEITHER SUBMITS TO HALIZAH NOR IS HALIZAH ARRANGED FOR HIS WIFE, SINCE THERE NEVER WAS A TIME WHEN HE WAS FIT. R. ELIEZER SAID: NOT SO, BUT A SARIS BY NATURE[9] SUBMITS TO HALIZAH AND HALIZAH IS ALSO ARRANGED FOR HIS WIFE, BECAUSE HE MAY BE CURED. A MAN-MADE SARIS[10] NEITHER SUBMITS TO HALIZAH NOR IS HALIZAH ARRANGED FOR HIS WIFE, SINCE HE CANNOT BE CURED. R. JOSHUA B. BATHYRA TESTIFIED CONCERNING BEN MEGOSATH, WHO WAS A MAN-MADE SARIS LIVING IN JERUSALEM. THAT HIS WIFE WAS ALLOWED TO BE MARRIED BY THE LEVIR, THUS CONFIRMING THE OPINION OF R. AKIBA.

THE SARIS NEITHER SUBMITS TO HALIZAH NOR CONTRACTS THE LEVIRATE

MARRIAGE, AND SO ALSO A WOMAN WHO IS INCAPABLE OF PROCREATION MUST NEITHER PERFORM HALIZAH NOR BE TAKEN IN LEVIRATE MARRIAGE.

IF A SARIS SUBMITTED TO HALIZAH FROM HIS SISTER-IN-LAW, HE DOES NOT THEREBY CAUSE HER TO BE DISQUALIFIED.[10] IF, HOWEVER, HE COHABITED WITH HER HE CAUSES HER TO BE DISQUALIFIED.[11] SINCE HIS ACT IS SHEER PROSTITUTION.[12] SIMILARLY, WHERE BROTHERS SUBMITTED TO HALIZAH FROM A WOMAN INCAPABLE OF PROCREATION, THEY DO NOT THEREBY CAUSE HER TO BE DISQUALIFIED.[11] IF, HOWEVER, THEY COHABITED WITH HER, THEY CAUSE HER TO BE DISQUALIFIED.[11] SINCE COHABITATION WITH HER IS AN ACT OF PROSTITUTION.[13]

GEMARA. Observe! R. Akiba was heard to state that 'Those who are subject to the penalty of negative precepts[14] are on a par with those who are subject to the penalties of kareth';[15] but those who are subject to the penalty of kareth are not eligible for halizah or levirate marriage![16] — R. Ammi replied: 'What we are dealing with here is with a case, for instance, where his brother[17] had married a proselyte; and R. Akiba is of the same opinion as R. Jose, who stated that an assembly of proselytes is not regarded as an assembly.'[18] If so,[19] he should also be permitted to contract levirate marriage![20] — The law is so indeed; only because R. Joshua used the expression 'SUBMITS TO HALIZAH'[21] he [R. Akiba] also used the expression 'SUBMITS TO HALIZAH'. This[22] may also be proved by inference; for it was stated, R. JOSHUA B. BATHYRA TESTIFIED CONCERNING BEN MEGOSATH, WHO WAS A MAN-MADE SARIS LIVING IN JERUSALEM, THAT HIS WIFE WAS ALLOWED TO BE MARRIED BY THE LEVIR,[23] THUS CONFIRMING THE OPINION OF R. AKIBA. This proves it.[22]

Rabbah raised an objection: He who is wounded in the stones or has his privy member cut off, a man-made saris, and an old man, may either participate in halizah or contract levirate marriage. How?[24] If these died[25] and were survived by wives and brothers, and those brothers addressed a ma'amar to the wives, or gave them letters of divorce, or participated with them in halizah, their actions are legally valid;[26] if they cohabited with them, the widows become their lawful wives.[27] If the brothers died and they[28] addressed a ma'amar to their[29] wives, or gave them divorce, or participated with them in halizah, their actions are valid;[30] and if they cohabited with them the widows become their lawful wives, but they[31] may not retain them, because it is said in Scripture. He that is wounded in the stones or hath his privy member cut off shall not enter into the assembly of the Lord.[32] This clearly proves that we are dealing[33] with members of the assembly![34] — The fact is, said Rabbah, that this[35] is a case where the widow became subject to him[36] first and he was subsequently maimed.[37] Said Abaye to him: Let the prohibition against the maimed man override the positive precept of the levirate marriage! Did we not learn [of a similar case]: R. Gamaliel said, If she[38] made a declaration of refusal[39] well and good;[40] and if not, let [the elder sister] wait until the minor grows up and she will then be exempt as his wife's sister.[41] Thus it follows that the prohibition against a wife's sister has the force of overriding [that of the levirate marriage]; here also, then, let the prohibition against the maimed man have the force of overriding it! — But, said R. Joseph. this Tanna[42] represents the view of the Tanna of the school of R. Akiba, who maintains that [the issue] of a union which is subject to the penalty of negative precepts owing to consanguinity[43] is regarded as a bastard, but [the issue] of a union that is merely subject to the penalty of negative precepts is not a bastard.[44]

The text, 'To raise up unto his brother a name'[45] should be applicable to this case[46] also, but he,[47] surely, is incapable of raising it![48] — Raba replied: If so,[49] there exists no woman who is eligible for the levirate marriage whose husband was not a saris by nature[50] for a short time, at least, prior to his death.[51]

Against R. Eliezer,[52] however, Raba's reply[53] presents a [valid] objection! — There[54] it is only a

general state of debility[55] that had set in.[56]

What are we to understand by A SARIS BY NATURE? — R. Isaac b. Joseph replied in the name of R. Johanan: Any man

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(1) To enter into the congregation.
(2) Both the congregation and the altar have shares in them (cf. Josh. ibid.).
(3) Rabbi, who forbade the portion of the altar in his time though the Sanctuary was no more in existence.
(4) Until a properly constituted authority should allow it.
(5) A tradition from his teachers.
(6) V. Glos.
(7) In what case of saris halizah is, and what case it is not applicable.
(8) סרים אדם lit., a 'eunuch of man', one whose emasculation was the result of human action. (Cf. infra n. 12).
(9) סרים חמה lit., a 'eunuch of the sun', one who was a eunuch from the time he first saw the sun, i.e., a congenital eunuch.
(10) V. p. 538, n. 10.
(11) To marry a priest.
(12) The woman being forbidden to him as 'his brother's wife'.
(13) Cf. supra n. 3.
(14) A man-made saris is one of these, since cohabitation with him is forbidden by a negative precept in Deut. XXIII, 2.
(15) V. supra 49a.
(16) How then could R. Akiba maintain in our Mishnah that A MAN-MADE SARIS SUBMITS TO HALIZAH.
(17) The deceased brother of the saris.
(18) A proselyte, not being included in the term assembly (v. Deut. XXIII. 2) she is permitted to the saris. Hence he submits to her halizah.
(19) V. supra n. 1.
(20) Why then was only halizah mentioned?
(21) According to R. Joshua, who regards an assembly of proselytes as a congregation, marriage is in fact forbidden. Only halizah is permitted because in his opinion it is applicable in the case of those a union between whom is subject to the penalty of a negative precept.
(22) That according to R. Akiba even the levirate marriage is permitted.
(23) Levirate marriage. V. supra n. 5.
(24) I.e., in what connection is this law applicable?
(25) Without issue.
(26) Lit., 'what they did they have done'; after their ma'amar, a divorce is required; after their divorce, no marriage may take place; and their halizah is valid.
(27) Lit., 'they acquired'.
(28) The maimed mentioned or the old man.
(29) Brothers'.
(30) V. supra note 9.
(31) Those that are maimed. The old man is excluded. V. infra.
(32) Deut. XXIII, 2. V. Tosef. XI.
(33) In regarding the halizah and marriage with an impotent person as valid.
(34) How then could it be suggested that R. Akiba speaks of women proselytes who are not included in the term 'assembly?'
(35) R. Akiba's statement in our Mishnah.
(36) As his deceased brother's wife.
(37) Since the obligation arose while the man was still in a state of potency, halizah with him is both necessary and valid.
(38) A minor who was given away in marriage by her mother or brothers after the death of her father and whose elder sister has now become subject to the levirate marriage of her husband.
(39) Mi'un (v. Glos.). No divorce is needed in the case of such a minor's marriage.
(40) Lit., 'she refused'. Her marriage becomes null and void retrospectively, and, as she has thus never been the legal

wife of the levir, her sister (who is now no more the levir's wife's sister) may well contract with him the levirate marriage.

(41) Supra 18a, infra 109a.

(42) Who, in fact, deals with a case where the impotency had set in prior to the obligation and yet permits the halizah.

(43) Of the contracting parties.

(44) This Tanna, like the Tanna of our Mishnah, thus draws a distinction between two classes of trespass that are subject to the penalty of negative precepts: (a) cases due to consanguinity and (b) other cases. While the former are subject to the restrictions of those who are liable to kareth, the latter are not. Maimed persons belong to the latter class and are consequently subject to the levirate law. Cf. supra 49a.

(45) Deut. XXV, 7.

(46) The maimed levir.

(47) Owing to his impotency at the time of the halizah.

(48) Though at some earlier period he might have been; why then should he be subject to halizah?

(49) If his former potency is not to be taken into consideration.

(50) Approaching death deprives a person of his generating powers, and he may then be regarded virtually as a saris.

(51) The widow of such a saris should consequently be exempt from halizah (v. our Mishnah). How, then, would a widow ever be subject to halizah? It must, therefore, be admitted that a person's former capacity for propagation is taken into consideration even though that capacity was subsequently lost.

(52) Who maintains that a manmade saris does not submit to halizah, though prior to his incapacitation he was capable of propagation.

(53) Which proves the contrary of R. Eliezer's statement (cf. supra n. 6).

(54) Where the power of propagation is lost on approaching death.

(55) Which precedes death.

(56) And this cannot at all be compared with the case of an actual saris whose incapacity is due to a definite defect in his generative organs.

Talmud - Mas. Yevamoth 80a

who has not experienced a moment [of life] in a state of fitness.[1] How could this[2] be ascertained? — Abaye replied: [By observing whether] when he urinates no arch is formed. What are the causes?[3] — That the child's mother baked at noon[4] and drank strong[5] beer.

R. Joseph said: It must have been such a saris[6] of whom I heard Ammi saying. 'He who is afflicted from birth',[7] and I did not know [at the time] to whom he was referring. But should we not take into consideration the possibility that he might have recovered in the meantime![8] — Since he suffered from affliction in his early as well as in his later life, no [possible interval of recovery] need be taken into consideration

R. Mari raised an objection: R. Hanina b. Antigonos stated, 'It[9] is to be examined[10] three times in eighty days'![11] — Precautions are to be taken in respect of one limb;[12] in respect of the entire body[13] no such precautions need be taken.[14]

R. ELIEZER SAID: NOT SO etc. A contradiction may be pointed out: If at the age of twenty he[15] did not produce two hairs,[16] they[17] must bring evidence that he is twenty years of age and he, being confirmed as a saris,[18] neither submits to halizah nor performs the levirate marriage. If the woman[19] at the age of twenty did not produce two hairs,[20] they[21] must bring evidence that she is twenty years of age and she, being confirmed as a woman who is incapable of procreation neither performs halizah nor is taken in levirate marriage; so Beth Hillel. But Beth Shammai maintain that with the one as well as with the other [this takes place at] the age of eighteen. R. Eliezer said. In the case of the male, the law is in accordance with Beth Hillel and in the case Of the female, the law is in accordance with Beth Shammai because a woman matures earlier than a man![22] Rami b. Dikuli replied in the name Of Samuel: R. Eliezer changed his view.[23]

The question was raised: From which statement did he withdraw? — Come and hear what was taught: R. Eliezer said. A congenital saris[24] submits to halizah, and halizah is arranged for his wife, because cases of such a nature are cured in Alexandria in Egypt.[25]

R. Eleazar said: As a matter of fact he[26] did not change his view at all, but that statement[27] was taught in respect [of the age of] punishment.[28]

It was stated: If a person[29] between the age of twelve years and one day[30] and that of eighteen years[31] ate forbidden fat,[32] and after the marks of a saris had appeared, he grew two hairs.[33] Rab ruled that the person is deemed to be a saris retrospectively.[34] But Samuel ruled [that the person is regarded as] having been a minor at that time.[35]

R. Joseph demurred against Rab:[36] According to R. Meir,[37] a woman who is incapable of procreation[38] should be entitled to a fine![39] — Abaye replied: She passes from her minority [directly] into adolescence.[40] The other said to him: May all such fine sayings be reported in my name. For so it was taught: A saris is not tried as a stubborn and rebellious son,[41] because no stubborn and rebellious son is tried unless he bears the mark of the pubic hair.[42] Nor is a woman who is incapable of procreation tried as a betrothed damsel[43] because from her minority she passes [directly] into adolescence.[44]

R. Abbahu stated: On [the basis of] the marks of a saris, of a woman incapable of procreation, and of an eight-[month] child[45] no decision is made[46] until they attain the age of twenty.[47] Is, however, an eight-[month] child viable? Surely it was taught: An eight-month child is like a stone,[48] and it is forbidden to move him;[49] only his mother may bend over him and nurse him

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(1) I.e., who was born with defective organs.

(2) That a child was a saris from birth.

(3) Of congenital impotency.

(4) The heat of the oven combined with the heat of the day obviously affected the generative organs of the embryo.

(5) Others, ‘pale’, ‘diluted’.

(6) The congenital eunuch or ‘saris by nature’ spoken of in our Mishnah.

(7) Lit., ‘from his mother's bowels’.

(8) Between the periods of his early and present impotency. And since he was possessed of his manly powers even if only for a short time, bow could he (v. our Mishnah) be regarded as a ‘saris by nature’?

(9) The firstborn of a beast afflicted with a serious blemish which renders it unfit for the altar.

(10) To ascertain whether the blemish is a permanent one. If it was only a passing affliction it does not affect the legal fitness of the animal.

(11) At the beginning, middle and end of the period. Only where the blemish remained for the full eighty days is it regarded as permanent. If no examination was made in the middle of the period mentioned, the blemish cannot be deemed to be a permanent since it is possible that it had disappeared for some time and reappeared again V. Bek. 38b. Why, then, is the middle period disregarded in the case of the saris?

(12) The eye, for instance, which was the limb affected in the case cited.

(13) The impotency of the saris is an affliction affecting his body as a whole.

(14) It is unlikely that such a defect should appear, disappear and reappear again.

(15) A levir whose duty it is to contract levirate marriage or to submit to halizah.

(16) The marks of puberty.

(17) The relatives of the widow who wish to exempt her from the halizah and the marriage.

(18) By a display of the required symptoms.

(19) The widow whose husband had died without issue.

(20) The marks of puberty.

(21) The levir's relatives. Cf. supra note 9, mutatis mutandis.

(22) Nid. 47b. Now, the case spoken of here is that of a congenital saris and yet R. Eliezer stated that he is subject neither to halizah nor to the levirate marriage, which is in direct contradiction to his statement in our Mishnah!
(23) The two statements were made at an earlier and later period respectively.
(24) V. supra p. 538. n. 11.
(25) As this Baraitha agrees with our Mishnah and, in addition, contains also a reason for its statement, based on actual experience. it is reasonable to assume that R. Eliezer withdrew from his other view contained in the Baraitha of Niddah.
(26) R. Eliezer.
(27) Supra, that the age of a male is twenty, in agreement with Beth Hillel, and that that of a female is eighteen, in agreement with Beth Shammai.
(28) At the ages stated males and females respectively, emerging from their state of minority and entering that of majority, become subject to all legal obligations and penalties. The statement has no reference at all to halizah or the levirate marriage.
(29) The reference is to a female though the masc. gender 'saris' is used. The age of twelve years and one day is applicable to females only.
(30) Below this age a girl is regarded as a minor.
(31) This will be according to R. Eliezer, supra.
(32) Or committed any other transgression. The eating of forbidden fat, חלב is invariably taken as the example of a punishable offence. Cf. Golds. a.l.
(33) The marks of puberty.
(34) From the age of twelve years and one day. Despite the absence of the hairs until after the age of eighteen. and their subsequent appearance. the girl is regarded as having passed into her majority at the earlier age of twelve years and one day. and consequently subject from that time to all legal penalties, the delay in the emergence of her marks of puberty being attributed to her mere impotence.
(35) Between the ages of twelve and eighteen. Samuel holds that majority sets in at the latter age only when the girl's impotency is definitely established.
(36) Who regards a girl, who was only subsequently found to be a saris, as having been a saris and consequently also of age from the moment she was twelve years and one day old.
(37) Who exempts the seducer of a minor from the payment of the fine prescribed in Deut. XXII, 29.
(38) The seducer of whom is also exempt from the fine mentioned (supra note 2) on the ground that, as she did not produce the required hairs, she was regarded at the time as a minor. V. Keth. 35b.
(39) Because, since it was later established that she was sterile, she should be regarded (cf. supra note 1) as having been sterile, and so also of age, retrospectively.
(40) The former age is twelve years and one day; the latter is twelve and a half plus one day. In the intervening age a girl is described as נערה damsel or maiden; and it is during this period (נערות) that she is entitled to the fine mentioned. The sterile woman does in fact become of age retrospectively, as Rab laid down, but she assumes the status of the adolescent woman who is not entitled to the fine.
(41) Cf. Deut. XXI, 18ff.
(42) Lit., 'lower beard'.
(43) Who has been outraged (v. Deut. XXII, 23ff).
(44) Cf. supra n. 5.
(45) Born in the eighth month of conception. who, as a rule, is not viable.
(46) As to whether in the case of the former they are impotent and of age, and in the case of the latter whether he is viable.
(47) Between the age of twelve and this age the former are regarded as minors until they have produced two pubic hairs, if these appear before they were twenty; and if these were not produced at twenty their majority begins from the age of twelve. In the case of the child he cannot be regarded as viable before he has completed the twentieth year of his life.
(48) Obviously because he is not viable.
(49) On the Sabbath when only such objects may be moved as were intended to be used on that day. The moving of a stone is forbidden.

Talmud - Mas. Yevamoth 80b

in order to avert danger![1] — Here[2] we are dealing with one whose marks[3] have not[4] been developed.[5] For it was taught: Who is an eight-month child? He whose months [of conception] have not been completed. Rabbi said: The marks, his hair and nails which were not developed, would indicate it.[6] The reason then is because they were not developed, but had they been developed it would have been assumed that the child was a seven-month one[7] only his [birth] was somewhat delayed.[8]

With reference, however, to the practical decision which Raba Tosfa'ah gave in the case of a woman whose husband had gone to a country beyond the sea and remained there for a full year of twelve months, where he declared the child legitimate,[9] in accordance with whose [view did he act]? [Was it] in accordance with that of Rabbi who maintains that [birth] may be delayed![10] — Since R. Simeon b. Gamaliel also maintains that [birth may] be delayed. he acted in agreement with a majority. For it was taught: R. Simeon b. Gamaliel said: Any human[11] child that lingers for thirty days can not be regarded as a miscarriage.[12]

Our Rabbis taught: Who is a congenital saris?[13] Any person who is twenty years of age and has not produced two pubic hairs.[14] And even if he produced them afterwards he is deemed to be a saris in all respects. And these are his characteristics: He has no beard, his hair is lank, and his skin is smooth. R. Simeon b. Gamaliel said in the name of R. Judah b. Jair:[15] Any person whose urine produces no froth; some say: He who urinates without forming an arch; some say: He whose semen is watery; and some say: He whose urine does not ferment. Others say: He whose body does not steam after bathing in the winter season. R. Simeon b. Eleazar said:[15] He whose voice is abnormal so that one cannot distinguish whether it is that of a man or of a woman.

What woman is deemed to be incapable of procreation? — Any woman who is twenty years of age and has not produced two pubic hairs.[14] And even if she produces them afterwards she is deemed to be a woman incapable of procreation in all respects. And these are her characteristics: She has no breasts and suffers pain during copulation. R. Simeon b. Gamaliel said:[15] One who has no mons veneris like other women. R. Simeon b. Eleazar said: One whose voice is deep so that one cannot distinguish whether it is that of a man or of a woman.

It was stated: As to the characteristics of a saris, R. Huna stated, [Impotency cannot be established] unless they are all present. R. Johanan, however, stated: Even if only one of them is present.[16] Where two hairs were produced[17] all agree that impotency cannot be established unless all characteristics[18] are displayed. They only differ in the case where these were not produced. With reference, however, to what Rabbah b. Abbuha said to the Rabbis, 'Examine R. Nahman. and if his body steams I will allow him to marry my daughter'; in accordance with whose view [was he acting]? [Was it] according to R. Huna![19] — No; R. Nahman had some stray hairs.[20]

THE SARIS NEITHER SUBMITS TO HALIZAH NOR CONTRACTS THE LEVIRATE MARRIAGE, AND SO ALSO A WOMAN WHO IS INCAPABLE OF PROCREATION etc. The saris was mentioned in the same way as the woman who is incapable of procreation; as the woman's incapacity is due to an act of[21] heaven so must that of the saris be an act[21] of heaven; and this anonymous [Mishnah] is in agreement with R. Akiba who stated [that halizah applies] only to a man-made [saris but] not [to one afflicted] by the hand of heaven.[22]

IF A SARIS SUBMITTED TO HALIZAH FROM HIS SISTER-IN-LAW, HE DOES NOT THEREBY CAUSE HER TO BE DISQUALIFIED etc. The reason then [why when HE COHABITED WITH HER HE CAUSES HER TO BE DISQUALIFIED] is because he[23] cohabited with her; another man, however, does not;[24]

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(1) To the mother and the child. The latter might otherwise die of starvation before his time, and the former might

contract serious illness through the accumulation of superfluous milk in her breasts. V. Tosef. Shab. XVI. Now, since the child, because he is not viable, is regarded as a stone (v. p. 545. n. 13), how could he ever attain the age of twenty?
(2) In the cited Baraitha.
(3) Of viability. such as hair and nails.
(4) So Alfasi, Bah and some MSS. Cur. edd. omit, 'not' referring to R. Abbahu's statement.
(5) Where the marks, however, are developed. as is the case in the Baraitha cited, the child may be viable.
(6) Tosef. Shab. XVI. Lit., 'concerning him' , whether he is an eight-month child.
(7) A child whose development is completed in the seventh month is viable.
(8) R. Abbahu, supra, referring to such a case, teaches that, even according to Rabbi, no definite decision can be arrived at before the child has grown up and attained the age of twenty.
(9) Assuming, as he did, that it remained in utero three months after the nine-monthly period.
(10) Would he agree with an individual, against the opinion of a majority?
(11) In the case of an animal the period is eight days.
(12) Supra 36b, Shab. 135b, Nid. 44b. The child is assumed to be a seven-month one whose birth had been delayed and who is consequently viable.
(13) V. supra p. 538, n. 11.
(14) The usual marks of puberty.
(15) In reply to the question 'who is a saris?'
(16) Lit., 'by one of them'.
(17) Elijah Wilna deletes 'In the beard' of cur. edd. [The reference will be accordingly to an emergence of hairs after the age of twenty, for had they appeared earlier, he would no longer be regarded as a saris even in the face of all other characteristics of a saris, v. supra p. 543. Tosaf., however, retains the reading of our text and consequently draws a distinction between hairs of the beard and on any other part of the body. The former in themselves, unlike the latter, are not sufficient to establish potency. V. Tosaf. s.v. דהביא].
(18) Of a saris.
(19) Since the absence of one characteristic satisfied him, contrary to the opinion of R. Johanan supra.
(20) V. supra p. 547, n. 5. סיכי pl. of סיכא.
(21) Lit., 'by the hands of'.
(22) The congenital eunuch or the saris by nature. Cf. supra p. 538. n. 11.
(23) The levir to whom, as his brother's wife, she is forbidden under the penalty of kareth.
(24) Cause her to be disqualified.

Talmud - Mas. Yevamoth 81a

is this, then, an objection to the view of R. Hamnuna who stated that a widow awaiting the decision of her levir who committed adultery[1] is disqualified [from marrying her] brother-in-law![2] — No; the same law[3] is applicable to [the case of cohabitation with] another man also; Only because the first clause was taught in respect of himself,[4] the latter clause also was taught in respect of himself.

SIMILARLY, WHERE BROTHERS SUBMITTED TO HALIZAH FROM A WOMAN INCAPABLE OF PROCREATION etc. The reason then [why when THEY COHABITED WITH HER THEY CAUSE HER TO BE DISQUALIFIED] is because they cohabited with her, but had they not cohabited with her they would not;[5] in accordance with whose view [is this statement made]? — Not in accordance with that of R. Judah; for should it [be suggested that it is in agreement with] R. Judah, he, surely, [it might be objected,] stated that a woman incapable of procreation is regarded as a harlot.[6]

MISHNAH. IF A PRIEST WHO WAS A SARIS BY NATURE[7] MARRIED THE DAUGHTER OF AN ISRAELITE, HE CONFERS UPON HER THE RIGHT OF EATING TERUMAH. R. JOSE AND R. SIMEON STATED: IF A PRIEST WHO WAS AN HERMAPHRODITE MARRIED THE DAUGHTER OF AN ISRAELITE, HE CONFERS UPON HER THE RIGHT TO EAT TERUMAH.

R. JUDAH STATED: IF A TUMTUM,[8] WAS OPERATED UPON[9] AND HE WAS FOUND TO BE A MALE, HE MUST NOT PARTICIPATE IN HALIZAH,[10] BECAUSE HE HAS THE SAME STATUS AS A SARIS. THE HERMAPHRODITE MAY MARRY [A WIFE] BUT MAY NOT BE MARRIED [BY A MAN].[11] R. ELIEZER[12] STATED: [FOR COPULATION] WITH AN HERMAPHRODITE THE PENALTY OF STONING IS INCURRED AS [IF HE WERE] A MALE.[13]

GEMARA. [Is not this][14] obvious![15] — It might have been assumed that only one who is capable of propagation is entitled to bestow the right of eating[16] and that he who is not capable of propagating is not entitled to bestow the right of eating; hence we were taught [that even the saris may bestow the right].

R. JOSE AND R. SIMEON STATED . . . HERMAPHRODITE. Resh Lakish said: He CONFERS UPON HER THE RIGHT OF EATING TERUMAH but does not confer upon her the right to eat of the breast and the shoulder.[17] R. Johanan, however, said: He also confers upon her the right to eat of the breast and shoulder.[17]

According to Resh Lakish,[18] why is the breast and the shoulder different?[19] [Obviously] because [it was] Pentateuchally [ordained].[20] [Was not] terumah, [however]. also Pentateuchally [ordained]? — We are dealing here with terumah at the present time,[21] which [is only a] Rabbinical [ordinance].[22] What is the law, however, when the Sanctuary is in existence?[23] [Obviously that terumah may] not [be eaten]![24] Why, then, did he state, 'But does not confer the right of eating the breast and the shoulder'?[25] He should rather have drawn the distinction in respect of the terumah itself, thus: This[26] applies only to Rabbinical terumah,[27] but not to terumah that has been Pentateuchally ordained![28] — It is this, in fact, that he meant: When he[29] confers upon her[30] the right of eating, he enables her to eat terumah at the present time[27] only when it is a Rabbinical ordinance;[31] he is not entitled, however, to confer upon her the right of eating terumah at the time when the law of the breast and the shoulder is in force,[32] even if the terumah is only Rabbinical,[33] for she might in consequence also come to eat of Pentateuchal terumah.[34]

'R. Johanan, however, said: He also confers upon her the right to eat of the breast and the shoulder'. Said R. Johanan to Resh Lakish: Do you[35] maintain that terumah at the present time is only a Rabbinical ordinance? — 'Yes', the other replied, 'for I read:[36] A cake of figs[37] among cakes of figs is neutralised'.[38] 'But I', said the first, 'read, "A piece[39] among pieces[40] is neutralized";[41] you obviously believe that the reading[42] is, "Whatsoever[43] one is wont to count",[44] the reading in fact is, "That which one is wont to count"'.[45]

What [Mishnah][46] is] it? — That wherein we learned: If a man had bundles of fenugrec of kil'ayim[47] of the vineyard[48] they must be burned.[49] If these were mixed up with others,[50]

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(1) With any man.

(2) As any harlot. Consequently she would also be forbidden to marry a priest. But according to the implication of our Mishnah she is not disqualified from marrying a priest!

(3) Of our Mishnah, that cohabitation with the widow causes her disqualification.

(4) The levir.

(5) Cause her to be disqualified.

(6) Supra 61a. Cf. supra p. 548, n. 8, mutatis mutandis.

(7) This excludes the man-made saris who stands under the prohibition of Deut. XXIII, 2, and cannot consequently confer upon his wife the right of eating.

(8) V. Glos.

(9) Lit., 'was torn asunder'.

(10) If he has a brother who could participate in the ceremony instead of him.

(11) He has the status of a male rather than that of a female, and his cohabitation with a male would be an act of sodomy.
(12) 'Eleazar' according to תוספות יום טוב. Cf. however, Tosaf. s.v. רבי infra 84a.
(13) On the difference between R. Eliezer and R. Judah. v. Gemara infra.
(14) That the congenital saris bestows the right of eating terumah upon his wife.
(15) His marriage being lawful; since he is not subject to the prohibition in Deut. XXIII, 2 (cf. supra note 3), he is obviously entitled to bestow the right.
(16) Cf. Lev. XXII, 11. And such as are born in his house, they may eat of his bread, emphasis on born in his house. Cf. Rashi, a.l.
(17) The priest's due from certain sacrifices. Cf. Lev. VII, 34.
(18) Who forbids the breast and the shoulder to the wife of the hermaphrodite.
(19) From terumah which may be eaten by her.
(20) Cf. supra n. 1.
(21) After the destruction of the Temple.
(22) Pentateuchally it is only due while the Temple is in existence.
(23) Cf. supra note 6.
(24) By the wife of an hermaphrodite.
(25) Drawing a distinction between terumah and other priestly gifts.
(26) That the hermaphrodite confers upon his wife the right of eating.
(27) After the destruction of the Temple.
(28) Cf. supra note 6.
(29) The hermaphrodite.
(30) His wife.
(31) Pentateuchally it is only due while the Temple is in existence.
(32) When the Temple is in existence.
(33) Such as that given from the fruit of the trees, which is at all times a Rabbinical ordinance only.
(34) That which is given from corn, wine and oil.
(35) Since you restrict the right of consumption to terumah and exclude that of the breast and the shoulder.
(36) In a Baraitha. Cf. the Mishnah cited infra and note 11.
(37) A number of figs pressed together.
(38) If such a cake of terumah was mixed up with a hundred non-consecrated cakes of the same size, or if a cake of terumah that was levitically unclean was mixed up with a hundred such cakes of clean terumah, the entire quantity is permitted. in the latter case, to clean priests and, in the former case, to Israelites also. This proves that terumah at the present time is only a Rabbinical ordinance, since such neutralization, had the ordinance been Pentateuchal, would not, owing to its comparative importance (its high commercial value, v. infra), have been permitted. Though the terumah of figs, like that of all other fruit of trees, is at all times a Rabbinical ordinance only, its neutralization would not have been permitted at the present time had there been any Pentateuchal terumah in existence at the same time. The neutralization of the former would have been forbidden as a preventive measure against the possible assumption that the 'latter also might be neutralized.
(39) Of an unclean sin-offering which is Pentateuchally forbidden. V. the Baraitha infra 81b.
(40) Of clean meat.
(41) And is permitted to be eaten. As a piece of meat which is Pentateuchally forbidden (v. supra n. 5) may be neutralized, even though its importance, owing to its commercial value, may be as high as that of a cake of figs, so may any food be neutralized even though its prohibition is Pentateuchal.
(42) Cf. the Mishnah cited infra.
(43) Any objects which any person whatsoever sells by counting the units. V. infra n. 11.
(44) Cannot be neutralized.
(45) 'Whatsoever' is more comprehensive than 'that'. According to the former reading, neutralization is not permitted in the case of any objects which are regarded as of sufficiently high commercial value to be sold not in bulk but in units. According to the latter reading, neutralization is permitted in all cases except those where the units are of such a high value that they are not sold save by counting single units. Now, since cakes of figs are not invariably sold in units they may of course be neutralized even though they consist of Pentateuchal terumah (cf. supra n. 7). Resh Lakish, therefore, remains with no proof whatsoever that terumah at the present time is a mere Rabbinical ordinance. [This interpretation

which follows Rashi does not account for the phrase 'one is wont etc', mentioned also with the latter reading. Me'iri explains the former as including whatever is being sold as a rule by counting among the poor, whereas the latter requires the sale by counting to be the general practice among the rich as well as the poor. On either reading it is the general practice rather than the invariable rule which is the determining factor].

(46) Referred to by R. Johanan (cf. p. 551. n. 8).

(47) V. Glos.

(48) Cf. Deut. XXII, 9.

(49) This is deduced from the expression תקדש (ibid. R.V., forfeited; R.V. marg., consecrated), read as תוקד אש 'shall be burned with fire'.

(50) Permitted bundles of fenugrec.

Talmud - Mas. Yevamoth 81b

they must all be burned;[1] so R. Meir. The Sages, however, stated: They are neutralized in [a mixture of] two hundred and one.[2] R. Meir, [in his ruling,] is of the opinion that whatever[3] might be counted causes forfeiture,[4] while the Sages are of the opinion that only six things cause forfeiture.[5] R. Akiba said: Seven. They are the following: Crack-nuts,[6] the pomegranates of Badan,[7] sealed jugs [of wine], young shoots of beet,[8] cabbage roots and the Grecian gourd. R. Akiba adds also home made[9] bread.[10] Those which are subject to the law of 'orlah[11] [impart the prohibition of] 'orlah[12] [and those which are subject] to the law of kil'ayim of the vineyard[13] [impart[12] that of the] kil'ayim of the vineyard.[14] R. Johanan holds the view that the reading[15] was, 'That which one is wont to count'[16] while Resh Lakish holds the view that the reading was 'Whatsoever one is wont to count'.[17]

What [is the Baraitha about the] piece?[18] — It was taught: A piece of a levitically unclean sin-offering that was mixed up with a hundred pieces of clean sin-offerings and, similarly, a piece of levitically unclean shewbread[19] that was mixed up with a hundred pieces of clean shewbread is neutralized.[20] R. Judah said: It is not neutralized.[21] If, however, a piece of a levitically clean sin offering was mixed up with a hundred pieces of clean and unconsecrated meat, and similarly if a piece of levitically clean shewbread was mixed up with a hundred pieces of clean unconsecrated bread, all agree that neutralization cannot take place.[22] Now in the first clause, at any rate, it was stated that it 'is neutralized'![23] — R. Hiyya son of R. Huna replied: In [the case where it was] crushed.[24] If so,[24] what is R. Judah's reason?[25]

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(1) The forbidden kil'ayim cannot be neutralized. The reason is given infra.

(2) I.e., if the permitted food is two hundred times the quantity of the forbidden kil'ayim.

(3) V. supra p. 551. n. 9.

(4) Lit., consecrates'. (Cf. R.V. and J.T., Deut. XXII, 9, be forfeited). All the mixture is forbidden on account of the importance (cf. supra p. 551, n. 11) of the forbidden object it contained, which can never be neutralized.

(5) Cf. supra n. 9.

(6) אגוזי פרך (cf. Jast. and Golds.). Rashi regards Perek as a place name. Parka (Perek) is situated in Samaria in the vicinity of Shechem.

(7) A Samaritan town north-east of Shechem lying in the valley Wadi Baidan.

(8) Or 'tomatoes .

(9) Lit., 'of the master of the house'.

(10) Lit., 'loaves'.

(11) V. Glos. The nuts, pomegranates and jugs of wine.

(12) Upon the entire mixture.

(13) The beet, cabbage and gourd.

(14) 'Orlah III, 6, Bezah 3b. Zeb. 72a.

(15) In the Mishnah cited.

(16) Cf. supra p. 551, n. 11. Only such objects cannot be neutralized. Cakes of figs and pieces of meat, however, since some people do not always sell them singly but in bulk, are of less commercial importance and may, therefore, be

neutralized.

(17) Cf. supra p. 551, nn. 7 and 8. As cakes of figs are sometimes sold by being counted singly. they are regarded as commercially important objects which, were they Pentateuchally forbidden, could never be neutralized. As it was stated, however, that a cake of figs of terumah may be neutralized, it follows, according to Resh Lakish, that terumah at the present time is only a Rabbinical, and not a Pentateuchal ordinance.

(18) Mentioned by R. Johanan. Cf. supra p. 551. n. 5.

(19) Cf. Ex. XXV, 30.

(20) The entire mixture is regarded as clean sin-offering meat and clean shewbread respectively.

(21) The reason is discussed infra.

(22) Neutralization would have removed a Pentateuchal prohibition (that of eating consecrated food by a non-priest) from the piece of the sin-offering or from that of the shewbread. As, however, the entire mixture, which consists of pieces that are sometimes sold by number, may be eaten even without recourse to neutralization by a priest to whom it could be sold, though this might have to be done at a reduced cost, the law of neutralization, which is applied even in such circumstances whenever the prohibition is Rabbinical. as in the case of the cake of figs (supra). is not applied here where it is Pentateuchal.

(23) Though these objects are sometimes sold in units. This obviously proves that the reading was, as R. Johanan stated. 'That which one is wont to count . How, then, could Resh Lakish maintain that the reading was 'Whatsoever one is wont to count ?

(24) When it is no longer sold in units but in bulk.

(25) Why does he in such a case object to neutralization?

Talmud - Mas. Yevamoth 82a

— R. Judah follows his own view; for he stated:[1] The law of neutralization takes no effect in homogeneous objects.[2] [Had the piece] not been crushed, however, what [would have been the law]? Assumingly that it could not be neutralized! Why. then, was it taught. 'If, however, a piece of a levitically clean sin-offering was mixed up with a hundred pieces of clean and unconsecrated meat . . . neutralization cannot take place'?[3] Let the distinction be drawn in [the case of consecrated meat] itself, thus: This[4] applies only where it[5] was crushed; but when it was not crushed it may not be neutralized! — He preferred [to speak of] a mixture of clean with clean.[6]

According to Resh Lakish,[7] wherein lies the difference between the first clause and the final clause?[8] — R. Shisha the son of R. Idi replied: The first clause deals with uncleanness that was due to liquids,[9] which is only Rabbinical,[10] while the final clause [deals with a prohibition][11] which is Pentateuchal.[12] What, however, [would be the law in the case of] uncleanness through a reptile?[13] Assumingly that no neutralization is permitted! Why, then, did he state in the final clause, 'If, however, a piece of levitically clean sin-offering was mixed up with a hundred pieces of clean and unconsecrated meat . . . neutralization cannot take place'?[14] Let the distinction rather be drawn in [respect of consecrated meat] itself, thus: This[15] applies only to uncleanness due to liquids, but when it is due to a reptile it may not be neutralized! — He preferred [to speak] of a mixture of clean with clean.[16]

Rabbah replied:[17] The first clause [deals with] a prohibition under a negative precept[18] while the final clause [deals with] one that involves the penalty of kareth.[19] But surely was it not Rabbah who stated that in all Pentateuchal prohibitions there is no difference[20] between a prohibition that is due to a negative precept and one that involves kareth![21] — This is a difficulty.

R. Ashi replied:[17] [The law[22] in the] final clause is due to the fact that [the consecrated food] is an object which may be made[23] permissible,[24] and any object which [in certain circumstances] becomes permitted[24] cannot be neutralized even in a thousand.[25] This statement of R. Ashi, however, is mere fiction.[26] For to whom [would the mixture become permitted]![27] To[28] the priest it is permitted [all the time];[29] to the Israelite[28] it is for ever forbidden![30] The statement of R. Ashi must consequently

be regarded as mere fiction. But is R. Johanan of the opinion that terumah at the present time[31] is Pentateuchal?[32] Surely it was taught: If in front of two baskets, one of which contained unconsecrated fruit and the other that of terumah, were two se'ah measures, one containing unconsecrated fruit and the other that of terumah, and the latter fell into the former, behold these are permitted,[33] for it is assumed that the terumah fell into the terumah and the unconsecrated fruit fell into the unconsecrated fruit.[34] And [in reference to this ruling] Resh Lakish stated: 'Only if the unconsecrated fruit[35] was more than that of the terumah';[36] while R. Johanan stated, 'Even if the unconsecrated fruit were no more than the terumah'.[37] Now, according to Resh Lakish[38] the ruling[39] may well be justified since he may hold the opinion that with Rabbinically [forbidden food] also it is necessary[40] to have a larger quantity [of the permitted food]. According to R. Johanan.[41] however, a difficulty arises![42] 'This'[43] [R. Johanan may reply] 'is the view of[44] the Rabbis,[45]

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(1) Zeb. 79a, Men. 22b.

(2) Lit., 'a kind in its kind does not cease to exist'.

(3) Thus drawing a distinction between a mixture of consecrated and unconsecrated meat.

(4) That neutralization takes place.

(5) The piece of the sin-offering.

(6) To indicate that even in such a case, where the law of neutralization might have been expected to apply (cf. Ter. V. 3-4). the mixture remains forbidden.

(7) Who explained the Baraitha under discussion to refer to a crushed piece.

(8) In either case the piece is Pentateuchally forbidden. As neutralization takes place in the case of the first clause owing to the insignificant value of the piece. neutralization should also take place, for the same reason, in the case of the final clause! According to R. Johanan, the reason for the difference between the two clauses has been explained supra p. 553, n. 6.

(9) If the crushed mixture was contained, for instance. in a vessel that had been in contact with unclean liquids.

(10) Pentateuchally no unclean liquid can impart uncleanness to a vessel.

(11) The consumption of consecrated food by a non-priest.

(12) Food Pentateuchally forbidden, if mixed with other food of the same kind, cannot be neutralized, according to this opinion. even if it is sold in bulk.

(13) Pentateuchal uncleanness.

(14) V. supra note 2.

(15) That neutralization takes place.

(16) V. supra p. 554, n. 5.

(17) To the objection raised against Resh Lakish.

(18) That of eating consecrated meat which is unclean. V. Lev. VII, 19.

(19) Were the crushed mixture which contained a piece of consecrated meat to be regarded as neutralized and treated like unconsecrated meat, it might be eaten by an unclean person who would thus incur the penalty of kareth for eating consecrated meat during his uncleanness. Cf. Lev. VII, 20.

(20) In respect of preventive measures enacted by the Rabbis.

(21) Infra 219a, where, however, the reading is 'Raba'.

(22) Disallowing neutralization.

(23) If the consumer is, for instance, a priest.

(24) Even though no neutralization were to take place.

(25) Times its quantity.

(26) בדותא v. B. M., Sonc. ed., p. 47. n. 1.

(27) The law which rules out neutralization in the case of objects which may attain to a state of permissibility without this process, is applicable only to such objects as become permissible, i.e., which emerge from a state of prohibition into one of permissibility. Cf. Bezah 3b.

(28) Lit., 'if to'.

(29) He may eat the piece of consecrated food even if it were never mixed up with the unconsecrated food.

(30) If no neutralization were to be allowed.

(31) After the destruction of the Temple.

(32) As stated supra 81a.
(33) Even an Israelite may eat from the basket that contained the unconsecrated fruit.
(34) Tosef. Ter. VI end; Pes. 9b, 44a; Naz. 36b.
(35) In the basket.
(36) In the se'ah measure. Only in such a case is the assumption mentioned made, because the terumah representing the smaller quantity might be regarded as neutralized even if it had fallen into the basket of the unconsecrated fruit.
(37) No excess of unconsecrated fruit is necessary since the assumption mentioned is alone sufficient to establish the permissibility of the unconsecrated fruit.
(38) Who, as stated supra, regards terumah at the present time as Rabbinical.
(39) In the Baraitha cited.
(40) To make the mentioned assumption.
(41) In whose opinion terumah is Pentateuchal at the present time also.
(42) How could the assumption mentioned be made in the case of a prohibition which is Pentateuchal!
(43) The ruling in the Baraitha cited.
(44) Lit., 'this according to whom?'
(45) Who hold that terumah at the present time is only Rabbinical.

Talmud - Mas. Yevamoth 82b

while I maintain the view of R. Jose'.[1] For it was taught in Seder 'Olam:[2] Which thy fathers possessed, and thou shalt possess it,[3] they had a first,[4] and a second[5] possession,[6] but they had no third one;[7] and R. Johanan stated, 'Who is the author of Seder 'Olam? R. Jose'.[8]

But is R. Johanan of the opinion that in respect of a Rabbinically forbidden object no excess is required?[9] Surely we learned: A ritual bath containing exactly forty se'ah [of water][10] to which one se'ah[11] was added and from which one se'ah[12] was taken off, is deemed to be ritually fit.[13] And R. Judah b. Shila stated in the name of R. Assi in the name of R. Johanan. 'As much as its greater part'.[14] Does not this mean that the greater part must remain?[15] — No; that the greater part must not be removed.[16] And if you prefer I might say: Here[17] it is different,[18] since it may be said, 'For it is assumed'.[19]

We learned, THE HERMAPHRODITE MAY MARRY [A WIFE]![20] — Read, 'If he married',[21] But, surely, it was stated MAY MARRY![22] — And even in accordance with your view what is the meaning of BUT MAY NOT BE MARRIED [BY A MAN]?[23] Consequently it must be granted that as MAY . . . BE MARRIED[23] implies an act that had already been performed, so also MAY MARRY implies an act that had already been performed. It may still be urged: No;[24] MAY MARRY implies that the act is permissible; but MAY NOT BE MARRIED[23] implies, not even if the act had already been performed.[25] But surely since it was taught in the final clause, R. ELIEZER STATED: [FOR COPULATION WITH] AN HERMAPHRODITE THE PENALTY OF STONING IS INCURRED AS [IF HE WERE] A MALE, it is to be inferred that the first Tanna was doubtful on the point![26] — The law[27] was clear to the one Master as well as to the other Master; the only difference between them was the question of stoning for copulation through either of his two organs. One Master[28] was of the opinion that the penalty of stoning is incurred by copulation through either of the two organs,[29] while the other Master[30] was of the opinion [that it is incurred through the male organ only] AS [IF HE WERE] A MALE.

Rab said:

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(1) Who stated in our Mishnah that the hermaphrodite may confer upon his wife the right of eating terumah. It was in reference to this that R. Johanan had stated that the hermaphrodite may also confer upon his wife the right of eating the breast and the shoulder, which are Pentateuchally ordained, since terumah also according to R. Jose is even at the present time a Pentateuchal ordinance.

(2) Lit., 'Order of the World', a chronological work compiled in the first half of the second century by R. Jose b. Halafta.
(3) Deut. XXX. 5, ירשו וירשתה the rt. of ירש is repeated.
(4) After the conquest in the days of Joshua
(5) In the days of Ezra.
(6) The sanctity of Eretz Israel having ceased with the destruction of the first Temple and the Babylonian exile, a second 'posses sion was necessary to restore to the land its sanctity.
(7) Which was not necessary, the second sanctification having remained for all time. As the land thus remained sacred the Pentateuchal obligation of terumah also remained in force.
(8) V. Nid. 46b.
(9) To effect neutralization. It is now assumed that the reason why R. Johanan maintains that 'even if the unconsecrated fruit were no more than the terumah' it is permitted is because, in the case of a Rabbinical prohibition, neutralization is effected by the mere accident of the mixing of consecrated with unconsecrated fruit even though the latter did not form the larger part and not because he relies on the above mentioned assumption.
(10) The minimum quantity of water that constitutes a ritual bath.
(11) Of unsuitable liquid.
(12) Of the entire quantity of forty-one se'ah.
(13) Mik. VII, 2. The se'ah of unsuitable liquid is regarded as having been neutralized in the forty se'ah of water, so that when one se'ah of the mixture was subsequently removed, the minimum of forty se'ah of suitable liquid still remained in the bath.
(14) Zeb. 22a. This is explained presently.
(15) I.e., se'ah after se'ah of unsuitable liquid may be added and an equal quantity of the mixture may be successively removed only until a minimum of twenty-one se'ah of suitable water remains in the bath. Should there remain less, so that the suitable liquid no longer represents the greater part of the mixture, the bath would become ritually unfit. This (the unsuitability of certain liquids in a ritual bath being only a Rabbinical provision) proves that according to R. Johanan an excess is required even in the case of Rabbinical ordinances!
(16) If only half of the suitable water remained the unsuitable liquid is neutralized, no excess being required.
(17) The case in the Baraitha of Terumoth.
(18) From the case of the ritual bath or other Rabbinical ordinances where an excess may in fact be required.
(19) 'That the terumah fell into the terumah and the unconsecrated fruit etc.' (v. supra), so that no forbidden food had ever entered the basket of the unconsecrated fruit. Such an assumption is obviously inapplicable in the case of the bath.
(20) נושא. This shews that he is regarded as a proper male. As such he should confer upon his wife the right to eat of the breast and the shoulder. How then could Resh Lakish maintain supra that he does not?
(21) נישא i.e., if marriage had already taken place it is valid in so far as to require a letter of divorce for its dissolution since it is possible that he is a male. Originally, however, no such marriage is permitted owing to the equal possibility that he is not a male but a female.
(22) Implying that marriage may be contracted in the first instance.CF. supra n.1.
(23) נישא. Perfect. Surely this cannot refer to marriage in the first instance but to a marriage already performed?
(24) The two expressions are not identical.
(25) The difficulty against the view of Resh Lakish consequently remains, while the opinion of R. Johanan receives confirmation.
(26) Whether the hermaphrodite is to be regarded as a male. This, then, presents an objection against the view of R. Johanan.
(27) That the hermaphrodite is regarded as a male.
(28) The first Tanna.
(29) Even if it was effected through his female organ.
(30) R. Eliezer.

Talmud - Mas. Yevamoth 83a

Our Mishnah[1] cannot be maintained in the presence of the following Baraitha. For it was taught: R. Jose stated, 'The hermaphrodite is a creature sui generis, and the Sages did not determine whether he is a male or a female'.[2] On the contrary; the Baraitha[2] cannot be maintained in the face of our

Mishnah![3] — As R. Jose left his colleague[4] it may be inferred that he changed his opinion.[5]

Samuel, however, said: The Baraitha[2] cannot be maintained in the face of our Mishnah.[3] On the contrary; our Mishnah[3] cannot be maintained in the face of the Baraitha,[2] since Samuel was heard to take note of an individual opinion![6] — This[7] applies only to a case where the Mishnah is not thereby uprooted; when the Mishnah, however, is thereby uprooted it need not be taken into consideration.

At the school of Rab it was stated in the name of Rab that the halachah is in agreement with R. Jose in respect of the hermaphrodite and grafting; and Samuel stated: In respect of protracted labour and forfeiture.

As to the 'hermaphrodite', there is the ruling just mentioned.[8] 'Grafting'? — As we have learned: There must be no planting, no sinking[9] and no grafting on the eve of the Sabbatical Year[10] within thirty days before the new year; and if one planted or sank or grafted, the tree must be uprooted.[11] R. Judah said: Any grafting[12] which takes no root within three days will never take root. R. Jose and R. Simeon stated: [Within] two weeks.[13] And, [in reference to this.] R. Nahman stated in the name of Rabbah b. Abbuha that according to him who stated, 'thirty days', thirty and thirty are required;' according to him who stated 'three days', three and thirty are required;[14] and according to him who stated 'two weeks', two weeks and thirty days are required.[14]

'And Samuel stated: In respect of protracted labour and forfeiture'. 'Protracted labour'? — As we learned: How long does the period of protracted labour[15] continue? R. Meir said: Forty or fifty days.[16] R. Judah said: Her [ninth] month is sufficient.[17] R. Jose and R. Simeon said: Protracted labour cannot extend beyond two weeks.[18] 'Forfeiture'? As we have learned: If one causes his vine to overhang[19] above the crops of his neighbour, behold he causes thereby their forfeiture,[20] and he is liable to make compensation; so R. Meir. R. Jose and R. Simeon said:

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(1) Which attributes to R. Jose the opinion that the hermaphrodite bestows upon his wife the right of eating terumah.

(2) Tosef. Bik. II. Since his sex is a matter of doubt he cannot obviously bestow the right(v. p. 558, n. 12) upon his wife.

(3) V. p. 558. n. 12.

(4) In his statement in the Baraitha where he alone appears as the author. In the Mishnah both R. Jose and R. Simeon appear as the authors.

(5) Which he first expressed in our Mishnah.

(6) If that opinion is more rigid. (Cf. supra 41a Meg. 18b). Here too R. Jose's opinion in the Baraitha is more restrictive than his opinion in our Mishnah and should therefore be taken into consideration!

(7) That an individual opinion is to be taken into consideration.

(8) In our Mishnah (cf. Rashi a.l.).

(9) The sinking of a branch under the ground while one end of it remains attached to the tree and the other end is made to protrude from the ground so that in due course it may develop into an independent tree.

(10) Cf. Lev. XXV, 4ff.

(11) A tree does not take root according to this view, before thirty days from the day of its planting have elapsed, and by that time the Sabbatical Year has already begun where all such agricultural activities are forbidden.

(12) And similarly any planting or sinking.

(13) Sheb. II, 6.

(14) Since the last thirty days of the eve of the Sabbatical Year are regarded as part of the next Sabbatical Year (v. M.K. 3b). the plant, in order that it may be permitted, must have taken root prior to these last thirty days.

(15) During this period a woman is not subject to the restrictions of a zabah (v. Glos.), if the flow occurred during the eleven days that intervene between her menstrual periods, even if the discharge continued for three consecutive days. Such a continuous discharge at any other time, when it cannot be attributed to labour, subjects a woman to the uncleanness of a zabah. As in this case, however, the discharge may be regarded as that attendant on labour, the woman must observe only the days prescribed for one after childbirth (cf. Lev. XII, 2ff) and not those prescribed for a zabah (cf. ibid. XV, 25ff). V. Nid. 36b.

(16) Prior to the birth of the child.
(17) Should the flow begin prior to the ninth month and continue for three consecutive days she is regarded as a zabah.
(18) Nid. 36b.
(19) Lit., 'to cover'. 'to make a shadow'.
(20) Cf. Deut. XXII, 9.

Talmud - Mas. Yevamoth 83b

No man can impose a prohibition upon that which is not his.[1]

The question was raised: What would Samuel[2] have said with regard to the hermaphrodite?[3] — Come and hear what Samuel said to R. Anan: The Baraitha cannot be maintained in the face of our Mishnah.[4]

What would Samuel have said in respect of grafting?[3] — Come and hear what Samuel said to R. Anan: Teach in accordance with the view of him who stated 'three and thirty'.

What is the opinion of Rab[5] in respect of protracted labour?[6] — This is undecided.[7]

What is Rab's Opinion in respect of forfeiture?[6] R. Joseph replied. Come and hear what R. Huna stated in the name of Rab: The halachah is not in agreement with R. Jose.

Said Abaye to him:[8] What reason do you see for relying upon this statement?[9] Rely rather on that which R. Adda made in the name of Rab: The halachah is in agreement with R. Jose! — Who is it [that is referred to by the phrase] 'At the school of Rab it was stated'?[10] R. Huna [of course];[11] and R. Huna it was who stated that the halachah is not in agreement [with R. Jose].[12]

R. JUDAH STATED: A TUMTUM etc. R. Ammi remarked: What would R. Judah[13] have done with a case like that of the tumtum of Bairi,[14] who, after having been placed upon the operating table[15] and operated upon, begat seven children![16] And R Judah?[17] — He could tell you:[18] An enquiry should be made as to the origin of his children.

It was taught: R. Jose son of. R. Judah stated that a tumtum must not participate in halizah, since it is possible that on being operated upon he may be found to be a congenital saris.[19] Is everyone then,[20] who is operated upon a male! — It is this that he meant: It is possible that on being operated upon he may be found to be a female; and were he found to be a male, it is even then possible that he might be found to be a congenital saris. What is the practical difference between them?[21] — Raba replied: The practical difference between them is the question of disqualification[22] where other brothers are in existence,[23] and that of halizah where no other brothers exist.[24]

R. Samuel son of R. Judah said in the name of R. Abba, the brother of R. Judah b. Zabdi, in the name of Rab Judah in the name of Rab: In respect of the hermaphrodite the penalty of stoning is incurred through either of his organs.

An objection was raised: R. Eliezer stated, 'In respect of the hermaphrodite the penalty of stoning is incurred as in the case of a male. This, however, applies only to his male organ; but in respect of his female organ no penalty is incurred'![25] — He[26] holds the same opinion as the following Tanna. For it was taught: R. Simai stated that in respect of the hermaphrodite the penalty of stoning is incurred through either of his organs. What is R. Simai's reason? — Raba replied: Bar Hamduri has explained it to me as follows: And thou shalt not lie with a male, as well as with womankind;[27] what male is it that is capable of two manners of lying?[28] Obviously[29] the hermaphrodite. And the Rabbis? — Though he is capable of two manners of lying it is nevertheless written in Scripture.

With a male.[30] Whence, however, do the Rabbis[31] derive the law concerning an ordinary male? — From And.[32] Whence[33] the prohibition in respect of unnatural intercourse with a woman? — From Woman.[34]

R. Shezbi stated in the name of R. Hisda: It is not in all respects that R. Eliezer maintains that the hermaphrodite is a proper male. Since, were you to say so, [such an animal][35] would be fit for consecration.[36] And whence is it derived that it[37] may not be consecrated? — From what the Rabbis taught: [A bird] that was covered,[38] set aside [for idolatrous purposes], or worshipped, that was the hire of a harlot[39] or the price of a dog,[39] a tumtum or hermaphrodite, causes the defilement of one's clothes[40] by [contact with one's] oesophagus.[41] R. Eliezer said: [A bird that was] a tumtum or hermaphrodite does not impart the defilement of clothes through contact with one's oesophagus; for R. Eliezer maintained that wherever male and female were mentioned,[42] the tumtum and hermaphrodite are to be excluded; but [in the case of the sacrifice of a] bird, since in respect of it no mention was made of male or female, the tumtum and hermaphrodite are not to be excluded.[43]

R. Nahman b. Isaac said: We also learned [a similar Baraitha]: R. Eliezer stated:

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(1) Kil. VII, 4; B.K. 100a.

(2) Who only mentioned protracted labour and forfeiture.

(3) Does he agree that here also the halachah is in agreement with R. Jose?

(4) V. supra 83a and cf. supra p. 558. n. 2 and p. 559, n. 1.

(5) Whose school reported in his name (supra 83a) on the hermaphrodite and grafting only.

(6) V. supra p. 560. n. 10.

(7) Teku תיקו v.Glos.

(8) R. Joseph.

(9) That of R. Huna.

(10) Supra 38a where only the hermaphrodite and grafting were mentioned.

(11) V. Sanh. 17b. Wherever it is reported that 'At the school of Rab it was stated' the author of the statement was R. Huna. When, however, R. Huna himself reports 'At the school etc.' the author of the statement is R. Hamnuna. V. Rashi a.l. and cf. Tosaf. s.v. אמרי.

(12) In respect of forfeiture, supra.

(13) Who regards the tumtum as a saris even if after an operation he is found to be a male.

(14) A mountain village north of Safed in Palestine, once a famous town.

(15) Lit., 'his (sc. the operator's) chair'.

(16) Which proves, contrary to the opinion of R. Judah, that such a tumtum is no saris.

(17) How could he maintain his opinion in view of this incident?

(18) אמר לך so MS.M.]

(19) Tosef. Yeb. XI. Bek. 42b. A congenital saris (v. Glos.) is. of course, exempt from halizah.

(20) Since R. Jose mentions only the possibility of being a saris and not that of being a female.

(21) Between R. Jose and his father R. Judah. Whether such a tumtum is a doubtful or a certain saris he is, in either case, exempt from halizah.

(22) From the levirate marriage.

(23) Besides the tumtum. According to R. Judah, who regards him as definitely a saris, the widow, if the tumtum submitted to her halizah, is not thereby disqualified from subsequently marrying any of the other brothers, since the halizah of a saris is null and void. According to R. Jose, however, the widow is disqualified. since the tumtum might possibly be a male and his halizah might be valid.

(24) According to R. Judah no halizah takes place; while according to R. Jose halizah must be performed owing to the possibility of his being a male.

(25) Tosef. Yeb. X.

(26) Rab.

(27) Lev. XVIII, 22. משכבי pl., lit., 'lyings'.

(28) V. n. 7.

(29) Lit., ‘be saying’.
(30) זכר sing. masc. ibid., which excludes copulation through his female organ.
(31) Who employ the expression With a male (ibid.) in relation to the hermaphrodite.
(32) Lev. XVIII, 22. ואת, the superfluous particle of the defined accusative. Cur. edd. read, ‘from woman’. For the reading adopted here, v. Bah, a.l.
(33) According to both the Rabbis and R. Simai.
(34) Ibid. cf. Bah.
(35) An hermaphrodite.
(36) As a sacrifice for the altar.
(37) The hermaphrodite.
(38) Used for bestiality.
(39) Cf. Deut. XXIII. 19.
(40) If the bird was offered up as a sacrifice in consequence of which its head is pinched off (cf. Lev. I, 15). As for the reasons stated, the bird is unfit for the altar, pinching (which is not the ritual mode of slaughter for unconsecrated birds) renders the bird nebelah (v. Glos.) which imparts uncleanness to one's clothes. V. infra n. 10.
(41) I.e., through eating it. It is in this manner, and not by touch, that the nebelah of a clean bird (cf. Deut. XIV, 11) imparts uncleanness to a person.
(42) In the Torah.
(43) Bek. 42a, Zeb. 85b. Since in the case of sacrifices of beasts, male and female were mentioned, it is obvious that, according to R. Eliezer, no tumtum or hermaphrodite is suitable.

Talmud - Mas. Yevamoth 84a

A hybrid, terefah,[1] one that was extracted through the abdominal wall,[2] the tumtum and the hermaphrodite can neither become sacred nor can they impart sanctity to others; is and Samuel explained: They neither become sacred by means of exchange,[3] nor do they impart sanctity [to any other beast][4] by causing it to become an exchange.[5] This proves [what has been said].

R. ELIEZER STATED . . . THE PENALTY OF STONING IS INCURRED AS [IF HE WERE] A MALE. It was taught: Rabbi related, ‘When I went to learn Torah at [the school of] R. Eleazar b. Shammu'a, his disciples combined against me like the cocks of Beth Bukya[6] and did not let me learn more than this single thing in our Mishnah: R. ELIEZER STATED: [FOR COPULATION WITH] AN HERMAPHRODITE THE PENALTY OF STONING IS INCURRED AS [IF HE WERE] A MALE.

C H A P T E R I X

MISHNAH. SOME WOMEN ARE PERMITTED[7] TO THEIR HUSBANDS AND FORBldden[7] TO THEIR LEVlrs,[8] OTHERS ARE PERMITTED[7] TO THEIR LEVIRS AND FORBIDDEN[7] TO THEIR HUSBANDS, OTHERS ARE PERMITTED TO BOTH THE FORMER AND THE LATTER, WHILE OTHERS ARE FORBIDDEN TO THE FORMER AS WELL AS TO THE LATTER. IN THE FOLLOWING CASES THE WOMEN[9] ARE PERMITTED TO THEIR HUSBANDS AND FORBIDDEN TO THEIR LEVIRS: IF A COMMON PRIEST WHO MARRIED A WIDOW HAD A BROTHER A HIGH PRIEST; IF A HALAL[10] WHO MARRIED A WOMAN OF LEGITIMATE STATUS[11] HAD A BROTHER OF LEGITIMATE STATUS;[12] IF AN ISRAELITE WHO MARRIED THE DAUGHTER OF AN ISRAELITE HAD A BROTHER A BASTARD, ‘OR IF A BASTARD WHO MARRIED A BASTARD HAD A BROTHER AN ISRAELITE, [IN ALL THESE CASES THE WOMEN] ARE PERMITTED[7] TO THEIR HUSBANDS AND FORBIDDEN[7] TO THEIR LEVIRS.

THE FOLLOWING[9] ARE PERMITTED[7] TO THEIR LEVIRS AND FORBIDDEN[7] TO THEIR HUSBANDS: IF A HIGH PRIEST WHO BETROTHED A WIDOW[13] HAD A BROTHER A

COMMON PRIEST; IF ONE OF LEGITIMATE STATUS[12] WHO MARRIED A HALALAH[10] HAD A BROTHER A HALAL;[10] IF AN ISRAELITE WHO MARRIED A BASTARD HAD A BROTHER A BASTARD, OR IF A BASTARD WHO MARRIED THE DAUGHTER OF AN ISRAELITE HAD A BROTHER AN ISRAELITE, [IN ALL THESE CASES THE WOMEN] ARE PERMITTED TO THEIR LEVIRS AND FORBIDDEN TO THEIR HUSBANDS.

THE FOLLOWING[14] ARE FORBIDDEN[15] TO BOTH THE FORMER AND THE LATTER;[16] IF A HIGH PRIEST WHO MARRIED A WIDOW HAD A BROTHER A HIGH PRIEST, OR IF A COMMON PRIEST OF LEGITIMATE STATUS[17] WHO MARRIED A HALALAH[18] HAD A BROTHER OF LEGITIMATE STATUS,[17] OR IF AN ISRAELITE WHO MARRIED A BASTARD HAD A BROTHER AN ISRAELITE, OR IF A BASTARD WHO MARRIED THE DAUGHTER OF AN ISRAELITE HAD A BROTHER A BASTARD, [IN ALL THESE CASES THE WOMEN] ARE FORBIDDEN[15] BOTH TO THE FORMER AND THE LATTER.[16] ALL OTHER WOMEN ARE PERMITTED[15] TO BOTH THEIR HUSBANDS AND THEIR LEVIRS.

[IN RESPECT OF] RELATIVES OF THE SECOND GRADE, [WHO ARE FORBIDDEN] BY THE ORDINANCES OF THE SCRIBES,[19] A WOMAN WHO IS WITHIN THE SECOND GRADE OF KINSHIP TO THE HUSBAND BUT NOT WITHIN THE SECOND GRADE OF KINSHIP TO THE LEVIR,[20] IS FORBIDDEN TO THE HUSBAND AND PERMITTED TO THE LEVIR; [A WOMAN WHO IS WITHIN] THE SECOND GRADE OF KINSHIP TO THE LEVIR BUT NOT WITHIN THE SECOND GRADE OF KINSHIP TO THE HUSBAND IS FORBIDDEN TO THE LEVIR AND PERMITTED TO THE HUSBAND; [WHILE ONE WHO IS WITHIN] THE SECOND GRADE OF KINSHIP TO THE ONE AND TO THE OTHER IS FORBIDDEN TO THE ONE AS WELL AS TO THE OTHER. SHE CANNOT CLAIM EITHER KETHUBAH,[18] OR USUFRUCT,[21] OR ALIMONY, OR HER WORN CLOTHES.[22] [SHOULD A] CHILD [BE BORN HE] IS ELIGIBLE [FOR THE PRIESTHOOD]; BUT THE HUSBAND MUST BE COMPELLED TO DIVORCE HER. A WIDOW, HOWEVER, WHO WAS MARRIED TO A HIGH PRIEST, A DIVORCEE OR HALUZAH WHO WAS MARRIED TO A COMMON PRIEST, A BASTARD OR A NETHINAH[23] WHO WAS MARRIED TO AN ISRAELITE, OR THE DAUGHTER OF AN ISRAELITE WHO WAS MARRIED TO A NATHIN[23] OR A BASTARD IS ENTITLED TO HER KETHUBAH.

GEMARA. What was the point in teaching MARRIED?[24] He could have taught: 'Betrothed'![25] And were you to reply that the reason [for the prohibition[26] is only] because he MARRIED, since [in that case][27] a positive[28] as well as a negative[29] precept is involved,[30] but where betrothal only took place the positive precept[26] does override the negative;[31] but [it could be retorted] the whole of our section deals with a positive,[32] versus a negative precept.[33] and the positive nevertheless does not override the negative! — As it was desired to state in the final clause, A HIGH PRIEST WHO MARRIED A WIDOW, [who is forbidden][34] only where [the High Priest] MARRIED her, since in that case he caused her to be a halalah, but [not where he only] betrothed [her in which case] she is permitted [to his brother],[35] he taught in the first clause also: MARRIED.

But why should the expression[36] be determined by[37] the final clause? Let it be determined by[38] the middle clause: IF A HIGH PRIEST WHO BETROTHED A WIDOW HAD A BROTHER A COMMON PRIEST![39] — The determining factor,[40] rather, is the case immediately following in the same context.[41] As it was desired to teach, IF A HALAL WHO MARRIED A WOMAN OF LEGITIMATE STATUS, where the reason [for her prohibition[42] is] because [the halal] MARRIED her and thus caused her to become a halalah, but where he had only betrothed her she would have been permitted to him; MARRIED was, therefore, taught [here also].[43]

What point, however, was there in teaching, A widow? He should have taught: 'A virgin'![44]

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(1) V. Glos.
(2) By means of the 'Caesarean operation'. (15) Tem. 17a. V. also op. cit. 11a and Bek. 42a.
(3) If any of these was exchanged for a consecrated beast. (Cf. Lev. XXVII, 10). That these cannot be directly consecrated is obvious. Cf. Bek. 14a.
(4) If they themselves were sacred. In the case of the hybrid, tumtum and hermaphrodite their sanctity is possible only where they were born from a consecrated beast. In the case of the terefah and the one extracted by means of the Caesarean operation sanctity is possible if the former was consecrated before it became terefah and the latter while it was still in its embryonic state.
(5) Cf. Lev. XXVII, 10.
(6) A town in Upper Galilee notorious for its fierce cocks who do not allow the intrusion of a strange cock among them (Rashi).
(7) In marriage.
(8) If their husbands died without issue when, in ordinary cases, it is the duty of the levir to marry his deceased brother's widow.
(9) Lit., 'and these'.
(10) V. Glos.
(11) Eligible to marry a priest.
(12) Of pure priestly stock.
(13) But did not marry her. If marriage took place the woman would in consequence be ineligible to marry even a common priest.
(14) Lit, 'and these'.
(15) In marriage.
(16) Lit., 'to these and to these'.
(17) Of pure priestly stock.
(18) v. Glos.
(19) Cf. supra 201, 211.
(20) If, for instance, the woman was the husband's mother's mother and the levir was his paternal, but not his maternal brother.
(21) Which the husband had consumed. The reason is given infra 89a.
(22) Which she brought to her husband at their marriage. She has no claim upon such clothes even if they were still available (Rashi). According to Tosaf. (infra 85a, s.v. בלאות) she is entitled to such clothes, and the ruling here applies to compensation for clothes which have been completely worn out. Cf Keth. 201a.
(23) V. Glos.
(24) In the first section of our Mishnah.
(25) Even if only betrothal had taken place the woman would be permitted to her husband and forbidden to the levir.
(26) Of the levirate marriage.
(27) Where the levir is a High Priest.
(28) A virgin . . . shall (positive) he take (Lev. XXI, 14) but not a widow (negative). A negative derived from a positive has only the force of a positive.
(29) A widow . . . shall he not (negative) take (ibid.).
(30) Were the levirate marriage to take place two precepts would have been overridden by the single positive precept of the levirate marriage.
(31) V. supra n. 7. The positive precept. A virgin . . . shall he take (v. supra note 6) is not in this case infringed, since a widow after a betrothal is still in her virginity.
(32) Of the levirate marriage.
(33) A bastard, for instance, to an Israelite.
(34) To his brother who is a common priest.
(35) Lit., 'to him'.
(36) In the first section of our Mishnah.
(37) Lit., 'and instead of teaching on account of'.
(38) Lit., 'let him teach on account of'.
(39) Where the expression used was BETROTHED, and not 'married'.

(40) In the use of the expression of MARRIED.

(41) Lit. , 'but because of the daughter of the (same) valley'.

(42) To his brother.

(43) In the first case, that of the common priest who married a widow.

(44) Who, becoming a widow after her husband's death, is, like one who was married as a widow, forbidden to a High Priest.

Talmud - Mas. Yevamoth 84b

And should you reply that this Tanna holds the opinion that the original marriage[1] causes the subjection;[2] behold, [it may be pointed out, the case of] the HALAL WHO MARRIED A WOMAN OF LEGITIMATE STATUS[3] where it is not said that 'the original marriage causes the subjection'![4] — This[5] is certainly due to the final clause. As it was desired to teach in the final clause, IF A HIGH PRIEST WHO MARRIED A WIDOW HAD A BROTHER A HIGH PRIEST OR A COMMON PRIEST, where [the prohibition[6] applies to] a WIDOW only[7] but [not to] a virgin who is eligible to marry him,[8] therefore, WIDOW was taught [here also].[9]

R. Papa demurred: If the law is in agreement with the following ruling[10] which R. Dimi, when he came,[11] reported in the name of R. Johanan, viz., that if an Egyptian of the second generation married an Egyptian woman of the first generation her son is regarded as belonging to the second generation,[12] [our Mishnah] should also have taught: If an Egyptian of the second generatlon married two Egyptian women, one of the first, and the other of the second generation, and he had sons from the first and from the second, [the wives of these sons], if they[13] married in the proper manner,[14] are permitted to their husbands but forbidden to their levirs,[15] and if they married in the reverse order[16] [the wives] are permitted to their levirs[17] and forbidden to their husbands;[18] proselyte women[19] are permitted to the one as well as to the other,[20] and women who are incapable of procreation are forbidden to the one as well as the other![21] — He taught some cases and omitted others. What else did he omit that he should have omitted this also? — He omitted [the case of the man] wounded in the stones.[22] If this is all that can be pointed out,[23] the case of the man wounded in the stones cannot be regarded as an instance of an omission, since those that are subject to the penalty of negative precepts were [already] mentioned![24] — Were not several specific cases mentioned[25] of those that are subject to the penalty of negative precepts? Surely it was stated, IF A COMMON PRIEST MARRIED A WIDOW and then again IF A HALAL MARRIED A WOMAN OF LEGITIMATE STATUS![26] That case[27] was required [for the specific purpose] of informing us [that the law is] in agreement with [the ruling] Rab Judah reported in the name of Rab. For Rab Judah reported in the name of Rab: Women of legitimate [priestly] status were not forbidden to be married to men of tainted birth.[28]

But, surely, he taught regarding A HALAL WHO MARRIED A WOMAN OF LEGITIMATE STATUS and then again regarding AN ISRAELITE WHO MARRIED THE DAUGHTER OF AN ISRAELITE AND HE HAD A BROTHER A BASTARD![29] — This also is not a repetition of what was already taught, since thereby he taught us [first] regarding a negative precept which is not applicable to all[30] and then he taught us regarding a negative precept which is applicable to all. But did he not teach[31] IF AN ISRAELITE WHO MARRIED A BASTARD HAD A BROTHER AN ISRAELITE![32] Con sequently[33] it must be concluded that he taught some cases while others he omitted. This proves it.

[Reverting to] the main text, 'Rab Judah reported in the name Of Rab: Women of legitimate [priestly] status were not forbidden to be married to men of tainted birth'. Might it be suggested that the following provides support for his view? [It was stated], A HALAL WHO MARRIED A WOMAN OF LEGITIMATE STATUS; does not [this refer to] a priestess (who was fitting unto him);[34] and is not the meaning of[35] LEGITIMATE STATUS eligible for priesthood![36] — No; [it

might refer to] the daughter of an Israelite, and LEGITIMATE STATUS means[35] eligible for the assembly.[37] If so, HAD A BROTHER OF LEGITIMATE STATUS would also [mean] 'eligible for the assembly', from which it would follow that he himself is ineligible for the assembly![38] Consequently it must refer to a priest; and since he is a priest she also must be a priestess.[39] What an argument! Each phrase may bear its own peculiar interpretation.[40]

Rabin b. Nahman raised an objection: They shall not take . . . they shall not take[41] teaches[42] that the prohibition was addressed to the woman through the man![43] — Raba replied, [This is the meaning]: Where the prohibition is applicable to him it is also applicable to her, but where it is not applicable to him it is also inapplicable to her.[44] Is this,[45] however, deduced from this text? Surely it was deduced from a text which Rab Judah expounded in the name of Rab! For Rab Judah stated in the name of Rab and so it was taught at the school of R. Ishmael: When a man or woman shall commit any sin that men commit;[46] Scripture compared the woman to the man in respect of all the punishments in the Torah![47] — If deduction had been made from that [text][46] it might have been assumed [to apply only to] a prohibition that is equally applicable to all, but not to a prohibition that is not equally applicable to all.[48]

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(1) Of the deceased brother.

(2) Of the woman to the levirate marriage, i.e. , the widow's status at the time of her husband's death is determined by the status in which she found herself when he married her, not by that in which his death placed her, consequently if at the time of the marriage she was a virgin she would not have been regarded as a widow and would, therefore, have been permitted to marry a priest.

(3) Who becomes, thereby. disqualified from marrying his brother.

(4) Had this been the case, his brother should have been permitted to marry her, owing to the fact that at the time of her marriage with the deceased (when she presumably became subject to the levirate marriage) she was no halalah.

(5) The mention of WIDOW rather than 'virgin'.

(6) To her husband who was a High Priest. and to the levir who was a common priest.

(7) Who becomes a halalah through such a forbidden marriage.

(8) The High Priest, (her first husband) and, after his death, also his brother if he was a common priest.

(9) In the first case, that of the common priest who married a widow.

(10) Lit., 'if there is that'.

(11) From Palestine to Babylon.

(12) Supra 78a.

(13) The sons.

(14) I.e., if the son of the Egyptian of the second generation, who thus belongs to the third and is permitted to enter the assembly (v. Deut. XXIII, 9), married the daughter of an Israelite; while the other who belongs to the second generation married an Egyptian of the second generation.

(15) Should one of the brothers die without issue. The son of the third generation is forbidden to marry the Egyptian of the second generation, while the son of the second generation is forbidden to marry the daughter of an Israelite.

(16) I.e., if the son of the second generation married the daughter of an Israelite, while the son of the third generation married an Egyptian of the second generation.

(17) Cf. supra n. 5 mutandis mutandis.

(18) Cf. supra. 6 mutatis mutandis.

(19) Who are not included in the term 'assembly of the Lord' (v. Deut. XXIII, 9).

(20) Both the Israelite and (for the reason indicated in n. 10) the Egyptian of the second generation may marry a proselyte.

(21) The son of the second generation may not marry her because she is the daughter of an Israelite, while after his death she is forbidden to his brother because a woman who is incapable of procreation is not subject to the levirate marriage and is consequently forbidden to him as his brother's wife.

(22) In respect of such a maimed person, prohibition and permission similar to those in our Mishnah could be stated: If he is maimed and his brother is fit the woman is forbidden to him (v. Deut. XXIII, 2) and permitted to his brother; if he is fit and his brother maimed she is permitted to him and forbidden to his brother; if both are maimed etc. proselyte

women are permitted to both.
(23) Lit., ‘if because of’.
(24) And among these, this case also is included. What proof, then, is there that any cases other than that of R. Dimi were omitted?
(25) Lit., ‘did be not teach and then taught again’.
(26) Which proves that the Mishnah did not avoid giving more than one example of the same type of prohibition.
(27) Of a halal who married a woman of legitimate status.
(28) Kid. 731, 76a, infra 85a. The purpose of our Mishnah in giving the law of the halal was not to teach the prohibition of the woman to the levir (which, of course, as pointed out supra, was unnecessary) but her permission to marry a husband though he is a halal and she is of legitimate status or of pure priestly stock. The prohibition to marry one of impure stock is incumbent upon the man and not upon the woman.
(29) Which shews that the Mishnah did not avoid giving more than one example of the same type of prohibition.
(30) The case of the halal is applicable to priests only, not to Israelites.
(31) Lit., ‘surely he taught’.
(32) Also a case of a negative precept! (cf. n. 7). Cur. edd. insert In parenthesis ‘and a bastard who married a bastard and he has a brother an Israelite’, which Rashal omits.
(33) Lit., ‘but not’?
(34) Though he may marry the daughter of an Israelite he should preferably marry the daughter of a priest. Cf. Pes. 49a. [The bracketed words are rightly omitted in MS.M].
(35) Lit., ‘and what’.
(36) To marry a priest. Which is in agreement with the opinion of Rab.
(37) I.e. ‘ to marry an Israelite.
(38) Surely not!
(39) I.e., since the term ‘legitimate status in the case of the man has reference to a priest, so the reference in the case of the woman must be to a priestess which shews that a priestess may marry one of tainted birth.
(40) Lit., ‘that as it is and that as it is’.
(41) Lev. XXI, 7.
(42) Since the expression was repeated.
(43) This is now assumed to mean that as the untainted priest may not marry a halalah so may not the untainted priestess marry a halal. An objection against the opinion of Rab.
(44) The halalah whom an untainted priest is forbidden to marry is herself forbidden to marry such a priest. The untainted priestess however, whom a halal is not forbidden to marry, may also marry the halal.
(45) The equality of men and women in respect of prohibitions
(46) Num. v, 6.
(47) Whether flogging or kareth.
(48) That of the priesthood does not apply to Israelites. Hence it was necessary to have the text of Lev. XXI, 7.

Talmud - Mas. Yevamoth 85a

Behold, however, [the prohibition against] defilement[1] which is a prohibition that is not equally applicable to all[2] and [yet the sole] reason [why it is inapplicable to woman is] because the All Merciful wrote The sons of Aaron[3] and not the daughters of Aaron; had, however, no such text been available[4] it would have been assumed that women also come under the same obligation. What is the reason? Obviously[5] because of the deduction Rab Judah reported in the name of Rab![6] — No; this might have been deduced from They shall not take.[7]

Others Say:[8] [The prohibition in regard] to marrying had to be specified.[9] Since it might have been assumed that it[10] should be inferred from [that relating to] defilement,[11] therefore he taught us[12] [that women are subject to the same prohibition as men].

R. Papa and R. Huna son of R. Joshua once happened to be at Hinzebu,[13] the town of R. Idi b. Abin, when the following question was asked of them: Were women of legitimate [priestly] status

forbidden to be married to men of tainted birth or not? R. Papa replied, 'You have learned it [in the following]. Ten different genealogical classes went up from Babylon:[14] Priests, Levites, Israelites, halalim,[15] proselytes, emancipated slaves, bastards, nethinim,[16] shethuki[17] and asufi.[17] Priests, Levites and Israelites may intermarry with one another. Levites, Israelites, halalim, proselytes and emancipated slaves may intermarry with one another. Proselytes, emancipated slaves, bastards, nethinim,[16] shethuki[17] and asufi[17] are permitted to intermarry with one another.'[18] That daughters of priests, however, [may be married to a] halal was not mentioned.[19] Said R. Huna son of R. Joshua to him: Only cases where the women may marry the men, and the men may marry the women were enumerated;[20] the case of the Priest, however,[21] was not mentioned, because a halalah, should he even desire to marry one, is forbidden to him.[22] When they came before R. Idi b. Abin he said to them, 'O, school-children! Thus said Rab Judah in the name of Rab: Women of legitimate [priestly] status were not forbidden to be married to men of illegitimate Status'.[23]

[IN RESPECT OF] RELATIVES OF THE SECOND GRADE [WHO ARE FORBIDDEN] BY THE ORDINANCES OF THE SCRIBES etc. The men of Bairi[24] enquired of R. Shesheth: Is a woman who is of the second grade of kinship to her husband but not to her levir entitled to claim her kethubah from the levir or not? [Do we say that] since a Master said that her kethubah[25] is a charge on the estate of her first husband[26] she has no [claim upon the levir];[27] or, possibly, since the Rabbis have ordained that wherever she is unable to obtain it from her first husband[28] [she may collect it] from the second, she[29] is entitled to claim it[30] [from the levir]? R. Shesheth replied, 'You have learned this: Her kethubah[25] is a charge upon the estate of her first husband, but if she was a relative of the second grade of kinship to her husband she receives nothing even from the levir.

Does [the expression,[31] however,] imply that some [widows] do receive their[30] kethubah from the levir![32] — There is a lacuna, and thus it is the correct reading:[33] Her kethubah[25] is a charge upon the estate of her first husband; and if she obtains nothing from the first, the Rabbis have ordained [that she is to receive it] from the second; but if she was a relative of the second grade of kinship to her husband she receives nothing even from the levir.

R. Eleazar enquired of R. Johanan: Is a widow [who was married] to a High Priest, or a divorcee or a haluzah [who was married] to a common priest entitled to maintenance or not? How is this question to be understood? If [it is a case] where she still lives with him,[34] would she, when it is his duty to divorce her,[35] be entitled to receive maintenance![36] — This question was necessary in the case[37] where he went to a country beyond the sea and she borrowed money wherewith to maintain herself;[38] it being desired to ascertain[39] whether, [owing to the fact that] maintenance[39] among the conditions of the kethubah, she is entitled to mainte nance just as she is entitled to the kethubah, or is she entitled to the kethubah only because she receives it and goes, but not to maintenance which might induce her to remain with him? — The other replied: She is not entitled to maintenance.[40] But, surely, it was taught: She is entitled to maintenance.[41] — That was taught In respect of [alimony] after [her husband's] death.[42]

Another reading:[43] He said to him, 'It was taught: She is entitled to maintenance'.[41] 'Surely', [the other asked], 'it is his duty to divorce her!'[44] 'But then', [the first retorted], 'it was taught: She is entitled to maintenance'![41] — 'That', [the other replied], 'was taught in respect of [alimony] after his death'.[42]

Our Rabbis taught: A widow [who was married] to a High Priest, or a divorcee or haluzah [who was married] to a common priest is entitled to her kethubah, usufruct,[45] alimony and worn clothes,[46] but she becomes thereby unfit, and her child is unfit, and [the husband] is compelled to divorce her. Relatives of the second grade of kinship [who are forbidden] by the ordinances of scribes are entitled neither to kethubah, nor to usufruct,[45] nor to alimony[46] nor to worn clothes;[46] the woman remains fit and her child is fit; but [the husband] is compelled to divorce her. R. Simeon b. Eleazar said, 'Why

was it ordained that a widow married to a High Priest is entitled to her kethubah? Because he becomes unfit[47] and she becomes unfit and wherever he becomes unfit and she becomes unfit[48]

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(1) For the dead.
(2) Having been given to priests only. v. Lev. XXI, 1ff.
(3) Ibid. 2.
(4) Lit., 'but (if) not so'.
(5) Lit., 'not?'
(6) Which shews that even a prohibition which is not applicable to all would be assumed to be applicable to women by deduction from Rab's text!
(7) Lev. XXI, 7, from which it has been deduced (supra 84b, end) that women are subject to the same prohibitions as men even where the prohibitions are not applicable to all. Hence the necessity for the text of Lev. XXI, 1 , which excludes women. From Num. v, 6, however, it may still be maintained, deduction could be made only in respect of a prohibition that is applicable to all.
(8) Although the equality of men and women in respect of prohibitions could be deduced from the text cited by Rab Judah in the name of Rab.
(9) Lit., 'taking was necessary for him', with reference to the verse, 'They shall not take'.
(10) The prohibition of the marriage of the halalah to a halal.
(11) Which, as has just been shewn, applies only to men and not to women.
(12) In the case of marriage by the text of Lev. XXI, 7.
(13) Or 'Shekanzebu' (Bah). The reading 'Shekanzib' (cf. supra 37b) is quoted by Golds., a.l., and rejected in favour of the reading in our text.
(14) In the days of Ezra.
(15) Pl. of halal, profaned priests. V. Glos.
(16) Pl. of nathin, v. Glos.
(17) For notes v. supra 37a.
(18) Kid. 69a.
(19) The answer to their question is, therefore, in the affirmative.
(20) Lit., 'wherever these take from those and those take from these he taught'.
(21) Though, were he a halal, he would not have been forbidden to marry a priest's daughter.
(22) So that the Mishnah of Kid. is not conclusive.
(23) V. supra 84b.
(24) V. supra p. 561, n. 10. [Here probably Be Bari, south of Sura (v. Obermeyer, p. 308)].
(25) Of a widow subject to the levirate marriage.
(26) Supra 381, Keth. 80b.
(27) Though in this particular case she can have no claim upon the estate of her husband.
(28) If, for instance, he is without means.
(29) Since here also she receives nothing from the estate of her first husband.
(30) Lit., 'there is to her'.
(31) 'She receives nothing even from the levir'.
(32) Which is contrary to the ruling supra that the kethubah remains a charge upon the estate of the first husband.
(33) Lit., 'and thus he taught'.
(34) Lit., 'sits under him', her forbidden husband.
(35) Lit., 'He stands under (the charge) to get up and make her go out'.
(36) Obviously not. What need, then, was there to ask a question the answer to which is so obvious?
(37) Lit., 'it is not required (but)'.
(38) Lit., 'and she ate'.
(39) Lit., 'what'.
(40) Lit., 'there is not to her'.
(41) Lit., 'there is to her'.
(42) If her husband died before she was divorced. Since in such a case there is no cause to apprehend that she will be induced to remain with him, she is entitled to alimony.

(43) Lit., 'there is one who says'.
(44) Cf. supra p. 574 n. 11. How, then, could he he expected to maintain her?
(45) Consumed by the husband from her melog (v. Glos.) property.
(46) Cf. nn. on our Mishnah.
(47) He is not permitted to perform the Temple service as long as he refuses to part with her. V. Bek. 45b and Git. 35b.
(48) [Tosaf.: 'Wherever he becomes unfit or she becomes unfit'. The resulting unfitness of either of them is sufficient to act as a deterrent to the woman in view of the effect it has on the child's fitness. R. Tam, on the other hand, whilst agreeing with this rendering, takes 'he' as referring to the child].

Talmud - Mas. Yevamoth 85b

[the Rabbis] have penalized him [by ordering him to pay her] kethubah.[1] And why was it ordained that relatives of the second grade of kinship, [who are forbidden] by the ordinances of the Rabbis, are not to receive their kethubah? Because the man remains fit and the woman remains fit, and wherever he as well as she remains fit [the Rabbis] have penalized her [by depriving her of her] kethubah.[2] Rabbi said, 'The former[3] are prohibitions[4] of the Torah, and prohibitions of the Torah require no reinforcement;[5] while the latter[6] are prohibitions of the scribes, and the prohibitions of the scribes require reinforcement.[7] Another reason[8] is: In the former case the man induces the woman[9] [into the marriage];[10] in the latter case she induces him.[11] Who stated the 'other reason'? One opinion asserts[12] that it was R. Simeon b. Eleazar who stated it; and he gave an answer[13] [to the question] 'what is the reason'. 'What is the reason', [he said in effect,] 'why it was ordained that when the man is unfit and the woman is unfit the man is penalized by having to pay the kethubah? Because he induces the woman into the marriage.[14] And what is the reason why when he remains fit and she remains fit she is penalized by losing her kethubah? Because she induces him, [into the marriage'].[15] Another opinion asserts[12] that it was Rabbi[16] who stated it, because the case of the haluzah presented to him the following difficulty: A haluzah, surely, is only Rabbinically [forbidden to be married to a common priest][17] and yet she receives her kethubah.[18] Thereupon he stated: Since the man disqualifies her by Rabbinical law[19] it is he, [who in the former case], induces[20] her [into marriage][21] but in the latter case it is she that induces him [into marriage].[22]

What practical difference is there between [the reason given by] Rabbi and [that given by] R. Simeon b. Eleazar? — R. Hisda replied: The practical difference between them is the case of a bastard or a nethinah [who was married] to an Israelite. According to him who gave the reason[23] that [the prohibitions were] Pentateuchal, then this case[24] also is Pentateuchal;[25] but according to him who gave as the reason,[23] that the man induces the woman[26] then here, it is she that induces him [into the marriage].[27] According to R. Eliezer, however, who[28] stated, 'Behold he[29] is both a slave and a bastard',[30] the woman, surely, would not induce the man at all![31] — Rather, said R. Joseph, the practical difference between them[32] is the case of the man who remarried his divorced wife after she had been married.[33] According to him who gave the reason[34] that [the prohibitions were] Pentateuchal, then this case[35] also is Pentateuchal;[36] but according to him who gave as the reason[34] that the man induces the woman[37] then here, surely, she induces him.[38]

But according to R. Akiba who stated that the offspring of a union forbidden under the penalty of a negative precept is deemed to be a bastard,[39] she,[40] surely, would not induce the man at all![41]

Rather, said R. Papal the practical difference between them[42] is the case of a be'ulah[43] [who was married] to a High Priest.[44] According to him who gave as the reason[34] that [the prohibitions were] Pentateuchal, then this case also is Pentateuchal;[45] but according to him who gave as the reason[34] that the man induces the woman,[37] then here, surely, it is she that induces him.[46]

According to R. Eliezer b. Jacob, however, who stated that the offspring of a union that is forbidden under a positive precept is deemed a halal,[47] she,[48] surely, would not at all induce him![49]

Rather, said R. Ashi, the practical difference between them[42] is the case of the man who cohabits again with his doubtful sotah.[50] According to him who stated that the reason[34] is that [the prohibition is] Pentateuchal, then this case also is Pentateucha[46] but according to him who stated that the reason[34] is that the man induces the woman[37] here it is she that induces him.[46]

And according to R. Mathia b. Heresh who stated that even a woman whose husband, while going to arrange for her drinking [of the water of bitterness][51] cohabited with her on the way, is rendered a harlot, she,[52] surely, would not at all induce him [to such a marriage]![53] Rather, said Mar b. R. Ashi, the practical difference between them[54] is the case of a confirmed sotah[55] .

MISHNAH. THE DAUGHTER OF AN ISRAELITE WHO WAS BETROTHED TO A PRIEST, WAS PREGNANT FROM A PRIEST, OR WAS AWAITING THE DECISION OF A LEVIR WHO WAS A PRIEST; AND, SIMILARLY, THE DAUGHTER OF A PRIEST [WHO STOOD IN SUCH RELATIONSHIP] TO AN ISRAELITE, MAY NOT EAT TERUMAH.[56] THE DAUGHTER OF AN ISRAELITE WHO WAS BETROTHED TO A LEVITE, WAS PREGNANT FROM A LEVITE, OR WAS AWAITING THE DECISION OF A LEVIR WHO WAS A LEVITE; AND, SIMILARLY, THE DAUGHTER OF A LEVITE [WHO STOOD IN SUCH RELATIONSHIP] TO AN ISRAELITE MAY NOT EAT TITHE.[57] THE DAUGHTER OF A LEVITE WHO WAS BETROTHED TO A PRIEST, WAS PREGNANT FROM A PRIEST, OR WAS AWAITING THE DECISION OF A LEVIR WHO WAS A PRIEST; AND, SIMILARLY, THE DAUGHTER OF A PRIEST [WHO STOOD IN SUCH RELATIONSHIP TO A LEVITE, MAY EAT NEITHER TERUMAH NOR TITHE.

GEMARA. And granted that she[58] is [no more than] an ordinary woman,[59] is not any ordinary woman permitted to eat tithe?[60] R. Nahman replied in the name of Samuel: This ruling represents the view of R. Meir[61] who stated: The first tithe is forbidden to common people.[62] For it was taught:

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(1) The woman is already penalized by a marriage which taints both herself and her husband and which is naturally followed by an unhappy family life. In such circumstances the woman would either not consent to marriage or would be anxious to have such a union severed at the earliest possible moment. The penalty was, therefore, imposed upon the husband.

(2) In order that she might, in consequence, be deterred from contracting such a marriage or, if contracted, be anxious to have it severed.

(3) Lit., 'those', the marriage of a widow to a High Priest and that of a divorcee or haluzah to a common priest.

(4) Lit., 'words'.

(5) Hence there was no need to deprive the woman of her kethubah. Cf. supra n. 1.

(6) Marriages with relatives of the second grade of kinship.

(7) Cf. supra n. 1.

(8) Why in the former case the man is to pay the kethubah while in the latter the woman loses her kethubah.

(9) Lit., '(in) this he leads her'. מרגילה denom. of רגל 'foot' (cf. Jast.). Colds. (a.l.) renders 'befleckt er sie'.

(10) The woman is reluctant to contract a marriage which taints her and her children.

(11) As the marriage subjects neither the woman nor her children to any disability, it is assumed that she, as a woman, is more anxious than the man to marry.

(12) Lit., 'there is (one) who said'.

(13) Lit., 'he said'.

(14) V. supra notes 8 and 9.

(15) V. supra note 10.

(16) Who had previously explained that the reason why the woman was deprived of her kethubah was because prohibitions of the scribes require reinforcement.

(17) Cf. Kid. 78a.

(18) If Rabbinical prohibitions require reinforcement the haluzah should not have been entitled to her kethubah. (Cf. supra p. 576, n. 2).

(19) [(a) According to Rashi: from eating terumah; (b) MS. M. reads: 'he disqualifies her seed by rabbinic law'. Cf. also Me'iri].
(20) V. supra p. 576, n. 8.
(21) The woman is reluctant to contract such a union.
(22) V. supra p. 576, n. 10.
(23) Why in the former case, supra, the woman is entitled to her kethubah.
(24) Of the bastard or the nethinah.
(25) And the woman is, therefore, entitled to her kethubah.
(26) Into the marriage.
(27) She, being in any case forbidden to marry an Israelite, has nothing to lose by her marriage which, under certain conditions, may even be advantageous to her, since according to R. Tarfon (cf. Kid. 69a, supra 78a), it may enable her descendants to become proper Israelites. The woman, therefore, loses her kethubah.
(28) Disagreeing with the view of R. Tarfon. (Cf. supra n. 11).
(29) The son of a union between a bastard and a slave.
(30) And can never become a legitimate Israelite. Cf. Kid. 69a.
(31) Why then should she lose her kethubah?
(32) Rabbi and R. Simeon b Eleazar.
(33) After she had been married to another man. V. Rashi and cf. Bah a.l. Cur. edd. read, 'a divorced woman after she had been married'.
(34) V. supra p. 57, n. 7.
(35) The remarriage of one's divorcee.
(36) It is pentateuchally forbidden to marry such a woman. (V. Deut. XXIV, 4). Cf. supra p. 57, n. 9.
(37) Into the marriage.
(38) Since the prohibition was addressed to the man; and neither the woman nor her children are subject to any disability in consequence of such a marriage.
(39) V. supra 49a.
(40) The divorced woman who has been married to another man and whose remarriage with her first husband is forbidden by a negative precept.
(41) She would not be anxious to contract a union the issue from which would be bastards.
(42) Rabbi and R. Simeon b. Eleazar.
(43) A woman who has lost her virginity. v. Glos.
(44) Such a union is forbidden under the positive precept. A virgin . . . shall he take (Lev. XXI, 14), and not by a negative one. A negative precept derived from a positive has only the force of a positive. The offspring therefore, would be no bastard even according to R. Akiba.
(45) Cf. supra n. 11 and supra p. 57, n. 9.
(46) V. supra note 5.
(47) V. supra 600.
(48) A be'ulah.
(49) Since such a marriage would render her child a halal.
(50) V. Glos. Such a woman is pentateuchally forbidden to her husband though the offspring of the union is not regarded as a bastard. V. supra 49b.
(51) V. Num. V, 18f.
(52) The doubtful sotah.
(53) Which would render her a harlot and her children bastards.
(54) Rabbi and R. Eleazar b. Simeon.
(55) Who is Pentateuchally forbidden to her husband though their offspring is not deemed to be a bastard. As she herself is in any case forbidden to marry a priest she has nothing to lose by cohabiting with her husband, and she would consequently persuade him to live with her again. Hence the ordinance that in such a case she loses the rights to her kethubah.
(56) As explained supra 67b.
(57) Which is the due of the Levites. V. Num. XVIII, 24.
(58) The daughter of the Israelite or the Levite who was betrothed etc. to a Levite and an Israelite respectively.

(59) זרה (masc. זר), lit., 'a stranger', not of priestly, or levitical stock.
(60) Of course she is. Why, then, does our Mishnah forbid it?
(61) Lit., 'this, who is it? It is R. Meir'.
(62) Supra 74a. Cf. supra note 1 and p. 579, n. 7.

Talmud - Mas. Yevamoth 86a

Terumah to the priest and the first tithe to the Levite;[1] so R. Meir. R. Eleazar b. Azariah permits it to the priest,[2] 'Permits it'![3] Does this then imply that some authority forbids it?[4] Read, therefore, 'He may give it to the priest also'. What is R. Meir's reason? R. Aha son of Rabbah replied on the authority of a traditional statement:[5] For the tithe of the children of Israel, which they set apart as terumah unto the Lord,[6] as terumah is forbidden to common people so is the first tithe forbidden to common people. May it be assumed that[7] as in the case of terumah the penalties of death and of a fifth[8] are incurred, so are the penalties of death and of a fifth incurred in the case of tithe? — Scripture stated, And die therein if they profane it[9] . . . then he shall put the fifth part thereof unto it;[10] 'therein',[11] but not in the tithe; 'Into it'[12] but not unto tithe. And the Rabbis?[13] — As terumah is a cause of tebel[14] so is the first tithe a cause of tebel;[15] and this is in agreement with what was taught: R. Jose said, It might have been presumed that guilt is incurred only for tebel from which nothing whatsoever[16] had been set apart; whence is it deduced [that guilt is also incurred when] terumah gedolah[17] had been set apart but not the first tithe,[18] first tithe but not the second tithe[19] or even if the poor man's tithe[20] [only had not been set apart]? Scripture stated, Thou mayest not eat within thy gates[21] and further on it was stated, That they may eat within thy gates, and be satisfied;[22] as 'Thy gates' which was stated below[22] refers to the poor man's tithe,[23] so 'Thy gates' which was stated here[21] refers to the poor man's tithe, and [concerning it] the All Merciful has said, Thou mayest not.[24] And if the deduction had been made from that text[25] only[26] it might have been assumed [to imply the penalty] of a negative precept[27] but not [the penalty of] death; hence we were taught [the earlier text[28] also].[29]

Another reading: That the first tithe is a cause of tebel[30] may surely be deduced from the text cited by R. Jose![31] — If [deduction had been made] from that text[25] only[32] it might have been assumed [to imply the penalty] of a negative precept[27] but not the penalty of death; hence we were taught [the earlier text[28] also].[29]

How did you explain it?[33] In accordance with the view of R. Meir! Explain, then, the final clause: THE DAUGHTER OF A LEVITE WHO WAS BETROTHED TO A PRIEST and THE DAUGHTER OF A PRIEST . . . TO A LEVITE MAY EAT NEITHER TERUMAH NOR TITHE; what [bearing has the question of] non-priestly stock in this case?[34] — R. Shesheth replied: The meaning of[35] the expression,[36] SHE MAY NOT EAT is that she may not give permission to one to set apart[37] the tithe.[38] Does this[39] then imply that a married woman may give such permission? — Yes; and so it was taught: And ye may eat it in every place, ye and your household[40] teaches that a married daughter of an Israelite[41] may give permission for terumah[42] to be set apart.[43] You say: Permission for terumah[43] to be set apart; perhaps it is not so, but to eat it?[44] It can be replied: If she[45] may eat terumah which is subject to greater restrictions, how much more may she[46] eat tithe which is subject to lesser restrictions.[47] The text[48] must consequently[49] have taught that a married daughter of an Israelite may give permission for terumah[42] to be set apart.[43]

Mar the son of Rabana[50] stated: This[51] teaches that she is not given a share in the tithe in the threshing- floors.[52] This is a satisfactory explanation according to him who holds that this[53] is due to considerations of privacy governing the sexes;[54] according to him, however, who holds that this[53] is due to [possible abuse by] a divorced woman,[55] may not a divorced woman who is the daughter of a Levite[56] eat tithe?[57] — And according to your argument, may not a divorced woman who is the daughter of a priest eat terumah![58] But [the fact is that the ordinance[59] is] a preventive measure

against [abuse by] a divorced woman who was the daughter of an Israelite.[60] If so,[61] what was the point in mentioning BETROTHED? [The same rule should be applied] even to one who was married! — As in the first clause BETROTHED was taught,[62] BETROTHED was also taught in the final clause.[63]

Our Rabbis taught: Terumah gedolah[64] belongs to the priest, and the first tithe belongs to the Levite; so R. Akiba. R. Eleazar b. Azariah said:

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(1) As the terumah must be given to the priest and may be eaten by priests only and not by common peopled so must the first tithe also be given to Levites and be eaten by Levites only and not by common people (v. Rashi).

(2) Keth. 26a.

(3) The eating of tithe by a priest.

(4) Which is absurd. A priest, surely, is not included among the 'common' people to whom tithe should be forbidden!

(5) Attributed to R. Meir himself.

(6) Num. XVIII, 24; terumah (E.V. gift) and tithe having been mentioned in juxtaposition.

(7) Lit., 'if'.

(8) Cf. Lev. XXII. 14.

(9) Ibid. 9.

(10) Ibid. 14.

(11) Shall the penalty of death be incurred.

(12) Shall a fifth be added.

(13) How do they explain the comparison between the terumah and tithe to which Scripture points?

(14) טבל v. Glos. The penalty for eating tebel is death.

(15) V. supra n. 18, though for the eating of the tithe itself no death penalty is incurred.

(16) Neither the priestly, nor the levitical dues.

(17) V. Glos.

(18) Which is not so sacred as terumah, being permitted to Levites.

(19) Which even common people are permitted to eat. Cf. Deut. XIV, 22-27.

(20) Which is not even sacred, it being regarded as mere alms.

(21) Deut. XII, 17, speaking of tithe.

(22) Ibid. XXVI, 12, speaking of the tithe of the poor man.

(23) The text speaking of the third year, (ibid.). The third and the sixth year of the Septennial cycle are the years in which the poor man's, instead of the second tithe is given to all who are in need of it.

(24) Eat, (ibid. XII, 17), before it is set apart from the produce.

(25) Deut. XII, 17, speaking of tithe.

(26) Lit., 'and if from there'.

(27) For the eating of the tithe, since the prohibition only was stated, but no death penalty was mentioned.

(28) Num. XVIII, 24.

(29) From which a comparison is made between the tithe and terumah. Cf. supra p. 580. n. 10.

(30) V. Glos.

(31) In the Baraitha just discussed. What need, then, was there for the comparison deduced from Num. XVIII, 24?

(32) Lit., 'if from that'.

(33) The reference to tithe in the case of THE DAUGHTER OF AN ISRAELITE WHO WAS BETROTHED TO A LEVITE, and THE DAUGHTER OF A LEVITE... TO AN ISRAELITE.

(34) Lit., 'what strangeness is there here'; neither the daughter of a priest nor the daughters of a Levite are 'strangers' or 'common' women to whom tithe is forbidden.

(35) Lit., 'what'.

(36) Lit., 'that was taught'.

(37) From the produce of her betrothed, or of the levir whose decision she is awaiting.

(38) And the terumah of this tithe (cf. Num. XVIII, 26) so that she might be enabled to eat of the tithe. The reason for the prohibition is not because the tithe is forbidden to her, but because she is not entitled to appoint an agent for the setting apart of terumah without the owner's knowledge.

(39) Since BETROTHED was mentioned.
(40) Num. XVIII, 31. The husband (ye) was compared to his wife (household; בית term for 'wife').
(41) I.e., one married to a Levite.
(42) From her husband's produce.
(43) Cf. supra note 5.
(44) The tithe.
(45) The wife of a priest, because she is entitled to the same rights as her husband.
(46) The wife of a Levite who also, like the wife of the priest, is entitled to her husband's rights.
(47) As this law is so obvious there was no need to have a Scriptural text from which to deduce it.
(48) V. supra n. 7.
(49) Lit., 'but'. Since it is available for a comparison between husband and wife.
(50) Or 'Rabina' (v. Rashi).
(51) The final clause in our Mishnah, THE DAUGHTER OF A LEVITE TO A PRIEST and THE DAUGHTER OF A PRIEST TO A LEVITE.
(52) If she comes unaccompanied by her husband. The first clause will, however, refer to eating and is in accordance with R. Meir's view.
(53) The prohibition to give a share in the terumah or tithe to a woman when she comes alone to the threshing-floor.
(54) יחוד v. Glos. s.v. yihud and cf. infra 100a.
(55) Who might continue to collect tithe at the threshing- floors even after her divorce from her husband when she returns to her former status of an ordinary woman and forbidden to share in the priestly dues and, according to R. Meir, also in the levitical tithe.
(56) Another reading, 'May not the daughter of a priest eat terumah? — And according to your argument may not a divorced woman who is the daughter of a Levite eat tithe?' Cur. edd. enclose the reading of our text in parenthesis.
(57) Of course she may. Why, then, should she be refused a share in the tithe even in the absence of her husband!
(58) She undoubtedly may. Why then is the wife of a priest refused a share in terumah in the absence of her husband (cf. infra 100a) irrespective of whether she is the daughter of a priest or of an Israelite?
(59) V. p. 582, n. 20.
(60) Such a preventive measure is, of course, applicable to the daughter of a Levite in respect of tithe in the same way as to the daughter of a priest in respect of terumah.
(61) That the prohibition is merely a preventive measure.
(62) In the first clauses the expression BETROTHED was essential, since the object of the Mishnah was to state that betrothal alone does not confer upon the daughter of an Israelite the right of eating terumah and tithe, and upon the daughter of a Levite the right to terumah, if the former was betrothed to a priest or a Levite and the latter to a priest; and that even betrothal, and not only marriage, deprives the daughter of a priest and the daughter of a Levite of the right of eating terumah and tithe respectively if the man was in the former case an Israelite or a Levite and in the latter case an Israelite.
(63) Where the reference is to the woman's eligibility to call for a share in the tithe; though in this case the woman, whether betrothed or married, is subject to the same restriction.
(64) V. Glos.

Talmud - Mas. Yevamoth 86b

To the priest.[1] 'To the priest', but not to the Levite![2] — Read: To the priest also.

What is R. Akiba's reason? — Because it is written, Moreover thou shalt speak unto the Levites, and say unto them;[3] Scripture thus refers specifically to the Levites. And the other?[4] — His view follows that of R. Joshua b. Levi. For R. Joshua b. Levi stated: In twenty-four passages were the priests described as Levites, and the following is one of them: But the priests the Levites, the sons of Zadok.[5] And R. Akiba? You cannot say so[6] here; for it is written, And ye may eat it in every place,[7] [it is to be given to him only] who 'may eat it in every place'; a priest , however, is excluded since he may not eat it in a graveyard.[8] And the other? — [The meaning[9] is] wherever he wishes: Neither is it required [to eat it within the] wall[10] nor is a man subject to flogging for eating it while his body

is levitically unclean.

There was a certain garden from which R. Eleazar b. Azariah[11] used to receive the first tithe. R. Akiba went and transferred its gate so that it faced a graveyard.[12] 'Akiba with his bag',[13] the other remarked, 'and I have to live'!

It was stated: Why were the Levites penalized [by being deprived of the] tithe?[14] — R. Jonathan and Sabia [are in dispute on the matter]. One holds: Because they did not go up[15] in the days of Ezra;[16] and the other holds: In order that the priests might depend upon it[17] during the days of their uncleanness.[18]

According to him who holds [that the Levites were deprived of the tithe] because 'they did not go up', one can well understand why they were penalized. According to him, however, who gave as the reason, 'In order that the priests may depend upon it during the days of their uncleanness', were the Levites penalized for the sake of the priests! Rather, all agree[19] that the penalization was due to their not going up in the days of Ezra; they differ, however, on the following point: One is of the opinion that their forfeit belonged to the poor, while the other is of the opinion that priests, during the days of their uncleanness, are also regarded as poor.

Why, then,[20] did R. Akiba[21] transfer the gate so that it faced a graveyard?[22] — It was this that he[23] said to him:[24] If you come [to claim it] as a forfeit, you are entitled to it; but if you come [to demand it] as your share, you have no [claim upon it].

Whence is it deduced that they[25] did not go up in the days of Ezra? — It is written, And I gathered them together to the river that runneth to Ahava; and there we encamped three days,' and I viewed the people and the priests, and found there none of the sons of Levi.[26]

R. Hisda stated: At first, officers were appointed from the Levites only, for it is said, And the officers of the Levites before you;[27] but now, officers are appointed from the Israelites only, for it is said, 'And officers over you shall come from the majority'.[28] MISHNAH. THE DAUGHTER OF AN ISRAELITE WHO WAS MARRIED TO A PRIEST MAY EAT TERUMAH. IF HE DIED AND SHE HAS A SON BY HIM SHE MAY CONTINUE TO EAT TERUMAH. IF SHE WAS [SUBSEQUENTLY][29] MARRIED TO A LEVITE, SHE MAY EAT OF THE TITHE.[30] IF THE LATTER DIED AND SHE HAD A SON BY HIM, SHE MAY CONTINUE TO EAT OF THE TITHE. IF SHE WAS [SUBSEQUENTLY] MARRIED TO AN ISRAELITE SHE MAY EAT NEITHER TERUMAH NOR TITHE. IF THE LATTER DIED AND SHE HAS A SON BY HIM, SHE MAY EAT NEITHER TERUMAH NOR TITHE. IF HER SON BY THE ISRAELITE DIED, SHE MAY AGAIN EAT OF THE TITHE. IF HER SON BY THE LEVITE DIED SHE MAY AGAIN EAT TERUMAH. IF HER SON BY THE PRIEST DIED, SHE MAY EAT NEITHER TERUMAH NOR TITHE.

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(1) Belongs the first tithe. B.B. 81b, Keth. 261, Hul. 13 lb.

(2) Scripture, surely, assigned the tithe to the Levite!

(3) Num. XVIII, 26, referring to tithe.

(4) R. Eleazar b. Azariah. How could he include the priests?

(5) Ezek. XLIV, 15.

(6) That by Levites the priests also were meant.

(7) Num. XVIII, 31.

(8) Which he may not enter owing to the prohibition of defiling himself for the dead. Cf. Lev. XXI, 1ff.

(9) Of In every place (Num. XVIII, 31).

(10) Of Jerusalem, outside of which the eating of certain consecrated foodstuffs was forbidden.

(11) Who was a priest, cf. Ber. 27b.

(12) So that R. Eleazar b. Azariah (v. supra n. 9) was prevented from entering it (cf. supra n. 6).
(13) Reference to the shepherd's wallet. R. Akiba was a herdsman in his early life (cf. Keth. 62b). [Me'iri: Though R. Akiba may have to return to his shepherd's wallet, I can manage to live without his tithe].
(14) A provision was made at some time (v. infra) that tithe shall not be given to the Levites in accordance with the Pentateuchal law but to the priests (cf. Sot. 47b, Hul. 131b).
(15) To Judaea.
(16) Who led some forty thousand exiles from Babylon to Jerusalem. [On the Levites' deprivation of their right to tithe v. Tchernowitz. H. Jewish Studies in Memory of George Alexander Kohut (Hebrew section) p. 47].
(17) The tithe.
(18) When terumah is forbidden to them.
(19) Lit., 'all the world', R. Jonathan and Sabia.
(20) According to the opinion which maintains that the tithe was allotted to the priests in the days of Ezra.
(21) Who lived after Ezra.
(22) R. Eleazar b. Azariah as a priest was surely then entitled to it. Cur. edd. contain in parenthesis, 'According to him who said that the forfeit belonged to the poor, it can well be understood why R. Akiba transferred the entrance so that it faced a graveyard; according to him, however, who stated that it belonged to the priests, why did he transfer the entrance so that it faced a graveyard'. The reading adopted is given in the margin of cur. edd.
(23) R. Akiba.
(24) R. Eleazar b. Azariah.
(25) The Levites.
(26) Ezra VIII, 15. [This is apparently contradicted by the many verses in Ezra and Nehemiah which mention the Levites side by side with the priests, and as Tosaf. already points out (s.v. ומבני) is against the Mishnah in Kid. 69a which includes the Levites among the ten family stocks that came up from Babylon, unless it is to be assumed that the penalty was inflicted on the Levites because they were not among the first to join Ezra].
(27) II Chron. XIX, 11.
(28) Such a text cannot be traced in our Bible and may represent a verse from a lost apocryphal text. Some commentators regard it as a quotation from memory, based on Deut. I, 13, 15; but the respective dates of Ezra and Deut. would create chronological difficulties. (v. Golds.).
(29) After having had a child from the priest.
(30) But not of terumah. Her priestly status is lost.

Talmud - Mas. Yevamoth 87a

THE DAUGHTER OF A PRIEST WHO WAS MARRIED TO AN ISRAELITE MAY NOT EAT TERUMAH.[1] IF HE DIED AND SHE HAD A SON BY HIM SHE MAY NOT EAT TERUMAH. IF SHE WAS [SUBSEQUENTLY] MARRIED TO A LEVITE SHE MAY EAT TITHE. IF THE LATTER DIED AND SHE HAD A SON BY HIM SHE MAY EAT TITHE. IF SHE WAS [SUBSEQUENTLY] MARRIED TO A PRIEST SHE MAY EAT TERUMAH. IF THE LATTER DIED AND SHE HAD A SON BY HIM SHE MAY EAT TERUMAH. IF HER SON BY THE PRIEST DIED SHE MAY NOT EAT TERUMAH. IF HER SON BY THE LEVITE DIED SHE MAY NOT EAT TITHE. IF HER SON BY THE ISRAELITE DIED SHE RETURNS TO THE HOUSE OF HER FATHER; AND IT IS CONCERNING SUCH A WOMAN THAT IT WAS SAID, AND IS RETURNED UNTO HER FATHER'S HOUSE, AS IN HER YOUTH, SHE MAY EAT OF HER FATHER'S BREAD.[2]

GEMARA. IF HER SON BY THE LEVITE DIED SHE MAY AGAIN EAT TERUMAH, because she is again entitled to eat it by virtue of her son;[3] whence is this[4] derived? — R. Abba replied in the name of Rab: [From the use of the expression,] But a daughter[5] [instead of] 'a daughter'.[6] In accordance with whose view?[7] Is it in accordance with that of R. Akiba who bases expositions on Wawin![8] — It may be said [to be in agreement] even [with the view of the] Rabbis, since the entire expression But a daughter[5] is superfluous.[9]

Our Rabbis taught: When she[10] returns,[11] she returns only to [the privilege of eating] terumah, but does not return to [the privilege of eating] the breast and the shoulder.[12] Said R. Hisda in the name of Rabina b. Shila, 'What Scriptural text proves this?[13] — She shall not eat of the terumah of the holy things,[14] she must not eat of that which is set apart[15] from the holy things'.[16] R. Nahman replied[17] in the name of Rabbah b. Abbuha: Of [her father's] bread,[5] but not all [her father's] bread;[18] this excludes the breast and the shoulder.[12] Rami b. Hama demurred: Might it not be suggested that this[19] excludes the invalidation of vows![20] Raba replied: A Tanna of the school of R. Ishmael has long ago settled this difficulty. For a Tanna of the School of R. Ishmael taught: What need was there for Scripture to state, But the vow of a widow, or of her that is divorced . . . shall stand against her?[21] Is she not free from the authority of her father and also from that of her husband![22] The fact is that where the father had entrusted [his daughter] to the representatives of the husband, or where the representatives of the father had entrusted her to the representatives of the husband, and on the way[23] she became a widow or was divorced, [it would not have been known] whether she was to be described as of[24] the house of her father[25] or as of the house of her husband;[26] hence the need for the text[27] to tell you that as soon as she had left her father's authority, even if only for a short while, he may no more invalidate her vows.[28]

R. Safra replied:[29] She may eat of her father's bread,[30] only bread but no flesh.[31] R. Papa replied:[29] She may eat of her father's bread,[30] only the bread which is the property of her father;[32] excluding however, the breast and the shoulder which [priests] obtain from the table of the Most High.[33]

Raba, however, replied:[29] And the breast of the waving and the thigh of heaving shall ye eat . . . thou, and thy daughters with thee,[34] only when they are with thee.[35]

R. Adda b. Ahabah stated that a Tanna taught: When she[36] returns to her father's house, she returns [only to the privilege of eating] terumah, but does not return to [the privilege of eating] the breast and the shoulders. [If she[37] returns, however,] by virtue of her son,[38] she returns also to [the privilege of eating] the breast and the shoulder.[39] R. Mordecai went and recited this traditional statement in the presence of R. Ashi, when the latter said to him, 'Whence [has this case][40] been included?[41] From "But a daughter".[42] Should she, then, be more important than the other!'[43] — There,[43] the excluding texts were written;[44] but here[40] no excluding texts were written.

THE DAUGHTER OF A PRIEST WHO WAS MARRIED TO AN ISRAELITE etc. Our Rabbis taught: And is returned unto her father's house,[42] excludes one who is awaiting the decision of the levir;[45] as in her youth,[42] excludes a pregnant woman.[46] But could not this [law,[47] however, be arrived at by] logical argument: If where a child by a first husband is not regarded as the child by the second husband, in respect of exempting the woman from the levirate marriage,[48] the embryo is nevertheless regarded as a born child,[49] how much more should the embryo be regarded as a born child where a child by the first husband is regarded as the child of the second, in respect of depriving a woman of her right to terumah![50] No; this is no argument.[51] If an embryo was regarded as a born child in respect of the levirate marriage, where the dead were given the same status as the living,[52] should an embryo be regarded as a born child in respect of terumah, where the dead were not given the same status as the living?[53] Consequently Scripture expressly stated, As in her youth,[54] to exclude a pregnant woman.

And it was necessary for Scripture to write, As[55] in her youth, to exclude the pregnant woman; and also[56] And have no child,[54] to[57] exclude one who has a born child. For had the All Merciful written only And have no child,[54] it might have been assumed [that only a woman who has a born child is forbidden to eat terumah, because] at first[58] there was one body and now there are two bodies,[59] but that a pregnant woman, who formed at first[58] one body and is now also one body on]y, may eat, [hence the second text[60] was] required. And had the All Merciful written of the pregnant woman only it might have been assumed [that only she is forbidden to eat terumah] because at first[58]

her body

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(1) She loses through her marriage the right she enjoyed as the daughter of a priest while she was still unmarried.
(2) Lev. XXII, 13.
(3) By the priest.
(4) That her son by the priest enables her again to eat terumah even though she was deprived of that right during the period she lived with the Levite and the Israelite.
(5) Lev. XXII, 13.
(6) From the superfluous Waw in ובת.
(7) Is this deduction made.
(8) And not in accordance with the view of the Rabbis (cf. Sanh. 51b) who are in the majority and differ from R. Akiba. V. supra 68b.
(9) The previous verse (Lev. XXII, 12) also speaking of the priest's daughter it would have been quite sufficient for v. 13 to begin with the personal pronoun, 'But if she be'.
(10) The priest's daughter who was a widow or divorced and have no child. (V. Lev. XXII, 13).
(11) Unto her father's house (v. ibid.).
(12) Which are also among the priestly gifts. Cf. Ex. XXIX, 27, Lev. VII, 34 X, 14.
(13) That the breast and shoulder remain forbidden to her even after she returns to her father's house.
(14) Lev. XXII, 12, where instead of בתרומת הקדשים only בקדשים could have been written.
(15) במורם from the same rt as תרומת (v. supra n. 12).
(16) The sacrifices; reference v to the breast and shoulder. (V. supra n. 10). These are forbidden to her even after she returns to her father's house. (V. supra 68b).
(17) To the enquiry of R. Hisda.
(18) לחם here taken in its wider signification of 'food' (cf. Dan. V, 1). The Mem of מלחם (of but not all food) indicates limitation.
(19) The limitation implied by the Mem. V. supra n. 16.
(20) By her father; even when his daughter returns to his house and resumes her right to eat terumah. Before marriage, a daughter's vows may be invalidated by her father. Cf. Num. XXX, 4ff.
(21) Num. XXX, 10.
(22) And since none of them could in consequence annul her vows, it is obvious that such vows stand against her. What need, then, was there for the text of Num. XXX, 10?
(23) To her husband's home.
(24) Lit., 'how I read about her'.
(25) Since she has not reached the house of her husband and has consequently not yet passed entirely out of her father's authority. Hence her father would still have the power of invalidating her vows.
(26) And her vows, like those of any other widow, could not be invalidated by her father.
(27) Lit., 'but'.
(28) V. Keth. 49a.
(29) To the enquiry of R. Hisda.
(30) Lev. XXII, 13.
(31) The breast and the shoulder.
(32) Terumah which is regarded as the property of the priests.
(33) These are only the remains of certain sacrifices which do not belong to the priests but to the altar, 'the table of the Most High', and are given to the priests as the leavings of His meal.
(34) Lev. X, 14.
(35) I.e., before their marriage to non-priests, may the breast and the shoulder be eaten by them.
(36) A priest's daughter.
(37) V. p. 588, n. 16; or the daughter of an Israelite. (V. next note).
(38) If she was married, for instance, to an Israelite and after his death resumed her right to eat terumah by virtue of a son whom she previously had by a priest.
(39) Since the exclusion of the right to the breast and the shoulder was mentioned in the former case only.
(40) That of the woman who derives her right to terumah from her son.

(41) Among those entitled to eat terumah.
(42) V. Lev. XXII, 13.
(43) The daughter who derives her right to terumah from her father.
(44) V. supra n. 3.
(45) Who is not eligible to eat terumah, because she is not completely returned to her father's house, being still bound to the levir.
(46) Who, being with child, does not return as in her youth.
(47) That a pregnant woman, like one who has a born child, does not regain her right to eat terumah.
(48) A woman whose husband died without issue is not exempt from the levirate marriage, though she may have a son by a former husband.
(49) A pregnant woman is not subject to the levirate marriage.
(50) A priest's daughter whose Israelite husband died without issue is forbidden to eat terumah, just as if she had had a son by him, if she had a son by any former Israelite husband of hers. Now, since the law could be arrived at by inference a minori ad majus, the Scriptural text stating the same law is, surely, superfluous!
(51) Lit., 'what (reasoning) for me'!
(52) A child whose death occurred after the death of his father exempts his mother from the levirate marriage as if he were still alive.
(53) Only a live child deprives his mother, the daughter of a priest who married an Israelite, from her right to eat terumah after the death of her husband. As soon as the child dies his mother regains her lost right.
(54) Lev. XXII, 13.
(55) Cf. Bah. Cur. edd. omit 'As . . . exclude'.
(56) Lit., 'and it was necessary to write'.
(57) So Bah. Cur. edd. omit, 'To exclude . . . child'.
(58) Before her marriage.
(59) Mother and born child.
(60) As in her youth.

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was empty and now it is full, but not [a woman whose child was already born],[1] whose body was at first empty and is now also empty, [hence was the first text[2] also] required.[3]

(Mnemonic.[4] He said to him: Let us not make[5] and make[6] in death; let us make and not make in the child of the levir and terumah.)[7]

Said Rab Judah of Diskarta[8] to Raba: The dead should not be given[9] the same status as the living, in respect of the levirate marriage, by inference a minori ad majus: If where a child by the first husband is regarded as the child of the second husband, in respect of disqualifying the woman from the eating of terumah,[10] the dead were not given the same status as the living,[11] how much less should the dead be given the same status as the living[12] where the child of the first husband is not regarded as the son of the second, in respect of exempting the woman from the levirate marriage![13] It was expressly stated, Her ways are ways of pleasantness, and all her paths are peace.[14]

Then let the dead be given[15] the same status as the living in respect of terumah by inference a minori ad majus: If where a child by the first husband is not regarded as the child of the second In respect of exempting the woman from the levirate marriage,[13] the dead were given the same status as the living,[16] how much more so should the dead be given the same status as the living[17] where a child of the first husband is regarded as the son of the second, in respect of disqualifying the woman from terumah![18] It was expressly stated, And [she] have no child[19] and she, surely, has none.[20]

Let the child of the first husband be regarded as the child of the second husband in respect of the levirate marriage by inference a minori ad majus: If where the dead were not given the same status as

the living, in respect of terumah[21] the child of the first husband is regarded as the son of the second,[22] how much more should the child of the first husband be regarded as the child of the second[23] where the dead were given the status of the living in respect of the levirate marriage![21] — It was expressly stated, And [he] have no child,[24] and this man, surely, has none.

Then let the child of the first husband not be regarded as the child of the second husband, in respect of terumah, by inference a minori ad majus: If where the dead were given the same status as the living, in respect of exempting her from the levirate marriage, the child of the first husband was not regarded as the child of the second,[22] how much less should the child of the first husband be regarded as the child of the second, where the dead were not regarded as the living in respect of eating terumah![21] — It was specifically stated, And [she] have none,[25] but she surely has [one].

CHAPTER X

MISHNAH. A WOMAN WHOSE HUSBAND HAD GONE TO A COUNTRY BEYOND THE SEA AND ON BEING TOLD,[26] 'YOUR HUSBAND IS DEAD', MARRIED, MUST, IF HER HUSBAND SUBSEQUENTLY RETURNED, LEAVE THE ONE AS WELL AS THE OTHER, AND SHE ALSO REQUIRES[27] A LETTER OF DIVORCE FROM THE ONE AS WELL AS FROM THE OTHER. SHE HAS NO [CLAIM TO HER] KETHUBAH, USUFRUCT, MAINTENANCE[28] OR WORN CLOTHES[29] EITHER AGAINST THE FIRST HUSBAND OR AGAINST THE SECOND. IF SHE HAS TAKEN ANYTHING FROM THE ONE OR FROM THE OTHER, SHE MUST RETURN IT. THE CHILD BEGOTTEN BY THE ONE HUSBAND OR BY THE OTHER IS A BASTARD;[30] NEITHER OF THEM[31] MAY DEFILE HIMSELF FOR HER;[32] NEITHER OF THEM HAS A CLAIM TO WHATEVER SHE MAY FIND[33] OR MAKE WITH HER HANDS;[34] AND NEITHER HAS THE RIGHT OF INVALIDATING HER VOWS.[35] IF SHE WAS THE DAUGHTER OF AN ISRAELITE, SHE BECOMES DISQUALIFIED FROM MARRYING A PRIEST; IF THE DAUGHTER OF A LEVITE, FROM THE EATING OF TITHE; AND IF THE DAUGHTER OF A PRIEST, FROM THE EATING OF TERUMAH. NEITHER THE HEIRS OF THE ONE HUSBAND NOR THE HEIRS OF THE OTHER ARE ENTITLED TO INHERIT HER KETHUBAH, AND IF [THE HUSBANDS] DIE, THE BROTHER OF THE ONE AND THE BROTHER OF THE OTHER MUST SUBMIT TO HALIZAH, BUT MAY NOT CONTRACT THE LEVIRATE MARRIAGE. R. JOSE SAID: HER KETHUBAH REMAINS A CHARGE UPON THE ESTATE OF HER FIRST HUSBAND. R. ELEAZAR SAID: THE FIRST HUSBAND IS ENTITLED TO WHATEVER SHE MAY FIND, OR MAKE WITH HER HANDS, AND ALSO HAS THE RIGHT OF INVALIDATING HER VOWS. R. SIMEON SAID: HER COHABITATION OR HALIZAH WITH THE BROTHER OF THE FIRST HUSBAND EXEMPTS HER RIVAL,[36] AND A CHILD BEGOTTEN BY HIM[37] IS NOT A BASTARD. IF SHE MARRIED WITHOUT AN AUTHORIZATION[38] SHE MAY RETURN TO HIM.[37] IF[39] SHE MARRIED WITH THE AUTHORIZATION OF THE BETH DIN,[40] SHE MUST LEAVE,[41] BUT IS EXEMPT FROM AN OFFERING.[42] IF SHE MARRIED, HOWEVER, WITHOUT THE AUTHORIZATION OF THE BETH DIN, SHE MUST LEAVE[41] AND IS ALSO LIABLE TO AN OFFERING. THE AUTHORITY OF THE BETH DIN IS THUS MORE EFFECTIVE IN THAT IT EXEMPTS HER FROM THE OFFERING. IF THE BETH DIN RULED[43] THAT SHE MAY BE MARRIED AGAIN AND SHE WENT AND DISGRACED HERSELF[44] SHE[45] MUST BRING AN OFFERING, BECAUSE THE BETH DIN PERMITTED HER ONLY TO MARRY.[46]

GEMARA. Since in the final clause it was stated, IF SHE MARRIES WITHOUT PERMISSION SHE MAY RETURN TO HIM, [which means obviously], without the authorization of the Beth din but [in reliance on the evidence] of witnesses, the first clause, it is to be inferred, [speaks of a woman who married] with the permission of the Beth din and on the evidence of a sing]e witness.[47] Thus it clearly follows that one witness is trusted. Furthermore, we learned: The practice was adopted of allowing a marriage on the evidence of one witness reporting[48] another single witness, and of a

woman reporting another woman, and of a woman reporting a bondman or a bondwoman;[49] from which it is obvious that one witness is trusted. Furthermore we learned: [The man to whom] one witness said, 'You have eaten[50] suet',[51] and who replied, 'I have not eaten', is exempt.[52] Now the reason [for his exemption is] because he said, 'l have not eaten'; had he, however, remained silent [the witness] would have been trusted.[53] From this it is clearly evident that one witness is trusted in accordance with Pentateuchal law;[54] whence is this[55] deduced? From what was taught: If his sin... be known to him,[56] but not when others have made it known to him. As it might have been assumed that even where he does not contradict the evidence he is exempt, it was expressly stated, If. . . be known to him,[57] in any manner.[58] Now, how is this statement to be understood? If it be suggested [that it refers to a case] where two witnesses appeared, and he does not contradict them, what need then was there for a Scriptural text![59] Must it not then refer to the case of[60] one witness, and yet [we see that] when the accused does not contradict him he is trusted.[61] From this, then, it maybe inferred that one witness is to be trusted.[54] But whence is it inferred that [the reason[62] is] because he is trusted? Is it not possible that it is due to the fact that the other had remained silent, silence being regarded as an admission! You can have proof that this is so,[63] since in the final clause it was stated: [A man to whom] two witnesses said, 'You have eaten[64] suet,[65] and who replied. 'I have not eaten',is exempt; but R. Meir declares him guilty. Said R. Meir: This[66] may be inferred a minori ad majus. If two witnesses may bring upon a man the severe penalty of death, should they not be able to bring upon him the minor penalty of a sacrifice! The others replied: What if he desired to say, 'I have acted presumptuously'![67] Now, in the first clause,[68]

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(1) Lit., 'have no child' (Lev. XXII, 13) i.e., a woman who has a born child and whose case was deduced from this text.

(2) And have no child.

(3) To indicate that a born child also deprives his mother of her right to terumah.

(4) An aid to the memorisation of the following four arguments.

(5) The verb 'to make', עשה is rendered in the following discussions by various equivalents in accordance with the requirements of English idiom.

(6) Cur. edd. 'her deeds', מעשיה, is ap patently a substitute for this reading, ונעשה, which agrees with MS.M.

(7) Cur. edd. repeat, 'levirate marriage and terumah'. MS.M. gives it only once.

(8) [Deskarah, N.E. of Bagdad. Obermeyer. p. 146].

(9) Lit., 'let us not make'. Cf. mnemonic supra.

(10) V. supra p. 589, n. 14.

(11) V. supra p. 590, n. 2.

(12) And consequently not exempt his mother from the levirate marriage.

(13) V. supra p. 589. n. 12.

(14) Prov. III, 17. Were a woman, whose child died after its father, to be subjected to the obligations of the levirate marriage, the peace and the pleasantness of family life might be disturbed where the woman, for instance, happened to have married after the death of her husband and the child died subsequently.

(15) Cf. supra note 3.

(16) Cf. supra p. 590, n. 1.

(17) And consequently disqualify his mother from the right of eating of terumah.

(18) Cf. supra p. 589. n. 14.

(19) Lev. XXII, 13.

(20) Hence the permission to eat terumah.

(21) Cf. supra p. 590, n. 2.

(22) Cf. supra p. 589, n. 12.

(23) And consequently exempt his mother from the levirate marriage.

(24) Deut. XXV, 5.

(25) Lev. XXII, 13.

(26) Lit., 'and they came and said to her'. This, as will be explained infra, refers to evidence given by a single witness.

(27) If she desires to marry again.

(28) Even for the period during which she lived with him.

(29) Neither compensation for those that were entirely destroyed nor the clothes themselves should the tatters still be in existence.
(30) Pentateuchally if begotten by the second husband; Rabbinically if by the first who resumed living with her.
(31) If a priest.
(32) If she died. Cf. Lev. XXI,1ff.
(33) A woman's find belongs to her lawful husband. Cf. B.M. 12a.
(34) To which a lawful husband is entitled in return for her maintenance.
(35) V. Num. XXX. 7ff.
(36) From the levirate marriage and halizah.
(37) Her first husband, after his return.
(38) Of the Beth din; i.e., if she married on the strength of the evidence of two witnesses who testified to her husband's death, in which case no authorization by a court is required.
(39) When only one witness testified to the death of her husband.
(40) And her first husband subsequently returned.
(41) Her second husband.
(42) Since she has acted on a ruling of the Beth din. Cf. Hor. 2a.
(43) Lit., 'they taught her' or 'directed her'.
(44) By immoral conduct. V. infra 922 for fuller explanation.
(45) If her first husband subsequently returns.
(46) I.e., to contract a lawful marriage, not a forbidden one.
(47) Cf. supra p. 593, n. 1.
(48) Lit., 'from the mouth'.
(49) Infra 122a, Shab. 145a, Bek. 46b.
(50) Unwittingly.
(51) חלב forbidden fat.
(52) From bringing a sin-offering (cf. Lev. IV, 27ff), Kid. 65b, Ker. 11b.
(53) And a beast would have been offered as a sin-offering though its sanctity was entirely dependent on one man's word.
(54) Had such evidence been Pentateuchally inadmissible, the sin-offering would consist of a Pentateuchally unconsecrated beast which must not be offered on the altar and is also forbidden to be eaten by the priests.
(55) The admissibility of one man's evidence.
(56) Lev. IV, 28; only then must he bring a sin-offering.
(57) Ibid.
(58) Cf. Ker. 11b.
(59) Two witnesses are, surely, always relied upon.
(60) Lit., 'but not'.
(61) And an offering is brought upon the altar on the basis of his word. Cf. supra n. 7.
(62) For the obligation of an offering.
(63) Lit., 'you may know' that the reason is because silence is regarded as an admission.
(64) Unwittingly.
(65) חלב forbidden fat.
(66) That the evidence of the two witnesses is accepted despite the denial of the accused.
(67) For a presumptuous sin no sin-offering is brought. In such a case the evidence of the witnesses would be of no value. They can only testify to one's action but not to one's motive or state of mind. Since the accused could annul the evidence by such a plea he is also believed when he simply contradicts the evidence.
(68) Where the accusation comes from one witness.

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on what grounds do the Rabbis declare the man liable?[1] If it be suggested: Because he[2] is believed; surely [here it may be objected], even in the case of two witnesses, who in all other cases are trusted though the accused contradicts them, the Rabbis have exempted him![3] The reason[4] must

consequently be[5] because the accused remained silent, and silence is regarded as admission![6]

[The fact], however, [is that this[7] is arrived at] by[8] a logical inference, this case being analogous to that of a piece of fat[9] concerning which there is doubt as to whether it was of the forbidden,[10] or of the permitted kind; if a single witness came and declared, 'l am certain that it was permitted fat', he is trusted.[11] Are [the two cases] similar? There[12] the prohibition[13] was not established; here[14] the prohibition of a married woman is established,[15] and no question of sexual relationship [may be decided on the evidence of] less than two witnesses! This[16] is rather analogous[17] to the case of a piece that was definitely forbidden fat;[18] if a single witness came and declared, 'I am certain that it was permitted fat,' he is not believed.[19] But are these cases, similar? In that case,[20] should even a hundred witnesses come they would not be believed; in this case,[16] however, since should two witnesses come they would be trusted, one witness also should be trusted! This[16] is rather analogous to the cases of tebel,[21] and consecrated and konam[21] objects.[22]

Whose tebel[21] is here to be understood? If his own,[23] [he would naturally be trusted] since it is in his power to make it fit for use;[24] if, however, it is that of another person, [the question may still be urged], what view is here adopted: If it is maintained that a man who sets apart priestly dues for his neighbours' produce out of his own does not require the owner s consent [it is quite obvious why the witness is here trusted] since it is in his power to make it fit for use;[24] and if it is maintained that the owner's consent is required and that the witness declares, 'I know that he has made it fit for use', whence is this very law[25] derived? As regards consecrated objects also, if it was a consecration of the value of an object [it is obvious why one witness is trusted] since it is in his power to redeem it;[26] but if an object has been consecrated,[27] [the objection may still be raised]: If it were his own[23] [he would naturally be trusted] since it is within his right to ask for the disallowance of his vow;[28] if, however, it belonged to another man, and the witness declared, 'I know that its owner has asked for the disallowance of his vow', whence is this very law[29] derived? With reference to konam[30] objects also, if it is maintained that the law of trespass[31] is applicable to konam objects and that the sanctity of their value[32] descends upon them [it is obvious why one witness is trusted] since it is within his power to redeem them;[33] and if it is maintained that the law of trespass[31] is not applicable to konam objects[34] and that it is only a mere prohibition with which he is saddled[35] [the question may be urged]: If any such object was his own [it is natural that he should be trusted] since it is within his power to ask for the disallowance of his vow;[36] if, however, it belonged to another man, and the witness declared, 'I know that its owner has asked for the disallowance of his vow, whence is this very law[37] derived?

R. Zera replied:[38] Owing to the rigidity of the disabilities[39] that were later[40] imposed upon her the law was relaxed in her favour at the beginning.[41] Let there be, however, neither rigid disabilities nor a relaxation of the law! — In order [to avoid] perpetual desertion[42] the Rabbis have relaxed the law in her favour.[43]

MUST . . . LEAVE THE ONE AS WELL AS THE OTHER etc. Rab stated: This was taught only in respect [of a woman] who married on the evidence of a single witness, but if she married on the strength of the evidence of two witnesses, she need not leave.[44] In the West[45] they laughed at him. 'Her husband' [they remarked] comes, and there he stands, and you say: She need not leave!' — This[46] [it may be replied] was required only in the case when the man[47] was not known.[48] If he[49] is unknown, why is she to leave [her second husband] even where she only married on the evidence of a single witness? This is required only in the case where two witnesses came and stated, 'We were with him[49] from the moment he left until now, but you it is who are unable to recognize him';[50] as it is written, And Joseph knew his brethren but they knew him not,[51] on which R. Hisda remarked: This teaches that he went forth without any marks[52] of a beard and now he appeared with a full[52] beard. But, after all, there are two[53] against two

(1) To an offering, if he did not contradict the evidence.
(2) The one witness.
(3) Because his word is more than the evidence of two witnesses. How much more then should he be trusted when the evidence is only that of one witness!
(4) For the obligation of a sin-offering in the first clause.
(5) Lit., 'but not'.
(6) The original question then arises again: Whence is it proved that the evidence of one witness is admissible?
(7) Cf. supra n. 12.
(8) Lit., 'but'.
(9) Which someone has eaten.
(10) For the unwitting eating of which a sin-offering is incurred.
(11) Cf. Git. 2b.
(12) Where the nature of the fat is in doubt.
(13) Of the piece.
(14) The case of the woman spoken of in our Mishnah.
(15) The doubt extending only to the question as to whether by the death of the husband this prohibition had been removed.
(16) The case of the woman spoken of in our Mishnah
(17) Lit., 'this is not like, but'.
(18) Which someone has eaten.
(19) The question, therefore, remains whence is it inferred that the evidence of one witness is admissible.
(20) Where the forbidden nature of the fat is established.
(21) V. Glos.
(22) Where the evidence of a single witness is accepted though the prohibitions were established. From such a case that of the woman in our Mishnah may reasonably be inferred.
(23) That of the witness.
(24) He can at any moment set apart the priestly dues and thus render the produce fit for everybody's consumption Such an argument is, of course, inapplicable to the case in our Mishnah.
(25) That the evidence of a single witness is accepted in such a case.
(26) Objects of which the value only has been consecrated קדושת דמים, completely lose their sanctity on redemption. Cf. supra n. 9.
(27) קדושת הגוף, consecrated for the altar. Such cannot be redeemed.
(28) A learned man may under certain conditions disallow the vow, and the object would consequently lose its sanctity. Cf. supra p. 597, n. 9.
(29) That the evidence of a single witness is accepted in such a case.
(30) V. Glos.
(31) Me'ilah, v. Glos.
(32) Which is consecrated for Temple purposes.
(33) Cf. supra p. 597, n. 9.
(34) Konam being regarded as a vow only, which the man has to fulfil by paying to the Temple treasury the value of the object which itself remains unconsecrated.
(35) Lit. , 'that rides upon his shoulder'.
(36) V. supra note 2.
(37) V. supra note 2.
(38) To the question raised supra to the admissibility of the evidence of a single witness in the case of the woman in our Mishnah.
(39) Loss of kethubah, usufruct, etc.
(40) If her husband returns.
(41) By permitting her to marry on the evidence of a single witness. Knowing the disabilities to which she would be subject should her first husband return, she takes every precaution to verify the evidence of the one witness.
(42) עיגונא lit. , 'holding fast', description of a deserted woman who remains tied to her absent husband.
(43) And allowed her to marry on the strength of the evidence of one witness.

(44) It is now assumed that Rab referred to the second husband,
(45) Palestine.
(46) Rab's ruling.
(47) Her first husband.
(48) To have been her husband.
(49) The first husband.
(50) Because he left while still young and now he has attained to manhood. Such evidence is accepted if the evidence of the husband's death was given by one witness only. It is not accepted, however, where it is contradictory to the evidence of two witnesses on the basis of whose testimony the woman had married her second husband.
(51) Gen. XLII, 8.
(52) Construct of חתימה 'mark' or 'stamp'. חתימת זקן 'The mature manly expression which the beard gives, full manhood' (Jast.).
(53) Witnesses.

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and he who cohabits with her[1] is liable to bring an asham talui![2] R. Shesheth replied:[3] When she was married, for instance, to one of her witnesses.[4] But she herself is liable to an asham talui![5] — Where[3] she states, 'I am certain',[6] If so, what need was there to state [such an obvious ruling], when even R. Menahem son of R. Jose[7] maintained his view only where the witnesses[8] came first and the woman married afterwards, but not[9] where she married first and the witnesses came afterwards! For it was taught: If two witnesses state that he[10] was dead and two state that he was not dead, or if two state that the woman was divorced and two state that she was not divorced, the woman must not marry again, but if she married she need not leave;[11] R. Menahem, son of R. Jose, however, ruled that she must leave.[10] Said R. Menahem son of R. Jose, 'When do I rule that she must leave? Only when witnesses came first and she married afterwards, but where she married first and the witnesses came afterwards, she need not leave!'[12] — Rab also spoke of the case where witnesses came first and the woman married afterwards, [his object being] to exclude the ruling of R. Menahem son of R. Jose.

Another reading: The reason then[13] is because she married first and the witnesses came afterwards,[14] but where witnesses came first and the woman married afterwards, she must leave. In accordance with whose [view is this ruling]? — In accordance with that of R. Menahem son of R. Jose.

Raba raised an objection: Whence is it deduced that if [a priest] refused[15] he is to be compelled?[16] It was expressly stated, And thou shalt sanctify him,[17] even against his will. Now, how is this[18] to be understood?[19] If it be suggested [that it is a case] where she was not married to one of her witnesses[20] and she does not plead 'I am certain',[21] is there any need to state that he is to be compelled?[22] Consequently it must refer to a case[23] where she was married to one of her witnesses[24] and she pleads, 'I am certain'; I and yet it was stated that he was to be compelled;[25] from which it clearly follows that she is to be taken away from him![26] — A priestly prohibition is different.[27] If you prefer I might say,[28] 'What is the meaning of "he is to be compelled"? He is to be compelled by means of witnesses'.[29] And if you prefer I might say:[28] [It is a case] where witnesses came first and she married afterwards, and this represents the view of R. Menahem son of R. Jose.[30] R. Ashi replied. What is meant by the expression, 'She need not leave' which Rab used? She is not to depart from her first state of permissibility.[31] But surely Rab has said this once! For we learned, IF SHE MARRIED WITHOUT AN AUTHORIZATION SHE MAY RETURN TO HIM, and Rab Huna stated in the name of Rab: This is the established law![32] — One was stated as an inference from, the other.[33]

Samuel said: This[34] was taught only in the case where she does not contradict him,[35] but where she contradicts him she need not leave.

What [are the circumstances] spoken of? If it be suggested that there are two witnesses[36] , of what avail is her denial?[37] [It must then deal with the case] of one witness, and the reason[38] is because she contradicts him;[39] had she, however, remained silent, she would have been obliged to leave. But, surely, 'Ulla stated that 'wherever the Torah allows credence to one witness[40] he is regarded as two witnesses, and the evidence of one man[41] against that of two men has no validity!'[42] — Here it is a case of evidence by ineligible witnesses,[43] and [Samuel's statement is] in accordance with the view of R. Nehemiah. For it was taught: R. Nehemiah stated, 'Wherever the Torah allows credence to one witness[40] the majority of opinions is to be followed,[44] and [the evidence of] two women against that of one man is given the same validity as that of two men against one man'.[45]

And if you prefer I might reply: Wherever one eligible witness came first,[46] even a hundred women[47] are regarded as one witness;[48] here, however, we are dealing with a case where a woman witness came in the first instance;[49] and the statement of R. Nehemiah is to be explained thus: R. Nehemiah stated, 'Wherever the Torah allows credence to one witness, the majority of opinions is to be followed, and [the evidence of] two women against that of one woman is given the same validity as that of two men against one man, but that of two women against that of one man is regarded only as that of a half and a half.[50]

SHE ALSO REQUIRES A LETTER OF DIVORCE FROM ONE AS WELL AS FROM THE OTHER. It is quite intelligible that she should require a divorce from the first husband; but why also from the second [when their union was a] mere act of adultery?[51] — R. Huna replied: This[52] is a preventive measure against the possibility of assuming that the first had divorced her and the second had [lawfully] married her, and that consequently[53] a married woman[54] may leave her husband without a letter of divorce. If so[55] , in the latter clause also, where it was stated, 'If she was told "your husband is dead", and she was betrothed, and afterwards her husband came, she is permitted to return to him',[56] might it not be assumed there also that the first husband had divorced her and the other had [lawfully] betrothed her and that consequently a betrothed woman may be released without a letter of divorce! — As a matter of fact she does require a letter of divorce.[57] If so,[58] [it might there also be assumed that] the first had again married his divorced wife after she had been betrothed![59] — [This statement is in] accordance with R. Jose b. Kiper who stated [that remarrying one's divorced wife] after a marriage[60] is forbidden but after a betrothal[60] is permitted.[61] Since, however, it was stated in the final clause, 'Although

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(1) And thus commits a doubtful sin, it being uncertain which pair of witnesses is to be trusted.

(2) V. Glos. Such an offering is brought for the commission of a doubtful sin. How, then, could Rab maintain that she may continue to live with her second husband?

(3) Rab's ruling is applicable.

(4) Who well knows that her first husband is dead.

(5) Since as far as she is concerned her first husband's death is still a matter of doubt.

(6) That the man who claims to be her first husband is a stranger. An asham talui is brought only in cases where a person is himself in doubt as to the propriety of an act he has committed; v. Keth. Sonc. ed., p. 122 notes.

(7) Who in a similar case maintained (v. infra) that the woman must leave her second husband.

(8) Who testified that the first husband was alive.

(9) Lit., 'he did not say'.

(10) The woman's first husband.

(11) Her second husband

(12) V. Keth. 22b. What need, then, was there for Rab's ruling?

(13) Why Rab allowed the woman to remain with her second husband though two witnesses stated that her first husband was still alive.

(14) As in the case in our Mishnah in connection with which Rab's statement was made.

(15) To observe the rules of levitical uncleanness and matrimony prescribed in Lev. XXI, 1ff.

(16) דפנו rt. דפן 'to strike on the side' (cf. דופן 'side', 'wall').
(17) Ibid. 8.
(18) Case of coercion.
(19) Since a Scriptural text was required for the purpose, it could not apply to established or even doubtful prohibitions which a priest must undoubtedly obey and the observance of which is obviously to be enforced.
(20) Who was a priest.
(21) Cf. supra p. 599, n. 16.
(22) V. supra p. 600, n. 13.
(23) Lit., 'but not?'
(24) Who was a priest.
(25) To separate from her if witnesses subsequently came and declared that the first husband was still alive at the time this second marriage with the priest took place.
(26) How then could Rab rule that in the case of contradictory evidence between two pairs of witnesses the second union is not to be severed if it took place prior to the appearance of the second pair.
(27) A priest is subject to greater restrictions which do not apply to others.
(28) In reply to Raba's objection.
(29) Before marriage with the priest is allowed, the court makes every effort to ascertain whether witnesses are available who could contradict the evidence of the first witnesses and thus prevent the marriage. If, however, no such witnesses are available and the marriage has taken place, the union need not be severed though such witnesses subsequently appeared.
(30) With which Rab is in agreement.
(31) She may return to her first husband, because in her second marriage she is a victim of circumstances,It having been contracted on misleading evidence.
(32) Infra 91a; why should the same ruling be stated twice?
(33) Rab, however, gave his ruling only once.
(34) That the woman must . . . LEAVE THE ONE AS WELL AS THE OTHER. (V. our Mishnah).
(35) The man who claims to be her husband.
(36) Who testify to the veracity of the statement of the man who claims to be the first husband.
(37) Lit., 'when she contradicts him, what is?; her word would obviously not be accepted against the word of two witnesses.
(38) Why the woman may continue to live with her second husband.
(39) The evidence that her first husband was alive.
(40) In certain cases of marriage and divorce, testifying, for instance, that a husband was dead.
(41) Who now states that the first husband was not dead.
(42) The previous evidence of the one witness being consequently valid, why should the woman have to leave even when she does not contradict the latter evidence?
(43) Relatives, women or slaves, for instance, two of whom testify that the first husband is alive.
(44) Since one witness is trusted, the accepted law of valid evidence is superseded in such cases and the evidence of any ineligible witnesses (cf. supra n. 8) is equally admissible.
(45) Infra 117b, Sot. 31b. When, therefore, the wife does not contradict the evidence, these otherwise ineligible witnesses are trusted. Where, however, she contradicts them, her evidence is added to that of the one witness who had originally testified that her husband was dead, and the evidence of the second pair of witnesses, being thus contradicted by two, is disregarded. Cf. Maimonides cited by Wilna Gaon, glosses.
(46) And testified that the first husband was dead.
(47) I.e., ineligible witnesses who, after the woman had married, testified that her first husband was alive.
(48) And their evidence, being opposed to that of the first witness, is disregarded, as is the case with all evidence of a single witness, which is opposed to that of a previous witness. The woman need not, therefore, leave her second husband even if she does not contradict the second set of witnesses.
(49) V. supra p. 602, n. 11, and two women subsequently testified that the first husband was alive. If the wife keeps silent, there remains a majority of two against one; if she contradicts the two the majority disappears.
(50) The two together representing one; so that the evidence of the first eligible witness remains unaffected by it, provided the woman remarried, even where she remained silent.

(51) The first husband having been alive when it was contracted.
(52) The requirement of a divorce from the second husband.
(53) Lit., 'and it is found'.
(54) The marriage with the second being assumed to have been valid.
(55) That provision was made against erroneous assumptions.
(56) Infra 92a.
(57) From the second, to whom she was betrothed.
(58) That a letter of divorce is required.
(59) Cf. supra note 6 mutatis mutandis.
(60) With a second husband.
(61) Cf. supra 11b.

Talmud - Mas. Yevamoth 89a

the latter[1] gave her a letter of divorce he has not thereby disqualified her from marrying a priest',[2] it may be inferred that she requires no divorce;[3] for should she require a divorce, why does he not disqualify her from marrying a priest![4] — Rather,[5] in the final clause it will be assumed[6] that the betrothal was an erroneous one.[7] In the first clause also [let it be said that] it would be assumed that the marriage was an erroneous one![8] The Rabbis have penalized her.[9] Then let them penalize her in the final clause also! — In the first clause where she committed a forbidden act[10] they penalized her; in the final clause where she did not commit a forbidden act, the Rabbis did not penalize her.

SHE HAS NO [CLAIM TO HER] KETHUBAH, [because] what is the reason why the Rabbis have provided a kethubah for a woman? In order that it may not be easy for the husband[11] to divorce her![12] But in this case let it be easy for him, to divorce her.[13]

SHE HAS NO [CLAIM TO] . . . USUFRUCT, MAINTENANCE OR EVEN WORN CLOTHES, [because] the conditions[14] entered in the kethubah[15] are subject to the same laws as the kethubah[16] itself. IF SHE HAD TAKEN ANYTHING FROM THE ONE OR FROM THE OTHER,[SHE MUST RETURN IT]. Is this not obvious! — As it might haved been assumed that since she has already seized it, it is not to be taken from her, hence we were taught [that SHE MUST RETURN IT]. THE CHILD . . . .IS A BASTARD. Elsewhere we learned: Terumah[17] from levitically unclean produce may not be set apart for that which is levitically clean[18] . If, however, such terumah has been set apart it is valid if the act was done in error, but if it was done wilfully it is null and void[19] . Now what is meant by 'it is null and void'? — R. Hisda replied: The act is absolutely null and void, even that griva[20] [which has been designated as terumah] returns to its former state of tebel.[21] R. Nathan son of R. Oshaia replied: It is null and void in respect of making the remainder[22] fit for use, but [that which has been set apart] becomes terumah.[23] R. Hisda does not give the same explanation as R. Nathan son of R. Oshaia, for, should it be said [that the portion set apart] is lawful terumah, it might sometimes happen that one would wilfully neglect to set apart the terumah [from the remainder].[24]

But why should this be different from, [the following case concerning] which we learned: If a man has set apart as terumah a cucumber which was found to be bitter, or a melon which turned out to be decayed[25] [the fruit becomes] terumah; but [from the remainder] terumah must again be set apart![26] Do you raise an objection from a case where one has acted unwittingly[27] against a case where one has acted wilfully?[27] Where one has acted unwittingly,[28] no forbidden act has been committed; when, however, one has acted wilfully,[29] a forbidden act has been committed.

A contradiction, however, was pointed out between two acts committed unwittingly: Here[30] it is stated, 'It is lawful terumah if the act was done unwittingly',[31] while there sit was stated, 'Terumah,' but [from the remainder] terumah must again be set apart'! — There,[32] it is an erroneous act

amounting almost[33] to a wilful one, since he should have tasted it .[34]

A contradiction was also pointed out between two cases of wilful action: Here[35] it is stated, 'but if it was done wilfully, it is null and void', while elsewhere we learned: If a man has set apart as terumah [the produce] of an unperforated plant-pot[36] for [the produce of] a perforated pot,[37] [the former becomes] terumah but [from the latter] terumah must again be separated![38] — In [the case of produce grown in] two different vessels[39] a man would obey;[40] in [that of] one vessel[41] he would not obey.[42]

Now according to R. Nathan, son of R. Oshaia, who explained that 'the act is null and void in respect of making the remainder fit for use but [that that which has been set apart] becomes terumah.[43] [

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(1) Who betrothed her.

(2) Infra 92a.

(3) Even Rabbinically; and that, therefore, the letter of divorce given is null and void.

(4) A divorced woman, even if the divorce was given to her in accordance with a Rabbinical and not a Pentateuchal ordinance. is forbidden to be married to a priest. Cf. infra 94a.

(5) The fact is that no divorce is required, as had been first assumed.

(6) Seeing that she is released without any letter of divorce.

(7) Release from which requires no divorce. Hence there is no need to provide against the assumption that 'the first husband had divorced her and the other had lawfully betrothed her etc.', suggested supra.

(8) Cf. supra n. 8. Why then was a letter of divorce required?

(9) For contracting a marriage without first making the necessary enquiries.

(10) Unlawful marriage.

(11) Lit., 'in his eyes'.

(12) Cf. Keth. 11a.

(13) And thus sever a forbidden union.

(14) Such as the undertaking of maintenance etc. which, like the specified amount of the kethubah are entered in the marriage contract.

(15) I.e., the contract. This is one of the meanings of 'kethubah', v. n. 18.

(16) I.e., the specified sum due to the woman on the husband's death or on her divorce.

(17) V. Glos.

(18) Since the former is forbidden to be eaten the priest would thereby suffer a loss.

(19) Lit., 'he did not do, even anything'. Ter. II, 2, Pes. 33a, Men. 25b.

(20) A measure of capacity. V. Glos.

(21) And forbidden to all.

(22) The levitlcally clean produce (Rashi).

(23) And the priest may use it for the purposes for which it is fit such as, for instance, fuel.

(24) V. supra note 6, believing that the portion he had set apart. and which had assumed the name of terumah, had exempted it.

(25) Lit., 'having an offensive smell'.

(26) Ter. III, 1 , Kid. 46b; which proves that the possibility of neglecting this second separation of terumah does not render null and void the whole act.

(27) The case of the cucumber or the melon where the man believed it to be in good condition. (12) The second case in the first Mishnah cited.

(28) The case of the cucumber or the melon where the man believed it to be in good condition.

(29) The second case in the first Mishnah cited.

(30) In the first cited Mishnah.

(31) Implying that no further terumah for the remainder need be set apart.

(32) In the second Mishnah quoted.

(33) Lit., 'near'.

(34) The fruit, before setting it apart as terumah.

(35) V. supra note 3.

(36) Which is not subject to terumah, since it has not grown directly from the ground.

(37) Which is subject to terumah. A plant in a perforated pot is deemed to be growing from the ground since it derives its nourishment through the holes of the pot from the ground itself.

(38) Dem. V, 10; Kid. 46a, Men. 70a. Why is the terumah in this case valid, while in the other it becomes tebel again?

(39) As in the last cited Mishnah where the produce designated as terumah grew in one kind of pot while the other produce grew in another kind of pot.

(40) To give terumah again, though the portion he has set apart is also allowed to remain terumah.

(41) Where the clean and the unclean grew in the same kind of pot or soil.

(42) To give terumah again, were the portion he has set aside allowed to retain the name of terumah. He would argue that, in view of the validity of his act, no further terumah need he given to the priest, whom he would consequently present with unclean terumah. Hence it was ordained that his act is void and that the quantity he has set aside is not to be regarded as terumah.

(43) And the priest may use it for the purposes for which it is fit, such, for instance, as burning.

Talmud - Mas. Yevamoth 89b

, why is this case different from [the following] where we learned [that if a man has set apart as terumah the produce] of a perforated plant-pot[1] for that of an unperforated one,[2] the terumah is valid, but[3] may not be eaten[4] before terumah and tithe from other produce[5] has been set aside for it![6] — Here[7] it is different, since Pentateuchally the terumah is valid, in accordance with the view of R. Elai; for R. Elai stated: Whence is it inferred that if one separates terumah from an inferior quality for a superior quality, his terumah is valid? It is written, And ye shall bear no sin by reason of it, seeing that ye have set apart from it the best thereof.[8] [Now, this implies that if you do not set apart from the best but of the worst you shall bear sin]; if, [however, the inferior quality] does not become consecrated, why [should there be any] bearing of sin?[9] Hence it may be inferred[10] that if one sets apart terumah from an inferior quality for a superior quality, his terumah is valid.[11]

Said Rabbah to R. Hisda: According to you who maintain that 'the act is absolutely null and void' so that 'even that griva [which has been designated as terumah] returns to its former state of tebel', the reason being[12] that this is a preventive measure against the possibility 'that one might wilfully neglect to set apart [the terumah from the remainder]'; is there anywhere [I may ask] a law that terumah which is Pentateuchally valid should, owing to the possibility that one might wilfully neglect his duty, be turned into[13] unconsecrated produce?[14] Could, then, a Beth din lay down a condition that would cause a law of the Torah to be uprooted! — The other replied: And do you not yourself agree with such a ruling? Have we not learned, THE CHILD BY THE ONE HUSBAND OR THE OTHER IS A BASTARD. Now, it is reasonable [that the child] by the second [should be deemed] a bastard,[15] but why [should the child] by the first [be a bastard]? She is, surely, his wife[16] and [the child is consequently] a proper Israelite whom [by regarding him as a bastard] we permit to marry a bastard![17] The first retorted: Thus said Samuel, 'He is forbidden to marry a bastard'. And so said Rabin, when he came,[18] in the name of R. Johanan. 'He is forbidden to marry a bastard'. Why, then,[19] is he called a bastard? — In respect of forbidding him to marry the daughter of an Israelite.[20]

R. Hisda sent to Rabbah through R. Aha son of R. Huna [the following enquiry]: Cannot the Beth din lay down a condition which would cause the abrogation of a law of the Torah? Surely it was taught: 'At what period of her age[21] is a husband entitled to be the heir of his wife [if she dies while still] a minor?[22] Beth Shammai stated: When she attains to womanhood;[23] and Beth Hillel said: When she enters into the bridal chamber.[24] R. Eliezer said: When connubial intercourse has taken place. Then he is entitled to be her heir, he may defile himself for her,[25] and she may eat terumah by virtue of his rights'. (Beth Shammai said, 'When she attains to womanhood',[26] even though she has not entered the bridal chamber![27] — Read, 'When she attains to womanhood and enters the bridal

chamber', and it is this that Beth Shammai said to Beth Hillel: In respect of your statement, 'When she enters the bridal chamber', it is only when she has attained womanhood that the bridal chamber is effective, but otherwise the bridal chamber alone is of no avail. 'R. Eliezer said: When connubial intercourse has taken place'. But, surely, R. Eliezer said that the act of a minor has no legal force![28] — Read, 'After she has grown up and connubial intercourse has taken place'.) At all events it was here stated, 'He[29] is entitled to be her heir'; but, surely, by Pentateuchal law it is her father[30] who should here be her legal heir, and yet it is the husband who is heir in accordance with a Rabbinical ordinance![31] — Hefker[32] by Beth din is legal hefker.[33] for R. Isaac stated: Whence is it deduced that hefker by Beth din is legal hefker? It is said, Whosoever came not within three days, according to the counsel of the princes and the elders, all his substance should be forfeited, and himself separated from the congregation of the captivity.[34] R. Eleazar stated [that the deduction[35] is made] from here: These are the inheritances, which Eleazar the priest. and Joshua the son of Nun, and the heads of the fathers' houses of the tribes of the children of Israel, distributed for inheritance.[36] Now, what relation is there between Heads and Fathers? But [this has the purpose] of telling you that as fathers may distribute as an inheritance to their children whatever they wish, so may the heads distribute as an inheritance to the people whatever they wish.

'He may defile himself for her'. But, surely, by Pentateuchal law it is her father who may here defile himself for her, and yet it is the husband who by a Rabbinical law was allowed to defile himself for her![37] — [This was allowed] because she is a meth mizwah.[38] Is she, however, a meth mizwah?[38] Surely, it was taught. 'Who may he regarded as a meth mizwah? He who has no [relatives] to bury him'. [If, however, he has relatives upon whom] he [could] call and they[39] would answer him, he is not regarded as a meth mizwah![40] — Here also, since they are not her heirs, they would not answer even if she were to call upon them.

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(1) V. supra p. 606, n. 10.

(2) V. supra p. 606, n. 9.

(3) Since it was given for produce which is not subject to terumah, it cannot assume the sanctity of terumah and remains tebel.

(4) Even by a priest.

(5) Lit., 'place'.

(6) Dem. V, 10; Kid. 46b. Why, then, was the terumah in the former case, which is virtually tebel, and is forbidden to be burnt (cf. Shab. 26a), allowed to be used by the priest (v. supra p. 606, n. 16) even though no terumah and tithe have been given for it from other produce?

(7) Where unclean produce was used as terumah for clean.

(8) Num. XVIII, 32.

(9) Surely no wrong has been done where one's action is null and void and other terumah has to he given!

(10) Lit., 'from here'.

(11) Tem. 5a, B.M. 56a, B.B. 84b, 143a, Kid. 46b.

(12) Lit., 'what is the reason'.

(13) Lit., 'they brought it out',

(14) Hullin v. Glos.

(15) Since, owing to the fact that the first husband was still alive, the marriage was unlawful.

(16) The marriage with the second having had no validity at all.

(17) Who is forbidden to an Israelite. As this, however, is permitted it follows that even a law of the Torah may be superseded by an ordinance of the Rabbis.

(18) From Palestine to Babylon.

(19) Since he is accordingly regarded as a proper Israelite.

(20) Such a restriction is no abrogation of a law of the Torah but a reinforcement of it.

(21) Lit., 'from when'.

(22) I.e., at what age may it be definitely assumed that the minor is no longer likely to make a declaration of refusal (v. Glos. s.v. mi'un) and may, consequently. be regarded as one's proper wife.

(23) Lit., ‘when she stands in her height’, the age of puberty.
(24) Huppah (v. Glos.), which is the preliminary to matrimonial cohabitation.
(25) If she died, though he is a priest. V. Lev. XXI, 1f.
(26) The husband may defile himself by her corpse and is also entitled to be her heir.
(27) When she is not yet regarded as his lawful wife (cf. supra 29b) and. according to law, he is entitled to be her heir. This consequently proves that the Beth din does possess the power to abrogate Pentateuchal laws!
(28) Infra 107b, 108a, Keth. 101b.
(29) The husband.
(30) (That is his legal heir (Rashi). Since the reference here is to a fatherless girl who was given in marriage by her mother or brothers. Such a marriage is not valid by Pentateuchal law which vests the right of giving a minor girl in marriage only in the father].
(31) How then could it be maintained that Beth din has no authority to abrogate Pentateuchal laws?
(32) הפקר a declaration that the property of a certain person is ownerless. V. Glos.
(33) The Rabbis have consequently full authority to transfer the property of the minor from her father's heirs to her husband, and such transfer cannot be regarded as an abrogation of the Pentateuchal law. The reading היה ‘was’ for the usual הוה ‘is’ may be a censorial alteration. Cf. Golds. a.l.
(34) Ezra X, 8.
(35) That Beth din is empowered to dispose of an individual's property in accordance with its legal decisions.
(36) Josh. XIX, 51.
(37) How then could it be maintained that Beth din has no authority to abrogate Pentateuchal laws?
(38) Lit., ‘dead of the commandment’, a corpse in which no one is interested and the burial of which is obligatory upon any person who discovers it.
(39) Lit., ‘and others’.
(40) ‘Er. 17b, Naz. 43b. As there are available the heirs of her father upon whom she could call, why is she regarded as a meth mizwah?

Talmud - Mas. Yevamoth 90a

‘And she may eat terumah by virtue of his rights’![1] — Only Rabbinical terumah.[2]

Come and hear: If a man ate[3] levitically unclean terumah, he must pay compensation in clean unconsecrated produce.[4] If he paid unconsecrated produce that was levitically unclean, his compensation, said Symmachus in the name of R. Meir, is valid[5] if it was paid in error,[6] and invalid if paid wilfully.[7] The Sages. however, said: Whether in one case or in the other[8] his compensation is valid, but he must again pay compensation in clean unconsecrated produce.[9] And when, in considering this ruling, the objection was raised, ‘Why should not his compensation be valid if he paid it wilfully? A blessing should come upon him! For he has eaten such of the priest's produce[10] as is not fit for him in the days of his uncleanness[11] and paid him compensation in something[12] that is fit for him in the days of his uncleanness’,[13] Raba, others say, Kadi, replied: [Some words are] missing from the text, the correct reading being the following: ‘If a man ate levitically unclean terumah he may pay compensation In any produce;[14] if he ate levitically clean terumah, he must pay compensation in clean unconsecrated produce; if, however, he made compensation in unconsecrated produce that was levitically unclean, his compensation, said Symmachus in the name of R. Meir, is valid if it was made in error,[15] and his compensation is invalid if it was made wilfully. But the Sages said: His compensation is valid whether he has acted in error or wilfully, but he must again pay compensation in clean unconsecrated produce’. Now here, surely. the compensation is Pentateuchally valid,[16] for were a priest to betroth a wife[17] with it her betrothal would be valid, and yet the Rabbis[18] ruled that ‘his compensation is invalid’,[19] and thus[20] a married woman[21] is permitted to [marry any one in] the world![22] — This was meant by the expression,[23] ‘his compensation is invalid’ which R. Meir used: That he must pay compensation again in clean unconsecrated produce.[24] If so, then Symmachus[25] holds the same view as the Rabbis! — R. Aha son of R. Ika replied: The difference between them is on the question whether one who has acted

unwittingly is to be penalized as a preventive measure against one acting wilfully.[26]

Come and hear: If [sacrificial] blood became levitically unclean and was then sprinkled [upon the altar], it is accepted[27] if [the sprinkling was performed] unwittingly, but it is not accepted [if it was performed] wilfully.[28] Now, according to Pentateuchal law, it is here undoubtedly accepted, for it was taught. 'In respect of what [errors] does the High Priest's front-plate[29] procure acceptance?[30] In respect of the sacrificial blood, flesh or fat that became unclean whether [this was brought about] by one acting in error or wilfully, under compulsion or willingly, and whether [this occurred with the sacrifice] of an individual or with [that of the] congregation',[31] and yet the Rabbis ruled that 'it is not accepted'[32] so that an unconsecrated beast is brought[33] into the Temple court![34] — R. Jose b. Hanina replied: The expression, 'it is not accepted' was used[35] in respect of permitting the flesh to be eaten;[36] the owner, however, obtains atonement through it.[37]

After all, however, the law of eating the flesh [of the sacrifice] would he uprooted, whereas it is written in the Scriptures. And they shall eat those things wherewith atonement was made[38] which teaches that the priests eat [the sacrificial meat] and the owner obtains thereby atonement! — The other replied: With an abstention from the performance of an act[39] it is different.[40]

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(1) Though Pentateuchally she is forbidden to eat terumah! V. supra p. 609. n. 5.

(2) That which is given from fruits of the trees, which is Pentateuchally permitted to non-priests. since the law of terumah is Pentateuchally applicable to corn only.

(3) Unwittingly.

(4) The reason is explained in Pes. 32a.

(5) Assumes the name of terumah.

(6) I.e., if he was unaware that the produce he gave as compensation was levitically unclean.

(7) Since he knew it to be unclean and yet paid it as compensation he is penalized.

(8) Whether the compensation was made in error or wilfully.

(9) Git. 54a.

(10) Lit., 'from him something'.

(11) Levitically unclean terumah may not be eaten by a priest even when he is himself also unclean.

(12) Unconsecrated produce.

(13) Even though it is levitically unclean.

(14) Even unconsecrated produce which is unclean.

(15) V. supra p. 610, n. 10.

(16) Since unconsecrated foodstuffs, though levitically unclean, may be consecrated (cf. supra 89b).

(17) Giving it to her as the token of betrothal (cf. Kid. 2a).

(18) I.e., R. Meir.

(19) If it was made wilfully.

(20) By ruling that the compensation is invalid and, in consequence, is not the property of the priest.

(21) Pentateuchally she should assume this status.

(22) As the compensation is Rabbinically invalid (v. supra n. 11) the betrothal also would be Rabbinically invalid. V. supra p. 609, n. 5.

(23) Lit., 'what'.

(24) The first payment, however, is also valid.

(25) Who reported R. Meir.

(26) According to the Rabbis, an unwitting sin is made punishable in order to prevent thereby a wilful one; hence their ruling that whether the payment of the compensation mentioned was made unwittingly or wilfully a second payment of compensation must be made. According to R. Meir, however, the inadvertent sinner is not to suffer for the sake of the wilful one; hence his ruling that a second payment of compensation is due only in the case of a wilful action.

(27) I.e., the owner obtains atonement and the flesh of the sacrifice may be eaten. הורצה of the same rt. רצה as that of ונרצה and it shall be accepted in Lev. I, 4, q.v.

(28) Pes. 16b.

(29) ציץ v. Ex. XXVIII, 36ff.
(30) Cf. supra n. 2.
(31) Pes. 80b, Yoma 7a, Men. 25b, Zeb. 45a, Git. 54a.
(32) In case of wilful action.
(33) Lit., 'brought again', i.e., the second sacrifice which the Rabbis ordained to be brought in addition to the first whose blood became unclean, remains Pentateuchally an unconsecrated beast, since, according to Pentateuchal law, no second sacrifice is required.
(34) V. supra p. 609, n. 5.
(35) Lit., 'what . . . which he said'.
(36) Only in this respect 'is it not accepted'; and the priest may not eat of such flesh.
(37) And no second sacrifice is required.
(38) Ex. XXIX, 33.
(39) שב ואל תעשה lit., 'sit and do not act', as is the case with the prohibition against eating the sacrificial meat mentioned.
(40) From the case of turning consecrated terumah into unconsecrated produce. The former (v. supra n. 1) involving no action may well be within the jurisdiction of the Rabbis, but not the latter which involves an act uprooting a Pentateuchal law.

Talmud - Mas. Yevamoth 90b

He,[1] [on hearing the last reply] said to him:[2] It was my intention to raise objections against your view[3] from [the Rabbinical laws which relate to] the uncircumcised,[4] sprinkling,[5] the knife [of circumcision],[6] the linen cloak with zizith,[7] the lambs of Pentecost,[8] the shofar[9] and the lulab;[10] now, however, that you taught us that abstention from the performance of an act[11] is not regarded as an abrogation [of the law, I have nothing to say since] all these are also cases of abstention.[12]

Come and hear: Unto him ye shall hearken,[13] even if he tells you. 'Transgress any of all the commandments of the Torah' as in the case, for instance, of Elijah on Mount Carmel,[14] obey him in every respect in accordance with the needs of the hour![15] — There it is different,[16] for it is written, 'Unto him shall ye hearken'. Then let [Rabbinic law] be deduced from it! — The safeguarding[17] of a cause is different.[18]

Come and hear: If he[19] annulled [his letter of divorce][20] it is annulled: so Rabbi. R. Simeon b. Gamaliel, however, said: He may neither annul it nor add a single condition to it,[21] since, otherwise,[22] of what avail is the authority[23] of the Beth din.[24] Now, though here, the letter of divorce may be annulled[25] in accordance with Pentateuchal law, we allow a married woman,[26] owing to the power[27] of Beth din,[24] to marry anyone in the world![28] — Anyone who betroths [a woman] does so in implicit compliance with the ordinances[29] of the Rabbis,[30] and the Rabbis have [in this case][31] cancelled the [original] betrothal.[32]

Said Rabina to R. Ashi: This[33] is a quite satisfactory explanation where betrothal was effected by means of money;[34] what, however. can be said [in a case where betrothal was effected] by cohabitation! — The Rabbis[35] have assigned[36] to such a cohabitation the character of mere prostitution.[37]

Come and hear: R. Eleazar b. Jacob stated, 'I heard that even without any Pentateuchal [authority for their rulings]. Beth din may administer flogging and [death] penalties; not, however, for the purpose of transgressing the words of the Torah but in order to make a fence for the Torah. And it once happened that a man rode on horseback on the Sabbath in the days of the Greeks,[38] and he was brought before Beth din and was stoned; not because he deserved this penalty, but because the exigencies of the hour demanded it. And another incident occurred with a man who had intercourse with[39] his wife under a fig tree, and he was brought before Beth din and flogged; not because he

deserved such a penalty, but because the exigencies of the hour demanded it![40] To safeguard a cause is different.[41]

NEITHER OF THEM MAY DEFILE HIMSELF FOR HER. Whence is this derived? — From what is written in Scripture. Except for his kin that is near unto him,[42] and a Master stated that 'his kin' means his wife;[43] while it was also written, The husband shall not defile himself, among his people, to prof- ane himself;[44] [implying that] there is a husband, then, who may, and there is a husband who may not defile himself; how, then [are these contradictory laws to be reconciled]? He may defile himself for his lawful wife but he may not defile himself for his unlawful wife .[45]

NEITHER OF THEM HAS A CLAIM UPON ANYTHING SHE MAY FIND etc. [because] what is the reason why the Rabbis ruled that a wife's finds belong to her husband? In order that he may bear no hatred against her; but, here, let him bear against her ever so much hatred![46]

OR MAKE WITH HER HANDS, [because] for what reason did the Rabbis rule that the work of her hands belonged to her husband? Because she receives from him her maintenance;[47] but here, since she receives no maintenance, her handiwork does not belong to him.

OR TO THE RIGHT OF INVALIDATING HER VOWS, [since] what is the reason why the All Merciful said that a husband may annul [his wife's vows]? In order that she may not become repulsive; here, however, let her become ever so repulsive![48]

IF SHE WAS THE DAUGHTER OF AN ISRAELITE, SHE BECOMES DISQUALIFIED FROM MARRYING A PRIEST etc.

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(1) R. Hisda.

(2) Rabbah who maintained (supra 89b) that the Rabbis have no power to abrogate a pentateuchal law.

(3) V. supra note 4.

(4) Proselyte, whose circumcision is performed on the Passover Eve and who, by Rabbinic law, is forbidden to participate in the Paschal lamb, though Pentateuchally it is his duty to celebrate the Passover as an Israelite. Cf. Pes. 92a.

(5) On an unclean person, on the Sabbath day, is Rabbinically forbidden (cf. Pes. 66a) though Pentateuchally permitted. Should the Sabbath on which such sprinkling is due happen to be a Passover Eve, the person affected would, owing to the Rabbinical prohibition, remain unclean on that day and would, in consequence, be deprived of participation in the Paschal lamb, which is a Pentateuchal precept.

(6) The carrying of which on the Sabbath is Rabbinically forbidden even along roofs, an act which is Pentateuchally permitted (cf. Shab, 130b). By observing this Rabbinical law it is sometimes necessary to postpone circumcision which is a Pentateuchal commandment.

(7) V. Glos. Pentateuchally it is permitted to insert woollen fringes (v. Num. XV, 38) in a linen garment, despite the prohibition in Deut. XXII, 11 against wearing wool and linen together. Owing, however, to a Rabbinic prohibition, fringes of wool in a linen garment are forbidden, and this prohibition sometimes results in the abrogation of the Pentateuchal commandment of zizith. Cf. Men. 40a.

(8) V. Num. XXVIII, 26ff. If Pentecost fell on a Sabbath day, and these lambs were not offered for the purpose for which they were designated, the sacrificial blood may not, in accordance with a Rabbinical prohibition, be sprinkled upon the altar, though such sprinkling is Pentateuchally permitted. Thus, the Pentateuchal law of the sprinkling of the sacrificial blood, and other laws which are dependent on its performance, are suspended by a Rabbinical ordinance. Cf. Bezah 20b.

(9) The ram's horn used on the New Year festival (cf. Lev. XXIII. 24). If New Year's Day falls on a Sabbath, the Pentateuchal law of Shofar is abrogated by the Rabbis for fear it might be carried from one Sabbatical domain into another. Cf. R.H. 32a.

(10) The branches of palm- trees (Lev. XXIII, 40) which are taken during the Feast of Tabernacles. This Pentateuchal law is abrogated on the Sabbath day, for the same reason as in the case of the Shofar. (Cf. p. 613, n. 1 t).

(11) Cf. supra p. 613. n. 1.

(12) V. last note.
(13) Deut. XVIII, 15, referring to a true prophet.
(14) Where he offered a sacrifice on an improvised altar (v. I Kings XVIII, 31ff) despite the prohibition against offering sacrifices outside the Temple.
(15) Which shews that the word of a prophet, as also that of the Rabbis, may abrogate a Pentateuchal law.
(16) From the teaching of the Rabbis.
(17) Lit., 'making a wall round'.
(18) From an ordinary measure. Elijah, by his act, saved Israel from idolatry and brought them back to the worship of Cod.
(19) A husband who sent a letter of divorce to his wife by the hand of an agent. Cf. Git. 32a.
(20) In the presence of any Beth din, even though the woman was unaware of the fact.
(21) Cf. supra n. 10.
(22) Lit., 'if so were such annulment to he permitted.
(23) Lit., 'power'.
(24) I.e., R. Gamaliel the Elder, who ordained that such an annulment must not be made, since the woman in her ignorance of it might marry again and thus unconsciously give birth to illegitimate children. V. Git. 33a.
(25) So long as it did not reach the woman's hand.
(26) Since the letter of divorce was duly annulled the woman obviously still retains the status of a married woman.
(27) Lit., 'what power', quotation from R. Simeon's exclamation.
(28) Which shews that a Pentateuchal law of marriage is abrogated by a Rabbinic measure!
(29) Lit., 'opinion', 'view'.
(30) The formula being. 'According to the law of Moses and of Israel' (cf. P.B. p. 298), i.e., the Pentateuchal and Rabbinic law.
(31) Where the divorce was annulled.
(32) Transforming retrospectively the money of the betrothal (cf. Kid. 2a) given to the woman at her first marriage into an ordinary gift. Since the hefker of money comes within the power of a legal tribunal the Beth din is thus fully empowered to cancel the original betrothal, and the divorcee assumes, in consequence, the status of an unmarried woman who is permitted to marry any stranger.
(33) The explanation of the retrospective cancellation of the original marriage. V. supra note 3.
(34) A woman may be betrothed by means of money, deed or cohabitation. V. Kid. 2a.
(35) In compliance with whose laws and ordinances all betrothals are implicitly effected.
(36) Lit 'made'.
(37) From the moment a divorce is annulled in such a manner, the cohabitation, it was ordained, must assume retrospectively the character of mere prostitution, and since her original betrothal is thus invalidated the woman resumes the status of the unmarried and is free to marry whomsoever she desires.
(38) While the Greeks were the rulers of the country.
(39) Lit., 'ejaculate in'.
(40) Cf. Sanh. 46a; which shows that the Rabbis may carry out decisions contrary to Pentateuchal law.
(41) Cf. supra p. 614, nn. 7 and 8. The incidents referred to occurred in times of religious laxity when rigid measures were necessary, v Sanh., Sonc. ed., p. 303. n. 8.
(42) Lev. XXI, 2.
(43) Consequently it is permitted for a priest to defile himself for his wife.
(44) Ibid. 4. which, contrary to the interpretation of v. 2, shews that a husband may not defile himself for its wife., 'a husband'. (E.V. chief man).
(45) Who is the subject of our Mishnah, v. supra 22b.
(46) The more he will hate her the sooner will he sever the unlawful union.
(47) Lit., 'eats foods'.
(48) Cf. supra n. 5.

Talmud - Mas. Yevamoth 91a

Is not this obvious![1] — [The statement] IF THE DAUGHTER OF A LEVITE [she becomes

disqualified] FROM THE EATING OF TITHE was required.[2] Does, however, the daughter of a Levite become disqualified by prostitution from the eating of tithe? Surely, it was taught: If the daughter of a Levite was taken into captivity[3] or was subjected to an act of prostitution,[4] she may nevertheless be given tithe and she may eat it![5] — R. Shesheth replied: This[6] is a punitive measure.[7]

IF THE DAUGHTER OF A PRIEST, [she becomes disqualified] FROM THE EATING OF TERUMAH, even Rabbinical terumah.

NEITHER THE HEIRS OF THE ONE HUSBAND NOR THE HEIRS OF THE OTHER ARE ENTITLED TO INHERIT HER KETHUBAH etc. How does the question of kethubah arise here?[8] R. Papa replied: The kethubah of the male children.[9] [Is not this also] obvious![10] — It might have been assumed that the Rabbis had penalized only her, since she had committed the forbidden act, but not her children, hence we were informed [that they also lose the kethubah].

THE BROTHER OF THE ONE AND THE BROTHER OF THE OTHER MUST SUBMIT TO HALIZAH, BUT MAY NOT CONTRACT THE LEVIRATE MARRIAGE. The brother of the first husband submits to halizah in accordance with the Pentateuchal law,[11] and may not contract the levirate marriage in accordance with Rabbinic law;[12] the brother of the second, however, submits to halizah in accordance with Rabbinical law,[13] and may not contract the levirate marriage either in accordance with Pentateuchal, or in accordance with Rabbinical law.[14]

R. JOSE SAID: HER KETHUBAH [REMAINS A CHARGE] UPON THE ESTATE OF HER FIRST HUSBAND etc. Said R. Huna: The latter agree with the former,[15] but the former do not agree with the latter: R. Simeon agrees with R. Eleazar;[16] since he[17] does not penalize [the woman[18] in the case of] cohabitation which constitutes the main prohibition. how much less [would he do so in respect of] what she finds and what she makes with her hands.which are only monetary matters. R. Eleazar, however, does not agree with R. Simeon; [since it is only in respect of] what the woman finds and what she makes with her hands, which are monetary matters, that he does not penalize her, but in respect of cohabitation which is a religious prohibition he does penalize her. And both of them agree with R. Jose; [since they] do not penalize [the woman in respect of] those matters which are applicable while she continues to live with her husband,[19] how much less [would they do so in respect of] the kethubah the purpose of which is[20] [for the woman] to take it and depart.[21] R. Jose, on the other hand, does not agree with them; [since it is only in respect of] the kethubah [the purpose of which is for the woman] to take it and depart,[21] that he does not penalize her, but in respect of those matters which are applicable while she continues to live with her husband,[19] he does penalize her.

R. Johanan stated: The former agree with the latter, but the latter do not agree with the former: R. Jose agrees with R. Eleazar; since he does not penalize [the woman in respect of] the kethubah which has to be taken from the husband and given to the wife,[22] how much less [would be do so in respect of] what she finds and what she makes with her hands which have to be taken from her and given to him.[23] R. Eleazar, however, does not agree with him; [since it is only in respect of] what she finds and what she makes with her hands which have to be taken from the woman and given to the husband,[23] that he does not penalize her, but in respect of the kethubah which has to be taken from him and given to her,[22] he does penalize her. And both of them agree with R. Simeon; since they do not penalize her in respect of matters which [are applicable] while [her first husband] is alive, how much less [would they do so in respect of] cohabitation which takes place after his death. R. Simeon, however, does not agree with them; [since it is only in respect of] cohabitation which [takes place] after [her husband's] death, that he does not penalize her, but [in respect of] those matters which [are applicable] while [he is] alive, he does penalize her.

IF SHE MARRIED WITHOUT AN AUTHORIZATION etc. Said R. Huna in the name of Rab: This is the accepted law.[24] R. Nahman said to him: Why should you indulge in circumlocution![25] If

you hold the same view as R. Simeon, say. 'The halachah is in agreement with R. Simeon' for, indeed, your traditional statement runs on the same lines as that of R. Simeon! And should you reply. 'If I were to say "the halachah is in agreement with R. Simeon", it might be assumed to apply even to his first statement',[26] then say. 'The halachah is in agreement with R. Simeon in his latter statement'![27] — This is a difficulty.

R. Shesheth said: It occurs to me[28] that Rab made this reported statement while he was sleepy and about to doze off.[29] [His statement] 'This is the accepted law' implies that[30] [the Rabbis] differ;[31] but what could she do? She was but the victim of circumstances![32] Furthermore, it was taught: 'None of the women in incestuous marriages forbidden in the Torah, requires a letter of divorce from the man who married her,[33] except a married woman who married again in accordance with a decision of a Beth din'. Only [where she married again] 'in accordance with a decision of a Beth din'[34] does she require a letter of divorce, but where [the marriage took place] in accordance with the evidence of two witnesses she requires no letter of divorce.[35] Now, whose view is here represented?[36] If it be suggested [that it is the view of] R. Simeon, does she [it may be retorted] require a letter of divorce [even where her marriage took place] in accordance with a decision of the Beth din? Surely it was taught: R. Simeon stated, 'If the Beth din acted[37] on their own judgment[34] [the marriage is regarded] as a wilful [act of adultery between] a man and a [married] woman;[38] [if, however, they acted],[30] in accordance with the evidence of [two] witnesses, [the marriage is regarded] as [intercourse between] a man and a woman that was due to error'.[39] In both cases, however,[40] no letter of divorce is thus[41] required.[42] Consequently it must represent the view of the Rabbis![43] The fact is [that it[44] represents the view of] R. Simeon, and you may interpret it as follows. R. Simeon stated: If the Beth din acted[45] on their own judgment, [the marriage is regarded] as intentional [intercourse[46] between] a man and an [unmarried] woman and [the latter][47] consequently requires a letter of divorce; [If, however, they acted],[45] in accordance with the evidence of [two] witnesses [the marriage is regarded] as wanton [intercourse between] a man and an [unmarried] woman[48] and [the latter consequently] requires no letter of divorce.

R. Ashi replied: The statement[49] was mainly concerned with the question of the prohibition,[50] and is to be understood as follows:[51] If the Beth din acted[52] on their own judgment, [the marriage is regarded] as a wilful [act of adultery between] a man and a [married] woman, and [the latter is consequently] forbidden to her [first] husband; [if, however, they acted][49] in accordance with the evidence of [two] witnesses, [the marriage is regarded] as [intercourse between] a man and a woman that was due to error, and [the latter is consequently] not forbidden to her [first] husband.

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(1) Having the status of a harlot she is obviously forbidden to marry a priest. Cf. Lev. XXI, 7.

(2) As this ruling had to be mentioned the other also was included.

(3) Where she is exposed to the dangers of gentiles' outrage.

(4) Cohabitation with a slave, for instance, or a halal. Cf. supra 68a.

(5) Bek. 47a.

(6) The disqualification of the Levite's daughter in our Mishnah.

(7) For not instituting the necessary enquiries before she married her second husband.

(8) Where the woman herself, as stated earlier in our Mishnah, is not entitled to it.

(9) Of the woman. By the insertion of the prescribed clause (v. Keth. 52b), her sons are entitled to receive her kethubah from their father's estate when he dies, even if their mother died first and their father married again and had sons with his second wife. They receive her kethubah in addition to their shares in their father's estate to which the sons of both the first and the second wife are equally entitled. In the case spoken of in our Mishnah, however, the sons of the first wife lose their claim to her kethubah.

(10) If their mother herself is not entitled to it, how much less her sons whose claim is entirely derived from hers.

(11) Since according to Pentateuchal law he is the brother of the proper husband.

(12) As a punitive measure against the woman who did not make sufficient enquiries before contracting her second marriage.

(13) Pentateuchally the widow is not subject to him at all, since her marriage with his brother was invalid. Cf. supra p. 617, n. 11.
(14) Cf. previous two notes.
(15) That in respect of the points they mentioned the woman is regarded as the wife of the first husband.
(16) V. our Mishnah.
(17) Having stated that, HER COHABITATION . . . WITH THE BROTHER OF THE FIRST HUSBAND EXEMPTS HER RIVAL.
(18) In regard to her relationship to her first husband.
(19) Lit., 'when she sits under him', when there is reason to apprehend that she would never be divorced in consequence.
(20) Lit. , 'stands'.
(21) Thus actually beginning the process of separation and final divorce.
(22) Lit., 'which from his to hers'.
(23) Lit., 'which from hers to his'.
(24) Cf. supra 88b.
(25) גנבא גנובי חמה לך (rt. גמב, in Pael 'to go round about'). 'O thou cunning man, what is the use of thy going round about?' (Jast.).
(26) That of cohabitation with the brother of the first husband where her second marriage was contracted on the evidence of one witness only.
(27) IF SHE MARRIED WITHOUT AUTHORIZATION.
(28) Lit., 'I would say'.
(29) Lit., 'dozing and lying down'.
(30) In the final clause, where the woman married on the evidence of two witnesses.
(31) Maintaining that the woman is to be penalized.
(32) מיאנם אנסה from rt. אנס 'to be compelled'. What better proof could she have had than the testimony of two qualified witnesses.
(33) Lit., 'from him'.
(34) I.e., where the evidence as to her first husband's death has been given by one witness only.
(35) Since she was but an unfortunate victim of circumstances.
(36) Lit., 'who is it'.
(37) Permitted the remarriage of a woman whose husband's death has been reported.
(38) And the woman becomes thereby forbidden to her first husband if he returns.
(39) And the return of the woman to her first husband is consequently permitted.
(40) Whether the marriage was on the decision of Beth din or on the evidence of two witnesses.
(41) Since the comparison was made with acts of presumption and error while divorce was not mentioned at all.
(42) The first Baraitha cited, which required a divorce in a case where the woman married in accordance with a decision of the Beth din, cannot therefore represent the view of R. Simeon.
(43) Which proves that they also admit that no divorce is necessary where the marriage was contracted in reliance on two witnesses. Who is it, then, that differs from R. Simeon that it should have been necessary for Rab to declare the halachah to be in agreement with his view?
(44) The first Baraitha under discussion. V. p. 620. n. 13.
(45) V. supra p. 620, n. 8.
(46) For the purpose of betrothal. Cf. Kid. 2a.
(47) Since her marriage was legal.
(48) Which constitutes no legal union.
(49) V. supra note 15.
(50) Lit., 'he taught in respect of prohibition'.
(51) Lit., 'and thus be said'.
(52) V. supra p. 620, n. 8.

Talmud - Mas. Yevamoth 91b

Rabina replied: The statement was mainly dealing with the question of sacrifice,[1] and is to be

understood as follows.[2] If the Beth din acted on their own judgment, [the marriage is regarded] as a wilful [act of adultery between] a man and a [married] woman, and [the latter] does not bring a sacrifice;[3] if, however, they acted] in accordance with the evidence of [two] witnesses, [the marriage is regarded] as [intercourse between] a man and a woman that was due to error and [the latter] has to bring a sacrifice.[4]

If you prefer. however, I might say that the first [Baraitha][5] represents [the view of] the Rabbis, and you may explain it as follows: 'Except a married woman'[6] and one 'who married again in accordance with a decision of a Beth din'.[7]

'Ulla raised an objection: Do we accept the plea[8] 'what could she have done'?[9] Surely we learned: [If a letter of divorce] was dated[10] according to[11] an era that was inappropriate,[12] according to[11] the Median era, or according to[11] the Greek era, according to [the era of] the building of the Temple, or the destruction of the Temple, or if he[13] was in the East and wrote, 'In the West', [or he was] in the West and wrote, 'In the East', she[14] must leave her first and her second husband,[15] and all the disabilities[16] [enumerated,[17] are applicable] to her.[18] But why?[19] Let it be argued. 'What could she have done'![20] — She should have arranged for the letter of divorce to be read.[21]

R. Shimi b. Ashi said, Come and hear: If a levir married his sister-in-law[22] and her rival went and married [another man][23] and then the former[24] was found to be incapable of procreation,[25] [the latter][26] must leave the one and the other[27] and all the disabilities[16] [mentioned[28] apply] to her.[29] But why?[30] Let it be argued. 'What could she have done'![31] — She should have waited.

Said Abaye: Come and hear: If the rivals [of] any of the forbidden relatives concerning whom it has been said[32] that they exempt their rivals went and married, and any such forbidden relatives[33] were found to be incapable of procreation,[34] [every rival] must leave the one and the other,[35] and all the disabilities[36] [mentioned[37] apply] to her.[38] But why?[39] Let it be argued. 'What could she have done'! — She should have waited.

Said Raba. Come and hear: If a scribe wrote a letter of divorce for the husband and a quittance[40] for the wife, and then made a mistake and handed the letter of divorce to the wife and the quittance to the husband, and they[41] gave them to one another,[42] and after a time[43] the letter of divorce was discovered[44] in the possession of the husband and the quittance in the possession of the wife, [the latter][45] must leave the one as well as the other,[46] and all the disabilities[36] [mentioned[47] apply] to her.[38] But why?[48] Let It be argued. 'What could she have done'! — She could have arranged for the letter of divorce to be read.[49]

Said R. Ashi, Come and hear: If he[50] changed[51] his name or her name, the name of his town or the name of her town, she must depart from the one and from the other,[52] and all the disabilities[36] [mentioned[37] apply] to her.[38] But why?[48] Let it be argued. 'What could she have done'! — She should have arranged for the letter of divorce to be read.[53]

Said Rabina, Come and hear: If a man married a woman[54] on [the strength of] a bald[55] letter of divorce she must depart from the one and from the other,[56] etc.! — She should have arranged for the letter of divorce to be read.[57]

R. Papa desired to decide a case on [the principle of] 'What could she have done',[58] Said R. Huna Son of R. Joshua to R. Papa: But surely all those[59] Baraithoth were taught?[60] The other answered him: Were they not explained?[61] 'Shall we then',[62] the former retorted, 'rely on explanations'![63]

R. Ashi said: No regard need be paid[64] to a rumour.[65] What kind of rumour [is here meant]? If it be suggested [that it means] a rumour after marriage.[66] Surely [it may be objected] R. Ashi has said

this once; for R. Ashi stated:

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(1) Cf. supra n. 6, mutatis mutandis.
(2) So Bah. Cf. supra n. 7. Cur. edd. omit, ‘and is . . . follows’.
(3) Since her wilful act was performed in reliance on the ruling of Beth din. V. Hor. 2b.
(4) As for any other similar sin committed in error.
(5) V. supra note 15.
(6) Who married again in accordance with the evidence of two witnesses.
(7) On the evidence of one witness. According to this interpretation, a marriage on the evidence of two witnesses is not excluded (as was originally suggested supra 91a) and it also requires a letter of divorce.
(8) Lit ‘do we say’.
(9) R. Shesheth's objection, supra 91a.
(10) Lit., ‘he wrote’.
(11) Lit., ‘for the name’.
(12) For the place in which, or the time when the document was written.
(13) The scribe (Rashi). It is assumed that the witnesses are from the same place as the scribe. (Cf. Tosaf s.v. הויה a.l.)
(14) The woman who married again after receiving such a defective document from her husband.
(15) Lit ‘from this and from this’.
(16) Lit., ‘these ways’.
(17) Supra 87b and in the Mishnah cited from Gittin (v. infra n. 13), such as the loss of kethubah etc.
(18) Cf. Git., Sonc. ed., p. 282, q. v. notes.
(19) Should the woman be penalized.
(20) She honestly believed the document to be valid.
(21) By an expert who would have detected the irregularities and warned her in good time.
(22) The widow of his brother who died without issue.
(23) Which she is permitted to do, since the levirate marriage of one widow exempts all her rivals from both halizah and the levirate marriage.
(24) Lit ‘this’, the widow who married the levir.
(25) And consequently unable to exempt her rival (cf. supra 12a).
(26) The rival mentioned.
(27) Lit., ‘from this and from this’. She may neither live with the husband she married nor with the levir.
(28) V. supra n. 12.
(29) Git. 80a.
(30) Cf supra n. 14.
(31) She surely could not have anticipated the other's incapability.
(32) Supra 2a.
(33) Lit., ‘these’.
(34) Cf. supra p. 622, n. 20.
(35) V. supra p. 622, n. 22.
(36) Lit., these ways’.
(37) Supra 87b and in the Mishnah cited from Gittin (cf. Git. 79b) such as the loss of kethubah etc.
(38) Git. 80a.
(39) Should the woman he penalized.
(40) Which the wife gives to the husband on the receipt of her kethubah.
(41) Without examining the documents.
(42) Lit., ‘this to this and this to this’; both of them believing that the husband gave to his wife the letter of divorce, and that the wife gave to her husband the quittance.
(43) When the woman had married another man.
(44) Lit., ‘goes out’.
(45) Since her divorce was invalid, the document having been given to her not by her husband as the law requires but by the scribe.
(46) Her second and her first husband.

(47) V. supra note 7.
(48) Should she be subject to the disabilities.
(49) When she would immediately have discovered the scribe's error.
(50) The husband.
(51) In the letter of divorce which he gave to his wife.
(52) Lit., 'from this and from this': from her first, and from her second husband.
(53) And the change of name would have been discovered at once.
(54) Lit., 'he married her'.
(55) קרח i.e., a 'folded document' (cf. B.B. 160a) on one of whose folds a signature is wanting. A valid deed of such a character must bear the signature of a witness on each fold and must he signed by no less than three witnesses. V. Git., Sonc. ed., p. 391.
(56) V. supra p. 623, n. 22.
(57) And the defect would have been discovered forthwith.
(58) It was his intention to allow a woman, whose second marriage was contracted on the evidence of two witnesses who had testified that her first husband was dead, to go back to him when he returned.
(59) Above mentioned.
(60) And in none was the principle of 'what could she have done' acted upon.
(61) Special reasons were given why the principle mentioned was not acted upon. In all other cases, however, it should be taken into consideration.
(62) Lit., 'shall we rise'.
(63) Despite the explanations, the original objections may still be urged. Cur. edd. insert in parenthesis 'and he desisted'. i.e., R. Papa abandoned his contemplated decision.
(64) If a woman was authorized by the Beth din to contract a second marriage.
(65) That her first husband was still alive.
(66) Of the woman with her second husband.

No regard need be paid to a rumour that originated after marriage![1] — It might have been assumed that since she was to appear before the Beth din to obtain the authorization[2] [for her marriage].[3] the rumour is regarded as one [that arose] before marriage[4] and she should in consequence he forbidden,[5] we were, therefore, taught [that even in such circumstances a rumour is disregarded].

IF SHE MARRIED WITH THE AUTHORIZATION OF THE BETH DIN SHE MUST LEAVE etc. Ze'iri said: Our Mishnah cannot be authentic[6] owing to a Baraitha that was recited at the academy. For it was recited at the academy: If the Beth din ruled[7] that the sun had set,[8] and later it appeared, [such a decision] is no ruling[9] but a mere error.[10]

R. Nahman. however, stated: [Such an authorization][11] is [to be regarded as] a ruling.[12] Said R. Nahman: You can have proof[13] that it [is to be regarded as] a ruling. For throughout the Torah a single witness is never believed while in this case he is believed. But why? Obviously[14] because [such an authorization is regarded as] a ruling.[15] Raba said: You can have proof[13] that it[11] is [to be regarded as a mere] error.[16] For were Beth din to issue a ruling in a case of some forbidden fat or blood that it is permitted, and then find a [strong] reason for forbidding it, [their subsequent ruling], should they retract and rule again that it is permitted,[17] would be completely disregarded;[18] whereas here,[19] it should one witness present himself,[20] the woman would be permitted to marry again,[21] and should two witnesses [afterwards] appear[22] the woman would be forbidden to marry again,[23] but should another witness subsequently appear[24] the woman would again be permitted to marry. But why?[25] Obviously[26] because it[19] [is regarded as a mere] error.[27]

R. Eliezer also is of the opinion that it[19] is [to be regarded as a mere] error. For it was taught: R. Eliezer said: Let the law pierce through the mountain[28] and let her[29] bring a fat sin-offering.[30] Now, if it be granted that it[19] is [to be treated as] an error one can well see the reason why she is to bring an offering.[31] If, however, it be contended that it[19] is [to be regarded as] a ruling, why should she bring an offering![32] But is it not possible that R. Eliezer holds the opinion that an individual who committed a sin in reliance on a ruling of the Beth din is liable?[33] — If so, what [could have been meant by] 'Let the law pierce through the mountain'![34]

IF THE BETH DIN DECIDED THAT SHE MAY MARRY AGAIN etc. What is meant by DISGRACED HERSELF? — R. Eliezer[35] replied: She played the harlot. R. Johanan replied: [If being] a widow [she was married] to a High Priest, [or if] a divorcee or a haluzah [she was married] to a common priest. He who stated,'She played the harlot'[36] would, even more so, [subject the woman to a sin-offering. if as] a widow [she was married] to a High Priest.[37] He, however, who stated, '[If being] a widow [she was married] to a High Priest' does not[38] [subject her to a sin-offering if] she played the harlot. What is the reason? — Because she might plead, 'It is you who granted me the status of an unmarried woman'.[39]

It was taught in agreement with the opinion of R. Johanan: If Beth din directed that she may be married again. and she went and disgraced herself, so that, for instance, [being] a widow [she was married] to a High Priest.[or being] a divorcee or a haluzah [she was married] to a common priest. she is liable to bring an offering for every single act of cohabitation;[40] so R. Eleazar. But the Sages said: One offering for all. The Sages, however, agree with R. Eleazar that, If she was married to five men, she is liable to bring an offering for every one, since [here it is a case of] separate bodies.

MISHNAH. IF A WOMAN WHOSE HUSBAND AND SON WENT TO COUNTRY BEYOND THE SEA WAS TOLD,[41] 'YOUR HUSBAND DIED AND YOUR SON DIED AFTERWARDS',[42] AND SHE MARRIED AGAIN,[43] AND LATER SHE WAS TOLD,' IT WAS OTHERWISE'.[44] SHE MUST DEPART;[45] AND ANY CHILD BORN BEFORE OR AFTER[46] IS A BASTARD.[47] IF

SHE WAS TOLD. 'YOUR SON DIED AND YOUR HUSBAND DIED AFTERWARDS',[48] AND SHE CONTRACTED THE LEVIRATE MARRIAGE, AND AFTERWARDS SHE WAS TOLD, 'IT WAS OTHERWISE'[49] SHE MUST DEPART;[50] AND ANY CHILD BORN BEFORE OR AFTER[46] IS A BASTARD.[47]

IF SHE WAS TOLD, 'YOUR HUSBAND IS DEAD, AND SHE MARRIED, AND AFTERWARDS SHE WAS TOLD, 'HE WAS ALIVE[51] BUT IS NOW DEAD', SHE MUST DEPART,[52] AND ANY CHILD BORN BEFORE [THE DEATH OF HER FIRST HUSBAND][53] IS A BASTARD, BUT ONE BORN AFTER IT[54] IS NO BASTARD. IF SHE WAS TOLD, 'YOUR HUSBAND IS DEAD AND SHE WAS BETROTHED, AND AFTERWARDS HER HUSBAND APPEARED, SHE IS PERMITTED TO RETURN TO HIM. ALTHOUGH THE OTHER[55] GAVE HER A LETTER OF DIVORCE HE HAS NOT THEREBY DISQUALIFIED HER FROM MARRYING A PRIEST. THIS R. ELEAZAR B. MATHIA DERIVED BY MEANS OF THE FOLLOWING EXPOSITION: NEITHER [SHALL THEY[56] TAKE] A WOMAN PUT AWAY FROM HER HUSBAND,[57] EXCLUDES ONE PUT AWAY[58] FROM A MAN WHO IS NOT HER HUSBAND.[59]

GEMARA. What is meant by BEFORE[60] and what is meant by AFTER?[61] If it be suggested that BEFORE means before the [second] report and that AFTER means after that report, it should have been stated: The child is a bastard![62] Because it was desired to state in the final clause, IF SHE WAS TOLD, 'YOUR HUSBAND IS DEAD', AND SHE MARRIED, AND AFTERWARDS SHE WAS TOLD, 'HE WAS ALIVE BUT IS NOW DEAD . . . ANY CHILD BORN BEFORE[63] [THE DEATH OF HER FIRST HUSBAND] IS A BASTARD, BUT ONE BORN AFTER IT[64] IS NO BASTARD, the expressions BORN BEFORE OR AFTER IS A BASTARD were used in the first clause also.

Our Rabbis taught: This[65] is the view of R. Akiba who stated: Betrothal with those who are subject [on intercourse] to the penalties of a negative commandment is invalid.[66] The Sages, however, said that [the child] of a sister-in-law[67] is no bastard.[68] Let it be said: The child of a union between those who are subject [on intercourse] to the penalties of a negative precept is no bastard![69] — This Tanna[70] is the following Tanna of the school of R. Akiba, who stated that [only a child] of a union that is subject to the penalties of a negative precept owing to consanguinity is a bastard, but one born from a union that is subject to the penalties of a mere negative precept[71] is no bastard.

Rab Judah stated

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(1) If, for instance, after a priest had married, a rumour arose that before her marriage with him his wife was a divorcee or a harlot. Git. 81a, 88b, 89a.

(2) Lit., 'and we permitted'.

(3) Before it had taken place.

(4) Her appearance before the court implying that, already at that time, the possibility that her husband was still alive was being considered.

(5) To her second husband, as if the rumour had been current before her marriage.

(6) Lit., 'our Mishnah is not'.

(7) On a cloudy day which happened to be the Sabbath day.

(8) And permitted the people to commence their week-day labours which are forbidden on the Sabbath.

(9) Which exempts the individual who acted upon it from a sin- offering and affects the nature of the sin-offering which the congregation who acted upon it has to bring.

(10) Since the erroneous ruling of the Beth din was not due to an oversight on their part of a point of law but to a false assumption of a matter of fact. They assumed that the sun had set, while in fact, it had not. Similarly here, They assumed that the woman's husband was dead when as a matter of fact he was alive. Our Mishnah, therefore, which exempts the woman from a sin-offering cannot be authentic.

(11) The permission to the woman to marry again, spoken of in our Mishnah.
(12) Subject to the same laws as all erroneous rulings issued by a Beth din. Cf. supra 11. 6. and Hor. 2aff.
(13) Lit., 'thou shalt know'.
(14) Lit., 'not?'
(15) The woman did not act on the evidence of the witness which, as is now apparent, was due to an error, but on the ruling of the Beth din who accepted the evidence of this witness. Whatever their reason may have been it was their ruling that was the cause of the woman's marriage.
(16) [They assumed that every woman makes careful investigations before she marries (v. supra 25a) and it has been found that this was not the case].
(17) [Rashi: For a reason not as strong as that which prompted them to prohibit It. Me'iri: For the very same reason which made them permit it at the very first].
(18) Lit., 'we do not look to them'. Once it has been found that their first ruling was erroneous it cannot again be adopted.
(19) v. supra p. 625, n.8.
(20) Testifying that the woman's husband was dead.
(21) Lit., 'we permit'.
(22) Declaring that the husband was still alive.
(23) Lit., 'we forbid'.
(24) Stating that the husband has died since.
(25) If the first authorization is to be regarded as a ruling it should not again be adopted (cf. supra n. 2), once it has been proved (by the testimony of the two witnesses) that it was erroneous.
(26) Lit., 'not'?
(27) It is assumed that though the first witness misled the court the last is speaking the truth.
(28) l.e., one should delve deeper into the subject (cf. Rashi a.l.) 'Justice under all circumstances' (Jast.).
(29) The woman who married by permission of the court on the evidence of one witness.
(30) Cf. Sanh. 6b. Though, if viewed superficially, it would appear that the woman, since she had acted on the decision of a court, is not liable to a sin-offering (cf. Hor. 2a). careful consideration of the case would reveal that she is liable, since the decision was based on the error of the witness and not on a legal oversight of the court. Cf. supra p. 625, n. 7.
(31) Cf. supra note14, second section.
(32) Cf. loc. cit. first section.
(33) To a sin-offering.
(34) Cf. supra note 12 (first interpretation) and supra note 14.
(35) Marg. note, 'Eleazar'.
(36) That even in such a case a sin-offering must be brought.
(37) Since it is obvious that the court's permission did not extend to a marriage which is in any case forbidden to the woman, even if her husband is dead.
(38) Lit. , 'but not'.
(39) And since she acted on a ruling of a court, she is not liable to a sin-offering.
(40) This is further explained in Ker. 15a.
(41) Lit., 'and they came and said to her'.
(42) As the son was alive when his father died the widow is not subject to the levirate marriage or halizah.
(43) A stranger.
(44) Lit., 'the matter was reversed', the son died first, so that when his father died afterwards the widow was subject to halizah or levirate marriage.
(45) From her second husband, since he married her before she had performed the required halizah.
(46) The second report. Lit 'and the first and last child'.
(47) Being the issue of a union forbidden by a negative precept. V. Gemara infra.
(48) V. p. 627. n. 10.
(49) V. supra p. 627, n. 8.
(50) From the levir, to whom, (her husband having had issue from her at the time he died) she is forbidden as 'his brother's wife'.
(51) At the time she married her second husband.

(52) From her second husband who married her while, as a married woman, she was forbidden to him.
(53) Lit., 'and the first child'.
(54) Lit., 'and the last'.
(55) Lit., 'the last, the man who betrothed her.
(56) Priests.
(57) Lev. XXI, 7-
(58) Lit., 'and not'.
(59) The divorce being unnecessary it has no effect on the status of the woman.
(60) In the first clauses of our Mishnah.
(61) Lit., 'what is first and what is last'.
(62) Since the child's legitimacy is not determined by the date of the report but by the facts.
(63) Lit., 'the first'.
(64) Lit., 'and the last'.
(65) The statement in the first clause of our Mishnah that the child is a bastard.
(66) V. supra 10b. And no divorce is consequently required.
(67) Who married a stranger before she had performed halizah with the levir.
(68) Tosef. XI. Since such marriage is forbidden by a negative precept only, and is not subject to kareth.
(69) This more general statement would have also included the particular case of the sister-inlaw mentioned.
(70) Referred to in the Baraitha cited as 'the Sages'.
(71) The marriage, for instance, of the sister-in-law to a stranger. The general statement (v. supra note 7) was consequently inadmissible.

Talmud - Mas. Yevamoth 92b

in the name of Rab: Whence is it deduced that betrothal with a sister-in-law[1] is of no validity?[2] — From the Scriptural text,[3] The wife of the dead shall not be married[4] outside unto one who is not of his kin,[5] there shall be no validity in the betrothal[6] of her by a stranger.[7] Samuel, however, stated: Owing to our [intellectual] poverty[8] it is necessary [that she be given] a letter of divorce; Samuel having been in doubt as to whether the expression,[9] The wife of the dead shall not be,[10] served the purpose of[11] a negative precept[12] or rather indicated[11] that betrothal with such a woman is invalid.

R. Mari b. Rachel said to R. Ashi: Thus said Amemar, 'The law is in agreement with Samuel'. Said R. Ashi: Now that Amemar has said that the law is in agreement with Samuel, her levir,[13] if he was a priest,[14] submits to her halizah and she is permitted to her second husband.[15] He[16] surely benefits[17] thereby.[18] and thus the sinner[19] is at an advantage![20] — Rather [this is the reading]: If her levir[21] was an Israelite, the other[22] gives her a letter of divorce and she is permitted to the levir.[23]

R. Giddal stated in the name of R. Hiyya b. Joseph in the name of Rab: While betrothal with a sister-in-law[24] is invalid, marriage with her is valid.[25] If betrothal, however, is invalid, marriage also should be invalid! — Read: Both betrothal and marriage with her are invalid. And if you prefer I might say. What is meant by 'marriage with her is valid'? — It constitutes an act of[26] harlotry[27] in accordance with the ruling of R. Hamnuna.For R. Hamnuna stated: A woman who, while awaiting the decision of the levir, played the harlot, is forbidden to marry the levir. And if you prefer I might say: [The reading is]. in fact, as has been originally stated, that betrothal with her is invalid but marriage with her is valid,[28] since her case might be mistaken for that of a woman whose husband went to a country beyond the sea.[29]

R. Jannai said: A vote was taken at the college and it was decided that betrothal with a sister-in-law[30] has no validity. Said R. Johanan to him: O Master, is not this [law contained in] a[31] Mishnah? For we have learnt: If a man said to a woman, 'Be thou[32] betrothed unto me after I shall have become a proselyte'. 'after thou shalt have been a proselyte'. 'after I shall have been emancipated'. 'after thou shalt have been emancipated'. 'after thy husband shall have died' , 'after

thy sister shall have died' or 'after thy brother-in-law shall have submitted to thy halizah', the betrothal is invalid![33] — The other replied: Had I not lifted up the sherd, would you have found the pearl beneath it?[34]

Resh Lakish said to him:[35] Had not a great man praised you. I would have told you that the Mishnah [you cited represents the view] of R. Akiba who maintains that betrothal with those who are subject to the penalties of a negative precept is invalid.[36]

If [this Mishnah, however, represents the view of] R. Akiba, betrothal [with the sister-in-law][37] should be valid where [the stranger] said to her, 'after thy brother-in-law shall have submitted to thy halizah', since R. Akiba has been heard to state that one may transfer possession of that which is not yet in existence;[38] for we learned:

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(1) V. supra note 5.

(2) And no divorce is consequently required.

(3) Lit., 'because it is said'.

(4) Lit., 'she shall not be', חא תהיה.

(5) Deut. XXV,5.

(6) Lit., 'being'. הויה, i.e., 'betrothal'.

(7) Lit., 'a stranger shall have no being in her'. הויה (supra n. 15) is of the same rt. היה, as that of תהיה (supra. 13).

(8) Inability to understand the meaning of the Scriptural text mentioned.

(9) Lit., 'that'.

(10) Deut. xxv. .5.

(11) Lit., 'that it came'.

(12) And, as is the case with other unions that are forbidden by negative precepts, the betrothal is valid.

(13) The brother-in-law of the widow, spoken of in the first case of our Mishnah, who married a stranger and from whom, according to Samuel, she requires a divorce.

(14) To whom the sister-in-jaw would thus be forbidden even after she had been divorced by the stranger. A priest is forbidden to marry a divorced woman. V. Lev. XXI, 7.

(15) Lit. , 'to him', the stranger whom she married.

(16) The second husband. v. supra n. 7.

(17) He is permitted to continue to live with his wife.

(18) By the halizah of the levir.

(19) Who contracted a union before instituting the necessary enquiries as to the circumstances of his wife's first husband's death.

(20) Lit., 'gains'.

(21) Cf. supra note 5.

(22) The second husband. Cf. supra note 7.

(23) Lit., 'to him'.

(24) Who, before she performed halizah with the levir had married a stranger.

(25) This validity, it is at present assumed, subjects the woman to the necessity of a letter of divorce.

(26) Lit., 'In'.

(27) By such a marriage she becomes forbidden to marry the levir as if she had played the harlot; but no letter of divorce is required.

(28) In the sense that she requires a letter of divorce. Cf. p. 630, n. 17. and the following note.

(29) And she married in accordance with the decision of a court on the evidence of one witness who testified that her first husband was dead. As the woman in this case requires a letter of divorce, it was ordained, as a preventive measure, that in the case spoken of in our Mishnah also a letter of divorce shall be required. the validity spoken of extending, however, to this requirement and no further. In the case of betrothal no preventive measure was enacted since in this case also no letter of divorce is required.

(30) V. p. 630, n. 16.

(31) Lit., ‘our’.
(32) Lit., ‘behold thou art’. Cf. P.B. p. 298.
(33) Kid. 62a, Keth. 58b. B.M. 16b. Betrothal cannot take effect at once owing to his stipulation and it cannot take place in the future because that which is not yet in existence may not be acquired. From this it follows that before the levir has submitted to halizah betrothal by a stranger is invalid, which is in effect the law reported by R. Jannai.
(34) I.e. , had not R. Jannai stated his ruling it might never have occurred to R. Johanan that the reason for the invalidity of the betrothal in the case of the sister-in- law was the law that betrothal with a sister-in-law by a stranger is never valid before the levir has submitted to halizah. He might have assumed the invalidity in this particular case also to be due to the fact that the man distinctly desired it to take place in the future, and no one can acquire that which is not yet in existence.
(35) R. Johanan.
(36) Marriage of a sister-in-law by a stranger before she has performed halizah with the levir is forbidden by such a negative precept. This Mishnah, therefore, provides no proof, like the statement of R. Jannai, that the Rabbis also admit invalidity in such a case.
(37) Lit ‘with’, or ‘in her’.
(38) Consequently. the betrothal here, though it was dependent on a future event which had not yet taken place. should also be valid.

Talmud - Mas. Yevamoth 93a

[If a woman said to her husband]. ‘Konam,[1] I do aught for your mouth’,[2] he[3] need not annul [her vow].[4] R. Akiba, however, said: He[3] must annul it, since she might do more [work] than is due[5] to him![6] Surely in connection with this it was stated: R. Huna son of R. Joshua said, [This law[7] applies only] where she said, ‘My hands[8] shall be consecrated to Him who made them’, since her hands are in existence.[9]

This[10] differs [from the opinion] of R. Nahman b. Isaac. For R. Nahman b. Isaac stated: R. Huna [holds the same opinion] as Rab,[11] Rab as R. Jannai, R. Jannai as R. Hiyya. R. Hiyya as Rabbi,[12] Rabbi as R. Meir, R. Meir as R. Eliezer b. Jacob. and R. Eliezer b. Jacob as R. Akiba, who stated that a man may transfer possession of a thing that is not yet in existence.

What statement is it [that records the opinion of] R. Huna? It was stated: He who sold the fruit of a date-tree[13] to another may. said R. Huna, withdraw from the sale before they come into existence; but after they have come into existence he may no longer withdraw.[14] R. Nahman, however, stated: He may withdraw even after they have come Into existence.[15] Said R. Nahman: I admit, that if he[16] had already plucked and ate them, [compensation] is not to he extracted from him.[17]

As to Rab?[18] — [In that] which R. Huna stated in the name of Rab: If a man said to another, ‘let this field which I am about to buy be yours as from now the moment I buy it’, [the latter] acquires It.[19]

‘R. Jannai [is of the same opinion] as R. Hiyya’; for R. Jannai had a tenant[20] who used to bring him a basket of fruit every Sabbath Eve. Once as it was growing dark, and [the tenant] did not come, [R. Jannai] took[21] tithe[22] from the fruit which [he had] at home for [the redemption of] those.[23] When he subsequently came before R. Hiyya [the latter] said to him, ‘You have acted well; for it was taught : That thou mayest learn to fear the Lord thy God always[24] refers to Sabbaths and festivals’.[25] Now, in ‘respect of what law?[26] If in respect of giving tithe[27] so that one may be allowed to eat,[28] was it necessary [it may be asked] for a Scriptural text to permit moving,[29] [the prohibition of which is only] Rabbinical![30]

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(1) This is one of the expressions of a vow. V. Glos.
(2) I.e, that her husband be forbidden to eat anything made by her or purchased from the proceeds of her work.

(3) The husband who is empowered to annul his wife's vow. Cf. Num. XXX, 7ff.
(4) A wife's work belongs to her husband and she has, therefore, no right to dispose of it by vow or otherwise. Her vow is consequently null and void and requires on invalidation.
(5) A husband is entitled only to a certain amount of his wife's work (v. Keth. 64b). Any work in excess of that maximum is at the disposal of the wife who, in the opinion of R. Akiba, is entitled to forbid it to her husband by a vow, though that work has not yet been done.
(6) Keth. 59a, 66a, Ned. 85a, Kid. 63a. V. supra note 3.
(7) That a wife may by her vow cause her future work to be forbidden.
(8) And through them the work they will produce.
(9) At the time she made her vow.
(10) The view presented by R. Huna, according to which R. Akiba maintains that a thing that is not yet in existence may not be legally transferred.
(11) From whom he received it as a tradition from his master, R. Jannai. who in turn, received it from his master, R. Hiyya, and so on to R. Akiba.
(12) R. Judah I, the Patriarch or Prince, compiler of the Mishnah.
(13) During the winter, before they blossomed.
(14) Because, according to R. Huna, the kinyan that was arranged before they come into existence takes effect as soon as they come into existence.
(15) In his opinion no kinyan is effective unless the object sold is actually in existence at the time of the sale.
(16) The buyer.
(17) B.M. 66b.
(18) Where was his view expressed?
(19) B.M. 16b; which proves that, in the opinion of Rab, one may transfer possession of a field which one does not yet possess. obviously because he holds that one may transfer possession of that which is not yet in existence.
(20) אריס cf Gr.**, a tenant of a field who in return for his labour receives a share of the field's produce.
(21) Before the Sabbath commenced.
(22) An act which In Rabbinic law it is forbidden to perform on the Sabbath.
(23) The fruit which he expected from the tenant, though at the time the tithe was taken they were still the property of the tenant (v. Tosaf. s.v. מיתי a.l.) and not that of R.Jannai.
(24) Deut.XIV, 23, speaking of the levitical and priestly gifts.
(25) On which enjoyment should not be marred by failure to set apart the prescribed gifts.
(26) Was the Scriptural warning necessary.
(27) On Sabbath or festivals.
(28) Of his produce from which tithe was not taken before the holy day set in.
(29) מחטוה moving the fruit before being tithed. The prohibition to set aside on holy days any of the priestly or levitical gifts is due to the Rabbinical ordinance which is in the same category as the moving from its place, on such days, of articles that are unfit for use. (Cf. Bezah 36b).
(30) Scripture, surely. could not be referring to a prohibition which was not ordained before the Rabbinical period.

Talmud - Mas. Yevamoth 93b

Consequently[1] [it must refer to] an instance like this one.[2] Said the first to him, 'But in my dream[3] they read to me a Scriptural text on the "bruised reed";[4] did they not mean to tell me: Behold, thou trustest upon the staff of this bruised reed'?[5] 'No'. [the other replied], 'It is this that they meant: A bruised reed shall he not break, and the dimly burning wick shall he not quench'.[6]

Rabbi?[7] — Where it was taught: Thou shalt not deliver unto his master a bondman,[8] Rabbi explained that Scripture speaks here of a man who bought a slave on the condition that he would set him free.[9] How is this[10] to be understood?[11] R. Nahman b. Isaac replied: In the case where [the buyer] gave him[12] a written declaration, 'Your person shall become yours as from now as soon as I have bought you'.[13]

R. Meir?[14] — Where it was taught:[15] If a man said to a woman, 'Be thou betrothed to me after I shall have become a proselyte'. 'after thou shalt have become a proselyte'. 'after I shall have been emancipated'. 'after thou shalt have been emancipated'. 'after thy husband shall have died', 'after thy sister shall have died', or 'after thy brother-in- law shall have submitted to thy halizah', the betrothal is invalid; but R. Meir said that her betrothal is valid.[16]

R. Eliezer b. Jacob?[14] — Where it was taught: More than this did R. Eliezer b. Jacob say: Even if a man said, 'The plucked fruit of this bed shall be terumah for the attached fruit of that[17] other bed', or 'The attached fruit of this[17] bed [shall be terumah] for the plucked fruit of that other bed,[17] when it shall have grown[16] to a third [of its maturity] and been plucked'. his words are valid if the fruit has grown to[18] a third [of its maturity] and has been plucked.[19]

R. Akiba?[20] — Where we learned: [If a woman said to her husband]. 'Konam,[21] if l do aught for your mouth',[22] he[23] need not annul [her vow].[24] R. Akiba, however, said: He[23] must annul It, since she might do more [work] than is due[25] to him.[26]

An enquiry was addressed to R. Shesheth: What is [the law in respect of] one witness[27] in the case of a sister-in- law?[28] Is the reason why one witness [is sometimes believed elsewhere][29] because no one would tell a lie which is likely to be exposed. and consequently here also [the witness] would tell no lie;[30] or is the reason why one witness [is believed elsewhere][31] because the woman herself makes careful enquiries and [only then] marries, and consequently here, since she may sometimes be in love with [her brother-in-law]. she might marry him without proper enquiry?[32] — R. Shesheth answered them: You have learned it, IF SHE WAS TOLD, 'YOUR SON DIED AND YOUR HUSBAND DIED AFTERWARDS', AND SHE CONTRACTED THE LEVIRATE MARRIAGE, AND LATER SHE WAS TOLD, 'IT WAS OTHERWISE, SHE MUST DEPART; AND ANY CHILD BORN BEFORE OR AFTER IS A BASTARD.[33] Now, how is this to be understood? If it be suggested [that there were] two witnesses against two,[34] what reason do you see [it may be asked] for relying on the latter? Rely rather on the former! Furthermore. [how could the child be described as] BASTARD [when he is only] an uncertain bastard! And should you reply that he[35] was not exact in his expression. surely [it may be pointed out] since in the final clause he[35] stated, ANY CHILD BORN BEFORE [THE DEATH OF HER FIRST HUSBAND] IS A BASTARD, BUT ONE BORN AFTER IT IS NO BASTARD,[33] it may well be inferred that he was exact In his expressions, Consequently[36] it must be concluded [that the first report was that of] one witness, and that the reason [why he is not believed is] because two witnesses came and contradicted his evidence, but had this not been the case[37] he would have been believed.[38]

Another reading: This question[39] does not arise, since even the woman herself is believed.[40] For we learned: A woman who stated, 'My husband is dead' may be married again.[41] and she may similarly contract levirate marriage [if she stated] 'My husband is dead'.[42] The question arises only in respect of permitting a sister-in-law to marry a stranger.[43] Is the reason why one witness [is elsewhere sometimes believed][44] because no one would tell a lie which is likely to be exposed, and consequently, here also [the witness] would tell no lie;[45] or is the reason why one witness [is elsewhere believed][44] because [the woman] herself makes careful enquiries and [only then] marries, and consequently here she might marry without proper enquiry. since she might fiercely

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(1) Lit. , 'but not'.

(2) That of R. Jannai; the text indicating that tithe may be given for the redemption of fruit which has not yet come into one's possession, in order that thereby a man's enjoyment on Sabbaths and festivals might not be disturbed by his inability to partake of untithed fruit that arrived too late. Thus it follows that R. Jannai received the tradition from R. Hiyya that a man may legally dispose of that which is not yet in existence.

(3) On the evening of the incident with his tithe.

(4) Mentioned in II Kings XVIII, 21 and lsa. XLII, 3.

(5) II Kings XVIII, 21, implying that his action was blameworthy.
(6) Isa. XLII, 3, concluding, He shall make the right to go forth according to the truth, a text suggesting approval.
(7) Where was the view attributed to him, supra 93a, expressed?
(8) Deut. XXIII, 16.
(9) Such a slave shall not be delivered to the bondage of the man who bought him, but must be given his emancipation.
(10) The buyer's undertaking.
(11) It cannot refer to an undertaking given at, or after the time of purchase. Such an undertaking is obviously binding and the ruling of Rabbi in such a case would he superfluous.
(12) The slave.
(13) Kid. 63a, Git. 45a, which shews that, according to Rabbi, one may dispose of what is not yet his
(14) Where was the view attributed to him, supra 93a, expressed?
(15) Cur. edd., 'we learned'.
(16) Kid. 63a, Keth. 58b, B.M. 16b, and supra 92b, q.v. for notes. Though at the time of the stipulation the conditions were not yet fulfilled, R. Meir regards the betrothal as valid. Thus it has been shewn that, according to him, one may effect a kinyan of that which is not yet in existence.
(17) V. Bah,, a.l.
(18) Lit., 'brought'.
(19) Tosef. Ter. II, Kid. 62a, which clearly proves that according to R. Eliezer b. Jacob one may legally dispose of things which are not yet in existence.
(20) V. supra note 1.
(21) Cf. supra p. 632, n. 4.
(22) Cf. supra p. 632 n. 8.
(23) Cf. supra p. 632, n. 6.
(24) Cf. supra p. 632, n. 7.
(25) Cf. supra p. 632, n. 8.
(26) Cf. supra p. 632. n. 9. This proves that, according to R. Akiba, one may legally dispose of work even if It is not yet in existence, and the same naturally applies to other things also.
(27) Who testifies that the husband of the woman is dead.
(28) Whose husband died without issue, and who is in consequence subject to the levirate marriage. Is the witness in such a case believed?
(29) In respect of allowing a woman to marry again if he testified that her husband was dead.
(30) And his evidence is, therefore, accepted.
(31) v. p. 635. n. 16.
(32) And the one witness, therefore, is not to be relied upon.
(33) Supra 92a.
(34) One pair testifying to the veracity of the first report and the other to that of the second.
(35) The author of our Mishnah.
(36) Lit., 'but not'.
(37) Lit., 'not thus'.
(38) Which proves that the evidence of one witness is relied upon in permitting a sister-in-law to marry a levir.
(39) In the case just proved. V. supra note 9.
(40) Much more so a witness.
(41) Where she is not otherwise subject to the levirate marriage.
(42) And was survived by no issue. 'Ed. I, 12, Sheb. 32b, infra 114b. V. p. 636. n. II.
(43) Where one witness testified that her brother-in-law' was dead or that her husband died first and her son died after him.
(44) V. supra p. 635, n. 16.
(45) V. supra p. 636, n.I.

Talmud - Mas. Yevamoth 94a

hate her brother-inlaw?[1] — R. Shesheth answered them: You have learned it, IF A WOMAN.. WAS

TOLD, YOUR HUSBAND DIED AND YOUR SON DIED AFTERWARDS', AND SHE MARRIED AGAIN, AND LATER SHE WAS TOLD, 'IT WAS OTHERWISE', SHE MUST DEPART; AND ANY CHILD BORN BEFORE OR AFTER IS A BASTARD.[2] Now, how is this to be understood? If it be suggested [that there were] two witnesses against two,[3] what reason do you see [it may be asked] for relying on the latter? Rely rather on the former! Furthermore, [how could the child be described as a] BASTARD, [when he is only] an uncertain bastard! And should you reply that he[4] was not exact in his expression. Surely [it may be pointed out] since in the final clause he[4] stated, ANY CHILD BORN BEFORE [THE DEATH OF HER FIRST HUSBAND] IS A BASTARD, BUT ONE BORN AFTER IT IS NO BASTARD,[2] it may be inferred that he was exact in his expressions! Consequently[5] [it must be concluded that the first report was that of] one witness, and that the reason [why he is not believed is] because two witnesses came and contradicted his evidence, but had this not been the case[6] he would have been believed! [No]. In fact [it may be retorted, there may have been] two witnesses against two, and [this is the explanation]: As As R. Aha b. Manyumi stated, 'Where the witnesses have proved an alibi',[7] so here also [It is a case where the second pair of] witnesses have proved an alibi.[8]

Said R. Mordecai to R. Ashi, — others Say. R. Aha said to R. Ashi: Come and hear: A woman is not believed if she says. 'My brother-in-law is dead, and so I may marry again', or, 'My sister is dead, and so I may enter[9] her house'.[10] Only she is not believed but one witness is believed![11] According to your argument, however, [it may be retorted] read the final clause: A man is not believed when he says.'My brother is dead, and so I may contract the levirate marriage with his wife', or, 'My own wife is dead, and so I may marry her sister' —[10] Is it only he who is not believed, but one witness is believed? In the case of a woman[12] one can well understand that in order to prevent her perpetual desertion the Rabbis have relaxed the law in her favour.[13] What, however, can be said in the case of a man! [This statement][14] then [it must be explained] was required in accordance with the view of R. Akiba.[15] It might have been assumed that, since R. Akiba stated that the offspring of a union between those who are subject to the penalty of negative commandments is a bastard, she[16] may be presumed to be desirous of avoiding injury[17] and to institute, therefore, careful enquiries.[18] hence we were taught[19] [that she is not to be believed].[20] Raba said:[21] That one witness is believed in the case of a sister-in-law[22] [may be inferred] a minori ad majus: If you have permitted [a woman to marry again][23] in face of a prohibition involving kareth[24] how much more so in face of a mere prohibitory law.[25] Said one of the Rabbis to Raba: Her own case proves [the contrary]: In face of a prohibition involving kareth[24] you have permitted her [to marry again][26] while in face of a mere prohibitory law[25] you have not permitted her![27] The fact, however, is this:[28] Why is she not believed?[27] Because, as she may sometimes hate the levir, she might marry a stranger without first instituting careful enquiries;[29] so also in the case of one witness, since she may sometimes hate the levir, she might marry [a stranger] without first instituting the necessary enquiries.[29]

THIS DID R. ELEAZAR B. MATHIA DERIVE BY MEANS OF THE FOLLOWING EXPOSITION etc. Said Rab Judah in the name of Rab:[30] R. Eleazar could have produced[31] a pearl and produced but a potsherd. What is meant by 'pearl'? — That which was taught: Neither [shall they take] a woman put away from her husband.[32] even if she was divorced from her husband alone[33] she[34] is disqualified from marrying a priest.[35] And it is this [that was meant by] the 'scent of the divorce'[36] which disqualifies a woman from marrying a priest. MISHNAH. IF A MAN'S WIFE HAD GONE TO A COUNTRY BEYOND THE SEA AND HE WAS TOLD,[37] YOUR WIFE IS DEAD', AND, AFTER HE MARRIED HER SISTER, HIS WIFE CAME BACK, [THE LATTER] IS PERMITTED TO RETURN

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(1) V. supra p. 636. n. 3.

(2) V. supra p. 636, n. 4.

(3) V. supra p. 636,0. 5.

(4) V. supra p. 636,0.6.

(5) Lit., 'but not'.
(6) Lit., 'not thus'. (11) From which it follows that the evidence of one witness is accepted in permitting a sister-in-law to marry a stranger. (12) Why the evidence of the second pair is regarded as more reliable than that of the first pair.
(7) הזמה (rt. זמם, cf. Deut. XIX, 19) 'causing witnesses to be subjected to the law of retaliation' by disproving their evidence. This is effected when a second pair of witnesses testify that the first pair were with them at a certain place at the time when according to their evidence an act had been committed or an event had occurred at another place.
(8) They testified that the former were with them at the time they alleged the death of the husband or that of the son to have occurred. Cf. Mak. 5a. In such a case, the second report is accepted.
(9) To marry her husband. A sister's husband is forbidden while the sister is alive.
(10) V. Infra 118b with slight variants.
(11) Could not then this Mishnah supply the answer to the enquiry addressed to R. Shesheth?
(12) Who is permitted to marry again on the evidence of one witness.
(13) supra n. 6.
(14) In the Mishnah cited, that a woman is not believed.
(15) It Is for this purpose only that was recorded; and no inference, such as those suggested. may be drawn from it.
(16) A woman who is subject to a levir, and marriage with whom by a stranger is forbidden by a negative commandment.
(17) To her person and status. Should the report prove to have been false, she is penalized as stated supra. 'Of the child', In cur. edd. is deleted by Bah.
(18) Before she definitely asserts that her brother-in-law is dead.
(19) Cur. edd. insert in parenthesis: 'That she apprehends her own injury; she does not apprehend the injury of the child' (v. Rashi).
(20) For fear she might hate her levir, v. supra 93b.
(21) In reply to the enquiry addressed to R. Shesheth. supra.
(22) V. supra p. 637, n. 2.
(23) On the evidence of one witness who testified that her husband was dead.
(24) One of the major penalties for connubial intercourse with a married woman.
(25) Marriage of a sister- in-law by a stranger in the circumstances postulated in the enquiry.
(26) If she herself declared that her husband was dead.
(27) To marry a stranger, though she declared that her brother-in-law was dead.
(28) Lit., 'and but'.
(29) As to whether the levir had really died.
(30) Alfasi and Asheri read, 'Rab said'.
(31) Lit., 'expounded'.
(32) Lev. XXI, 7.
(33) If the husband inserted in the letter of divorce a clause forbidding her to marry anyone else, v. Git., 82b.
(34) Though her letter of divorce is, owing to its restrictive clause, of no validity.
(35) Even if her husband died, and she remained a widow.
(36) l.e., even the mere semblance of a divorce, though the document is invalid.
(37) Lit., 'they came and said to him'.

Talmud - Mas. Yevamoth 94b

TO HIM;[1] AND HE IS PERMITTED TO MARRY THE RELATIVES OF THE SECOND WOMAN,[2] AND THE SECOND WOMAN IS PERMITTED TO MARRY HIS RELATIVES. IF THE FIRST DIED HE IS PERMITTED TO MARRY THE SECOND.

IF HE WAS TOLD, HOWEVER, THAT HIS WIFE WAS DEAD, AND HE MARRIED HER SISTER, AND THEN HE WAS TOLD THAT SHE WAS THEN[3] ALIVE BUT HAD SINCE DIED, ANY CHILD BORN BEFORE[4] [HIS FIRST WIFE'S DEATH] IS A BASTARD, BUT ANYONE BORN AFTER THAT[5] IS NO BASTARD.

R. JOSE STATED:[6] WHOSOEVER DISQUALIFIES FOR OTHERS DISQUALIFIES FOR HIMSELF AND WHOSOEVER DOES NOT DISQUALIFY FOR OTHERS DOES NOT DISQUALIFY FOR HIMSELF.

GEMARA. Even though his wife and his brother-in-law[7] went to a country beyond the sea,[8] so that such marriage[9] had the effect of causing the prohibition of the wife of his brother-in-law to his brother-in-law, it is nevertheless the wife of his brother-in-law that is forbidden,[10] while his own wife is permitted.[11] and we do not say that, since the wife of his brother-in-law is forbidden to his brother-in-law, his Own wife also should be forbidden to him.[12]

Are we to assume that our Mishnah does not represent the view of R. Akiba? For if [it be in agreement with] R. Akiba [his wife][13] would be the sister of his divorcee![14] For it was taught: None of the women In incestuous marriages forbidden in the Torah require a letter of divorce,[15] except a married woman[16] who remarried in accordance with the decision of the Beth din.[17] R. Akiba, however, adds[18] also a brother's wife[19] and a wife's sister.[20] Now, since R. Akiba ruled that she[21] requires a letter of divorce, [his first wife] becomes ipso facto forbidden to him because she is the sister of his divorcee![22]

Was not, however, the following statement made in connection with this[23] ruling: R. Giddal said in the name of R. Hiyya b. Joseph in the name of Rab, ‘How is one to understand this "brother's wife"?[24] Where a man's brother, for instance, betrothed a woman and went to a country beyond the sea, and he,[25] on hearing that his brother was dead, married his wife;[26] since people might say[27] that the first[28] had attached a certain condition to the betrothal[29] and that the latter[25] had lawfully married her.[30] And how is one to understand a "wife's sister"?[24] Where a man, for instance, betrothed a woman and she went to a country beyond the sea, and he, on hearing that she died, married her sister;[26] since people might say[31] that he had attached a certain condition to the betrothal[32] of the first[33] and that he, therefore, legally married the other’.[34] In respect of marriage,[35] however, can it be said that one had attached a condition to marriage![36]

Said R. Ashi to R. Kahana: If [our Mishnah represents the view of] R. Akiba, one's mother-in-law[37] should also be mentioned,[38] since R. Akiba was heard to state: [The marriage of] a man's mother-in.law after the death [of his wife] is not punishable by burning![39] For it was taught: They shall be burnt with fire. both he and they,[40] he and one of them;[41] so R. Ishmael. R. Akiba said: He and both of them.[42] This presents no difficulty according to Abaye who explained that the difference between them[43] lies in the interpretation of the text,[40] R. Ishmael maintaining that the text mentioned only one[44] while R. Akiba maintains that the text spoke of two.[45] According to Raba, however, who explained that the difference between them[43] is [the case of marriage of] a man's mother-in-law after the death [of his wife].[46] his mother-in-law should also have been mentioned![47] — The other replied: Granted that Scripture has excluded her[48] from the penalty of burning. has Scripture. however, excluded her from the prohibition?[49]

Let her,[50] however, be forbidden [to her husband] through his cohabitation with her sister, her case being similar to that of a woman whose husband went to a country beyond the sea![51] — [The two cases are] not alike: His wife who, [if she had acted] presumptuously,[52] is forbidden to him by Pentateuchal law, has been forbidden to him, when [she acted] unwittingly, by a preventive measure of the Rabbis;

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(1) Since the marriage with the second was invalid V. infra 95a.

(2) V. infra 97a.

(3) At the time he married her sister.

(4) Lit., ‘the first child’.

(5) Lit.,’and the last’.

(6) His statement is explained infra.
(7) The husband of his wife's sister.
(8) And on the evidence of one witness, who testified that both were dead, the man married his wife's sister; and subsequently both travellers returned.
(9) Of the man with his sister-in-law.
(10) To her husband.
(11) To him
(12) So that the same marriage which results in a prohibition of the one woman does not effect the permissibility of the other.
(13) Who comes back and who, according to our Mishnah, is permitted to return to him.
(14) With whom marital relationship is forbidden. The second wife, according to R. Akiba, as will tentatively be shown anon, must be divorced.
(15) If they were married, such an unlawful marriage being regarded as mere harlotry.
(16) Whose husband is reported, by one witness, to be dead.
(17) Who accepted the evidence; and later the husband returned. In such a case the women requires a divorce from her second husband also. V. infra 88b.
(18) To the women who require a letter of divorce.
(19) Whom a man married on the evidence that her husband (his brother) was dead, and her husband subsequently returned.
(20) Cf. the first case in our Mishnah.
(21) His wife's sister. V. supra n. 8.
(22) How, then, could it be said in our Mishnah that his first wife is PERMITTED TO RETURN TO HIM?
(23) R. Akiba's.
(24) In whose case a letter of divorce is required.
(25) The brother at home.
(26) In such a case a divorce was necessary.
(27) Should the brother return, and the brother at home not give his wife a letter of divorce.
(28) The brother who came back from a country beyond the sea.
(29) A condition which had not been fulfilled and had thus rendered the betrothal invalid.
(30) And so, in order that it be not suspected that a lawful marriage had been dissolved without a letter of divorce, It was enacted, as a preventive measure, that a letter of divorce was in such a case necessary.
(31) Should the woman return, and her sister not be given a letter of divorce.
(32) V. p.641. n.17.
(33) The woman who now returned.
(34) The sister who remained at home. Cf. supra p. 641, n. 18.
(35) The case spoken of in our Mishnah.
(36) [Surely no condition is attachable to marriage; and even on the view that marriage may be contracted conditionally, it is unusual for a person to invalidate a marriage because of the non-fulfilment of a condition attached to it (v. Tosaf. s.v. אלא)]. All would consequently know that the first marriage was a valid one and that the second was, therefore, invalid. No letter of divorce was, therefore, necessary even according to R. Akiba, whose view, contrary to the previous assumption, may well be represented in our Mishnah.
(37) Whom one married on receiving a report that his wife (her daughter) was dead.
(38) In our Mishnah.
(39) And is presumably permitted.
(40) Lev. XX. 14, speaking of a man who take with his wife also her mother (ibid.).
(41) The one whom the man was forbidden to marry, viz., the woman he married last.
(42) Sanh. 76b.
(43) R. Ishmael and R. Akiba.
(44) Forbidden woman (v. supra n. 10). the first having been lawfully married.
(45) Women that were both forbidden to the man; where, for instance, he married his mother-in-law and her mother. According to this explanation of Abaye the question of marrying a mother-inlaw after the death of one's lawful wife did not arise in the dispute, and R. Akiba's opinion on the subject cannot, therefore, be inferred from it.

(46) R. Ishmael maintaining that even when a man had married his mother-in-law after the death of his wife he is to be burned, while R. Akiba maintains that he is burned only if both women were alive.(Cf. Sanh. 76b).
(47) In our Mishnah; since, as has been shewn, according to Raba's explanation, marriage of a mother-in-law after the death of her daughter is, according to R. Akiba, permitted
(48) A mother-in-law that was married by her son-in- law.
(49) Evidently not. Her case, therefore, could not have been mentioned in our Mishnah.
(50) The first wife spoken of in our Mishnah, who IS PERMITTED TO RETURN TO HIM.
(51) And she married a second husband. In both cases the women acted unwittingly. As in the latter case the woman is forbidden to her husband, so should the woman in the case in our Mishnah.
(52) In marrying a second husband.

Talmud - Mas. Yevamoth 95a

with his wife's sister, however, presumptuous [marriage with whom does] not [cause his first wife to be] forbidden [to him] by Pentateuchal law, no preventive measure has been instituted by the Rabbis in her case where [he acted] unwittingly.[1] Whence, however, is it deduced that she[2] is not forbidden?[3] — [From that] which was taught: With her;[4] only cohabitation[5] with her causes her to be prohibited;[3] cohabitation[6] with her sister, however, does not cause her to be prohibited. [This, Scriptural text was required] since [otherwise] It might have been argued [as follows]: If where a man cohabited with [a woman forbidden by] a lighter prohibition.[7] [the person][8] who caused the prohibition [itself][9] is forbidden [to her],[10] how much more should [the person][11] who caused the prohibition become forbidden in the case of cohabiting with [one[12] forbidden by] a heavier prohibition.[13]

R. Judah stated: Beth Shammai and Beth Hillel are agreed[14] that a man who cohabited with his mother-in-law renders his wife unfit [to live with him]; they only differ where a man cohabited with his wife's sister, in which case Beth Shammai maintain that thereby he causes [his wife] to be unfit for him, while Beth Hillel maintain that he does not thereby cause her to be unfit for him.

R. Jose stated: Beth Shammai and Beth Hillel are agreed[14] that a man who cohabits with his wife's sister does not thereby render his wife unfit for him; they differ only where a man cohabited with his mother-in-law, in which case Beth Shammai maintain that thereby he causes [his wife] to be unfit for him, while Beth Hillel maintain that he does not thereby cause her to be unfit for him. [Both agree][15] for the following reason:[16] Originally all the women of the world were permitted to him,[17] and all the men of the world were permitted to her;[18] but when he betrothed her he imposed a prohibition upon her and she imposed a prohibition upon him; the prohibition, however, which he imposed upon her is greater than the prohibition which she imposes upon him, since he caused all the men of the world to be forbidden to her, while she caused her relatives only to be forbidden to him. This,[19] then, may be arrived at by an inference: If she, to whom he[20] caused[21] all the men in the world to be prohibited, is, if she cohabited unwittingly with one who was forbidden to her,[22] not forbidden to the man[23] who was permitted to her,[24] how much more reason is there why he[23] to whom she[25] caused[26] the prohibition of her relatives only, should, if he cohabited unwittingly with one who was forbidden to him,[27] not be forbidden[28] to her[25] who was permitted to him. This argument is applicable to one who acted unwittingly. Whence is it deduced [that the same law[29] is applicable] to one who acted wilfully? It was expressly stated With her,[30] cohabitation[31] with her only causes her to be prohibited;[32] cohabitation[33] with her sister, however, does not cause her to be prohibited.[32]

Said R. Ammi in the name of Resh Lakish: What is R. Judah's reason?[34] — Because it is written, They shall be burnt with fire. both he and they;[35] is the whole household to be burned![36] If this, then, is not a case for burning[36] regard the text as indicating a prohibition.[37]

Rab Judah stated in the name of Samuel: The law is not in agreement with R. Judah.[37]

A man once committed incest with his mother-in-law, and Rab Judah summoned him and ordered him to receive a flogging. 'Had Samuel not stated', he said to him, 'that the law was not in agreement with R. Judah. I would have forbidden [your wife] to you for all time'.

What was meant by a 'lighter prohibition'?[38] — R. Hisda replied: Remarrying one's divorced wife after her marriage to another man —[39] When that man[40] cohabited with her, he caused her to be prohibited to the other,[41] and when the other[41] cohabited with her[42] he caused her to be prohibited to the former.[43] [But, it may be argued,] remarrying one's divorced wife after her marriage to another man is different[44] since her body[45] was defiled and she is[46] prohibited for all time![47] — Rather, said Resh Lakish, [it means] a yebamah.[48]

A yebamah with whom?[49] If it be suggested: With a stranger,[50] [the ruling] being in accordance with R. Hamnuna who ruled[51] that a woman awaiting the decision of the levir who played the harlot is forbidden to the levir,[52] [it may be objected that] a yebamah is different,[44] since her body was defiled and she is prohibited to the majority of men.[53] If, however, [it be suggested that it refers[54] to] a yebamah in relation to [her deceased husband's] brothers: Where one [brother, for instance] addressed to her a ma'amar he caused her to be prohibited to the other,[55] and when the other cohabited with her he caused her to be prohibited to the former.[56] [But in this case] what point is there, [it may be retorted, in stating][57] that the second cohabited with her,[58] [when the same law is applicable] also even where he[59] only addressed to her a ma'amar![60] — This is no difficulty; [a ma'amar could not be postulated], in accordance with R. Gamaliel who ruled: There is no validity in a ma'amar that was addressed after a previous ma'amar.[61] But [still the objection is that the same law is applicable] even if he[59] gave her a letter of divorce and even if he submitted to her halizah! — Rather, said R. Johanan, [it means] a sotah.[62]

A sotah, with whom?[63] If it be suggested: With her husband who, if he cohabited with her,[64] caused her to be prohibited to her seducer,[65] what point is there, [it may be objected, in stating] that he cohabited with her? Even if he[66] only gave her a letter of divorce and even if he only said, 'I am not allowing her to drink',[67] [the same law is applicable]![68] [If it be suggested] however: The sotah with the seducer;[69] is this[70] [it may be objected] a 'lighter prohibition'? It is surely a grave prohibition, since she is a married woman!

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(1) As is the case in our Mishnah.

(2) A wife whose husband has had connubial intercourse with her sister.

(3) To her husband, in accordance with Pentateuchal law.

(4) And a man lie with her, Num. V, 13.

(5) Of a stranger.

(6) Of her husband.

(7) This, as will be explained infra, refers to a married woman, intercourse with whom is regarded as a comparatively lighter prohibition than that of a wife's sister (v. p. 644, n. 5), since it may at any time be raised by means of a letter of divorce severing the relationship between the husband and the wife.

(8) The husband.

(9) The husband causes the prohibition of his wife to all men. It is owing to his marriage with her that she is forbidden to marry any other man.

(10) One must not retain a faithless wife.

(11) I.e., the wife who caused the prohibition of her sister to her husband.

(12) His wife's sister.

(13) Since his wife causes her sister to be forbidden to him during the whole of her lifetime. Hence It was necessary to have a Scriptural text to shew that the law is not so.

(14) Lit., 'did not dispute'.

(15) That cohabitation with his wife's sister does not render his wife unfit to live with him.

(16) Lit., ‘because’.
(17) The husband, before he married his wife.
(18) The wife, before she married her husband.
(19) V. supra n.7.
(20) Her husband.
(21) By marrying her.
(22) If, for instance, she was outraged.
(23) Her husband.
(24) Her husband. Cf. supra 56b.
(25) His wife.
(26) By marrying him.
(27) His wife's sister.
(28) ‘To him’ in cur. edd. is deleted with Bah.
(29) V. supra p. 644, n. 7.
(30) Num. V, 13. V. supra p. 643. n. 10.
(31) Of a stranger.
(32) To her husband.
(33) Of her husband.
(34) For maintaining that both Beth Shammai and Beth Hillel agree that a man's cohabitation with his mother-in-law causes his wife to be prohibited to him.
(35) Lev. XX, 14. Cf. supra p. 642, n. 9.
(36) His first wife, surely, who was lawfully married, should not suffer because her husband bad subsequently contracted an unlawful marriage!
(37) V. supra note 13.
(38) Spoken of supra.
(39) Which is a ‘lighter prohibition’. being only a prohibitory law which involves no kareth. V. infra p. 646, n. I.
(40) Her second husband.
(41) Her first husband.
(42) After her second husband had divorced her.
(43) V. supra p. 645, n. 18, the prohibition being due to the prohibitory law in Deut. XXIV, 4. Thus the second husband ‘who caused the prohibition of his wife is thereby himself forbidden to her’.
(44) From a marriage with one's wife's sister.
(45) That of the divorced woman.
(46) Cur. edd., insert, ‘and she is prohibited to the majority’ which (cf. Rashi a.l.) is to be deleted.
(47) To both husbands. A wife's sister, however, is forbidden only during the lifetime of one's wife but permitted after her death, while furthermore the marriage of a wife's sister does not cause the defilement of the wife's body. The latter case cannot, therefore, be compared to the former. What, then, was meant by the ‘lighter prohibition’?
(48) Marriage with her by a stranger is regarded as a ‘lighter prohibition’.
(49) I.e., with whom did she cohabit that her act should have the result that he ‘who caused the prohibition is thereby himself forbidden to her’?
(50) The prohibition to marry whom, before she had performed the halizah, is only a prohibitory law involving no kareth.
(51) Supra 81a, 92b, Cit. 80b, Sot. 18b.
(52) Thus the levir ‘who caused the prohibition’ of his sister-in-law to others is ‘himself forbidden to her’ by the cohabitation of the stranger.
(53) I.e., to everybody except the levir or levirs. A wife's sister, however, is forbidden to him (her sister's husband) alone, and his wife's body is not defiled by his marriage with her sister. The two cases, therefore, cannot be compared.
(54) Cf. supra note 6.
(55) Brother, this being regarded as a ‘lighter prohibition’, since it is due to a Rabbinic measure only.
(56) Cf. supra note so, mutatis mutandis.
(57) Supra.
(58) I.e., that be prohibits her to the first only because he cohabited with her.

(59) The second brother.
(60) He should still thereby prohibit her to the first brother, in view of the ruling supra 50a that a ma'amar is effective after a ma'amar.
(61) Supra 50a.
(62) V. Glos. Cohabitation with a sotah is regarded as the 'lighter prohibition'.
(63) V. supra p. 646, n. 7.
(64) After she had been warned by him against intimacy with a stranger, and after she had met that stranger privately, when all connubial intercourse between the woman and her husband is forbidden.
(65) Even after his own death or after he had divorced her. Thus, the seducer 'who caused the prohibition' of the woman to her husband becomes 'himself forbidden' to her for all time.
(66) Her husband.
(67) The water of bitterness (cf. Num. V, 18). V. supra n. 6.
(68) She becomes forbidden to the seducer for all time. Cf. supra n' 7.
(69) By his cohabitation the woman becomes prohibited to her husband who was the cause of her prohibition to others.
(70) Cohabitation with a married woman.

Talmud - Mas. Yevamoth 95b

— Rather, said Raba, it means a married woman. Similarly when Rabin came[1] he stated in the name of R. Johanan: A married woman. But why should this[2] be described as 'a lighter prohibition'? — Because [her husband] who causes her to be prohibited [to other men] does not cause her to be so prohibited during the whole of his lifetime.[3]

It[4] was taught likewise: Abba Hanan stated in the name of R. Eleazar: [It means] a married man. [And the argument runs thus:] If where a man cohabits with [a woman forbidden by] a lighter prohibition,[5] in which case he[6] who caused the prohibition of her does not cause her to be prohibited during the whole of his lifetime,[7] [it is nevertheless ruled] that the very person who causes the prohibition becomes prohibited,[8] then, in a case of cohabiting with [one forbidden] by a graver prohibition,[9] where the person, who causes the prohibition of her,[10] prohibits her during the whole of her lifetime,[11] how much more should we rule that the very person who causes the prohibition should become prohibited;[12] hence it was expressly stated, With her,[13] only cohabition[14] with her[15] causes her to be prohibited[16] but cohabitation[17] with her sister does not cause her[18] to be prohibited.[16]

R. JOSE STATED: WHOSOEVER DISQUALIFIES etc. What does R. Jose mean?[19] If it be suggested that while the first Tanna implied that 'Where a man's wife and his brother-in-law[20] went to a country beyond the sea,[21] the wife of his brother- in-law is forbidden,[22] though his own wife is permitted',[23] R. Jose said to him, 'As his own wife is permitted[23] so is the wife of his brother-in-law also permitted';[22] if so, [it may be objected, why the expression] WHOSOEVER DOES NOT DISQUALIFY FOR OTHERS DOES NOT DISQUALIFY FOR HIMSELF[24] where it should have been. 'Whosoever does not disqualify[25] for himself, does not disqualify for others'![26]

If, however, [it be suggested that R. Jose implied]. 'As the wife of his brother-in-law is forbidden,[27] so is his wife also forbidden',[28] [the expression,] WHOSOEVER DISQUALIFIES would be satisfactorily explained; what, however, would be the purport of WHOSOEVER DOES NOT DISQUALIFY?[24] — R. Ammi replied: [He[29] refers] to an earlier clause:[30] 'If she married with the authorization of the Beth din, she must leave, but is exempt from an offering. If she married, however, without the authorization of the Beth din, she must leave and is also liable to an offering, the authorization of the Beth din is thus more effective in that it exempts her from the offering.[31] Concerning this, the first Tanna stated [that his wife may return to him][32] 'irrespective of whether [the marriage[33] took place] on the evidence of two witnesses,[34] where the wife of his brother-in-law is permitted,[35] or whether [it took place] in accordance with a decision of the Beth din,[36] where the

wife of his brother-in- law is forbidden',[35] and [to this] R. Jose replied. '[If the marriage took place] in accordance with a decision of the Beth din,[36] where he DISQUALIFIES FOR OTHERS[37] he DISQUALIFIES FOR HIMSELF;[38] [if, however, it took place] on the basis of the evidence of two witnesses,[34] where he DOES NOT DISQUALIFY FOR OTHERS[39] he DOES NOT DISQUALIFY FOR HIMSELF.[40]

R. Isaac Nappaha replied: [R. Jose may], in fact, refer to the latter clause,[41] one[42] [of his rulings applying] where [the persons who] had gone [were] the man's wife[43] and his brother-in-law. and the other [applying] where his betrothed and brother-in-law had gone. The first Tanna having ruled that 'irrespective of whether it was his wife and his brother-in-law or whether it was his betrothed and his brother-in-law, the wife of his brother-in-law is forbidden[44] while his wife is permitted,'[45] R. Jose said to him, 'In the case of his wife and brother-in-law where no one would assume that he had attached some condition to his marriage[46] and where consequently he does not cause [his sister-in-law] to be prohibited to the other,[47] he does not cause [his first wife] to be prohibited to him either; in the case of his betrothed and his brother-in-law, however, where someone might assume that he had attached some condition to his betrothal[48] and where, in consequence, he causes [his sister- in-law] to be prohibited to the other,[49] he causes [his first wife] also to be prohibited to him.

Rab Judah Stated in the name of Samuel: The halachah is in agreement with R. Jose.

R. Joseph demurred: Could Samuel have said this?[50] Surely it was stated: A yebamah,[51] Rab said, has the status of a married woman; and Samuel said: She has not the status of a married woman. And R. Huna said: Where, for instance, a man's brother betrothed a woman[52] and then went to a country beyond the sea, and he,[53] on hearing that his brother was dead, married his wife. [It is in such a case] that Rab ruled that 'she has the status of a married woman' and is consequently forbidden to the brother-inlaw;[54] and Samuel ruled that 'she has not the status of a married woman' and is, therefore, permitted to him![55] Said Abaye to him:[56] Whence [do you infer] that when Samuel stated that 'the halachah is in agreement with R. Jose', he was referring to R. Isaac Nappaha's interpretation? Is it not possible that he was referring to that of R. Ammi![57] And even if he refers to that of R. Isaac Nappaha, whence the proof that [he referred to the ruling] 'DISQUALIFIED'?[58]

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(1) From Palestine to Babylon.

(2) Illicit intercourse with a married woman.

(3) As soon as be divorces her she is free again. A prohibition of this nature, which may terminate at any time, is regarded as 'lighter' than the prohibition of a man's wife's sister, which remains in force throughout the whole of the lifetime of his wife.

(4) The lighter prohibition referred to.

(5) A married woman. The prohibition is considered light for the reason that follows.

(6) The husband.

(7) The prohibition of a married woman terminates with divorce by her husband.

(8) The woman becomes forbidden to her own husband through illicit intercourse.

(9) His wife's sister.

(10) I.e., the wife who causes her sister to be prohibited to her husband.

(11) The prohibition [If a man's wife's sister remains in force throughout the whole of the lifetime of his wife.

(12) To her own husband.

(13) Num. V, 13.

(14) Of a stranger

(15) His wife.

(16) To her husband.

(17) Of her husband.

(18) The wife.

(19) His statement seems to have no apparent connection with the preceding clause.

(20) His wife's sister's husband.
(21) And they both returned after be had married his wife's sister on the strength of the evidence of one witness who testified that they were both dead.
(22) To her husband, his brother-in-law.
(23) To him.
(24) Cases about which R. Jose, according to this suggestion, did not speak.
(25) His own wife.
(26) His wife's sister to her husband. These last mentioned cases being those of which R. Jose presumably spoke.
(27) To her husband, his brother-in- law.
(28) To him.
(29) R. Jose.
(30) In a previous Mishnah.
(31) V. supra 87b.
(32) V. our Mishnah, first clause.
(33) Of the husband (whose wife had gone away) with his wife's sister (whose husband also bad gone away).
(34) Who testified that both his wife and brother-in-law were dead.
(35) To her husband, if be returned.
(36) On the evidence of one witness. V. supra n. 11.
(37) He causes his wife's sister to be forbidden to return to her husband owing to his illicit marriage with her.
(38) His first wife is forbidden to him also.
(39) His wife's sister being in this case permitted to her husband.
(40) And his first wife may return to him.
(41) I.e., our Mishnah which speaks of a marriage permitted on the evidence of one witness.
(42) Lit., 'that'. Cur. edd. insert in parenthesis 'that, where he married the wife of his brother-in-law; and that, where he married the betrothed of his brother-in-law.'
(43) This is the reading of Rashi (a.l. s.v. ד"ה). Cur. edd., transpose 'wife' and 'betrothed'.
(44) To her husband, if be returned.
(45) To him.
(46) With his first wife; since no condition is admissible in a marriage contract. (V., however, supra p. 642, n. 5).
(47) Her husband, his brother-in-law. His own first marriage being known to be valid it should be obvious to all that his subsequent marriage with his sister-in-law was invalid. Were it even assumed that his brother-in-law had divorced her, the invalidity of his marriage with his sister-in-law would not thereby be affected since even after her divorce she still remains forbidden to him as his wife's sister. This being the case no one will suspect his brother-in-law when his wife returns to him of having remarried his divorcee. Hence R. Jose's ruling that she is not forbidden to her husband.
(48) Which, on non-fulfilment, had rendered the betrothal invalid and thus enabled him lawfully to contract his subsequent marriage; his presumed sister-in-law being to him (owing to the invalidity of her sister's betrothal) no more than a mere stranger.
(49) Her former husband. Were she permitted to return to him it might be assumed that he had divorced her prior to her marriage with her brother-in-law and that the latter had now divorced her; and so it would be concluded that (contrary to Deut. XXIV, 4) a man married again the woman he had once divorced though she had in the meantime been married to another man.
(50) Lit., 'thus', that the halachah is in agreement with the full statement of R. Jose, including the part relating to the marriage with the sister of one's betrothed, it being necessary in case of betrothal to provide against the erroneous assumption that the betrothal was invalid and that consequently a man's divorcee had been married again by him. Cf. p. 650, nn. 8 and 9.
(51) This is explained anon.
(52) Had he married her there would have been no question that she may return to him. Cf. supra p. 650, n. 7.
(53) The brother at home.
(54) I.e., to the man who first betrothed her and then left her and now returned, and who, owing to his brother's marriage with her, has become her brother-in-law. Were she to be permitted to return to him it might be assumed that his original betrothal was invalid owing to some disqualifying condition, that his brother's marriage was, therefore, valid, and that be now married his brother's wife.

(55) Because, in the opinion of Samuel, no provision need be made against the erroneous assumption that the betrothal was invalid (cf. supra n. 5). How, then, could it be said that Samuel adopted the complete statement of R. Jose.
(56) R. Joseph.
(57) So that the question of the assumption of a disqualifying condition in a betrothal would not at all arise.
(58) The case of one's betrothed and brother-in-law.

Talmud - Mas. Yevamoth 96a

Is it not possible [that he referred] to the ruling 'DOES NOT DISQUALIFY'![1] Or else [it might be argued], whence is it proved that R. Huna's explanation[2] is tenable? Is it not possible that R. Huna's explanation is altogether untenable and that they[3] differ on the ruling of R. Hamnuna who stated that 'A woman awaiting the decision of the levir, who played the harlot, is forbidden to her levir';[4] Rab maintaining that she 'has the status of a married woman' and is consequently prohibited[5] by reason of her immoral act,[6] while Samuel maintains that 'she has not the status of a married woman' and does not therefore, become prohibited[5] by reason of her immoral act? Or else [it might be replied] that they[3] differ on the question whether betrothal of a sister-in-law[7] is valid, Rab maintaining that she 'has the status of a married woman' and betrothal[7] with her is, in consequence, invalid, while Samuel maintains that 'she has not the status of a married woman' and betrothal[7] with her is, therefore, valid. But on this question[8] they[3] had already disputed once![9] — The one was stated as an inference from the other.[10]

MISHNAH. IF A MAN WAS TOLD 'YOUR WIFE IS DEAD AND HE MARRIED HER PATERNAL SISTER; [AND WHEN HE WAS TOLD] 'SHE[11] ALSO IS DEAD', HE MARRIED HER MATERNAL SISTER;[12] SHE[13] TOO IS DEAD, AND HE MARRIED HER PATERNAL SISTER;[14] 'SHE[15] ALSO IS DEAD, AND HE MARRIED HER MATERNAL SISTER;[16] AND LATER IT WAS FOUND THAT THEY WERE ALL ALIVE, HE IS PERMITTED TO LIVE WITH THE FIRST,[17] THIRD[18] AND FIFTH,[19] WHO ALSO EXEMPT THEIR RIVALS;[20] BUT HE IS FORBIDDEN TO LIVE WITH THE SECOND OR THE FOURTH,[21] AND COHABITATION[22] WITH ONE OF THESE DOES NOT EXEMPT HER RIVAL. IF, HOWEVER, HE[23] COHABITED WITH THE SECOND AFTER THE DEATH OF THE FIRST,[24] HE IS PERMITTED TO LIVE WITH THE SECOND[25] AND FOURTH,[26] WHO ALSO EXEMPT THEIR RIVALS;[27] BUT HE[23] IS FORBIDDEN TO LIVE[28] WITH THE THIRD AND WITH THE FIFTH, AND COHABITATION[22] WITH ONE OF THESE DOES NOT EXEMPT HER RIVAL.

A BOY OF THE AGE OF NINE YEARS AND ONE DAY RENDERS[29] [HIS SISTER-IN-LAW] UNFIT [FOR MARRIAGE] WITH HIS BROTHERS, AND HIS BROTHERS RENDER HER UNFIT FOR HIM, BUT WHILE HE RENDERS HER UNFIT FROM THE OUTSET ONLY, THE BROTHERS RENDER HER UNFIT BOTH FROM THE OUTSET AND AT THE END. IN WHAT MANNER?[29] A BOY OF THE AGE OF NINE YEARS AND ONE DAY WHO COHABITED WITH HIS SISTER-IN-LAW RENDERS HER UNFIT [FOR MARRIAGE] WITH HIS BROTHERS; THE BROTHERS, HOWEVER, RENDER HER UNFIT FOR HIM WHETHER THEY COHABITED WITH HER, ADDRESSED TO HER A MA'AMAR, GAVE HER A LETTER OF DIVORCE OR SUBMITTED TO HER HALIZAH.

GEMARA. Did not all those [marriages[30] take place] after the death of the first wife![31] — R. Shesheth replied: [By this[32] was meant]. AFTER THE ASCERTAINED[33] DEATH OF THE FIRST WIFE.

A BOY OF THE AGE OF NINE YEARS etc. Does a boy of the age of nine years and one day cause unfitness[34] [only where his act took place] at the outset,[35] but if at the end[36] he causes no unfitness? Surely R. Zebid son of R. Oshaia learnt: If [a brother][37] addressed a ma'amar to his sister-in-law, his brother of the age of nine years and one day, cohabiting with her afterwards, causes

her to be unfit [for marriage with him]![38] — It may be replied: Cohabitation causes unfitness[32] even [if it took place] at the end,[36] while a ma'amar causes unfitness [only if it was addressed] at the outset,[35] but if at the end,[36] it causes no unfitness. But does cohabitation[39] cause unfitness even [if it took place] at the end? Surely it was taught: BUT WHILE HE RENDERS HER UNFIT FROM THE OUTSET ONLY, THEY [RENDER HER UNFIT] BOTH FROM THE OUTSET AND AT THE END. IN WHAT MANNER? A BOY OF THE AGE OF NINE YEARS AND ONE DAY WHO COHABITED WITH HIS SISTER-INLAW etc![40] — Something, indeed, is here missing, and this is the proper reading: 'A BOY OF THE AGE OF NINE YEARS AND ONE DAY RENDERS [HIS SISTER-IN-LAW] UNFIT [FOR MARRIAGE WITH HIS BROTHERS, if his action took place] AT THE OUTSET, but they RENDER HER UNFIT FOR HIM BOTH AT THE OUTSET AND AT THE END. This is applicable only in the case of a ma'amar, but cohabitation[41] causes unfitness even [if it took place] at the end. IN WHAT MANNER? A BOY OF THE AGE OF NINE YEARS AND ONE DAY WHO COHABITED WITH HIS SISTER-IN-LAW[42] RENDERS HER UNFIT FOR MARRIAGE WITH HIS BROTHERS.

His his ma'amar, however, any validity[43] at all?[44] Surely it was taught: A boy of the age of nine years and one day renders [his sister-in-law] unfit for his brothers[45] by one kind of act only, while the brothers render her unfit for him by four kinds of acts. He renders her unfit for the brothers by cohabitation,[46] while the brothers render her unfit for him by cohabitation, by a ma'amar, by a letter of divorce and by halizah![47] — Cohabitation, which causes unfitness both from the outset and at the end, presented to him a definite law,[48] [the law of the] ma'amar, however, which causes unfitness front the outset only but not at the end, could not be regarded by him as definite.[49]

So it was also stated: Rab Judah said in the name of Samuel: He[50] has [the power to give] a letter of divorce.[51] And so said R. Tahlifa b. Abimi: He[50] has [the power to address] a ma'amar.[51]

It was taught likewise: He[50] has [the right to give] a letter of divorce[51] and he has [the right to address] a ma'amar;[51] so R. Meir.

Could R. Meir, however, hold the view [that such a boy] has [the power to give] a letter of divorce?[51] Surely it was taught: Cohabitation with a boy of the age of nine years [and one day] was given the same validity as that of a ma'amar by an adult; and R. Meir said: The halizah of a boy of the age of nine years was given the same validity as that of a letter of divorce by an adult.[52] Now, if that were so,[53] it should have been stated, 'As that of his own letter of divorce'! — R. Huna son of R. Joshua replied: He[54] has [the right],[55] but [his divorce is of a] lesser validity.[56] For according to R. Gamaliel who ruled that there is no [validity in a] letter of divorce after another letter of divorce, his ruling is applicable only [in the case of a divorce] by an adult after that of an adult, or one by a minor after that of a minor, but [a divorce] by an adult after that of a minor is effective,[57] while according to the Rabbis who ruled that a letter of divorce given after another letter of divorce is valid, the ruling applies only to [a divorce] by adult after that of an adult, or one by a minor after that of a minor, but [a divorce by] a minor after [that of] an adult is not effective.[57]

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(1) The case of one's wife and brother-in-law-; Samuel indicating that in this case, and in this case alone, the halachah is in agreement with R. Jose that the sister-in-law is permitted to her first husband contrary to the view of the first Tanna who forbids her.

(2) Supra 95b.

(3) Rab and Samuel.

(4) Cit. 80b, Sot 18b, supra 95a.

(5) To the levir.

(6) As a married woman is prohibited to her husband if she has committed such an act.

(7) To a stranger before she had performed halizah.

(8) The validity of betrothal of a sister- in-law. V. supra n. 7.

(9) Supra 92b. Why should they dispute the same point twice.
(10) By disciples. Rab and Samuel, however disputed the point only once.
(11) His second wife.
(12) Who was thus a perfect stranger to the first wife.
(13) His third wife.
(14) A perfect stranger to the second.
(15) The fourth.
(16) A stranger to the third.
(17) Since his marriage with her was valid.
(18) Who was a complete stranger to him when he married her (V. supra p. 652. n. 12). His previous marriage with her maternal sister (his second wife) had no validity because the latter was a sister of his first wife and was forbidden to him as 'his wife's sister'.
(19) Marriage with whom was valid since the marriage with her sister (the fourth) was invalid. Cf. supra n. 2, mutatis mutandis.
(20) If the man died without issue and one of his surviving brothers contracted the levirate marriage with or submitted to halizah from one of these widows.
(21) The validity of his marriage wife the first and third causes the second and the fourth to be prohibited to him as his wives' respective sisters. Cf. supra note 2.
(22) By one of the levirs. Cf. supra note 4.
(23) The husband.
(24) I.e., it was proved that the first report of her death was true (Rashi).
(25) The death of the first wife has removed from the second the prohibition of wife's sister (since a wife's sister is prohibited only during the lifetime of the wife) marriage with whom becomes valid.
(26) The marriage with the second having become valid (v. supra n. 9), that with the third (being now the man's wife's sister) becomes invalid and, consequently, the marriage with the fourth who is now a perfect stranger becomes valid.
(27) V. supra note 4.
(28) Cf. previous notes, mutatis mutandis.
(29) This will be explained in the Gemara infra.
(30) That were enumerated in the first clause of our Mishnah.
(31) Why then was 'AFTER THE DEATH OF THE FIRST' mentioned only in the second clause in the case where HE COHABITED WITH THE SECOND?
(32) V. supra n. 2.
(33) In the other cases death was only reported.
(34) Of his sister-in-law for his brothers.
(35) Before any of the adult brothers bad addressed a ma'amar to the widow.
(36) After an elder brother had addressed to her a ma'amar.
(37) Of a deceased husband who died without issue.
(38) Which shows that a boy of this age may cause unfitness even 'at the end'.
(39) On the part of the boy of the age of nine years and one day.
(40) Emphasis on COHABITED. Since the illustration is limited to an act of cohabitation only the general statement that the boy RENDERS HER UNFIT FROM THE OUTSET ONLY, on which the illustration apparently hangs must also be limited to cohabitation.
(41) On the part of the boy of the age of nine years and one day.
(42) Even at the end, i.e., after his brothers had addressed to her a ma'amar.
(43) Lit., 'has he a ma'amar'?
(44) Cur. edd. insert 'for the brothers', which, with MS.M. and Pesaro ed. 1509, should be omitted. V. infra n. 5.
(45) The last three words are wanting in cur. edd., but are rightly included in the Pesaro ed. V. supra n. 4.
(46) And by no other act.
(47) How then could it be said that the boy's ma'amar has any validity at all.
(48) **פסיקא** rt. **פסק** 'to cut', 'to decide', i.e., the law relating to cohabitation is definite and absolute. The act is always valid. Hence he mentioned it.
(49) And being undesirous of entering into details of the law he preferred to omit it.

(50) A boy of the age of nine years and one day.

(51) His act is effective and causes his sister-in- law to be unfit for marriage to his brothers.

(52) Cf. Nid. 45a, supra 68a.

(53) That according to R. Meir the letter of divorce of a boy of the age of nine years and one day is valid.

(54) A boy the age of nine years and one day.

(55) To give a letter of divorce. V. supra p. 655. n. 11.

(56) Lit., 'and small'. Hence no comparison could be made between his halizah which is as valid as that of a divorce by on adult, and his own divorce which is not so valid.

(57) Since the divorce of the minor is of lesser validity.

Talmud - Mas. Yevamoth 96b

MISHNAH. IF A BOY OF THE AGE OF NINE YEARS AND ONE DAY COHABITED WITH HIS SISTER-IN-LAW[1] AND THEN HIS BROTHER WHO WAS OF THE AGE OF NINE YEARS AND ONE DAY COHABITED WITH HER, [THE LATTER] RENDERS HER UNFIT[2] FOR [THE FORMER].[3] R. SIMEON SAID: HE DOES NOT RENDER HER UNFIT.[4]

IF A BOY OF THE AGE OF NINE YEARS AND ONE DAY COHABITED WITH HIS SISTER-IN-LAW[5] AND AFTERWARDS HE COHABITED WITH HER RIVAL, HE HAS RENDERED [THEREBY THE FIRST AS WELL AS THE SECOND] UNFIT FOR MARRIAGE WITH HIMSELF.[6] R. SIMEON SAID: HE DOES NOT RENDER [THEM] UNFIT.[7]

GEMARA. It was taught: R. Simeon said to the Sages, 'If the first cohabitation[8] was a valid act,[9] the second cohabitation[10] cannot have any validity;[11] if, the first cohabitation, however, has no validity,[12] the second cohabitation also should have no validity'.[13]

Our Mishnah[14] cannot represent the view of Ben 'Azzai; for it was taught: Ben 'Azzai stated, 'A ma'amar is valid after another ma'amar where it concerns two levirs[15] and one sister-in-law,[16] but no ma'amar is valid after a ma'amar where it concerns two sisters-inlaw and one levir.'[17]

MISHNAH. IF A BOY OF THE AGE OF NINE YEARS AND ONE DAY COHABITED WITH HIS SISTER-IN-LAW[18] AND THEN DIED, SHE MUST PERFORM HALIZAH BUT MAY NOT CONTRACT THE LEVIRATE MARRIAGE.[19] IF HE HAD MARRIED [ANY OTHER] WOMAN AND SUBSEQUENTLY DIED, SHE IS EXEMPT [FROM BOTH].[20]

IF A BOY OF THE AGE OF NINE YEARS AND ONE DAY COHABITED WITH HIS SISTER-IN-LAW, AND AFTER HE HAD COME OF AGE HE MARRIED ANOTHER WOMAN AND SUBSEQUENTLY DIED, IF HE HAD NOT [CARNALLY] KNOWN THE FIRST WOMAN AFTER HE HAD BECOME OF AGE, THE FIRST ONE MUST PERFORM HALIZAH BUT MAY NOT CONTRACT THE LEVIRATE MARRIAGE,[21] WHILE THE SECOND[22] MAY EITHER PERFORM HALIZAH OR CONTRACT LEVIRATE MARRIAGE. R. SIMEON SAID: [THE SURVIVING LEVIR] MAY CONTRACT LEVIRATE MARRIAGE WITH WHICHEVER OF THEM HE MAY DESIRE[23] AND SUBMITS TO HALIZAH FROM THE OTHER.[24] [THE SAME LAW APPLIES] WHETHER HE IS OF THE AGE OF NINE YEARS AND ONE DAY, OR WHETHER HE IS OF THE AGE OF TWENTY YEARS BUT HAD NOT PRODUCED TWO PUBIC HAIRS.[25] GEMARA. Raba stated: With reference to the statement of the Rabbis that in the case of the levirate bond originating from two levirs [the sister-in-law] must perform halizah only but may not contract levirate marriage, it must not be assumed that this is applicable only where there is a rival, because [in that case] a preventive measure was necessary on account of the rival;[26] for here[27] there is no rival and yet [the sister-in-law] must perform halizah only but may not contract the levirate marriage.[28]

IF HE HAD MARRIED [ANY OTHER] WOMAN AND SUBSEQUENTLY DIED etc. Here[27] we learned what the Rabbis taught: If an imbecile or a minor married and then died, their wives are exempt from halizah and from the levirate marriage.[29]

A BOY OF THE AGE OF NINE YEARS etc. AND AFTER HE HAD COME OF AGE etc. Let the cohabitation of the boy of nine[27] be given the same validity as that of a ma'amar by an adult,[30] and so let the rival [here][27] be debarred from the levirate marriage![31] — Now said Rab: The cohabitation of a boy of nine was not given the same validity as that of a ma'amar by an adult. Samuel, however, said: It was certainly given the same validity:[32] and so said R. Johanan: It certainly was given the same validity. Then[33] let the same validity be given here also![34] — This [question is a matter of dispute between] Tannaim. That Tanna [whose ruling is contained in the chapter] of the 'Four Brothers'[35] enacted a preventive measure on account of the rival;[36] and though he stated the law in respect of an adult the same law is applicable to a minor, the reason why he mentioned the adult being only because he was engaged on the question of[37] the adult. The Tanna here[38] however, is of the opinion that they[39] were given the same validity,[40] and he enacted no preventive measure on account of the rival; and though he spoke of the minor the same law applies to an adult, the reason why he spoke of the minor being only because he was dealing with the minor.[37]

R. Eleazar came and reported this statement at the schoolhouse but did not report it in the name of R. Johanan. When R. Johanan heard this he was annoyed.[41] Thereupon R. Ammi and R. Assi came in and said to him: Did it not happen at the Synagogue of Tiberias that R. Eleazar and R. Jose disputed [so hotly] concerning a door bolt which had a knob[42] at one end[43] that they tore a Scroll of the Law in their excitement. 'They tore?[44] Could this be imagined! Say rather 'That a Scroll of the Law was torn[45] in their excitement'. R. Jose b. Kisma who was then present exclaimed, 'I shall be surprised if this Synagogue[46] is not turned into a house of idolatry', and so it happened. [On hearing this] he was annoyed all the more. 'Comradeship too' he exclaimed.[47]

Thereupon R. Jacob b. Idi came in and said to him: 'As the Lord commanded Moses his servant, so did Moses command Joshua, and so did Joshua; he left nothing undone of all that the Lord commanded Moses;[48] did Joshua, then, concerning every word which he said, tell them, "Thus did Moses tell me"? But, the fact is that Joshua was sitting and delivering his discourse without mentioning names, and all knew that it was the Torah of Moses. So did your disciple R. Eleazar sit and deliver his discourse without mentioning names and all knew that it was yours'. 'Why', he[49] chided them,[50] are you not capable of conciliating like the son of Idi our friend?'

Why was R. Johanan so annoyed? — [For the following reason]. For Rab Judah stated in the name of Rab: What is the meaning of the Scriptural text, I will dwell in Thy tent for ever?[51] Is it possible for a man to dwell in two worlds! But [in fact it is this that] David said to the Holy One, blessed be He, 'Lord of the Universe, May it be Thy will

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(1) The widow of his brother who died without issue.

(2) For the levirate marriage.

(3) Because, as in the case of a ma'amar after a ma'amar, the act of either levir is valid and, as no two levirs may marry the same sister-in-law, the latter must divorce her; and a sister-in-law divorced by one of the levirs may never again be married by any of them.

(4) His reason is given in the Gemara, infra.

(5) The widow of his brother who died without issue.

(6) Since levirate marriage may be contracted with one sister-in- law only. The first cohabitation constituting an imperfect kinyan, the second is effective to the extent of necessitating a divorce, and with a sister-in-law that was divorced by a levir, none of the levirs may subsequently contract levirate marriage. Cf. supra p. 656, n. 9.

(7) His reason is given in the Gemara, infra.

(8) Of the first young levir.
(9) Constituting a kinyan of the sister-in-law.
(10) That of the second young levir.
(11) Since there is no validity in an act of cohabitation that follows an act of cohabitation (v. supra 50a), the second act is regarded as irregular intercourse with a stranger; and since it was committed unwittingly, the woman remains permitted to the first levir.
(12) Owing to the levir's tender age.
(13) V. supra n. 8 and cf. supra 51b.
(14) Which regards the cohabitation of a young levir as having the same validity as a ma'amar (cf. supra p. 656, n. 9), and yet rules that an act of cohabitation after another act of cohabitation is legally effective whether in the case of two levirs and one sister- in-law (first case) or two sisters-in-law and one levir (second case).
(15) The one as well as the other having addressed to the widow one ma'amar only.
(16) Because each levir (v. supra 51a) has equally the power to address such a ma'amar.
(17) The second ma'amar having no validity owing to the first ma'amar which had completely effected the kinyan of the first sister-in-law; and no levir is permitted to contract levirate marriage with more than one of the widows of his deceased childless brother.
(18) The widow of his brother who died childless.
(19) The act of the minor, while it is valid enough to subject his sister- in-law to the levirate bond of his surviving brothers, does not sever the first levirate bond which is due to her union with the first deceased brother. Being now subject to the levirate bond originating from two levirs, she is deprived (cf. supra 31b) of her right to the levirate marriage, and must perform halizah only.
(20) Levirate marriage and halizah. The betrothal of a minor having no validity, the woman is not regarded as his wife in respect of the levirate. It is only in the case of a sister-in-law (v. supra n. 2) that his cohabitation is valid enough to subject the woman to the levirate bond.
(21) Because, as the minor did not cohabit with her since he became of age, she remained subject to the levirate bond originating from two levirs (cf. supra note 2).
(22) Being the deceased's lawful wife.
(23) R. Simeon does not admit the ineligibility for levirate marriage of a sister-in- law who is subject to the levirate bond originating from two levirs, V. supra 31b.
(24) Since they cannot be regarded as rivals, the marriage of the one does not exempt the other, Both, however, may not be taken in levirate marriage, as a preventive measure against erroneous comparisons with two sisters-in-law who were lawfully married.
(25) The marks of maturity. So long as these have not appeared he retains the legal status of a minor.
(26) V. supra 31b and cf. supra p. 658, n. 7 end.
(27) In our Mishnah.
(28) Cf. supra p. 658, n. 2.
(29) Supra 69b, infra 112b. A minor and an imbecile have the same legal status, and our Mishnah, speaking of the minor confirms this ruling.
(30) Which (as stated supra 31b) debars the rival of the widow to whom the [ma'amar had been addressed, from the levirate marriage, though the rival's marriage with the deceased was in every respect a lawful union.
(31) Why then was it stated that THE SECOND MAY EITHER PERFORM HALIZAH OR CONTRACT THE LEVIRATE MARRIAGE?
(32) Lit., ‘they made and they made’.
(33) According to Samuel and R. Johanan.
(34) Lit., ‘and let them make’. Cf. supra n. 6.
(35) The chapter which contains the Mishnah referred to is named after the first two words with which it begins. V. supra 260.
(36) Cf. supra 31b.
(37) Lit., ‘stood’.
(38) In our Mishnah.
(39) The cohabitation of a minor and the ma'amar of an adult.
(40) Lit., ‘they made’.

(41) Perhaps because R. Eleazar did not act in accordance with Aboth VI, 6, 'Whosoever reports a thing in the name of him who said it brings deliverance into the world'. V., however, the Gemara's explanation infra.
(42) Or, 'a fastening contrivance' (Jast.).
(43) R. Eleazar forbids its use on the Sabbath because it cannot be regarded as a 'vessel' and is consequently forbidden to be moved from its place; while R. Jose maintains that the knob at its end, whereby the bolt may occasionally be used as a pestle for crushing foodstuffs, imports to it the character of a vessel and it may. therefore. be used and moved on the Sabbath. V. 'Er. 101b.
(44) The active form, קרעו, implies intentionally.
(45) The Niph'al. accidentally.
(46) Which permitted strife among its scholars.
(47) They compared his resentment against his disciple R. Eleazar to a dispute between colleagues, as if he and his disciple were school companions. 'The fellows (my pupils) too, are quoted against me?' (Jast.)
(48) Josh. XI, 15.
(49) R. Johanan.
(50) R. Ammi and R. Assi.
(51) Ps. LXI, 5; עולמים lit., 'worlds'.

Talmud - Mas. Yevamoth 97a

that a traditional statement may be reported in my name in this world'; for R. Johanan[1] stated in the name of R. Simeon b. Yohai: The lips of a [deceased] scholar, in whose name a traditional statement is reported in this world, move gently in the grave. Said R. Isaac b. Ze'ira, or it might be said, Simeon the Nazirite: What is the Scriptural proof of this? And the roof of thy mouth like the best wine that glideth down smoothly for my beloved, moving gently the lips of those who are asleep,[2] like a heated mass of grapes. As a heated mass of grapes, as soon as a man places his finger upon it, exudes[3] immediately so with the scholars as soon as a traditional statement is made in their name in this world, their lips move gently[4] in the grave.

WHETHER HE IS OF THE AGE OF NINE YEARS etc. A contradiction was pointed out: If at the age of twenty he[5] did not produce two [pubic] hairs,[6] they[7] must bring evidence that he is twenty years of age, and he [is then confirmed as a] saris;[8] he may neither submit to halizah nor may he perform the levirate marriage. If a woman[9] at the age of twenty did not produce two [pubic] hairs, they[10] must bring evidence that she is twenty years of age, and she [is then confirmed as a] woman who is incapable of procreation; she may neither perform halizah nor contract levirate marriage![11] — Surely in connection with this Mishnah it was stated: R. Samuel b. Isaac said in the name of Rab that this[12] applies only to the case where [other] symptoms[13] of a saris also appeared on him.[14]

Said Raba: This[15] may also be arrived at by deduction. For it was taught, 'And he [is confirmed as a] saris',[16] from which this[15] may well be deduced.

And where no symptoms of a saris developed, how long [is one regarded as a minor]?[17] — It was taught at the school of R. Hiyya: Until he has passed middle age.[18]

Whenever people came [with such a case][19] before Raba,[20] he used to tell them, if [the youth was] emaciated, 'Let him first be fattened'; and if he was stout, he used to tell them, 'Let him first be made to lose weight'; for these symptoms disappear[21] sometimes as a result of emaciation and sometimes they disappear[21] as a result of stoutness.

CHAPTER XI

MISHNAH. A MAN IS PERMITTED TO MARRY [THE NEAR RELATIVE] OF A WOMAN [WHOM HE HAS] OUTRAGED OR SEDUCED.[22] HE, HOWEVER, WHO OUTRAGED OR

SEDUCED [A RELATIVE] OF HIS MARRIED WIFE, IS GUILTY.[23] A MAN MAY MARRY THE WOMAN WHOM HIS FATHER HAS OUTRAGED OR SEDUCED OR THE WOMAN WHOM HIS SON HAS OUTRAGED OR SEDUCED. R. JUDAH FORBIDS [MARRIAGE] WITH THE WOMAN WHOM ONE'S FATHER HAS OUTRAGED OR SEDUCED.

GEMARA. Here[24] we learn what the Rabbis taught: 'A man who has outraged a woman[25] is permitted to marry her daughter; if, however, he married the woman, he is forbidden to marry her daughter'. A contradiction, however, may be pointed out: A man who is suspected of intercourse with a woman is forbidden to marry her mother, her daughter and her sister![26] — This [prohibition[27] is only] Rabbinical.[28]

Would it be stated, however, where a Rabbinical prohibition exists, that A MAN IS PERMITTED TO MARRY even from the outset! — Our Mishnah refers only to [a marriage] after [the suspected woman's] death.[29]

Whence is this ruling deduced? — From what the Rabbis taught: In the case of all those [illicit relationships][30] Scripture used the expression of 'lying',[31] but here[32] it made use of the expression of 'taking',[33] in order to tell you [that only when intercourse with a woman was in] the manner of 'taking'[34] did the Torah forbid [marriage with her relatives].[35]

Said R. Papa to Abaye: If that is so,[36] then in respect of one's sister, concerning whom it is written, And if a man shall take his sister, his father's daughter, or his mother's daughter;[37] is [intercourse] here also forbidden only [if it is in] the manner of 'taking',[34] but permitted [if it is in] the manner of 'lying'![38] — The other replied: The word 'taking' is used in the Torah without being defined, [so that a text] to which 'taking' is applicable,[39] [signifies] 'taking'[40] while one to which only 'lying' is applicable,[41] [signifies] 'lying'.[42]

Raba stated: [That a man who] outraged a woman is permitted to marry her daughter, [is deduced] from here: It is written, The nakedness of thy son's daughter, or of thy daughter's daughter, thou shalt not uncover;[43] from which it follows[44] that the daughter of her[45] son and the daughter of her[45] daughter may be uncovered; but it is also written in Scripture, Thou shalt not uncover the nakedness of a woman and her daughter; thou shalt not take her son's daughter, or her daughter's daughter![46] How then [are these to be reconciled]? The former[47] refers to cases of outrage and the latter to those of marriage. Might not [the application][48] be reversed? — In respect of forbidden relatives the expression kin[49] is written, and kinship exists only by means of marriage; but no kinship exists by means of outrage.

R. JUDAH FORBIDS MARRIAGE WITH THE WOMAN WHOM ONE'S FATHER HAD OUTRAGED etc. R. Giddal stated in the name of Rab: What is R. Judah's reason? Because it is written, A man shall not take his father's wife, and shall not uncover his father's skirt:[50] the skirt which his father saw[51] he shall not uncover. Whence, however, is it inferred that Scripture speaks of an outraged woman? — From the preceding section of the text where it is written, Then the man that lay with her shall give unto the damsels father fifty shekels of silver.[52] And the Rabbis?[53] — If one text had occurred in close proximity to the other your exposition would have been justified;[54] now, however, that it does not occur in close proximity, the text is required for [an exposition] like that of R. Anan. For R. Anan stated in the name of Samuel that the Scriptural text[50] speaks of a woman awaiting the levirate decision of his father; and the meaning of[55] his father's skirt[50] is: He[56] shall not uncover the skirt which is designated for his father.[57]

[This prohibition,[58] however], might be deduced from the fact that she is his aunt![59] — [The text[50] was necessary] to make him[60] guilty of the transgression of two negative commandments.[61] [The prohibition,[62] however] might be inferred from the fact [that the widow as a] sister-in-law[63] [is

forbidden] to marry any stranger![64] — [The text[50] was necessary] to make him guilty of the transgression of three negative commandments.[65] And if you prefer I might say:[66] After [his father's] death.[67]

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(1) Or Jehozadak (cf. Sanh. 90b).
(2) Cant. VII. 10. דובב moving gently.
(3) דובב.
(4) V. supra n. 5. The rt. דבב signifies both 'to exude' and 'to whisper'.
(5) A levir whose brother died without issue and whose duty it is to marry the widow of the deceased or to submit to her halizah.
(6) The legal signs of maturity.
(7) The relatives of the widow, who are desirous of procuring her exemption from the levirate marriage and the halizah.
(8) One incapable of procreation. V. Glos. He is no longer regarded as a minor for whose maturity the widow must wait.
(9) A widow whose husband died childless. Cf. supra p. 661, n. 8.
(10) The levir's relatives, cf. supra p. 661, n. 10 mutatis mutandis.
(11) Supra 80a, Ned. 57b, Cf, B.B. 155b. From this (cf. p. 661, n. 11) it follows that at the age of twenty a person is considered to have attained legal majority, though his body has not developed any signs of maturity, contrary to our Mishnah which gives such a person the status of a minor.
(12) The law that he is regarded as a saris,
(13) Described supra 80b.
(14) If, however, these additional symptoms of a saris did not appear, he is as stated in our Mishnah regarded as a minor so long as he has not produced two pubic hairs.
(15) That a boy is not regarded as a saris unless apart from the absence of pubic hairs, he has developed also other symptoms of a saris.
(16) Implying that he had already other symptoms of a saris.
(17) If two pubic hairs did not appear.
(18) Lit., 'most of his years', i.e., until he is thirty-six years of age. Man's span of life is taken to be seventy years (cf. Ps. XC, 10).
(19) Of one who reached the age of twenty without having produced two hairs.
(20) Or,'R. Hiyya'. Cf. B.B. 155b and Nid. 47b.
(21) דנתרי (rt. נתר, Pi'el, 'to fall off'). MS.M. reads, דאתו (rt. אתא 'come', 'appear') a reading adopted by Tosaf. in B.B. 155b, s.v. הכי.
(22) Only relatives of a married wife are subject to the law of incest.
(23) And must suffer the prescribed penalties.
(24) In our Mishnah.
(25) By immoral intercourse, whether without, or with her consent.
(26) Tosef. Yeb. IV and supra 262 q.v. for notes.
(27) In the Tosefta cited.
(28) In order that illicit intercourse with the suspected woman may not be facilitated through a marriage with one of her near relatives.
(29) If the woman outraged or seduced is dead the marriage with any one of her relatives would obviously provide no further facilities for illicit intercourse with her (cf. supra n. 7). Hence no preventive measure was instituted.
(30) Such as, e.g., a father's wife, a daughter-in-law and an aunt (v. Lev. XX, 11ff).
(31) E.g., lieth (Lev. XX, 11), lie (ibid. 12).
(32) In respect of a woman and her mother, and similar relatives that are forbidden through one's wife.
(33) E.g., take (lev. XVIII, 17, 18, ibid. XX, 14, 17).
(34) I.e., when the man contracted with her a lawful marriage; cf. Deut. XXIV, 1: 'When a man taketh a wife'.
(35) The relatives of a woman with whom he had illicit intercourse are, therefore permitted.
(36) Lit., 'but now'.
(37) Lev. XX, 17 emphasis on take. Cf. supra n. 6.
(38) This would be absurd.
(39) As in the case of a woman and her mother or two sisters, where marriage with the first is lawful.

(40) Lawful marriage. Only when legal marriage took place with the first is marriage with the second forbidden.
(41) Intercourse, for instance, with one's sister.
(42) Even illicit intercourse.
(43) Lev. XVIII, 10.
(44) Lit., 'thus'.
(45) A wife's.
(46) Lev. XVIII, 17.
(47) Lit., 'here'.
(48) I.e., applying the first text to cases of marriage and the second to those of outrage.
(49) V. Lev. XVIII, 6.
(50) Deut. XXIII, 1.
(51) Even through outrage.
(52) Deut. XXII, 29. a case of outrage.
(53) How can they maintain their view in our Mishnah against the Scriptural text.
(54) Lit., 'as you said'.
(55) Lit., 'and what'.
(56) A son.
(57) Such a woman, unless she has performed halizah with his father, is permitted to marry no one but his father.
(58) To marry the widow who was subject to his father's Ievirate marriage. Cf. supra n. 9.
(59) Having been the wife of his father's brother. V. Lev. XX, 20. What need then was there for the additional text of Deut. XXIII, 1?
(60) The son. v.. supra note 10.
(61) Prescribed in (1) Lev. XX, 20 and (2) Deut. XXIII, 1.
(62) V. supra note 10.
(63) Cf. supra note 9.
(64) Lit., 'to the market', i.e., any man other than the levir. Cf. supra n. 11 second clause.
(65) The two referred to supra p. 665, n. 13 as well as the one last mentioned.
(66) In reply to the last objection.
(67) When marriage with the widow is not subject to the last mentioned prohibition (that of a sister-in-law to a stranger) and only two prohibitions (v. supra p. 665, n. 13) remain.

Talmud - Mas. Yevamoth 97b

'My[1] paternal, but not my maternal brother; and he is the husband of my mother and I am the daughter of his wife'![2] — Rami b. Hama said: Such [a relationship is] not [legally possible] according to the ruling of R. Judah in our Mishnah.[3]

'He[4] whom I carry on my shoulder is my brother and my son and I am his sister'? — This is possible when an idolater cohabited with his daughter'.[5]

'Greetings[4] to you my son; I am the daughter of your sister'? — This is possible where an idolater cohabited with his daughter's daughter.[6]

'Ye[4] water-drawers,[7] we shall ask you[8] a riddle that defies solution: He whom I carry is my son and I am the daughter of his brother'? — This is possible where an idolater cohabited with the daughter of his son.[9]

'Woe,[4] woe, for my brother who is my father; he is my husband and the son of my husband; he is the husband of my mother and I am the daughter of his wife; and he provides no food for his orphan brothers, the children of his daughter'? — This is possible when an idolater cohabited with his mother and begot from her a daughter; then he cohabited with that daughter; and then the grandfather[10] cohabited with her[11] and begot from her sons.[12]

'I[13] and you are brother and sister,[14] I and your father are brother and sister, and I and your mother are sisters'? — This is possible where an idolater cohabited with his mother and from her begot two daughters, and then he cohabited with one of these and begot from her a son. When the sons's mother's sister[15] carries[16] him[17] she addresses him thus.[18]

'I[13] and you are the children of sisters,[14] I and your father are the children of brothers, and I and your mother are the children of brothers'? — This indeed is possible also in the case of a lawful marriage; where, for instance, Reuben had two daughters, and Simeon[19] came and married one of them, and then came the son of Levi[19] and married the other.

The son of Simeon can thus[20] address the son of the son of Levi.[21]

MISHNAH. THE SONS OF A FEMALE PROSELYTE WHO BECOME PROSELYTES TOGETHER WITH HER NEITHER[22] PARTICIPATE IN HALIZAH NOR CONTRACT LEVIRATE MARRIAGE, EVEN IF THE ONE WAS NOT CONCEIVED IN HOLINESS.[23] BUT WAS BORN IN HOLINESS,[24] AND THE OTHER WAS BOTH CONCEIVED AND BORN IN HOLINESS. SO ALSO [IS THE LAW] WHERE THE SONS OF A BONDWOMAN WERE EMANCIPATED TOGETHER WITH HER.

GEMARA. When the sons of the bondwoman Yudan were emancipated. R. Aha b. Jacob permitted them to marry one another's wives.[25] Said Raba to him: But R. Shesheth forbade [such marriages]. The other replied: He forbade, but I allow.

[In respect of proselyte brothers] from the same father and not from the same mother, there is no difference of opinion[26] that this[27] is permitted;[28] [in respect of brothers] from the same mother and not from the same father, there is no difference of opinion[26] that this[27] is forbidden.[29] They differ only [in respect of proselytes whose brotherhood is] both paternal and maternal. He[30] who permits it[27] [does so because children are] ascribed to their father, since they are spoken of as 'the children of such and such a man'.[31] R. Shesheth, however, [holds that they] are also spoken of as 'the children of such and such a woman'.[29]

Another reading: R. Aha b. Jacob disputed [the illegality of marriage][27] even in respect of maternal brothers. And what is his reason? — Because a man who has become a proselyte is like a child newly born.[32]

We learned, THE SONS OF A FEMALE PROSELYTE WHO BECAME PROSELYTES TOGETHER WITH HER NEITHER PARTICIPATE IN HALIZAH NOR CONTRACT THE LEVIRATE MARRIAGE, is not the reason[33] because they are forbidden [to marry a brother's wife]![34] — No; it is because [the widow] is not subject to the law of halizah and levirate marriage.[35] She is permitted, however, to strangers.[36] and the brothers also are permitted[to marry her]. But, surely, it was stated EVEN! Now were you to admit that [the brothers] are forbidden.[37] one could well justify the expression of EVEN: EVEN IF THE ONE WAS NOT CONCEIVED IN HOLINESS BUT WAS BORN IN HOLINESS. AND THE OTHER WAS BOTH CONCEIVED AND BORN IN HOLINESS, [so that the two might well be regarded] as [the sons of] two mothers,[38] they are nevertheless forbidden; if you maintain, however, that they are permitted,[39] what [can be the purport of] EVEN![40] — Even though the birth of both was in holiness, and people might mistake[41] them for Israelites,[42] [the widow] is nevertheless permitted [to marry a stranger].[43]

Others read: Logical reasoning also supports the view that they are permitted,[39] since the expression EVEN was used. For, if you grant that they are permitted[39] it is quite correct to say EVEN: Even though the birth of both was in holiness and people might mistake[41] them for

Israelites.[42] they are nevertheless permitted;[43] if, however, you maintain that they are for bidden[44] what [can be the purport of] EVEN![45] — EVEN IF THE ONE WAS NOT CONCEIVED IN HOLINESS BUT WAS BORN IN HOLINESS, AND THE OTHER WAS BOTH CONCEIVED AND BORN IN HOLINESS [so that they might well be regarded] as [the sons of] two mothers,[46] they are nevertheless forbidden.

Come and hear: Twin brothers who were proselytes, and similarly if they were emancipated slaves,[47] may neither participate in halizah nor contract levirate marriage, nor are they guilty [of a punishable offence] for [marrying] a brother's wife.[48] If however, they were not conceived in holiness but were born in holiness, they neither participate in halizah nor contract levirate marriage[49] but are guilty [of a punishable offence][50] for [marrying] a brother's wife.[51] If they were both conceived and born in holiness, they are regarded as Israelites in all respects. At all events, it was stated that they are not 'guilty [of a punishable offence] for [marrying] a brother's wife'; [from which it follows that] no punishable offence is incurred

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(1) This and the following unlikely propositions are merely riddles on the possible complications of consanguinity.

(2) Such a riddle may be put by a daughter who was born as a result of outrage by his father where the son of the man by another wife has subsequently married her mother.

(3) Since, according to R. Judah, marriage is forbidden with a woman one's father had outraged.

(4) V. supra n. 4.

(5) And a son was born from the union. The mother of the child might put such a riddle.

(6) The son born from such a union, since he is the paternal brother of his mother's mother, might be addressed by his mother in the terms of this riddle.

(7) Lit., 'drawers who draw the bucket'. Men engaged in the irrigation of fields (cf. Rashi and last.); scholars drawing from the fountains of wisdom (cf. Aruk. and Tosaf. s.v. דדלו.

(8) So Aruk. Cur. edd., 'let it fall among you'.

(9) The son born from this union is the paternal brother of his mother's father.

(10) The idolater's father.

(11) The daughter.

(12) The daughter may describe the idolater as her maternal brother, her natural father and her actual husband. Owing to her cohabitation with his father (the grandfather) he is the son of her husband, while through his cohabitation with her mother he is her mother's husband and she is, of course, the daughter of his wife. The children resulting from the union between her and the grandfather are his (the idolater's) paternal brothers and, of course, the children of his daughter.

(13) V. supra p. 666, n. 4.

(14) **אחי** may be rendered 'brothers', 'brother and sister' and 'sisters'. It sometimes signifies 'relatives' or mere 'friends'.

(15) [MS.M. 'when his sister'].

(16) So MS.M. Cur. edd., 'calls'.

(17) The son.

(18) She and the son are brother and sister, being the offspring of the same father. She and his father are brother and sister from the same mother, while she and his mother are sisters both paternally and maternally.

(19) His brother, Reuben, Simeon and Levi, the sons of Jacob and Leah (v. Gen. XXIX, 32ff) are chosen as an illustration of brotherly relationship.

(20) So Bah a.l. wanting in cur. edd.

(21) He and Levi's grandson are the children of two sisters (Reuben's daughters); he and Levi's son (the grandson's father) are children of two brothers (Simeon and Levi), while he and the grandson's mother are children of the two brothers Reuben and Simeon.

(22) Should one of the brothers die without issue.

(23) I.e., before his mother became a proselyte.

(24) After his mother became a proselyte.

(25) A proselyte having the status of a newly born child, all his previous family relationships are dissolved. The prohibition against marriage with a brother's wife does not, therefore, apply.

(26) Between R. Aba and R. Shesheth.
(27) Marriage of a brother's wife in the case of proselytes.
(28) It is well known that their father was no Israelite, and that it is for this reason that the marriage was permitted. No one would assume that they were the sons of the same father, since idolaters' wives were known to be faithless, and, consequently, no one would erroneously infer that proper Israelites may also marry their brother's wives.
(29) Their mother being known, they might he assumed to be lawful brothers and, should marriage of a brother's wife he permitted in their case, an erroneous conclusion (v. supra note 6) might he formed.
(30) R. Aba.
(31) Cf. supra note 6.
(32) V. supra 22a and cf supra note 3.
(33) Of the prohibition. Lit., 'what is the reason'.
(34) The law of the levirate marriage being inapplicable in their case, the prohibition against marrying a brother's wife remains in force. An objection against R. Aha
(35) The Mishnah implying that the brothers are not obliged to perform the religious rites.
(36) Lit., 'to the world'.
(37) Marriage of a brother's wife in the case of proselytes.
(38) Who may marry one another's wives.
(39) To marry each other's wives.
(40) On the contrary; this should be an additional reason for permissibility.
(41) Lit., 'exchange'.
(42) And so permit a deceased brother's wife to marry a stranger without previous halizah.
(43) Because (cf. Rashi) it is known that the duty of levirate marriage and halizah is determined by paternal brotherhood which is inapplicable in the case of a father who was an idolater (cf. supra p. 668, n. 6.) [They, themselves, would however be forbidden to marry each other's widows where they were both born in holiness. It is only with reference to the first clause of our Mishnah that R. Aha stated supra that they were permitted (Rashi)].
(44) To marry each other's wives.
(45) The fact that they were both born in holiness should be an additional reason for the prohibition.
(46) Who may marry one another's wives.
(47) Though, in the case of twins, paternal brotherhood is certain (cf. infra 89a).
(48) V. supra p. 668, n. 3.
(49) Since the duty of levirate marriage and halizah is dependent on paternal brotherhood. Cf. supra p. 669, n. 3.
(50) Kareth.
(51) Whom even a maternal brother is forbidden to marry.

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but that a [Rabbinical] prohibition is 'nevertheless involved![1] — The law, in fact, is that even a [Rabbinical] prohibition is not involved; only, because it was desired to state in the final clause, 'but are guilty [of a punishable offence]', it was stated in the first clause also, 'they are not guilty [of a punishable offence]'.

Raba stated: With reference to the Rabbinical statement that [legally] an Egyptian has no father,[2] it must not be imagined that this is due to [the Egyptians'] excessive indulgence in carnal gratification, owing to which it is not known [who the father was], but that if this were known[3] it is to be taken into consideration;[4] but [the fact is] that even if this is known it is not taken into consideration. For, surely, in respect of twin brothers, who originated in one drop that divided itself into two, it was nevertheless stated in the final clause,[5] that they 'neither participate in halizah nor perform levirate marriage'.[6] Thus it may be inferred that the All Merciful declared their children to be legally fatherless,[7] for [so indeed it is also] written, Whose flesh is as the flesh of asses, and whose issue is like the issue of horses.[8]

Come and hear what R. Jose related: It once happened with the proselyte Niphates[9] that he

married the wife of his [deceased][10] maternal brother,[11] and when the case was submitted to the Sages their verdict was that the law of matrimony does not apply to a proselyte. But then, should a proselyte betroth a woman, would also the betrothal be invalid? — Say then rather: The prohibition of a brother's wife does not apply to a proselyte. Now does not [this refer to the case] where his brother[11] had married her while he was a proselyte![12] — No; where he married her while he was still an idolater.[13] But if [betrothal took place] while he was still an idolater, what [need is there] to state it?[14] — It might have been assumed that [in the case of a brother's betrothal] while he is still an idolater a preventive measure should be enacted lest [erroneous conclusions be drawn in the case] where he is a proselyte, hence we were taught [that no such measure was enacted].

Come and hear what Ben Yasyan[15] related: When I went to the coastal towns[16] I came across a certain proselyte who had married the wife of his maternal brother. 'Who, my son', I said to him, 'permitted you [this marriage]?' 'Behold', he replied. 'the woman and her seven children;[17] on this bench sat R. Akiba when he made two statements: "A proselyte may marry the wife of his maternal brother", and he also stated, "And the word of the Lord came unto Jonah the second time, saying,[18] only a second time did the Shechinah speak to him; a third time the Shechinah did not speak to him."'[19] At any rate, it was stated here that 'a proselyte may marry the wife of his maternal brother'. Does not [this refer to a case] where his brother married her while he was a proselyte! — No; where he married her while he was still an idolater.[20] What [need then was there] to state [such an obvious law]? — It might have been assumed that [in the case of a brother's betrothal] while he is still an idolater a preventive measure should be enacted lest [erroneous conclusions be drawn in the case] where he is a proselyte. hence we were taught [that no such measure was enacted].

Is he,[21] however, believed? Surely R. Abba stated in the name of R. Huna in the name of Rab: Wherever a scholar gives directions[22] on a point of law and such a point comes up for a practical decision, he is obeyed if he made the statement[23] before the event;[24] but if it was not so made, he is not obeyed![25] — If you wish I might say: The incident occurred after he made his statement. If you prefer, I might say: Because he stated, 'Behold the woman and her seven children'.[26] And if you prefer I might say: Here it is different[27] because with it he related another incident.[28]

The Master said, 'And the word of the Lord came to Jonah a second time, saying,[29] only a second time did the Shechinah speak unto him, a third time the Shechinah did not speak to him'. But surely it is written in Scripture, He restored the border of Israel from the entrance of Hamath unto the sea of the Arabah, according to the word of the Lord, which He spoke by the hand of His servant Jonah the son of Amittai, the prophet![30] — Rabina replied: He[31] referred to the affairs of Nineveh.

R. Nahman b. Isaac replied, It is this that was meant:[32] According to the word of the Lord . . . which He spoke by the hand of his servant, the prophet,[33] as his intention towards Nineveh was turned from evil to good, so was his intention towards Israel, in the days of Jeroboam the son of Joash, turned from evil to good.

Come and hear: A proselyte who was born in holiness[34] but was not conceived in holiness[35] has [legally] maternal consanguinity but no paternal consanguinity. For instance:[36] If he married his maternal sister,[37] he must divorce her;[38] if his paternal one, he may retain her.[39] His father's maternal sister he must divorce;[40]

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(1) Lit., 'guilt there is not but a prohibition there is'. The Rabbis had instituted a preventive measure against the possibility of taking such a marriage as a precedent for allowing similar marriages to proper Israelites. Objection then against R. Aha!

(2) Not only where he became a proselyte himself in which case he is regarded as newly born (v. supra), but even where he was only conceived before his mother became a proselyte and was born subsequently.

(3) If, for instance, his father and mother were confined under lock and key, where it was impossible for any other man

to have had intercourse with the woman.
(4) And, if the child was born after his mother had become a proselyte (v. supra p. 670, n. 10), he is to be regarded legally as having a father.
(5) Which speaks of proselytes who were born after their mother had become a proselyte.
(6) Supra 97b end.
(7) Lit., 'made them free', 'ownerless'.
(8) Ezek. XXIII, 20.
(9) Gr. ** So MS.M. Cur. edd. 'Niphatem'. The suggestion to read Gr.** is rejected by Golds.
(10) V. Rashi, a.l. s.v. דנסבא.
(11) Who was a proselyte.
(12) And yet it was stated that the prohibition of 'brother's wife' does not apply.
(13) When his betrothal has no validity; and after he had become a proselyte he no longer cohabited with her.
(14) The law being self-evident.
(15) MS.M., 'R. Jose b. Yasin'.
(16) Mercantile ports (Jast.).
(17) Proselytes. whom R. Akiba (v. infra) permitted to marry brothers' wives.
(18) Jonah III, 1.
(19) Mekilta, Bo.
(20) V. supra p. 671, n. 11.
(21) A proselyte in the circumstances of the one who reported R. Akiba's ruling.
(22) Basing his ruling on a tradition he received from his teachers.
(23) In the course of his discourses.
(24) Before the law was required in connection with a practical issue.
(25) Much less should an ordinary proselyte be relied upon in a case in which he himself is involved. v. supra 770.
(26) An incident which had obviously occurred 'before he made his statement.
(27) From the case of the scholar's ruling spoken of by Rab.
(28) R. Akiba's discourse on Jonah III, 1 while he was sitting on a certain bench. As the one statement could be safely accepted, the other also was accepted.
(29) Jonah III, 1.
(30) II Kings XIV, 25, which shews that He spoke a third time.
(31) R. Akiba, in stating that the Shechinah spoke to him only twice.
(32) By the text of II Kings cited.
(33) Ibid.
(34) I.e., after his mother became a proselyte.
(35) I.e., before his mother became a proselyte.
(36) Lit., 'how'.
(37) Though she was born while their mother was still an idolatress, and though he, as a proselyte, is regarded as a newly born child.
(38) As a preventive measure against the possibility of marrying a sister, who like himself was born after their mother's conversion. Such a marriage, since brother and sister were born 'in holiness', is punishable by kareth.
(39) No preventive measure in this case is necessary, since, a proselyte having legally no father, any daughter that may be begotten by his father, even after his conversion, would not be legally his sister.
(40) A preventive measure against marriage with his own maternal sister. Cf. supra n. 13.

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his paternal one he may retain. His mother's maternal sister he must divorce. As to her paternal sister, R. Meir said: He must divorce her,[1] and the Sages said: He may retain her;[2] R. Meir maintaining that any woman forbidden on account of maternal consanguinity must be divorced, but if on account of paternal consanguinity he may retain her. He is also permitted [to marry] his brother's wife,[3] and the wife of his father's brother. All other forbidden relatives are also permitted to him, including his father's wife. If [a proselyte][4] married a woman and her daughter[5] she may[6]

retain[7] one, but must release the other.[8] In the first instance he may not marry[7] her.[9] If his wife died, he is permitted to marry his mother-in-law. Another opinion is that he is forbidden to marry his mother-in-law.[10] At all events, it was here stated that he is 'permitted [to marry] his brother's wife'; does not [this apply to a woman] whom his brother had married while he was a proselyte! — No; where he married her while he was still an idolater. What [need was there] to state it?[11] — It might have been assumed that [in the case of a brother's marriage] while he was still an idolater a preventive measure[12] should be enacted to preclude [the same thing being done] where he is already a proselyte, hence were we taught [that in such a case a brother's wife was permitted].

The Master stated, 'If [a proselyte] married a woman and her daughter, he may retain one but must release the other; in the first instance he may not marry her'. Now, if he must even release her, is there any need [to speak of a prohibition to marry her] from the outset?[13] — It refers to a previous clause,[14] and the meaning is this: That [woman]. concerning whom the Rabbis ruled that he[15] may retain her,[16] may nevertheless not be married by him from the outset.

'If his wife died he is permitted to marry his mother-in-law. Another opinion is that he is forbidden to marry his mother-inlaw'. One is in agreement with R. Ishmael and the other is in agreement with R. Akiba. He who forbade the marriage agrees with R. Ishmael who stated: A man's mother-in-law after [his wife's] death retains the former prohibitions;[17] and in respect of a proselyte a preventive measure was enacted.[18] He, however, who permits the marriage follows R. Akiba who stated that the prohibition [to marry] one's mother-in-law is weakened after [one's wife's] death;[19] and, consequently, no preventive measure has been enacted by the Rabbis in respect of a proselyte.

MISHNAH. IF THE [MALE] CHILDREN OF FIVE WOMEN WERE MIXED UP[20] AND, WHEN THESE INTERCHANGED CHILDREN GREW UP, THEY TOOK WIVES AND THEN DIED, FOUR[21] SUBMIT TO HALIZAH FROM ONE [OF THE WIDOWS][22] AND ONE[23] CONTRACTS WITH HER THE LEVIRATE MARRIAGE.[24] [THEN] HE[25] AND THREE [BROTHERS][21] SUBMIT TO HALIZAH FROM ONE [OTHER OF THE WIDOWS]. AND ONE[26] CONTRACTS WITH HER[27] THE LEVIRATE MARRIAGE.[28] THUS[29] EVERY ONE [OF THE WIDOWS] PERFORMS HALIZAH FOUR TIMES AND CONTRACTS THE LEVIRATE MARRIAGE ONCE.

GEMARA. Only the halizah [must take place[30] first] and the levirate marriage afterwards; the levirate marriage, however, must not take place first, since, thereby, one[31] might infringe the prohibition against a sister-in-law's marriage with a stranger.[32]

What [was the object of the statement], HE AND THREE [BROTHERS] SUBMIT TO HALIZAH FROM ONE [OTHER OF THE WIDOWS]?[33] — That it be not suggested that one brother only should contract levirate marriage with all of them. Rather let every brother contract levirate marriage with only one [of the widows], when it is possible his own [sister-in-law] might happen to fall to his lot.

Our Rabbis taught:[34] 'If some of them[35] were brothers[36] and some were no brothers,[36] the brothers submit to halizah while those who are no brothers contract the levirate marriage.' What does this exactly mean? — R. Safra replied. It is this that is meant: If some of them[35] were paternal brothers[36] and some were [also] maternal brothers,[37] the maternal brothers submit to halizah[38] and the paternal brothers may [also] contract levirate marriage.[39] 'If some of them[40] were priests and some were non-priests, the priests submit to halizah[41] and those who are non-priests may [also] contract levirate marriage. If some of them[42] were priests and some maternal brothers, the former as well as the latter submit to halizah but may not contract levirate marriage.'[43]

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(1) The reason is given presently.

(2) No preventive measure being necessary in such a case which is quite unlike that of a maternal sister.
(3) Cur. edd. insert 'from his mother' which is to be deleted with Bah a.l. The proselyte is, in fact, permitted to marry the wife of his paternal brother as well as the wife of his maternal brother if the latter was born before the conversion. A preventive measure (cf. supra p. 673, n. 13) was not instituted in the case of a relationship which is not due to consanguinity but is dependent on betrothal.
(4) Before his conversion. One born 'in holiness' is forbidden to marry a mother and her daughter.
(5) Who were also converted.
(6) After his conversion.
(7) Lit., 'bring in', sc. to his home.
(8) This is a preventive measure against marriage with an Israelitish mother and daughter.
(9) This sentence is explained infra.
(10) V. Sanh., Sonc. ed., p. 394. notes.
(11) The law being so obvious.
(12) Forbidding his wife to his brother.
(13) Why, then, was the superfluous clause, 'In the first instance he may not marry her', inserted.
(14) Lit., 'there he stands'.
(15) The proselyte.
(16) E.g., his paternal sister.
(17) V. supra 94b, Sanh. 76b.
(18) To prevent such a marriage in the case of an Israelite.
(19) It is no longer punishable by the severe penalty of burning. v. supra 94b.
(20) And each woman had also another son who was not involved in the confusion.
(21) Of the five brothers who were not mixed up with these. V. supra note 6.
(22) Since everyone of them might be her brother-in-law.
(23) Of the five brothers (v. supra n. 7) i.e., the fifth who had not submitted to halizah.
(24) As four brothers have, by their halizah, severed their levirate bond with the widow mentioned, the fifth may marry her either as her brother-in-law (in case it was his brother who was her husband) or as a stranger (if her husband was a brother of one of the four who had now set her free).
(25) The brother who contracted the levirate marriage.
(26) Of the brothers (v. supra n. 7) who had submitted to halizah from the first widow.
(27) The second widow.
(28) For reasons similar to those explained supra n. 10.
(29) Lit., 'it is found'. The same procedure being followed in respect of all the five widows.
(30) In our Mishnah, in respect of every widow.
(31) Should a brother happen to marry the widow who was not the wife of his deceased brother.
(32) Lit., 'for he met a sister-in-law for the market'.
(33) The same brother who contracted the first levirate marriage is, surely, entitled to contract similar marriages with all the widows, as soon as the other four brothers had submitted to their halizah.
(34) So Bah. Cur. edd. omit.
(35) Of the brothers who were not involved in the confusion.
(36) Of those who were mixed up and are now dead.
(37) I.e., paternal brother to one and maternal brother to another.
(38) Thereby setting free the widows of their paternal brothers. They may not contract levirate marriage even after the widows had performed halizah with all the other brothers, since, should one of them happen to marry the widow of his maternal brother, he would thereby incur the penalty of kareth.
(39) With any of the widow's, after each of the other brothers had submitted to her halizah.
(40) of the brothers who were not involved in the confusion.
(41) The levirate marriage is forbidden to them because any one of them might happen to marry the widow who was not a sister-in-law to him but to one of the other brothers. and who, by the halizah with her brother-in-law, has become a haluzah whom a priest is forbidden to marry.
(42) Of the brothers who were not involved in the confusion.
(43) Tosef. Yeb. XII. Cf. supra p. 676. n. 9 (re maternal brothers) and supra n. 1 (re priests).

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Our Rabbis taught: A man must sometimes submit to halizah from his mother[1] owing to an uncertainty; from his sister, owing to an uncertainty: and from his daughter, owing to an uncertainty'. For instance?[2] If his mother and another woman had two male children, and then gave birth to two male children[3] in a hiding place;[4] and a son[5] of the one mother[6] married the mother[7] of the other son while the son[8] of the other mother[6] married the mother of the first, and both[9] died without issue, the one[10] must submit to halizah from both women[11] and the other[10] must submit to halizah from both women.[11] Thus it follows that each submits to halizah from his mother owing to an uncertainty. 'From his sister. owing to an uncertainty'; for instance?[2] When his mother and another woman gave birth to two female children[12] In a hiding place,[13] and their brothers[14] who were not from the same mother[15] married them[16] and died without issue, he[17] must submit to halizah from both widows.[18] Thus it follows that a man submits to halizah from his sister owing to an uncertainty. 'From his daughter, owing to an uncertainty'; for instance?[19] When his wife and another woman gave birth to two female children[20] in a hiding place,[21] and their[22] [husbands'] brothers[23] married them[16] and died without issue, the one [father][24] submits to halizah from his daughter[25] owing to the uncertainty and the other [father][24] submits to halizah from his daughter[25] owing to the uncertainty.[26]

It was taught: R. Meir said, A husband and wife may sometimes produce five different castes.[27] How? If an Israelite bought a bondman and a bondwoman in the market, and these had two sons[28] one of whom became a proselyte, the result is that one is a proselyte and the other is an idolater.[29] If [subsequently] he made them[30] perform the prescribed immersion for the purpose of slavery and then they cohabited with one another [and bore a son], behold here we have a proselyte, an idolater and a slave.[31] If he subsequently emancipated the bondwoman[32] and the slave cohabited with her [and had another son], behold here[33] we have a proselyte, an idolater, a slave and a bastard.[34] If he then emancipated both of them[30] and made them marry one another, behold here[35] we have a proselyte, an idolater, a slave, a bastard and an Israelite.[36] What does this teach us? — That when an idolater or a slave cohabits with an Israelitish woman their child is a bastard.[37]

Our Rabbis taught: Sometimes a man sells his father to enable his mother to collect her kethubah. How? If an Israelite bought in the market a bondman and a bondwoman who had a son,[38] and having emancipated the bondwoman he married her and bequeathed, in writing, all his estate to her son, the result is that this son[39] sells his father[40] in order to enable his mother[41] to collect her kethubah.[42] What does this teach us? — That all this [Baraitha[43] represents the views of] R. Meir. and that a slave [is regarded as] movable property, such property being mortgaged for a kethubah![44]

And if you prefer I might say. It is this that we were taught: A slave [is on the same footing as] real estate.[45]

MISHNAH. IF THE CHILD OF A WOMAN WAS INTERCHANGED WITH THE CHILD OF HER DAUGHTER-IN-LAW. AND WHEN THE INTERCHANGED CHILDREN GREW UP THEY TOOK WIVES AND THEN DIED,[46] THE [OTHER] SONS OF THE DAUGHTER-IN-LAW[47] SUBMIT TO HALIZAH[48] BUT MAY NOT CONTRACT LEVIRATE MARRIAGE.[49] FOR [IN THE CASE OF EACH WIDOW AND BROTHER] IT IS UNCERTAIN WHETHER SHE IS THE WIFE OF HIS BROTHER[50] OF THE WIFE OF HIS FATHER'S BROTHER.[51] THE [OTHER] SONS OF THE GRANDMOTHER[52] EITHER SUBMIT TO HALIZAH[53] OR CONTRACT LEVIRATE MARRIAGE,[54] SINCE [IN THE CASE OF EACH WIDOW AND BROTHER] THE ONLY DOUBT IS WHETHER SHE IS THE WIFE OF HIS BROTHER[55] OR THE WIFE OF HIS BROTHER'S SON.[55] IF THE UNTAINTED SONS[56] DIED,[57] THEN THE INTERCHANGED SONS SUBMIT [IN RESPECT OF THE WIDOWS] OF

THE SONS OF THE GRANDMOTHER TO HALIZAH BUT MUST NOT CONTRACT[54] THE LEVIRATE MARRIAGE. SINCE [IN THE CASE OF EACH WIDOW AND BROTHER] IT IS UNCERTAIN WHETHER SHE IS THE WIFE OF HIS BROTHER[55] OR THE WIFE OF HIS FATHER'S BROTHER;[58] [WHILE IN RESPECT OF THE WIDOWS] OF THE SONS OF THE DAUGHTER-IN- LAW ONE[59] SUBMITS TO HALIZAH[60] AND THE OTHER[59] [MAY ALSO] CONTRACT THE LEVIRATE MARRIAGE.[61]

IF THE CHILD OF A PRIEST'S WIFE WAS INTERCHANGED WITH THE CHILD OF HER BONDWOMAN, BEHOLD BOTH MAY EAT TERUMAH[62] AND RECEIVE ONE SHARE AT THE THRESHINGFLOOR[63]

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(1) Though she belongs to one of the fifteen classes of relatives (supra 2a) who are themselves exempt from the levirate marriage and halizah and who also exempt their rivals from these obligations.

(2) Lit., 'how'.

(3) One child each, he being one of them.

(4) Where the women were sheltering from some enemy and where, owing to the confusion or the darkness of the place, the children were interchanged and it was impossible for either mother to ascertain which was her own child.

(5) Concerning whose motherhood no doubt existed.

(6) And her 'first husband.

(7) Her husband having died.

(8) Concerning whose motherhood no doubt existed.

(9) These sons, each of whom is paternal as well as maternal brother of one of the interchanged sons.

(10) Of the interchanged, as brother to one of the deceased. V. supra n. 12.

(11) It being unknown which of them is] his mother who is exempt from halizah, he must submit to halizah from the two, one of whom is certainly a stranger to him and subject to his halizah.

(12) Each woman to one child.

(13) V. supra note 7.

(14) The paternal brothers of each of the girls' maternal brothers. [Rashi, basing himself on the Tosef. (Yeb. XII) from where the passage is taken, reads: And (his) two paternal brothers married them].

(15) But from a former wife of their father, and who are consequently perfect strangers to the girls and their mothers.

(16) The girls.

(17) The maternal brother of one of the girls, who is the paternal brother of both the deceased.

(18) V. supra p. 677. n. 14, mutatis mutandis.

(19) Lit., 'how'.

(20) Each woman to one child.

(21) V. supra p. 677, n. 7.

(22) The mothers'.

(23) Two brothers, of the one husband or two of the other. An uncle is permitted to marry his niece.

(24) If the interchanged girls were married by his brothers.

(25) V. supra p. 677. n. 14. mutatis mutandis

(26) Tosef. Yeb. XII.

(27) Lit., 'nations'.

(28) Who are regarded as idolaters but not as slaves. Cf. supra 46a.

(29) Though the sons of the same father and mother.

(30) The slaves he bought.

(31) The son of the slave of an Israelite has the status of a slave. Cf. supra 462.

(32) Who thereby gains the status of an Israelitish woman.

(33) Though sons of the same father and mother.

(34) Being the result of a union between an Israelitish woman (v. supra n. 18) and a slave.

(35) Though sons of the same father and mother.

(36) Tosef. Kid. V; the issue of a union between emancipated slaves has the status of an Israelite.

(37) Cf. supra 16b. 450. Kid. 70a.

(38) Whom he did not buy.
(39) When the Israelite dies.
(40) The slave who forms a part of the Israelite's estate.
(41) Who claims her kethubah from the estate of her deceased husband.
(42) Tosef. Kid. V.
(43) The section dealing with the sale of one's father just cited, as well as the section relating to the five castes cited above.
(44) A view expressed by R. Meir in Keth. 80b.
(45) Which, all agree, is mortgaged for the kethubah.
(46) Without issue.
(47) In respect of whom her motherhood was never in doubt.
(48) From the widows of the deceased.
(49) With the widows.
(50) With whom either halizah or levirate marriage is permitted.
(51) Whom one is forbidden to marry.
(52) In respect of whom her motherhood was never in doubt.
(53) From the widows of the deceased.
(54) With the widows.
(55) With whom either halizah or levirate marriage is permitted.
(56) I.e., those who were never involved in the interchange.
(57) Without issue.
(58) Whom one is forbidden to marry.
(59) Of the two interchanged sons.
(60) From either of the widows. He may not, however, contract levirate marriage since in respect of each widow it might be assumed that she was not his, but the other's brother's wife, and that she is consequently forbidden to him or to anyone else before the other had submitted to her halizah.
(61) For if the widow was his brother's wife he is obviously entitled to marry her, and if she was his brother's son's wife he may also marry her since her deceased husband's brother had already submitted to her halizah and had thereby set her free to marry even a stranger.
(62) A priest's slave also being allowed to eat terumah.
(63) This is explained infra.

Talmud - Mas. Yevamoth 99b

THEY MAY NOT DEFILE THEMSELVES FOR THE DEAD[1] NOR MAY THEY MARRY ANY WOMEN WHETHER THESE ARE ELIGIBLE [FOR MARRIAGE WITH A PRIEST][2] OR INELIGIBLE.[3] IF WHEN THEY[4] GREW UP, THE INTERCHANGED CHILDREN EMANCIPATED ONE ANOTHER THEY MAY MARRY WOMEN WHO ARE ELIGIBLE FOR MARRIAGE WITH A PRIEST[5] AND THEY MAY NOT DEFILE THEMSELVES FOR THE DEAD.[6] IF, HOWEVER, THEY DEFILED THEMSELVES, THE PENALTY OF FORTY STRIPES[7] IS NOT INFLICTED UPON THEM.[8] THEY MAY NOT EAT TERUMAH,[9] BUT IF THEY DID EAT THEY NEED NOT PAY COMPENSATION EITHER FOR THE PRINCIPAL OR [THE ADDITIONAL] FIFTH.[10] THEY ARE NOT TO RECEIVE A SHARE[11] AT THE THRESHING-FLOOR, BUT THEY MAY SELL [THEIR OWN] TERUMAH[12] AND THE PROCEEDS ARE THEIRS.[13] THEY RECEIVE NO SHARE IN THE CONSECRATED THINGS OF THE TEMPLE,[14] AND NO CONSECRATED THINGS[15] ARE GIVEN TO THEM. BUT THEY ARE NOT DEPRIVED OF THEIR OWN.[13] THEY ARE EXEMPT FROM [GIVING TO ANY PRIEST] THE SHOULDER, THE CHEEKS AND THE MAW,[16] WHILE THE FIRSTLING OF EITHER OF THEM MUST REMAIN IN THE PASTURE[13] UNTIL IT CONTRACTS A BLEMISH.[17] THE RESTRICTIONS RELATING TO PRIESTS AND THE RESTRICTIONS RELATING TO ISRAELITES ARE BOTH IMPOSED UPON THEM.[18]

GEMARA. IF THE UNTAINTED SONS DIED etc.; are, then, the others,[19] because they were mixed up, tainted! — R. Papa replied: Read, 'If those [whose parentage was] certain died'.

[IN RESPECT, HOWEVER, OF THE WIDOWS] OF THE SONS OF THE DAUGHTER-IN-LAW ONE SUBMITS TO HALIZAH etc. Only halizah [must take place first] and the levirate marriage afterwards. The levirate marriage, however, must not take place first; since thereby one might infringe the prohibition against a sister-in-law's marriage with a stranger.[20]

[IF THE CHILD OF] A PRIEST'S WIFE WAS INTERCHANGED etc. Obviously only ONE SHARE![21] — Read 'ONE SHARE together'.[22] Here we learn [a thing] which is in agreement with him who ruled that no share of terumah is given to a slave unless his master is with him.[23] For it was taught: No share in terumah is given to a slave unless his master is with him; so R. Judah. R. Jose, however, ruled: The slave[24] may claim, 'If I am a priest, give me for my own sake; and if I am a priest's slave, give me for the sake of my master'. In the place of R. Judah,[men of doubtful status] were raised to the status of priesthood[25] [on the evidence that they received a share] of terumah.[26] In the place of R. Jose, however, no one was raised to the status of priesthood [on the evidence of having received a share] of terumah.[27]

It was taught: R. Eleazar b. Zadok said, 'During the whole of my lifetime I have given evidence but once, and through my statement they raised a slave to the priesthood'. 'They raised'? Is [such an error] conceivable! If through the beasts of the righteous the Holy One, blessed be He, does not cause an offence to be committed, how much less through the righteous themselves! — Rather, read. 'They desired to raise a slave to the priesthood, through my statement'. He witnessed [the occurrence][28] in the place of R. Jose. but went and tendered his evidence in the place of R. Judah.[29]

Our Rabbis taught: Ten [classes of people] must not be given a share of terumah at the threshing-floors. They are the following: The deaf,[30] the imbecile, the minor, the tumtum,[31] the hermaphrodite the slave, the woman,[32] the uncircumcised,[33] the levitically unclean, and he who married a woman who is unsuitable for him.[34] In the case of all these, however, [terumah] may be sent to their houses, with the exception[35] of the one who is levitically unclean and one who married a woman who is unsuitable for him.[36] Now, one can well understand [the prohibition[37] in respect of] the deaf, the imbecile and the minor, since they lack intelligence;[38] [in respect of] the tumtum and the hermaphrodite also,[39]

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(1) Since either of them might be assumed to be the priest (cf. Lev. XXI, 1).

(2) Since such women are forbidden to the slave.

(3) A bondswoman, for instance, who is forbidden to the priest.

(4) The son of the priest and the slave who were interchanged.

(5) Any freed man may marry such a woman.

(6) V. p. 680, n. 13.

(7) 'Forty' is a round number for the penalty of flogging which in fact consisted of thirty-nine stripes only.

(8) Because each of them can plead that he is not the priest.

(9) On account of the slave who, being now a freed man, is, like any Israelite, forbidden to eat terumah.

(10) Which an Israelite must pay (cf. Lev. XXII, 14). Each one of them can plead that he is the priest.

(11) In terumah. Cf supra n. 5'

(12) Of their own produce.

(13) No priest can claim it from either of them since each can reply that it is he who is the priest.

(14) Not even a share in the skins of the sacrifices.

(15) Firstlings, for instance, or herem (v. Glos.). Cf. Num. XVIII, 14f.

(16) Priestly gifts prescribed in Deut. XVIII, 3.

(17) When it is unfit for the altar, and may be eaten by its owner. The reason why an Israelite owner may not eat of the flesh of his firstling, even after it has contracted a blemish, is not because of its sanctity but because its consumption by a

non-priest is regarded as robbing the priests. No such consideration arises in a case where the owner can claim that he himself is a priest. (Cf. supra note 9).

(18) MS.M. and cur. edd. infra 100a. The reading here is 'upon him'.

(19) Lit., 'those'.

(20) Lit., 'because he met a sister-in-law for the market'.

(21) Since no more than one of them can lay claim to the priesthood. Why then was the obvious stated?

(22) Only when the two come together do they receive one share. One without the other receives nothing. The reason is given infra.

(23) As one of the two is obviously a slave neither of them can claim a share unless the other is with him.

(24) In circumstances like those spoken of in our Mishnah, where it is uncertain whether he is a slave or a priest.

(25) Lit., 'genealogical (priestly) records', enabling them to marry women of unblemished and priestly descent. V. Keth,, Sonc. ed., p. 233, n. 4.

(26) Hence no terumah must be given to a slave in the absence of his master.

(27) Tosef. Yeb. Xli, Keth. 28b.

(28) That a slave received a share of terumah.

(29) Cf. Keth., Sonc., ed., p. 156. notes.

(30) Deaf-mute.

(31) V. Glos.

(32) A priest's wife.

(33) A priest whose brothers died as a result of their circumcision, and who, owing to the fatal effect of such an operation on members of his family, is himself exempt from circumcision.

(34) I.e., one whom a priest is forbidden to marry.

(35) The uncircumcised priest is not excluded since his wives and slaves, though not he himself, are permitted to eat terumah.

(36) Tosef. Ter. X end.

(37) To give him a share of terumah at the threshing-floor.

(38) It would be a mark of disrespect were the sacred terumah to be entrusted to the care of persons who are mentally defective, or undeveloped, or in any other way below the normal standard of intellectual or physical fitness.

(39) One can understand the reason for the prohibition.

Talmud - Mas. Yevamoth 100a

since either of them is a peculiar creature; the slave, too, because owing to the terumah[1] he might be raised to the priesthood;[2] the uncircumcised and the unclean also, owing to their repulsiveness; and the priest who married a woman unsuitable for him, as a penalty. But why should not a woman [be given a share of terumah]? — On this question R. Papa and R. Huna son of R. Joshua differ. One explains: Owing [to possible abuse by] a divorced woman;[3] and the other explains: Owing to [the necessity of avoiding] privacy between the sexes.[4] What is the practical difference between them? — The practical difference between them is the case of a threshing-floor that is near a town but is unfrequented by people,[5] or one that is distant [from a town] but frequented by people.[6]

'In the case of all these, however, [terumah] may be sent to their houses, with the exception of the one who is levitically unclean and one who married a woman who is unsuitable for him'. [May terumah], then, be sent to the uncircumcised?[7] What is the reason! [Is it] because he is a victim of circumstances? The man who is levitically unclean is also a victim of circumstances![8] — The force of circumstances in the former case is great;[9] in the latter, the force is not so great.[10]

Our Rabbis taught: Neither to a slave nor to a woman may a share in terumah be given at the threshing-floors. In places, however, where a share is given. It is to be given to the woman first, and she is immediately dismissed. What can this mean?[11] — It is this that was meant: The[12] poor mans tithe which is distributed at home[13] is to be given to the woman first.[14] What is the reason? — That the degradation [of the woman may be avoided].[15]

Raba said: Formerly, when a man and a woman[16] came before me for a legal decision, I used to dispose of the man's lawsuit first, because I thought a man is subject to the fulfilment of all the commandments;[17] since, however, I heard this,[18] I dispose of a woman's lawsuit first. Why? In order [to save her from] degradation.[19]

IF WHEN THEY GREW UP, THE INTERCHANGED CHILDREN etc. [It states] THEY EMANCIPATED. [Implying] only[20] if they wished, but if they did not wish they need not [emancipate one another]! But why? Neither of them could marry either a bondwoman[21] or a free woman![22] Raba replied: Read: Pressure is brought to bear upon them so that they emancipate one another.

THE RESTRICTIONS . . . ARE IMPOSED UPON THEM. In what respect?[23] — R. Papa replied: In respect of their meal-offering. A handful[24] must be taken from it,[25] as of a meal-offering of an Israelite, but it may not be eaten,[26] as is the case with a meal-offering of the priests.[27] But how [is one to proceed]? The handful is offered up separately and the remnants are also offered up separately. But [surely] there is to be applied here the Scriptural deduction that any offering a portion of which had been put on the fire of the altar[28] is subject to the prohibition you shall not burn![29] — R. Judah son of R. Simeon b. Pazzi replied: They are burned as wood,[30] in accordance with a ruling of R. Eleazar. For it was taught: R. Eleazar said, For it sweet savour[31] you may not offer them;[32] you may offer them, however, as mere[30] wood.[33] This is satisfactory according to R. Eleazar, what, however, can be said according to the Rabbis?[34] — One proceeds in accordance with a ruling of R. Eleazar son of R. Simeon. For it was taught: R. Eleazar son of R. Simeon said: The handful is offered up separately and the remnants are scattered over the enclosure of the sacrificial ashes.[35] And even the Rabbis differ from R. Eleazar only in respect of a priestly sinner's meal-offering which is suitable for offering up;[36] but here,[37] even the Rabbis agree.[38]

MISHNAH. IF A WOMAN DID NOT WAIT THREE MONTHS AFTER [SEPARATION[39] FROM] HER HUSBAND, AND MARRIED AGAIN AND GAVE BIRTH [TO A SON], AND IT IS UNKNOWN WHETHER IT IS A NINE-MONTHS CHILD BY THE FIRST HUSBAND OR A SEVEN-MONTHS CHILD BY THE SECOND, IF SHE HAD OTHER SONS BY THE FIRST HUSBAND AND OTHER SONS BY THE SECOND, THESE MUST SUBMIT TO HALIZAH[40] BUT MAY NOT CONTRACT WITH HER LEVIRATE MARRIAGE.[41] AND HE, IN RESPECT OF THEIR WIDOWS,[42] LIKEWISE, SUBMITS TO HALIZAH[43] BUT MAY NOT CONTRACT LEVIRATE MARRIAGE.[44]

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(1) Which he receives.

(2) As was explained supra.

(3) Who might, after her divorce when she is no more permitted to eat terumah. continue to collect it.

(4) Yihud, v. Glos. Cf. supra 86a.

(5) No preventive measure against (a) abuse by a divorced woman is here necessary, since the proximity of the threshing-floor to the town enables its owner to keep in touch with social events in the town. The precautions, however, against (b) privacy, owing to the loneliness of the floor, cannot be neglected.

(6) Cf. supra note 1 mutatis mutandis; (b) has to, but (a) need not be disregarded.

(7) Since he is not included in the exceptions. Cf. supra p. 683, n. 8.

(8) If the latter was not excluded why then was the former?

(9) The uncircumcised cannot help the infirmity of the constitution of the members of his family. It is not through any fault of his that he must remain uncircumcised (v. supra p. 683, n. 6).

(10) By the exercise of due care uncleanness might be avoided.

(11) In the first sentence it was stated that a woman receives no share; and in the following it is tacitly assumed that in certain places she does receive a share!

(12) C;f. Bah. Cur. edd. read, ‘Where the poor man's tithe is distributed’.

(13) In town.
(14) Though privacy between the sexes need not be apprehended there.
(15) It is degrading for a woman to have to wait her turn in a crowd of men.
(16) With different law suits.
(17) While a woman is exempt from certain commandments. Hence it is the man that should receive precedence.
(18) The reason why a woman should be given her share of the poor man's tithe first.
(19) Cf. supra p. 684. n. 11.
(20) Lit., 'yes'.
(21) Owing to the priest.
(22) Since one of them is a slave. How, then, could they ever fulfil the religious duty of propagation which is incumbent upon all?
(23) Lit., for what law'.
(24) V. Lev. II, 2.
(25) Since he might be the Israelite.
(26) As he might also be the priest.
(27) V. Lev. VI, 16.
(28) As was the case here where the handful was offered up.
(29) Lev. II. Once the prescribed portion of an offering had been duly offered up on the altar the remnants of that offering may no longer be burned in the altar. Cf. Zeb 77a. How then could the remnants of the meal-offering be offered up when a portion of the offering (the handful) is also offered up.
(30) Not as an offering.
(31) Lev II, 12.
(32) V. supra note 13.
(33) Yoma 47b, Sot. 23a, Zeb. 76b, Men. 106b.
(34) Who do not permit the offering of the remnants on the altar even as wood.
(35) בית הדשן Sot. 23a, Men. 74a. A place near the altar, where a certain portion of the ashes of the altar was deposited.
(36) In its entirety, as is the case with a priest's voluntary meal-offering.
(37) Where there is the possibility that it is not the offering of a priest at all.
(38) That the remnants are to be scattered in the enclosure of the ashes. V. Sot., Sonc ed., p. 116, notes.
(39) By her hushand's death or by divorce.
(40) From the widow of the son whose father is unknown, if he died childless.
(41) Since it is possible that they are only the maternal brothers of the deceased, whose widow is forbidden to them under the penalty of kareth.
(42) Lit., 'to them'.
(43) From their widows, if they died without issue.
(44) Cf. supra n. 8 mutatis mutandis.

Talmud - Mas. Yevamoth 100b

IF HE[1] HAD BROTHERS BY THE FIRST[2] AND ALSO BROTHERS BY THE SECOND,[2] BUT NOT BY THE SAME MOTHER, HE[1] MAY EITHER SUBMIT TO HALIZAH OR CONTRACT THE LEVIRATE MARRIAGE,[3] BUT AS FOR THEM, ONE[4] SUBMITS TO HALIZAH[5] AND THE OTHER MAY [THEN] CONTRACT LEVIRATE MARRIAGE.[6]

IF ONE OF [THE TWO HUSBANDS] WAS AN ISRAELITE AND THE OTHER A PRIEST, HE[7] MAY ONLY MARRY A WOMAN WHO IS ELIGIBLE TO MARRY A PRIEST.[8] HE[7] MAY NOT DEFILE HIMSELF FOR THE DEAD,[8] BUT IF HE DID DEFILE HIMSELF HE DOES NOT SUFFER THE PENALTY OF FORTY STRIPES.[9] HE MAY NOT EAT TERUMAH,[9] BUT IF HE DID EAT HE NEED NOT PAY COMPENSATION EITHER FOR THE PRINCIPAL OR [FOR THE ADDITIONAL] FIFTH.[10] HE DOES NOT RECEIVE A SHARE[11] AT THE THRESHING-FLOOR, BUT HE MAY SELL [HIS OWN] TERUMAH[12] AND THE PROCEEDS

ARE HIS.[13] HE RECEIVES NO SHARE IN THE CONSECRATED THINGS OF THE TEMPLE,[14] NO CONSECRATED THINGS ARE GIVEN TO HIM,[15] BUT HE IS NOT DEPRIVED OF HIS OWN.[13] HE IS EXEMPT FROM [GIVING TO ANY PRIEST] THE SHOULDER, THE CHEEKS AND THE MAW,[16] WHILE HIS FIRSTLING MUST REMAIN IN THE PASTURE[17] UNTIL IT CONTRACTS A BLEMISH.[18] THE RESTRICTIONS RELATING TO PRIESTS AND THE RESTRICTIONS RELATING TO ISRAELITES ARE IMPOSED UPON HIM.

IF THE TWO [HUSBANDS] WERE PRIESTS, HE[7] MUST MOURN AS ONAN[19] FOR THEM[20] AND THEY MUST MOURN AS ONENIM[21] FOR HIM,[22] BUT HE MAY NOT DEFILE HIMSELF FOR THEM,[23] NOR MAY THEY DEFILE THEMSELVES FOR HIM.[23] HE MAY NOT INHERIT FROM THEM,[24] BUT THEY MAY INHERIT FROM HIM.[25] HE IS EXONERATED[26] IF HE STRIKES OR CURSES[27] THE ONE OR THE OTHER. HE GOES UP [TO SERVE] IN THE MISHMAR[28] OF THE ONE AS WELL AS OF THE OTHER,[29] BUT HE DOES NOT RECEIVE A SHARE [IN THE OFFERINGS].[30] IF, HOWEVER BOTH SERVED IN THE SAME MISHMAR,[28] HE RECEIVES A SINGLE PORTION.[31]

GEMARA. Only the halizah [must take place first][32] and the levirate marriage afterwards; the levirate marriage, however, must not take place first, since, thereby, one[33] might infringe the prohibition against the marriage of a sister-in-law with a stranger.[34]

Samuel said: If ten priests stood together and one of them separated [from the company] and cohabited [with a feme sole]. the child [that may result from the union][35] is a shethuki.[28] In what [respect is he] a shethuki? If it be suggested that he is silenced[36] [when he claims a share] of his father's estate, [is not this, it may be retorted] self-evident? Do we know who is his father! — Rather,[37] he is silenced [if he claims any] of the rights of priesthood.[38] What is the reason? — Scripture stated, And it shall be unto him, and to his seed after him,[39] it is, therefore, required that 'his seed' shall be traced to 'him',[40] but this is not the case here.[41]

R. Papa demurred: If that is so in the case of Abraham where it is written, To be a God to thee and to thy seed after thee,[42] what does the All Merciful exhort him thereby![43] — It is this that he said to him: Marry not an idolatress or a bondwoman so that your seed shall not be ascribed to her.[44]

An objection was raised: The first[45] is fit to be a High Priest.[46] But, surely, it is required that a priest's child shall be traced to his father,[47] which is not the case here![48] — [The requirement that] a priest's child shall be traced to his father[49] is a Rabbinical provision. while the Scriptural text is a mere prop;[50] and it is only in respect of prostitution that the Rabbis have made their preventive measure; in respect of marriage, however, no such measure was enacted by them. But did the Rabbis introduce such a preventive measure in the case of prostitution? Surely we learned: IF A WOMAN DID NOT WAIT THREE MONTHS AFTER [SEPARATION FROM] HER HUSBAND, AND MARRIED AGAIN AND GAVE BIRTH [TO A SON]; now, what is meant by AFTER [SEPARATION FROM] HER HUSBAND? If it be suggested: AFTER the death OF HER HUSBAND, read the final clause: HE MUST MOURN AS ONAN FOR THEM AND THEY MUST MOURN AS ONENIM FOR HIM; one can well understand [the circumstances in which] HE MOURNS AS ONAN FOR THEM, such mourning being possible [even in the case] of marriage with the second [husband, on the occasion of the] collecting of the bones of the first.[51] But how is it possible that they MOURN AS ONENIM FOR HIM, when the first husband is dead![52] If, however, [it be suggested that our Mishnah speaks] of a divorced woman, and that the meaning of AFTER [SEPARATION FROM] HER HUSBAND is AFTER the divorce OF HER HUSBAND, then read the final clause: HE MAY NOT DEFILE HIMSELF FOR THEM, NOR MAY THEY DEFILE THEMSELVES FOR HIM; now, one can understand that THEY MAY NOT DEFILE THEMSELVES FOR HIM as a restrictive measure, [since in respect of every one of them it may be assumed that] he is possibly not his son; but why MAY HE NOT DEFlle HIMSELF FOR THEM?

Granted that he must not defile himself for the second;[53] for the first, however, he should be allowed to defile himself in any case! For if he is his son, then he may justly defile himself for him; and if he is the son of the second[54] he may legitimately defile himself for him since he is a halal![55] Consequently [our Mishnah must refer to a case] of prostitution,[56] and the meaning of AFTER [SEPARATION FROM] HER HUSBAND must be, AFTER [SEPARATION FROM] THE MAN WHO IRREGULARLY COHABITED WITH HER;[57] and yet it was stated in the final clause, HE MAY GO UP [TO SERVE] IN THE MISHMAR OF THE ONE AS WELL AS OF THE OTHER. This, then, presents an objection against the ruling of Samuel![58] — R. Shemaia replied: [Our Mishnah refers] to a minor who made a declaration of refusal.[59] But is a minor[60] capable of propagation? Surely R. Bebai recited before R. Nahman: Three categories of women may use an absorbent in their marital intercourse:[61] A minor, an expectant mother, and a nursing wife. The minor,[62] because she[63] might become pregnant and, as a result, she might die. An expectant mother,[62] because she[63] might cause her foetus to degenerate into a sandal.[64] A nursing wife,[62] because she[63] might have to wean her child [prematurely][65] and this would result in his death. And what is the age of such a minor?[66] From the age of eleven years and one day until the age of twelve years and one day. One who is under,[67] or over this age[68] must carry on her marital intercourse in the usual manner. This is the opinion of R. Meir. The Sages, however, said: The one as well as the other carries on her marital intercourse in the usual manner. and mercy will be vouchsafed from heaven,[69] for it is said in the Scriptures, The Lord preserveth the simple![70] — [The case of our Mishnah] is possible with a mistaken betrothal,[71] and on the basis of a ruling of Rab Judah in the name of Samuel. For Rab Judah stated in the name of Samuel in the name of R. Ishmael: And she be not seized[72] [only then[73] is she] forbidden;[74] if, however, she was seized[75] she is permitted;[74] there is, however, another kind of woman who is permitted[74] even if she was not seized.[76] And who is she? — A woman whose betrothal was a mistaken one,[77] who may, even if her son sits riding on her shoulder, make a declaration of refusal [against her husband] and go away.[78]

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(1) The son whose father is unknown.

(2) Husband of his mother.

(3) If there were no other surviving brothers. The widow is either his sister-in-law with whom levirate marriage is lawful, or a stranger with whom he may contract an ordinary marriage.

(4) Either a son of the first, or a son of the second husband.

(5) From the widow of the son whose father is unknown, if he died childless.

(6) Since the widow is either his sister-in-law and the levirate marriage with her is lawful, or she is a stranger and permitted to marry him because her brother-in-law had submitted to her halizah.

(7) The son whose father is unknown.

(8) It being possible that he is the son of the priest.

(9) Since it is possible that he is the son of the Israelite, Cf. also supra p. 681, n. 3.

(10) V. supra p. 681, n. 6 mutatis mutandis.

(11) In terumah.

(12) Separated from his own produce.

(13) V. supra p. 681, n. 9, mutatis mutandis.

(14) V. loc. cit. n. 10. This reading is that of MSS. and the separate editions of the Mishnah. Cur. edd., ‘in the holy of holies’.

(15) V. supra p. 681, n. 11.

(16) Cf. Deut. XVIII, 3.

(17) V. supra p. 681, n. 9.

(18) V. loc. cit. n. 13.

(19) V. Glos.

(20) On the day of their death; since either of them might have been his father.

(21) Plur. of onan.

(22) Cf. supra n. 16 mutatis mutandis.

(23) Since, in the case of either of them, it is not certain that he is the son of the person concerned. V. Lev XXI, 2.

(24) The heirs of the one husband may refer him to those of the other while the heirs of the other may refer him back to the first, since in either case he has no proof that the deceased in question was his father.
(25) If he has no other heirs. As there is no one to dispute their claim, and since the claim of the one is of equal validity with that of the other, the inheritance is divided between the two groups of brothers.
(26) From the death penalty.
(27) V. Ex XXI. 15, 17 and cf. supra p. 687, n. 19.
(28) V. Glos.
(29) And the other priests of the mishmar have no right to prevent him.
(30) Each mishmar may send him to the others.
(31) Since one of the two is certainly his father.
(32) Where HE HAD BROTHERS IN THE FIRST AND . . . SECOND, BUT NOT BY THE SAME MOTHER . . . ONE SUBMITS TO HALIZAH AND THE OTHER MAY [THEN] CONTRACT LEVIRATE MARRIAGE.
(33) Should that brother not he the son of the father of the deceased.
(34) Lit., 'for he met a sister-in-law for the market'.
(35) Though, as his mother was feme sole, he is no bastard.
(36) Shethuki is derived from שתק which in Pi'el signifies 'to make silent'.
(37) Though he is undoubtedly a priest, since his father, whoever he may have been, was certainly one of the group of priests.
(38) He is not allowed to take part in the Temple service though eligible to marry a woman of pure stock.
(39) Num. XXV, 13, speaking of the priesthood.
(40) Only such a priest can transmit the rights of priesthood to his seed.
(41) Lit 'and it is not'. Since the father of the shethuki is unknown he cannot transmit the rights of priesthood to him.
(42) Gen. XVII, 7.
(43) By the expression. Thy seed after thee, which is analogous to that of Num. XXV, 23. but, referring to Israelites and not to priests. could not bear the same exposition,
(44) The child of any such woman is ascribed to his mother and not to his father. Cf. Kid. 68b.
(45) Child born from a levirate marriage that took place within three months after the death of the deceased brother, when it is doubtful whether the child is the offspring of the deceased or of the levir.
(46) Supra 37a.
(47) Lit., 'that "his seed" shall be traced "to him"'.
(48) Cf. supra n. 7 end.
(49) To be eligible for the rights of priesthood.
(50) Not actual proof.
(51) For the purpose of re-burial. Whenever such collecting takes place, even many years after death, the son must on that day observe the laws relating to an onan (cf. Pes. 91b). Such mourning, therefore, is possible even after the marriage of his mother with her second husband.
(52) Having died, according to the present assumption, before the birth of the son.
(53) Owing to the possibility that he is the son of the first and, consequently, a legitimate priest who is forbidden to defile himself for the corpses of strangers.
(54) Who married his mother while she was a divorced woman.
(55) V. Glos. The child of a union between a priest and a divorced woman is disqualified for the priesthood and may defile himself for the dead.
(56) Where neither of the men had contracted legal marriage with her. Her son, since she has the status of feme sole, has also the status of a legitimate priest who must observe the laws of priestly sanctity, and must not, therefore, defile himself for either of the men. Death and divorce being excluded as factors in the separation of the woman from the first man, it is also possible that the son should he in the position of onan for them and that they should he onenim for him.
(57) בועלה. The consonants בעלה are the same as those of 'her husband', בעלה.
(58) Who disqualified such a child for the priesthood. Cf. supra p. 688, n. 15.
(59) V. Glos. s.v. mi'un. Such a minor requires no letter of divorce. It is, therefore, possible for her to be separated from her first husband and yet remain permitted to marry a priest. Her son would consequently be subject to the restrictions spoken of in our Mishnah. Cf. supra p. 690. n. 6.
(60) Lit., 'a female who refused'.

(61) To prevent conception.
(62) Is permitted the use of an absorbent.
(63) Were she not to use one.
(64) A flat, fish-shaped abortion. V. n. on סנדל supra 12b.
(65) Owing to her second conception.
(66) Who, though capable of conception, is exposed to the danger of death.
(67) When no conception is possible.
(68) When no fatal consequences are involved in conception or birth.
(69) Divine mercy will safeguard her from danger.
(70) Ps. CXVI, 6, those who are incapable of preserving themselves. Tosef. Nid. II. supra 12b q. v. notes. Now, since a minor may not make a declaration of refusal unless she is under the age of twelve years and one day, and since a minor under that age either dies if she conceives, or does not conceive at all if she is younger, how could our Mishnah speak of a minor who made a declaration of refusal and who also had a child?
(71) When a condition which remained unfulfilled was attached to it. In such a case, the woman may leave her husband without a letter of divorce and is, consequently, permitted to marry a priest. Her son who is, therefore, a legitimate priest may well be subject to the restrictions enumerated in our Mishnah. Cf. supra p. 690. n. 6.
(72) Num. V. 13. (E.V., Neither she be taken in the act), referring to a woman who was defiled secretly and there were no witnesses against her.
(73) Only if she was not seized, i.e., she did not act under compulsion but willingly. Cf. supra 56b.
(74) To her husband.
(75) Violated.
(76) Cf. supra n. 2.
(77) Cf. supra p. 691, n. 14.
(78) In any subsequent intercourse, whether lawful or illicit, her status is that of feme sole who had never before been married; v. Keth. Sonc. ed. p. 298, notes.

Talmud - Mas. Yevamoth 101a

IF THE TWO [HUSBANDS] WERE PRIESTS etc. Our Rabbis taught: If he[1] struck one[2] and then struck the other, or if he cursed one[2] and then cursed the other, or cursed them both simultaneously or struck them both simultaneously, he is guilty.[3] R. Judah. however, said: If[4] simultaneously, he is guilty;[5] if[4] successively he is exonerated.[6] But, surely, it was taught: R. Judah stated that he[7] is exonerated [even if his offences were] simultaneous! — Two Tannaim differ as to what was the opinion of R. Judah.

What is the reason of him who exonerated?[8] R. Hanina replied: 'Blessing'[9] is spoken of in Scripture [in respect of parents] on earth[10] and blessing[9] is spoken of [in respect of God] above.[11] As there is no association above so must there be no association below;[12] and striking has been compared to cursing.[13]

HE MAY GO UP [TO SERVE] IN THE MISHMAR etc. Since, however, HE DOES NOT RECEIVE A SHARE why should he go up? — [You ask] 'Why should he go up'; surely. he might say: I wish to perform a commandment![14] — But [this is the difficulty]: It does not say. '[If] he went up'[15] but HE GOES up, implying even against his will![16] — R. Aha b. Hanina in the name of Abaye in the name of R. Assi in the name of R. Johanan replied: In order [to avert any possible] reflection on his family.[17]

IF, HOWEVER, BOTH SERVED IN THE SAME MISHMAR etc. In what respect do two mishmaroth[18] differ [from one] that [in the former case] he should not [receive a share]? [Is it] because when he comes to the one mishmar he is driven away and when he comes to the other mishmar he is again driven away?[19] Then, even in the case of one mishmar also, when he comes to one beth ab[20] he is driven away and[21] when he comes to the other beth ab he is also driven away! —

R. Papa replied: It is this that was meant: IF, HOWEVER, BOTH SERVED IN THE SAME Mlshmar and in the same beth ab, HE RECEIVES A SINGLE PORTION.

C H A P T E R X I I

MISHNAH. THE COMMANDMENT OF HALIZAH MUST BE PERFORMED IN THE PRESENCE OF THREE JUDGES, EVEN THOUGH ALL THE THREE ARE LAYMEN.[22] IF THE WOMAN PERFORMED THE HALIZAH WITH A SHOE,[23] HER HALIZAH IS VALID,[24] [BUT IF] WITH A SOCK[25] IT IS INVALID; IF WITH A SANDAL[26] TO WHICH A HEEL IS ATTACHED IT IS VALID, BUT [IF WITH ONE] THAT HAS NO HEEL IT IS INVALID. [IF THE SHOE WAS WORN][27] BELOW THE KNEE[28] THE HALIZAH IS VALID, BUT IF ABOVE THE KNEE[28] IT IS INVALID. IF THE WOMAN PERFORMED THE HALIZAH WITH A SANDAL[26] THAT DID NOT BELONG TO HIM,[29] OR WITH A WOODEN SANDAL, OR WITH THE ONE OF THE LEFT FOOT [WHICH HE[29] WAS WEARING] ON HIS RIGHT FOOT, THE HALIZAH IS VALID.

IF SHE PERFORMED THE HALIZAH WITH A SANDAL TOO LARGE [FOR HIM],[29] IN WHICH, HOWEVER, HE IS ABLE TO WALK, OR WITH ONE TOO SMALL WHICH, HOWEVER, COVERS THE GREATER PART OF HIS FOOT, HER HALIZAH IS VALID.

GEMARA. Since even THREE LAYMEN [are sufficient],[30] what need is there for JUDGES? — It is this that we were taught: That three men are required, who are capable of dictating [the prescribed texts][31] like judges.[32] Thus we have learned here what the Rabbis taught: The commandment of halizah is performed in the presence of three men who are able to dictate [the prescribed texts][31] like judges.[32] R. Judah said: In the presence of five.[33]

What is the first Tanna's reason? — Because it was taught: Elders[34] [implies] two; but as no court may be evenly balanced,[35] one man more is added to them; behold here three. And R. Judah?[36] — The elders of[37] [implies] two; and elders[38] [implies another] two; but since no court may be evenly balanced,[35] one man more is added to them; behold here five.

As to the first Tanna, what deduction does he make [from the expression] the elders of?[37] — He requires it for the purpose of including[39] even three laymen. Whence, then, does R. Judah deduce the eligibility of laymen?[39] — He deduces it from Before the eyes of;[40] a Master having said: 'Before the eyes of', excludes blind men. Now, since the expression 'Before the eyes of' is required to exclude blind men it follows that even laymen [are eligible]. For should it be suggested [that only members of] the Sanhedrin[41] are required. what need was there to exclude blind men, [an exclusion which could have been] deduced from that which R. Joseph learnt! For R. Joseph learnt: As the Beth din[42] must be clean[43] in respect of righteousness so must they be clear from all physical defects,[44]

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(1) The son concerning whom it is unknown, as in our Mishnah, which of his mother's two husbands was his father.

(2) Lit., 'this', one of his mother's two husbands.

(3) Since one of the two is certainly his father. As to the necessary caution v. infra nn. 12 and 13.

(4) He struck or cursed.

(5) The specific caution that must precede any forbidden act that is punishable by a court is here effected when the witnesses cautioned the offender by one statement against the striking or the cursing of the two, e.g., 'do not strike them'.

(6) Though he may have been duly cautioned in each particular case, no penalty can be imposed upon him by any court, since each caution was of a doubtful character, it being unknown in each case whether the particular man he was about to strike or curse was his father or not. A caution of a doubtful character is, in the opinion of R. Judah, of no validity. while in the opinion of the first Tanna it is valid.

(7) V. supra note 8.

(8) If the offender struck or cursed simultaneously. One of the victims must surely have been his father!
(9) Euph. for 'cursing'.
(10) Lit., 'below'. V. Ex. XXI. 17.
(11) V. Lev. XXIV, 15.
(12) Only when the curse referred to a single individual is the offender subject to punishment.
(13) Since both acts, in the case of parents. appear in Ex. XXI, in close proximity. vv. 15 (striking) and 17 (cursing). Such proximity, according to the opinion here expressed, serves the purpose of an analogy. According to another opinion, the analogy is disturbed by the intervening v. 16. Cf. Sanh. 85a.
(14) To take part in the Temple service, even though he derives no material benefit from it.
(15) The past tense, implying contingency.
(16) Why should he be compelled?
(17) Should he abstain from the Temple service, rumour might attribute his abstention to some serious disqualification which would bring discredit upon all his family. Its members, therefore, may compel him to join in the service.
(18) Plur. of mishmar.
(19) Each mishmar asserting that he does not belong to them.
(20) V. Glos. A mishmar consisted of six families each of which was described as beth ab, performing service on a different day in the week.
(21) Cf. MS.M. and Bah. Cur. edd. omit to the end of the sentence.
(22) Not professional judges.
(23) Made of soft leather and covering the upper part of the foot (cf. Rashi and Jast.) opp. to sandal (v. infra n. 3).
(24) Though the shoe required for halizah purposes should properly be a sandal made of hard leather and consisting of a sole with straps attached for fastening it to the foot.
(25) אנפיחיא Cf. infilia, shoes or socks made of felt.
(26) סנדה.
(27) Cf. Rashi. According to others the law refers not to the shoe itself but to the sandal straps.
(28) Where, for instance, the levir (according to Rashi) had his foot amputated. According to the other interpretation 'below', and 'above' the knee refers to the position of the straps on the leg.
(29) The levir.
(30) To constitute a tribunal for halizah.
(31) Deut. XXV, 7-9.
(32) The appropriate texts in the original Hebrew are dictated by members of the court to the levir and his sister-in-law, respectively, who must repeat them precisely as they hear them. Cf. Sot. 32a.
(33) Tosef. Yeb. XII. Our Mishnah is in agreement with the first Tanna of this Baraitha.
(34) Deut. XXV, 7.
(35) An even number of judges might, when a difference of opinion arose, be equally divided and this would make a decision by majority impossible.
(36) Why does he require five?
(37) Deut. XXV, 8.
(38) Ibid. 9.
(39) As eligible members of the tribunal.
(40) Deut. XXV, 9 (E.V., In the presence of).
(41) I.e., professional judges.
(42) בית דין, lit, 'house of law' 'court', applied also to the members of the Sanhedrin or of any court engaged in legal decisions or in the administration of the law.
(43) In their character, free from all possible suspicion.
(44) Heb, mum, 'blemish'.

Talmud - Mas. Yevamoth 101b

for it is said in Scripture, Thou art all fair, my love; and there is no spot in thee.[1]

As to the former,[2] however, what deduction does he make from the expression. 'Before the eyes

of'? — That expression serves the purpose of a deduction like that of Raba, Raba having stated: The judges must see the spittle issuing from the mouth of the sister-in-law, because it is written in Scripture, Before the eyes of the elders . . . and spit.[3] But does not the other[4] also require the text[5] for a deduction like that of Raba! — This is so indeed. Whence, then,[6] does he deduce [the eligibility of] laymen?[7] — He deduces it from in Israel[8] [implying] any Israelite whatsoever. As to the former,[9] however, what deduction does he make from 'In Israel'?[10] — He requires it for a deduction like that which R. Samuel b. Judah taught: 'In Israel' [implies that halizah must be performed] at a Beth din of Israelites but not at a Beth din of proselytes.[11] And the other?[4] — 'In Israel' is written a second time.[12] And the former?[9] — He requires it[13] for another deduction in accordance with what was taught: R. Judah stated, 'We were once sitting before R. Tarfon when a sister-in-law came to perform halizah, and he said to us, "Exclaim all of you: The man that had his shoe drawn off"'.[14] And the other? — This is deduced from And [his name] shall be called.[14] If this is so'[15] And they shall call[16] [implies] two;[17] And they shall speak[16] [also implies] two,[17] [so that] here also [one might deduce]: According to R. Judah,[18] behold there are here nine; and according to the Rabbis,[19] behold there are here seven! — That text[16] is required for a deduction in accordance with what was taught: And they[20] shall call him[16] but not their representative; And they shall speak unto him[16] teaches that they give him suitable advice. If he,[21] for instance, was young and she[22] old, or if he was old and she was young, he is told, 'What would you with[23] a young woman?' Or 'What would you[23] with an old woman? Go to one who [is of the same age] as yourself, and introduce no quarrels into your home'.[24]

Raba stated in the name of R. Nahman: The halachah is that halizah is to be performed in the presence of three men, since the Tanna[25] has taught us so[26] anonymously.[27] Said Raba to R. Nahman: If so [the same ruling should apply to] mi'un[28] also, for we learned:[29] Mi'un and halizah [must be witnessed] by three men![30] And should you reply [that the halachah] is so indeed, surely [It may be retorted] it was taught: Mi'un,[31] Beth Shammai ruled, [must be declared before] a Beth din of experts;[32] and Beth Hillel ruled: [It may be performed] either before a Beth din or not before a Beth din. Both, however, agree that a quorum of three is required. R. Jose son of R. Judah and R. Eleazar son of R. Jose[33] ruled: [The mi'un is] valid [even if it was declared] before two.[34] And R. Joseph b. Manyumi reported in the name of R Nahman[34] that the halachah is in agreement with this pair![35] — There,[36] only one anonymous [teaching] is available while here[37] two anonymous [teachings][38] are available.

There[36] also two anonymous [teachings] are available! For we learned: If, however, a woman made a declaration of refusal[39] or performed halizah in his presence, he[40] may marry her,[41] since he [was but one of the] Beth din![42] — But, [the fact is that while] there,[43] only two anonymous [teachings] are available; here,[44] three anonymous [teachings] are available.[45]

Consider! The one[43] is an anonymous [teaching], and the other[44] is an anonymous [teaching]; what difference does it make to me whether the anonymous [teachings] are one, two or three? — Rather, said R. Nahman b. Isaac, [the reason[46] is] because the anonymity[47] occurs in a passage recording a dispute.[48] For we learned: 'The laying on of hands by the elders,[49] and the breaking of the heifer's neck[50] is performed by three elders; so R. Jose,[51] while R. Judah stated: By five elders. Halizah and declarations of mi'un, [however, are witnessed] by three men';[52] and since R. Judah does not express disagreement,[53] it may be inferred that R. Judah changed his opinion.[54] This proves it.

Raba stated: The judges must appoint a place;[55] for it is written, Then his brother's wife shall go up to the gate[56] unto the elders.[57]

R. Papa and R. Huna son of R. Joshua arranged a halizah'[48] in the presence of five. In accordance with whose view?[58] Was it in accordance with that of R. Judah? He, surely, had changed his

opinion![59] [Their object[60] was] to give the matter due publicity.[61]

R. Ashi once happened to be at R. Kahana's, when the latter said to him, 'The Master has come up to us [at an opportune moment] to complete a quorum of five'.[62]

R. Kahana stated: I was once standing in the presence of Rab Judah, when he said to me, 'Come, get on to this bundle of reeds[63] that you may be included in a quorum of five'.[62] On being asked, 'What need is there for five?' he replied, 'In order that the matter be given due publicity'.[61]

R. Samuel b. Judah once stood before Rab Judah when the latter said to him, 'Come, get on to this bundle of reeds[63] to be included in a quorum of five,[62] in order that the matter be thereby given due publicity'.[61] 'We learned', the first remarked, 'In Israel [implies that halizah must be performed] at a Beth din of Israelites but not at a Beth din of proselytes[64] while I am, in fact, a proselyte'. 'On the word[65] [of a man] like R. Samuel b. Judah', Rab Judah said, 'I would withdraw money [from its possessor]'.[66] [You say] 'Withdraw'! Could this be imagined? Surely the All Merciful said, At the mouth of two witnesses![67] — Rather [it is this that he meant]. 'I would on his word[65] impair the validity of a note of indebtedness.[68]

Raba stated:

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(1) Cant. IV, 7.
(2) The first Tanna.
(3) Deut. XXV, 9. Cf. infra 106b.
(4) R. Judah.
(5) Deut. XXV, 9, (E.V., In the presence of).
(6) Since the text of Deut. XXV, 9 is required for Rab's deduction.
(7) As eligible members of the tribunal.
(8) Deut. XXV, 7 (Rash). or ibid. 10 (Golds.).
(9) The first Tanna.
(10) Cf. Bah and supra n. 7.
(11) Cf. Kid. 14a.
(12) Cf. supra n. 7.
(13) The second expression, In Israel.
(14) V. Deut. XXV, 10.
(15) Since deduction has been made from the expression of elders etc.
(16) Deut. XXV, 9.
(17) The plural representing no less than two.
(18) Who deduced from the other texts the number of five judges.
(19) Limiting the number of judges, as deduced supra, to three.
(20) Emphasis on they.
(21) The levir.
(22) The sister-in-law.
(23) Lit., 'what to thee at'.
(24) Supra 44a.
(25) Of our Mishnah.
(26) Lit., 'like him', sc. like the first Tanna of the Baraitha cited, supra 101a.
(27) The halachah is, as a rule, in agreement with the anonymous statements in a Mishnah.
(28) A declaration of refusal to live with her husband made by a minor. V. Glos.
(29) Anonymously.
(30) Sanh. 2a. Cf. infra 107b.
(31) V. supra note 6.
(32) Mumhin, plur. of mumhe. v. Glos.

(33) Or ‘Simeon’ (cf. marg. note in cur. edd. and infra 107b).
(34) Sanh. 2a. Cf. infra 107b.
(35) Who require a quorum of two only, contrary to the anonymous teachings supra which require a quorum of three!
(36) Concerning mi'un.
(37) On halizah.
(38) One here (our Mishnah) and the other in Sanh. 2a.
(39) Mi'un, v. Glos.
(40) A Sage who, if he had previously pronounced the woman forbidden to her husband owing to a vow she had made, would not have been allowed to marry her in order to avoid any suspicion that his motive in forbidding her to her husband was his intention to marry her himself.
(41) In these circumstances.
(42) Bek. 31a, supra 25b. Mi'un and halizah, unlike disallowance and confirmation of vows, must be witnessed by a court, or quorum of three, and three persons would not be suspected of ulterior motives even though one of them subsequently married the woman concerned. This Mishnah, then, adds a second anonymous statement to the one previously mentioned, both requiring a quorum of three for mi'un.
(43) Concerning mi'un.
(44) On halizah.
(45) The Mishnah cited last, which adds one anonymous teaching to the single one of mi'un, also adds one to the two anonymous teachings concerning halizah.
(46) Why the halachah is in agreement with the anonymous teaching in respect of halizah and not with that in respect of mi'un.
(47) In respect of halizah.
(48) In which R. Judah participated.
(49) On the head of a sin-offering of the congregation. V. Lev. IV, 15.
(50) V. Deut. XXI, 4.
(51) ‘Simeon’, according to a marg. note and Sanh. 2a.
(52) Sanh. loc. cit.
(53) With the ruling that a quorum of three only is required for halizah, though in a previous discussion (supra 102a) he maintained that a quorum of five was required.
(54) And agreed with the anonymous teaching. Hence R. Nahman's ruling that as regards the quorum for halizah the halachah agrees with the anonymous teaching. In respect of mi'un, however, the anonymous teaching has not been mentioned in connection with a dispute in which R. Jose and R. Eleazar participated. Hence it must be assumed that they adhered to their first opinions contrary to the anonymous teaching, which consequently does not represent the halachah.
(55) For the performance of the rite of halizah.
(56) I.e., a specified place.
(57) Deut. XXV, 7. (16) Lit., performed an act’.
(58) Did they insist on a quorum of five.
(59) Agreeing that only three are required for a halizah quorum.
(60) In adding to the prescribed quorum.
(61) That it should be widely known that the woman was a haluzah and so no priest would marry her; while prospective husbands, on hearing that she had been freed by halizah from her levirate bond, might begin to woo her (cf. Rashi). The question of R. Judah's first opinion did not at all enter into consideration.
(62) At a halizah ceremonial.
(63) The spot appointed for the performance of the halizah (cf. Raba's ruling supra).
(64) V. supra p. 696.
(65) Lit., ‘mouth’.
(66) Though in such lawsuits the evidence of two witnesses is required.
(67) Deut. XIX, 15. The evidence of one witness is not sufficient. Cf. supra note 9. The numeral ‘two’ which in cur. edd. and some MSS. is given in the absolute form, שנים, appears in M.T. in the construct, שני Cf. ibid. XVII, 6, which, however, refers to evidence in capital cases.
(68) Should he declare that the note was already redeemed the debtor would not be ordered to pay the debt, though the creditor also could not be compelled to destroy the note (cf. Rashi, Keth. 85a). According to some of the Tosafists the

debt may not be collected unless the creditor takes the prescribed oath, as is the case wherever one witness declares a debt recorded on a note of indebtedness to have been paid, v. Keth. 8a. R. Samuel's superiority over the ordinary witness is limited to the following only: While the latter, if a relative, is not believed, to enforce an oath on the creditor, R. Samuel would always be believed (v. Tosaf. s.v. מרעא).

Talmud - Mas. Yevamoth 102a

A proselyte may, according to Pentateuchal law, sit in judgment[1] on a fellow proselyte, for it is said in the Scriptures, Thou shalt in any wise set him king over thee, whom the Lord thy God shall choose; one from among thy brethren shalt thou set king over thee;[2] only when set over thee[2] is he required to be one from among thy brethren;[2] when, however, he is to judge his fellow proselyte he may himself be a proselyte.[3] If his[4] mother was an Israelitish woman he may sit in judgment even on an Israelite.[5] In respect of halizah, however, [no man is eligible as judge] unless both his father and his mother were Israelites for it is said, And his name shall be called in Israel.[6]

Rabbah stated in the name of R. Kahana in the name of Rab: If Elijah should come and declare that halizah may be performed with a foot-covering shoe,[7] he would be obeyed; [were he, however, to declare that] halizah may not be performed with a sandal,[8] he would not be obeyed, for the people have long ago adopted the practice [of performing it] with a sandal.

R. Joseph, however, reported in the name of R. Kahana in the name of Rab: If Elijah should come and declare that halizah may not be performed with a foot-covering shoe,[7] he would be obeyed; [were he, however, to declare that] halizah may not be performed with a sandal,[8] he would not be obeyed, for the people have long ago adopted the practice [of performing it] with a sandal.

What is the practical difference between them?[9] — The practical difference between them is [the propriety of using] a foot-covering shoe ab initio.[10]

According to him, however, who stated [that it was proper to use[11] it] even ab initio, surely, [it may be objected] we learned: IF A WOMAN PERFORMED THE HALIZAH WITH A FOOT-COVERING SHOE, HER HALIZAH IS VALID [which[12] implies validity only] after the action had been performed but not ab initio. — The same law[13] is applicable even [where the shoe was used] ab initio. As, however, it was desired to state in the final clause: BUT IF WITH A SOCK IT IS INVALID, [a law] which applies even after the action had been performed, a similar expression[14] was also used in the first clause.

[On the question of] using a foot-covering shoe[15] ab initio Tannaim differ. For it was taught: R. Jose[16] related, 'I once went to Nesibis where I met an old man whom I asked, "Are you perchance acquainted with R. Judah b. Bathyra?" and he replied, "Yes; and he in fact always sits at my table". "Have you ever seen him arranging a halizah ceremony for a sister-in-law?" [I asked]. "I saw him arranging halizah ceremonies many a time", he replied. "With a foot-covering shoe [I asked] or with a sandal?" — "May halizah be performed", he asked me' "with a foot-covering shoe?" I[17] replied: Were that [not] so, what could have caused[18] R. Meir to state that halizah if performed with a foot-covering shoe is valid, while R. Jacob reported in his[19] name that it was quite proper to perform [even] halizah ab initio with a foot-covering shoe!'

With reference to him who ruled that it was not proper ab initio [to perform halizah with a foot-covering shoe] what could be the reason? If it be suggested: Because [the loosing of] the upper[20] [may be described as] from off[21] and [the loosing of the] thong[22] as 'from off of the from off', [a performance which is not in accordance with] the Torah which said, from off[21] but not 'from off of the from off'; [it could well be retorted that] if such were the reason [the halizah should be invalid] even when actually performed. — This[23] is a preventive measure against the possible use of

a flabby[24] shoe or even half a shoe.[25]

Said Rab: Had I not seen my uncle[26] arranging a halizah with a sandal that had laces I would have allowed a halizah only with an Arabian sandal which can be more firmly fastened. And in respect of our [kind of sandal] though it has a knot,[27] a strap also should be tied to it,[28] so that the halizah may be properly performed.[29]

(Mnemonic: You permitted a sister-in-law a sandal.)[30] Rab Judah reported in the name of Rab: The permissibility of a sister-in-law to marry a stranger takes effect as soon as the greater part of the heel[31] is released.[32]

An objection was raised: If the straps of a foot-covering shoe or of a sandal were untied[33] or if [the levir] slipped [it off from] the greater part of his foot,[34] the halizah is invalid.[35] The reason then[36] is because it was he that slipped it off; had she, however, slipped it off, her halizah would have been valid; [and, furthermore this applies to] the greater part of the foot only[37] but not to the greater part of the heel![38] — The 'greater part of the foot' has the same meaning as 'the greater part of the heel'; [and the reason] why he calls it 'the greater part of the foot' [is] because all the weight of the foot rests on it.

This[39] provides support for R. Jannai. For R. Jannai stated: Whether [the levir] untied [the straps] and she slipped off [the sandal] or whether she untied the straps and he slipped off the sandal, her halizah remains invalid, unless she unties the straps and she slips off the sandal.

R. Jannai enquired: What is the law if she tore it?[40] What if she burnt it?[40] Is the exposure of the foot necessary,[41] and this has here been effected,[42] or is 'taking off' necessary, which has not taken place here?[43] — This remains undecided.[44]

R. Nehemiah enquired of Rabbah: What is the law in the case of two shoes one above the other? — How is this enquiry to be understood? If it be suggested: That she[45] drew off the upper one and the lower one remained, surely, the All Merciful said: From off[46] but not 'from off of the from off'! — Such enquiry is necessary only where she tore the upper one and removed the lower one while the upper one remained [on the levir's foot], the question being whether[47] the requirement is the 'taking off' which has been done[42] , or whether the exposure of the foot is necessary which was not effected here?[48]

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(1) Even in capital cases. In civil matters a proselyte judge has equal rights with an Israelite.

(2) Deut. XVII, 15. The term 'king' is taken to embrace that of judge'. Cf. Prov. XXIX. 4.

(3) Lit., 'but a proselyte judges his fellow a proselyte'.

(4) The proselyte's.

(5) Cf. supra n. 1 .

(6) Deut. XXV, 10, emphasis on the last word.

(7) V. supra p. 694, n. 2.

(8) V. supra p. 694. no. 3 and 5.

(9) Rabbah and R. Joseph. According to either of their reports the practice of using a sandal is not to be altered.

(10) According to Rabbah it is improper to use a foot-covering shoe. Its use would be permitted only if Elijah came and declared it to be permissible. According to R. Joseph, however, its use is and remains permitted unless Elijah should come and declare it to be inadmissible.

(11) A foot-covering shoe.

(12) Since the Perfect in a conditional clause was used.

(13) That the halizah is valid.

(14) Lit., 'which has been done'.

(15) For halizah.

(16) Or ‘Simeon’. V. Tosef. Yeb. XII.
(17) Cut. edd. insert in parenthesis: ‘And the Torah said his shoe נעלו but not his foot-covering shoe מנעל [This is deleted by Rashi since the term מנעה is post-Biblical, occurring nowhere in the Bible in the sense of shoe. v. Rashi].
(18) Lit., ‘he saw’.
(19) R. Meir's.
(20) Of the shoe.
(21) Cf. Deut. XXV, 9. And loose his shoe from off his foot.
(22) Which binds the upper to the foot and rests above it.
(23) The impropriety of using a foot-covering shoe ab initio.
(24) Cf. Jast.; or ‘burst’ (cf. Rashi).
(25) Such are not permitted at all for halizah purposes. Were any foot-covering shoe permitted for use in halizah one might erroneously use such a shoe even when it was burst or when it was flabby or even when half of it was torn away. Hence its entire prohibition. No such measure was necessary in the case of the sandal which, when burst or broken in halves cannot be worn at all.
(26) R. Hiyya.
(27) Which prevents the sandal from falling off the foot.
(28) Round the sandal and the foot, prior to the halizah.
(29) By untying the strap first and then releasing the foot from the shoe, the woman carries out completely the prescribed requirements of the halizah. The rt. חליץ may signify both (a) loosing or untying sc. of the shoe strap, and (b) releasing sc. of the foot from the shoe.
(30) A prominent verb and two prominent nouns in the following three rulings reported by Rab Judah in the name of Rab.
(31) Of the levir.
(32) From the sandal.
(33) By the levir or by themselves, but not by the woman.
(34) And the woman completed the removal.
(35) Tosef. Yeb. XII.
(36) Why the halizah is invalid.
(37) Lit., ‘yes’.
(38) How then could Rab state that permissibility to marry a stranger comes into effect as soon as the greater part of the heel had been released.
(39) The Baraitha cited.
(40) The sandal while on the levir's foot.
(41) For a valid halizah.
(42) Lit., ‘there is’.
(43) Lit., ‘and there is not’. Since she did not take off the sandal.
(44) Teku, v. Glos.
(45) The sister-in-law.
(46) V. supra p. 702, n. 2.
(47) Lit., ‘what’.
(48) Where the upper sandal still remains on the levir's foot.

Talmud - Mas. Yevamoth 102b

Does this, however, ever happen? — Yes; for the Rabbis once saw Rab Judah going out into the street in five pairs of felt socks.

Rab Judah reported in the name of Rab: A sister-in-law who was brought up together with the brothers[1] is permitted to marry any one of the brothers and there is no need to consider the possibility that she[2] might have taken off the sandal [from the foot] of one of them.[3] The reason, then[4] is because we did not actually observe it,[5] had we, however, observed it[5] the possibility [that her halizah was valid] would have had to be taken into consideration.[6] But, surely, it was taught:

Whether he[7] had the intention[8] [of performing the commandment of halizah] and she had no such intention, or whether she had such intention and he did not, halizah is invalid, it being necessary[9] that both shall at the same time have such intention![10] It is this that was meant : Although we observed it[5] there is no need to consider the possibility that they might have intended [to give their action the character of a valid halizah].

Others read: The reason[4] is because we did not see it,[5] had we, however, seen it, the possibility [of a valid halizah] would have had to be considered,[6] the statement that[11] intention[12] is necessary[13] applying only to the permissibility [of the woman] to strangers,[14] but to the brothers she does become forbidden.[15]

Rab Judah stated in the name of Rab: No halizah may be performed with a sandal that was sewn with flax,[16] for it is said in Scripture, And I shod thee with tahash.[17] Might it be suggested that [the skill of] a tahash[18] is admissible[19] but not any other material? — The mention of 'shoe' twice[20] indicates the inclusion [of all kinds of leather]. If the repeated mention of 'shoe' indicates the inclusion [of all kinds of leather] all other materials should also be included! — If that were so,[21] for what purpose was the term tahash used?

R. Eleazar enquired of Rab: [What is the law where] the sandal was made of leather and its straps of [animal] hair? — The other replied: Could we not apply to it, And I shod thee with tahash![22] If so, a shoe all made of hair[23] should also be admissible! — Such is called a slipper.[24]

Said R. Kahana to Samuel: Whence is it derived that the verb in[25] we-halezah[26] his shoe from off his foot[27] signifies taking off? — Because it is written, That they shall take out[28] the stones in which the plague is.[29] But I might suggest that the meaning[30] is that of arming;[31] for it is written in Scripture, Arm[32] ye men from among you for the war![33] — There also,[33] [the underlying meaning is] the slipping out from the house to go to war. But, surely, it is also written in Scripture, He girds[34] the afflicted in his affliction![35] — [The meaning is that] as a reward for his affliction He will deliver[36] him from the judgment of Gehenna. What, however, is the explanation of the Scriptural text,[37] The angel of the Lord encampeth round about them that fear him, and He girds them?[38] — [The meaning is that] as a reward for those who fear him He will deliver them from the judgment of Gehenna.

What explanation is there, however, for the Scriptural text,[39] And He will make strong[40] thy bones,[41] of which R. Eleazar said that this was the best of the blessings,[42] and Raba explained that the meaning[43] was the strengthening of the bones![44] — Yes, it may bear the one meaning and it may also bear the other; but were the meaning here[45] intended to be that of 'tying on',[46] the All Merciful should have written: 'We-halezah his shoe upon his foot'.[47] But [it might be still objected], had the All Merciful written, 'upon his foot' it might have been suggested: Only upon his foot, but not upon his leg;[48] hence the All Merciful wrote From off[49] his foot, [to indicate] that [halizah may be performed] even on the [levir's] leg! — If so, the All Merciful should have written: 'Upon [what is] above his foot'. Why [then did He use the expression] From off his foot? Consequently it must be inferred that the meaning[50] is 'to take off'.

A certain Min[51] once said to R. Gamaliel:[52] You are a people with whom its God has performed halizah,[53] for it is said in Scripture, with their flocks and with their herds they shall go to seek the Lord, but they shall not find him; He hath drawn off[54] [the shoe] from them.[55] The other replied: Fool, is it written: 'He hath drawn off [the shoe] for them'? It is written, 'He hath drawn off [the shoe] from them'; now in the case of a sister-in-law from whom the brother drew off [the shoe] could there be any validity in the act?[56]

BUT IF WITH A SOCK IT IS INVALID etc. This then teaches that a sock is not regarded as a shoe; and so it was also taught: The man who removes [the monies] from the Temple treasury[57] must

not enter with a bordered tunic or with a sock,[58] and there is no need to state [that he must not enter] with a shoe or with a sandal, since no one[59] may enter the Temple court with a shoe or a sandal;[60] but elsewhere the contrary was taught: One must not walk[61] with a shoe, a sandal or a sock either from one house to another or even from one bed to another bed![62] — Abaye replied: [This refers to a sock] which is furnished with pads, [the prohibition] being due to the pleasure [its wearing affords].[63] Said Raba to him: Is [all footwear] forbidden on the Day of Atonement because of the pleasure it affords, even though it cannot be regarded as a shoe? Surely, Rabbah son of R. Huna used to wrap a scarf round his foot and so went out![61] — But [in fact], said Raba,[64] there is no difficulty: The one Baraitha[65] refers to a leather sock; the other[66] to a felt sock. This explanation is indeed reasonable. For were you not to say so, a contradiction [would arise between one statement dealing with] the Day of Atonement and [another statement which also deals with] the Day of Atonement. For it was taught: No man may walk about in slippers in his house,[61] but he may walk about in his house in socks.[67] Consequently[68] it must be inferred that one statement refers to a leather sock and the other to a felt sock. This proves It.

It was taught in agreement with Raba:[69] [If a sister-in-law] performed halizah with a torn shoe which covered the greater part of the [levir's] foot, with a broken sandal which contained the greater part of his foot, with a sandal of cork[70] or of bast, with an artificial foot,[71] with a felt sock, with a support of the feet,[72] or with a leather sock, and also where she performed halizah with an adult

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(1) Of her deceased husband.

(2) In the course of the years they were together.

(3) As a friendly service. It is now assumed that had such an act been performed the removal of the sandal would have been regarded as a valid halizah which would cause the sister-in-law to become forbidden to marry the brothers.

(4) Why halizah is not apprehended.

(5) That she drew off the sandal from the foot of any brother.

(6) And the sister-in-law would be forbidden to marry any of the brothers.

(7) The levir.

(8) Where halizah was performed.

(9) Lit., ‘until’.

(10) Tosef. Yeb. XII, infra 106a. Why then should the removal of a sandal as a mere friendly act ever be regarded as a valid halizah?

(11) Lit ‘and what he taught’.

(12) To perform the commandment of halizah.

(13) On the part of the levir and the sister-in-law.

(14) Lit., ‘to the world’. Only for this purpose is intention a sine qua non.

(15) Even where there was no intention but mere action.

(16) I.e., provided with a flax lining or, according to another interpretation, stitched with a flaxen thread (cf. Rashi).

(17) Ezek. XVI, 10, E.V. sealskin. The tahash, the skin of which was used for one of the coverings of the roof of the Tabernacle made by Moses in the wilderness, formed a class of its own, and the Sages could not determine whether it belonged to the class of wild or of domestic animals (cf. Shab. 28b). The mention in the context of shoeing of tahash, the use of the skin of which only was recorded in the Scriptures, is taken to imply that the shoe spoken of in the Scriptures was invariably made of a material similar to that of the skin of tahash, viz., leather. Hence the inadmissibility in halizah of any shoe that was not wholly made of leather.

(18) Since this animal only was mentioned.

(19) Lit., ‘yes’.

(20) Lit., ‘shoe’ (bis). V. Deut. XXV, 9 and 10.

(21) That all materials are admissible.

(22) Ezek. XVI, 10.

(23) The tahash also had hair on its skin,.

(24) And is not included in the term of ‘shoe’.

(25) Lit., ‘that that’.

(26) חלצה (rt, חלץ), E.V. and loose.
(27) Deut. XXV, 9.
(28) וחלצו (rt. חלץ), v. supra n. 9.
(29) Lev. XIV, 40.
(30) Of והחצה in Deut. XXV, 9.
(31) I.e., the tying on and not the taking off of the shoe.
(32) החלצו (rt. חלץ) v. supra note 9.
(33) Num. XXXI, 3.
(34) יחלץ, (rt חלץ). V. supra note 9.
(35) Job XXXVI, 15, which shews that the rt. חלץ also signifies 'putting on', 'tying on'.
(36) יחלצו cf. E.V. He delivereth the afflicted by His affliction.
(37) Lit., 'but that which it is written'.
(38) Ps. XXXIV, 8. ויחלצם (rt חלץ), v. supra p. 705, nn. 9 and 18.
(39) Lit., 'but that which it is written'.
(40) יחליץ(rt. חלץ).
(41) Isa. LVIII, 11.
(42) That were enumerated in the context. Cf. ibid. 8-14.
(43) Of יחליץ.
(44) Which shews that the rt. חלץ signifies also 'strengthening', 'equipping', 'arming', and thus also 'tying on'.
(45) Deut. XXV, 9.
(46) Lit., 'strengthening', 'arming'.
(47) Instead of 'from off'.
(48) And in case his foot was amputated, no halizah would be possible.
(49) מעל lit., 'from above', i.e., even from that part which is above his foot.
(50) Of וחלצה in Deut. XXV, 9.
(51) V. Glos.
(52) [Probably R. Gamaliel of Jabneh, after the destruction of the Temple in 70 C.E. V. Herford, Christianity in the Talmud p. 355].
(53) I.e., severed his connection with them.
(54) חלץ.
(55) E.V. 'He hath withdrawn Himself from them'. Hos. V, 6.
(56) Certainly not. It is the sister-in-law that performs the halizah while the brother-in-law only submits to it. God, in the image of the text quoted, standing towards Israel in the relationship of a Ievir to his sister-in-law, cannot perform the halizah, and his action is, so to speak, invalid, the bond between him and His people remaining in force.
(57) Cur. edd. 'we learned'. Cf. marg. note a.l. and Shek. III, 2.
(58) In order that he may be free from the suspicion that he concealed some money in his socks or in the border of his tunic.
(59) Even when suspicion is out of the question.
(60) Out of respect for the place. Now, since a sock is permitted in the Temple court where a shoe is for. bidden it is obvious that a sock is not included in the category of shoe.
(61) On the Day of Atonement, when as a part of the affliction (cf. Lev. XVI, 29) the wearing of shoes is forbidden.
(62) Which shows that a sock is also regarded as a shoe.
(63) Cf. supra n. 6.
(64) In reply to the contradiction that was pointed out.
(65) Which forbids the wearing of a sock on the Day of Atonement.
(66) That dealing with entry into the Temple court.
(67) Which is contradictory to the Baraitha previously cited there the wearing of socks was forbidden even where one only walked from one bed to another.
(68) Lit., 'but not'?
(69) That a difference is drawn between a sock of felt or cloth and one of leather. While the former is not regarded as a shoe the latter is.
(70) Or, according to others, 'bamboo'.

(71) Of the levir. Lit., 'the hollowed stump of the cripple'.
(72) One of the cushions which a cripple ties to his feet.

Talmud - Mas. Yevamoth 103a

whether he was standing, sitting or reclining, and also if her halizah was performed with a blind man, her halizah is valid. [If her halizah] however, [was performed] with a torn shoe that did not cover the greater part of the [levir's] foot, with a broken sandal which does not hold the greater part of his foot, with a support of the hands,[1] or with a cloth sock, and also where her halizah was performed with a minor, her halizah is invalid.[2]

Whose [view is represented in the first statement mentioning] the artificial foot?[3] — [Obviously that of] R. Meir, for we learned: A cripple may go out [on the Sabbath][4] with his artificial foot;[5] so R. Meir, and R. Jose forbids it;[6] [but the latter statement]: 'With a cloth-sock'[7] can only represent the view of the Rabbis![8] — Abaye replied: Since the latter statement [represents the opinion of] the Rabbis, the first also [must represent the opinion of] the Rabbis, the first [dealing with an artificial foot that was] covered with leather.[9]

Said Raba to him:[10] What, however, [is the law if it[11] was] not covered with leather? Is it then unfit![12] If so, instead of teaching in the latter statement, 'With a cloth sock',[13] a distinction should have been drawn in [respect of the artificial foot] itself: This[14] applies only where it was covered with leather, but if it was not covered with leather it is unfit![12] Rather, said Raba, since the first statement represents the view of R. Meir, the latter also represents the view of R. Meir, the one[11] affording protection[15] while the other[16] affords no protection.[17]

Amemar stated: When a levir submits to halizah he must press down his foot [to the ground]. Said R. Ashi to Amemar: Was it not taught [that the halizah was valid] 'whether he[18] was standing, sitting or reclining'? — Read: And in all these cases, only if he pressed his foot [to the ground].

Amemar further stated: A man who walks on the upper side of his foot[19] must not submit to halizah. Said R. Ashi to Amemar: But, surely, it was taught: 'Supports of the feet';[20] does not [this signify] that such [a cripple][21] may submit to halizah with a support! No; [the meaning is] that he may give it to another person[22] who is allowed to submit to halizah [with it].

Said R. Ashi: According to Amemar's ruling neither Bar Oba nor Bar Kipoi[23] could submit to halizah.

[IF THE SHOE WAS WORN] BELOW THE KNEE etc. A contradiction was pointed out: Regalim,[24] excludes[25] stump-legged cripples![26] — Here[27] it is different since it was written in Scripture, From off his foot.[28] If so, [halizah should be permissible] above the knee also! — From off but not 'from off the from off'.[29]

Said R. Papa: From this[30] it may be inferred that the istewira[31] reaches down to the ground;[32] for were it to be imagined that it is disconnected,[33] it [would be situated] above [the foot], while the leg [would be] above that which is above [the foot].[34] R. Ashi, however, said: It may even be said that it is disconnected, but any part adjacent to the foot is legally regarded as the foot itself.[35]

ABOVE THE KNEE. R. Kahana raised an objection: And against her afterbirth that cometh out from between her feet![36] — Abaye replied: When a woman kneels down to give birth she presses her heels against her thighs and thus gives birth. Come and hear: He had neither dressed his feet nor trimmed his beard![37] — This is a euphemistic expression. Come and hear: And Saul went in to cover his feet![38] — This is a euphemistic expression. Come and hear: Surely he is covering his feet in the

cabinet of the cool chamber![39] — This is a euphemistic expression. Between her feet etc.![40] — This is a euphemistic expression.

R. Johanan Said: That profligate[41] had seven sexual connections on that day;[42] for it is said, Between her feet he sunk, he fell, he lay; at her feet he sunk, he fell; where he sunk there he fell down dead.[43] But, surely she[44] derived gratification from the transgression! R. Johanan replied in the name of R. Simeon b. Yohai: All the favours of the wicked[45]

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(1) Cf. supra n. 6, one of the cushions tied to a cripple's hands.

(2) Thus it has been shown that in respect of halizah a legal distinction is made between the two kinds of sock. Cf. supra n. 3.

(3) Regarding it as a proper shoe. Cf. supra n. 5.

(4) When carrying from one domain into another is forbidden.

(5) Because it is regarded as a shoe which one may wear on the Sabbath.

(6) Shab. 65b, Yoma 78b.

(7) That halizah with it is invalid.

(8) Who differ from R. Meir in regarding neither the artificial foot nor the cloth sock as a shoe. According to R. Meir a cloth sock, like an artificial foot, is regarded as a shoe. Does then the Baraitha represent the contradictory views of R. Meir and the Rabbis!

(9) Hence its admissibility as a shoe for halizah.

(10) Abaye.

(11) The artificial foot.

(12) For halizah.

(13) That halizah with it is invalid.

(14) The admissibility of the artificial foot for halizah.

(15) For the Ieg. Hence it is regarded as a shoe that is admissible for halizah.

(16) A cloth sock.

(17) Hence its unfitness for halizah. It is not the material of which it is made but its unsuitability as a covering of the foot that causes its unfitness.

(18) The levir.

(19) Owing to a deformity in his foot (cf. Rashi). לִיחתָא the ‘fibula’, ‘splint-bone's ‘his feet being turned outward so as to form an obtuse angle’ (Jast.).

(20) Are among the objects that may be used as shoes for the purpose of halizah.

(21) In the conditions just described.

(22) Whose foot is not deformed.

(23) These were men with deformed feet. Cf. M.K. 25b.

(24) רגלים Ex. XXIII, 14 (E.V., times) referring to the Festival pilgrimages to Jerusalem.

(25) Since רגלים may also be taken as the plural of רגל foot.

(26) Hag. 3a. בעלי קבין v. GIos. s.v. kab. As these cripples are deprived of their feet they (v. supra n. 2) are exempt from the duty of the pilgrimages (v. supra n. 1). Thus it follows that the leg is not regarded as a ‘foot’, which is contrary to our Mishnah!

(27) The case of halizah.

(28) Deut. XXV, 9, מעל רגלו, lit., ‘from above his foot’, i.e., any part of the leg.

(29) V. supra n. 5. The part of the leg between the knee and the foot is ‘above the foot’; and the part above the knee is ‘above the above’.

(30) Our Mishnah which permits halizah on any part of the leg below the knee.

(31) [The ankle-bone (talus) v. Katzenelsohn, Talmud und Medizin, p. 384.]

(32) There is legally no division between the foot and this bone.

(33) From the foot.

(34) And halizah on that part would be invalid.

(35) Hence any part between it and the knee may be legally regarded as directly above the foot.

(36) Deut. XXVIII, 57; which shews that the region of the thighs is also included in the term of feet.

(37) II Sam. XIX, 25. Cf. supra n. 13.
(38) I Sam. XXIV, 4, expression for urination.
(39) Judges III, 24. Cf. supra n. 15.
(40) Ibid. V, 27. Cf. supra nn. 13 and 15.
(41) Sisera.
(42) When he fled from Barak and Deborah.
(43) Judges V, 27. Each of the expression he sunk כרע and he fell נפך occurs three times, and he lay שכב occurs once.
(44) Jael.
(45) Which they do for the righteous.

Talmud - Mas. Yevamoth 103b

are evil for the righteous;[1] For it is said, Take heed to thyself that thou speak not to Jacob either good or evil.[2] Now, as regards evil, one can perfectly well understand [the meaning][3] but why not good? From here then it may be inferred that the favour of the wicked is evil for the righteous.

There,[4] one can well see the reason,[5] since he[6] might possibly mention to him the name of his idol;[7] what evil, however, could be involved here?[8] — That of infusing her with sensual lust. For R. Johanan stated: When the serpent copulated with Eve,[9] he infused her[10] with lust. The lust of the Israelites who stood at Mount Sinai,[11] came to an end, the lust of the idolaters who did not stand at Mount Sinai did not come to an end.

IF THE WOMAN PERFORMED THE HALIZAH WITH A SANDAL THAT DID NOT BELONG TO HIM etc. Our Rabbis taught: [From the expression] His shoe[12] I would only know that his own[13] shoe [is suitable];[14] whence, however, is it deduced that anybody's shoe is suitable?[15] Hence was the term 'shoe' repeated,[16] thus indicating the suitability of anyone's shoe.[17] If so, why was the expression, 'His shoe', at all used? — 'His shoe implies one which he can wear, excluding a large one in which he cannot walk, excluding a small one which does not cover the greater part of his foot, and excluding also a sandal which consists of a sole but has no heel.

Abaye once stood in the presence of R. Joseph when a sister-in-law came to perform halizah. 'Give him',[18] he[19] said to him,[20] your sandal', and [Abaye] gave him' his left sandal. 'It might be suggested', he[19] said to him,[20] 'that the Rabbis spoke[21] only of a fait accompli; did they, however, speak also of what is permissible ab initio?' The other[20] replied: If so, in respect of a sandal that is not the levir's own, it might also be suggested that the Rabbis spoke[22] only of a fait accompli; did they, however, speak also of what is permissible ab initio! 'I', the first[19] answered him, 'meant to tell you this: Give it to him and transfer possession to him'.[23]

A WOODEN SANDAL. Who is the Tanna [whose view is expressed in this ruling]?[24] — Samuel replied: The view is that of R. Meir. For we learned: A cripple may go out [on the Sabbath][25] with his wooden stump; so R. Meir,[26] while R. Jose forbids it.[27] Samuel's father explained:[28] With one that is covered with leather, [the ruling representing] the general opinion.[29]

R. Papi stated in the name of Raba: No halizah may be performed with a sandal that is under observation;[30] a halizah, however, that has been performed [with it] is valid. No halizah may be performed with a sandal, the leprous condition of which has been confirmed;[31] and even a halizah that had already been performed [with it] is invalid.[32] R. Papa, however,stated in the name of Raba: No halizah may be performed either with a sandal under observation[30] or with one the leprous condition of which had been confirmed;[31] a halizah, however, that had been performed [with either] is valid.

An objection was raised: A house locked up[33] imparts uncleanness from within,[34] [and a house] confirmed in its leprous condition [imparts uncleanness][34] both within and without. The one as well as the other imparts uncleanness to anyone entering.[35] Now, if it is to be assumed [that an object doomed to destruction is regarded] as already crushed to dust,[36] surely [it may be objected] the requirement [there][37] is that He goeth into the house;[38] but [such a house] is not in existence![39] — There[37] it is different, because Scripture said, And he shall break down the house,[40] even at the time of breaking down it is still called 'house'.

Come and hear: A [leprous] strip of cloth[41] measuring three [finger-breadths] by three,[42] even if [in volume] it does not amount to the size of an olive,[43] causes, as soon as the greater part of it has entered a clean house, the defilement of that house.[44] Does not [this refer to a strip of cloth the uncleanness of which] had been confirmed![45] No; [it refers to] one under observation.[46] But if so, read the final clause: If in volume[47] it constituted the size of many olives[48] , as soon as a portion of it of the size of an olive[49] enters a clean house, it causes the uncleanness of that house.[50] Now, if you grant [that the reference is to a strip] of confirmed leprosy one can well understand why it was compared[51] to a corpse;[52] if, however, you maintain [that the reference is to a strip] under observation[53] why [it may be objected] was it compared to a corpse! — There[54] it is different,[55] for Scripture said, And he shall burn the garment,[56] even at the time of burning it is still called 'garment.'[57] Then let [halizah] be deduced from it![58] — A prohibition cannot be deduced from [the laws of] uncleanness.[59]

Raba stated: The law is that [a sister-in-law] may not perform halizah either with a sandal under observation,[60] or with a sandal of confirmed leprosy, or with a sandal belonging to an idol;[61] if, however, she has performed halizah [with either of these], her halizah is valid.[62] [With a sandal] that was offered to an idol[63]

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(1) Cf. Hor. 10b, Naz. 23b.

(2) Gen. XXXI, 24.

(3) לְחַיֵּי adv. or interr. (lit., 'for life'), 'very well'.

(4) In the warning to Laban.

(5) Why even good should not be spoken.

(6) Laban.

(7) Cf. Gen. XXXI, 30.

(8) In the incident with Jael.

(9) In the Garden of Eden, according to a tradition.

(10) I.e., the human species.

(11) And experienced the purifying influence of divine Revelation.

(12) Deut. XXV, 9.

(13) The levir's.

(14) For his own halizah.

(15) For the halizah of any other person.

(16) Lit., 'it was stated shoe (bis)'.

(17) Lit., 'from any place'.

(18) The levir.

(19) R. Joseph.

(20) Abaye.

(21) In ruling that halizah with a left-foot sandal is valid. V. our Mishnah.

(22) Cf. supra n. 4, mutatis mutandis.

(23) As a gift, so that the shoe might become the levir's property.

(24) Permitting halizah with a wooden sandal.

(25) When carrying from one domain into another is forbidden.

(26) Who regards the cripple's wooden stump as a proper shoe.

(27) Shab. 25b. As in respect of the Sabbath R. Meir regards the stump as a shoe, so also in respect of halizah does he regard it as a shoe.
(28) Our Mishnah. Cf. supra n. 7.
(29) All agree that a wooden stump that is furnished with a leather covering is admissible for halizah.
(30) מוסגר, lit., 'locked up', a sandal that, in accordance with Lev. XIII, 50, is shut up for a certain period so that it may be ascertained whether the plague-spot that appeared on it is of the clean or unclean type. Cf. ibid. 47ff.
(31) מוחלט, rt. חלט, 'to tie up' (Jast.).
(32) Such a sandal, being doomed to destruction by burning (Lev. XIII, 55), is legally regarded as non-existent.
(33) For the purpose of observation. Cf. p. 712, n. 13 and Lev. XIV, 34ff.
(34) By contact.
(35) Neg. XIII, 4 though no contact took place.
(36) And, consequently, as legally non-existent. Cf. supra note 15.
(37) In the case of a leprous house.
(38) Lev. XIV, 46, emphasis on house. Only then is the person unclean.
(39) Since it is condemned to be broken down. V. supra n. 4. How, then, could uncleanness be imparted by that which does not exist?
(40) Lev. XIV, 45.
(41) Cf. ibid. XIII, 47.
(42) These are the minimum measurements required for a piece of cloth to be termed garment.
(43) Which in the case of a corpse is the minimum that may impart uncleanness.
(44) Tosef. Neg. VII. A leprous garment, like a leper, imparts uncleanness to all objects in a house as soon as it is brought into that house, though none of the objects have come in actual contact with it.
(45) In consequence of which it is doomed to destruction by burning. Now, if what is doomed to destruction is legally regarded as non-existent, how could such a strip impart uncleanness?
(46) Cf. supra p. 712, n. 13.
(47) That of a strip of cloth of the size mentioned.
(48) If the material, for instance, was very thick.
(49) Though its measurements were less than the greater part of three finger-breadths by three.
(50) Neg. XIII, 4.
(51) In the fixing of its minimum, in respect of imparting uncleanness, to be that of the size of an olive.
(52) Which also imparts uncleanness if a small part of it of the size of an olive only remained. Confirmed leprosy may well be compared to a corpse. Cf. Num. XII, 22: Let her not . . . be as one dead. The reference is to Miriam who was at the time leprous (v. ibid. 10) and Aaron requested Moses that she may not be confirmed in her leprosy and thus become like a corpse.
(53) V. supra p. 712, n. 13 mutatis mutandis.
(54) The law of uncleanness in respect of the strip of leprous cloth.
(55) From the law of halizah where an object doomed to destruction is regarded as non-existent.
(56) Lev. XIII, 52, emphasis on burn and garment.
(57) Hence it may impart uncleanness even where it is doomed to destruction.
(58) And a sandal of confirmed leprosy should also be admissible for halizah.
(59) Which form a peculiar class of their own.
(60) Cf. supra p. 712, n. 13.
(61) Which is put on the idol when it is moved from place to place (Rashi).
(62) Because the sandal under observation is not doomed to destruction; the sandal of confirmed leprosy is regarded as a garment despite its doom, (as deduced supra from Lev. XIII, 52); while the sandal of the idol, being only an accessory to it, is not doomed to burning. Though no benefit may be derived therefrom it is admissible for halizah, because the fulfilment of a precept is not regarded as a 'benefit'.
(63) As part of its worship, and which must consequently be destroyed.

Talmud - Mas. Yevamoth 104a

or [with one] that belonged to a condemned city[1] or [with one] that was made[2] in honour of a [dead]

elder,[3] no halizah may be performed; and even a halizah that has been performed with it is invalid.

Said Rabina to R. Ashi: In what respect is [the sandal] that was made in honour of a [dead] elder different [from an ordinary sandal]? Is it because it was not made for walking? That of the Beth din also[4] was not made for walking! — The other replied: Should the attendant of the Beth din use it for walking, would the Beth din object![5]

MISHNAH. IF [A SISTER-IN-LAW] PERFORMED THE HALIZAH AT NIGHT, HER HALIZAH IS VALID. R. ELEAZAR, HOWEVER, REGARDS IT AS INVALID. [IF SHE PERFORMED IT] WITH [THE LEVIR'S] LEFT SHOE, HER HALIZAH IS INVALID, BUT R. ELEAZAR DECLARES IT TO BE VALID.

GEMARA. May it be suggested that they[6] differ on the following principle: The one Master[7] holds the opinion that lawsuits are to be compared to plagues,[8] while the other Master[9] holds the opinion that lawsuits cannot be compared to plagues?[10] — No; all agree that lawsuits cannot be compared to plagues; for should they be compared, even the close of a legal process could not have been allowed at night.[11] Here, however, they[12] differ on the following principle: Ones Master[9] holds that halizah is like the commencement of legal proceedings[13] and the other Master[14] holds that halizah is like the close of the proceedings.[15]

Rabbah[16] b. Hiyya of Ktesifon[17] carried out a halizah with a felt sock, with no other men present, at night. Said Samuel: How great is his authority[18] in acting on the view of one individual![19] What [however, could be his] objection?[20] If [against the use of the] felt sock, an anonymous Baraitha[21] [permits it]![22] If [against his acting at] night, our anonymous Mishnah[23] [permits this]![24] — His objection, however, is [that Rabbah acted] alone. How [he objected] could he act alone when it was only one individual who expressed approval of such a procedure![25] For we learned: If [a sister-in-law] performed halizah in the presence of two or three men, and one of them. was discovered to be a relative or in any other way unfit [to act as judge], her halizah is invalid; but R. Simeon and R. Johanan ha-Sandelar declare it valid. Furthermore, it once happened that a man submitted to halizah with none present but himself and herself in a prison, and when the case came before R. Akiba he declared the halizah valid.[26]

And[27] if you prefer I might say: All these [rulings] also are the views of[28] an individual. For it was taught: R. Ishmael son of R. Jose stated, 'I saw R. Ishmael b. Elisha carry out a halizah with a felt sock, with no other men present, and [this occurred] at night'.

WITH [THE LEVIR'S] LEFT SHOE HER HALIZAH etc. What is the Rabbis' reason? 'Ulla replied: [The meaning of] 'foot' [here][29] is deduced from that of foot[30] in the context of the leper. As there[31] it is the right[32] so here[33] also it must be the right. Does not R. Eleazar, then, deduce [the meaning of] foot [here][33] from that of foot[34] in the context of the leper? Surely, it was taught: R. Eleazar stated, Whence is it deduced that the boring [of the ear of a Hebrew slave][35] must be performed on his right ear? — For the term ear was used here[36] and the term 'ear' was also used elsewhere;[37] as there[37] it is the right ear[38] so here also it is the right ear![39] — R. Isaac b. Joseph replied in the name of R. Johanan: The statement is to be reversed.[40]

Raba said: There is, in fact, no need to reverse [the statement,[36] the reply to the objection[41] being that] the terms 'ear'[42] [are both] free [for the deduction];[43] the terms of 'foot,'[44] however, are not free for deduction.[45] But even if [one of the texts] is not free for deduction, what objection can be raised [against the deduction]?[46] — It may be objected: The case of the leper is different,[47] since he is also required [to bring] cedar-wood and hyssop and scarlet.[48] MISHNAH. [IF A SISTER-IN-LAW] DREW OFF [THE LEVIR'S SHOE] AND SPAT,[49] BUT DID NOT RECITE [THE FORMULAE],[50] HER HALIZAH IS VALID.[51] IF SHE RECITED [THE FORMULAE] AND

SPAT, BUT DID NOT DRAW OFF THE SHOE, HER HALIZAH IS INVALID.[52] IF SHE DREW OFF THE SHOE AND RECITED [THE FORMULAE] BUT DID NOT SPIT, HER HALIZAH, R. ELIEZER[53] STATED, IS INVALID; AND R. AKIBA STATED: HER HALIZAH IS VALID.

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(1) All the spoil of which was to be burned. Cf. Deut. XIII, 13ff.

(2) As a part of his shroud.

(3) Not being used for walking it cannot be regarded as a shoe.

(4) The approved sandal kept by a Beth din for the special purpose of halizah ceremonials.

(5) Presumably not. Hence it may well be regarded as a shoe made for the purpose of walking.

(6) The first Tanna and R. Eleazar in our Mishnah.

(7) The first Tanna.

(8) Both having been mentioned in the same Scriptural verse (Deut. XXI, 5). As plagues may be examined by the priest in the daytime only (based on Lev. XIII, 24: 'On the day when raw flesh is seen in him',) so may lawsuits also be dealt with by the court in the daytime only. Halizah involving as it does the question of the widow's kethubah is regarded as coming under the category of lawsuits.

(9) R. Eleazar.

(10) Cf. Sanh. 34b, Nid. 500

(11) But, as a matter of fact, this was explicitly allowed. Cf. Sanh. 32a.

(12) The first Tanna and R. Eleazar in our Mishnah.

(13) Which must take place in the daytime only. Cf. Sanh. 34b.

(14) The first Tanna.

(15) Which is allowed even in the night-time. Cf. p. 715, n. 8.

(16) Others, 'Raba'. Cf. Alfasi and רא"ש.

(17) On the eastern bank of the Tigris in the south of Assyria.

(18) Ironical exclamation.

(19) The ruling of the majority being against this opinion.

(20) Against Rabbah's action.

(21) Lit., 'it was taught'.

(22) Supra 102b. And the halachah, as a rule, is in agreement with the anonymous ruling.

(23) Cf. Rashi, s.v. לילה a.l. Cur. edd., it was taught'.

(24) Cf. supra n. 9.

(25) Lit., 'taught it'.

(26) Thus it is proved that it is an individual opinion, that of R. Akiba, that permits halizah in the absence of witnesses.

(27) Cf. Bah. Cur. edd. insert: 'And R. Joseph b. Manyumi stated in the name of R. Nahman that the halachah is not in agreement with that pair.' This occurs infra 105b, but is irrelevant here.

(28) Lit., 'taught them'.

(29) Deut. XXV, 9, dealing with halizah.

(30) Lev. XIV, 14.

(31) In the case of the leper.

(32) Since the text explicitly mentions it.

(33) In halizah.

(34) Lev. XIV, 14.

(35) Who refuses to go out free. V. Ex. XXI, 5f.

(36) V. previous note.

(37) With the leper. Lev. XIV, 14.

(38) Since the text explicitly mentions it.

(39) Kid. 15a, which shews that R. Eleazar does make deduction from the terms used in the context of the leper.

(40) In our Mishnah. It is R. Eleazar, and not the first Tanna, who ruled that halizah with the left shoe is invalid.

(41) As to why R. Eleazar draws an analogy between the terms of ear and not between those of foot.

(42) Lit., 'ear, ear'.

(43) Both in the case of leper (Lev. XIV, 14 and 17) and in that of the slave (Ex. XXI, 6 and Deut. XV, 17) one of the terms is superfluous and, therefore, free for the deduction that the boring must be performed on the right ear.

(44) Lit., ‘foot, foot’.
(45) Though in the context of the leper the term foot occurs twice (Lev. XIV. 14 and 17), in that of halizah it appears only once (Deut. XXV, 9). As in the latter text it is required for the context itself no deduction can be made from such an analogy unless it is one that is free from all possible objection.
(46) Cf. supra n. 14 final clause. Since no refutation can be advanced, the deduction, though based on texts of which one only is free for the purpose, should hold!
(47) From that of halizah.
(48) On the day of his cleansing. (Cf. Lev. XIV, 4). The laws of the leper, being in this respect more rigid than those of halizah, may also be more rigid in respect of the requirement of the right shoe. Hence R. Eleazar's opinion that no deduction is to be made from the analogous words, and that halizah with the left shoe is, therefore, valid.
(49) Cf. Deut. XXV, 9.
(50) Prior to the halizah she declares (a) ‘My husband's brother refuseth to raise up unto his brother a name in Israel; he will not perform the duty of a husband's brother unto me’ (ibid. 7). After the halizah she exclaims, (b) ‘So shall it be done unto the man that doth not build up his brother's house’ (ibid. 9).
(51) The omission of an act, but not that of a formula, renders a halizah invalid. V. infra.
(52) Cf. supra n. 3.
(53) Cf. marg. note. Cur. edd., ‘Eleazar’.

Talmud - Mas. Yevamoth 104b

SAID R. ELIEZER TO HIM: [SCRIPTURE STATED], SO SHALL BE DONE,[1] ANYTHING WHICH IS A DEED[2] IS A SINE QUA NON.[3] R. AKIBA, HOWEVER, SAID TO HIM, FROM THIS VERY TEXT[4] PROOF [MAY BE ADDUCED FOR MY VIEW]: SO SHALL BE DONE UNTO THE MAN,[5] ONLY THAT WHICH IS TO BE DONE UNTO THE MAN.[6]

IF A DEAI[7] LEVIR SUBMITTED TO HALIZAH, OR IF A DEAF[7] SISTER-IN-LAW PERFORMED HALIZAH, OR IF A HALIZAH WAS PERFORMED ON A MINOR, THE HALIZAH IS INVALID.

[A SISTER-IN-LAW] WHO PERFORMED HALIZAH WHILE SHE WAS A MINOR MUST AGAIN PERFORM HALIZAH WHEN SHE BECOMES OF AGE; AND IF SHE DOES NOT AGAIN PERFORM IT, THE HALIZAH IS INVALID.

IF [A SISTER-IN-LAW] PERFORMED HALIZAH IN THE PRESENCE OF TWO OR THREE MEN AND ONE OF THEM WAS DISCOVERED TO BE A RELATIVE OR ONE IN ANY OTHER WAY UNFIT [TO ACT AS JUDGE], HER HALIZAH IS INVALID; BUT R. SIMEON AND R. JOHANAN HA-SANDELAR DECLARE IT VALID. FURTHERMORE,[8] IT ONCE HAPPENED THAT A MAN SUBMITTED TO HALIZAH PRIVATELY BETWEEN HIMSELF AND HERSELF IN A PRISON, AND WHEN THE CASE CAME BEFORE R. AKIBA HE DECLARED THE HALIZAH VALID.

GEMARA. Raba said: Now that you have stated[9] that the recital [of the formulae][10] is not a sine qua non, the halizah of a dumb man and a dumb woman is valid.

We learned: IF A DEAF LEVlr SUBMITTED TO HALIZAH, OR IF A DEAF SISTER-IN-LAW PERFORMED HALIZAH, OR IF A HALIZAH WAS PERFORMED ON A MINOR, THE HALIZAH IS INVALID. Now, what is the reason?[11] is it not because these are unable to recite [the formulae]![12] — No; because they are not in complete possession of their mental faculties.[13] If so, [the same applies] also to a dumb man and to a dumb woman![14] — Raba replied: A dumb man and a dumb woman are in full possession of their mental faculties, and it is only their mouth that troubles[15] them. But, surely, at the school of R. Jannai it was explained [that the reason why a deaf-mute is unfit for halizah is] because [the Scriptural instruction], He shall say[16] or She shall say[17] is

inapplicable to such a case![18] — [Say] rather, if Raba's statement was ever made it was made in connection with the final clause: IF A DEAF LEVir SUBMITTED TO HALIZAH, OR IF A DEAF SISTER-IN-LAW PERFORMED HALIZAH, OR IF A HALIZAH WAS PERFORMED ON A MINOR, THE HALIZAH IS INVALID. [It is in connection with this that] Raba said: Now that you have stated that the recital of [the formulae][19] is a sine qua non, the halizah of a dumb man or a dumb woman is invalid. And our Mishnah[20] [is based on the same principle] as [that propounded by] R. Zera; for R. Zera stated: Wherever proper mingling[21] is possible actual mingling is not essential,[22] but where proper mingling is not possible[23] the actual mingling is a sine qua non.[24]

[The following ruling] was sent to Samuel's father: A sister-inlaw who spat[25] must perform the halizah.[26] This implies that she is rendered unfit for the brothers;[27] but whose view is this?[28] If it be suggested [that it is that of] R. Akiba, it may be objected:[29] If R. Akiba said that it[30] was not indispensable[31] even where the actual commandment [of halizah is being performed, in which case] it could be argued that it could be given the same force as [the burning] of the altar portions of the sacrifices. which is not an essential [rite] when [the portions] are not available,[32] and yet is a sine qua non when they are available,[33] [would he regard it[30] as a reason for the woman] to become thereby unfit for the brothers! [Should it be suggested], however, [that the view[34] is that] of R. Eliezer,[35] surely [it may be retorted] are two acts which jointly effect permissibility,[36] and any two acts that jointly effect permissibility are ineffective one without the other![37] — Rather, the view[38] is in agreement with that of Rabbi. For it was taught: The Pentecostal lambs[39] cause the consecration of the bread[40] only by their slaughter.[41] In what manner?[42] If they were slaughtered for the purpose of the festival sacrifices[43] and their blood also was sprinkled with such intention,[43] the bread becomes consecrated. If they were not slaughtered for the purpose of the festival sacrifices,[44] though their blood was sprinkled for the proper purpose,[43] the bread does not become consecrated. If they were slaughtered for the purpose of the festival sacrifices[43] and their blood was sprinkled for another purpose,[45] [the bread] is partly consecrated and partly unconsecrated;[46] so Rabbi. R. Eleazar son of R. Simeon, however, stated: [The bread] is never consecrated unless the slaughtering [of the lambs] and the sprinkling of their blood were both intended for the proper purpose of the festival.[47]

Did R. Akiba, however, hold that the act of spitting does not render the woman unfit?[48] Surely it was taught: If she drew off [the levir's shoe] but did not

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(1) Deut. XXV, 9, emphasis on done. יעשה (rt. עשה). V. infra n. 7.

(2) מעשנ (rt. עשה). Cf. supra n. 6.

(3) The omission of any act, therefore, renders the halizah invalid.

(4) Lit., ‘from there’.

(5) Deut. ibid., emphasis on man.

(6) As, e.g., drawing off the shoe which is an act on the body of the levir. Spitting, therefore, is excluded.

(7) The ‘deaf’ spoken of in the Talmud literature is always to be understood as a deaf-mute. Cf. Ter. I, 2.

(8) I.e., not only in a case where there were at least two judges but even where no one beside the levir and the sister-in-law ‘vas present.

(9) In the first clause of our Mishnah.

(10) V. supra p. 718, n. 2.

(11) For the invalidity.

(12) Cf. supra p. 718, n. 12. How then could it be said that recital of the formulae is not an indispensable condition?

(13) The minor because of his immature age, and the deaf and dumb because of his physical defects which adversely affect his mental powers.

(14) Why then is their halizah valid?

(15) Lit., ‘pains

(16) Cf. Deut. XXV, 8.

(17) Cf. ibid. 7 and 9.

(18) How then can halizah of a dumb person be regarded as valid!

(19) V. supra p. 718, n. 2.
(20) Which stated that if she did not recite the formulae the halizah is valid
(21) Of the flour and the oil of a meal-offering. With one log of oil for sixty ‘esronim (v. Glos.) of flour, and a maximum of sixty ‘esronim in one pan, perfect mingling is possible.
(22) Even if no mingling has taken place the meal-offering is acceptable.
(23) Where, e.g., the proportions of the mixture were less than a log for sixty ‘esronim or where more than sixty ‘esronim were placed in one pan.
(24) Men. 18b, 103b. With halizah also, though in the case of persons who are able to recite the prescribed formulae, the omission does not invalidate the halizah, in the case of dumb persons for whom it is physically impossible ever to recite the formulae, the omission of it does render the halizah invalid.
(25) In the presence of the Beth din.
(26) Though her act was not a part of a formal halizah ceremony, she forfeits thereby her right ever to contract levirate marriage with any of the levirs.
(27) V. supra n. 7.
(28) That an informal act of spitting renders the woman unfit for marriage with the brothers.
(29) Lit., ‘now’.
(30) The act of spitting.
(31) Which shews what little significance R. Akiba attaches to this part of the ceremony.
(32) If, for instance, they were lost or became unfit for the altar owing to uncleanness. Cf. Pes. 59b.
(33) So in the case of halizah, R. Akiba might have been expected to regard the spitting, which is an act that can be performed, as an essential.
(34) V. supra note 9.
(35) Cur. edd., ‘Eleazar’ (cf. supra p 718, n. 5); who stated in our Mishnah that the act of spitting was indispensable. (17) Drawing off the shoe and spitting.
(36) Of the sister-in-law to marry a stranger.
(37) Cf. Men. 89a.
(38) V. supra p. 720, n. 9.
(39) V. Num. XXVIII, 26-31.
(40) The two loaves that were also brought to the Temple on Pentecost. V. Lev. XXIII, 17.
(41) The waving of the loaves and the lambs together, which precedes the slaughter of the latter, does not effect the proper consecration of the bread.
(42) Is consecration effected even after slaughtering of the lambs.
(43) Lit., ‘for their name’.
(44) Lit., not for their name’; i.e., if they were intended to be merely sacrifices, not specifically those prescribed for the Pentecost festival.
(45) Cf. supra n. 9.
(46) I.e., it is subject to some, but not to all, of the restrictions of properly consecrated bread.
(47) Cf. supra note 8. Pes. 13b, Men. 47a. Thus it has been shewn that according to Rabbi, where two acts such as proper slaughtering and proper sprinkling are required, consecration is partially effected even though the former act alone was properly performed. Similarly, in respect of halizah, one of the prescribed acts is sufficient to render the woman unfit for the levirate marriage.
(48) For the levirate marriage.

Talmud - Mas. Yevamoth 105a

spit nor recite,[1] her halizah is valid. If she spat but did not draw off the shoe nor recite,[2] her halizah is invalid[3] if she recited[2] but did not spit nor draw off the shoe, there is here no reason whatsoever for apprehension.[4] Now, whose [view is here represented]? If it be suggested [it is that of] R. Eliezer, [how could it be stated that] ‘if she drew off [the levir's shoe] but did not spit nor recite, her halizah is valid’ when, surely, R. Eliezer said: SO SHALL BE DONE, ANYTHING WHICH IS A DEED IS A SINE QUA NON? It is consequently obvious [that it is the view of] R. Akiba; and yet it was stated that ‘if she spat but did not draw off the shoe nor recite, her halizah is invalid’. To whom,

[however, does the invalidity cause her to be forbidden]?[5] If it be suggested, 'To strangers';[6] is not this [it may be retorted] self-evident? Is it a halizah [like this that would enable the sister-inlaw] to become free to marry a stranger![7] It must therefore, be admitted[8] [that the validity refers to her state of prohibition] to the brothers.[9] Thus you have our contention proved.

According to R. Akiba, wherein lies the legal difference between the act of spitting and that of reciting?[10] — Recital[11] that must take place both at the commencement[12] [of the halizah ceremony] and at its conclusion[13] cannot be mistaken;[14] spitting, however, which does not take place at the beginning but only at the end, might be mistaken [for a proper halizah],[15] and thus[16] a proper halizah also would be permitted to marry the brothers.[17]

Others say that the following ruling was sent to him:[18] A sister-in-law who spat[19] may afterwards perform halizah and need not spit a second time.[20] So,in fact,it once happened that a sister-in-law[21] who came before R. Ammi, while R. Abba b. Memel was sitting in his presence, spat prior to her drawing off the shoe. 'Arrange the halizah for her', said R. Ammi to him,[22] 'and dismiss her case'.[23] 'But surely'. said R. Abba to him, 'spitting is a requirement!' — 'She has spat indeed!' 'But let her spit [again]; what could be the objection?' — 'The issue might [morally and religiously] be disastrous; for should you rule that she is to spit again, people might assume that her first spitting was ineffective[24] and thus[25] a proper haluzah also would be permitted to marry the brothers!'[26] 'But is it not necessary. [that the various parts of the halizah] should follow in the prescribed order?' — 'The order of the performances is not essential'. He[22] thought [at the time] that the other[27] was merely shaking him off. When, however, he went out he carefully considered the point and discovered that it was taught: Whether drawing off the shoe preceded the spitting or whether spitting preceded the drawing off, the action performed is valid.[28]

Levi once went out [to visit] the country towns,[29] when he was asked: 'May a woman whose hand was amputated perform halizah?[30] What is the legal position where a sister-in-law spat blood? [It is stated in Scripture]: Howbeit I will declare unto thee that which is inscribed in the Writing of Truth;[31] does this[32] then imply that there exists a [divine] Writing that is not of truth?' He was unable to answer.[33] When he came and asked these questions at the academy. they answered him: Is it written, 'And she shall draw off with her hand'?[34] Is it written, 'And spit spittle'?[34] [As to the question] 'Howbeit I will declare unto thee that which is inscribed in the Writing of Truth,[31] does this then imply that there exists a [divine] Writing that is not of truth'? There is really no difficulty. For the former[35] refers to a [divine] decree that was accompanied by an oath while the latter[36] refers to one that was not accompanied by an oath. [This is] in accordance with a statement of R. Samuel b. Ammi. For R. Samuel b. Ammi stated in the name of R. Jonathan: Whence is it deduced that a decree which is accompanied by an oath is never annulled?[37] — From the Scriptural text, Therefore I have sworn unto the House of Eli, that the iniquity of Eli's house shall not be expiated with sacrifice nor offering for ever.[38] Rabbah said: It will not be expiated 'with sacrifice nor offering', but it will be expiated with the words of the Torah.

Abaye said: It will not be expiated 'with sacrifice nor offering' but it will be expiated with the practice of lovingkindness.

Rabbah and Abaye were both descendants of the house of Eli. Rabbah who engaged in the study of the Torah lived forty years. Abaye, however, who engaged in the study of the Torah and the practice of lovingkindness, lived sixty years.

Our Rabbis taught: There was a certain family in Jerusalem whose members used to die when they were about the age of eighteen. When they came and acquainted R. Johanan b. Zakkai [with the fact,] he said to them: 'perchance you are descendants of the family of Eli concerning whom it is written in Scripture. And all the increase of thy house shall die young men;[39] go and engage in the

study of the Torah, and you will live'. They went and engaged in the study of the Torah and lived [longer lives]. They were consequently called 'The family of Johanan', after him.

R. Samuel b. Unia stated in the name of Rab: Whence is it deduced that a [divine] dispensation against a congregation is not sealed? — [You say] 'Is not sealed'! Surely it is written, For though thou wash thee with nitre, and take thee much soap, yet thine iniquity is marked before Me![40] — But [this is the question]: Whence is it deduced that even if it has been sealed it is torn up? — From the Scriptural text, What . . . as the Lord our God is whensoever we call upon him.[41] But, surely, it is written, Seek ye the Lord while He may be found![42] — This is no contradiction. The latter applies to an individual, the former to a congregation. And[43] when may an individual [find him]? R. Nahman replied in the name of Rabbah b. Abbuha: In[44] the ten days between the New Year and the Day of Atonement.[45]

[The following ruling] was sent to Samuel's father: A sister-inlaw who spat blood shall perform halizah,[46] because it is impossible that blood should not contain some diluted particles of spittle.

An objection was raised: It might have been assumed that blood that issues from his[47] mouth or membrum virile is unclean,[48] hence it was explicitly stated, His issue is unclean,[49] but the blood which issues from his mouth or from his membrum virile is not unclean, but clean![50] — This is no contradiction: The former[51] is a case[52] where she sucks in;[53] the latter,[54] where [the blood] flows gently.

IF A DEAF LEVIR SUBMITTED TO HALIZAH etc.

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(1) The prescribed formulae. V. supra p. 718. n. 2.

(2) V. p. 721, n. 14.

(3) But the woman is rendered unfit for the levirate marriage. V. infra.

(4) I.e., even levirate marriage is permitted.

(5) The expression פסוחה, here rendered 'invalid', bears in the original a double meaning: (a) the halizah itself is invalid and (b) the woman becomes invalid, i.e., unfit to contract a marriage. V. infra note 8.

(6) Lit., 'to the world', i.e., as the halizah is invalid the woman still remains forbidden to all men except the levirs.

(7) Obviously not. Mere spitting could not possibly be regarded as a proper halizah.

(8) Lit., 'but not'.

(9) The second meaning of פסולה (v. supra note 4. (b) being that the woman is forbidden to contract the levirate marriage with any of the brothers. Cf. Git. 24b.

(10) Since both acts are not indispensable, why does the former act according to R. Akiba cause the sister-in-law to be forbidden to the brothers (as has just been proved), while the latter does not (R. Akiba having stated supra that there was 'no reason whatsoever for apprehension')?

(11) Of the prescribed formulae.

(12) V. supra p. 718, n. 2 (a).

(13) V. loc. cit. n. 2 (b).

(14) For a proper halizah. Where the sister-in-law is allowed to marry a levir it is obvious to all who know of the recital that it was only the first formula that was recited and that no halizah had followed it.

(15) Anyone witnessing the spitting would form the opinion that the other parts of the halizah ceremonial had preceded it.

(16) Were she subsequently permitted to marry a levir.

(17) Hence R. Akiba's prohibition. Cf. supra p. 722. n. 9.

(18) To Samuel's father. Cf. supra 104b.

(19) Before Beth din, though her act did not form a part of the formal halizah ceremony.

(20) At the proper time when the formal ceremony is carried out.

(21) Cf. Bah. a.l. wanting in cur. edd.

(22) R. Abba.

(23) I.e., there is no need for her to spit again.
(24) And the woman would consequently be allowed to marry a levir even after she had spat:
(25) By allowing her to contract levirate marriage.
(26) Cf. supra note 1.
(27) R. Ammi.
(28) Cf. infra 106b, Sanh. 49b.
(29) In the course of a lecture tour. According to the Palestinian Talmud and the Midrash Rabbah, Levi was sent by R. Judah the Prince to take up an appointment as teacher and judge in a provincial town. In his excitement and pride he grew so bewildered that he was unable to answer the following three questions.
(30) With her teeth.
(31) Dan. X, 21, taken to refer to divine dispensation.
(32) The adjectival phrase 'of truth'.
(33) Lit., 'it was not in his hand'.
(34) Certainly not.
(35) 'Writing of truth', i.e., 'permanent', 'unalterable'.
(36) The 'writing that is not of truth', i.e., which may be altered or recalled.
(37) Lit 'torn up'.
(38) I Sam. III, 14, emphasis on 'sworn' and 'for ever'.
(39) I Sam. II, 33.
(40) Jer. II, 22, emphasis on 'marked' 'sealed'. The Hebrew equivalent of the former is נכתם which is similar in sound to that of the letters *נחתם.
(41) Deut. IV, 7.
(42) Isa. LV, 6, emphasis on while he may be found, implying that there are times when he may not be found!
(43) Cf. Bah.
(44) Lit., 'these are'.
(45) Known as the 'ten days of penitence', עשרת ימי תשובה ע.
(46) As in the case of ordinary spitting. she may not subsequently contract levirate marriage.
(47) A man who hath an issue, cf. Lev. XV, 2.
(48) As his spittle or issue respectively is unclean.
(49) Ibid., emphasis on issue.
(50) Nid. 56a. Apparently because the blood contains no particle of spittle (cf. supra n. 10), which is contradictory to the previous statement that all blood contains some particles of spittle.
(51) The ruling sent to Samuel's father.
(52) Lit., 'here'.
(53) When it is inevitable that some spittle should be mingled with the blood.
(54) Lit., 'here'.

Talmud - Mas. Yevamoth 105b

Rab Judah stated in the name of Rab:[1] This[2] is the view of R. Meir;[3] but the Sages maintain that the halizah of a minor has no effect at all.[4]

[A SISTER-IN-LAW] WHO PERFORMED HALIZAH WHILE SHE WAS A MINOR etc. Rab Judah stated in the name of Rab: This[5] is the view of R. Meir who stated, 'In the Pentateuchal section [of halizah] the expression man[6] is used,[7] and the woman is to be compared to the man'.[8] The Sages, however, maintain that in the Pentateuchal section 'man' was written;[7] [and as to] a woman, whether she is of age or a minor [her halizah is valid].

Who [is the Tanna here described as the] Sages? — It is R. Jose. For R. Hiyya and R. Simeon b. Rabbi once sat together, when one of them began as follows:[9] A man who offers up his prayers must direct his eyes towards [the Temple][10] below,[11] for it is said, And Mine eyes and Mine heart shall be there perpetually.[12] And the other said: The eyes of him who offers up prayers shall be directed[13]

towards [the heavens] above, for it is said Let us lift up our heart with our hand.[14] In the meanwhile they were joined by R. Ishmael son of R. Jose. 'On what subject are you engaged?' he asked them. 'On the subject of prayer', they replied. 'My father', he said to them, 'ruled thus: A man who offers up his prayers must direct his eyes to the [Sanctuary] below and his heart towards [the heavens] above so that these two Scriptural texts may be complied with.' While this was going on, Rabbi entered the academy.[15] They, being nimble, got into their places quickly. R. Ishmael son of R. Jose, however, owing to his corpulence[16] could only move to his place with slow steps. 'Who is this man, cried Abdan[17] out to him, 'who strides over the heads[18] of the holy people!' The other replied. 'I am Ishmael son of R. Jose who have come to learn Torah from Rabbi'.[19] 'Are you, forsooth, fit', the first said to him, 'to learn Torah from Rabbi?' — 'Was Moses fit', the other retorted, 'to learn Torah from the lips of the Omnipotent!' 'Are you Moses indeed!' the first exclaimed. — 'Is then your Master a god!' the other retorted. R. Jose remarked: Rabbi got what he merited when the one[20] said to the other[21] 'Your Master' and not 'my Master'.[22] While this was proceeding a sister-in-law came before Rabbi.[23] 'Go out', said Rabbi to Abdan, 'and have her examined'.[24] After the latter went out, R. Ishmael said to him:[25] Thus said my father, 'In the Pentateuchal section man[26] is written;[27] [but as to] a woman, whether she is of age or a minor [her halizah is valid]'. 'Come back', he[15] , cried after him,[21] 'you need not [arrange for any examination]; the grand old man[28] has already given his decision [on the subject]'.

Abdan now came back picking his steps,[29] when R. Ishmael son of R. Jose exclaimed, 'He of whom the holy people is in need may well stride over the heads of the holy people; but how dare he of whom the holy people has no need stride over the heads of the holy people!' 'Remain in your place', said Rabbi to Abdan.

It was taught: At that instant Abdan became leprous, his two sons were drowned and his two daughters-in-law made declarations of refusal.[30] 'Blessed be the All Merciful', said R. Nahman b. Isaac, 'who has put Abdan to shame in this world'.[31]

'We may learn from the words of this eminent scholar',[32] said R. Ammi, 'that [a sister-in-law who is] a minor may perform halizah while she is still in her childhood'.[33] Raba said: [She must wait with halizah] until she has reached the age of [valid] vows.[34] The law however, is [that she must not perform halizah] until she has produced two [pubic] hairs.

IF [A SISTER-IN-LAW] PERFORMED HALIZAH IN THE PRESENCE OF TWO etc. R. Joseph b. Manyumi stated in the name of R. Nahman: The halachah is not in agreement with this pair.[35] But, surely. R. Nahman had once stated this; for R. Joseph b. Manyumi stated in the name of R. Nahman: The halachah is that[36] halizah [must be performed] in the presence of three [judges]![37] — [Both are] required: For if the first only had been stated, it might have been assumed [that three judges are required] ab initio only. but that ex post facto even two [judges are enough] hence we were taught that 'the halachah is not in agreement with this pair'.[38] And if we had been taught that 'the halachah is not in agreement with this pair' but in accordance with the ruling of the first Tanna, it might have been assumed [that this applies only] ex post facto,[39] but that ab initio five [judges] are required,[40] [hence the former statement was also] required.[41]

IT ONCE HAPPENED THAT A MAN SUBMITTED TO HALIZAH[42] etc. PRIVATELY BETWEEN HIMSELF AND HERSELF! How, then, can we know it? — Rab Judah replied in the name of Samuel: When witnesses observed it from without.

The question was raised:[43] Did it happen that the HALIZAH was performed privately BETWEEN HIMSELF AND HERSELF outside, AND THE CASE WAS BROUGHT BEFORE R. AKIBA IN PRISON,[44] or perhaps it happened that the HALIZAH was performed BETWEEN HIMSELF AND HERSELF in prison? — Rab Judah replied in the name of Rab: The incident occurred in prison and

the case also came up for decision in prison.[45] [

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(1) Others, ‘Samuel’. Cf. Tosaf. supra 96a, s.v. רבי.

(2) That the halizah of a minor is invalid and that it consequently prohibits the woman from contracting levirate marriage with any of the older brothers.

(3) Who stated (supra 96a) that the halizah of a minor has the same force as that of a divorce by a levir who is of age.

(4) His act is legally null and void. She is not thereby forbidden even to himself.

(5) That a sister-in-law who was a minor may not perform halizah.

(6) V. Deut. XXV, 7.

(7) Which excludes the male minor.

(8) Since both man and sister-in-law (woman) were mentioned in the same verse (ibid.). As the male minor is excluded so is the female minor excluded.

(9) Lit., ‘and said’.

(10) In Jerusalem. Cf. Ber. 28b, 30a.

(11) I.e., on this earth, opp. to ‘heaven’ above.

(12) I Kings IX, 3. Hence it must always form the centre of attraction for all engaged in prayer.

(13) Cf. Bah. Wanting in cur. edd.

(14) Lam. III, 41, emphasis on lift up.

(15) When everyone present was expected to take his usual seat.

(16) Cf. B.M. 84a.

(17) One of Rabbi's disciples. ‘Abdan’ is a contraction of ‘Abba Judan’ by which name he is known in the Palestinian Talmud. (Cf. Tosaf. s.v. אבא a.l.).

(18) During the discourses of the Master the disciples were seated on the ground in Eastern fashion; and R. Ishmael, in making his way towards his seat in the front rows, was compelled to stride over the heads of the assembly.

(19) Lit., ‘my master’, a designation applied to R. Judah the prince who was in his time the Master par excellence.

(20) R. Ishmael.

(21) Abdan.

(22) A slight upon Rabbi's recognized high position but one he well deserved for allowing Abdan publicly to annoy R. Ishmael.

(23) Desiring him to arrange for her a halizah ceremony.

(24) To ascertain whether she has developed the marks of puberty and is consequently eligible to perform halizah.

(25) Rabbi.

(26) Which excludes the male minor.

(27) Deut. XXV, 7.

(28) R. Jose. Thus it is proved that it is R. Jose's view that was presented supra as that of ‘the Sages’.

(29) Cf. supra note 4.

(30) V. Glos. s.v. Mi'un. The Talmudic text may imply that the two daughters. in-law, as minors, refused to contract levirate marriage with the brothers of their dead husband, so that the names of the deceased were ‘blotted out of Israel’ (cf. Golds.). Accordingly the rendering of the text should be ‘two (of) his (several) sons were drowned’. The text, however, might also be rendered: ‘His two sons were drowned (after) his two daughters-in-law had made declarations of refusal (against them)’.

(31) As an atonement for his ill-treatment of R. Ishmael; thus enabling him to enter the hereafter free from all sin.

(32) R. Jose בי רבי ברבי lit., ‘of the school of my master’, or ‘of Rabbi’, was a title of scholastic distinction given to many eminent scholars who were Rabbi's disciples or contemporaries, and similarly also to predecessors as well as to immediate successors among the early Amoraim. V. Nazir, Sonc., ed., p. 64, n. 1.

(33) פעוטות (cf. פטפט פוט, ‘to babble’) ‘talkers’, children of six or seven years of age, who may legally purchase or sell movable property. A child at this age, being regarded as sufficiently developed to understand certain commercial transactions, is also regarded as sufficiently developed to perform a halizah.

(34) One year prior to puberty, or the age of eleven years and one day, when her vows and consecrations are valid if on examination she is found to understand their significance and purpose. (Cf. Nid. 45b).

(35) R. Simeon and R. Johanan ha-Sandelar, the halachah being in agreement with the first Tanna who maintains that three judges are required for a halizah.

(36) V. Bah. Cur. edd. omit.

(37) Cf. supra 101b.

(38) Even ex post facto, which is the case spoken of in our Mishnah, halizah is invalid if no three eligible judges were present.

(39) Of which our Mishnah speaks (cf. supra n. 3).

(40) In agreement with R. Judah (cf. supra 101a).

(41) To indicate that even in the dispute between the first Tanna and R. Judah the halachah is in agreement with the former.

(42) Cf. our Mishnah. Cur. edd. read here 'they performed halizah'.

(43) The ambiguity in our Mishnah is due to a reading which omits the Waw in ובא so that it is possible to join 'in prison' either to the previous, or to the following clause (cf. Tosaf. s.v. ובא).

(44) During the revolt of Bar Kokeba (132-135 C.E.) R. Akiba was for a time held by the Romans as a prisoner and was subsequently martyred.

(45) [Tosaf.: Rab Judah had it on tradition that it was so, even as it is related in T.J.: R. Johanan ha-Sandelar passed outside the prison wherein R. Akiba was incarcerated, calling out, 'Who requires needles?', 'Who requires forks?' . . . 'How is it where the halizah was performed between himself and herself?' R. Akiba thereupon looked out through the window and replied: 'Hast thou of needles (kushin)? Hast thou kasher?', thus intimating that it is legal. V. Tosef. quoted in תום" ישנים for a slightly different version].

Talmud - Mas. Yevamoth 106a

Our Rabbis taught: A halizah under a false assumption[1] is valid.[2] What is meant by 'a halizah under a false assumption'? Resh Lakish explained: Where a levir is told, 'Submit to halizah and you will thereby wed her'. Said R. Johanan to him:[3] I am in the habit of repeating a Baraitha, 'Whether he[4] had the intention[5] [of performing the commandment of halizah] and she had no such intention, or whether she had such intention and he had not, her halizah is invalid, it being necessary[6] that both shall at the same time have such intention',[7] and you say that her halizah is valid![8] But [in fact this is the meaning]:[9] When a levir is told, 'Submit to her halizah on the condition that she gives you two hundred zuz'.[10]

So it was also taught [elsewhere]: A halizah under a false assumption is valid; and what is meant by a halizah under a false assumption? One in which the levir is told 'Submit to her halizah on condition that she gives you two hundred zuz'. Such an incident, in fact, occurred with a woman who fell to the lot of an unworthy levir who was told, 'Submit to her halizah on condition that she gives you two hundred zuz'. When this case came before R. Hiyya he ruled that the halizah was valid.

A woman[11] once came before R. Hiyya b. Abba.[12] 'Stand up,[13] my daughter', the Rabbi said to her. 'Her sitting is her standing',[14] replied her mother.[15] 'Do you know this man?'[16] the Rabbi asked. 'Yes', she answered him, 'it is her money that he saw and he would like to it'.[17] 'Do you not like him then?' he asked the woman.[18] 'No', she replied. 'Submit to her halizah', [the Rabbi] said to [the levir], 'and you will thereby wed her'. After the latter had submitted to halizah at her hands he said to him, 'Now she is ineligible to marry you; submit again to a proper halizah that she may be permitted to marry a stranger'.

A daughter of R. Papa's father-in-law fell to the lot of a levir who was unworthy of her.[19] When [the levir] came before Abaye the latter said to him, 'Submit to her halizah and you will thereby wed her'. Said R. Papa to him, 'Does not the Master accept the [relevant] ruling of R. Johanan?'[20] — 'What then could I tell him?' [the other asked]. 'Tell him', the first replied, '"submit to her halizah on condition that she gives you two hundred zuz."' After [the levir] had submitted to halizah at her hand [Abaye] said to her,[18] 'Go and give him [the stipulated sum]'.[21] 'She', R. Papa replied, 'was merely fooling him';[22] was it not, in fact taught: If a man escaping from prison beheld a ferry boat and said [to the ferryman], 'Take a denar and lead me across',[23] [the latter] can only claim his

ordinary fare.[24] From this then it is evident that the one can say to the other, 'I was merely fooling you'; so here also[25] [the woman may say], 'I was merely fooling you'. 'Where is your father?'[26] [Abaye] asked him. — 'In town', the other replied. 'Where is your mother?'[26] — 'In town', the other again replied. He set his eyes upon them and they died.

Our Rabbis taught:[27] A halizah under a false assumption is valid; a letter of divorce [given] under a false assumption is invalid.[28] A halizah under coercion is invalid; a letter of divorce [given] under compulsion is valid. How is this[29] to be understood? If it is a case where the man [ultimately][30] says, 'I am willing', the halizah also [should be valid]; and if he does not say, 'I am willing', a letter of divorce also should not [be valid]! — It is this that was meant: A halizah under a false assumption is always valid, and a letter of divorce [given] on a false assumption is always invalid; but a halizah under coercion and a letter of divorce [given] under coercion are sometimes valid and sometimes invalid, the former when the man [ultimately][30] declared, 'I am willing', and the latter, when he did not declare, 'I am willing'. For it was taught: He shall offer it[31] teaches that the man is coerced.[32] It might [be assumed that the sacrifice may be offered up] against his will, it was, therefore, expressly stated, In accordance with his will.[33] How then [are the two texts to be reconciled]? He is subjected to pressure until he says, 'I am willing'. And so you find in the case of letters of divorce for women: The man[34] is subjected to pressure until he says, 'I am willing'.[35]

Raba reported in the name of R. Sehora in the name of R. Huna: Halizah may be arranged even though [the parties][36] are unknown[37] A declaration of refusal[38] may be arranged even though the parties[39] are unknown.[37] For this reason[40] no certificate of halizah may be written[41] unless the parties are known,[42] and no certificate of mi'un[43] may be written[41] unless the parties are known,[42] for fear of an erring Beth din.[44]

Raba in his own name, however, stated: halizah must not be arranged unless the parties[45] are known,[46] nor may a declaration of refusal[43] be heard unless the parties[47] are known.[46] For this reason[48] it is permissible[49] to write a certificate of halizah[50] even though the parties are not known,[51] and it is also permissible[49] to write a certificate of mi'un[52] even though the parties are not known,[51] and we are not afraid of an erring Beth din.[53]

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(1) מוטעת (rt. טעה Hof.) lit., 'misled'.

(2) Tosef. Yeb. XII, Keth. 74a.

(3) Resh Lakish.

(4) The levir.

(5) When he submitted to halizah.

(6) Lit., 'until'.

(7) Tosef. Yeb. XII, supra 102b.

(8) Even when the levir was misled into thinking that he was performing an act of marriage!

(9) Of 'halizah under a false assumption'.

(10) V. Glos. Even if the promised sum was not forthcoming, the halizah is valid. Any condition in connection with an act which, like halizah. cannot be performed through an agent is illegal and void. Cf. Keth. 74a.

(11) A sister-in-law who fell to the lot of an undesirable levir. (V. infra).

(12) To meet the levir.

(13) I.e., to contract the levirate marriage.

(14) She was lame or suffered from some other chronic disease which disabled her from standing up. Another interpretation: Her 'sitting', i.e., her abstention from the marriage is her 'standing', i.e., salvation.

(15) Cf. Bah.

(16) I.e., did she know why he insisted on marrying a disabled woman? According to the second interpretation the question was whether she knew anything against his character.

(17) After which he would get rid of her. Lit., 'and he desires to eat it from her'.

(18) The sister-in-law.

(19) But who insisted on contracting with her the levirate marriage.
(20) Requiring both the man and the woman to be of the unanimous intention, during the ceremony, of fulfilling the commandment of halizah. V. supra.
(21) Though the halizah was in any case valid, Abaye held that the condition must be complied with.
(22) Lit., '(the trick of) "I fooled with you", she did to him'. Since the halizah is valid, and since it is the levir's duty to perform it, no legal obligation is incurred by promising him an excessive sum for doing that which it was his duty to do.
(23) An excessive fee for crossing a river.
(24) B.K. 116a.
(25) In the case of halizah under discussion.
(26) Abaye's query implied that R. Papa seemed to have all his needs provided for by his parents and that this left him leisure enough to indulge in fine dialectics.
(27) Others read, 'Raba said' (She'iltoth section Ki Theze).
(28) If the condition on which it was given was not fulfilled. A condition in the case of divorce has legal validity, since a divorce may be effected through the agency of witnesses. V. Keth. 74a and cf. supra p. 730, n. 10, final clause.
(29) The second ruling relating to coercion.
(30) After Beth din had brought pressure to bear upon him.
(31) Lev. I, 3.
(32) To carry out his vow if he undertook to bring an offering.
(33) לרצנו ibid., E.V., 'that he may be accepted'.
(34) Who refuses to give a divorce.
(35) Cf. Kid. 50a, B.B. 48a, Ar. 21a.
(36) The levir and his sister-in-law who apply for a halizah to be arranged for them.
(37) To the Beth din.
(38) Mi'un. V. Glos.
(39) The husband and the minor.
(40) Since halizah or mi'un may he arranged even for unknown persons whose declarations might be false.
(41) For a woman who applied for such a certificate to enable her to marry again. even if the usual declaration, that the parties were known to the writers, is omitted. V. infra n. 4.
(42) To the writers who witnessed the ceremony.
(43) Mi'un. V. Glos.
(44) I.e., a second Beth din who might be called upon to deal with the question of the remarriage of the parties and who might be unaware of the law that halizah and mi'un may be arranged even for unknown persons, and who, in their reliance on the written certificate, might permit the woman to marry again; overlooking the fact that the usual declaration that the parties were known to the writers (cf. supra note 1) was wanting from the certificate.
(45) V. supra p. 732, n. 10.
(46) To the Beth din.
(47) The husband and the minor.
(48) Since no Beth din would allow halizah and mi'un unless the parties are known to them.
(49) For witnesses who were present during one or other, as the case may be, of such ceremonies.
(50) To enable the woman to marry again.
(51) To the writers who witnessed the ceremony.
(52) Cf. supra notes 3 and 10.
(53) Cf. supra note 4 mutatis mutandis. Since the first Beth din must know the parties the question of mistaken identity does not arise.

Talmud - Mas. Yevamoth 106b

MISHNAH. [THIS IS THE PROCEDURE IN THE PERFORMANCE OF] THE COMMANDMENT OF HALIZAH: HE[1] AND HIS DECEASED BROTHER'S WIFE COME UNTO THE BETH DIN, AND [THE LATTER] OFFER HIM SUCH ADVICE AS IS SUITABLE TO HIS CONDITION,[2] FOR IT IS SAID IN THE SCRIPTURES, THEN THE ELDERS OF HIS CITY SHALL CALL HIM AND SPEAK UNTO HIM.[3] SHE THEN ANNOUNCES: MY

HUSBAND'S BROTHER REFUSETH TO RAISE UP UNTO HIS BROTHER A NAME IN ISRAEL; HE WILL NOT PERFORM THE DUTY OF A HUSBAND'S BROTHER UNTO ME.[4] THEN HE MAKES THE DECLARATION: I LIKE NOT TO TAKE HER.[5] [THESE FORMULAE] WERE ALWAYS SPOKEN IN THE HOLY TONGUE.[6] THEN SHALL HIS BROTHER'S WIFE DRAW NIGH UNTO HIM IN THE PRESENCE OF THE THE ELDERS AND DRAW[7] HIS SHOE FROM OFF HIS FOOT, AND SPIT BEFORE[8] HIS FACE,[9] SUCH SPITTLE AS THE JUDGES CAN SEE, AND SHE RAISES HER VOICE AND SAYS:[10] SO SHALL IT BE DONE UNTO THE MAN THAT DOTH NOT BUILD UP HIS BROTHER'S HOUSE,[11] THUS FAR[12] USED THEY TO RECITE.[13] WHEN, HOWEVER, R. HYRKANUS, UNDER THE TEREBINTH AT KEFAR ETAM,[14] ONCE DICTATED THE READING AND COMPLETED THE ENTIRE SECTION,[15] THE PRACTICE WAS ESTABLISHED TO COMPLETE THE ENTIRE SECTION.

[THAT] HIS NAME SHALL BE CALLED IN ISRAEL, 'THE HOUSE OF HIM THAT HAD HIS SHOE DRAWN[16] OFF',[17] IS A COMMANDMENT [TO BE PERFORMED] BY THE JUDGES AND NOT BY THE DISCIPLES.[18] R. JUDAH, HOWEVER, RULED: IT IS A DUTY INCUMBENT UPON ALL PRESENT TO CRY '[THE MAN][19] THAT HAD HIS SHOE DRAWN[16] OFF'.[17]

GEMARA. Rab Judah stated: [This is the procedure in the performance of] the commandment of halizah: She recites;[20] he recites;[21] she draws off his shoe, spits and recites.[22] What does he teach us [by this statement]? This is our very Mishnah! — It is this that he teaches us: The prescribed procedure is such, but if the order was reversed, it does not matter. So it was also taught: Whether the drawing off of the shoe preceded the spitting or whether the spitting preceded the drawing off, the act is valid.[23]

Abaye ruled: The man who dictates the halizah formulaє[24] shall not read for the woman [the word] not[25] separately and [the clause] he will perform the duty of a husband's brother unto me[26] separately, since this[27] would convey the meaning, 'He desires to perform the duty of a husband's brother to me'; but [should read without a pause]. He will not perform the duty of a husband's brother unto me. Nor shall he read for the levir [the word] not[28] separately and [the clause] I like[28] separately; for this[27] would convey the meaning. 'I like to take her'; but [he should read without a pause], I like not to take her.[29] Raba, however, stated: This[30] is only the conclusion[31] of a sentence, and in a concluding clause [a pause] is of no consequence.[32]

R. Ashi found R. Kahana making a painful effort to read out for a woman,[33] He will not perform the duty of a husband's brother unto me,[34] [without a pause]. 'Does not the Master,' he asked him, 'accept the ruling of Raba?'[35] — 'Raba', the other replied, 'admits in [the case of the formula] He will not perform the duty of a husband's brother unto me[34] [that no pause is permitted].[36]

Abaye stated: The person who writes a certificate of halizah shall word it as follows: 'We read out for her[37] from My husband's brother refuseth[38] to[39] will perform the duty of a husband's brother unto me;[40] and we read out for him[41] from not[42] to[39] to take her;[43] and we read out for her from So[44] to[45] him that had his shoe drawn off.[46]

Mar Zutra ruled [the paper][47] and copied the full text.[48] Mar b. Idi[49] demurred: But, surely, [a section only of the Pentateuch] is not permitted to be written![50] The law, however, is in agreement with the ruling of Mar Zutra.[51]

Abaye stated: If, when she spat. the wind carried the spittle away,[52] her act is invalid.[53] What is the reason? — It is necessary that she shall spit before[54] his face.[44] If, therefore, he was tall and she was short, and the wind carried the spittle away,[55] her act is deemed to have been[56] before his face.[57] If, however, she was tall and he was short, it is necessary that [the spittle] shall drop to the level of

his face before[58] it disappears.

Raba stated: If she ate garlic and then spat[59] or if she ate a clod of earth and then spat,[59] her act is invalid.[53] What is the reason? — Because it is necessary that she shall spit[44] of her own free will, which is not the case here.[60]

Raba further stated: The judges must see the spittle issuing from the mouth of the sister-in-law, because it is written in Scripture Before the eyes of the elders . . . and spit.[61]

[THAT] HIS NAME SHALL BE CALLED IN ISRAEL, 'THE HOUSE OF HIM THAT HAD HIS SHOE DRAWN OFF' IS A COMMANDMENT [TO BE PERFORMED] BY THE JUDGES AND NOT BY THE DISCIPLES. It was taught: R. Judah stated: We were once sitting before R. Tarfon when a sister-in-law came to perform halizah, and he said to us, 'Exclaim all of you: Haluz ha-na'al,[62] haluz ha-na'al, haluz ha-na'al!' [

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(1) The levir.

(2) As, for instance, whether the respective ages or characters of the parties are likely to be conducive to a happy union. Cf. supra 44a, 101b.

(3) Deut. XXV, 8.

(4) Deut. XXV, 7.

(5) Ibid. 8.

(6) The classical Hebrew in which the formulae appear in the Scripture. Cf. Sot. 32a.

(7) E.V., loose.

(8) E.V., in.

(9) Deut. XXV, 9.

(10) E.V. ' And she shall answer and say.

(11) Ibid.

(12) I.e., to the end of v. 9.

(13) Or 'dictate'. The judges dictated and the parties recited.

(14) [Var. lec. אבום, Cambridge Mishnah M.S. עכו. Krauss MGWf 1907, p. 332 reads כפר עכזם, Capphare Accho in lower Galilee. Etam is mentioned in Judges XV, 8 and 11, I Chron. IV, 32 and II Chron. XI, 6].

(15) To the end of v. 10.

(16) E.V., loosed.

(17) Deut. XXV, 10.

(18) Who happen to be present when the halizah ceremony is being performed.

(19) E.V., him.

(20) The formula prescribed in Deut. XXV, 7.

(21) The formula, ibid. 8.

(22) Ibid. 9. Cf. Sanh. 49b.

(23) Lit., 'what he did is done'. Sanh. 49b, supra 105a.

(24) Lit., 'document', 'deed'.

(25) it:'. (Deut. XXV, 7) which is the first word of the formula.

(26) אבה יבמי ibid.

(27) The severance of the latter clause from the negative particle.

(28) Deut. XXV, 8, cf. supra n. 3.

(29) Ibid.

(30) Each of the clauses mentioned by Abaye.

(31) אסוקי. This is the reading of Alfasi, Asheri and Bah. Cur. edd., אפסוקי 'breaking'. . . pausing'.

(32) Hence it is permitted to make a break between 'not' and the rest of the formula.

(33) A sister-in-law for whom he was arranging a halizah.

(34) The prescribed formula in Deut. XXV, 7.

(35) Supra, that a pause after 'not' is immaterial.

(36) It is only in the formula of the levir, in which the negative particle, ‘not’, forms the first word and cannot consequently be misunderstood as being connected with any previous word, that a pause does not matter. In the woman's formula, however, where the negative particle occurs in the middle of a clause, a pause after it might imply the connection of the negative with the preceding words, so that the clause following it would assume the meaning of an affirmative statement.
(37) The sister-in-law.
(38) The prescribed formula in Deut. XXV, 7.
(39) The middle portion of the formula is omitted, since it is forbidden to write down more than three consecutive words of the Pentateuch on unruled paper (cf. Git. 6b). The words permitted to be written according to Abaye represent in the Hebrew no more than two consecutive words.
(40) V. supra p. 735, n. 4.
(41) The levir.
(42) לא, the beginning of the levir's first formula.
(43) Ibid.
(44) Deut. XXV, 9.
(45) V. supra note 3.
(46) Ibid. 10, E.V., loosed.
(47) For the halizah certificate, cf. Git. 6b.
(48) Of each formula, not merely, as Abaye taught, its first and last words.
(49) Others, ‘Mar b. R. Ashi’. V. Alfasi and Asheri.
(50) The Pentateuch in its entirety only may be copied. Cf. Git. 60a.
(51) The prohibition against copying a section of the Pentateuch being limited to one that is to be used for teaching purposes. One, however, that is to be used as a mere record, as in the case of the Halizah certificate, does not come under the prohibition.
(52) Lit., ‘received’, ‘clutched’, ‘absorbed’.
(53) L1t., ‘she did not do anything’.
(54) E.V., in.
(55) V. supra note 16.
(56) Lit., ‘there is’.
(57) lbid., since at the moment the spittle left her mouth it was before the levir's face.
(58) Lit., ‘and then’.
(59) Impulsively owing to the unpleasant taste in her mouth.
(60) The garlic or the clod of earth having been the cause of her involuntary or instinctive action.
(61) Deut. XXV, 9.
(62) ‘(The man) that had his shoe drawn off’. V. Deut. XXV, 10.

C H A P T E R X I I I

MISHNAH. BETH SHAMMAI RULED: ONLY THOSE[1] WHO ARE BETROTHED[2] MAY EXERCISE THE RIGHT OF REFUSAL;[3] BUT BETH HILLEL RULED: BOTH THOSE WHO ARE BETROTHED AND THOSE WHO ARE MARRIED. BETH SHAMMAI RULED: [A DECLARATION OF REFUSAL[3] MAY BE MADE] AGAINST A HUSBAND BUT NOT AGAINST A LEVIR;[4] BUT BETH HILLEL RULED: EITHER AGAINST A HUSBAND OR AGAINST A LEVIR. BETH SHAMMAI RULED: [THE DECLARATION][5] MUST BE MADE IN HIS PRESENCE, BUT BETH HILLEL RULED: EITHER IN HIS PRESENCE OR NOT IN HIS PRESENCE. BETH SHAMMAI RULED: [THE DECLARATION[5] MUST BE MADE] BEFORE BETH DIN, BUT BETH HILLEL RULED: EITHER BEFORE BETH DIN OR NOT BEFORE BETH DIN.

BETH HILLEL SAID TO BETH SHAMMAI: [A GIRL] MAY EXERCISE THE RIGHT OF REFUSAL WHILE SHE IS A MINOR EVEN FOUR OR FIVE TIMES.[6] BETH SHAMMAI, HOWEVER, ANSWERED THEM: THE DAUGHTERS OF ISRAEL ARE NOT OWNERLESS PROPERTY,[7] BUT, [IF ONE] MAKES A DECLARATION OF REFUSAL, SHE MUST WAIT TILL SHE IS OF AGE, AND DECLARE HER REFUSAL[8] AND MARRY AGAIN.

GEMARA. Rab Judah stated in the name of Samuel: What is Beth Shammai's reason?[9] Because no stipulation is attachable to a marriage;[10] and were a married minor to be allowed to exercise the right of refusal, it would come to be assumed[11] that a stipulation is attachable to a marriage.[12] What reason, however, could be advanced[13] where she only entered the bridal chamber[14] and no cohabitation had taken place?[15] Because no condition is attachable to an entry into the bridal chamber.[16] What reason, however, could be advanced[13] where the father[17] entrusted her to the representatives of the husband?[18] — The Rabbis made no distinction.[19] And Beth Hillel?[20] — It is well known that the marriage of a minor is only Rabbinically valid.[21]

Both Rabbah and R. Joseph declared: The reason of Beth Shammai[22] is that no man wishes to treat his cohabitation as mere fornication.[23] What, however, can be the reason[22] where she only entered the bridal chamber and no cohabitation took place?[24] No man would like his bridal chamber to be [an introduction to] a forbidden act.[25] What reason,[22] then, could be advanced where the father[26] had entrusted her to the representatives of the husband?[27] — The Rabbis made no distinction.[28] And Beth Hillel?[29] — Since [a minor's marriage] involves[30] betrothal and kethubah no one would suggest that her husband's cohabitation was an act of fornication.

R. Papa explained: Beth Shammai's reason[31] is because of the usufruct,[32] and Beth Hillel's reason also is because of the usufruct.[32] 'Beth Shammai's reason is because of the usufruct', for should you say that a married minor may exercise the right of refusal, [her husband][33] might [indiscriminately] pluck [the fruit] and consume it, [knowing as he does] that she might leave him at any moment.[34] Beth Hillel, however, [say]: On the contrary; since it is laid down that she may exercise the right of refusal, [her husband] would make every effort to improve her property, fearing that if [he should] not [do this], her relatives might give her their advice [against him] and thus take her away from him.

Raba stated: The real reason[31] of Beth Shammai is because no man would take the trouble to prepare a meal[35] and then spoil it.[36] And Beth Hillel?[37] — Both are pleased [to be married to each other][38] in order that they may be known as married people.[39]

BETH SHAMMAI RULED . . . AGAINST A HUSBAND etc. R. Oshaia stated: She may[40] make a declaration of refusal in respect of his ma'amar[41] but she has no right to make a declaration of

refusal in respect of his levirate bond.[42]

Said R. Hisda: What is R. Oshaia's reason? — She has the power to annul a ma'amar which is effected with her consent; she has no power, however, to sever the levirate bond since it is binding on her against her will.[43] But, surely, [levirate marriage by] cohabitation may be effected against her will[44]

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(1) Young girls who are minors and whose fathers are dead. v. infra n. 2.

(2) With the permission of their mother or brothers into whose charge they pass after the death of their fathers.

(3) Mi'un (v. Glos.) and no divorce is required.

(4) The levirate bond with whom can he severed by halizah only. Bah deletes 'but not . . . levir'.

(5) Cf. supra n. 3.

(6) And may marry again after each refusal.

(7) To be taken up by man after man without receiving proper divorce from the one before being betrothed or married to the other

(8) This is explained in the Gemara infra.

(9) For ruling that ONLY BETROTHED WOMEN MAY EXERCISE THE RIGHT OF REFUSAL and that consequently a married minor may not exercise the right.

(10) And the validity of the marriage is not in any way impaired even if the condition that was attached to it was not fulfilled. The law assumes that the man tacitly renounces, on cohabitation, the condition.

(11) The invalidity of her marriage being assumed to be due, not to her minority, but to some unfulfilled stipulation that was attached to her marriage.

(12) Even in the case of one who is of age. Hence Beth Shammai's ruling in our Mishnah. Cf. supra note 1.

(13) For the prohibition of mi'un. V. Glos.

(14) Huppah, v. Glos.

(15) In such a case, since consummation of marriage has not taken place, there is, surely, no need to provide against the erroneous assumption of the validity of a stipulation in consummated marriage!

(16) If a minor at such a stage in her marriage were allowed mi'un it might be assumed that the reason why her union was severed without a divorce was not because of her minority but owing to an unfulfilled condition that was attached to her entry into the bridal chamber, and so it would be concluded erroneously that even in the case of one who is of age a condition attached is valid.

(17) I.e., his successors in authority over the minor, after his death, viz., his wife and sons. (Cf. supra p. 738, n. 2). Where a father is alive the law of mi'un (with the exception of the case mentioned supra p. 2, n. 6) does not apply, since he has the right to give her away in perfect and proper marriage while she is a minor.

(18) An act which, though regarded as marriage, is a stage preceding that of entry into the bridal chamber, where a condition is valid, even in the case of a bride who is of age.

(19) Between a marriage fully consummated and one in its earlier stage. Since both are cases of marriage, permissibility of mi'un in the latter might lead to an erroneous conclusion concerning the former.

(20) Why do they not provide against the possibility of erroneous conclusions.

(21) No one would draw comparisons between a marriage the validity of which is only Rabbinical and one which is Pentateuchally binding.

(22) V. Supra p. 739, n. 1.

(23) Which would be the case were a married minor to be allowed to leave her husband by mi'un only without a proper divorce. Mi'un was, therefore, forbidden in order to encourage the marriage of orphan minors who, if they remain unmarried, are subject to the dangers of immorality and prostitution. Cf. infra 112b.

(24) In which case the reason given is inapplicable.

(25) Retrospective prostitution.

(26) V. Supra p. 739, n. 9.

(27) Though such an act on the part of the minor's mother or brothers constitutes marriage in accordance with Rabbinic law, as does such an act on the part of the father even in the case of one who is of age (cf. Keth. 48b), nevertheless the question of fornication does not in such a case arise. Why, then, do Beth Shammai forbid mi'un even at this stage of marriage?

(28) Cf. supra p. 739, n. 11.
(29) How, in view of the reason advanced, could they allow mi'un even in marriage!
(30) Lit., 'there is'.
(31) V. supra p. 739, n. 1.
(32) Of the minor's melog (v. Glos.) property.
(33) Who after marriage is entitled to the usufruct of his wife's melog property.
(34) Lit., 'for in the end she stands to go out'.
(35) The wedding feast.
(36) Had mi'un been allowed after a marriage no one would, for this reason, ever marry a minor; and this might lead to immoral consequences. Cf. supra p. 740, n. 2.
(37) v. p. 740, n. 8.
(38) Despite the objections pointed out by Beth Shammai.
(39) The possible loss does not, therefore, prevent a man from marrying a minor.
(40) According to Beth Hillel who allow the right of refusal even against a levir.
(41) If the levir made a ma'amar, she can annul it by mi'un, and no divorce is required.
(42) Only halizah can sever the levirate bond. In ordinary cases where the levir addressed to the yebamah a ma'amar, she requires for her freedom both a divorce to annul the effect of the ma'amar, and halizah to sever the levirate bond.
(43) Because it is due to her marriage with the deceased brother, which, since she did not exercise her right of refusal against him, remained valid.
(44) Cf. supra 53b, 54a.

Talmud - Mas. Yevamoth 107b

and yet she may annul it! — [This,] however, [is really the reason]: She may annul [a kinyan by] cohabitation or by a ma'amar, because it is the levir who effects it; she cannot, however, annul the levirate bond which the All Merciful has imposed upon her.

'Ulla said: She may exercise her right of refusal even in respect of his levirate bond. What is the reason?[1] [By her refusal] she annuls the marriage of her first husband.[2]

Raba raised an objection against 'Ulla: The rival of anyone, entitled to make a declaration of refusal,[3] who did not exercise her right, must perform the ceremony of halizah[4] [if her husband died childless] but may not contract levirate marriage.[5] But why? Let her exercise her right of refusal now and thereby annul the marriage of her first husband, and then let her rival[6] contract the levirate marriage![7] — The rival of a forbidden relative is different.[8] For Rami b. Ezekiel learnt: If a minor made a declaration of refusal against her husband she is permitted to marry his father,[9] but if against the levir[10] she is forbidden to marry his father. It is thus evident[11] that at the time she became subject to the levirate marriage she is looked upon as his[12] daughter-in-law;[13] similarly here also[14] [marriage of the rival is forbidden because] at the time of her subjection to the levirate marriage she is looked upon as his daughter's rival.[15] Rab stated: If she[16] made a declaration of refusal against one[17] [of the levirs] she is forbidden [to marry] the others[17] also; her case being analogous to that of the recipient of a letter of divorce.[18] As[19] the recipient of a letter of divorce is forbidden to all [the brothers] as soon as she is forbidden to one[20] so is there no difference here also.[21]

Samuel, however, stated: If she[16] exercised her right of refusal against one[20] [of the levirs] she is permitted [to marry] the others;[17] her case being unlike that of the recipient of a letter of divorce.[18] For with the recipient of a letter of divorce[18] it is he[20] who took the initiative against her;[22] but here it is she who took the initiative against him, declaring, 'I do not like you and I do not want you; it is you whom I dislike but I do like your fellow'.

R. Assi ruled: If she[16] made a declaration of refusal against one [levir] she is permitted [to marry] even him. May it be assumed that he is of the same opinion as R. Oshaia who maintains that a minor

has no right to make a declaration of refusal in respect of his levirate bond?[23] — In respect of one levir she may well be entitled to annul [the levirate bond]; here, however, we are dealing with two levirs [the reason[24] being] that no declaration of refusal is valid against half a levirate bond.[25]

When Rabin came[26] he reported in the name of R. Johanan: If she[16] exercised her right of refusal against one[17] [of the levirs] she is permitted to marry the other brothers. [They], however did not agree with him. Who [are they who] did not agree with him?

Abaye said: Rab;[27] Raba said: R. Oshaia;[28] and others said: [Even] R. Assi.[29]

BETH SHAMMAI RULED . . . IN HIS PRESENCE etc. It was taught: Beth Hillel said to Beth Shammai, 'Did not the wife of Pishon the camel driver make her declaration of refusal in his absence?' 'Pishon the camel driver', answered Beth Shammai to Beth Hillel, 'used a reversible measure;[30] they, therefore, used against him also a reversible measure'.[31] Since, however, he was eating the usufruct[32] it is obvious that [the minor] was married to him;[33] but [if this was the case] did not Beth Shammai rule [it may be asked] that a married minor may not exercise the right of refusal![34] They bound him with two bonds.[35]

BETH SHAMMAI RULED: . . . BEFORE BETH DIN etc. Elsewhere we learned: Halizah and declarations of mi'un [must be witnessed by] three men.[36] Who is the Tanna?[37] — Rabbah replied: This [ruling is that of] Beth Shammai.[38] Abaye said: You may even say [that it is the ruling of] Beth Hillel. All that[39] Beth Hillel really stated was that no experts[40] are required; three men, however, are indeed required. As it was, in fact, taught: Beth Shammai ruled [that mi'un must he declared] before Beth din,[41] and Beth Hillel ruled: Either before a Beth din or not before a Beth din. Both, however, agree that a quorum of three is required.[42] R. Jose son of R.[43] Judah and R. Eleazar son of R. Simeon[44] ruled: [Mi'un is] valid [even if It was declared] before two.[45] R. Joseph b. Manyumi reported in the name of R. Nahman that the halachah is in agreement with this pair.[46]

BETH SHAMMAI, HOWEVER, ANSWERED . . . AND SHE DECLARES HER REFUSAL etc. But, surely, she has already made a declaration of refusal![47] — Samuel replied: [The meaning is] TILL SHE IS OF AGE and states, 'I am willing to abide by the first declaration of refusal'.[48] 'Ulla replied: Two [different statements] are here made: Either she declares her refusal 'and is betrothed after she is of age,[49] or she declares her refusal, and is married forthwith.[50]

According to 'Ulla one can well understand why the expression, TILL SHE IS OF AGE OR DECLARES HER REFUSAL[51] AND MARRIES AGAIN, was used. According to Samuel, however, it should have been stated 'TILL SHE IS OF AGE and states'.[52] — This is a difficulty. MISHNAH. WHICH MINOR MUST MAKE THE DECLARATION OF REFUSAL?[53] ANY WHOSE MOTHER OR BROTHERS HAVE GIVEN HER IN MARRIAGE WITH HER CONSENT. IF, HOWEVER, THEY GAVE HER IN MARRIAGE WITHOUT HER CONSENT SHE NEED NOT MAKE ANY DECLARATION OF REFUSAL.[54]

R. HANINA B. ANTIGONUS RULED: ANY CHILD WHO IS UNABLE TO TAKE CARE OF HER TOKEN OF BETROTHAL[55] NEED NOT MAKE ANY DECLARATION OF REFUSAL.[54]

R. ELIEZER[56] RULED: THE ACT OF A MINOR HAS NO VALIDITY AT ALL, BUT [SHE[57] IS TO BE REGARDED] AS ONE SEDUCED. IF, THEREFORE, SHE IS THE DAUGHTER OF AN ISRAELITE [AND WAS MARRIED] TO A PRIEST SHE MAY NOT EAT TERUMAH,[58] AND IF SHE IS THE DAUGHTER OF A PRIEST [AND WAS MARRIED] TO AN ISRAELITE SHE MAY EAT TERUMAH.[59]

R. ELIEZER B. JACOB RULED: IN THE CASE OF ANY HINDRANCE [IN

REMARRYING][60] THAT WAS DUE TO THE HUSBAND, [THE MINOR] IS DEEMED TO HAVE BEEN[61] HIS WIFE; BUT IN THE CASE OF ANY HINDRANCE [IN REMARRYING] THAT WAS NOT DUE TO THE HUSBAND SHE IS NOT DEEMED TO HAVE BEEN[62] HIS WIFE.

GEMARA. Rab Judah stated, and others say that it was taught In a Baraitha: Originally, a certificate of mi'un was drafted [as follows]: 'I do not like him and I do not want him and I do not desire to be married to him'. When, however, it was observed that the formula was too long and it was feared that

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(1) How could she annul a bond which the 'All Merciful has imposed upon her'?

(2) The deceased; so that the levirate bond ceases to exist retrospectively as if it had never been in existence.

(3) I.e., a girl who married while she was a minor and whose father did not receive the token of her betrothal. This may occur even during the lifetime of her father if she marries a second time after she had been divorced by her first husband to whom she had been given in marriage by her father. After a divorce the father's right to give his 'minor' daughter in marriage ceases.

(4) With the levir, though he is the father or any other forbidden relative of the minor. It is only the rival of a woman whose marriage is Pentateuchally valid who is exempt from both levirate marriage and halizah with the forbidden relative of that woman. The marriage of a minor, who could exercise her right of refusal at any moment, is only Rabbinically valid.

(5) Supra 2b. Since after all the minor did not exercise her right of refusal her marriage is valid enough to forbid her rival's levirate marriage, as is the case with a Pentateuchally valid marriage.

(6) Who, by the declaration of refusal of the minor, ceases to be her rival.

(7) With the minor's forbidden relative.

(8) From a minor who becomes subject to halizah. While the minor may, by annulling her marriage retrospectively by the exercise of the right of mi'un, procure exemption from the halizah, her rival cannot, through the minor's exercise of this right, obtain the freedom to marry the minor's forbidden relative.

(9) Who, owing to her retrospective annulling by mi'un of her marriage with his son, is to him now a mere stranger.

(10) To whom she has become bound by the levirate obligation when her husband, against whom she did not exercise her right of mi'un, died childless.

(11) Since she is forbidden to marry the levir's father.

(12) The levir's father's.

(13) A status which she retains despite the mi'un.

(14) Though her mi'un which annulled her marriage retrospectively exempted her from halizah.

(15) Her subsequent estrangement, effected by the minor's mi'un, cannot remove her known status of forbidden relative's rival. Cf. supra note 10.

(16) A minor.

(17) Lit., 'this'.

(18) From one of the levirs.

(19) Lit., 'not?'

(20) The levir who gave her the letter of divorce.

(21) The mi'un which causes her to be forbidden to marry one of the brothers causes her, as in the case of divorce, to be equally forbidden to all the other brothers.

(22) And he is presumed to have acted on behalf of all his brothers.

(23) And if she did exercise It she still remains permitted to the levir, v. supra p. 741, n. 8.

(24) For the invalidity of the mi'un.

(25) She is equally bound to the two levirs, and her refusal was declared against one of them only.

(26) From Palestine to Babylon.

(27) Who stated supra that if a minor made a declaration of refusal against one of the brothers she is forbidden to all.

(28) R. Johanan permitted her to marry the brothers only where there were several of them (the reason being the same as that of R. Assi that a part of a levirate bond cannot be severed); where, however, there was only one brother R. Johanan forbids him to marry the minor who made a declaration of refusal against him. This ruling is contrary to that of R.

Oshaia who in all cases regards mi'un against a levirate bond as invalid.
(29) Much more so R. Oshaia (v. supra n. 13). Even R. Assi who, unlike R. Oshaia agrees with R. Johanan in permitting the marriage of a minor, after her mi'un, only where the number of levirs is more than one, differs, nevertheless, from him in allowing the minor to marry the very levir against whom her declaration of refusal was made.
(30) כפושה (rt. כפש 'to bend'cf.מדה כפושה, a measure of capacity having a deep receptacle at one end and a shallow one at the other, to defraud thereby sellers and buyers; 'a false measure'. This is a metaphor expressing Pishon's double dealing with his wife in pretending merely to eat the fruit of her melog property, to which he was in fact entitled, while in reality he was encroaching upon the property itself which belonged to her.
(31) He was paid 'measure for measure', 'tit for tat'. In other cases, however, mi'un must be declared before Beth din only.
(32) Of the minor's melog property.
(33) Not merely betrothed. Before marriage, even if betrothal had taken place, a husband is not entitled to the usufruct of his wife's melog property.
(34) How then could she here at all make such a declaration !
(35) Metaph. He was subjected to two penalties. קיטרי sing.קטרא (Heb. קשר) 'knot', 'bond'.
(36) Supra 101b, Sanh. 2a.
(37) Whose ruling this statement represents.
(38) Who require the presence of a Beth din (v. our Mishnah) which consists of three men.
(39) Lit., 'until here'.
(40) Mumhin, plur. of mumhe, v. Glos.
(41) 'Of experts'. This is the reading supra 101b.
(42) Which confirms Abaye's opinion.
(43) Cur. edd., בר ('son'), is apparently a misprint for בר ('son of R.'), which is the reading supra, loc. cit.
(44) Cf. loc. cit. where the reading is 'Jose'.
(45) Sanh. 2a, supra loc. cit.
(46) Who require a quorum of two only, v. supra loc. cit.
(47) When she was a minor. Why then does our Mishnah speak of a second declaration of refusal after she has become of age?
(48) By the second refusal (cf. supra n. 8) only the confirmation of the first was intended. Without such confirmation it might be possible to assume that she had changed her opinion and withdrawn her first declaration.
(49) When she may no more exercise the right of mi'un even after a betrothal only.
(50) While still a minor. Since, according to Beth Shammai, mi'un after a marriage is invalid she would not be able, once she was married, to exercise that right again. The word ותמאן translated AND DECLARES etc. should be rendered OR DECLARES etc.
(51) 'OR . . . REFUSAL is wanting in cur. edd., but is to be added (cf. our Mishnah).
(52) That she abides by her declaration.
(53) If she desires to leave her husband.
(54) She may leave her husband without any legal formality, and may marry any other man.
(55) The money or object whereby the kinyan of betrothal is effected. Cf. Kid. 2af.
(56) Cf. Bah, Bomb. ed. and separate edd. of the Mishnah; Cur. edd., 'Eleazar'.
(57) If she was given away in marriage.
(58) Her marriage being invalid, she remains in her father's control, and, like any other daughter of an Israelite who never married a priest, is forbidden to eat terumah.
(59) As the daughter of a priest who never married an Israelite. Cf. supra n. 6.
(60) Lit., 'retention (in the house of her husband)'.
(61) Lit., 'as if she was'.
(62) Lit., 'as if she was not'.

Talmud - Mas. Yevamoth 108a

people might mistake it for a letter of divorce,[1] the following formula was instituted: 'On the Nth day, So-and-so the daughter of So-and-so made a declaration of refusal in our presence'.

Our Rabbis taught: What is regarded as mi'un? — If she[2] said, 'I do not want So-and-so my husband', or 'I do not want the betrothal which my mother or my brothers have arranged for me'.[3] R. Judah said even more than this:[4] Even if while sitting in the bridal litter,[5] and being carried[6] from her father's house to the home of her husband, she said, 'I do not want So-and-so my husband', her statement[7] is regarded as[8] a declaration of refusal. R. Judah said more than this:[9] Even if, while the wedding guests were reclining [on their dining couches] in her husband's house and she was standing and waiting[10] upon them , she said to them, 'I do not want my husband So-and-so', her statement[11] is regarded as[12] a declaration of refusal. R. Jose b. Judah said more than this: Even if, while her husband sent her to a shopkeeper to bring him something for himself,[13] she said, 'I do not want So-and-so my husband', you can have no mi'un more valid than this one.[14]

R. HANINA B. ANTIGONUS RULED: ANY CHILD etc. Rab Judah reported in the name of Samuel: The halachah is in agreement with R. Hanina b. Antigonus.

A Tanna taught: If a minor who did not make a declaration of refusal married herself again, her marriage, it was stated in the name of R. Judah b. Bathyra, is to be regarded as her declaration of refusal.

It was asked: What is the law where she[15] was only betrothed?[16] — Come and hear: If a minor who did not make a declaration of refusal betrothed herself [to another man], her betrothal, it was stated in the name of R. Judah b. Bathyra, is regarded as her declaration of refusal.

The question was raised: Do the Rabbis differ from R. Judah b. Bathyra or not? If you can find some ground for holding that they differ, [it may be asked whether only] in respect of betrothal,[17] or even in respect of marriage? And should you find some reason for holding that they differ even in respect of marriage [the question arises whether] the halachah is in agreement with him[18] or not? And if you can find some ground for holding that the halachah is in agreement with him [it may be asked whether only] in respect of marriage or also in respect of betrothal? — Come and hear: Rab Judah stated in the name of Samuel that the halachah is in agreement with R. Judah b. Bathyra;[19] [since it had to be stated that] the halachah [is so] it may be inferred that they differ.[20]

The question, however, still remains [whether the minor spoken of][21] is one who was married in the first instance[22] or perhaps she is one who was only betrothed?[23] — Come and hear: Abdan's[24] daughters-in-law[25] rebelled [against their husbands].[26] When Rabbi sent a pair of Rabbis to interrogate then,[27] some women said to them, 'See your husbands are coming'. 'May they', they replied, 'be your husbands!'[28] and 'Rabbi decided: 'No more significant mi'un than this is required'. Was not this a case of marriage?[29] — No, one of betrothal only. The halachah, however, is in agreement with R. Judah b. Bathyra, even where marriage with the first husband has taken place.

R. ELIEZER[30] RULED etc. Rab Judah stated in the name of Samuel: I have surveyed [the rulings] of the Sages from all aspects and found no man who was so consistent in his treatment of the minor as R. Eliezer.[30] For R. Eliezer[30] regarded her as one taking a walk with [her husband] in his courtyard who, when she rises from his bosom, performs her ritual immersion[31] and is permitted to eat terumah in the evening.[32]

It was taught: R. Eliezer stated: There is no validity whatsoever in the act of a minor, and her husband is entitled neither to anything she may find,[33] nor to the work of her hands,[33] nor may he annul her vows;[34] he is not her heir[33] and he may not defile himself for her.[35] This is the general rule: She is in no respect regarded as his wife, except that it is necessary for her to make a declaration of refusal.[36] R. Joshua stated: Her husband has the right to anything she finds[37] and to the work of her hands,[37] to annul her vows,[34] to be her heir,[37] and to defile himself for her;[38] the

general principle being that she is regarded as his wife in every respect, except that she may leave him[36] by a declaration of refusal.[39] Said Rabbi: The views of R. Eliezer are more acceptable than those of R. Joshua; for R. Eliezer is consistent throughout in his treatment of the minor while R. Joshua makes distinctions. What [unreasonable] distinctions does he make? — If she is regarded as his wife, she should also require a letter of divorce.[40] But according to R. Eliezer also [it may be argued] if she is not regarded as his wife, she should require no mi'un either! — Should she then depart without any formality whatever?[41]

R. ELIEZER B. JACOB RULED: etc. What is to be understood by a HINDRANCE THAT WAS DUE TO THE HUSBAND and a HINDRANCE THAT WAS NOT DUE TO THE HUSBAND? — Rab Judah replied in the name of Samuel: If when she was asked to marry[42] she replied, '[I must refuse the offer] owing to So-and-so my husband'; such a HINDRANCE is one THAT WAS DUE TO THE HUSBAND.[43] [If, however, she refused the offer] 'because', [she said] 'the men [who proposed] are not suitable for me'; such a HINDRANCE is one THAT WAS NOT DUE TO THE HUSBAND.

Both Abaye b. Abin and R. Hanina b. Abin gave the following explanation: If he gave her a letter of divorce, the HINDRANCE IS one THAT WAS DUE TO THE HUSBAND[44] and, therefore, he is forbidden to marry her relatives and she is forbidden to marry his relatives, and he also disqualifies her from marrying a priest.[45] If, however, she exercised her right of refusal against him, the HINDRANCE is one THAT WAS NOT DUE TO THE HUSBAND and, therefore, he is permitted to marry her relatives and she is permitted to marry his relatives, and he does not disqualify her from marrying a priest.[46]

But surely, this[47] was specifically stated below: If a minor made a declaration of refusal against a man, he is permitted to marry her relatives and she is permitted to marry his relatives, and he does not disqualify her from marrying a priest; but if he gave her a letter of divorce he is forbidden to marry her relatives and she is forbidden to marry his relatives, and he also disqualifies her from marrying a priest![48] — The latter[49] is merely an explanation [of the former].[50]

MISHNAH. IF A MINOR MADE A DECLARATION OF REFUSAL AGAINST A MAN, HE IS PERMITTED [TO MARRY] HER RELATIVES AND SHE IS PERMITTED TO [MARRY] HIS RELATIVES, AND HE DOES NOT DISQUALIFY HER FROM [MARRYING] A PRIEST;[51] BUT IF HE GAVE HER A LETTER OF DIVORCE, HE IS FORBIDDEN TO [MARRY] HER RELATIVES AND SHE IS FORBIDDEN TO [MARRY] HIS RELATIVES, AND HE ALSO DISQUALIFIES HER FROM [MARRYING] A PRIEST.[52] IF HE GAVE HER A LETTER OF DIVORCE AND REMARRIED HER AND, AFTER SHE HAD EXERCISED HER RIGHT OF REFUSAL AGAINST HIM, SHE WAS MARRIED TO ANOTHER MAN AND BECAME A WIDOW OR WAS DIVORCED, SHE IS PERMITTED TO RETURN TO HIM.[53] IF, HOWEVER, SHE EXERCISED HER RIGHT OF REFUSAL AGAINST HIM[54] AND HE REMARRIED HER, AND SUBSEQUENTLY GAVE HER A LETTER OF DIVORCE AND THEN SHE WAS MARRIED TO ANOTHER MAN AND BECAME A WIDOW OR WAS DIVORCED, SHE IS FORBIDDEN TO RETURN TO HIM.[55]

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(1) And might consequently include the formula in letters of divorce also.

(2) The minor.

(3) Lit., 'with which they have consecrated me'.

(4) I.e., extended the scope of mi'un still further.

(5) אפריון.

(6) Lit., 'and goes

(7) Though it might be objected that, had she really meant what she said, she would have refused to be carried to her husband.

(8) Lit., ‘it is’.
(9) V. supra note 3.
(10) Lit., ‘and giving drink’.
(11) Though her waiting upon the guests might seem to contradict her declaration, and though no proper Beth din is present.
(12) Lit., ‘behold it’.
(13) Lit., ‘an object of his’.
(14) Tosef. Yeb. XIII. Though her statement might possibly be the result of a mere outburst against her husband for troubling her with his errand, and though no one but the shopkeeper was present when she made the statement.
(15) A minor who did not make her declaration of refusal.
(16) Not married. Has betrothal the same validity as marriage?
(17) Do they require separate mi'un, but not in the case of marriage, where they agree with R. Judah.
(18) R. Judah; though he is in the minority.
(19) In respect of marriage as well as in that of betrothal.
(20) Had they all been of the same opinion there would have been no need to make the statement that the halachah agrees with him.
(21) Concerning whom it was ruled that no mi'un is required.
(22) l.e. , to her first husband.
(23) But if married, specific mi'un is required.
(24) Abdan was one of Rabbi's disciples, who, after an incident with R. Ishmael, lost his two sons the husbands of the young women here mentioned. Cf. supra 105b.
(25) Who were minors.
(26) Refusing to perform their marital obligations.
(27) To ascertain whether their refusal was in earnest.
(28) I.e., you are welcome to them.
(29) Lit ‘what not (but) that she was married’, i.e., each of them was married to her husband, and, since a mere casual remark was nevertheless accepted by Rabbi as mi'un, it may be inferred that an actual marriage with, or a betrothal to another man may even more so be regarded as mi'un.
(30) Cf. supra p. 746, n. 4.
(31) Necessitated by their connubial intercourse.
(32) If her father is a priest, though her husband is an Israelite. R. Eliezer does not regard the minor as a wife either in respect of the requirement of mi'un or in respect of any other restrictions or privileges such as those relating to terumah.
(33) To which a lawful husband is entitled.
(34) Which is the privilege of a husband. Cf. Num. XXX. 71f.
(35) If he is a priest. Only a lawful husband may. Cf. Lev. XXI, 2.
(36) If she wishes to marry another man.
(37) Rabbinic law has conferred upon him the same rights as those of a lawful husband. Cf. supra n. 4.
(38) Even if he is a priest (cf. supra n. 6). She is regarded as a meth mizwah (v. Glos.), hence he may defile himself for her though Pentateuchally she is not his proper wife.
(39) And no letter of divorce is required.
(40) Mi'un should not have been allowed.
(41) Certainly not. Hence the requirement of mi'un.
(42) While she was still living with her first husband.
(43) Since the minor has shewn by her declaration that it was her desire to continue to live with him.
(44) Since she did not exercise her right of refusal it is obvious that as far as she was concerned the union would never have been broken.
(45) Like any other divorced woman.
(46) Since she is not regarded as his wife.
(47) Our Mishnah according to the explanation of Abaye and R. Hanina.
(48) V. Mishnah intro. Why then should the same ruling be recorded twice?
(49) The Mishnah cited.
(50) R. Eliezer b. Jacob's ruling in our Mishnah.

(51) Since she is not regarded as his wife.
(52) Like any other divorced woman.
(53) It is only a divorced woman that must not be remarried by her first husband after she had been married to another (v. Deut. XXIV, 2-4) but not a minor who left her husband by mi'un which even cancels her status of divorcee in which she may find herself after a previous separation from her husband.
(54) Her first husband.
(55) Since her second separation from her first husband was by means of a letter of divorce, she retains the status of a divorcee. Cf. supra n. 6.

Talmud - Mas. Yevamoth 108b

THIS IS THE GENERAL RULE: IF DIVORCE FOLLOWED MI'UN[1] SHE IS FORBIDDEN TO RETURN TO HIM,[2] AND IF MI'UN FOLLOWED DIVORCE[1] SHE IS PERMITTED TO RETURN TO HIM.[3]

IF A MINOR EXERCISED HER RIGHT OF REFUSAL AGAINST A MAN, AND THEN SHE WAS MARRIED TO ANOTHER MAN WHO DIVORCED HER, AND AFTERWARDS TO ANOTHER MAN AGAINST WHOM SHE MADE A DECLARATION OF REFUSAL, AND THEN TO ANOTHER MAN WHO DIVORCED HER,[4] SHE[5] IS FORBIDDEN TO RETURN TO THE MAN FROM WHOM SHE WAS SEPARATED BY A LETTER OF DIVORCE, BUT IS PERMITTED TO RETURN TO HIM FROM WHOM SHE WAS SEPARATED BY HER EXERCISE OF THE RIGHT OF MI'UN.

GEMARA. It is thus[6] evident that mi'un has the power to cancel[7] divorce; but this, surely, is contradicted by the following: IF A MINOR EXERCISED THE RIGHT OF REFUSAL AGAINST A MAN AND THEN WAS MARRIED TO ANOTHER MAN WHO DIVORCED HER, AND AFTERWARDS TO ANOTHER MAN AGAINST WHOM SHE MADE A DECLARATION OF REFUSAL, AND THEN TO ANOTHER MAN WHO DIVORCED HER,[8] SHE[5] IS FORBIDDEN TO RETURN TO THE MAN FROM WHOM SHE WAS SEPARATED BY A LETTER OF DIVORCE, BUT IS PERMITTED TO RETURN TO HIM FROM WHOM SHE WAS SEPARATED BY HER EXERCISE OF THE RIGHT OF MI'UN, from which it is evident that mi'un against his fellow has no power to cancel[7] his own divorce![9] — Rab Judah replied in the name of Samuel: There is a break[10] [in our Mishnah], the one who taught the former[11] did not teach the latter.[11] Raba[12] said: But what contradiction is this? It is possible that mi'un[13] cancels his own divorce, but that the mi'un against his fellow[14] does not cancel his own letter of divorce! But in what way is the mi'un against his fellow different from one against himself] that it should not cancel his own[15] divorce? [Obviously for the reason that] as she is familiar with his[15] hints and gesticulations he[15] might allure her and marry her again.[16] [But if this is the case] mi'un against himself also should not cancel his divorce, [for the same reason] that as she is familiar with his hints and gesticulations he might allure her and marry her again! Surely, he[15] had already tried to allure[17] her but she did not succumb.[18]

If a contradiction, however, [exists it is that between one ruling] concerning his fellow against [another ruling] concerning his fellow: IF, HOWEVER, SHE EXERCISED HER RIGHT OF REFUSAL AGAINST HIM AND HE REMARRIED HER, AND HAVING SUBSEQUENTLY GIVEN HER A LETTER OF DIVORCE SHE MARRIED ANOTHER MAN AND BECAME A WIDOW OR WAS DIVORCED, SHE IS FORBIDDEN TO RETURN TO HIM. The reason [then why she is forbidden to return to him is] because she BECAME A WIDOW OR WAS DIVORCED, but had she exercised her right of refusal[19] she would have been permitted to return to him,[20] from which it is evident that the mi'un against his fellow has the power to cancel[21] his own divorce; but this view is contradictory to the following: IF A MINOR EXERCISED THE RIGHT OF REFUSAL AGAINST HER HUSBAND AND THEN WAS MARRIED TO ANOTHER MAN WHO

DIVORCED HER, AND AFTERWARDS TO AN OTHER MAN AGAINST WHOM SHE MADE A DECLARATION OF REFUSAL, SHE[22] IS FORBIDDEN TO RETURN TO THE MAN FROM WHOM SHE WAS SEPARATED BY A LETTER OF DIVORCE, BUT IS PERMITTED TO RETURN TO HIM FROM WHOM SHE WAS SEPARATED BY HER EXERCISE OF THE RIGHT OF MI'UN. From this, then, it is evident that the mi'un against his fellow has no power to cancel[23] his own divorce! R. Eleazar replied: There is a break[24] [in our Mishnah]; the one who taught the former[25] did not teach the latter.[25] 'Ulla replied: [The latter statement refers to a case where], for instance, she was thrice divorced, so that she appears like a grown up.[26]

Who taught [the two respective statements of our Mishnah]?[27] Rab Judah replied in the name of Rab: To this may be applied the Scriptural text,[28] We have drunk our water for money; our wood cometh to us for price.[29] In the time of proscription[30] the following halachah was inquired for: If a minor left her first husband with a letter of divorce and her second husband through mi'un, may she return to her first husband? They hired a man for four hundred zuz,[31] and [through him] they addressed the enquiry to R. Akiba in prison,[32] and he stated that she was forbidden.[33] R. Judah b. Bathyra [also was asked] at Nesibis and he too forbade her.[33] Said R. Ishmael son of R. Jose: There was no need for us to [ascertain] such [an halachah],[34] For if in a prohibition involving the penalty of kareth[35] he has been permitted[36] how much more so[37] in one [involving only the penalty of] a negative commandment.[38] But the enquiry was in this manner: If [a minor] was the wife of his mother's brother, and consequently forbidden to him as a relative of the second degree,[39] and his paternal brother [subsequently] married her[40] and died,[41] may she now exercise her right of mi'un,[42] and thus annul her first marriage[43] and so be permitted to contract the levirate marriage?[44] Is[45] mi'un valid after [a husband's] death where a religious performance[46] is involved, or not? Two men were hired for four hundred zuz[47] and when they came and asked R. Akiba in prison he ruled [that such levirate marriage was] forbidden; and when R. Judah b. Bathyra [was asked] at Nesibis he also decided that it was forbidden.

R. Isaac b. Ashian stated: Rab, however, admits that she[48] is permitted to marry the brother[49] of the man whom she is forbidden [to remarry].[50] Is not this obvious? For it is only he with whose hints and gesticulations she is familiar but not his brother![51] — It might have been assumed that [marriage with] the one[52] should be forbidden as a preventive measure against the other[52] hence we were taught [that his brother may marry her]. Another reading: R. Isaac b. Ashian stated: As she[53] is forbidden to him[54] so is she forbidden to his brothers. But, surely, she is not familiar with their hints and gesticulations![55] — His brothers were forbidden [marriage with her] as a preventive measure against [marriage] with him.

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(1) Irrespective of the number of times the man married and divorced her and the number of times she exercised the right of mi'un.

(2) Because her last separation was by means of a letter of divorce. Cf. supra. n. 8.

(3) Cf. supra n. 6.

(4) Others insert here, 'to another against whom she exercised her right of refusal' (cf. separate edd. of the Mishnah, Alfasi and Bah).

(5) Cur. edd., 'this is the general rule' is here omitted in accordance with the reading of the separate edd. of the Mishnah and Alfasi.

(6) Since it was ruled that IF MI'UN FOLLOWED DIVORCE SHE IS PERMITTED TO RETURN to her husband, despite the divorce that preceded it. Cf. supra p. 751, 15, 6.

(7) Lit., 'comes . . . and cancels'.

(8) V. supra note 1.

(9) That preceded the mi'un.

(10) תברא (rt. תבר 'to break'). Others 'contradiction' (cf. Rashi, Levy and Jast).

(11) Lit., 'this'.

(12) Others, 'Rabbah'. Cf. Bah.

(13) The case spoken of in the first statement of our Mishnah.
(14) Spoken of in the second statement.
(15) The first husband.
(16) Lit., 'entangle and bring her', i.e., he might take advantage of their earlier familiarity and insidiously ingratiate himself with her, creating dislike between her and her second husband so that she might be led to exercise her right of mi'un against the latter and return to him.
(17) Cf. supra n. 3.
(18) Lit., 'she was not entangled', 'confused'. The fact that she exercised the right of refusal against him after he had married her a second time and presumably made every effort to retain her, may be regarded as proof that she would not be induced to marry him a third time. When the mi'un, however, concerns a second husband. It is quite likely that, as her separation from her first husband was not due to her mi'un but to his divorcing her, she might readily consent to return to him and thus allow him to induce her to exercise her right of mi'un against her second husband.
(19) Against her second husband.
(20) Her first husband.
(21) Lit., 'comes . . . and cancels'.
(22) V. supra p. 752, n. 2.
(23) Lit., 'comes...and cancels'.
(24) V. supra p. 752, n. 7.
(25) Lit., 'this'.
(26) It is in such a case only that she may not he remarried to any of the men, even though her separation from her last husband was by mi'un. If, however, she was divorced once or twice only, the mi'un against her last husband confirms her in the state of her minority, and she may be married again by either of the men who had previously divorced her.
(27) Concerning which it was said supra that they represent the views of different authors.
(28) Lit., 'what (is the meaning) of that which was written'.
(29) Lam. v, 4.
(30) Lit., 'danger': the times of the suppression of the Bar Kokeba revolt in 135 C.E. when the study of the Torah and Rabbinic or oral law was forbidden by the Roman authorities under pain of death,
(31) V. Glos.
(32) The payment of the exorbitant sum of four hundred zuz for obtaining the required ruling recalled to Rab's mind the text of Lamentations quoted.
(33) To return to her first husband.
(34) Since, as is shewn presently, it is obvious that the minor is permitted to marry her first husband again after she has been separated from her second husband by mi'un.
(35) Marriage with a married woman.
(36) In the case of a minor who has exercised the right of mi'un.
(37) Should one be permitted to marry her.
(38) That of again marrying one's divorced wife. Thus it has been shewn that the author of the first statement in our Mishnah was Rab and that the author of the second statement was R. Ishmael son of R. Jose. Rab, though he belonged to the first generation of Amoraim, was also among the last of the Tannaim. Hence he was sometimes described as Tanna.
(39) Forbidden by Rabbinic law. Cf. supra 21a.
(40) After the death of her first husband.
(41) Without issue, so that she became subject to levirate marriage with his paternal brother.
(42) Against her first husband, through marriage with whom she became forbidden to the levir, the man in question.
(43) And remove thereby her forbidden relationship with the levir.
(44) With the levir between whom and herself no forbidden relationship any longer exists owing to her mi'un. Cf. supra notes 7 and 8.
(45) Cur. edd. insert in parenthesis 'her rival'.
(46) That of the levirate marriage (Deut. XXV, 5).
(47) V. Glos.
(48) A divorced minor who may not be married again by the husband who divorced her though she was separated from her second husband by mi'un.
(49) She is not regarded as his brother's divorcee.

(50) Though her mi'un does not alter her status of divorcee in respect of her former husband himself (for the reason stated supra) it does remove it as far as marriage with his brother is concerned. She is, as a result of her mi'un, no longer regarded as his brother's divorcee.
(51) And since it is only this familiarity that is the cause of the prohibition, it is obvious that where it does not apply there should be no prohibition.
(52) Lit., 'this'.
(53) V. p. 755, n. 13.
(54) The husband who divorced her.
(55) Cf. supra p. 755, n. 16. Why then should she be forbidden to marry them?

Talmud - Mas. Yevamoth 109a

MISHNAH. IF A MAN DIVORCED HIS WIFE AND REMARRIED HER, SHE IS PERMITTED TO MARRY THE LEVIR;[1] R. ELEAZAR[2] . HOWEVER, FORBIDS.[3] SIMILARLY, IF A MAN DIVORCED AN ORPHAN[4] AND REMARRIED HER,[5] SHE IS PERMITTED TO MARRY THE LEVIR;[6] R. ELEAZAR, HOWEVER, FORBIDS.

IF A MINOR WAS GIVEN IN MARRIAGE BY HER FATHER AND WAS DIVORCED,[7] [SO THAT SHE IS REGARDED] AS AN 'ORPHAN' IN HER FATHER'S LIFETIME,[8] AND THEN HER HUSBAND REMARRIED HER,[9] ALL AGREE THAT SHE IS FORBIDDEN TO MARRY THE LEVIR.[10]

GEMARA. 'Efa stated: What is R. Eleazar's reason?[11] Because there was a period when she was forbidden to him.[12] Said the Rabbis to 'Efa: If so, halizah also should not be required![13] And should you reply that the law is so indeed; surely [it may be pointed out] it was taught: In the name of R. Eleazar it was stated that she does perform halizah! — In truth, said 'Efa, the reason of R. Eleazar is unknown to me.

Abaye said, This is the reason of R. Eleazar:[11] He was in doubt whether it was death[14] that subjects [the widow to the levirate marriage] or whether it was the marriage that preceded it[15] that subjects her to it. If it is death that subjects her to it, she should be subject to the[16] levirate marriage; and if it is the marriage preceding it[15] that subjects her to it, then there was a period when she was forbidden to him.[17]

Raba said: It was in fact obvious to R. Eleazar that it is death[14] that subjects [the widow to the levirate marriage], but while all well know of the divorce, not all are aware of the remarriage.[18] On the contrary! Remarriage gets noised abroad since the woman dwells with him! — Do we not, however, deal here [even with such a case as] where he remarried her in the evening and died in the morning?[19]

R. Ashi said, This is the reason of R. Eleazar:[20] He forbade [the levirate marriage of] these[21] as a preventive measure against the remarriage of an 'orphan' [minor] in her father's lifetime.[22] This[23] may also be logically supported; for in the final clause it was stated, IF A MINOR WAS GIVEN IN MARRIAGE BY HER FATHER AND SHE WAS DIVORCED [SO THAT SHE IS REGARDED] AS AN 'ORPHAN' IN HER FATHER'S LIFETIME, AND THEN REMARRIED HER HUSBAND, ALL AGREE THAT SHE IS FORBIDDEN TO MARRY THE LEVIR. Now what [need was there] to state [this when it is so] obvious![24] Consequently it must be[25] this that was taught: R. Eleazar's reason[20] is because he forbade [the levirate marriages of] those as a preventive measure against [the levirate marriage of] this one. Thus our case has been proved.

It was taught in agreement with R. Ashi: The Sages agree with R. Eleazar in respect of a minor whom her father had given in marriage and who was divorced [so that she is regarded] as an

'orphan' in her father's lifetime, and who then remarried [her husband], that she is forbidden to [contract the levirate marriage with] the levir, because her divorce was a perfectly legal divorce, whereas her remarriage was not a perfectly legal remarriage. This,[26] however, applies only where he[27] divorced her while she was a minor[28] and remarried her while she was still a minor;[29] but if he[27] divorced her while she was a minor and remarried her when she was of age, and also if he remarried her while she was still a minor and she became of age while she was with him, and then he died,[30] she may either perform halizah or contract the levirate marriage.[31] In the name of R. Eleazar, however, it was stated: She must perform halizah but may not contract the levirate marriage.[32]

Raba enquired of R. Nahman: What is [the law[33] in respect of] her[34] rival?[35] — The other replied: [The prohibition against] herself is a preventive measure;[36] shall we then go so far[37] as to enact a preventive measure[38] against a preventive measure?[39] But, surely, it was taught: It was stated in the name of R. Eleazar, 'She and her rival perform halizah'; Now can it possibly be imagined that she and her rival [are to perform halizah]? Consequently it must mean,[40] 'either she or her rival performs halizah'![41] — Are you not [in any case obliged to] offer an explanation?[42] Explain, then,[42] as follows: She performs halizah while her rival may either perform halizah or contract the levirate marriage.

MISHNAH. WHERE TWO BROTHERS WERE MARRIED TO TWO SISTERS WHO WERE MINORS[43] AND ORPHANS,[44] AND THE HUSBAND OF ONE OF THEM DIED,[45] [THE WIDOW][46] IS FREE[47] AS BEING [THE LEVIR'S] WIFE'S SISTER. SIMILARLY IN THE CASE OF TWO DEAF[48] [SISTERS ONE OF WHOM WAS] OF AGE AND [THE OTHER] A MINOR, IF THE HUSBAND OF THE MINOR DIED, THE MINOR IS FREE[47] AS BEING [THE LEVIR'S] WIFE'S SISTER. IF THE HUSBAND OF THE ELDER SISTER DIED, THE MINOR IS TO BE INSTRUCTED, R. ELIEZER[49] STATED, TO EXERCISE HER RIGHT OF MI'UN AGAINST HIM.[50] R. GAMALIEL SAID: IF SHE[51] EXERCISED HER RIGHT OF MI'UN WELL AND GOOD;[52] BUT IF [SHE DID] NOT, LET HER WAIT[53] UNTIL SHE IS OF AGE[54] WHEN THE OTHER BECOMES FREE[47] AS BEING [THE LEVIR'S] WIFE'S SISTER. R. JOSHUA SAID: WOE TO HIM[55] BECAUSE OF HIS WIFE AND WOE TO HIM BECAUSE OF HIS BROTHER'S WIFE! HE MUST ALLOW HIS WIFE TO GO[56] BY [GIVING HER] A LETTER OF DIVORCE,[57] AND HIS BROTHER'S WIFE[58] BY [SUBMITTING TO HER] HALIZAH.

GEMARA. But is this is permitted? Surely. Bar Kappara taught: A man should always cling to three things and keep away from three things. 'A man should cling to the following three things': Halizah, the making of peace and the annulment of vows; 'and keep away from three things': — From mi'un, from [receiving] deposits and from acting as surety![59] Mi'un [involving the fulfilment] of a commandment[60] is different.[61]

[Reverting to our] previous text, 'Bar Kappara taught: A man should always cling to three things . . . Halizah', in accordance with [a statement of] Abba Saul. For it was taught: Abba Saul said, 'If [a levir] married his sister-in-law on account of her beauty, or in order to gratify his sexual desires 'or with any other ulterior motive, it is as if he has infringed [the law of] incest; and I am even inclined to think that the child [from such a union] is a bastard'.[62]

'The making of peace', for it is written, Seek peace and pursue it[63]

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(1) Though at the time his brother had divorced her she was forbidden to him as 'his brother's divorcee'.

(2) Mishnah edd.: R. Eliezer.

(3) The reason is given infra.

(4) A minor who was given to him in marriage by her mother or brothers, and who is entitled, therefore, to exercise mi'un.

(5) Whether during her minority or after she had attained her majority.

(6) It is the death of her husband, not his marriage with her, that subjects her to the levir; and at the hour of his death she was no longer his divorcee but his wife.
(7) While she was still in her minority, the letter of divorce having been accepted on her behalf by her father (Rashi). (Cf. Keth. 46b) Rashi s.v. ומקבל and Sonc. ed. p. 266, n. 6.
(8) A father, in accordance with Pentateuchal law, is entitled to give his minor daughter in marriage only once. After she has been divorced, therefore, a father has no more right to give her away in marriage than her mother or brothers in the case where the father is dead. As in the latter case mi'un cancels marriage so it does in the former. The minor thus assumes the status of 'orphan' while her father is still alive.
(9) During her minority.
(10) If her husband died during her minority. She has the status of a divorcee because her letter of divorce, having been accepted by her father, is valid, Her subsequent marriage has no validity since her father can no longer act for her (cf. supra p. 756, n. 12) and her own act has no legal force.
(11) For forbidding to the levir his brother's divorced wife despite the fact that at the time of his brother's death she was married to him again.
(12) Lit., 'she stood for him one hour in prohibition'; i.e,, at the time she was divorced she was forbidden to him under the penalty of kareth as his 'brother's divorcee'. Her subsequent remarriage does not alter her status.
(13) As any other 'brother's divorcee'.
(14) Of the childless husband,
(15) Lit.,'the first'.
(16) Lit., 'behold she is thrust before him'.
(17) Cf. supra n. 4. Hence levirate marriage is forbidden (owing to the second possibility), and halizah is necessary (owing to the first).
(18) Should the levir, therefore, be permitted to contract with her the levirate marriage, it might be assumed by those who knew of the divorce and not of the remarriage that he married his brother's divorcee. Hence R. Eleazar's prohibition.
(19) Certainly we do, since the Mishnah applies to all possible cases. In such a case as the one mentioned the remarriage remains unknown.
(20) v. supra p. 757, n. 3.
(21) The remarried women spoken of in our Mishnah.
(22) Who, as stated in our Mishnah, may not be married by the levir because she retains the status of a divorcee.
(23) R. Ashi's explanation.
(24) As her father has no legal authority to give her in marriage, and as the remarriage that has been contracted by herself (a minor) has no validity, it is obvious that her previous legal status of divorcee remains in force and that she is, therefore, forbidden to the levir as 'his brother's divorcee'.
(25) Lit. 'but not'?
(26) That the Sages admit that the minor may not contract the levirate marriage.
(27) Her first husband.
(28) Her father having accepted on her behalf the letter of divorce which is thus valid.
(29) When neither she nor her father had the right to contract the marriage (cf. supra p. 756, n. 12); and where the death of the husband occurred while she was still in her minority, so that there was no cohabitation at all when she was of age.
(30) So that cohabitation between them could take place while she was of age.
(31) Since the final act of cohabitation after she becomes of age constitutes a legal kinyan of marriage.
(32) Keth. 73bf. Since it was stated that 'the Sages agree with R. Eleazar in respect of a minor . . . in her father's lifetime', it is obvious that R. Eleazar himself spoke of this case and presumably made it the cause of the prohibition of the levirate marriages with the others mentioned.
(33) According to R. Eleazar.
(34) A divorced minor whom the husband remarried when she was of age.
(35) Is her rival permitted levirate marriage?
(36) Against the possibility of contracting levirate marriage with an 'orphan' in her father's lifetime.
(37) Lit., 'rise'.
(38) Prohibition of the levirate marriage of the rival.
(39) Cf. supra note 5. Obviously not.
(40) Lit., 'but no?'

(41) How then could it be said supra that, according to R. Eleazar, the rival may contract the levirate marriage?
(42) The statement being obscure, and an explanation being required in any case.
(43) And given in marriage by their mother or brothers.
(44) So in accordance with the separate edd. of the Mishnah, The last two words are wanting in cur. edd.
(45) Without issue.
(46) Cur. edd., הזה ‘that’, is here omitted, in accordance with the reading of the separate edd. of the Mishnah, and the Palestinian Talmud, Cf. Wilna Gaon.
(47) From levirate marriage and halizah.
(48) Deaf and dumb, whose marriage is valid according to Rabbinic law only.
(49) Others, ‘Eleazar’.
(50) Her husband. His marriage with her (a minor) being only Rabbinically valid, his levirate bond with the elder sister renders her forbidden to him. By the mi'un of the minor the levir is able to perform the Pentateuchal law.
(51) The minor.
(52) Lit., ‘she refused’ and the elder sister is then enabled to contract the levirate marriage.
(53) I.e., she is not forbidden to her husband, despite his levirate bond with her elder sister which his brother's death had created, (Cf. supra 51a).
(54) And her marriage with her husband becomes Pentateuchally binding.
(55) The surviving brother,
(56) He may not retain her owing to the levirate bond (cf. supra note); R. Joshua, contrary to the opinion of R. Gamaliel, holding the view that a levirate bond does cause the prohibition of the widow's minor sister; and since the levirate bond is the result of a Pentateuchally binding marriage, the marriage with the minor, which is only Rabbinically valid, must be dissolved,
(57) Not by mi'un for the reason given in the Gemara infra.
(58) Who is forbidden as the sister of his divorcee. (15) To instruct a minor to exercise her right of refusal.
(59) The reasons are given infra. From this then it is obvious that mi'un is not to be encouraged. Why then is THE MINOR TO BE INSTRUCTED TO EXERCISE HER RIGHT OF MI'UN?
(60) As is the case in our Mishnah, where the exercise of mi'un enables the levir to observe the Pentateuchal commandment of the levirate marriage.
(61) From ordinary mi'un; while the latter is to be avoided the former is to be encouraged.
(62) Supra 39b.
(63) Ps. XXXIV, 15. Pursue it רדפהו (rt. רדף).

Talmud - Mas. Yevamoth 109b

and [in connection with this] R. Abbahu stated that deduction is made[1] by a comparison between the two expressions of ‘pursuit’:[2] Here it is written, Seek peace and pursue it and elsewhere it is written, He that pursueth[3] after righteousness and mercy findeth life, prosperity and honour.[4]

‘The annulment of vows’, in accordance with [a statement of] R. Nathan. For it was taught: R. Nathan said, ‘If a man makes a vow it is as if he has built a high place[5] and if he fulfils it,[6] it is as if he has offered up a sacrifice upon it’.[7]

‘And keep away from three things: From mi'un’, since it is possible that when she becomes of age she will change her mind.

‘From [receiving] deposits’ [applies to deposits made by] his fellow townsman who [regards] his house as his own house.[8]

‘From acting as surety [refers to would-be] sureties in Shalzion.[9] For R. Isaac said, ‘What was meant by the Scriptural text, He that is surety for a stranger shall smart for it?[10] Evil after evil[11] comes upon those who receive proselytes,[12] and upon the sureties[13] of Shalzion and upon him who rivets[14] himself to the word of the halachah.[15]

That ‘those who receive proselytes’, [bring evil upon themselves, is deduced] in accordance with [a statement of] R. Helbo. For R. Helbo stated: Proselytes are hurtful to Israel as a sore on the skin.[16]

‘The sureties of Shalzion [bring evil upon themselves]’ because [in that place] they practice ‘pull out and thrust in’.[17]

‘Who rivets himself to the word of the halachah’, [brings evil upon himself], for it was taught: R. Jose said, ‘Whosoever says that he has no [desire to study the] Torah, has no [reward for the study of the] Torah’. Is not this obvious? — But [this must be the meaning]: ‘Whosoever says that he has only [an interest in the study of the] Torah[18] has only [reward for the study of the] Torah’. This, however, is also obvious! — But [the meaning really is] that he has no [reward] even [for the study of the] Torah. What is the reason? — R. Papa replied: Scripture said, That ye may learn them and observe to do them,[19] whosoever is [engaged] in observance[20] is [also regarded as engaged] in study, but whosoever is not [engaged] in observance is not [regarded as engaged] in study. And if you wish I may say: [The reading is] in fact, as was said before: ‘Whosoever says that he has only [an interest in the study of the] Torah has only [reward for the study of the] Torah’, yet [the statement] was necessary [in the case] where he teaches others and these go and do observe [the laws of the Torah]. Since it might have been assumed that he also receives reward,[21] hence we were taught [that he does not]. And if you wish I may say [that the statement] ‘who rivets himself to the word of the halachah’ [applies] to a judge who, when a lawsuit is brought before him, and he knows of an halachah [relating to a similar case], compares one case with the other[22] and, though he has a teacher, he does not go to him to inquire.[23] [Such a judge brings evil upon himself] for R. Samuel b. Nahmani stated in the name of R. Jonathan: A judge should always imagine himself as if [he had] a sword lying between his thighs, and Gehenna was open beneath him; as it is said in Scripture, Behold, it is the couch[24] of Solomon; threescore mighty men[25] are about it, of the mighty men of Israel etc. because of the dread in the night:[26] ‘because of the dread of’ Gehenna[27] which is like ‘the night’.

R. GAMALIEL SAID: IF SHE EXERCISED HER RIGHT OF MI'UN etc. R. Eleazar inquired of Rab: What is R. Gamaliel's reason?[28] Is it because he holds the opinion that the betrothal of a minor remains in a suspended condition[29] and as she grows up it grows with her[30] even though no cohabitation has taken place;[31] or is the reason because he is of the opinion that when a man betroths the sister of his sister-in-law the latter procures her exemption thereby, but thereby only,[32] [and consequently] only if cohabitation has taken place is the elder sister exempt,[33] but if no cohabitation has taken place she is not? — The other replied, This is R. Gamaliel's reason: Because he is of the opinion that when a man betroths the sister of his sister-in-law the latter procures her exemption thereby but thereby only[32] [and consequently] only if cohabitation has taken place is the elder sister exempt,[33] but if no cohabitation has taken place she is not.

Said R. Shesheth: It seems[34] that Rab made this statement while he was sleepy and about to doze off;[35] for it was taught: If a man betrothed a minor, her betrothal remains in a suspended condition. Now, what [is meant by] ‘a suspended condition’ ? Obviously[36] that as she grows up it grows up with her[37] even though there was no cohabitation.[38] Said Rabin the son of R. Nahman to him: The matter of the betrothal of a minor[39] remains in a suspended condition. If cohabitation had taken place[40] it is valid, but if no cohabitation had taken place[40] it is not; for [in the absence of such cohabitation] she thinks ‘He has an advantage over me[41] and I have an advantage over him’.[42]

Is Rab, however, of the opinion that only if cohabitation had taken place is the betrothal valid,[43] but if there was no cohabitation it is not? Surely it was stated: Where a minor did not exercise her right of mi'un and, when she became of age, actually[44] married [another man], Rab ruled: She requires no letter of divorce from her second husband, and Samuel ruled: She requires a letter of divorce from her second husband.[45]

(1) As to the greatness of the reward for the propagation of peace. Lit., 'comes'.
(2) Lit., 'pursuing' (bis) rt. רדף.
(3) רודף (rt. רדף), E.V., 'followeth'.
(4) Prov. XXI, 21; the reward for the pursuit of the latter will also be enjoyed by him who pursues the former. Cf. Kid. 40a.
(5) At the time when the erection of such was forbidden; i,e., after the setting up of the Central Sanctuary in Palestine.
(6) I.e., he does not go to the expert Sage to have it annulled.
(7) Git. 46b, Ned. 22a.
(8) Being a constant visitor at his house he may sometimes help himself to the deposited object and, losing or forgetting about it, would claim it again.
(9) Where debts were collected from the guarantors and not from the creditors. שלציון is a place name (Rashi); perhaps Seleucia, or an abbreviation of שלוח דוין v. note 10.
(10) Prov. XI, 15.
(11) The inference is based on the expression רע ירוע (in which the rt. רעע which is also that of רעה 'evil' is repeated).
(12) The original for He that . . . stranger (ibid.) is ערב זר which is interpreted as the mixing of proselytes with Israel. The rt. ערב may bear both meanings.
(13) The E V. reading of the text.
(14) I.e., to the word but not to its practice.
(15) This is deduced from תוקעים (E.V., that strike hands) in the concluding clause of the verse cited. תקע may also bear the meaning of 'stick to', 'nail oneself to'. This will be further explained anon.
(16) In speaking of proselytes (Isa. XIV, 1) the word used is that of ונספחו (E.V., shall join) which is of the same rt. as ספחת (a sore). V. supra 47b.
(17) They 'pull out' the debtor from his obligation and 'thrust in' the creditor.
(18) Not in its observance.
(19) Deut. V, 1.
(20) Of the laws of the Torah.
(21) As if he had himself observed the laws of the Torah.
(22) Following his own conclusions.
(23) In order to obtain definite guidance on the case under consideration. It is a judge of such a character who is described as one 'who rivets himself to the word of the halachah'.
(24) E.V., litter, the seat from which he dispensed justice.
(25) Judges.
(26) Cant. III, 7f.
(27) Should justice be perverted.
(28) For allowing the exemption of the elder when the minor becomes of age.
(29) During her minority.
(30) I.e., becomes retrospectively effective as soon as she attains her majority.
(31) After her majority. As the validity of the original betrothal is thus made retrospective, the provisional levirate bond between the levir and the elder sister may be regarded as never having existed.
(32) Lit.,'and she goes for herself'. Only by the 'betrothal' (i.e.,the cohabitation) that took place when the minor bad attained her majority does the elder procure her exemptions not by the original betrothal of the minor which is ineffective.
(33) Lit., 'yes'. Because it is the 'betrothal' that severs the levirate bond which existed between the levir and the elder sister from the moment his brother died.
(34) Lit., 'I would say'.
(35) Lit., 'while dozing and lying'.
(36) Lit., 'not?'
(37) V. supra p. 763 n, 12.
(38) V. supra p. 63, n. 13.
(39) Lit., 'this matter of a minor'.

(40) After her majority was attained.

(41) He can divorce her at any time against her will.

(42) She may, according to Pentateuchal law, exercise against him her right of mi'un at any moment. Though she cannot do so according to-Rabbinic law after she produces two pubic hairs, (cf. Mid. 52a and Tosaf. s.v. הוא a.l.), the uncertainty in her mind as to the durability of the union causes it to remain in a suspended condition until kinyan by cohabitation, after she becomes of age, has been effected.

(43) Lit., 'yes'.

(44) Lit., 'and stood up'.

(45) Keth. 73a.

Talmud - Mas. Yevamoth 110a

Does not [this refer to a case] where he[1] did not cohabit [with her]?[2] — No; where he[1] did cohabit with her.[3] If, however, he[1] cohabited [with her] what is Samuel's reason?[4] — He holds the view that one Who performs cohabitation does so in reliance on his first betrothal.[5] But surely they[6] once disputed this point! For it was stated: If a man betrothed a woman conditionally,[7] and unconditionally, Rab ruled: She[8] requires from him a letter of divorce; and Samuel ruled: She requires no letter of divorce from him. 'Rab ruled: She requires from him a letter of divorce', because as soon as he marries her he undoubtedly dispenses with his condition.[9] 'And Samuel ruled: She requires no letter of divorce from him', because one who performs cohabitation does so in reliance on his first betrothal![10] — [Both disputes were] necessary. For if the former[11] only had been stated, it might have been assumed that Rab adheres to his opinion there only because no condition[12] was attached [to the betrothal][13] but in the latter case,[14] where a condition was attached to it,he agrees with Samuel.[15] And if the latter case[14] only had been stated, it might have been assumed that there only[16] does Samuel maintain his view[17] but in the former[18] he agrees with Rab.[19] [Hence both were] required.

Did Rab, however, state that only where [the husband] cohabited with her[20] does she require a letter of divorce[21] but that if he did not cohabit with her none is required?[22] Surely it once happened at Naresh that a man betrothed a girl while she was a minor, and, when she attained her majority and he placed her upon the bridal chair,[23] another man came and snatched her away from him; and, though Rab's disciples, R. Beruna and R. Hananel, were present on the occasion, they did not require the girl to obtain a letter of divorce from the second man![24] — R. Papa replied: At Naresh they married[25] first and then placed [the bride] upon the bridal chair.[26] R. Ashi replied: He[27] acted improperly[28] they, therefore, treated him also improperly, and deprived him of the right of valid betrothal.[29] Said Rabina to R. Ashi: [Your explanation is] satisfactory where the man betrothed [her] with money;[30] what [however, can be said where] he betrothed her by cohabitation? — The Rabbis have declared his cohabitation to be an act of mere fornication.[31]

Rab Judah stated in the name of Samuel: The halachah is in agreement with R. Eliezer;[32] and so did R. Eleazar state: The halachah is in agreement with R. Eliezer.[32]

MISHNAH. IF A MAN WAS MARRIED TO TWO ORPHANS WHO WERE MINORS[33] AND DIED, COHABITATION[34] OR HALIZAH[35] WITH ONE OF THEM EXEMPTS HER RIVAL.[36] AND THE SAME LAW IS APPLICABLE TO[37] TWO DEAF[38] WOMEN.[39]

[IF A MAN WAS MARRIED TO] A MINOR AND TO A DEAF[38] WOMAN,[40] COHABITATION WITH ONE OF THEM DOES NOT EXEMPT HER RIVAL.[41] [IF ONE WAS] POSSESSED OF HER FACULTIES AND THE OTHER WAS DEAF,[42] COHABITATION WITH THE FORMER EXEMPTS THE LATTER, BUT COHABITATION WITH THE LATTER DOES NOT EXEMPT THE FORMER. [IF ONE WAS] OF AGE AND THE OTHER A MINOR, COHABITATION WITH THE FORMER EXEMPTS THE LATTER, BUT COHABITATION

WITH THE LATTER DOES NOT EXEMPT THE FORMER.

GEMARA. Is, however, a deaf[42] woman permitted to perform halizah? Surely, we learned: If a deaf levir submitted to halizah or a deaf sister-in-law performed halizah, or if halizah was performed on a minor, the halizah is invalid![43] — R. Giddal replied in the name of Rab: [This[44] applies] to COHABITATION.[45] Raba[46] replied: It[47] may be said to apply even to halizah; one[48] referring to a woman who was originally deaf,[49] and the other[50] referring to a woman who was possessed of hearing[51] and became deaf afterwards. The 'woman who was originally deaf', leaves[52] as she entered,[53] but the 'woman who was possessed of hearing and became deaf afterwards' cannot do so, since her inability to recite [the prescribed formulae][54] acts as an obstacle.[55]

Abaye raised an objection against him: Is, however, one who was originally deaf permitted to perform halizah? Surely, we learned: If two brothers, one of whom was in possession of his faculties and the other deaf,[45] were [respectively] married to two strangers,[56] one of whom was in the possession of her faculties and the other deaf,[57] and the deaf [brother] who was the husband of the deaf woman died, what should [his brother who was] in possession of his faculties, the husband of the woman in possession of her faculties, do? He marries her[58] and if he wishes to send her away,[59] he may do so.[60] If the [brother] who was in possession of his faculties, the husband of the woman who was in possession of her faculties, died, what should the deaf brother, the husband of the deaf woman do? He marries [the widow] and may never divorce her.[61] Does not this apply to a woman who was originally deaf?[62] And yet it was stated that he may only marry

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(1) Her first husband.

(2) After she had attained her majority. And since Rab nevertheless rules that no divorce from the second husband is required it is obvious that he regards her first marriage as valid!

(3) And it is this cohabitation, not their first betrothal, that constitutes the kinyan of the first marriage.

(4) Since cohabitation renders the betrothal of the first husband valid, that of the second must be invalid; why then did Samuel require the woman to be divorced from her second husband!

(5) Which was invalid. The marriage with the second husband is therefore valid and can be annulled by divorce only.

(6) Rab and Samuel.

(7) Stipulating, for instance, that she must have no bodily defect or that she must not be subject to any restrictions due to a vow she may have made.

(8) If it was discovered that she had a defect or that she was subject to the restrictions due to a vow.

(9) And valid kinyan is effected by their first cohabitation.

(10) Which was invalid; v, Keth. 72b. Why then should they dispute the same point again?

(11) Lit., 'that'; the dispute concerning a minor who did not exercise her right of mi'un, cited from Keth. 73a.

(12) This is the reading of Rashi, following the version in Keth. 73a. The reading of cur. edd. is given infra p. 766, n. 6.

(13) And the husband was obviously anxious to give the union all the necessary validity. Being well aware that the betrothal of a minor is Pentateuchally invalid he naturally 'betroths' her again by cohabitation as soon as she becomes of age.

(14) Lit., 'that'; cited from Keth. 72b.

(15) That the original condition remains in force even after consummation of the marriage.

(16) Since the condition was attached to the original betrothal,

(17) That the marriage remains dependent on the original condition and is, therefore, invalid.

(18) v. supra p. 765, n. 13.

(19) Cur. edd. read, 'For if that had been stated, (it might have been assumed that) in that case only did Rab maintain his view, because there existed a condition and as soon as (the man) cohabited with her he dispensed with his condition; but in this case it might have been assumed that he agrees with Samuel; and if this had been stated (it might have been assumed that) in this case only did Samuel maintain his view; but in that, it might have been said, he agrees with Rab'. [Rashi rejects this reading in view of the passage in Keth. 72a which states distinctly that Rab's ruling was not because he held that the man dispenses with the condition on intercourse, but because he renews betrothal at the time to avoid intercourse degenerating into mere fornication. Tosaf. s.v. בהדיא retains the reading of cur. edd., and explains that it

is because no man would render his intercourse mere fornication that we assume that he dispensed with the condition, since he made no mention of the condition at the time. Had he, however, repeated the condition at intercourse, the condition would stand].

(20) The minor who has attained majority.

(21) Lit., 'yes'.

(22) Lit., 'not'.

(23) It is assumed that this was a ceremony similar to ordinary huppah (v. Glos.).

(24) Obviously because they regarded the first marriage. though no cohabitation had taken place (v. supra n. 10), as valid, As the disciples presumably acted in accordance with the ruling of their Master, Rab, how could it be said that Rab requires a divorce only where cohabitation had taken place?

(25) Cohabitation.

(26) And this is the reason why Rab's disciples regarded the marriage with the first husband as valid and, therefore, required no divorce from the second man.

(27) The second man.

(28) In snatching away another man's wife.

(29) All betrothals are made 'in accordance with the law of Moses and Israel' (cf. P.B. p. 298) i.e.. the Pentateuchal, as well as Rabbinic law; hence it is within the power of the Rabbinical authorities to declare certain betrothals, such, for instance, as the present one where the girl was improperly snatched away, to be invalid.

(30) One of the forms of kinyan in marriage (cf. Kid. 2a). Since the Rabbis are empowered to confiscate a man's property they might well dispose of the money of the betrothal by treating it as a mere gift to the girl.

(31) Which has no legal validity to effect a kinyan.

(32) That THE MINOR IS TO BE INSTRUCTED TO EXERCISE HER RIGHT OF MI'UN.

(33) Marriage with whom is only Rabbinically valid.

(34) By the levir, even during her minority, for the purpose of the levirate marriage.

(35) After she has attained her majority.

(36) From levirate marriage and halizah.

(37) Lit., 'and so'.

(38) I.e., deaf.mute.

(39) Marriage with whom, like marriage with a minor, is only Rabbinically valid.

(40) Though the marriage with either, according to Rabbinic law, is of equal validity.

(41) Since it is uncertain, owing to the difference in their physical condition and age, which of them he preferred and which of them has consequently the greater claim to be regarded as his wife.

(42) I.e., deaf-mute.

(43) Supra 104b. How then could it be said in our Mishnah. AND THE SAME LAW IS APPLICABLE TO TWO DEAF WOMEN?

(44) The law in our Mishnah concerning two deaf women. V. supra n. 3.

(45) Not to halizah.

(46) Others, 'Rabbah'. Cf. infra p. 772, n. 8.

(47) V. supra note 4.

(48) Lit. , 'here'; our Mishnah which allows halizah in respect of a deaf woman.

(49) Even before her marriage.

(50) The Mishnah supra 104b which rules the halizah of a deaf woman to be invalid.

(51) At the time she married.

(52) The levir by means of halizah.

(53) The marriage with her husband. As the marriage was performed by means of signs and gestures so also is the halizah.

(54) Cf. supra 106b.

(55) As a deaf-mute she is unable to recite them and is consequently precluded from the performance of halizah.

(56) I.e., women who were not related to one another.

(57) I.e., deaf-mute.

(58) I.e., contracts the levirate marriage by means of signs and gestures. No halizah is permitted since the woman is incapable of reciting the prescribed formulae.

(59) After he has married her.
(60) Divorcing her, as he married her, by the use of signs and gestures.
(61) Infra 112b. The divorce of a man who is not in the possession of all his faculties cannot annul the marriage of his brother who was in the possession of all his faculties and whose marriage, therefore, subjects him to a levirate marriage that can never be annulled.
(62) Probably it does.

Talmud - Mas. Yevamoth 110b

but not submit to halizah![1] — No, this refers to a woman who was capable of hearing[2] and became deaf afterwards.[3]

Come and hear: If two brothers of sound senses were married to two strangers[4] one of whom was of sound senses and the other deaf, and [the brother who was] of sound senses, the husband of the deaf woman, died, what should the [brother who was] of sound senses, the husband of the woman who was of sound senses, do? He marries [the deaf widow], and if he wishes to divorce her he may do so.[5] If [the brother who was] of sound senses, the husband of the woman who was of sound senses, died, what should the [brother who was] of sound senses, the husband of the woman who was deaf, do? He may either submit to halizah or contract levirate marriage.[6] Are we not to assume that[7] as the man was originally[8] of sound senses so was she originally[8] deaf, and nevertheless it was stated that he may only[9] marry her but may not submit to her halizah![10] — Is this an argument? Each one may bear its own meaning.[11]

An objection was raised against him:[12] If two brothers, one of whom was of sound senses and the other deaf, were married to two sisters, one of whom was of sound senses and the other deaf, and the deaf brother, the husband of the deaf sister, died, what should [the brother who was] of sound senses, the husband of [the sister who was] of sound senses, do? — [Nothing, since] the widow is released[13] by virtue of her being [the levir's] wife's sister. If [the brother who was] of sound senses, the husband of [the sister who was] of sound senses, died, what should the deaf brother, the husband of the deaf sister, do? He releases his wife by means of a letter of divorce,[14] while his brother's wife is for ever forbidden [to marry again]![15] And should you reply that here also [it is a case of a man] who was of sound senses and who became afterwards deaf, is [such a man, it may be retorted], in a position to divorce [his wife]? Surely, we learned: If she[16] became deaf, he may divorce her; if she became insane, he may not divorce her.[17] If he became deaf or insane he may never divorce her.[18] Consequently it must be a case of a man[19] who was originally[20] deaf. And since [the man spoken of] is one who was originally deaf, the woman [spoken of in the same context must] also be one who was originally deaf; and, as the sisters were such as were originally deaf, the strangers also [must be such as were] originally deaf; but in the case of the strangers we learned that [the levir] may only marry[21] but may not submit to halizah![22] The other[23] remained silent.

When he[24] visited R. Joseph, the latter said to him: Why did you raise your objections against him[23] from [teachings] which he could parry by replying that the sisters [spoken of are such as were] originally deaf, and that the strangers [are such as were originally] of sound senses who became deaf afterwards? You should rather have raised your objection against him from the following: If two deaf brothers were married to two sisters who were of sound senses, or to two deaf sisters or to two sisters one of whom was of sound senses and the other deaf; and so also if two deaf sisters were married to two brothers who were of sound senses, or to two deaf brothers, or to two brothers one of whom was of sound senses and the other deaf, behold these women[25] are exempt from levirate marriage and from halizah.[26] If [however the women] were strangers[27] [the respective levirs] must marry them,[28] and if they wish to divorce them, they may do so.[29] Now, how [is this ruling][30] to be understood? If it be suggested [that it refers to brothers who were first][31] of sound senses and who became deaf afterwards,[32] could they [it may be asked] divorce [their wives]? Surely, we learned: If

he[33] became deaf or insane he may never divorce her![34] This ruling must consequently refer[35] to [brothers who were] originally[31] deaf; and since they [are such as were] originally deaf, the women [referred to must] also be [such as were] originally[31] deaf; and it was nevertheless taught: 'If [the women, however], Were strangers [the respective levirs] must marry them',[36] they may thus only[37] marry them but may not submit to their halizah. This, then, presents a refutation of Rabbah![38] — This is indeed a refutation.

A MINOR AND A DEAF WOMAN etc. R. Nahman related: I once found R. Adda b. Ahabah and his son-in-law R. Hana sitting in the market place of Pumbeditha and bandying arguments[39] and [in the course of these they] stated: The ruling,[40] [IF A MAN WAS MARRIED TO] A MINOR AND TO A DEAF WOMAN, COHABITATION WITH ONE OF THEM DOES NOT EXEMPT HER RIVAL applies only to a case[41] where [the widows] became subject to him[42] through a brother of his who was of sound senses, since it is not known to us whether he[43] was more pleased with the minor or whether he was more pleased with the deaf woman; 'whether he was more pleased with the minor' because she would [in due course] reach the age of intelligence or 'whether he was more pleased with the deaf woman' because she was fully grown and in a marriageable condition; if [the widows], however, became subject to him[42] through a deaf brother of his, there is no doubt that he[44] was more pleased with the deaf woman, because she was of matrimonial age and of his kind. But I told them: Even if [the widows] became subject to him[45] through a deaf brother of his [the question of his preference still remains] a matter of doubt.

How do they[46] obtain redress?[47] — R. Hisda replied in the name of Rab: [The levir] marries the deaf widow and then releases her by a letter of divorce,[48] while the minor waits until she is of age, when she performs halizah.[49]

From this, said R. Hisda, it may be inferred that Rab is of the opinion that a deaf wife is partially acquired,[50] [while concerning] a minor [it is a matter of doubt whether] she is [properly] acquired,[51] or not acquired [at all];[52] for were it to be suggested that concerning a deaf wife [it is uncertain whether] she is acquired[51] or not acquired [at all and that] a minor is partially acquired,[50] [the question would arise] why [should the levir] marry [the deaf widow] and release her by a letter of divorce?

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(1) Owing to the woman's incapability of reciting the prescribed formulae. How, then, could Raba (or Rabbah) state that in such a case halizah is permissible?

(2) At the time she married.

(3) After he has married her.

(4) I.e., women who were not related to one another.

(5) V. supra n. 5.

(6) Infra 112b.

(7) Lit., 'what not?'

(8) Even before marriage.

(9) Lit., 'yes'.

(10) V. p. 769, n. 8.

(11) Lit., 'that as it is, and that etc.'

(12) Raba (or Rabbah).

(13) From levirate marriage and halizah.

(14) He must not continue to live with her because she is the sister of his zekukah (v. Glos.) the levirate bond with whom is, as was her marriage with her husband, Pentateuchally valid, while his own marriage with his deaf wife, though valid in Rabbinic law, is invalid in Pentateuchal law. A Rabbinically valid marriage cannot override a levirate bond which is Pentateuchal.

(15) Infra 112b. She is forbidden to her brother-in-law since she is (in Rabbinic law) his wife's (or divorcee's) sister, and she is forbidden to other men since, as a deaf-mute who is unable to recite the prescribed formulae, her brother-in-law is

precluded from submitting to halizah from her, and, in consequence, she remains attached to him by the levirate bond. Now, as the levir's deafness is, in this case, an affliction from which he suffered prior to his marriage, the deafness spoken of in the two previously cited cases (since all these appear in the same contexts) must similarly refer to afflictions commenced prior to the marriage. This then presents an objection against Raba (cf. supra p. 769, n. 8)!

(16) One's wife.

(17) In accordance with a Rabbinical provision safeguarding the position of the woman who, were she to be divorced and thus remain unprotected by a husband, would be subject, owing to her mental condition, to serious moral and physical danger.

(18) Infra 112b; because his marriage which took place when he was in full possession of his senses was Pentateuchally valid, while a divorce given by him while deaf or insane would have no Pentateuchal validity.

(19) Lit., 'but not?'

(20) Prior to the marriage.

(21) Lit, , 'yes'.

(22) V. supra p. 769, n. 8.

(23) Raba (or Rabbah).

(24) Abaye.

(25) If their husbands died without issue.

(26) Because all these marriages having been contracted by signs and gestures, are of equal validity. Each widow is, therefore, forbidden to the respective levir as his wife's sister.

(27) To one another.

(28) Halizah is forbidden, since either the levir or the sister-in-law (or both), as the case may be, is unable to recite the prescribed formulae.

(29) Cit. 71b, infra 112b.

(30) Concerning the deaf people spoken of in this context.

(31) Prior to the marriage.

(32) After the marriage.

(33) Cf. Bah. Cur. edd. insert: 'If she became insane he may not divorce'.

(34) Git. 71 b. infra 112b. Cf. supra p. 771, n. 1. How, then, could it be said to be a case of deafness acquired after marriage!

(35) Lit., 'but not?'

(36) Git. 71 b, infra 112b.

(37) Lit., 'yes'.

(38) Or 'Raba'. Cf. supra p. 768, n. 6 and supra p. 769, n. 8.

(39) So Tosaf. and one of Rashi's explanations. וקמקו אקוותא (vb. קהי 'to blunt' and noun אקוא or אקהא 'refutation'). Jastrow renders, 'They were sitting and raising arguments . Another interpretation of Rashi derives the expression from the rt קוה 'to gather'; 'they were gathering round them an assembly of students'.

(40) Lit., 'that which we learned'.

(41) Lit., 'these words'.

(42) Lit., 'she fell'.

(43) The deceased brother.

(44) The deceased brother.

(45) Lit., 'she fell'.

(46) The minor and the deaf wife whose husband died childless and who became subject to a levir.

(47) Since one does not exempt the other (v. our Mishnah) and the deaf woman is incapable of performing halizah. Were the levir to marry the deaf widow and submit to halizah from the minor after she had attained her majority, the former would become forbidden to him by the halizah of her rival ('If a man did not build he must never build' , supra), the marriage of the deaf not being Pentateuchally valid to sever the levirate bond with the minor.

(48) Cf. supra n. 4.

(49) Both widows are thus released from the levir.

(50) By her husband. Lit., 'acquired and left over'; only in a part of her person is she legally regarded as wife, Cf. infra n. 9.

(51) Completely; and she is consequently regarded as the deceased brother's proper wife.

(52) And consequently she is legally no more than a stranger. That the legal condition of relationship between the minor and her husband is different from that between the deaf wife and her husband is fairly obvious. For if they were both regarded as partially acquired, or if the acquisition of either was regarded as doubtful, their legal position would in no way differ from that of two minors or two deaf women, while, in fact, it does. (Cf. our Mishnah and the following one). From Rab's ruling, however, it is inferred that it is the deaf wife who is partially acquired and that it is the minor concerning whom it is uncertain whether she is wholly acquired or not acquired at all.

Talmud - Mas. Yevamoth 111a

Let her[1] continue to live with him in any case. For if [a deaf woman] is acquired[2] then she is of course acquired,[3] and if she is not acquired,[4] then she is a mere stranger.[5] And should you argue, 'why should the minor wait until she grows up and then performs halizah? Let her[6] continue to live with him [for the same reason[7] that] if she is [properly] acquired[4] then she is of course acquired,[8] and if she is not acquired,[4] then she is a mere stranger';[9] if so [it could be retorted] whereby should the deaf [widow] be released![10]

R. Shesheth said: Logical deduction leads also to the interpretation R. Hisda imparted to Rab's ruling.[11] For it was taught: If two brothers were married to two orphan sisters,[12] a minor and a deaf woman, and the husband of the minor died, the deaf widow is released by means of a letter of divorce[13] while the minor waits until she is of age, when she performs halizah.[14] If the husband of the deaf woman dies, the minor is released by a letter of divorce[15] while the deaf widow is forever forbidden [to marry again].[16] If, however, he cohabited with the deaf widow[17] he must give her a letter of divorce and she[18] becomes permitted [to marry any other man].[19] Now, if you grant that a deaf wife is partially acquired[20] [and that concerning] a minor [it is doubtful whether] she is [fully] acquired[21] or not acquired [at all], one can well see the reason why when he cohabited with the deaf widow he gives her a letter of divorce and she becomes permitted [to marry any other man]. For you may rightly claim that in any case [she becomes permitted]. If the minor is acquired,[21] [the deaf widow] is rightly released as his wife's sister;[22] and if she is not acquired [at all] he has quite lawfully contracted with her[23] the levirate marriage.[24] If you contend, however, [that concerning] a deaf woman [it is doubtful whether] she is acquired[19] or not acquired [at all], and that a minor is partially acquired,[20] [the difficulty arises] why should the deaf widow, if he cohabited with her and gave her a letter of divorce, be permitted [to marry again] when the cohabitation with her was unlawful,[25] and an unlawful cohabitation does not release a woman?[26] — It is possible that this statement represents the view of[27] R. Nehemiah who ruled that an unlawful cohabitation exempts [a widow] from halizah.[28]

If [this statement represents the view of] R. Nehemiah read the final clause: 'If a man was married to two orphans,[29] one of whom was a minor and the other deaf, and died 'and the levir cohabited with the minor and then cohabited with the deaf widow, or a brother of his cohabited with the deaf widow,[30] both are forbidden to him.[31] How do they obtain redress? The deaf woman is released by a letter of divorce[31] while the minor waits until she is of age 'when she performs halizah'.[32] Now,if you grant[33] that a deaf wife is partially acquired [and that concerning] a minor [it is doubtful whether she is fully] acquired or not acquired [at all],[34] and [that the opinion in this statement] is that of the Rabbis,[35] one can well understand the reason why[36] 'the minor[37] waits until she is of age, when she performs halizah', since [otherwise][38] he might cohabit with the deaf widow first,[39] and the [subsequent] cohabitation with the minor would [thereby] be rendered an unlawful cohabitation.[40] If you contend, however, [that the opinion in the statement is that of] R. Nehemiah,[41] surely he [it may be objected] ruled that an unlawful cohabitation does exempt![42] Consequently it must be concluded [that the opinion in the statement is that of] the Rabbis. Our point is thus proved.

R. Ashi said: From the first clause[43] also it may be inferred that [the opinion expressed] is that of the Rabbis. For it was stated, 'If,[44] however, he cohabited with the deaf widow he must give her a

letter of divorce and she becomes permitted [to marry any other man]', but it was not stated,[45] 'If he cohabited with the minor, he must give her a letter of divorce and she becomes permitted'![46] — If this is all, there is not much force in the argument; since in respect of the deaf widow for whom no lawful redress is possible[47] mention had to be made of redress obtained through a forbidden act,[48] but concerning a minor, for whom lawful redress is possible,[49] no redress obtainable through a forbidden act was mentioned.

MISHNAH. IF A MAN WHO WAS MARRIED TO TWO ORPHANS WHO WERE MINORS DIED, AND THE LEVIR COHABITED WITH ONE,[50] AND THEN HE ALSO COHABITED WITH THE OTHER,[51] OR A BROTHER OF HIS COHABITED WITH THE OTHER,[51]

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(1) Once the levir married her.

(2) As the legal wife of her husband.

(3) And having been the proper wife of the deceased, her marriage with the levir severs the levirate bond with the minor, the subsequent halizah with whom is null and void and in no way affects the validity of her marriage.

(4) As the legal wife of her husband.

(5) To the minor, halizah with whom does not concern her at all. Consequently it must be inferred that it is the deaf wife who is partially acquired, and that the doubt as to complete acquisition or none exists in the case of the minor.

(6) Once the levir married her.

(7) Given in the case of the deaf woman.

(8) Cf. supra n. 1 mutatis mutandis.

(9) To the deaf woman, marriage with whom does not consequently affect the validity of her marriage.

(10) Of halizah she is incapable, owing to her inability to recite the prescribed formulae; and marriage with her after a marriage had been contracted with the minor is forbidden. Hence the necessity for Rab's ruling which provides redress for the minor as well as the deaf widow.

(11) That a deaf wife is partially acquired and the legality of the acquisition of a minor is altogether doubtful.

(12) Orphan is mentioned on account of the minor.

(13) She is forbidden to live with her husband as the sister of the minor who is now his zekukah (v. Glos.), since she, as a deaf woman, is only partially acquired as wife, while the minor's acquisition by her husband (and consequently her levirate bond with the levir) might possibly have been completely valid.

(14) And is then free to marry any other man.

(15) As it is possible that the minor is not acquired at all as a wife, while the levirate bond with the deaf widow is at all events partially valid, the former is forbidden to her husband as the sister of his zekukah. (V. Glos. and cf. supra n. 11).

(16) She is forbidden to the levir as the sister of his divorcee (it being possible that the minor was completely acquired as his wife), and she is forbidden to any other man since, owing to her inability to recite the required formulae, the levir cannot release her by halizah. Even when the minor dies, and the prohibition of 'divorcee's sister' is lifted, she remains forbidden to the levir as 'brother's wife'. Since at the time she became subject to the levir as his deceased brother's wife she was for some reason unfit to contract the levirate marriage, the prohibition of 'brother's wife' comes again into force.

(17) After he had divorced the minor.

(18) Though the cohabitation was forbidden.

(19) Because (a) if the minor was to be regarded as his legal wife, the deaf woman was all the time permitted to marry a stranger since, as his wife's sister, she was never subject to the levirate obligations; and if (b) the minor was not to be regarded as his legal wife, his marriage with the deaf widow, who accordingly was not his wife's sister, was a valid levirate marriage which was duly and lawfully annulled by the letter of divorce which set her free.

(20) V. supra p. 773, n. 7.

(21) Cf. supra p. 773, n. 8.

(22) Cf. supra n. 3 (a).

(23) The deaf widow.

(24) Cf. supra n. 3 (b).

(25) Since the minor is at least partially his wife and the deaf widow is forbidden to him as his wife's sister.

(26) From the levirate obligations. Since it is possible that the deaf woman was completely acquired as wife by the deceased brother, the levirate bond between her and the levir is also fully valid, and as the partial acquisition of the

minor by her husband (the levir) cannot annul such a possibly fully valid bond, the deaf widow is precluded from marrying either the levir whose partial wife's sister she is (cf. supra n. 9) or from marrying any other man to whom she can be permitted only through halizah with the levir, which she, as a deaf person, is incapable of performing. Had she been permitted to marry the levir, his cohabitation with her would have released her from any further levirate obligation, while his divorce would have set her free to marry any other man. Since, however, cohabitation with the levir is unlawful, she cannot thereby be released from her levirate obligation and should consequently remain forbidden to all men forever!

(27) Lit., 'this, who?'

(28) V. supra 50b. Hence the permissibility for the deaf widow to marry again after she had been divorced.

(29) V. supra p. 774 n. 10.

(30) After the former had cohabited with the minor.

(31) The reason is given infra.

(32) And she is free at all events: If the minor was a lawfully acquired wife the deaf widow is exempt from the levirate marriage by the former's levirate marriage; and if the minor was not a lawfully acquired wife, the deaf widow had performed the levirate obligation by her own cohabitation with the levir through whose divorce she is now free to marry again.

(33) In respect of the two sisters spoken of in the first clause cited.

(34) Cf. supra p. 775, n. 3.

(35) Who maintain that an unlawful cohabitation does not exempt a deceased brother's widow from the levirate marriage and halizah.

(36) In the final clause, relating to a marriage with orphans who were strangers to each other.

(37) Though marriage with her by the levir should in any case be permitted. For if she was fully acquired by her husband the subsequent cohabitation by the levir with the deaf widow who was only partially acquired can have no validity to cause the minor's prohibition to him; and if she was not acquired at all she, as a stranger, should also be permitted to the levir; and in either case her divorce should set her free without the performance of halizah.

(38) If halizah were not imposed upon the minor when she attains her majority.

(39) And the minor, since it is possible that she was fully acquired, would not be exempt by the levir's cohabitation with the deaf widow who was only partially acquired.

(40) Since it followed that of the deaf widow who, having been at least partially acquired, is the minor's rival, and two rivals may not be married. As in such a case the minor could not be free before she became of age and performed halizah, a similar restriction has been imposed in the former case also.

(41) That the minor is partially acquired and that concerning the deaf woman the validity of her acquisition as a wife is in doubt.

(42) Why then should the minor have to wait until she is of age? If the deaf woman is not acquired at all the minor's cohabitation with the levir is, surely, permitted. But even if the deaf woman is acquired, and her levirate bond causes the minor to be forbidden to the levir, there should be no need for the minor to wait until she is of age and able to perform the halizah, while according to R. Nehemiah, an unlawful cohabitation also exempts a woman from the levirate marriage and halizah!

(43) Which deals with the marriage of two sisters.

(44) When the husband of the deaf sister died.

(45) In the case where the husband of the minor died.

(46) Which would be the law according to R. Nehemiah, who ruled that an unlawful cohabitation exempts the woman from the levirate obligations. The statement, consequently, must represent the view of the Rabbis, and the reason why the minor cannot be released by a letter of divorce is because cohabitation with her is unlawful since she is the sister of the levir's partially acquired wife; while she herself, in case she was fully acquired, is subject to the levirate bond, from which the marriage with her deaf sister, whose kinyan was only partial, cannot exempt her.

(47) As she is forbidden to all men including the levir, as shewn supra.

(48) It being the only possible means whereby she could marry again.

(49) She has only to wait until she is of age, when she can lawfully perform halizah and thereby obtain her freedom.

(50) Lit., 'the first'.

(51) Lit., 'the second'.

Talmud - Mas. Yevamoth 111b

HE HAS NOT THEREBY RENDERED THE FIRST INELIGIBLE [FOR HIM];[1] AND THE SAME LAW IS APPLICABLE TO TWO DEAF WOMEN.

[IF ONE WAS] A MINOR AND THE OTHER DEAF, AND THE LEVIR COHABITED WITH THE MINOR AND THEN HE ALSO COHABITED WITH THE DEAF WIDOW, OR A BROTHER OF HIS COHABITED WITH THE DEAF WIDOW, HE HAS RENDERED THE MINOR INELIGIBLE [FOR HIM].[2] IF THE LEVIR COHABITED WITH THE DEAF WIDOW AND THEN HE ALSO COHABITED WITH THE MINOR, OR A BROTHER OF HIS COHABITED WITH THE MINOR, HE HAS RENDERED THE DEAF WIDOW INELIGIBle [FOR HIM].[3]

[IF ONE WAS] OF SOUND SENSES AND THE OTHER DEAF, AND THE LEVIR COHABITED WITH THE FORMER AND THEN HE ALSO COHABITED WITH THE LATTER, OR A BROTHER OF HIS COHABITED WITH THE LATTER, HE DOES NOT RENDER THE FORMER INELIGIBLE [FOR HIM]. IF THE LEVIR COHABITED WITH THE LATTER, AND THEN HE ALSO COHABITED WITH THE FORMER, OR A BROTHER OF HIS COHABITED WITH THE FORMER, HE RENDERS THE LATTER INELIGIBLE [FOR HIM].

[IF ONE WAS] OF AGE AND THE OTHER A MINOR, AND THE LEVIR COHABITED WITH [THE WIDOW] WHO WAS OF AGE, AND THEN HE ALSO COHABITED WITH THE MINOR, OR A BROTHER OF HIS COHABITED WITH THE MINOR, HE DOES NOT RENDER THE ELDER INELIGIBLE FOR HIM. IF THE LEVIR COHABITED WITH THE MINOR, AND THEN HE ALSO COHABITED WITH [THE WIDOW WHO WAS] OF AGE, OR A BROTHER OF HIS COHABITED WITH [THE WIDOW WHO WAS] OF AGE, HE RENDERS THE MINOR INELIGIBLE [FOR HIM].

R. ELEAZAR RULED: THE MINOR IS TO BE INSTRUCTED TO EXERCISE HER RIGHT OF MI'UN AGAINST HIM.[4]

GEMARA. Rab Judah stated in the name of Samuel: The halachah is in agreement with R. Eliezer[5] . So also did R. Eleazar[6] state: The halachah is in agreement with R. Eleazar.[7] And [both statements[8] were] required. For if the statement had been made on the first [Mishnah] only[5] [it might have been assumed that] in that case alone did Samuel hold that the halachah is in agreement With R. Eliezer,[9] since [the levir there] had not fulfilled the commandment of the levirate marriage,[10] but in this case[11] where[12] the commandment of the levirate marriage has been fulfilled, it might have been assumed that both must be released by a letter of divorce.[13] And if the information[14] had been given on the latter[11] only, [it might have been suggested that] only in this case [is the halachah in agreement with him], because the elder is subject to levirate marriage[15] with him, but not[16] in the other case.[17] [Hence both statements were] required.

MISHNAH. IF A LEVIR WHO WAS A MINOR COHABITED WITH A SISTER-IN-LAW WHO WAS A MINOR, THEY SHOULD BE BROUGHT UP TOGETHER.[18] IF HE COHABITED WITH A SISTER-IN-LAW WHO WAS OF AGE, SHE SHOULD BRING HIM UP UNTIL HE IS OF AGE.[19]

IF A SISTER-IN-LAW DECLARED WITHIN THIRTY DAYS [AFTER HER LEVIRATE MARRIAGE], 'HE HAS NOT COHABITED WITH ME',[20] [THE LEVlr] IS COMPELLED TO SUBMIT TO HER HALIZAH,[21] BUT [IF HER DECLARATION WAS MADE] AFTER THIRTY DAYS, HE IS ONLY REQUESTED TO SUBMIT TO HER HALIZAH.[22] WHEN, HOWEVER, HE ADMITS [HER ASSERTION], HE IS COMPELLED, EVEN AFTER TWELVE MONTHS, TO

SUBMIT TO HER HALIZAH.

IF A WOMAN VOWED TO HAVE NO BENEFIT FROM HER BROTHER-IN-LAW, THE LATTER IS COMPELLED TO SUBMIT TO HER HALIZAH, [IF HER VOW WAS MADE] DURING THE LIFETIME OF HER HUSBAND,[23] BUT IF AFTER THE DEATH OF HER HUSBAND,[24] THE LEVlr MAY ONLY BE REQUESTED[25] TO SUBMIT TO HER HALIZAH. IF THIS,[26] HOWEVER, WAS IN HER MIND [EVEN IF HER VOW WAS MADE] DURING THE LIFETIME OF HER HUSBAND, THE LEVIR MAY ONLY BE REQUESTED TO SUBMIT TO HER HALIZAH.[27]

GEMARA. Must it be assumed that our Mishnah[28] is not in agreement with R. Meir? For it was taught: A boy minor and a girl minor may neither perform halizah nor contract levirate marriage;[29] so R. Meir![30] — It may even be said to agree with R. Meir, for R. Meir spoke only [of the levirate marriage of a sister-in-law] who was of age to a minor, and [of one who was] a minor to [a levir that was] of age, since one of these[31] [may possibly be performing] forbidden cohabitation.[32] He did not speak, however, of a boy minor who cohabited with a girl minor, in which case both are in the same position.[33] But, surely, it was stated, IF HE COHABITED WITH A SISTER-IN-LAW WHO WAS OF AGE SHE SHOULD BRING HIM UP UNTIL HE IS OF AGE![34] — R. Hanina of Hozaah replied: If he had already cohabited [the law] is different.[35] But was it not stated: SHE SHOULD BRING HIM UP UNTIL HE is OF AGE,[36] though each act of cohabitation is a forbidden one![37] — The truth is clearly that our Mishnah cannot be in agreement with R. Meir.

Should not the text, To raise up unto his brother a name,[38] be applied here? And this minor,[39] Surely, is not capable of it![40] — Abaye replied: Scripture said, Her husband's brother shall go in unto her,[41] whoever he may be.[42] Raba[43] replied: Without this [text] also you could not say [that a minor may not contract levirate marriage]. For is there any act [in connection with the levirate marriage] which is at one time[44] forbidden and after a time[45] permitted? Surely, Rab Judah stated in the name of Rab: Any sister-in-law to whom the instruction, Her husband's brother shall go in unto her,[41] cannot be applied at the time when she becomes subject to the levirate marriage, is indeed like the wife of a brother who has children, and is consequently forbidden![46] But then might it not be suggested that this same [principle is applicable here] also?[47] — Scripture said, If brethren dwell together,[48] even if [one brother is only] one day old.[49]

IF A SISTER-IN-LAW DECLARED WITHIN THIRTY DAYS etc. Who is it that taught that up to thirty days[50] a man may restrain himself?[51] -R. Johanan replied: It is R. Meir; for it was taught: A complaint in respect of virginity[52] [may be brought] during the first[53] thirty days;[54] so R. Meir. R. Jose said: If [the woman] was shut up [with him, the complaint must be made] forthwith; if she was not shut up [with him], it may be made even after many years.[55] Rabbah stated: It[56] may even be said [to represent the opinion of] R. Jose,[57] for R. Jose spoke there[55] only of one's betrothed with whom one is familiar,[58] but [not of] the wife of one's brother

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(1) As the kinyan of both is of equal validity or invalidity, if the levir's kinyan of the first was valid, that of the other, coming as it does after it, is ineffective, while if his kinyan of the first was invalid, that of the other was equally invalid and both have the same status as strangers whom he never married. He may, therefore, retain the first who is in any case permitted to him, while the second must be released, since it is possible that the kinyan of a minor is valid and both were, therefore, the lawful wives of the deceased brother, who, as rivals, cannot both be married by the levir.

(2) This is a preventive measure against the possibility of marrying the deaf woman first. Cf. Gemara supra 111a — Rashi. Cf. infra p. 779, n. 1. [Mishnayoth edd.: ‘he does not render the minor ineligible’, the reason being if the minor is fully acquired, the act of cohabitation with the deaf-mute that followed has no validity. Should, on the other hand, the kinyan in regard to a minor be of no effect whatsoever, then she could not be considered the wife of the deceased brother, v. Bertinoro a.l.].

(3) Since it is possible that the minor is fully acquired, while in the case of the other it is certain that, as a deaf person,

she is only partially acquired.
(4) Thus annulling her marriage and enabling the levir to retain the elder woman.
(5) With reference to Mishnah 109a which deals with the levirate marriage of two sisters, cf. however supra p. 760, n. 5.
(6) R. Eleazar b. Pedath, one of the Amoraim.
(7) R. Eleazar b. Shammua', the Tanna in our Mishnah.
(8) That (a) the halachah is in agreement with R. Eleazar in our Mishnah and that (b) it is also in agreement with R. Eliezer's view in the Mishnah supra 109a, as stated in the Gemara supra 110a.
(9) V. supra p. 779, n. 3.
(10) There only it is permissible to teach the minor to exercise her right of mi'un, in order that the levir may be enabled to perform the commandment with the elder.
(11) Our Mishnah.
(12) The levir having cohabited with both widows.
(13) And that the minor is not to be taught to exercise her right of mi'un.
(14) That the halachah is in agreement with R. Eleazar.
(15) V. supra note 2.
(16) Cf. supra note 5.
(17) Cf. supra p. 779, n. 3, where, should the minor fail to exercise her right of mi'un, the elder widow would, as his wife's sister, be altogether exempt from the levirate marriage.
(18) Lit., 'this with this'. As the divorce of a minor is invalid, they cannot be separated by a letter of divorce, should they desire to do so, before both have attained their majority.
(19) During his minority he cannot divorce her (cf. supra note 10).
(20) And he denies her statement.
(21) It being assumed that a period of thirty days sometimes elapses before a marriage is consummated, her word is accepted; v. Gemara.
(22) He cannot be compelled, because it is assumed that no one postpones consummation of marriage for a longer period than thirty days. His word is, therefore, accepted. As the woman, however, by her statement, declared herself to be still bound to him by the levirate bond it is necessary that she should perform halizah, to submit to which, however, the levir can only be asked, not compelled.
(23) When she is not likely to have had in her mind the possibility of ever marrying the levir. The vow is, therefore, presumed to have been due to some quarrel or misunderstanding between her and the levir and to be in no way due to a desire on her part to evade the precept of the levirate marriage.
(24) When her intention may have been to avoid marrying the levir.
(25) But may not be compelled.
(26) Avoidance of the levirate marriage.
(27) And if he refuses, the widow, who is alone to blame for the fact that the levirate marriage cannot be contracted with her, is forbidden to marry again; nor is she entitled to her kethubah.
(28) Which allows levirate marriage to a minor.
(29) Since it is possible that on attaining majority they may be found wanting in procreative powers, in consequence of which they will be unfit for the performance of the levirate obligations. As the Pentateuchal law is thus incapable of fulfilment, the sister-in-law remains forbidden to the levir as his brother's wife'.
(30) Supra 61b. (Cf. supra n. 6).
(31) I.e., the party that is of age.
(32) Cf. supra p. 781, n. 7.
(33) Both are not subject to punishment, even if their cohabitation is found to be a forbidden act and consequently may be allowed in a doubtful case such as this; cf. infra 114a.
(34) Which is not a case concerning two minors.
(35) Though the levirate marriage of a minor with one who is of age is forbidden, it is nevertheless valid ex post facto.
(36) Implying permissibility to continue to live with him.
(37) Which proves that our Mishnah permits directly, not only ex post facto, the levirate marriage of a minor.
(38) Deut. XXV, 7.
(39) As he is incapable of procreation.
(40) To raise up unto his brother a name. Why then is he allowed, the levirate marriage?

(41) Deut. XXV. 5.
(42) Even one who is incapable of fulfilling the commandment in its entirety.
(43) Others, 'Rabbah' (cf. Tosaf. supra 20 s,v. ואהות).
(44) Lit., 'now', while one of the parties is a minor.
(45) When majority is attained.
(46) Supra 30a; for all time, even when the cause of her prohibition had ceased to exist. Were not the minor then permitted the levirate marriage, this prohibition would not have been removed even after he had attained majority.
(47) I.e., that a levir who was a minor at the time his brother died may never contract levirate marriage.
(48) Deut. XXV, 5.
(49) Must the levirate marriage he contracted, cf. ibid.
(50) After his marriage.
(51) From cohabitation. This being evidently the reason why in our Mishnah the woman's statement is accepted as true.
(52) A husband's assertion that he found no tokens of virginity (cf. Deut. XXII, 13ff), and that, consequently, his wife is not entitled to her kethubah.
(53) Lit., 'all'.
(54) After marriage; and the husband is believed when he states that he had only just then discovered her defect. If his complaint is made after thirty days, he cannot deprive his wife of her kethubah, it being assumed that her defect, if any, had been discovered by him long ago and that he had acquiesced. His present complaint is regarded as a mere pretext to penalize the woman because of some new quarrel that may have arisen between them.
(55) V. Tosef. Keth. I.
(56) The statement in our Mishnah, which implies that for thirty days after marriage a man may restrain himself. (Cf. supra note 5).
(57) Not only that of R. Meir.
(58) And since he met her in privacy consummation of marriage might well be assumed.

Talmud - Mas. Yevamoth 112a

towards whom one is rather reserved.[1]

Now, instead of being compelled to submit to halizah, let [the levir] be compelled to take [his sister-in-law] in levirate marriage! — Rab replied: [This is a case] where her letter of divorce was produced by her.[2]

An objection was raised: If within thirty days[3] a sister-in-law declared, 'He has not cohabited with me,' he is compelled to submit to halizah from her, whether he says 'I have cohabited' or whether he admits 'I have not cohabited'; if after thirty days, he may only be requested[4] to submit to halizah from her. If she declares,[5] 'He cohabited with me,' and he states, 'I did not cohabit', behold, he may[6] release her by a letter of divorce.[7] If he declares, 'I have cohabited' and she states, 'He has not cohabited with me,' It is necessary for him, even if he withdrew his statement and admitted, 'I have not cohabited', [to give her] a letter of divorce[8] and [to submit to her] halizah![9] — R. Ammi replied: [The meaning is that] she requires halizah together with her letter of divorce.[10]

R. Ashi replied: There[11] the letter of divorce [was given] in respect of his levirate bond;[12] while here[13] the letter of divorce [is required in respect] of his cohabitation.[14]

[A couple] both of whom admitted[15] [that there was no consummation of the levirate marriage] once came before Raba. 'Arrange the halizah for her', said Raba to his disciples, 'and dismiss her case'. 'But, surely', said R. Sherebya to Raba, 'it was taught: She requires[15] both a letter of divorce and halizah!' 'If it was so taught', the other replied, 'well, then it was taught'.

Hon son of R. Nahman enquired of R. Nahman: What [is the law in respect of] her[16] rival?[17] — The other replied: Shall the rival be forbidden [to marry again] because we compel or request [the

levir]![18]

IF A WOMAN VOWED TO HAVE NO BENEFIT etc. We learned elsewhere: At first it was held that [the following] three [classes of] women must be divorced[19] and they also receive their kethubah: One[20] who declares, 'I am unclean for you',[21] or 'heaven is between me and you',[22] or 'May I be kept away from the Jews'.[23] This ruling was afterwards withdrawn[24] in order that a wife might not cast eyes upon another man[25] and thus disgrace her husband;[26] but [instead it was ordained that] one[20] who declared, 'I am unclean for you'[21] must bring evidence in support of her statement;[27] [in respect of a woman who tells her husband] 'heaven is between me and you',[22] [peace] is made between them by way of a request [addressed to the husband]; [and if a woman vowed], 'May I be kept away from the Jews' [the husband] invalidates his part [of the vow][28] and she may continue connubial intercourse with him, though she remains removed from [other] Jews.[29] The question was raised: What [is her relation] to the levir [if a woman had vowed],[30] 'May I be kept from the Jews?' Is [it assumed that][31] it occurred to her that her husband may possibly die[32] and that she might become subject to the levir[33] or not?[34] — Rab replied: The levir has not the same status as the husband;[35] and Samuel replied: The levir has the same status as the husband.

Said Abaye: Logical deduction is in agreement with Rab. For we learned, IF A WOMAN VOWED TO HAVE NO BENEFIT FROM HER BROTHER-IN-LAW, THE LATTER IS COMPELLED TO SUBMIT TO HER HALIZAH [IF HER VOW WAS MADE] DURING THE LIFETIME OF HER HUSBAND. Now, if it is [to be assumed] that it occurred to her'[36]

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(1) Though he was alone with her no cohabitation may have taken place. מיבזז בזיז rt. בזז 'to be shy', 'bashful'. Cf. גזז כזז.

(2) Lit., 'from under her hand'. After a divorce by the levir, the levirate marriage is forbidden. It is now assumed that the letter of divorce spoken of is one by which the levir had severed their union after the consummation of their marriage.

(3) After contracting levirate marriage.

(4) He cannot be compelled.

(5) After thirty days from their marriage.

(6) If they desire their union to be severed.

(7) No halizah is necessary, the woman being believed, since more than thirty days have elapsed after their marriage.

(8) Since after thirty days it is assumed that cohabitation had taken place.

(9) Because she herself by her declaration that no cohabitation had taken place and that the levirate bond was consequently still in force has caused her own prohibition to all other men until she has performed the halizah. Now, as in this case it is specifically mentioned that a letter of divorce is required, it is to be presumed that in all cases spoken of in this Baraitha the woman had no divorce; why then in the absence of a divorce, is the levir in the first case, compelled to submit to halizah and not rather to the performance of the levirate marriage?

(10) Which is already in her possession. The clause 'even if he withdrew' his statement etc,' does not emphasize the necessity of giving a letter of divorce but the ruling that where the levir first declared after thirty days that he consummated the marriage he may only be requested and not compelled to submit to halizah even though he later asserted that no cohabitation had taken place.

(11) In the first clause of the Baraitha under discussion.

(12) And this has caused the woman to be forbidden to the levir, in consequence of which halizah only but no levirate marriage is possible.

(13) In the final clause.

(14) The purport of the clause 'even if he withdrew' his statement etc.' being that although the levir admitted later that no cohabitation had taken place, in consequence of which it might have been presumed that halizah alone is sufficient, a letter of divorce is nevertheless required, because, more than thirty days having elapsed after the marriage, his first statement admitting cohabitation is accepted as the true one.

(15) After the levir had first declared that consummation of marriage had taken place.

(16) A sister-in-law who declared that the levirate marriage had not been consummated.

(17) Is the rival also forbidden to marry again before the other had performed the halizah?

(18) Obviously not. The sister-in-law in question may indeed have placed herself under a prohibition as a result of her own declaration. The rival, however, since every levirate marriage is usually consummated, remains free.
(19) Even if the husband is reluctant.
(20) The wife of a priest.
(21) Through outrage. A priest is forbidden to live with a wife in such circumstances.
(22) A declaration that may be made by a woman whom her husband deprives of her connubial rights. The meaning might be: 'The distance of the heavens lies between us' or 'heaven knows (if no man does) our miserable relationship'.
(23) I.e., a vow to have no sexual intercourse with any of them. Such a vow is assumed to be the result of the pain that connubial intercourse may cause her, and therefore justified.
(24) Lit., 'they returned to say'.
(25) Whom she would arrange to marry in a place where they are unknown.
(26) By inventing the disabilities mentioned.
(27) Otherwise her assertion is disregarded.
(28) That part of the prohibition that concerns himself.
(29) For fuller notes v. Ned., Sonc, ed., pp. 279ff.
(30) During the lifetime of her husband.
(31) Though her husband is alive.
(32) Without issue.
(33) Her vow was consequently meant to include the levir; and, since her husband can only invalidate his own share, she remains forbidden to the levir.
(34) Her vow may have applied to those men only who are otherwise allowed to marry her if her husband divorced her, her object being to convince him that she had no intention of marrying any other man even after she had left him. As the levir remains in any case forbidden to her after her husband had divorced her she could not have had him in mind. Hence he should be permitted to contract levirate marriage with her.
(35) He is excluded from the vow.
(36) Even while her husband was alive, that he might die without issue and that she would, therefore, be subject to the levir.

Talmud - Mas. Yevamoth 112b

it should have been [stated that he is only] to be requested![1] — What we are dealing with here is the case of a woman who has children, so that such a remote possibility[2] does not occur to her.

What, however, [would be the law if] she had no children? [Would the levir in that case have] to be requested! Instead, then, of stating, IF THIS, HOWEVER, WAS IN HER MIND [EVEN IF HER VOW WAS MADE] DURING THE LIFETIME OF HER HUSBAND, THE LEVIR MAY ONLY BE REQUESTED TO SUBMIT TO HER HALIZAH,[3] a distinction should have been made in the very same case:[4] This[5] is applicable only where she has children, but where she has no children he may only be requested!' Consequently[6] it must be inferred that whether[7] she has children or not, the levir is compelled [to submit to halizah], in accordance with the opinion of Rab. Thus our contention is proved.

C H A P T E R X I V

MISHNAH. A DEAF[8] MAN WHO MARRIED A WOMAN OF SOUND SENSES OR A MAN OF SOUND SENSES WHO MARRIED A DEAF WOMAN MAY, IF HE WISHES TO RELEASE HER, DO SO;[9] AND IF HE WISHES TO RETAIN HER HE MAY ALSO DO SO. AS HE MARRIES [THE WOMAN] BY GESTURES[10] SO HE DIVORCES HER BY GESTURES.

IF A MAN OF SOUND SENSES MARRIED A WOMAN OF SOUND SENSES AND SHE BECAME DEAF, HE MAY,[11] IF HE WISHES, RELEASE HER;[12] AND IF HE WISHES HE MAY RETAIN HER. IF SHE BECAME AN IMBECILE HE MAY NOT DIVORCE HER.[13] IF HE,

HOWEVER, BECAME DEAF OR INSANE, HE MAY NEVER DIVORCE HER.[14]

R. JOHANAN B. NURI ASKED: WHY MAY A WOMAN WHO BECAME DEAF BE DIVORCED WHILE A MAN WHO BECAME DEAF MAY NOT DIVORCE [HIS WIFE]? THEY[15] ANSWERED HIM: A MAN WHO GIVES DIVORCE IS NOT LIKE A WOMAN WHO IS DIVORCED. FOR WHILE A WOMAN MAY BE DIVORCED WITH HER CONSENT AS WELL AS WITHOUT IT, A MAN CAN GIVE DIVORCE ONLY WITH HIS FULL CONSENT.

R. JOHANAN B. GUDGADA TESTIFIED CONCERNING A DEAF [MINOR] WHO WAS GIVEN IN MARRIAGE BY HER FATHER[16] THAT SHE MAY BE RELEASED BY A LETTER OF DIVORCE.[17] THEY[18] SAID TO HIM:[19] THE OTHER[20] ALSO IS IN A SIMILAR POSITION[21] .

IF TWO DEAF BROTHERS WERE MARRIED TO TWO DEAF SISTERS, OR TO TWO SISTERS WHO WERE OF SOUND SENSES, OR TO TWO SISTERS ONE OF WHOM WAS DEAF AND THE OTHER WAS OF SOUND SENSES; AND SO ALSO IF TWO DEAF SISTERS WERE MARRIED TO TWO BROTHERS WHO WERE OF SOUND SENSES, OR TO TWO DEAF BROTHERS, OR TO TWO BROTHERS ONE OF WHOM WAS DEAF AND THE OTHER OF SOUND SENSES, BEHOLD THESE [WOMEN] ARE EXEMPT FROM HALIZAH AND FROM LEVIRATE MARRIAGE.[22] IF [THE WOMEN, HOWEVER], WERE STRANGERS[23] [THE RESPECTIVE LEVlrs] MUST MARRY THEM,[24] AND IF THEY WISH TO DIVORCE THEM,[25] THEY MAY DO SO.[26]

IF TWO BROTHERS, ONE OF WHOM WAS DEAF AND THE OTHER OF SOUND SENSES, WERE MARRIED TO TWO SISTERS WHO WERE OF SOUND SENSES, AND THE DEAF BROTHER, THE HUSBAND OF [THE SISTER WHO WAS] OF SOUND SENSES, DIED, WHAT SHOULD THE BROTHER OF SOUND SENSES, THE HUSBAND OF THE SISTER OF SOUND SENSES, DO? [NOTHING; SINCE HIS SISTER-IN-LAW] IS EXEMPT[27] , AS BEING HIS WIFE'S SISTER. IF THE BROTHER OF SOUND SENSES, THE HUSBAND OF [THE SISTER WHO WAS] OF SOUND SENSES, DIED, WHAT SHOULD THE DEAF BROTHER, THE HUSBAND OF [THE SISTER WHO WAS] OF SOUND SENSES, DO? HE MUST RELEASE HIS WIFE BY A LETTER OF DIVORCE[28] WHILE HIS BROTHER'S WIFE IS FORBIDDEN FOREVER [TO MARRY AGAIN].[29]

IF TWO BROTHERS OF SOUND SENSES WERE MARRIED TO TWO SISTERS ONE OF WHOM WAS DEAF AND THE OTHER OF SOUND SENSES, AND THE BROTHER OF SOUND SENSES, THE HUSBAND OF THE DEAF SISTER, DIED, WHAT SHOULD THE BROTHER OF SOUND SENSES, THE HUSBAND OF [THE SISTER WHO WAS] OF SOUND SENSES, DO? [NOTHING; SINCE HIS SISTER-IN-LAW] IS EXEMPT[30] AS HIS WIFE'S SISTER. IF THE BROTHER OF SOUND SENSES, THE HUSBAND OF [THE SISTER WHO WAS] OF SOUND SENSES, DIED, WHAT SHOULD THE BROTHER OF SOUND SENSES, THE HUSBAND OF THE DEAF SISTER, DO? HE MUST DIVORCE HIS WIFE BY A LETTER OF DIVORCE[31] AND [HE RELEASES] HIS BROTHER'S WIFE BY HALIZAH.[32]

IF TWO BROTHERS, ONE OF WHOM WAS DEAF AND THE OTHER OF SOUND SENSES, WERE MARRIED TO TWO SISTERS, ONE OF WHOM WAS DEAF AND THE OTHER OF SOUND SENSES, AND THE DEAF BROTHER, THE HUSBAND OF THE DEAF SISTER, DIED, WHAT SHOULD [THE BROTHER WHO WAS] OF SOUND SENSES, THE HUSBAND OF [THE SISTER WHO WAS] OF SOUND SENSES, DO? [NOTHING; SINCE THE WIDOW] IS RELEASED BY VIRTUE OF HER BEING HIS WIFE'S SISTER. IF THE BROTHER OF SOUND SENSES, THE HUSBAND OF [THE SISTER WHO WAS] OF SOUND SENSES, DIED, WHAT SHOULD THE DEAF BROTHER, THE HUSBAND OF THE DEAF SISTER, DO? HE

RELEASES HIS WIFE BY A LETTER OF DIVORCE. WHILE HIS BROTHER'S WIFE IS FOREVER FORBIDDEN [TO MARRY AGAIN].[33]

IF TWO BROTHERS, ONE OF WHOM WAS DEAF AND THE OTHER OF SOUND SENSES, WERE MARRIED TO TWO STRANGERS WHO WERE OF SOUND SENSES, AND THE DEAF BROTHER, THE HUSBAND OF [THE WOMAN WHO WAS] OF SOUND SENSES DIED, WHAT SHOULD THE BROTHER OF SOUND SENSES, THE HUSBAND OF THE WOMAN OF SOUND SENSES, DO? — HE EITHER SUBMITS TO HALIZAH OR CONTRACTS LEVIRATE MARRIAGE. IF THE BROTHER OF SOUND SENSES, THE HUSBAND OF [THE WOMAN WHO WAS] OF SOUND SENSES, DIED, WHAT SHOULD THE DEAF BROTHER, THE HUSBAND OF THE WOMAN WHO WAS OF SOUND SENSES, DO? HE MUST MARRY HER AND HE MAY NEVER DIVORCE HER.[34]

IF TWO BROTHERS OF SOUND SENSES WERE MARRIED TO TWO STRANGERS,[35] ONE OF WHOM WAS OF SOUND SENSES AND THE OTHER DEAF, AND THE BROTHER OF SOUND SENSES, THE HUSBAND OF THE DEAF WOMAN DIED, WHAT SHOULD THE BROTHER OF SOUND SENSES, THE HUSBAND OF THE WOMAN OF SOUND SENSES, DO? HE MARRIES [THE WIDOW] AND IF HE WISHES TO DIVORCE HER HE MAY DO SO. IF THE BROTHER OF SOUND SENSES, THE HUSBAND OF THE WOMAN OF SOUND SENSES, DIED, WHAT SHOULD THE BROTHER OF SOUND SENSES, THE HUSBAND OF THE DEAF WOMAN, DO? HE MAY EITHER SUBMIT TO HALIZAH OR CONTRACT LEVIRATE MARRIAGE.

IF TWO BROTHERS, ONE OF WHOM WAS DEAF AND THE OTHER OF SOUND SENSES, WERE MARRIED TO TWO STRANGERS,[35] ONE OF WHOM WAS DEAF AND THE OTHER OF SOUND SENSES, AND THE DEAF BROTHER, THE HUSBAND OF THE DEAF WOMAN, DIED, WHAT SHOULD THE BROTHER OF SOUND SENSES, THE HUSBAND OF THE WOMAN OF SOUND SENSES. DO? HE MUST MARRY [THE WIDOW], BUT IF HE WISHES TO DIVORCE HER HE MAY DO SO.[36] IF THE BROTHER OF SOUND SENSES, THE HUSBAND OF THE WOMAN OF SOUND SENSES, DIED, WHAT SHOULD THE DEAF BROTHER, THE HUSBAND OF THE DEAF WOMAN, DO? HE MUST MARRY [THE WIDOW] AND HE MAY NEVER DIVORCE HER.

GEMARA. Rami b. Hama stated: Wherein lies the difference between a deaf man or a deaf woman [and an imbecile] that the marriage of the former should have been legalized by the Rabbis[37] while that of the male imbecile or female imbecile was not legalized by the Rabbis? For it was taught: If an imbecile or a minor married, and then died, their wives are exempt from halizah and from the levirate marriage![38] — [In the case of] a deaf man or a deaf woman, where the Rabbinical ordinance could be carried into practice,[39] the marriage was legalized by the Rabbis; [in that of] a male, or female imbecile, where the Rabbinical ordinance cannot be carried into practice, since no one could live with a serpent in the same basket,[40] the marriage was not legalized by the Rabbis.

And wherein lies the difference between a minor [and a deaf person] that the marriage of the former should not have been legalized[41] by the Rabbis while that of the deaf person was legalized by the Rabbis? — The Rabbis have legalized the marriage of a deaf person since [Pentateuchally] he would never be able to contract a marriage;[42] they did not legalize the marriage of a minor since in due course he would be able to contract [a Pentateuchally valid] marriage. But, surely, [in the case of] a girl minor, who would in due course be able to contract [a Pentateuchally valid] marriage, the Rabbis did legalize her marriage.[43] — There[44] [it was legalized] in order that people might not treat her as ownerless property.[45] And why is there a difference[46] between a minor [and a deaf woman] that the former should be permitted to exercise the right of mi'un while the deaf woman should not be permitted to exercise the right of mi'un? — Because, if [the latter also were allowed to do] so,

(1) And not compelled; since it is the woman's fault that the levirate marriage cannot be contracted.
(2) Lit., 'that all this', i.e., that all her children as well as her husband would die, and that the death of the former would precede that of the latter.
(3) Which, referring to a case where the woman's intention was known, is altogether different from the previous one.
(4) Spoken of, where it is not definitely known whether the levirate marriage was or was not in her mind.
(5) That the levir is compelled to submit to halizah.
(6) Since no such distinction was drawn.
(7) Lit., 'there is no difference'.
(8) 'Deaf and dumb', as is to be understood throughout by the term 'deaf'. Marriages contracted by parties of whom one is a deaf-mute are only Rabbinically valid.
(9) By a letter of divorce.
(10) Which in the case of a deaf person take the place of the prescribed formulae.
(11) Though her marriage was Pentateuchally valid.
(12) By a letter of divorce, for the reason to be explained infra.
(13) This is a Rabbinic provision, and the reason is given in the Gemara.
(14) Because his marriage was Pentateuchally valid while his divorce, being that of a deaf person, has no such validity.
(15) The Sages. divorce, being that of a deaf person, has no such validity. (8) The Sages.
(16) Such a marriage is Pentateuchally valid since her father is empowered to act on her behalf.
(17) Even after attaining her majority when she is no longer under her father's control.
(18) The Sages.
(19) R. Johanan b. Nuri.
(20) Lit., 'this', one of sound senses that became deaf, who formed the subject of R. Johanan b. Nuri's enquiry in the preceding paragraph.
(21) V. Git. 55a.
(22) As the marriages of both sisters are of equal invalidity in Pentateuchal, and of equal validity in Rabbinic law, their levirate obligations and degree of relationship are also on the same legal level. Each sister, therefore, exempts the other, as in the case of marriages between normal brothers and sisters, from both the levirate marriage and halizah.
(23) To one another; i.e., if they were not sisters or near of kin in any other way.
(24) Since no halizah is possible with a deaf-mute (v. supra p.788, n. 1) who cannot recite the formulae.
(25) After marriage.
(26) By gestures, as they did in the case of the marriages.
(27) From levirate marriage and halizah.
(28) Because the levirate bond with his sister-in-law, whose marriage (as one between normal persons) was Pentateuchally valid, causes his wife whose marriage with him (a deaf person) was only Rabbinically valid, to be forbidden to him as the sister of his zekukah (v. Glos.).
(29) Since, as a deaf man (cf. supra p.789. n. 8), he is incapable of participating in her halizah, while levirate marriage cannot be contracted because she is his wife's, or divorcee's sister.
(30) From levirate marriage and halizah.
(31) Cf. supra n. 1 mutatis mutandis.
(32) Since both he and his sister-in-law are normal persons.
(33) V. supra p.790. 2.
(34) His divorce, which has only Rabbinical, but not Pentateuchal validity, cannot sever the levirate bond between him and his sister-in-law, which arose out of the pentateuchally valid marriage of his brother.
(35) Cf. supra p.789. n. 10.
(36) Cf. supra p.789. n. 10.
(37) As is evident from our Mishnah. Since halizah was required it is obvious that the preceding marriage, without which the question of halizah could never have arisen, is recognized as valid despite the fact that a deaf-mute (cf. supra p.788. n. 1), owing to his inferior intelligence, is elsewhere ineligible to effect a kinyan.
(38) Supra 69b, 96b.
(39) Deaf-mutes might well lead a happy matrimonial life, not only when the husband or wife is deaf, but even where both are afflicted with deafness.

(40) proverb. There can be no happy or enduring matrimonial union between an imbecile and a sane person or between two imbeciles.

(41) As has been stated in the Baraitha just cited.

(42) And were not his marriage recognized as valid, at least in Rabbinic law, marriage for him would have become an impossibility.

(43) Wherein does she differ from the boy minor that she should be subject to a different law?

(44) The case of the girl minor.

(45) Take liberties with her.

(46) Since in the case of either, marriage is Pentateuchally invalid.

Talmud - Mas. Yevamoth 113a

men would abstain from marrying her.[1]

And why is there a difference between a minor [and a deaf woman] that the former should be permitted to eat terumah[2] while a deaf woman[3] may not? For we learned, 'R. Johanan b. Gudgada testified concerning a deaf girl whom her father gave in marriage[4] that she may be dismissed by a letter of divorce,[5] and concerning a minor, the daughter of an Israelite, who was married[6] to a priest, that she may eat [Rabbinical][7] terumah',[8] while the deaf woman may not eat'![9] This[10] is a preventive measure against the possibility that a deaf man might feed a deaf woman [with such terumah]. Well, let him feed her, [since she is only in the same position] as a minor who eats nebelah![11] This[12] is a preventive measure against the possibility that a deaf [husband] might feed a wife of sound senses [with it]. But even a deaf husband might well feed his wife who was of sound senses with Rabbinical terumah![13] — A preventive measure was made against the possibility of his feeding her with Pentateuchal terumah.

And why is the minor different [from the deaf woman] that the former should be entitled to her kethubah while the deaf woman is not entitled to her kethubah? — Because if [the latter also were] so [entitled] men would abstain from marrying her.[14]

Whence, however, is it inferred that a minor is entitled to a kethubah? — From what we learned: A minor who exercised the right of mi'un, a forbidden relative of the second degree,[15] and a woman who is incapable of procreation, are not entitled to a kethubah;[16] but [it follows[17] that one] released by a letter of divorce,[18] though a minor, is entitled to receive her kethubah.

And whence is it inferred that a deaf woman is not entitled to her kethubah? — From what was taught: If a man who was deaf or an imbecile married women of sound senses [the latter], even though the deaf man recovered his faculties or the imbecile regained his intelligence, have no claim whatsoever on [either of] them.[19] But if [the men] wished to retain them [the latter] are entitled to a kethubah of the value of[20] a maneh.[21] If, however, a man of sound senses married a woman who was deaf or an imbecile, her kethubah is valid, even if he undertook in writing to give her a hundred maneh,[22] since he himself had consented to suffer the loss.[23] The reason, then,[24] is because he himself consented; had he not consented, however, she would receive no kethubah,[25] since otherwise[26] men would abstain from marrying her.[27]

If so,[28] a kethubah should have been provided for a woman of sound senses who married a deaf man, since otherwise[29] [women] would abstain from marrying [deaf men]! — More than the man desires to marry does the woman desire to be taken in marriage.[30]

A deaf man once lived in the neighbourhood of R. Malkiu [and the latter] allowed him to take a wife to whom he had assigned in writing a sum of four hundred zuz out of his[31] estate. Raba remarked: Who is so wise as R. Malkiu who is indeed a great man. He[32] held the view: Had he

wished to have a maid to wait upon him, would we not have allowed one to be bought for him?[33] How much more, [then, should his desire be fulfilled] here where there are two [reasons for complying with his request]![34]

R. Hiyya b. Ashi stated in the name of Samuel: For [unwitting intercourse with] the wife of a deaf man[35] no asham talui[22] is incurred.[36] It might be suggested that the following provides support to his[37] view: There are five who may not set apart terumah, and if they did so their terumah is not valid. These are they: A deaf man, an imbecile, a minor, he who gives terumah[38] from that which is not his own, and an idolater who gave terumah from that which belonged to an Israelite; and even [if the latter gave it] with the consent of the Israelite his terumah is invalid![39] — He[40] holds[41] the same view is R. Eleazar. For it was taught : R. Isaac stated in the name of R. Eleazar that the terumah of a deaf man must not be treated[42] as profane, because its validity is a matter of doubt.[43] If he[40] is of the same opinion as R. Eleazar,[44] an asham talui also should be incurred![45] — It is necessary[46] [that the offence should be similar to that of eating] one of two available pieces [of meat].[47] But does R. Eleazar require [a condition similar to that of eating] one of two pieces? Surely, it was taught : R. Eleazar stated: For [eating] the suet of a koy[48] one incurs the obligation of an asham talui![49] — Samuel is of the same opinion as R. Eleazar in one case[50] but differs from him in the other.[51]

Others read: R. Hiyya b. Ashi stated in the name of Samuel: For [unwitting intercourse with] the wife of a deaf man the obligation of an asham talui is incurred.[52] An objection was raised: There are five who may not set apart terumah![53] — He[54] holds the same view as R. Eleazar.[55]

R. Ashi asked: What is R. Eleazar's reason? Is he positive that the mind of a deaf man is feeble but in doubt whether that mind is clear[56]

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(1) Because at any time throughout her life she could leave her husband by merely making her declaration of refusal. This does not apply to a minor who loses her right to mi'un as soon as she becomes of age.

(2) Even if only her mother or brother gave her in marriage to a priest.

(3) Who was not given in marriage by her father. V. infra.

(4) While she was in her minority.

(5) Even after she became of age, when it is she and not her father that receives it.

(6) By her mother or brothers after the death of her father.

(7) Cf. supra 902.

(8) ‘Ed. VII, 9, Git. 53b. Though such marriage is not Pentateuchally valid.

(9) Since only the minor, and not the deaf woman of whom the first clause speaks, was mentioned in this, the second clause.

(10) The prohibition against the eating of terumah by a deaf woman.

(11) V. Glos. Neither he nor she is subject to any punishment for the eating of forbidden food, v. infra 114a.

(12) The prohibition against the eating of terumah by the deaf woman.

(13) Since their marriage is at least Rabbinically valid.

(14) Cf. supra p.793, n. 5, mutatis mutandis. While deafness, as a rule, is an affliction for life, a minor does not forever remain in her minority.

(15) Who is forbidden in Rabbinic, though not in Pentateuchal law. Cf. supra 21a.

(16) Keth. 100b, B.M. 67a. The first mentioned, because her separation from her husband is effected even against his will; the second was penalized for contracting an unlawful marriage (cf. supra 85b); while in the case of the last the marriage is regarded as a contract under false pretenses.

(17) Since the Mishnah cited speaks only of a minor who has exercised the right of mi'un, and whose separation was, therefore, effected even without the husband's consent.

(18) Which is valid only if the husband had consented to the separation.

(19) Because, at the time the marriage had been contracted, the men were not in the possession of all their senses or faculties and were, in consequence, incapable of undertaking any monetary obligations.

(20) V. Bah. Cur. edd. omit to the end of the clause.

(21) V. Glos. [Their marriage is deemed to have taken place when the husband recovers his faculties, and at that time they were no longer virgins. Beth Joseph, Eben ha-Ezer LXVII].
(22) V. Glos.
(23) לזוק בנכסיו, lit., 'to be damaged in his estate'. Bomb. ed. and others (cf. Bah) read לזון 'to be maintained'.
(24) Why the deaf woman is entitled to her kethubah.
(25) Even according to Rabbinic law.
(26) Lit., 'for if so', i.e., if the Rabbis had entitled her to receive a kethubah.
(27) Cf. supra p.793, n. 5 mutatis mutandis.
(28) That eligibility to receive a kethubah is determined by the likelihood of the consent to marry the deaf person.
(29) Cf. supra n. 5, mutatis mutandis.
(30) The lack of a kethubah would not prevent a woman from marrying a man even if he was deaf.
(31) The deaf man's.
(32) R. Malkiu, in allowing the deaf man to accept responsibility for the sum mentioned.
(33) The answer is, of course, in the affirmative.
(34) Matrimony and service.
(35) Though it might be argued that, since the degree of her husband's intelligence or mental capacity cannot be accurately gauged — the validity of her marriage should be deemed doubtful.
(36) Such an offering is due only when the offence is a matter of doubt (cf. infra p.796. n. 10). In this case, however, as the marriage is valid in Rabbinic law only but remains definitely invalid in Pentateuchal law, no offering could be incurred.
(37) Samuel's.
(38) Without the authority of its owner.
(39) Ter. I, 1 Shab. 153b. From this Mishnah, then, it follows, since the terumah of a deaf man is regarded as definitely invalid, that the incapacity of a deaf man is not a matter of doubt; and this apparently provides support to Samuel's view.
(40) Samuel.
(41) In regard to terumah.
(42) Lit., 'go out'.
(43) Shab. 153a. The invalidity of the terumah spoken of in the Mishnah cited may consequently be due to a similar reason. Hence no support for Samuel's view concerning a deaf man's wife may be adduced from it.
(44) That the validity of the deaf man's action, and consequently also his capacity, is a matter of doubt.
(45) In a case of intercourse with his wife. Cf. supra p.795, n. 15, mutatis mutandis.
(46) If an asham talui is to be incurred.
(47) One of which was definitely forbidden and the other definitely permitted, and it is unknown whether a person ate the one or the other. Only in such a case, where the doubt is due to the existence of two objects, is an asham talui incurred. Similarly in the case of intercourse with one of two women, when it is unknown whether the woman affected was his own wife or a forbidden stranger, an asham talui is incurred. If the doubt, however, relates to one object, it being unknown, for instance, whether a piece of fat one has eaten was of the permitted or forbidden kind, no asham talui is involved. Similarly, in the case of the deaf man's marriage, where the doubt relates to one woman, it being uncertain whether she has the status of a married woman or not, no asham talui is incurred.
(48) A kind of antelope,Gr. **, concerning which it was unknown whether it belonged to the genus of cattle whose suet is forbidden or to that of the beast of chase whose suet is permitted. Cf. Hul. 80a.
(49) Though the doubt relates to one object only.
(50) In regard to terumah.
(51) In regard to the liability of an asham talui.
(52) Cf. supra p.795. n. 14 mutatis mutandis.
(53) Cf. supra p.796. n. 2 mutatis mutandis.
(54) Samuel.
(55) V. supra p.796. n.7(mutatis mutandis) and text.
(56) And whatever little his feebleness enables him to do he can do well at all times.

Talmud - Mas. Yevamoth 113b

or not clear,[1] though [in either case] it Is always in the same condition,[2] or is it possible that he has no doubt that the [deaf man's] mind is feeble and that it is not clear,[1] but [his doubt] here is due to this reason: Because [the deaf man] may sometimes be in a normal state[3] and sometimes in a state of imbecility? In what respect would this constitute any practical difference? — In respect of releasing his wife[4] by a letter of divorce.[5] If you grant that his mind is always in the same condition,[6] his divorce [would have the same validity] as his betrothal.[7] If, however, you contend that sometimes he is in a normal state[3] and sometimes he is in a state of imbecility, he would indeed be capable of betrothal; in no way, however, would he be capable of giving divorce.[8] What then is the decision? — This remains undecided.[9]

IF SHE BECAME AN IMBECILE etc. R. Isaac stated: According to the word of the Torah, an imbecile may be divorced,[10] since her case is similar to that of a woman of sound senses [who may be divorced] without her consent. What then is the reason why it was stated that she may not be divorced? — In order that people should not treat her as a piece of ownerless property.[11]

What kind [of imbecile, however, is here] to be understood? If it be suggested [that it is one] who is capable of taking care of her letter of divorce and who is also capable of taking care of herself, would people [it may be asked] treat her as if she were ownerless property! If, however, [she is one] who is unable to take care either of her letter of divorce or of herself, [how could it be said that] in accordance with the word of the Torah she may be divorced? Surely, it was stated at the school of R. Jannai, And giveth it in her hand[12] [only to her] who is capable of accepting her divorce,[13] but this one[14] is excluded since she is incapable of accepting her divorce; and, furthermore, it was taught at the school of R. Ishmael, And sendeth her out of his house,[15] only one who , when he sends her out, does not return, but this one[14] is excluded since she returns even if he sends her out! — This[16] was necessary[17] in respect of one who is capable of preserving her letter of divorce but is unable to take proper care of herself. Hence, in accordance with the word of the Torah , such an imbecile may well be divorced for, surely, she is capable of preserving her letter of divorce; the Rabbis, however, ruled that she shall not be dismissed in order that people might not treat her as a piece of ownerless property.

Abaye remarked: This[18] may also be supported by deduction. For in respect of her[14] it was stated, IF SHE BECAME AN IMBECILE HE MAY NOT DIVORCE HER, while in respect of him[19] [the statement was]. HE MAY NEVER DIVORCE HER. In what respect [it may be asked] does he[20] differ [from her] that the statement [concerning him] is NEVER while in respect of her 'NEVER' is not mentioned?[21] The inference, then, must be that the one is Pentateuchal, the other Rabbinical.

R. JOHANAN B. NURI ASKED etc. The question was raised: Was R. Johanan b. Nuri certain [of the law concerning] the man[22] and his question related to that of the woman , or is it possible that he was certain concerning that of the woman[23] and his question related to that of the man? — Come and hear: Since they answered him: A MAN WHO GIVES A DIVORCE IS NOT LIKE A WOMAN WHO IS DIVORCED. FOR WHILE A WOMAN MAY BE DIVORCED WITH HER CONSENT AS WELL AS WITHOUT IT, A MAN CAN GIVE A DIVORCE ONLY WITH HIS FULL CONSENT, it may be inferred[24] that his question related to the man .[25] On the contrary; since they said to him: THE OTHER ALSO IS IN A SIMILAR POSITION,[26] it may be inferred that his question related to the woman! — But [the fact is this]: R. Johanan b. Nuri was addressing [them[27] in the light] of their own statement. 'According to my view', [he argued], 'as well as a man[28] is incapable of giving a divorce, so also is a woman[25] incapable of receiving a divorce;[29] but according to your view,[30] why should there be a difference between a man and a woman?'[31] [To this] they replied: A MAN WHO GIVES A DIVORCE IS NOT LIKE A WOMAN WHO IS DIVORCED.

R. JOHANAN . . . TESTIFIED etc. Raba stated: From the testimony of R. Johanan b. Gudgada[32] [it may be inferred that if a husband] said to witnesses, 'See this letter of divorce which I am giving

[to my wife]', and to her he said,[33] 'Take this bill of indebtedness', she is nevertheless divorced. For did not R. Johanan b. Gudgada imply that [the woman's] consent was not required?[34] Here also, then, her consent is not required. Is not this obvious![35] — It might have been assumed that since he said to her, 'Take this bill of indebtedness'[36] he has thereby cancelled [the letter of divorce], hence we were taught [that it remains valid, for] had he in fact cancelled it, he would have made his statement to the witnesses. Since, however, he did not make the statement to the witnesses he did not cancel it at all; and the only reason why he made that statement to her was[37] to conceal [his] shame.[38]

R. Isaac b. Bisna once lost the keys of the school house in a public domain[39] on a Sabbath.[40] When he came to R. Pedath[41] the latter said to him, 'Go and

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(1) He cannot do anything rational.

(2) Either always clear or always not clear.

(3) Lit. , 'sound'.

(4) Whom he married when he was already suffering from his infirmity.

(5) This question applies only to the view of R. Eleazar. (Cf. supra p.796. n. 7). According to the Rabbis, as has been stated (supra 112b), a deaf man may divorce his wife, as he marries her, by gestures.

(6) Either always clear or always not clear.

(7) Since his mental powers do not change, he is as capable of giving divorce as contracting a marriage. He was either capable of both transactions or of neither.

(8) It being possible that at the time of the betrothal or marriage he happened to be in a normal state, and his act was consequently valid, while at the time of the divorce he may happen to relapse into imbecility, in consequence of which his act can have no validity.

(9) Teku, v. Glos.

(10) Though it is impossible to ascertain whether she realizes the significance of her action.

(11) Were she left unprotected by a husband, unscrupulous men might take undue advantage of her.

(12) Deut. XXIV, 1 (hand = יד. V. infra note 4).

(13) Lit., 'who has a hand' (v. supra note 3).

(14) The imbecile.

(15) Deut. XXIV, 1 .

(16) The statement of R. Isaac concerning the imbecile.

(17) Lit., 'not required (but)'.

(18) That the divorce of an imbecile is only Rabbinically forbidden but Pentateuchally permitted.

(19) The man who became an imbecile.

(20) Lit., 'here'.

(21) Lit., 'and what is different there that it was not taught forever'.

(22) That if he was deaf he may not divorce his wife.

(23) That if she was deaf she may be divorced.

(24) Since the expression used in the reply was, A MAN . . . IS NOT LIKE A WOMAN.

(25) Had it referred to the woman, the expression in the reply would have been, 'A woman . . . is not like a man'.

(26) The man not having been mentioned at all.

(27) The Rabbis.

(28) Who is deaf.

(29) It was to this statement that the Rabbis replied, THE OTHER ALSO IS IN A SIMILAR POSITION.

(30) Which allows a deaf woman to be divorced.

(31) Why should not a deaf man also be allowed to divorce his wife?

(32) According to which a woman may be divorced without her consent even though her betrothal was Pentateuchally valid.

(33) When handing the letter of divorce to her.

(34) Cf. supra p.799, n. 13.

(35) According to R. Johanan. What need, then, was there for Raba to state the obvious?

(36) Thus describing the document as one which has no relation whatsoever to divorce.

(37) Lit., ‘and that which he said thus, owing to’.

(38) At divorcing her. Or, to save her from the shame of being divorced in public.

(39) Reshuth harabbim רשות הרבים. Glos. [Though the question arose on Sabbath they could not have been lost in a public domain on that day. Bah., therefore, rightly omits ‘on a Sabbath’; nor did Rashi seem to have it, v. 114a s. v. דבר, v.n. 9].

(40) I.e., in a place where, and on a day when carrying of objects is forbidden.

(41) On Sabbath (Rashi). To consult him on the best way of getting the keys to the school house.

Talmud - Mas. Yevamoth 114a

lead forth some boys and girls [to the spot] and let them take a walk[1] there, for if they find [the keys] they will bring them back’. [From this] it is clearly evident that he[2] is of the opinion that if a minor eats nebelah,[3] it is not the duty of the Beth din to take it away from him.[4] May it be suggested that the following provides support for his view? A man must not say to a child, ‘Bring me[5] a key’, or ‘bring me[5] a seal’; but he may allow him to pluck or to throw![6] Abaye replied: ‘To pluck’ [may refer] to a non-perforated plant-pot,[7] and ‘to throw’ [may refer] to a neutral domain,[8] [acts which are no more than prohibitions] of the Rabbis.[9]

Come and hear: If an idolater came to extinguish [a fire],[10] he is not to be told either. ‘Put it out’ or ‘Do not put it out’, because it is not the duty of the Israelites present[11] to enforce his Sabbath rest. If a minor [Israelite], however, came to extinguish [the fire], he must be told, ‘Do not put it out’, since it is the duty of the Israelites present[11] to enforce his Sabbath rest![12] R. Johanan replied: [The child is inhibited only] where he [appears to] act with his father's approval.[13]

Similarly, then, in respect of the idolater,[14] [it is a case] where he acts with the approval of an Israelite? Is this, however, permitted![15] — An idolater acts on his own initiative.[16]

Come and hear: If the child of haber[17] was in the habit of visiting his mother's father who was an ‘am ha-rez,[18] there is no need to apprehend that [the latter] might feed him with [levitically] unprepared foodstuffs;[19] and if fruit[20] was found in his[21] possession, it is not necessary [to take it from] him![22] — R. Johanan replied: The law was relaxed in respect of demai.[23]

The reason, then,[24] is because [the fruit was] demai,[23] but [had its prohibition been] certain[25] it would have been necessary to tithe it;[26] but, surely [it may be objected] R. Johanan said[27] that [a child is inhibited only] where he [appears to] act with his father's approval[28] — But [the fact is that] R. Johanan was in doubt. When, therefore, he dealt with the one subject[29] he rebutted the argument[30] and when he dealt with the other[29] he [again] rebutted the argument.[30]

Come and hear: If the child of a haber[31] who was a priest was in the habit of visiting his mother's father who was a priest and an ‘am ha-arez,[32] there is no need to apprehend that [the latter] might feed him with unclean terumah; and if fruit was found in his[33] possession it is not necessary [to take it away from] him![34] — [This refers only] to Rabbinical terumah.[35]

Come and hear: An [Israelite] child may be regularly[36] breast fed by an idolatress or an unclean beast, and there is no need to have scruples about his sucking from a detestable thing;[37] but he must not be directly fed with nebeloth,[38] terefoth,[39] detestable creatures or reptiles. From all these, however, he may suck, even on the Sabbath,[40] though this is forbidden to an adult.[41] Abba Saul stated: It was our practice to suck from a clean beast on a festival.[42] At any rate it was here stated that ‘there is no need to have scruples about his sucking from a detestable thing’![43] — [The permissibility] there is due to [the presence of] danger.[44]

If so, an adult also [should be permitted]![45] — [Permissibility for] an adult is dependent on

medical opinion.[46] [Permissibility for] a child also should be made dependent on medical opinion![47] — R. Huna son of R. Joshua replied: The ordinary child is in danger when deprived of his[48] milk.

'Abba Saul stated: It was our practice to suck from a clean beast on a festival'. How is one to understand this?[49] If danger was involved, [the sucking should be permitted] even on the Sabbath also; and if no danger was involved, it should be forbidden even on a festival! — This can only be understood as a case where[50] pain[51] was involved, [Abba Saul] being of the opinion [that sucking][52] is an act of indirect[53] detaching.[54] [In respect of the] Sabbath, therefore, where the prohibition[55] [is one involving the penalty] of stoning, the Rabbis have instituted a preventive measure;[56] [in respect of] a festival, however, where the prohibition[55] [is only that of] a negative precept,[57] the Rabbis have not instituted any preventive measure.

Come and hear: These ye shall not eat,[58] for they are a detestable thing[59] [is to be understood[60] as] 'you shall not allow them to eat',[61] this being a warning[62] to the older men concerning the young children. Does not this imply[63] that [minors] must be ordered, you shall not eat [such things']![64] — No; that [adults] may not give them[65] with their own hands.[66]

Come and hear: No soul of you shall eat blood[67] implies[68] a warning[62] to the older men concerning the young children. Does not this signify[63] that [minors] must be told,[69] 'Do not eat [blood]'![70] — No; that [adults] must not give them with their own hands.[66]

Come and hear: Speak . . . and say[71] conveys a warning[62] to the older [Priests] concerning the [priests who are] minors. Does not this imply that minors must be ordered not to defile themselves![72] — No; that [adults] must not defile them with their own hands.[66]

And [all the Scriptural texts cited are] required. For if we had been informed concerning detestable things only,

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(1) Or, 'let them play' (Rashi).

(2) R. Pedath, who saw no objection to the children's desecration of the Sabbath.

(3) V. Glos. Symbolic of any religious transgression.

(4) Lit., 'to separate him'.

(5) On the Sabbath, from a public domain.

(6) If he does that of his own accord. Which proves that though a child may not be ordered to break a religious law he need not he interfered with if he does it on his own account.

(7) The plants in which draw no nourishment from the ground and cannot consequently he regarded as attached to it.

(8) Karmelith כרמלית, neither a public nor a private domain. V. Glos.

(9) In the case of Pentateuchal prohibitions, however, a child must he stopped even if he acts quite innocently.

(10) On the Sabbath when labour is forbidden to an Israelite.

(11) Lit , 'upon them'.

(12) Shab. 121a. Which shews, contrary to the opinion of R. Pedath, that even where a child acts in pure innocence, he must he prevented from transgressing a law.

(13) I.e., if his father is present at the time he commits the transgression. The father's silence is interpreted as approval and encouragement of the child to continue his forbidden act. Hence the rule that he must he prevented from the desecration of the Sabbath. When, however, the child acts in the absence of his father it is no one's duty to restrain him.

(14) Mentioned in the same context (Shab 121a).

(15) Surely not. Whatever an Israelite is forbidden to do on the Sabbath he must not ask an idolater to do for him.

(16) He does not wait for the Israelite's encouragement, since he well knows that after the Sabbath he will he duly rewarded for his labour. Hence it is not necessary for any Israelite to prevent him from acting as he desires.

(17) חבר, lit., 'associate' (v. Glos). One who observes all religious laws including those relating to the priestly and Levitical gifts, which were occasionally neglected by the 'am ha-arez.

(18) עפ האריץ, lit., 'people of the land' (v. supra n. 12).

(19) Produce of the land on which the levitical dues have not been given.
(20) I.e., any land produce, liable to levitical dues.
(21) The child's.
(22) I.e., he may eat of it, though, as the fruit of an ‘am ha-arez, on which the necessary dues may not have been given, it is forbidden for consumption. From this it follows that there is no need to prevent a child from transgression. An objection against those who hold the contrary view!
(23) דמאי, land produce belonging to an ‘am ha-arez (v. Glos.), since the prohibition of such produce is due to suspicion only. It is not certain that the prescribed dues were not given by the ‘am ha-arez.
(24) Why the child is not prevented from the consumption of the fruit mentioned.
(25) If, for instance, it had been definitely known that it had not been tithed.
(26) Before the child could be allowed to eat of it.
(27) Supra, in explanation of the citation from Shab. 121a.
(28) Why, then, should the child, where he acts in all innocence and where his father's approval is not in question, be prevented from eating of the levitically unprepared fruit?
(29) Lit., ‘standing here’.
(30) Lit., ‘thrusts’, thus preventing his disciples from drawing any definite, and possibly erroneous, conclusion,
(31) V. supra p. 801, n. 12.
(32) V. loc. cit. n. 13.
(33) The child's.
(34) Cf. supra note ,. mutatis mutandis. The consumption of unclean terumah is forbidden Pentateuchally (cf. supra 73b)!
(35) That which is given from the fruit of the trees (apart from vine and olive trees) which is Pentateuchally exempt.
(36) Lit., ‘and goes’.
(37) Which is forbidden to adults. Cf. Lev. XI, 10ff.
(38) Plural of nebelah (v. GIos.).
(39) The sing. is terefah q.v. Glos.
(40) When sucking is under certain conditions forbidden, as explained infra.
(41) The milk of an unclean beast is for adults Pentateuchally forbidden. Cf. Bek. 6b.
(42) When the restrictions on work are not as rigid as those of the Sabbath.
(43) Though he is eating a Pentateuchally forbidden food (v. supra n. 6 and cf. supra p. 802, n. 4)!
(44) Without food the child's life is endangered.
(45) When life is in danger any religious law may be infringed.
(46) Lit., ‘requires an estimate’. Before he is allowed to eat of the forbidden food it is necessary to obtain medical opinion that delay until the conclusion of the Sabbath, for instance, would involve him in danger.
(47) Cf. supra n. 11.
(48) Lit., ‘at’.
(49) The circumstances in which Abba Saul and his friends were permitted to commit an apparently forbidden act.
(50) Lit., ‘not necessary (but)’.
(51) Not danger to life.
(52) From the breast.
(53) Or ‘unusual’. כלאחר יד lit., ‘as if by the back of the hand’.
(54) מפרק (rt. פרק in Pi'el, ‘break down’, ‘detach’) Milking an animal with one's hands is regarded as direct detaching which on the Sabbath is Pentateuchally forbidden (cf Shab. 95a); releasing the milk by sucking is an unusual, or indirect unloading and is only Rabbinically forbidden.
(55) For actual unloading.
(56) Forbidding also sucking which is indirect unloading.
(57) Involving no death penalty.
(58) לאכתאכלם (Kal of אכל). V. infra n. 7.
(59) Lev. XI, 42.
(60) Since the prohibition of such food for adults has already been mentioned elsewhere.
(61) לא תאכילום (Hif. of אכל).
(62) Lit., ‘to warn’, ‘caution’, ‘admonish’.
(63) Lit., ‘what not?’

(64) Even if they act on their own. An objection against R. Pedath (cf. supra p. 801, n. 7)!
(65) Bah. Cur. edd., 'him'.
(66) Cf. supra. 801, n. 8, final clause.
(67) Lev. XVII, 12.
(68) V. supra note 6
(69) Lit., 'they say to them'.
(70) Cf. supra p. 801, n. 7.
(71) Lev. XXI, 1, a repetition of the rt. אמר.
(72) Lit., 'he tells them, Do not be defiled'. An objection against R. Pedath (cf. supra p. 801, n. 7)!

Talmud - Mas. Yevamoth 114b

it might have been assumed [that the law[1] applies to them], because their prohibition applies[2] to even the minutest [objectionable creature][3] but not to blood the minimum quantity of which[4] must be no less than[5] a quarter [of a log].[6] And if we had been informed concerning blood only, it might have been assumed [that the law[7] applies to this] because [the eating of it] involves the penalty of kareth, but not to reptiles. And if we had been informed concerning these two,[8] it might have been assumed [that the law[7] applies to these] because their prohibition applies equally to all but not to uncleanness.[9] And had we been informed concerning uncleanness it might have been assumed [that the law[7] applies only here because] priests are different [from other people], since more commandments have been imposed upon them,[10] but not to these.[8] [Hence the three Scriptural texts were] required.

Come and hear: IF TWO BROTHERS ONE OF WHOM WAS OF SOUND SENSES[11] AND THE OTHER DEAF WERE MARRIED TO TWO SISTERS WHO WERE OF SOUND SENSES, AND THE DEAF BROTHER, THE HUSBAND OF [THE SISTER WHO WAS] OF SOUND SENSES, DIED, WHAT SHOULD THE BROTHER OF SOUND SENSES, THE HUSBAND OF THE SISTER OF SOUND SENSES, DO? — [NOTHING; SINCE HIS SISTER-IN-LAW] IS EXEMPT AS BEING HIS WIFE'S SISTER. IF THE BROTHER OF SOUND SENSES, THE HUSBAND OF [THE SISTER WHO WAS] OF SOUND SENSES, DIED, WHAT SHOULD THE DEAF BROTHER, THE HUSBAND OF [THE SISTER WHO WAS] OF SOUND SENSES, DO? HE MUST RELEASE HIS WIFE BY A LETTER OF DIVORCE WHILE HIS BROTHER'S WIFE IS FORBIDDEN FOREVER [TO MARRY AGAIN]. Now, why should he RELEASE HIS WIFE BY A LETTER OF DIVORCE? Let her continue to live with him [since he is only like] a minor who eats nebelah.[12] — On account of the prohibition imposed upon her.

Come and hear: IF TWO BROTHERS OF SOUND SENSES WERE MARRIED TO TWO SISTERS ONE OF WHOM WAS OF SOUND SENSES[13] AND THE OTHER DEAF, AND THE BROTHER OF SOUND SENSES, THE HUSBAND OF THE DEAF SISTER. DIED, WHAT SHOULD THE BROTHER OF SOUND SENSES, THE HUSBAND OF [THE SISTER WHO WAS] OF SOUND SENSES, DO? [NOTHING; SINCE HIS SISTER-IN-LAW] IS EXEMPT AS HIS WIFE'S SISTER. IF THE BROTHER OF SOUND SENSES, THE HUSBAND OF [THE SISTER WHO WAS] OF SOUND SENSES. DIED, WHAT SHOULD THE BROTHER OF SOUND SENSES, THE HUSBAND OF THE DEAF SISTER, DO? — HE MUST DIVORCE HIS WIFE BY A LETTER OF DIVORCE, AND [RELEASE] HIS BROTHER'S WIFE BY HALIZAH. But why MUST HE DIVORCE HIS WIFE BY A LETTER OF DIVORCE? Let her continue to live With him [since she is only like] a minor who eats nebelah![14] — Owing to the prohibition that is imposed upon him.

Raba said, Come and hear: IF TWO BROTHERS, ONE OF WHOM WAS DEAF AND THE OTHER OF SOUND SENSES, WERE MARRIED TO TWO SISTERS, ONE OF WHOM WAS OF SOUND SENSES[13] AND THE OTHER DEAF, AND THE DEAF BROTHER, THE HUSBAND

OF THE DEAF SISTER, DIED, WHAT SHOULD [THE BROTHER WHO WAS] OF SOUND SENSES, THE HUSBAND OF [THE SISTER WHO WAS] OF SOUND SENSES, DO? [NOTHING; SINCE THE WIDOW] IS RELEASED BY VIRTUE OF HER BEING HIS WIFE'S SISTER. IF THE BROTHER OF SOUND SENSES, THE HUSBAND OF [THE SISTER WHO WAS] OF SOUND SENSES, DIED, WHAT SHOULD THE DEAF BROTHER, THE HUSBAND OF THE DEAF SISTER, DO? HE RELEASES HIS WIFE BY A LETTER OF DIVORCE, WHILE HIS BROTHER'S WIFE IS FOREVER FORBIDDEN [TO MARRY AGAIN]. Now here, surely, no prohibition is involved either for him or for her, and yet it was stated, HE RELEASES HIS WIFE BY A LETTER OF DIVORCE![14] — R. Shemaia replied: This is a preventive measure against the possibility of allowing a sister-in-law to marry a stranger.[15]

C H A P T E R X V

MISHNAH. IF A WOMAN AND HER HUSBAND WENT TO A COUNTRY BEYOND THE SEA [AT A TIME WHEN THERE WAS] PEACE BETWEEN HIM AND HER AND [WHEN THERE WAS ALSO] PEACE IN THE WORLD, AND SHE CAME BACK AND SAID, MY HUSBAND IS DEAD', SHE MAY MARRY AGAIN; AND IF SHE SAID, 'MY HUSBAND IS DEAD [AND HAS LEFT NO ISSUE]' SHE MAY CONTRACT THE LEVIRATE MARRIAGE. [IF, HOWEVER, THERE WAS] PEACE BETWEEN HIM AND HER, BUT WAR IN THE WORLD, [OR IF THERE WAS] DISCORD BETWEEN HIM AND HER, BUT PEACE IN THE WORLD, AND SHE CAME BACK AND SAID, 'MY HUSBAND IS DEAD', SHE IS NOT BELIEVED.[16] R. JUDAH SAID: SHE IS NEVER BELIEVED UNLESS SHE COMES WEEPING AND HER GARMENTS ARE RENT. THEY,[17] HOWEVER, SAID TO HIM: SHE MAY MARRY IN EITHER CASE.[18]

GEMARA. Mention was made of[19] PEACE BETWEEN HIM AND HER[20] because it was desired to speak of[21] DISCORD BETWEEN HIM AND HER, and PEACE IN THE WORLD was mentioned[22] because it was desired to mention[21] WAR IN THE WORLD.

Raba stated: What is the reason [why a wife is not believed in a time] of war? Because she speaks from conjecture. 'Could it be imagined' [she thinks][23] 'that among all those who were killed he alone escaped!' And should it be contended that since there was peace between him and her she would wait until she saw [what had actually happened to him]. it may sometimes happen [It may be retorted] that he was struck by an arrow or spear and she would think that he was certainly dead, while in fact someone night have applied an emollient[24] [to his wound] and he might have recovered

Raba was [at first] of the opinion[25] that famine is not like war, since [in the former case] she does not speak from conjecture. [Later. however]. Raba changed his opinion. stating that famine is like war. For a woman once appeared before Raba and said to him, 'My husband died during a famine'. 'You have acted well', he remarked to her.[26] 'in that you saved your own life,[27] since it could hardly be imagined that he would survive on the little remnant of flour that you left for him'. 'The Master then'. she replied. 'also understands that in such circumstances he could not survive'.[28] After this[29] Raba ruled: Famine[25] is worse than war; for whereas in the case of war it is only when the wife states, 'My husband died in the war', that she is not believed, but [if her statement is that]. 'He died in his bed', she is believed, in the case of famine she is not believed unless she states, 'He died and I buried him'.

A ruin[25] is regarded as war, for [in this case also] she speaks from conjecture. A visitation of serpents or scorpions[25] is regarded as war, for [here also a wife] speaks from conjecture. As to pestilence. some hold that it is like war, while others hold that it is not like war. 'Some hold that it is like war', because a wife, they maintain. speaks from conjecture; while 'others hold that it is not like war' because, they maintain, a wife relies upon the common saying.[30] 'A pestilence may rage for

seven years but none dies before his time' ,[31]

The question was raised:[32] What is the law if it was she who established that there was a war in the world?[33] Do we apply the argument. 'What motive could she have for telling a lie?'[34]

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(1) Which included minors in the prohibition.
(2) To adults.
(3) So according to Tosaf. (s.v. משום a.l.) contrary to Rashi.
(4) Involving a penalty.
(5) Lit., 'until there is'.
(6) V. Glos.
(7) Which included minors in the prohibition.
(8) Reptiles and blood.
(9) Which applies to priests only. Cf. Lev. XXI, 1ff.
(10) As their adults were more restricted than others, greater restriction may have been imposed upon their minors also.
(11) The order in our Mishnah is slightly different.
(12) V. Glos. A deaf-mute is no more responsible for his actions than a minor, and no more punishable than a minor. An objection against R. Pedath (cf. supra p. 801, n. 7)! (10) His wife who, as a woman in the possession of her senses and faculties, is subject to punishment if she continues to live with him.
(13) The order in our Mishnah is slightly different.
(14) Cf. supra p. 805. n. 9. (3) He is of sound senses and in possession of his faculties. Cf. supra p. 805, n. 10, mutatis mutandis.
(15) Were the deaf man and deaf woman allowed to continue living together, those who were unacquainted with the law that deaf-mutes are no more responsible for their actions than minors, might assume that their marriage was a valid one and that the sister-in-law, as the deaf levir's wife's sister, is exempt from the levirate marriage and halizah and, consequently, free to marry again.
(16) The reason why she is not believed in a time of war is given by Raba in the Gemara infra, while in a case of discord between herself and her husband she is suspected of a desire to get rid of him.
(17) The Sages.
(18) Lit., 'whether this or this', whether she shows signs of distress and mourning or not.
(19) Lit., 'he taught'. sc. in our Mishnah.
(20) Though this is superfluous. It being obvious that if a husband and wife lived in peace, her declaration that he is dead should be relied upon.
(21) Lit., 'to teach'.
(22) Cf. supra nn. 4 and 5 mutatis mutandis.
(23) Wanting in cur. edd., and inserted by Bah.
(24) Cf. Jast. 'A plaster'. or 'bandage.' (Rashi).
(25) In respect of accepting a wife's evidence as to the death of her husband in a country beyond the sea.
(26) Desiring to probe whether she had actually witnessed her husband's death or spoke from conjecture only.
(27) Leaving him to his fate in the famine-stricken area.
(28) She thus admitted that she had not actually witnessed her husband's death.
(29) Lit., 'he returned'. Finding that even in the case of famine a wife speaks from conjecture.
(30) Lit., 'on what men say'.
(31) Lit.. and a man without (his full tale of) years does not depart'.
(32) [Rashi v. 215b s.v. דאי reads, He (Raba) raised the question].
(33) [And she stated, 'He died in war' v. Rashi loc. cit.].
(34) Where a person has no benefit from a lie he may obviously be presumed to be speaking the truth.

Talmud - Mas. Yevamoth 115a

since, if she wished, she could have said that there was peace in the world;[1] or, perhaps. since a war was established [by her] she speaks[2] from conjecture.[3] and the argument. 'What motive could she

have for telling a lie'[4] cannot come and impair an established principle? — Come and hear: [If a woman states]. 'They[5] set our house on fire',[6] or 'They filled the cave wherein we sheltered[7] with smoke, and he[8] died while I escaped'. she is not believed![9] There it is different since she can be told,[10] 'As a miracle happened to you. so may a miracle have happened to him[8] also'.[11]

Come and hear: [If a woman states]. 'ldolaters fell upon us , or, 'robbers fell upon us,[12] and he[8] died while I escaped'. she is believed![13] -There[14] [her statement is believed] in accordance with the view of R. Idi. For R. Idi stated: A woman [carries] her weapons about her.[15] There was once a man whose bridal chamber caught fire at the close of his wedding feast, and his wife cried, 'Look at my husband, look at my husband!' When they came near they saw a charred body[16] that was prostrate [on the ground] and the hand [of a man][17] lying [by it]. R. Hiyya b. Abin intended to give his decision [that the law in this case] is the same as [that where a woman stated]. 'They set our house on fire', or 'they filled the cave wherein we sheltered with smoke'. Raba, however, said: Are [the two cases at all] similar? There, she did not say. 'Look at my husband, look at my husband'![18] while[19] here [those present actually saw] the charred body that was prostrate [on the ground] and the hand that was lying by it. And R. Hiyya b. Abin?[20] — As to the charred body[16] that was prostrate [on the ground]. it may be suggested that a stranger[21] came to the rescue of [the burning man] and was himself burned,[22] while the hand which was lying [nearby, might be that of the bridegroom who] having been caught by the fire was mutilated;[23] and[24] in order [to hide his] shame he may have left the place and fled into the wide world.

A question was raised: What is the law in respect of one witness[25] In time of war?[26] Is the reason why one witness is [elsewhere][27] believed because no one would tell a lie which is likely to be exposed[28] and, consequently. here also [the witness] would not tell a lie;[29] or is it possible that the reason why one witness [is believed][27] is because [the woman] herself makes careful enquiries and [only then] marries again. here. therefore.[30] [he would not be believed since a woman][31] does not make sufficient enquiries before she marries again?

Rami b. Hama replied. Come and hear: R. Akiba stated: When I went down to Nehardea to intercalate the year. I met Nehemiah of Beth Deli who said to me, 'I heard that in the Land of Israel[32] no one with the exception of R. Judah b. Baba permits a [married] woman to marry again on the evidence of one witness'. 'That is so', I told him' 'Tell them', he said to me. 'in my name: You know that this country is infested[33] with raiders; I have this tradition from R. Gamaliel the Elder: That a [married] woman may be allowed to marry again on the evidence of one witness'.[34] Now, what was meant by 'This country is infested with raiders'? Obviously that[35] 'although this country is in a state of confusion.[36] I have this tradition: That a [married woman] may be allowed to marry again on the evidence of one witness'! Thus it is evident that one witness is believed.[37] Said Raba: If so,[38] why should 'this country[39] be different?[40] He should [have said]. 'Wherever raiders exist'!-Rather, said Raba, it is this that was meant: 'You know that this country is infested[41] with raiders and it is impossible for me to leave my family and to come before the Rabbis; I have this tradition from R. Gamaliel: That a [married] woman may be allowed to marry again on the evidence of one witness

Come and hear: Two learned men[42] once travelled with Abba Jose b. Simai on board a ship. which sank. And on the evidence of women, Rabbi[43] allowed their wives to marry again. [Now, evidence of death by] water is. surely. like [that of death in] war, and women, even a hundred of them, are legally equal to one witness,[44] and yet it was stated [that Rabbi] 'Allowed . . ' to marry'![45] — And do you understand this?[46] Those[47] were waters without [a visible] end,[48] and [when a man is drowned in] waters without [a visible] end his wife is forbidden [to marry again]![49] How, then, is this to be understood? [Obviously] that they[50] stated, '[The drowned men] were cast up in our presence

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(1) And as no one could have contradicted her, she would have been believed in saying that her husband was dead and

she would have obtained her object; hence she is believed even when she reported that there was a war.
(2) Alfasi: 'Since it was established that (in time of war) she speaks.....the argument etc.'.
(3) When her husband was involved in a war.
(4) Cf. supra n. 3.
(5) Brigands. in a time of war.
(6) Lit., 'they caused a house to smoke upon us'.
(7) Lit., upon us'.
(8) Her husband.
(9) This proves that her statement that her husband is dead is not accepted although it was through her that it became known that there ever was a state of war.
(10) As she has not actually seen his death.
(11) It is for this reason, and not because she is suspected of lying. that her evidence is not regarded as sufficient proof for establishing the death of her husband. In the case of a war, however, it may well be assumed that she had actually seen the death of her husband, since, had she desired to deceive, she need not have disclosed the fact that there ever was a war.
(12) Circumstances similar to those of a war.
(13) Which proves that a wife is believed when she states that her husband died in circumstances akin to war if these become known solely through her own evidence.
(14) Since the incident did not happen in war time but only in analogous circumstances.
(15) 'A.Z 25b; i.e., her sex is her protection against murder. When, therefore, her husband is attacked, unless there was actually a state of war, she does not flee to save her own life, but remains on the spot to the very end. Her evidence that her husband is dead may consequently be accepted as that of an eye witness. This, therefore, provides no proof that a wife is also believed if an actual state of war existed when her husband's death presumably occurred.
(16) Lit., 'man'.
(17) Who apparently attempted to rescue the bridegroom.
(18) Hence it is possible that her husband did not die at all.
(19) Cf. MS.M. Cur. edd. read 'and furthermore'.
(20) How could he possibly compare the two cases?
(21) Lit., 'another man'.
(22) Lit., 'and the fire consumed him'.
(23) Lit., 'a blemish was born or produced on him'. He lost his hand.
(24) In explanation of his disappearance.
(25) Whose evidence is relied upon in allowing a married woman to marry again if he testified that her husband was dead.
(26) Is his evidence accepted?
(27) Cf. supra note 10.
(28) Lit., concerning a thing which is likely to be revealed, he does not lie'.
(29) And he is believed.
(30) Cur. edd. insert in square brackets. 'since she sometimes hates him'. Cf. readings cited by Wilna Gaon, Glosses.
(31) Speaking in time of war from mere conjecture (cf. Rashal's emendation).
(32) Palestine.
(33) Lit., 'entangled'. confused'.
(34) V. infra 122a.
(35) Lit., 'not?'
(36) In a condition similar to a state of war.
(37) Even in a time of war.
(38) If one witness is believed even when any part of the world is in actual state of war.
(39) The expression used by R. Nehemiah.
(40) From other countries.
(41) Lit., 'entangled'. confused'.
(42) V. Glos. s.v. Talmid Hakam.
(43) R. Judah the Prince.

(44) Cf supra 88b.
(45) From which it follows that one witness is believed (cf. supra p. 811, n. 10) even in a time of war.
(46) Rabbi's ruling in the case of the wives of the drowned scholars.
(47) I.e., the sea.
(48) I.e., all the limits cannot he seen from any one point on the shore. Cf. infra 121a.
(49) Even if fully qualified men had witnessed the accident, because it is possible that the man may have swum to, or the waters have cast him upon another part of the shore where he was rescued. As all the shore line cannot be seen from the point where he fell into the waters (v. supra n. 5) his rescue may have been effected, though none of the men of the locality have observed it
(50) The women who gave evidence.

Talmud - Mas. Yevamoth 115b

and we saw then, immediately [afterwards]',[1] and they also mention [his identification] marks. so that we do not rely upon them[2] but on the marks.[3]

A man once deposited some sesame with another, [and when in due course] he asked him, 'Return to me my sesame , the other replied. 'You have already taken it'. 'But, surely'. [the depositor remonstrated, 'the quantity] was such and such and it is [in fact still] lying [intact] in your jar'.[4] 'Yours', the other replied. 'you have taken back and this is different'. R. Hisda at first intended to give his decision [that the law in this case is] the same as that of the two learned men,[5] where we do not assume that those have gone elsewhere and these are others.[6] Raba, however, said to him: Are [the two cases] alike? There, the identification marks were given; but here, what identification marks can sesame have! And in regard to [the depositor's] statement [that their quantity] was such and such, it might be said that the similarity of quantities is a mere coincidence.

Said Mar Kashisha b. R. Hisda to R. Ashi: Do we ever [in such circumstances][7] take into consideration the possibility that [the contents of a vessel] may have been removed?[8] Surely we learned: If a man found a vessel on which was inscribed a Kof it is korban;[9] if a Mem, it is ma'aser;[10] ' if a Daleth it is demu'a'a;[11] if a Teth, it is Tebel;[12] and if a Taw, It is terumah;[13] for in the period of danger[14] they used to write a Taw for terumah![15] — Said Rabina to R. Ashi: Do we not [in such circumstances][16] heed the possibility that [the contents of a vessel] may have been removed? Read, then, the final clause: R. Jose said, Even if a man found a jar on which 'terumah' was inscribed [the contents] are nevertheless regarded as unconsecrated, for it is assumed[17] that though it was in the previous year full of terumah it has subsequently been emptied![18] But the fact is, all agree that the possibility of [the contents] having been removed must be taken into consideration. Here, however, they differ only on the following principle: One Master is of the opinion that had the owner removed [the contents from the jar] he would undoubtedly have wiped [the mark] off, while the other [maintains that] it might be assumed that he may have forgotten [to remove the mark] or he may also intentionally have left it as a safeguard[19] .

Resh Galutha Isaac,[20] a son of R. Bebai's sister, once went from Cordova to Spain[21] and died there. A message was sent from there [in the following terms]. 'Resh Galutha Isaac, a son of R. Bebai's sister, went from Cordova to Spain and died there. [The question thus arose] whether [the possibility that there might have been] two [men of the name of] Isaac is to be taken into consideration[22] or not? — Abaye said: It is to be taken into consideration:[22] but Raba said: It is not to be taken into consideration.[23]

Said Abaye: How[24] do I arrive at my assertion? — Because in[25] a letter of divorce that was once found in Nehardea it was written, 'Near the town of Kolonia,[26] I, David son of Nehilais,[27] a Nehardean, released and divorced my wife So-and-so', and when Samuel's father sent it to R. Judah Nesiah[28] the latter replied: 'Let all Nehardea be searched'.[29] Raba, however, said: If that were so[30]

he[31] should [have ordered] the whole world to be searched![32] The truth is that it was only out of respect for Samuel's father[33] that he sent that message. Raba said: How[34] do I arrive at my assertion? Because in two notes of indebtedness that were once produced in court at Mahuza [the names of the parties] were written as Habi son of Nanai and Nanai son of Habi. and Rabbah[35] b. Abbuha ordered the collection of the debts on these bills. But,surely, there are many [men bearing the names of] Habi son of Nanai and Nanai son of Habi at Mahuza![36] And Abaye?[37]

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(1) After their emerging from the water (cf. Tosaf. s.v. וחזינהו, a.l.).

(2) On their evidence of the men's death.

(3) (If which the judges were well aware independently of the woman's evidence.

(4) Which should prove that the sesame had not been returned to its owner.

(5) Whose wives Rabbi permitted to marry on the assumption that the discovered bodies were theirs.

(6) Who have the same identification marks. Similarly with the sesame in the jar, since it is of the same quantity as that of the deposited sesame it should be assumed to belong to the depositor and should, therefore, be returned to him.

(7) When an identification mark exists, such as a letter on a cask or, as in the case of the sesame, the identity of quantities.

(8) And replaced by similar contents.

(9) Lit, 'sacrifice', i.e., consecrated.

(10) Tithe.

(11) A 'mixture' of terumah and unconsecrated produce. Others read,דמאי demai, produce concerning which it is uncertain whether it had been tithed.

(12) V. Glos. Produce of. which it is certain that the priestly and Levitical dues have not been given for it.

(13) V. Glos.

(14) During the Hadrianic persecutions that followed the Bar Kokeba revolt when the practice of Jewish laws was forbidden (cf supra p. 754. n. 9).

(15) M.Sh IV, 11. This proves that a mark is regarded as sufficient proof that the original contents were not removed and replaced by others!

(16) v. supra note 1.

(17) Since most of the world's produce is unconsecrated.

(18) And replaced by unconsecrated produce Much more so when a single letter only appears on the jar! V. M.Sh., loc. cit.

(19) פנהיא (cf. Pers. panah) 'protection'. People who might perhaps have no scruples about clandestinely consuming other peoples produce would nevertheless be afraid of meddling with sacred commodities.

(20) [Term denotes elsewhere 'Exilarch'; here it is a proper name. V. Obermeyer, p. 183, n.l.].

(21) מקורטבא לאספמיא. So Golds. against Rappaport in ערך מילין p. 156ff. Cordova at that time, as during the Moorish reign and other periods of spanish history, may have formed an independent state. [Obermeyer p. 183 identifies the former with Kurdafad near Ktesifon on the left bank of tigris, and the latter with Apamea, a frontier town of Babylon on on the right bank of the Tigris].

(22) Even when it was not definitely known that there were two such persons in the same place.

(23) Unless it was known that two such persons lived there. (Cf. infra 116a).

(24) Lit., 'whence'.

(25) Cf. Bah.

(26) [Me'iri: By side of the town Nehardea, which had been declared a free (Roman) colony and exempt from taxation, cf. A.Z., Sonc. ed. p. 50, n.5.].

(27) So Rosh and הגהות אשר"י. Cur. edd., 'Androlinai'.

(28) To decide whether the document may be given to the woman who claimed it as a valid one. [The reference must be to R. Judah I the prince, since the father of Samuel was no longer alive during the patriarchate of of R. Judah II (v. Obermeyer, p. 261, n. 4)].

(29) To ascertain whether there is no other person of the same name in that town. This obviously proves the soundness of Abaye's ruling.

(30) As Abaye ruled.

(31) R. Judah Nesi'ah.

(32) Any Nehardean of that name might have left Nehardea for another town after giving the letter of divorce in question.
(33) That he might not be chagrined by hearing that his enquiry was really futile and that there was in fact nothing for him to do but to accept the document as valid.
(34) Lit., 'whence'.
(35) So Bah.Cur. edd., 'Raba'.
(36) And yet it was not doubted that the persons who held the notes were the men named, which proves that even the definite existence of other men of the same name in the same place need not be taken into consideration. This being the rule in monetary matters, it may be inferred that in religious matters, the uncertain existence at least of men of the same name need not be taken into consideration.
(37) How' can he maintain his ruling in view' of the decision of Rabbah b. Abbuha.

Talmud - Mas. Yevamoth 116a

What possibility can be taken into consideration![1] If that of loss,[2] one is surely careful with [a note of indebtedness];[3] if that of a deposit,[4] since the name of the one is like that of the other the former does not entrust the latter with such a deposit;[5] what then can be said?[6] That he[7] may only have delivered [the note] to him![8] 'Letters'[9] [it may be replied] are acquired by mesirah.[10]

A letter of divorce was once found at Sura, and in it appeared this entry: 'In the town of Sura, I, Anan son of Hiyya. a Nehardean, released and divorced my wife So-and-so.' Now when the Rabbis searched from Sura to Nehardea [they found that] there was no other Anan son of Hiyya save one Anan son of Hiyya of Hagra[11] who was at that time at Nehardea, and witnesses came and declared that on the day on which the letter of divorce was written Anan son of Hiyya of Hagra was with them.[12] Said Abaye: Even according to me who hold that [the possibility of the existence of other men of the same name] is to be taken into consideration. no such possibility need be considered here,[13] for [even in respect of the only other man known to have that name] witnesses declared that he was at Nehardea;[14] how then could he [on the same day,] have been[15] at Sura![16] Raba said: Even according to me who hold that [the possibility of the existence of other men of the same name] is not to be taken into consideration. [such possibility] must be considered here,[17] since [the man in question] may have gone [to Sura] on a flying camel,[18] or[19] [got there] by a miraculous leap,[20] or[19] he may have given verbal instructions[21] [for the letter of divorce to be written[22] on his behalf], as, [in fact] Rab said to his scribes, and R. Huna, similarly, said to his scribes: When you are at Shili[23] write [in any deed] 'At Shili', although the instructions were given to you at Hini,[24] and when you are at Hini,[23] write, 'At Hini', although the instructions Were given to you at Shili.[25]

What is [the decision] in respect of the sesame?[26] — R. Yemar ruled: [The possibility that it was removed and replaced by another lot] is not to be taken into consideration; Rabina ruled: It is to be taken into consideration; and the law is that it is to be taken into consideration.

DISCORD BETWEEN HIM AND HER etc. What is to be understood by DISCORD BETWEEN HIM AND HER?Rab Judah replied in the name of Samuel: When [a wife] says to her husband. 'Divorce me!' Do not all women[27] say this?[28] Rather [this is the meaning]: When she says to her husband. 'You have divorced me!' Then let her be believed on the strength of R. Hamnuna's ruling; for R. Hamnuna ruled: If a woman said to her husband, 'You have divorced me'. she is believed, for it is an established principle that no woman would dare [to make such a false assertion] in the presence of her husband! — [Here it is a case] where she said. 'You have divorced me in the presence Of So-and-so and So-and-so', who. when asked, stated that this had never happened .[29]

What is the reason in case Of DISCORD?[30] — R Hanina explained: Because she is likely to tell a lie.[31] R. Shimi b. Ashi explained: Because she speaks from conjecture.[32] What is the practical difference between them?[33]

(1) In deciding the ownership of a note of indebtedness of the nature if the notes mentioned.
(2) That the actual creditor had lost the note and that the man who produced it. whose name is the same as that of the creditor, had found it.
(3) The remote and unlikely possibility of loss may. therefore, be completely disregarded.
(4) That the holder of the note is not its owner, but only keeper or trustee for another man of the same name as his.
(5) Since he knows full well that the keeper might at any moment claim to be the creditor.
(6) In justification of the assumption that the man producing the note is not the real creditor.
(7) The creditor when selling the note to the man who now utters it.
(8) But did not transfer its possession by the usual kinyan. And, since the seller may withdraw' from the sale before legal transfer had taken place, it might be assumed that the creditor named in the note withdrew from the sale and that the man of the same name who now produces the note is not its owner even through purchase.
(9) I.e., a note of indebtedness.
(10) V. Glos. The delivery of the note completes the legal transfer after which the seller can no longer withdraw. Cf Kid. 47b. p BB 76a. 77a.
(11) [Hagronia. a suburb of Nehardea (Obermeyer p. 266)].
(12) In Nehardea; while the letter of divorce was written at Sura. Owing to the distance between the two towns it was impossible for him to have been in the one as well as in the other on the same day.
(13) Where a search revealed that only one such person lived throughout that region.
(14) V. supra n. 2.
(15) Lit., 'what did he require'.
(16) [The distance between Nehardea and Sura was about twenty parasangs, a travelling journey of two days. v. Obermeyer P. 251].
(17) Where it was definitely established that another man of such a name existed.
(18) Dromedary(?) V. Mak., Sonc. ed., P. 21, n. 4.
(19) Lit., 'or also'.
(20) And so it was possible for him to be in both towns on the same day.
(21) At Nehardea.
(22) In Sura.
(23) Shili and Hini were situated near each other (cf. Bezah 25b) on the South of Sura; v. B.B., Sonc. ed., p. 753' n. 6.
(24) The place name entered in a legal document is not that of the locality where the transaction which it records took place or the instructions concerning its writing were given, but that of the locality where the document was written.
(25) Which proves that it was customary for scribes to write legal documents in one place for people who gave them the necessary instruction in another.
(26) Discussed supra 115b.
(27) Lit.. 'all of them also'.
(28) When they are angry. They do not mean it seriously. Why, then, should a woman, because of a momentary outburst, be suspected of inventing a tale about her husband's death?
(29) לא היו דברים מעולם (abr. להד״ם), lit.. 'the things never were.
(30) Why is not a wife in such a case believed if she states that her husband is dead?
(31) Out of hatred she might deliberately invent the tale that her husband was dead so that by marrying again she might become forbidden to him forever.
(32) Though she might not deliberately tell an untruth, her hatred would prevent her from finding out what exactly happened to her husband if ever he was placed in a position of danger. The likelihood of his death would be regarded by ber as a certainty.
(33) R. Hanina and R. Shimi. Is not her word mistrusted in either case?

Talmud - Mas. Yevamoth 116b

— The practical difference between them arises in the case where [the husband] created[1] the discord.[2]

The question was raised: What [is the law in respect of] one witness in a case of discord? Is the reason why one witness is [elsewhere][3] believed[4] that he would not tell a lie which is likely to be exposed.[5] and consequently he would here also tell no lie;[6] or is it possible that the reason why one witness is believed elsewhere[7] is that [the woman] herself makes careful enquiries and [only then] marries again; here, therefore, [his evidence should not be accepted] since, as there was discord between husband and wife,[8] she would not make careful enquiries and yet would marry again? — This remains undecided .[9]

R. JUDAH SAID: SHE IS NEVER etc. It was taught: They[10] said to R. Judah: According to your statement, only a woman of sound senses[11] would be allowed to marry again while an imbecile[12] would never be allowed to marry again! But the fact is that[13] the one as well as the other may be allowed to marry again.

A woman[14] once came to Rab[15] Judah's Beth din. 'Mourn', they said to her, 'for your husband, rend your garments and loosen your hair'. Did they teach her to simulate![16] — They themselves held the same view as the Rabbis,[17] but in order that he[18] also should allow her to marry they advised her to do so. MISHNAH. BETH HILLEL STATED: WE HAVE HEARD SUCH A TRADITION[19] ONLY IN RESPECT OF A WOMAN WHO CAME FROM THE HARVEST[20] AND [WHOSE HUSBAND DIED] IN THE SAME COUNTRY,[21] [THE CIRCUMSTANCES BEING THE SAME] AS THOSE OF A CASE THAT ONCE ACTUALLY HAPPENED. SAID BETH SHAMMAI TO THEM: [THE LAW IS] THE SAME WHETHER THE WOMAN CAME FROM THE HARVEST OR FROM THE OLIVE PICKING, OR FROM THE VINTAGE, OR FROM ONE COUNTRY TO ANOTHER, FOR THE SAGES SPOKE OF THE HARVEST ONLY [BECAUSE THE INCIDENT TO WHICH THEY REFERRED] OCCURRED THEN.[22] BETH HILLEL, THEREFORE, CHANGED THEIR VIEW [THENCEFORWARD] TO RULE IN ACCORDANCE WITH THE OPINION OF BETH SHAMMAI.

GEMARA. It was taught: Beth Shammai said to Beth Hillel, According to your View,[23] one would only know the law concerning[24] the wheat harvest;[25] whence, however, [the law concerning] the barley harvest? And, furthermore, one would only know the law in the case where[24] one harvested; whence, however, [the law in the case where] one held a vintage, picked olives, harvested dates, or picked figs? But [you must admit] it is only the original incident that occurred at harvest time and that the same law is applicable to all [the other seasons]. So here also [we maintain that] the incident occurred with [a husband who died] in the same country. and the same law is applicable to all [other countries]. And Beth Hillel?[26] — In the case of the same country. where people freely [move about].[27] she is afraid;[28] [coming. however]. from one country to another, since people do not freely [move about].[29] she is not afraid.[30] And Beth Shammai?[31] — Here[32] also caravans frequently [move about].[33]

What was the original incident?[34] -[It was that of] which Rab Judah spoke in the name of Samuel: It was the end of the wheat harvest when ten men went to reap their wheat and a serpent bit one of them and he died [of the wound]. His wife, thereupon, came and reported the incident to Beth din, who, having sent [to investigate]. found her statement to be true. At that time it was ordained: If a woman stated, 'My husband is dead', she may marry again; [if she said] 'My husband is dead [and left no issue]', she may contract the levirate marriage.

Must it be suggested that R. Hanania b. Akabia[35] and the Rabbis differ on the same principle as that on which Beth Shammai and Beth Hillel differ? For it was taught: No man shall carry water of purification[36] and ashes of purification[36] across the Jordan on board a ship, nor may one stand on [the bank on] one side and throw them across to the other side, nor may one float them upon water nor may one carry them while riding[37] on a beast or on the back of another man unless his [own] feet were touching the [river] bed. He may, however, convey them across a bridge. [These laws are

applicable] as well to the Jordan as to other rivers. R. Hanania b. Akabia[35] said: They[38] spoke[39] only of the Jordan and of [transport] on board a ship, as was the case in the original incident.[40] Must it, then, be assumed that the Rabbis[41] hold the same view as Beth Shammai[42] while R. Hanania b. Akabia holds the same view as Beth Hillel?[43] — The Rabbis can answer you: Our ruling agrees with the view[44] of Beth Hillel also; for Beth Hillel maintained their opinion[45] only there,[46] since [the woman is believed only because] she fears [to tell an untruth, and it is only] in a place that is near that she fears while in a distant one she does not fear. Here,[47] however, what matters it whether it is on the Jordan or on other rivers![48] R. Hanania b. Akabia can also answer you: I may uphold my view even according to Beth Shammai; for Beth Shammai maintained their opinion[49] only there[46] because [a woman] makes careful enquiries[50] and [only then] marries again. Hence, what matters it whether the locality was near or far. Here,[51] however, [the prohibition] is due to an actual incident; hence it is only [against transport] on the Jordan and on board a ship, where the incident occurred, that the Rabbis enacted their preventive measure, but against other rivers where the incident did not occur the Rabbis enacted no preventive measure.

What was the incident?[52] — [It was that] which Rab Judah related in the name of Rab: A man was once transporting Water of purification[53] and ashes of purification[53] across the Jordan on board a ship, and a piece of a corpse, of the size of an olive,[54] was found stuck in the bottom of the ship. At that time It was ordained: No man shall carry Water of purification and ashes of purification across the Jordan on board a ship.

MISHNAH. BETH SHAMMAI RULED: SHE[55] IS PERMITTED TO MARRY AGAIN AND SHE RECEIVES HER KETHUBAH. BETH HILLEL, HOWEVER, RULED: SHE IS PERMITTED TO MARRY AGAIN BUT SHE DOES NOT RECEIVE HER KETHUBAH. SAID BETH SHAMMAI TO THEM: YOU HAVE PERMITTED [WHAT MIGHT BE] THE GRAVE OFFENCE OF ILLICIT INTERCOURSE,[56] SHALL WE NOT PERMIT [THE TAKING OF HER HUSBAND'S] MONEY WHICH IS OF LESS IMPORTANCE![57] BETH HILLEL ANSWERED THEM: WE FIND

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(1) Lit., ‘accustomed’, i.e., introduced.

(2) While the wife shewed no hatred towards him. As she does not hate him she would not invent a lie in order to get rid of him but would nevertheless readily believe that he was dead should he ever have found himself in a position of danger. She would not take the trouble to ascertain whether her conjecture was not groundless.

(3) When he gives evidence that a husband died in normal circumstances.

(4) And the widow is allowed to marry again.

(5) V. supra p. 811, n. 13.

(6) Hence he is believed.

(7) V. supra note 3.

(8) Lit., ‘to him’.

(9) Teku, v. Glos.

(10) The Sages.,

(11) Who feels her loss and gives expression to it by her weeping and her torn garments. Others render ‘sly’. ‘one able to simulate’ (cf. Golds.).

(12) Who is unconscious of her loss and consequently gives no outward expression to any grief. שוטה may also be rendered ‘foolish’, ‘silly’, ‘simpleton’. Cf. supra n. 11, second rendering.

(13) Lit., ‘but’.

(14) Stating that her husband died in a country beyond the sea.

(15) Cur. edd ‘R’

(16) Since she did not manifest any signs of grief her remarriage should, according to R. Judah's ruling. have been forbidden!

(17) The Sages in our Mishnah and in the quoted Baraitha.

(18) Rab Judah.

(19) That a wife is believed when she states that her husband is dead,
(20) The reason is explained infra.
(21) It being thus possible to verify the woman's statement.
(22) בהווה Lit., 'in what is', The ruling of the Sages was given in connection with a particular case where it so happened that the woman returned from a harvest. The same ruling, however, is applicable in all circumstances. [The term generally denotes 'what usually happens'. It is in this sense that it seems to be taken by the T. J. quoted by Tosaf. (s.v לא): Why should the harvest (be different)? Said A. Mana: It is different in that an accident usually happens there on account of the scorching sun].
(23) That a wife's evidence regarding the death of her husband may be accepted only in circumstances similar to those of the original incident. (Cf. supra n. 4).
(24) Lit., 'I have but'.
(25) The incident (cf. supra note 4) having occurred during the wheat harvest.
(26) Why do they draw a distinction between a husband's death in the same, and in another country.
(27) From place to place. Another interpretation: Many people knew the husband.
(28) To bring a false report which could be easily disproved by one of (a) the travellers or (b) the men who knew the husband, Cf. n. 2.
(29) Cf. supra note 2 mutatis mutandis.
(30) Cf'. supra n. 3 mutatis mutandis.
(31) Do they not provide against the possibility of a wife's mendacity!
(32) From one country to another.
(33) Cf. supra note 2 and note 3 mutatis mutandis.
(34) Spoken of supra.
(35) So MS.M. Cur. edd., 'Akiba'.
(36) Cf. Num. XIX, 1ff.
(37) Lit., 'cause them to ride'.
(38) The Sages.
(39) When enacting the prohibitions mentioned.
(40) Tosef. Parah VIII, v. supra.
(41) The authors of the first ruling in the Baraitha cited.
(42) Since both hold that the restrictions apply not only to conditions which are exactly the same as those of the original incident but to any other condition also.
(43) Cf. supra n. 3 mutatis mutandis, Is it likely. however, that the Rabbis and R. Hanania would differ from Beth Hillel and Beth Shammai respectively!
(44) Lit,, 'we (as to) what we said'.
(45) Restricting the law to conditions exactly similar to those of the original incident.
(46) In the case of a wife's evidence on the death of her husband.
(47) Transporting the water and ashes of purification.
(48) Of course it does not matter.
(49) Trusting the evidence of the wife in all cases, even where the conditions differ from those of the original incident.
(50) Whether her husband was dead.
(51) V. supra note 8.
(52) Spoken of supra.
(53) Cf Num. XIX, 1ff.
(54) The minimum that causes defilement of objects that come in contact with it or that are placed in the same ohel (v. Glos.).
(55) A woman who reports her husband's death.
(56) If the woman were not telling the truth she would still be a married woman and her second marriage would be illicit,
(57) Lit., 'that is light'.

Talmud - Mas. Yevamoth 117a

THAT ON HER EVIDENCE, THE BROTHERS MAY NOT ENTER INTO THEIR

INHERITANCE.[1] SAID BETH SHAMMAI TO THEM: DO WE NOT LEARN THIS[2] FROM HER KETHUBAH SCROLL WHEREIN [HER HUSBAND] PRESCRIBES FOR HER, 'IF THOU BE MARRIED TO ANOTHER MAN, THOU WILT RECEIVE WHAT IS PRESCRIBED FOR THEE'! THEREUPON BETH HILLEL WITHDREW THIS OPINION, THENCEFORTH TO RULE IN ACCORDANCE WITH THE VIEW OF BETH SHAMMAI.

GEMARA. R. Hisda stated: If she[3] is taken in levirate marriage the levir enters into the inheritance[4] on her evidence. If they[5] made an exposition on the kethubah, shall we not make an exposition on the Torah? The All Merciful said, Shall succeed in the name of his brother,[6] and he has surely succeeded.[7] R. Nahman ruled: If [a woman] came before Beth din and stated, 'My husband is dead; permit me to marry again'. permission must be granted her to marry again. and she is given her kethubah. [If she demanded]. 'Give me my kethubah', she must not be permitted even to marry. What is the reason? Because she came with her mind intent on the kethubuh.[8]

The question was raised: What is the ruling [where she said], 'Permit me to marry and give me my kethubah'? Has she come with her mind intent on the kethubah, since she specified her kethubah[9] or [is it assumed that] a person [naturally] lays before the Beth din all the claims he has![10] And[11] should you find [a reason for deciding in her favour because] a person submits whatever claim he has to the Beth din, [the question still remains as to] what [is the law where she stated]. 'Give me my kethubah and permit me to marry'? [Is it assumed that] in this case[12] she has undoubtedly come with her mind bent on the kethubah. or is it possible [that she mentioned her kethubah] because[13] she did not know by what means she becomes permitted [to marry again].[13] — This is undecided.[14]

MISHNAH. ALL ARE REGARDED AS TRUSTWORTHY TO GIVE EVIDENCE[15] FOR HER[16] EXCEPTING HER MOTHER-IN-LAW. THE DAUGHTER OF HER MOTHER-IN-LAW, HER RIVAL, HER SISTER-IN-LAW[17] AND HER HUSBAND'S DAUGHTER.[18] WHEREIN LIES THE DIFFERENCE BETWEEN [THE ADMISSIBILITY OF] A LETTER OF DIVORCE AND [THAT OF THE EVIDENCE OF] DEATH?[19] IN THAT THE WRITTEN DOCUMENT[20] PROVIDES THE PROOF.[21]

GEMARA. The question was raised: What [is the law in regard to the eligibility[22] of] the daughter of her father-in-law?[23] Is the reason [for the ineligibility] of the daughter of her mother-in-law because there is a mother[24] who hates her she[25] also hates her; here,[26] however, there is no mother who hates her?[27] Or is it possible that the reason [for the ineligibility] of the daughter of her mother-inlaw is because she[28] believes that the other squanders[29] the savings of her mother; there,[26] then, she also believes that she squanders[29] the savings of her father-in-law?[30] Come and hear: 'All are regarded as trustworthy to give evidence for her[31] excepting five women'; but if that were so[32] [the number should] be six![33] — It is possible that the reason [for the ineligibility] of the daughter of her mother-in-law is because she[34] believes that the other squanders the savings of her mother[35] [and, therefore] there is no difference between the daughter of her mother-in-law and the daughter of her father-in-law.[36] But, surely. it was taught.[37] 'Excepting seven women'![38] — This is the view of R. Judah. For it was taught:[39] R. Judah adds[40] also a father's wife[41] and a daughter-In-law. They[42] said to him: A father's wife[41] is, in fact, included in the expression 'a husband's daughter',[43] and a daughter-in-law is obviously included in the expression 'her mother-in-law'.[44]

And R. Judah?[45] - Because one can well understand why a mother-in-law should hate her daughter-in-law, since the former believes that the latter squanders her Savings,[46] but why should a daughter-in-law hate her mother-in-law![47] Similarly one may well understand why a husband's daughter hates her father's wife, since the former believes that she is squandering her mother's savings, but why should a father's wife hate her husband's daughter![47]

Why, then, does he[48] add the two?[49] — But [this is the true explanation]: Why does a

daughter-in-law hate her mother-in-law? Because the latter reports[50] to her son all that she[51] does. [Similarly] a father's wife also hates her husband's daughter because the latter reports[50] to her father all that she[52] does. And the Rabbis?[53] — As in water face answereth to face, so the heart of man to man.[54] And R. Judah? — The text[55] applies[56] to [the study of] the words of the Torah.[57]

R. Aha b. 'Awya said: In the West[58] they asked: What is the ruling in respect of a potential[59] mother-in-law?[60] Does it occur to her that [this woman's][61] husband might die [without issue] and she[62] would thereby be subject to the levir, and therefore. she[62] hates her;[63] or does it not?

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(1) Though inheritance is a monetary affair, Only in order to save her from a life-long widowhood was a woman allowed on her own evidence to marry again. In monetary matters, however, the evidence of two eligible witnesses (cf. Deut. XIX. 15) is a sine qua non.

(2) That she is entitled to her kethubah.

(3) A woman who reported the death of her husband.

(4) Of the deceased. Cf. supra 40a.

(5) Beth Shammai, and later also Beth Hillel, in our Mishnah.

(6) Deut. XXV, 6, explained Rabbinically to refer to the levir.

(7) Hence he is also entitled to the inheritance.

(8) She probably knows that her husband is alive and she has no intention of marrying again. All she aims at is the acquisition of the money.

(9) And even marriage should, therefore, be forbidden to her,

(10) But her main purpose was matrimony. Hence both her requests should be granted.

(11) Reading of Rashal, inserted in cur. edd, within square brackets.

(12) Since she mentioned her kethubah first,

(13) She may have thought that it was the kethubah that releases her from her dead husband and it is for this reason that she mentioned it first. Cf. supra note 3'

(14) Teku. v. Glos,

(15) That her husband died.

(16) Any woman.

(17) The wife of her husband's brother, who becomes her rival if levirate marriage is contracted.

(18) All these are assumed to be, for one reason or another, hostile to her and are therefore suspected of giving false evidence (cf. supra n. 8) in the expectation that she will marry again and thereby become forever forbidden to their relative, her first husband.

(19) I.e., why are the relatives mentioned accepted as qualified bearers of her letter of divorce, (v. Git, 23b) and not as eligible witnesses to testify to the death of her husband?

(20) The letter of divorce,

(21) It is mainly the document itself that constitutes the validity of the divorce and not the eligibility of its bearer.

(22) To give evidence that her husband was dead,

(23) From another wife who is not her mother-in-law.

(24) I.e., her mother-in-law.

(25) The daughter of that mother-in-law.

(26) In the case of the daughter of her father-in-law,

(27) The daughter of her father-in-law is therefore eligible as a witness.

(28) The daughter.

(29) Lit,, 'eats'.

(30) Lit.,'wife's family'. In consequence of which she hates her and is, therefore, ineligible to be her witness.

(31) Cf. supra p. 824. nn. 8 and 9.

(32) That the daughter of a father-in-law is also ineligible as witness.

(33) Since our Mishnah had enumerated five others. From this then it may be inferred that the daughter of a father-in-law is eligible.

(34) The daughter.

(35) So Bah. Cur. edd., 'of the father-in-law'.

(36) Both, therefore, may be regarded as one. Hence the number five,
(37) Cur. edd., 'we learned'.
(38) While our Mishnah enumerates only five.
(39) Cur. edd., 'we learned'.
(40) To the number of women who are ineligible to testify to the death of another woman's husband.
(41) The stepmother of the woman in question.
(42) The Sages.
(43) Since a husband's daughter is ineligible as witness for a husband's wife it is obvious that the latter also, since both stand in the same relationship to one another, is equally ineligible as witness for the former. V. infra n. 6.
(44) As a mother-in-law is precluded from giving evidence for her daughter-in-law so,it is obvious, is the latter (cf. supra n. 5) precluded from giving evidence for the former. There was no need, therefore, to enumerate all the four. The mention of two of these embraces the four.
(45) Why in view of the explanation of the Rabbis does he enumerate seven?
(46) As the wife of her son and heir she would in due course become mistress of her possessions.
(47) Her ineligibility, therefore, cannot be inferred from the other. Hence it was necessary specifically to mention her.
(48) R. Judah.
(49) Who, as was just explained, are not hostile to the others, and should, therefore, be eligible to give evidence for them!
(50) Lit., 'reveals', 'discloses'.
(51) Her daughter-in-law.
(52) Her father's wife; her stepmother.
(53) Why, in view of R. Judah's explanation, do they omit the two from their list?
(54) prov. XXVII, 19. Hatred is mutual. As a husband's daughter hates her father's wife so does the latter hate the former; and the same reciprocity exists between a mother-in-law and her daughter-in-law. There was no need, therefore, to mention them all. The four are covered by the two.
(55) Lit., 'this'.
(56) Lit.. 'is written'.
(57) Effort and success are interdependent as in water face answereth face. Or: The successful achievement of the student is dependent on the sympathy and understanding (the cheerful countenance) of the Master.
(58) Palestine, which lay on the West of Babylon.
(59) Lit.. 'that comes afterwards'. i.e., the mother of the levir and stepmother of the husband of the woman in question. who might become her mother-in-law if her husband died childless and she had to contract the levirate marriage with the levir.
(60) Is she eligible as witness if she testifies that her stepson is dead in consequence of which the wife of the deceased must either marry her son or perform halizah with him and marry a stranger (Rashi). [R. Hananel (v. Lewin B. M. Ozar ha-Geonim, Yebamoth p. 334) explains the problem differently. viz., can a woman give evidence on behalf of her potential mother-in-law? Where. for instance, Jacob had two wives, Leah and Rachel, the former of whom bore him a son, Reuben, and the latter, Joseph; and the question arises whether the wife of Reuben may testify as to the death of Jacob, her father-in-law, permitting the remarriage of Rachel, her potential mother-in-law. For should her own husband Reuben die, she would have to contract levirate marriage with his brother Joseph. Rachel thus becoming her mother-in-law].
(61) For whom she tenders evidence.
(62) As her future mother-in-law.
(63) Hence she is ineligible as a witness for her.

Talmud - Mas. Yevamoth 117b

Come and hear: If a woman stated. 'My husband died first and my father-in-law died after him'. she may marry again and she also receives her kethubah. but her mother-in-law is forbidden.[1] Now, why is her[2] mother-in-law forbidden? Is it not because it is assumed that neither her[2] husband died nor did her father.in.law die[3] and that by her statement[4] she intended to damage the position of her mother-in-law.[5] hoping that [as a result][6] she[7] would not in the future[8] come to torment her![9] —

There[10] it may be different because she[11] has experienced her annoyance.[12]

MISHNAH. IF ONE WITNESS STATED, ['THE HUSBAND[13] IS] DEAD', AND THEREUPON HIS WIFE MARRIED AGAIN, AND ANOTHER CAME AND STATED 'HE IS NOT DEAD'. SHE NEED NOT BE DIVORCED. IF ONE WITNESS SAID. 'HE[13] IS DEAD AND TWO WITNESSES SAID. 'HE IS NOT DEAD', SHE MUST, EVEN IF SHE MARRIED AGAIN, BE DIVORCED. IF TWO WITNESSES STATED, 'HE[13] IS DEAD', AND ONE WITNESS STATED, HE IS NOT DEAD', SHE MAY, EVEN IF SHE HAD NOT YET DONE SO,[14] MARRY AGAIN.[15]

GEMARA. The reason[16] then is because [the woman][17] MARRIED AGAIN; had she, however, not married would she[18] not have been permitted to marry? But Surely. 'Ulla stated: Wherever the Torah declared one witness credible,[19] he is regarded[20] as two witnesses, and the evidence of one man[21] against that[22] of two men[23] has no Validity![24] — It is this that was meant: IF ONE WITNESS STATED ['THE HUSBAND IS] DEAD' and after his wife had been permitted to marry again ANOTHER CAME AND STATED 'HE IS NOT DEAD', she is not to be deprived of[25] her former status of permissibility.[26]

IF ONE WITNESS SAID, 'HE IS DEAD', Is this not obvious?[27] For the evidence of one man against that Of[28] two men[29] has no validity! — [This ruling' is] required only in the case of ineligible witnesses[30] [this being] in accordance with the view of R. Nehemiah. For it was taught: R. Nehemiah stated, 'Wherever the Torah declares one witness credible,[31] the majority of statements is to be followed,[32] and [the evidence of] two women against that of one man is given the same validity as that of two men against one man'.[33]

And if you prefer I might reply: Wherever one eligible witness came first, even a hundred women[34] are regarded as one witness.[35] But [here it is such a case] as, for example, where a woman witness came in the first instance;[36] and [the statement] of R. Nehemiah is to be explained thus: R. Nehemiah stated, 'Wherever the Torah declares one witness credible, the majority of statements is to be followed, and [the evidence of] two women against one woman is given the same validity as that of two men against one man; but [the evidence of] two women against that of one man is regarded as half[37] and half[38] .

IF TWO WITNESSES STATED, 'HE IS DEAD' etc. What does this teach us?[39] [A ruling] in respect of ineligible witnesses, [the principle being the same] as that of R. Nehemiah who follows the majority of statements[40] . But is not this exactly the same [as the previous clause]![41] — It might have been assumed that the majority is followed only when the law is thereby made more stringent ,[42] but not [where it leads] to a relaxation of the law;[43] hence we were taught [the final clause] ,[44]

MISHNAH. IF ONE WIFE[45] SAID ['HER HUSBAND IS] DEAD' AND THE OTHER WIFE[46] SAID, 'HE IS NOT DEAD , THE ONE WHO SAID, 'HE IS DEAD' MAY MARRY AGAIN AND SHE ALSO RECEIVES HER KETHUBAH, WHILE THE ONE WHO SAID, 'HE IS NOT DEAD, MAY NEITHER MARRY AGAIN NOR IS SHE TO RECEIVE HER KETHUBAH. IF ONE WIFE[47] STATED, 'HE IS DEAD' AND THE OTHER STATED. 'HE WAS KILLED', R. MEIR RULED: SINCE THEY CONTRADICT ONE ANOTHER THEY MAY NOT MARRY AGAIN. R. JUDAH AND R. SIMEON RULED: SINCE BOTH[48] ADMIT THAT HE[49] IS NOT ALIVE, BOTH MAY MARRY AGAIN.

IF ONE WITNESS STATED, 'HE[50] IS DEAD', AND ANOTHER WITNESS STATED.[51] 'HE IS NOT DEAD',

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(1) To marry again; infra 118a. The evidence as to the death of her husband is not admissible though the witness. since her own husband was dead at the time she gave her evidence, was no longer her daughter.in.law.

(2) The witness's.
(3) And both women are still related to one another as mother-in-law and daughter-in-law.
(4) Lit., 'and what she said thus'.
(5) Who if she married again would not any longer be able to live with her first husband, the father-in-law of the witness.
(6) Cf. supra p. 827. n. 14.
(7) Her mother-in-law.
(8) When her husband and son returned from their foreign travels.
(9) By reporting to her son all the doings of his wife. It is thus obvious that a daughter-in-law is not believed as a witness for her mother-in-law, though the cause of her hatred (the return of her husband and his mother's gossip) is still a thing of the future and at the time her evidence is given, potential only. From this it follows that a potential mother-in-law also is equally ineligible as a witness for her potential daughter. in-law.
(10) Since in that case the woman for whom evidence is given was already her mother-in-law.
(11) The daughter-in-law.
(12) This case, therefore, provides no proof that a woman hates one who had never been her mother-inlaw and whose annoyances she had never experienced.
(13) Who had gone to a country beyond the sea.
(14) prior to the appearance of the one witness.
(15) Even after he tendered his evidence.
(16) Why the woman in the first clause of our Mishnah may live with the man she married.
(17) Whose husband's death was reported by the first witness.
(18) Since our Mishnah only states that SHE NEED NOT BE DIVORCED and does not state that she may marry again.
(19) As is the case here, where one witness testifies to the death of a husband (cf. supra 88b).
(20) Lit., 'behold here'.
(21) In our case, that of the second witness.
(22) Lit., 'in the place of'.
(23) In the first instance, the first witness whose evidence had been accepted as valid as that of two.
(24) Sot. 31b, Keth. 22b, supra 88b. Why then should not the woman be directly permitted to marry again?
(25) The original לא תצא lit.,'she shall (or need) not go out', may bear this meaning as well as that given in our Mishnah.
(26) Because the decision of Beth din had been issued before the second witness appeared. Had he arrived prior to the issue of the decision, the evidence of the first witness, as it had not yet been accepted. would have had no greater validity than his,
(27) That the woman MUST ... BE DIVORCED,
(28) Lit., 'in the place of',
(29) As is the case in the second clause of our Mishnah.
(30) Where the two witnesses were, e.g.. relatives or slaves.
(31) As in the case, e.g.. spoken of in the first clause of our Mishnah.
(32) As the accepted law of valid evidence is in such cases suspended, the evidence of any ineligible witnesses (cf. supra n. 7) is admitted,
(33) Hence the necessity for the ruling of our Mishnah. In the absence of such a ruling it would have been assumed that the evidence of ineligible witnesses is here also inadmissible.
(34) I.e., ineligible witnesses who, after the woman had married again, stated that her husband was not dead,
(35) As the evidence of a single witness when it is opposed to that of a previous witness whose evidence had already been accepted (cf. supra p. 828, n. 18) is completely disregarded, so is the evidence of the hundred women if it conflicts with that of the first eligible witnesses.
(36) And, on her evidence, the widow was permitted to marry again. As two women subsequently opposed the statement of the one, the marriage must be annulled by a letter of divorce.
(37) Of a valid evidence, i.e., as that of one witness.
(38) The evidence of two women against that of one man would, therefore, have the same validity as that of one witness against another, spoken of in the first clause of our Mishnah. and the widow would have retained her first status of permissibility. v. supra 88b.
(39) Is it not obvious that two witnesses are relied upon when they are opposed by one witness only!

(40) Though the two witnesses are ineligible. their evidence against that of the one witness, since they form the majority, is accepted, and the widow is permitted to marry again.
(41) The ruling in the second clause of our Mishnah which, as has just been explained, teaches this very principle.
(42) As in the second clause where, owing to the majority principle, the woman is forbidden to marry again.
(43) As in the final clause under discussion, where, by following the majority. the woman is allowed to marry again.
(44) Of our Mishnah, to indicate that in all cases the majority is to be followed.
(45) Of a man who has gone to a country beyond the sea.
(46) Her rival.
(47) V. p. 830. n. 9'
(48) Lit.. 'this and this'.
(49) Their husband.
(50) V. p. 830. n. 9'
(51) Before the Beth din, on the evidence of the first witness, had allowed the woman to marry again.

Talmud - Mas. Yevamoth 118a

OR IF ONE WOMAN STATED. 'HE[1] IS DEAD', AND ANOTHER WOMAN[2] STATED,[3] 'HE IS NOT DEAD', SHE[4] MAY NOT MARRY AGAIN.

GEMARA. The reason. then,[5] is because she said, 'HE IS NOT DEAD'; had she, however, kept silent she would presumably have been allowed to marry again; but [it may be objected], no rival may give evidence on behalf of her associate![6] — It was necessary [to teach the case where the OTHER WIFE SAID], 'HE IS NOT DEAD.[7] Since it might have been assumed that [their husband] was really dead and that by stating[8] 'HE IS NOT DEAD' she evidently[9] intended to inflict injury upon her rival in the spirit of[10] Let me[11] die with the Philistines,[12] we are informed [that she is nevertheless forbidden to marry again].

IF ONE WIFE STATED, 'HE IS DEAD' etc. R. Meir should have expressed his disagreement in the first clause also![13] R. Eleazar replied: [The first clause] is a subject[14] in dispute and it[15] represents the opinion of R. Judah and R. Simeon.[16] R. Johanan. however. stated that it[17] may be said [to represent even the view of] R. Meir, for in such a case even R. Meir agrees,[18] since in the case of testimony relating to a woman[19] the evidence [of the nature of] 'He is not dead' is not [regarded as a valid] contradiction,[20]

We learned: IF ONE WITNESS STATED, HE IS DEAD' AND ANOTHER WITNESS STATED, HE IS NOT DEAD', OR IF ONE WOMAN STATED, 'HE IS DEAD AND ANOTHER WOMAN STATED, HE IS NOT DEAD', SHE MAY NOT MARRY AGAIN. Now according to R. Eleazar[21] it may well be explained that the anonymous statement [in the final clause][22] is in agreement with R. Meir. According to R. Johanan,[23] however, there is a difficulty! — This is a difficulty.

MISHNAH. IF A WOMAN AND HER HUSBAND WENT TO A COUNTRY BEYOND THE SEA, AND SHE RETURNED AND STATED, MY HUSBAND IS DEAD'. SHE MAY BE MARRIED AGAIN AND SHE ALSO RECEIVES HER KETHUBAH. HER RIVAL, HOWEVER, IS FORBIDDEN.[24] IF [HER RIVAL] WAS THE DAUGHTER OF AN ISRAELITE [WHO WAS MARRIED] TO A PRIEST, SHE IS PERMITTED TO EAT TERUMAH;[25] SO R. TARFON. R. AKIBA, HOWEVER, SAID: THIS[26] IS NOT A WAY THAT WOULD LEAD HER OUT OF THE POWER OF TRANSGRESSION, UNLESS [IT BE ENACTED THAT] SHE SHALL BE FORBIDDEN BOTH TO MARRY AND TO EAT TERUMAH.

IF SHE STATED, 'MY HUSBAND DIED FIRST AND MY FATHER-IN-LAW DIED AFTER HIM, SHE MAY MARRY AGAIN AND SHE ALSO RECEIVES HER KETHUBAH, BUT HER

MOTHER-IN-LAWS[27] IS FORBIDDEN.[28] IF [THE LATTER] WAS THE DAUGHTER OF AN ISRAELITE [WHO WAS MARRIED] TO A PRIEST, SHE IS PERMITTED TO EAT TERUMAH; SO R. TARFON. R. AKIBA, HOWEVER, SAID.. THIS[29] IS NOT A WAY THAT WOULD LEAD HER OUT OF THE POWER OF TRANSGRESSION, UNLESS [IT BE ENACTED THAT] SHE SHALL BE FORBIDDEN BOTH TO MARRY AGAIN AND TO EAT TERUMAH.

GEMARA. And [both statements[30] were] necessary. For If the first only had been stated, it might have been assumed that only in that did N. Tarfon maintain [his view],[31] since the grievance is personal.[32] but that in respect of a mother-in-law, the grievance against whom is merely general,[33] he agrees with N. Akiba.[34] And had the latter only been stated it might have been assumed that R. Akiba maintained [his view] there only, but that in the former case he agrees with R. Tarfon. [Hence both statements were] necessary.

Rab Judah stated in the name of Samuel: The halachah is in agreement with R. Tarfon. Said Abaye: We also learned the same: [If a woman[35] states],[36] 'A son was given to me in a country beyond the sea, and my son died first while my husband died after him', she is believed.[37] [If, however, she states]. 'My husband [died first] and my son died after him', she is not believed,[38] though note must be taken of her statement, and she must, therefore, perform halizah[39] but may not[40] contract the levirate marriage.[41] [From which it follows that] 'note must be taken of her statement', but that no note need be taken of the statement of a rival. Thus our point is proved.

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(1) V. supra p. 830. n. 9.

(2) Even if she is the rival of the woman concerned.

(3) V. supra note 5.

(4) Even the first.

(5) Why the second wife MAY NEITHER MARRY AGAIN.

(6) Her rival.

(7) There was no need to mention the case where she remained silent, which is obvious.

(8) Lit., 'and that which she said'.

(9) Since she went out of her way to contradict her rival and was not content to remain silent.

(10) Lit.. 'she said'.

(11) נפשי v. marg. note. Cur. edd.. נפשה

(12) Judges XVI, 30. She is prepared herself to lose the right of marrying again in order that her rival also may thereby be deprived of her right.

(13) Where. as in the second clause, one woman contradicts the other.

(14) Lit.. 'it was taught'.

(15) The view expressed in the first clause.

(16) [According to R. Eleazar. R. Meir would forbid in the second clause remarriage to both women, because he admits a rival's contradictory evidence, whereas R. Judah and Simeon hold that a rival's contradiction is not admitted and hence they rule that both are permitted to marry. Similarly in the first clause, on R. Meir's view the first woman would not be allowed to marry, regard being had to the contradiction of her rival. On this assumption, the reason stated in the second clause for R. Judah's and R. Simeon's ruling, that neither denied the fact of the man's death, will have been advanced by them as an argument on the hypothesis that R. Meir's view, admitting the rival's contradiction, is accepted. תום" ישנים].

(17) The view expressed in the first clause.

(18) That the assertion of the second wife is not regarded as valid contradiction of the evidence of the first.

(19) [In connection with the death of her husband in regard to which the laws of evidence have been considerably relaxed. Var. lec. 'the testimony of a rival'].

(20) But as a mere outburst of malice, intended to injure her rival. The first evidence is, therefore, accepted.

(21) Who explained that the first clause represents the view of those who differ from R. Meir, while R. Meir maintains that the first wife also is forbidden to marry again, because a rival's contradiction is admitted, v. p. 831, n. 21.

(22) Which forbids remarriage, even where the contradictory evidence was given by the rival (v. supra p. 831. n. 7.)

(23) Who stated that R. Meir agrees with the ruling in the first clause that a rival's contradiction is admitted.
(24) To marry again; since a woman may not tender evidence for her rival.
(25) As during the lifetime of her husband. The evidence of the other which is regarded as invalid to enable the rival to marry again (v. supra n. 1) is equally invalid to deprive her of her right to the eating of terumah.
(26) To forbid the rival to marry and to allow her to eat terumah.
(27) For whom a daughter-in-law is ineligible to tender evidence.
(28) To marry; though. at the time the evidence in her favour was given. the witness, according to whose evidence her husband died before her father-in-law, was no longer her daughter-in-law. The reason is explained supra 117b.
(29) Cf. supra n. 3 mutatis mutandis.
(30) The first (relating to a rival) and the second (relating to a mother-in-law).
(31) That the evidence of a rival is not accepted.
(32) The deprivation of marital intercourse caused by a rival. Only 10 such circumstances, it is possible, did R. Tarfon discredit the evidence of a rival who might indeed be actuated by malice.
(33) Lit,, 'things in the world'.
(34) That a daughter-in-law need not be suspected of deliberate lying because of some general grievance against her mother-in-law; and that consequently. though her evidence is not accepted in respect of relaxing the laws of marriage. it may be accepted in respect of enforcing the laws of terumah.
(35) Who went to a country beyond the sea with her husband before any issue was born from their union.
(36) On her return.
(37) And may contract levirate marriage. Her evidence merely confirms the status in which she was already at the time of her departure. At that time as well as now she had no children to exempt her from the levirate obligations.
(38) To be permitted to marry a stranger without previous halizah with the levir. The evidence of a woman is accepted only in respect of the death of her husband, where it is assumed that she takes all possible care to ascertain the fact of his death. it is not, however, accepted in respect of liberating her from a levir against whom she might have been nursing a personal hatred, so that she would, without making the necessary enquiries, be ready on the flimsiest of proofs to testify anything which enables her to get rid of him.
(39) Owing to the status in which she has been confirmed.
(40) Since note must be taken of her allegation.
(41) Infra 118b, 119b.

Talmud - Mas. Yevamoth 118b

MISHNAH. IF A MAN BETROTHED ONE OF FIVE WOMEN AND HE DOES NOT KNOW WHICH OF THEM HE HAS BETROTHED, AND EACH STATES, 'HE HAS BETROTHED ME. HE GIVES A LETTER OF DIVORCE TO EVERY ONE OF THEM,[1] AND, LEAVING THE KETHUBAH[2] AMONG THEM, WITHDRAWS;[3] SO R. TARFON. R. AKIBA, HOWEVER, SAID: THIS IS NOT A WAY THAT WOULD TAKE ONE OUT OF THE POWER OF TRANSGRESSION, UNLESS ONE GIVES TO EACH OF THEM BOTH A LETTER OF DIVORCE AND HER KETHUBAH.[2]

IF A MAN ROBBED ONE OF FIVE PERSONS AND DOES NOT KNOW WHICH OF THEM HE HAS ROBBED, AND EACH ONE STATES. 'HE HAS ROBBED ME', HE LEAVES THE [AMOUNT OF] THE ROBBERY AMONG THEM AND WITHDRAWS;[4] SO R. TARFON. R. AKIBA, HOWEVER, STATED: THIS IS NOT A WAY THAT WOULD LEAD ONE OUT OF THE POWER OF SIN, UNLESS ONE PAYS [THE FULL AMOUNT OF THE ROBBERY] TO EVERY ONE [OF THE PERSONS INVOLVED].

GEMARA. Since BETROTHED was stated. and not[5] 'cohabited'. and since ROBBED was stated and not 'bought'. whose [view, it may be asked, is represented in] our Mishnah? Neither. [apparently. that of] the first Tanna[6] nor that of R. Simeon b. Eleazar![6] For it was taught: R. Simeon b. Eleazar stated that R. Tarfon and R. Akiba did not differ [on the ruling that] where a man betrothed one of five women, and he does not know which of them he betrothed, he leaves the

kethubah[2] among them and withdraws;[3] they differ only in the case where cohabitation occurred, R. Tarfon ruling that the man leaves the kethubah[2] among them and withdraws, while R. Akiba ruled [that the man is not exempt from transgression] unless he pays[7] everyone of them. R. Tarfon and R. Akiba. furthermore, did not differ on [the ruling that] where a person bought something from five men and does not know from which of them he bought, he may leave the price of the purchase among them and depart; they differ only in the case where a person robbed one of five men, R. Tarfon ruling that the man must deposit the amount of the robbery among them and may then depart, while R. Akiba ruled [that the man is not exonerated] unless he pays [the amount of the] robbery to everyone.[8] Now, since R. Simeon b. Eleazar said that they[9] do not differ in the case where a man betrothed or purchased, it may be inferred that the first Tanna is of the opinion that they[9] did differ. Whose [view then, is presented in our Mishnah]? If it is that of the first Tanna 'betrothal' and purchase should have been mentioned,[10] and if [it is that of] R. Simeon b. Eleazar cohabitation and 'robbery' should have been mentioned![11] — [Our Mishnah represents] in fact [the view of] N. Simeon b. Eleazar, but the meaning of[12] BETROTHED is betrothal through cohabitation'. BETROTHED was used in order to acquaint you how far R. Akiba is prepared to go[13] , as he imposes a penalty[14] even where one transgressed a Rabbinic prohibition[15] only; and ROBBED was taught in order to acquaint you how far N. Tarfon is prepared to go, as he imposes no penalties[16] even where one had transgressed a Pentateuchal prohibition.[17]

MISHNAH. A WOMAN WHO WENT WITH HER HUSBAND TO A COUNTRY BEYOND THE SEA, HER SON ALSO [GOING] WITH THEM, AND WHO CAME BACK AND STATED, 'MY HUSBAND DIED AND AFTERWARDS MY SON DIED', IS BELIEVED.[18] [IF, HOWEVER, SHE STATED.] 'MY SON DIED AND AFTERWARDS MY HUSBAND DIED'.[19] SHE IS NOT BELIEVED,[20] BUT NOTE IS TAKEN OF HER ASSERTION[21] AND SHE MUST, THEREFORE, PERFORM HALIZAH[22] AND MAY NOT CONTRACT THE LEVIRATE MARRIAGE.[23]

[IF A WOMAN[24] STATES].[25] 'A SON WAS GIVEN TO ME [WHILE I WAS] IN A COUNTRY BEYOND THE SEA' AND SHE ALSO ASSERTS, 'MY SON DIED AND AFTERWARDS MY HUSBAND DIED', SHE IS BELIEVED.[26] [IF, HOWEVER, SHE STATES]. 'MY HUSBAND DIED AND AFTERWARDS MY SON DIED .[27] SHE IS NOT BELIEVED,[28] BUT NOTE IS TAKEN OF HER ASSERTION[29] AND SHE MUST, THEREFORE, PERFORM HALIZAH[30] BUT MAY NOT CONTRACT LEVIRATE MARRIAGE.[31]

[[19] F A WOMAN[32] STATES]. 'A BROTHER-IN-LAW WAS GIVEN TO ME [WHILE I WAS] IN A COUNTRY BEYOND THE SEA',[33] AND SHE ALSO STATES, 'MY HUSBAND DIED AND AFTERWARDS MY BROTHER-IN-LAW DIED OR 'MY BROTHER-IN-LAW DIED AND AFTERWARDS MY HUSBAND DIED', SHE IS BELIEVED.[34] IF A WOMAN AND HER HUSBAND AND HER BROTHER-IN-LAW WENT TO A COUNTRY BEYOND THE SEA, AND SHE [ON RETURNING HOME] STATED, 'MY HUSBAND DIED AND AFTERWARDS MY BROTHER-IN-LAW [DIED]' OR 'MY BROTHER-IN-LAW [DIED] AND AFTERWARDS MY HUSBAND [DIED]'. SHE IS NOT BELIEVED; FOR A WOMAN IS NOT TO BE BELIEVED WHEN SHE ASSERTS 'MY BROTHER-IN-LAW IS DEAD', IN ORDER THAT SHE MAY MARRY AGAIN. NOR [WHEN SHE STATES THAT] HER SISTER IS DEAD. IN ORDER THAT SHE MAY ENTER HIS[35] HOUSE.[36] A MAN ALSO IS NOT BELIEVED WHEN HE ASSERTS 'MY BROTHER IS DEAD', SO THAT HE MAY CONTRACT LEVIR' ATE MARRIAGE WITH HIS WIFE, NOR [WHEN HE ASSERTS THAT] HIS WIFE IS DEAD, IN ORDER THAT HE MAY MARRY HER SISTER.[37]

GEMARA. Raba enquired of R. Nahman: What [is the legal position] if a husband transferred to his wife [through an agent][38] the possession of a letter of divorce, where a brother-in-law[39] is in existence?[40] [Is the divorce], since she [usually] hates her brother. in-law, an advantage to her and

[consequently valid, because] a privilege may be conferred upon a person in his absence; or is it possible [that the divorce], since she sometimes loves her brother-in-law, is a disadvantage to her and [consequently invalid because] no disadvantage may be imposed upon a person in his absence? The other replied. We have learned this: NOTE IS TAKEN OF HER ASSERTION AND SHE MUST, THEREFORE, PERFORM HALIZAH. BUT MAY NOT CONTRACT THE LEVIRATE MARRIAGE.[41] Said Rabina to Raba: What [is the legal decision] if a husband transferred to his wife [through an agent][42] the possession of a letter of divorce at a time[43] when a quarrel [raged between them]? [is the divorce], since she has a quarrel with her husband, an advantage to her or [is it a disadvantage, since] the gratification of bodily desires is possibly preferred by her?[44] — Come and hear what Resh Lakish said: 'It is preferable to live in grief[45] than to dwell in widowhood' .[46]

Abaye said: 'With a husband [of the size of an] ant her seat is placed among the great'.[47]

R. Papa said: Though her husband be a carder[48] she calls him to the threshold and sits down [at his side].[49]

R. Ashi said: If her husband is only a cabbage-head[50] she requires no lentils[51] for her pot.[52]

A Tanna taught: All such women[53] play the harlot and attribute the results[54] to their husbands. [

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(1) If he has no desire to marry any of them.

(2) I.e., the sum due to a woman on being divorced. (V. Glos.).

(3) He need not give them more than the amount of one kethubah since he had betrothed no more than one woman. It is for the women themselves to come to an agreement on the disposal of that sum.

(4) Cf. supra n. 2 mutatis mutandis.

(5) Lit,, was not stated'.

(6) Of the Baraitha cited infra.

(7) The full amount of her kethubah.

(8) Tosef. Yeb. XIV.

(9) R. Tarfon and R. Akiba.

(10) And not those of 'betrothal' and robbery

(11) Not those if betrothal and 'robbery'.

(12) Lit , and what'.

(13) Lit 'with the power'.

(14) That the man must pay the amount if her kethubah to each one of the five women.

(15) It is only Rabbinically that betrothal through cohabitation is forbidden. Pentateuchally it constitutes a proper kinyan.

(16) Maintaining as he does that one single sum equal to the amount of the robbery exonerates the robber from all further liability.

(17) Prohibition of robbery was specifically mentioned in the Pentateuch,

(18) And is exempt from levirate marriage and halizah. Her statement is accepted since thereby she is merely confirming the status in which she found herself before her departure. At that time she had a son who exempted her from the levirate bond; and now that her husband died before that son she is still entitled to the same exemption. Her admission of her son's death does not affect her status, since she is the only source of the information, and as her word is accepted in respect of the death it must be similarly accepted in respect of its date.

(19) So that she is in consequence subject to the levirate bond.

(20) Because her assertion would alter the status in which she was confirmed prior to her departure. Such alteration cannot be authorized in view of the possibility that her report might be due to a desire to marry the levir.

(21) Since, at any rate, her statement has impaired her former status.

(22) Before she may be permitted to marry a stranger.

(23) She herself having testified that she was forbidden to the levir.

(24) Who had no children at the time she left her home town.

(25) On returning from across the sea.

(26) And remains subject to the levirate bond and may perform halizah or contract levirate marriage. Her statement is accepted because it confirms the status in which she was established prior to her departure. Cf. supra p. 836. n. 11 mutatis mutandis.
(27) So that, were her statement to be accepted, she would be exempt from the levirate bond to which, in virtue of her former status, she is still subject.
(28) Cf. supra note 2 mutatis mutandis. As a rule, a woman is supposed to hate her brother-in-law.
(29) V. supra n. 3.
(30) V. supra n. 4.
(31) V. supra n. 5.
(32) Who was known to have no brother-in-law.
(33) I.e., her mother-in-law, who was with her overseas, gave birth to a son during their stay there.
(34) Since in either case she only confirms her former status. Cf. supra p. 836. n. 11 mutatis mutandis.
(35) Her sister's husband's.
(36) I.e., to marry him, which she is forbidden to do during the lifetime of her sister.
(37) Cf. supra note 2 mutatis mutandis.
(38) Whom the childless husband had asked to act on behalf of his wife, his intention being to spare her from the levirate obligations on his death. Elsewhere a divorce is invalid unless it had actually been delivered into the woman's hands or into those of an agent who was duly appointed by her.
(39) To whom she would be subject in the absence of a letter of divorce.
(40) Lit., 'in the place of'.
(41) Since this is the ruling in our Mishnah both in the case where It is assumed that she loves the levir (cf. supra p. 837, n. 2) and in that where she is assumed to hate him (cf. supra p. 837. n. 10). it is obvious that it is uncertain whether a divorce given in the circumstance described by Raba is an advantage or a disadvantage to the woman. The legal position in such a case would consequently be that the woman would have to perform halizah but would not be permitted levirate marriage.
(42) V. p. 838. n' 4.
(43) Lit., 'in the place of'.
(44) She might prefer a married life in quarrels to a peaceful life of separation.
(45) Or 'together', 'as husband and wife'. V. following note.
(46) A woman's maxim. She prefers an unhappy life in a married state to a happy one in solitude. טן דו 'with a load of grief', 'in trouble' (last.). According to Rashi, טן דו= 'two bodies' (cf. supra n. 4). Levy compares it with the Pers., tandu, 'two persons'.
(47) A proverb. חרתא a free woman,
(48) נפצא 'flax-beater'; Aruk, נפסא 'a watchman of vegetables'; a very poor and humble occupation.
(49) To show her friends that she is a married woman. She is proud of her husband despite his lowly social status.
(50) קולסא 'dull', or 'ugly' (cf. last.); 'of a tainted family' (Rashi).
(51) Regarded as a cheap food.
(52) For the sake of a married life, a woman willingly renounces all other pleasures. even the enjoyment of the poorest meal.
(53) Lit,, 'and all of them', those married to the unlovely types of husband mentioned.
(54) Lit , 'and hang (it) on'.

Talmud - Mas. Yevamoth 119a

CHAPTER XVI

MISHNAH. A WOMAN WHOSE HUSBAND AND RIVAL WENT TO A COUNTRY BEYOND THE SEA, AND TO WHOM PEOPLE CAME AND SAID, 'YOUR HUSBAND IS DEAD', MUST NEITHER MARRY AGAIN[1] NOR CONTRACT LEVIRATE MARRIAGE[2] UNTIL SHE HAS ASCERTAINED WHETHER HER RIVAL IS PREGNANT.[3] IF SHE HAD[4] A MOTHER-IN-LAW[5] SHE NEED NOT APPREHEND [THE POSSIBILITY OF THE BIRTH OF ANOTHER SON];[6] BUT IF SHE DEPARTED WHILE PREGNANT [SUCH POSSIBILITY]

MUST BE TAKEN INTO CONSIDERATION.[7] R. JOSHUA RULED; SHE NEED NOT APPREHEND [SUCH A POSSIBILITY].[8]

GEMARA. What is implied by[9] 'HER RIVAL'?[10] — It is this that we are told: {The possibility of a birth in respect] of that rival[11] need be apprehended; in respect of another rival, however, it need not be apprehended.[12]

MUST NEITHER MARRY AGAIN NOR CONTRACT LEVIRATE MARRIAGE etc. It is quite proper that she shall not contract levirate marriage since it is possible that [her rival] is pregnant and that she would in consequence cause an infringement[13] [of the prohibition against marriage] of a brother's wife, which is Pentateuchal; but why should she not marry [a stranger]? The majority of women should be taken as a criterion[14] and the majority of women conceive and bear children! Must it then[15] be assumed that [the ruling is that of] R. Meir who takes a minority also into consideration?[16] — It may even be said [to represent the view of] the Rabbis; for the Rabbis follow[17] the majority principle only where the majority is actually present[18] as, for instance, in the case of 'nine shops'[19] and 'Sanhedrin' ,[20] but in respect of a majority that is not actually present[21] the Rabbis were not guided by the majority principle.

Behold the case of a minor boy and a minor girl, where the majority is one that is not actually present and the Rabbis nevertheless follow the majority principle; for it was taught: A minor, whether male or female, may neither perform nor submit to halizah, nor may he contract levirate marriage; so R. Meir. They said to R. Meir: You spoke well [when you ruled] that 'He may neither perform nor submit to halizah', since in the Pentateuchal section[22] man was written,[23] and we draw a comparison between 'woman' and man.[24] What, however, is the reason why he may not contract levirate marriage? He replied: Because a minor male might be found to be a saris;[25] a minor female might be found to be incapable of procreation; and thus the law of incest would be violated. The Rabbis, however, maintain, 'Follow the majority of male minors'; and the majority of male minors are not sarisin;[26] 'Follow the majority of female minors' and the majority of female minors are not incapable of procreation![27] — But, clearly, [it must be admitted], our Mishnah represents the view of R. Meir.

How have you explained it?[28] That it is in agreement with the view of[29] R. Meir? Read, then, the final clause: IF SHE HAD A MOTHER-IN-LAW SHE NEED NOT APPREHEND [THE POSSIBILITY OF THE BIRTH OF ANOTHER SON]; but why? One should be guided by the majority of women, and the majority of women conceive and bear while a minority miscarry, and, since all those who bear [produce] a half of males and a half of females, the minority of those who miscarry should be added to the half [of those who bear] females, and so the males would constitute a minority which[30] should be taken into consideration![31] — It is possible that since the woman was confirmed[32] in her status of permissibility to strangers[33] [the possibility of the birth of a levir] was not taken by him[34] into consideration. In the first clause, then,[35] where she was confirmed in the status of eligibility for the levirate marriage,[36] let her contract the levirate marriage! — R. Nahman replied in the name of Rabbah b. Abbuha: In the first clause where a prohibition which is subject to the penalty of kareth [is involved, the possibility of the birth of a son][37] had to be provided against; in the final clause, however, where a prohibitory law [only is involved][38] no [such possibility][39] was taken into consideration. Said Raba: Consider: The one [prohibition] is Pentateuchal and the other also is Pentateuchal;[40] what matters it, then, whether the prohibition is one involving kareth or whether it is only a mere prohibitory law? — Rather, said Raba;

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(1) Since her husband, when he departed, was known to have had no issue.

(2) It being possible that her rival had a child from their husband.

(3) If the rival is found to be pregnant the woman is free to marry again; and if she is not pregnant, levirate marriage or halizah must be performed.

(4) Overseas.
(5) Who, at the time of her departure, had no other son but the one who is now dead.
(6) To her mother-in-law. It is only in respect of a rival that the possibility of a birth must be taken notice of, since a child, whatever its sex, exempts the woman from the levirate obligations. In the case of a mother-in-law, however, the birth of a female would not affect the woman's freedom to marry again, since it is only a male that subjects her to the levirate obligations. There is no need to apprehend that the mother-in-law had not only (a) given birth to a child but also (b) that that child was not a female but a male.
(7) Since the only doubt is whether the child was a male. Cf. supra n. 6.
(8) Because here also two possibilities must be postulated: (a) that the mother-in-law did not miscarry and (b) that the child born was not a female but a male.
(9) Lit., 'she' or 'it'.
(10) Emphasis on HER.
(11) Who went with her husband to a country beyond the sea.
(12) If witnesses testified that the known rival (v. supra n. 11) was not pregnant there is no need to apprehend the possibility of a marriage with another wife who may have given birth to a child.
(13) Lit., 'meet'.
(14) Lit., 'go'.
(15) Since the majority principle is not followed.
(16) Hul. 6a; and since some women do not conceive and bear, the possibility that the rival belonged to this minority must be provided against by forbidding levirate marriage. Would then our anonymous Mishnah represent the view of an individual!
(17) Lit., 'when do they go'.
(18) Lit., 'which is before us'.
(19) Which were selling permitted meat, while one shop in their vicinity was selling forbidden meat. If between these shops a piece of meat was found and it is not known from which shop it came, it is assumed to be permitted meat, since the majority of the shops were selling meat of such a character. V. Hul. 95a.
(20) A majority of whom (twelve against eleven) are in favour of a certain decision. V. Sanh. 40a.
(21) The majority of women in general who are assumed to conceive and bear.
(22) Dealing with halizah.
(23) V. Deut. XXV, 7.
(24) As the male must be of mature age and not a minor, so must also be the female.
(25) V. Glos.
(26) Pl. of saris, v. Glos.
(27) Bek. 19b. Cf. supra 61b, 105b. The majority spoken of here is, surely, one which is not actually present, and the Rabbis are nevertheless guided by it!
(28) Lit., 'in what did you place it', sc. the first clause of our Mishnah.
(29) Lit., 'like'.
(30) According to R. Meir.
(31) And, contrary to the ruling in our Mishnah, the woman should, as in the first clause, be forbidden marriage.
(32) When her mother-in-law departed.
(33) Lit., 'to the market'; because there was no known levir.
(34) R. Meir.
(35) If a woman's confirmed status at a certain period is a determining factor.
(36) Since her husband when he departed, had no issue.
(37) By the rival.
(38) The marriage of a yebamah to a stranger.
(39) That a son was born by the mother-in-law.
(40) Neither is a mere Rabbinically preventive measure.

Talmud - Mas. Yevamoth 119b

in the first clause the woman's confirmed status[1] [would subject her] to the levirate marriage while

the majority principle[2] [would enable her] to marry any stranger;[3] and, though 'confirmed status' is not as important a factor as a majority, the minority of women who miscarry must be added to the 'confirmed status' so that the factors on either side are equally balanced;[4] hence[5] she MUST NEITHER MARRY AGAIN NOR CONTRACT LEVIRATE MARRIAGE. In the final clause, however, the woman's confirmed status[6] as well as the majority principle[7] [points] to [the permissibility of marriage with] any stranger,[3] so that [viable] males[8] constitute a minority of a minority;[9] and a minority of a minority is not taken into consideration even by R. Meir.

MUST NEITHER MARRY AGAIN NOR CONTRACT LEVIRATE MARRIAGE etc. For ever?[10] — Ze'iri replied: [She waits] on account of herself three months[11] and on account of her associate nine,[12] and then she may, at all events,[13] perform halizah. R. Hanina said: On account of herself [she must wait] three months, but on account of her associate[14] for ever.[15] But let her perform halizah[16] at all events![17] — Both Abaye b. Abin and R. Hanina b. Abin replied: This[18] is a preventive measure against the possibility that the child[19] might be viable[20] as a result of which[21] you would have to subject her to the necessity of a public announcement[22] in respect of the priesthood.[23] Well, let her be subjected to the necessity! — It may happen that someone would be present at the halizah and not at the announcement,[24] and he would form the opinion[25] that a haluzah was permitted to a priest.

We learned: [If a woman states], 'A son was given to me [while I was] in a country beyond the sea' and she also asserts, 'My son died and afterwards my husband died', she is believed. [If she states, however], 'My husband died and afterwards my son died', she is not believed, but note is taken of her assertion and she must, therefore, perform halizah but may not contract levirate marriage.[26] Let it, however, be apprehended that witnesses might come and confirm her statement and that, as a result, you would subject her to the necessity of an announcement in respect of the priesthood! — R. Papa replied: [This refers to] a woman divorced.[27] R. Hiyya son of R. Huna replied: [It refers to one] who stated 'I and he[28] were hidden in a cave'.[29] MISHNAH. [IN THE CASE OF] TWO SISTERS-IN-LAW[30] ONE OF WHOM[31] STATED, 'MY HUSBAND IS DEAD', AND THE OTHER ALSO STATED, 'MY HUSBAND IS DEAD', THE FORMER[31] IS FORBIDDEN[32] ON ACCOUNT OF THE HUSBAND OF THE LATTER,[33] AND THE LATTER IS FORBIDDEN[34] ON ACCOUNT OF THE HUSBAND OF THE FORMER.[33] IF THE ONE HAD WITNESSES[35] AND THE OTHER HAD NO WITNESSES,[35] SHE WHO HAD THE WITNESSES IS FORBIDDEN,[36] WHILE SHE WHO HAD NO WITNESSES IS PERMITTED.[37] IF THE ONE HAD CHILDREN AND THE OTHER HAD NO CHILDREN,[38] SHE WHO HAD CHILDREN[39] IS PERMITTED[34] AND SHE WHO HAD NO CHILDREN[40] IS FORBIDDEN.[34] IF THEY[41] CONTRACTED LEVIRATE MARRIAGES,[42] AND THE LEVIRS DIED, THEY[43] ARE FORBIDDEN [TO MARRY AGAIN].[44] R. ELEAZAR[45] RULED: SINCE THEY WERE ONCE PERMITTED TO MARRY THE LEVIRS[46] THEY ARE PERMITTED TO MARRY ANY MAN.

GEMARA. A Tanna taught: If the one[47] had witnesses[48] and also children, and the other had neither witnesses nor children, both are permitted [to marry again].[49]

IF[50] THEY CONTRACTED LEVIRATE MARRIAGES, AND THE LEVIRS DIED, THEY ARE FORBIDDEN [TO MARRY AGAIN]. R. ELEAZAR RULED: SINCE THEY WERE ONCE PERMITTED TO THE LEVlrs THEY ARE PERMITTED TO MARRY ANY MAN. Raba inquired: What is R. Eleazar's reason? Is it because he is of the opinion that a rival[51] is eligible to tender evidence in favour of her associate or is it because [he holds that] she would not[51] cause injury to herself?[52] What practical difference is there [between the two assumptions]?

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(1) It was an established fact that her husband had no issue and that a levir was in existence.

(2) Most women bear viable children and her rival's child would exempt her from the levirate obligations.

(3) Lit., 'to the market'.

(4) Lit., ‘and it is a half and a half’, ‘confirmed status’ plus minority pointing to the levirate marriage while the majority principle points to permissibility to marry any stranger.
(5) Since neither consideration can be regarded as more weighty than the other.
(6) As one who had no brother-in-law.
(7) Miscarriages and the births of females constitute a majority against the minority of births of viable males.
(8) Only a viable male child exempts a woman from the levirate obligations.
(9) I.e., besides the fact that viable males are in a minority (v. supra n. 10) the possibility of the birth of a viable male is still less to be taken note of in view of the confirmed status of the woman (v. supra note 9).
(10) But why! Let her perform halizah and thus at all events procure her freedom. V. infra p. 844, n. 5.
(11) As any other woman whose husband died. V. supra 42b.
(12) Since should her rival be pregnant, her levirate bond could not be severed by halizah but by the actual birth of a viable child.
(13) Whether the rival gave birth to a child or not. V. infra note 5.
(14) Her rival who might he pregnant.
(15) Until it is definitely ascertained whether her rival had given birth to a viable child.
(16) After a period of nine months (v. supra p. 843, n. 15), and so procure her freedom to marry again.
(17) Since either she is exempted altogether from the levirate obligations by the birth of her rival's child (if one was horn) or (if no viable child was born) she gains her freedom by the halizah.
(18) That no halizah must be performed; v. supra n. 3.
(19) Of the rival.
(20) In consequence of which the halizah would become null and void as if it had never taken place.
(21) Lit., ‘it is found’.
(22) That the halizah was unnecessary and consequently null and void.
(23) I.e., that she is permitted to marry a priest.
(24) V. supra note 10.
(25) Should she eventually be married to a priest.
(26) Supra 118b, q.v. for notes.
(27) From a former husband; before she was married to the one now deceased. As a divorcee she remains forbidden to marry a priest even if the halizah is subseqeuntly found to have no validity.
(28) She and her husband together with their son.
(29) When death occurred. Since no one was present there is no need to provide against the possibility of the appearance of witnesses.
(30) The wives of two brothers.
(31) Lit., ‘this’.
(32) To marry a stranger.
(33) Who might, in fact, he alive and with whom halizah or levirate marriage must he performed. A woman is eligible to tender evidence on the death of her husband in so far only as to enable herself to marry again. She is ineligible, however, to give evidence enabling her sister-in-law to marry again.
(34) To marry again.
(35) That her husband was dead.
(36) To marry a stranger; since there are no witnesses to testify to the death of the levir. The evidence of his wife alone (cf. supra n. 4) is not sufficient for the purpose.
(37) To marry any stranger; since she herself is believed in respect of the death of her husband while in respect of the death of the levir the evidence of the witnesses is available.
(38) And neither had witnesses.
(39) Who exempt their mother from the levirate bond.
(40) And who is consequently subject to the levirate bond of a man whose death is attested only by her sister-in-law whose word cannot he accepted (cf. supra n. 4).
(41) The two sisters-in-law spoken of in the first clause of our Mishnah, neither of whom had children nor was able to produce witnesses to attest her husband's death.
(42) With the levirs other than the absent husbands.
(43) V. supra note 12.

(44) Any stranger. Though the evidence of each woman was valid to enable herself to contract levirate marriage, it is not valid to exempt her sister-in-law- from the levirate bond (cf. supra note 4), and the possibility that their absent levirs (the first husbands) were still alive must he taken into consideration.
(45) Var. lec. R Eliezer.
(46) On the assumption that their husbands were dead.
(47) Of two sisters-inlaw who stated that their husbands were dead.
(48) To confirm her statement.
(49) The former because of her children who exempt her from the levirate bond; and the latter, because witnesses had testified to the death of her levir while she herself is believed in respect of the death of her husband.
(50) Cur. edd. do not indicate by the usual stops that this passage is derived from our Mishnah. Cf. however, Bomb. ed.
(51) By a statement whereby she injures her associate.
(52) Her evidence here would injure herself as it would her associate. Where, however, her associate alone would be the sufferer a rival's evidence is not accepted.

Talmud - Mas. Yevamoth 120a

That of allowing[1] her rival to marry before herself. If it is granted that a rival may give evidence in favour of her associate, her rival may be permitted to marry even if she herself did not remarry. If, however, it be maintained that the reason is because she would not cause injury to herself, the rival would be permitted to marry only if she herself had married again, but if she herself did not remarry, her rival also would not be permitted to remarry. Now, what [is the decision]? — Come and hear: R. ELEAZAR RULED: SINCE THEY WERE ONCE PERMITTED TO THE LEVIR THEY ARE PERMITTED TO MARRY ANY MAN. Now, if it be granted that [the reason is because] she would not cause injury to herself one can well see the reason why only when the one married again is the other permitted to remarry. If it be maintained, however, that the reason is because a rival is eligible to tender evidence in favour of her associate, [the associate should be permitted to marry again] even if the rival did not remarry. Consequently it must be concluded[2] that R. Eleazar's reason is: Because she[3] herself had married again and she would not cause injury to herself! — R. Eleazar may have argued on the basis of the view of the Rabbis.[4] 'According to my view [he may have said in effect] a rival is eligible to tender evidence in favour of her associate, and even if she herself did not remarry the other may be allowed to marry again. According to your view, however, you must at least agree with me that where she herself' remarried the other also should be allowed to marry again, since she[3] would naturally not injure herself!' And the Rabbis?[5] — She might be acting [in the spirit of] let me die with the Philistines.[6]

Come and hear: If a woman and her husband went to a country beyond the sea, and she returned and stated, 'My husband is dead', she may be married again and she also receives her kethubah. Her rival, however, is forbidden. R. Eleazar[7] ruled: Since she becomes permitted her rival also becomes permitted![8] — Read: Since she was permitted and she married again. Let it, however,[9] be apprehended that she[3] may have returned with a letter of divorce and that the reason why she made her statement[10] is because it was her intention to injure her rival![11] — If she was married to an Israelite, this would be so indeed;[12] but here we are dealing with one who married a priest.[13]

MISHNAH. EVIDENCE [OF IDENTITY][14] MAY BE LEGALLY TENDERED[15] ONLY ON [PROOF AFFORDED BY] THE FULL FACE[16] WITH THE NOSE, THOUGH THERE WERE ALSO MARKS ON THE MAN'S BODY OR CLOTHING. NO EVIDENCE [OF A MAN'S DEATH][15] MAY BE TENDERED BEFORE HIS SOUL HAS DEPARTED; EVEN THOUGH THE WITNESSES HAVE SEEN HIM WITH HIS ARTERIES CUT[17] OR CRUCIFIED OR BEING DEVOURED BY A WILD BEAST.[18] EVIDENCE [OF IDENTIFICATION] MAY BE TENDERED [BY THOSE] ONLY [WHO SAW THE CORPSE] WITHIN[19] THREE DAYS [AFTER DEATH].[20] R. JUDAH B. BABA, HOWEVER, SAID: NEITHER ALL MEN, NOR ALL PLACES, NOR ALL SEASONS[21] ARE ALIKE.[22]

GEMARA. Our Rabbis taught: Evidence [of identification][23] may be tendered[24] only on [proof afforded by] the forehead without the face[25] or the face without the forehead — Both together with the nose must[19] be present.[26]

Abaye, or it might be said, R. Kahana, stated: What is the Scriptural proof?[27] — The shew of their countenance[28] doth witness against them.[29]

Abba b. Martha, otherwise[30] Abba b. Manyumi, was being pressed for the payment of some money by the people of the Exilarch's house. Taking some wax he smeared it on a piece of rag and stuck it upon his forehead. He passed before them and they did not recognize him.[31]

THOUGH THERE WERE ALSO MARKS etc. Does this imply that identification marks are not valid Pentateuchally? A contradiction, surely, may be pointed out: If he[32] found it[33] tied to a bag, a purse or a seal-ring[34] or if it was found among his furniture,[35] even after a long time, it[33] is valid![36] — Abaye replied: This is no difficulty. The one is the view of[37] R. Eliezer[38] b. Mahebai while the other is that of[37] the Rabbis. For it was taught: No evidence [of identification] by a mole may he legally tendered. R. Eliezer[38] h. Mahebai ruled: Such evidence may be legally tendered. Do they not differ on the following principle,[39] that one Master[40] is of the opinion that identification marks are valid Pentateuchally[41] while the other Master[42] is of the opinion that identification marks are only Rabbinically valid? — Said Raba: All[43] agree that identification marks are valid Pentateuchally; but here they differ on the question whether it is common for the same kind of mole to he found on persons of simultaneous birth.[44] One Master[42] is of the opinion that it is common for the same kind of mole to be found on persons of simultaneous birth,[45] and the other Master[46] is of the opinion that it is not common for the same kind of mole to be found on persons of simultaneous birth.[47]

Others say: Their[48] point of difference here is whether a mole usually undergoes a change after one's death — One Master[49] is of the opinion that it usually undergoes a change after one's death[50] and the other Master[46] is of the opinion that it does not usually undergo a change after one's death.

Others maintain that Raba said: All[51] agree that identification marks are only Rabbinically valid; but here [it is on the question] whether a mole

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(1) Where a woman who went overseas with her husband leaving her rival in the home town returned and stated that her husband was dead.

(2) Lit., ‘but infer from it’.

(3) The woman who reported the death of her husband.

(4) Lit., ‘according to their words he said to them’.

(5) Why do they not allow the associate to marry even in the latter case?

(6) Judges XVI, 30. In order to inflict injury upon her associate she is willing to suffer injury herself.

(7) Var. Sec. R. Eliezer cf. supra p. 845, n. 16.

(8) Cf. supra 118a. This proves that, on the evidence of a rival, an associate is always permitted to marry again whether the rival who gave the evidence did or did not herself marry again.

(9) If the reason why a rival is believed in respect of her associate is not because she is eligible to tender evidence but because she would not injure herself.

(10) Lit., ‘that which she said thus’. That her husband was dead.

(11) She herself would thereby suffer no disability since she herself is in any case divorced from her husband.

(12) There would be ground for suspecting that she was divorced.

(13) Who may not marry a divorcee (v. Lev. XXI, 7). Had she been a divorced woman she would not have ventured to contract such a marriage for fear lest her former husband might return and expose her.

(14) In respect of a dead man.

(15) To enable the widow to marry again.

(16) פרצוף פנים cf. Gr.**.
(17) Or 'mortally wounded' (v. Rashi). מגוייד rt. גייד, to cut an artery', a mode of execution practised among certain peoples (cf. Jast.).
(18) Since it is possible to recover life even in such precarious conditions.
(19) Lit., 'until'.
(20) After this period, the decay of the corpse would hinder identification.
(21) Lit., 'hours', 'times'.
(22) Decomposition in one case may be much more rapid than in another. The period of THREE DAYS mentioned must, therefore, be varied according to physical and climatic conditions.
(23) In respect of a dead man.
(24) To enable the widow to marry again.
(25) V. supra note 5.
(26) If the evidence of identification is to be valid.
(27) That the full face is essential for identification.
(28) Emphasis on countenance; not any other part of the body.
(29) Isa. III, 9.
(30) Lit., 'which he', 'who was'.
(31) Lit., 'they did not discover it'. בשקר (cf. בקר) 'to examine', 'to discover'.
(32) A man who was carrying a letter of divorce from a husband to his wife.
(33) The letter of divorce after it had been lost for a time.
(34) Cf. infra 120b. טבעת 'ring'.
(35) Cf. Rashi.
(36) B.M. 27b; provided he is able to identify the bag, or any of the other objects mentioned, as the original object to which the letter of divorce had been tied. Though the assumed validity of the document affects a Pentateuchal law (permitting a married woman to marry a stranger) it is nevertheless permitted to rely upon the identification marks, contrary to the implication of our Mishnah.
(37) Lit., 'that'.
(38) Pesaro ed. and MSS. read 'Eleazar'.
(39) Of course they do.
(40) R. Eliezer.
(41) Cf. B.M. 27a.,
(42) The first Tanna.
(43) Both the first Tanna as well as R. Eliezer.
(44) בן גילו, lit., 'son of his circle', ('circle' referring to the sphere of the zodiac). Persons born at the same hour of the day are assumed to be physically and morally subject to the same planetary influences for good and for evil.
(45) As the corpse and the man in question might have been such persons, all marks, other than those afforded by those of the full face, are no reliable proof of identity.
(46) R. Eliezer.
(47) A mole, therefore, is a valid identification mark.
(48) Cf. supra p. 849, n. 14.
(49) The first Tanna.
(50) Hence it cannot be regarded as a valid mark of identification.
(51) V. supra p. 849, n. 14.

Talmud - Mas. Yevamoth 120b

constitutes a distinct[1] identification mark[2] that they differ. One Master is of the opinion that it constitutes a distinct identification mark,[2] and the other Master is of the opinion that it does not constitute a distinct identification mark.

With reference to the version according to which Raba stated that 'identification marks are valid Pentateuchally' [the objection might be raised:] Surely it was taught, THOUGH THERE WERE

ALSO MARKS ON THE MAN'S BODY OR CLOTHING![3] — As to the BODY [the marks indicated by the witnesses were only that the corpse was] long or short;[4] and as to one's CLOTHING [no reliability can be placed upon their identification] since borrowing might be apprehended.[5] If, however, borrowing is to be apprehended how could we allow the return of an ass[6] on [the strength of] the identification marks of a saddle![7] — People do not borrow a saddle because it makes the back of the ass sore.[8] Where one 'found it tied to a bag, a purse or a seal-ring',[9] how do we allow its return![10] — As to a seal-ring one is afraid of forgery;[11] as to one's bag and purse, people are superstitious[12] and do not lend such objects.[13] And if you prefer I might say [that the identification marks of one's] CLOTHING [consisted in a statement] that they were white or red.[14]

EVEN THOUGH THE WITNESSES HAVE SEEN HIM WITH HIS ARTERIES CUT etc. This then implies that a man whose arteries have been cut may live; but this is inconsistent with the following: A person does not cause defilement[15] before his soul has departed, even though his arteries had been cut and even though he is in a dying condition.[16] [Thus it follows that] it is only defilement that he does not cause but that it is impossible for him to live![17] — Abaye replied: This is no difficulty. The one represents the view of[18] R. Simeon b. Eleazar; the other that of[18] the Rabbis. For it was taught: Evidence may be legally tendered on [the death of a person] whose arteries were cut,[19] but no such evidence may be tendered concerning one crucified. R. Simeon b. Eleazar ruled: No such evidence may be legally tendered even concerning one whose arteries were cut, because [the wounds] might be cauterized and [the man] may survive.[20] Can this,[21] however, be reconciled[22] with the views of R. Simeon b. Eleazar? Surely in the final clause[23] it was taught: It once happened at Asia that a man[24] was lowered into the sea and Only his leg was brought up,[25] and the Sages ruled: [If the recovered leg contained the part] above the knee [the man's wife] may marry again,[26] [but if it contained only the part] below the knee she may not remarry![27] — Waters are different since they irritate the wound.[28] But, surely, Rabbah b. Bar Hana related: I myself have seen an Arab merchant who took hold of a sword and cut open the arteries of his camel, but this did not cause it to cease its cry![29] — Abaye replied: That [camel] was a lean animal.[30]

Raba replied: [The operation was performed] with a glowing hot knife,[31] and this is in agreement with the opinion of all.[32]

OR BEING DEVOURED BY A WILD BEAST etc. Rab Judah stated In the name of Samuel: This has been taught only in the case [where the attack was] not on a vital organ,[33] but where it was on a vital organ, evidence may be legally tendered.

Rab Judah further stated in the name of Samuel: If a person whose two organs[34] or the greater part of them were cut[35] escaped, evidence [of his death] may be legally tendered.[36] But this cannot be! For, surely, Rab Judah stated in the name of Samuel: If a man whose two [organs][34] or the greater part of them were cut[35] indicated by gestures, 'Write a letter of divorce for my wife', [such document] is to be written and delivered [to his wife]![37] — He is alive[38] but will eventually die.[39] If this is so[40] one[41] should go into exile[42] on account of him; while, in fact,[43] it was taught: If a man cut [unwittingly] the two, or the greater part of the two [organs[44] of another man] he is not to go into exile! — Surely in connection with this it was stated that R. Hoshaia explained: The possibility must be taken into consideration that the wind might have aggravated the wound[45] or that he himself[46] also may

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(1) מובהק rt. בהק 'to shine', 'glisten'.

(2) And may consequently serve as proof even in pentateuchal prohibitions.

(3) If identification marks have pentateuchal validity these should have been regarded as reliable.

(4) Which cannot be regarded as reliable marks of identification.

(5) There is no proof that the dead man was wearing his own clothes. V. supra note 5.

(6) That was found.

(7) V. B.M. 27a.
(8) The saddle of one ass does not fit another. A saddle, therefore, is a proper mark of identification.
(9) Supra 120a.
(10) It is possible, surely, that the objects were borrowed from another man and that the document tied to them was not the lost original.
(11) Of the seal; and does not lend it to anyone. Hence it may justly be presumed to belong the person on whose body it is found.
(12) The lending of such an object is supposed to effect a transfer of the lender's luck to the borrower.
(13) Cf. supra n. 3.
(14) Many persons wear garments of red and white, and the colours therefore, cannot be regarded as a reliable mark of identification.
(15) As a corpse.
(16) Ohal. 1, 6.
(17) Which is contradictory to the implication in our Mishnah.
(18) Lit., 'that'.
(19) The evidence being accepted as valid to enable the man's wife to remarry.
(20) Lit., 'he is able to burn and to live'. Our Mishnah would thus represent the view of R. Simeon b. Eleazar.
(21) V. supra n. 8.
(22) Lit., 'be set up'.
(23) V. infra 121a, the continuation of our Mishnah.
(24) A diver.
(25) L1t., 'and it did not go up in their hands but his leg'.
(26) Since after the loss of so much of the limb the man cannot survive.
(27) Because a man may survive even in such circumstances. The drowning also cannot be regarded as a certainty since the waters may have thrown the body up on another shore where the man's life may have been saved. Now, if our Mishnah represents the view of R. Simeon b. Eleazar, remarriage should be forbidden even in the case where 'the part above the knee' was also torn away!
(28) And this makes survival in the first case (cf, supra n.2 final clause) impossible.
(29) Till the actual moment of death, which shows that even after the cutting of its arteries an animal may still live.
(30) And the wound was not deep.
(31) Which cauterized the wound.
(32) Since all agree that a cauterized wound is not fatal.
(33) Lit., 'from a place from which his soul does not depart'.
(34) The oesophagus and the trachea.
(35) L1t., 'he cut on him two or the greater part of two'.
(36) His wife being permitted to marry again. 621. 70b.
(37) Lit., 'behold these shall write and give'; which shows that one in such a condition is still regarded as a living man. How, then, could it be said that Rab Judah in the name of Samuel accepted the legality of the evidence of death in similar circumstances!
(38) Hence the validity of his letter of divorce.
(39) And the evidence of his — death is consequently also valid.
(40) If eventual death is regarded as a certainty.
(41) The man who unwittingly inflicted the wounds mentioned.
(42) Cf. Deut. XIX, 2f
(43) Lit., 'wherefore'.
(44) The oesophagus and the trachea.
(45) Or 'made him senseless' (cf. Jast.).
(46) By excessive struggling.

Talmud - Mas. Yevamoth 121a

have brought on his death,[1] What is the practical difference between these [two explanations]? —

The case where one cut [another man's organs] in a house of marble[2] and the latter made some convulsive movements,[3] or also where he cut his organs out of doors and the latter made no convulsive movements.[4]

R. JUDAH . . . SAID: NOT ALL etc. The question was raised: Does R. Judah b. Baba differ [from the first Tanna] in relaxing the law[5] or does he differ from him in imposing a greater restriction?[6] — Come and hear: A man was once drowned at Karmi and after three days he was hauled up at Be Hedya, and R. Dimi of Nehardea allowed his wife to remarry. And again, it happened that a man was drowned in the Tigris[7] and after five days he was hauled up to the Shebistana bridge[8] and, on the evidence of the shoshbinim,[9] Raba permitted his wife to marry again — Now, if you grant that he[10] differs [from the first Tanna] in relaxing the law, they[11] might well have acted in accordance with the ruling of R. Judah b. Baba. If you should contend, however, that he[10] differed in imposing a greater restriction, in accordance with whose view [it may be asked] did they[11] act? — Waters are different because they cause contraction.[12] But, surely, you said that 'waters [are different since they] irritate the wound'! — That applies only where a wound exists, but where no wound exists waters cause contraction. This, furthermore, applies only where the witnesses saw the body as soon as it was brought up, but if it remains some time, it swells.[13]

MISHNAH. IF A MAN FELL INTO THE WATER, WHETHER IT HAD [A VISIBLE] END[14] OR NOT, HIS WIFE IS FORBIDDEN [TO MARRY AGAIN].[15] SAID R. MEIR: IT ONCE HAPPENED THAT A MAN FELL INTO A LARGE CISTERN AND ROSE TO THE SURFACE[16] AFTER THREE DAYS.[17] SAID R. JOSE: IT ONCE HAPPENED THAT A BLIND MAN DESCENDED INTO A CAVE.[18] TO PERFORM RITUAL ABLUTION WHILE HIS GUIDE WENT DOWN AFTER HIM; AND AFTER WAITING LONG ENOUGH FOR THEIR SOULS TO DEPART, PERMISSION WAS GIVEN TO THEIR WIVES TO MARRY AGAIN.[19] ANOTHER INCIDENT OCCURRED AT ASIA[20] WHERE A MAN WAS LOWERED INTO THE SEA, AND ONLY HIS LEG WAS BROUGHT UP,[21] AND THE SAGES RULED: [IF THE RECOVERED LEG CONTAINED THE PART] ABOVE THE KNEE [THE MAN'S WIFE] MAY MARRY AGAIN,[22] [BUT IF IT CONTAINED ONLY THE PART] BELOW THE KNEE, SHE MAY NOT MARRY AGAIN.[23]

GEMARA. Our Rabbis taught: If a man fell into water, whether it had [a visible] end[24] or not, his wife is forbidden [to marry again];[25] so R. Meir. But the Sages ruled: [If he fell into] water that has [a visible] end,[24] his wife is permitted [to marry again],[26] but [if into water] that has no [visible] end[27] his wife is forbidden [to marry again].[28]

What is to be understood by 'has [a visible] end'? — Abaye replied: [An area all the boundaries of which] a person standing [on the edge] is able to see in all directions.[29]

Once a man was drowned in the swamp of Samki, and R. Shila permitted his wife to marry again. Said Rab to Samuel: 'Come, let us place him under the ban'.[30] 'Let us first', [the other replied,] 'send to [ask] him [for an explanation]'. On their sending to him the enquiry: '[If a man has fallen into] water which has no [visible] end. is his wife forbidden or permitted [to marry again]'? he sent to them [in reply], 'His wife is forbidden' — 'And [they again enquired] is the swamp of Samki regarded as water that has [a visible] end or as water that has no [visible] end?' — 'It is', he sent them his reply, 'a water that has no [visible] end'. 'Why then did the Master [they asked] act in such a manner?'[31] — 'I was really mistaken', [he replied]; 'I was of the opinion that as the water was gathered and stationary it was to be regarded as "water which has [a visible] end", but the law is in fact not so; for owing to the prevailing waves it might well be assumed that the waves carried [the body] away'.[32] Samuel thereupon applied to Rab the Scriptural text, There shall no mischief befall the righteous,[33] while Rab applied to Samuel the following text: But in the multitude of counsellors there is safety.[34]

It was taught: Rabbi related how it once happened that while two men were casting nets in the Jordan one of them entered a subterranean fish pond[35] and when the sun had set he could not find the entrance of the cave. His companion, after waiting long enough for his soul to depart, returned and reported the accident to his household. On the following day when the sun rose [the first man] discovered the entrance of the cave, and on returning he found his household in deep mourning[36] 'How great', exclaimed Rabbi, 'are the words of the Sages who ruled [that if a man fell into] water which has [a visible] end his wife is permitted [to marry again, but if into water] which has no [visible] end, his wife is forbidden'.If so,[37] then also in the case of water which has [a visible] end the possibility of having remained in a subterranean fish pond should be taken into consideration! — It is not usual for a subterranean fish pond to be found with water which has [a visible] end.[38]

R. Ashi said: The ruling of the Rabbis [that where a man has fallen into] water which has no [visible] end his wife is forbidden [to marry again]. applies only to an ordinary person but not to a learned man for, should he be rescued.[39] the fact would become known.[40] This, however, is not correct; for there is no difference between an ordinary man and a learned man. Ex post facto, the marriage[41] is valid; ab initio, it is forbidden.

It was taught: R. Gamaliel related, 'I was once travelling on board a ship when l observed a shipwreck and was sorely grieved for [the apparent loss of] a scholar[42] who had been travelling on board that ship. (And who was he? — R. Akiba.) When I subsequently landed, he[43] came to me and sat down and discussed matters of halachah. "My son", I asked him, "who rescued you?" "The plank of a ship", he answered me, "came my way, and to every wave that approached me I bent my head" —[44] Hence the Sages said that if wicked persons attack a man let him bend his head to them.[45] At that hour I exclaimed: How significant are the words of the Stages who ruled [that if a man fell into] water which has [a visible] end, [his wife] is permitted [to marry again; but if into] water which has no [visible] end, she is forbidden'.

It was taught: R. Akiba related, 'l was once travelling on board a ship when I observed a ship in distress,[46] and was much grieved on account of a scholar who was on it.(And who was it? — R. Meir.) When l subsequently landed in the province of Cappadocia[47] he came to me and sat down and discussed matters of halachah. "My son", l said to him, "who rescued you?" — "One wave" he answered me, "tossed me to another, and the other to yet another until [the sea] cast me[48] on the dry land". At that hour I exclaimed: How significant are the words of the Sages who ruled [that if a man fell into] water which has [a visible] end, [his wife] is permitted [to marry again; but if into] water which has no [visible] end, she is forbidden'. Our Rabbis taught: If a man fell into a lion's den, no evidence[49] may be legally tendered concerning him;[50] but if into a pit full of serpents and scorpions, evidence[49] may legally be tendered concerning him.[50] R. Judah b. Bathyra ruled: Even [if he fell] into a pit full of serpents and scorpions, no evidence[49] may legally be tendered concerning him,[50] since the possibility must be taken into consideration

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(1) So that the man who inflicted the wounds was not the direct cause of death. Hence he is not to be exiled, though the wife of the victim may well be allowed to marry again on the evidence of the infliction of such mortal wounds.

(2) Where no wind can penetrate.

(3) According to the first explanation. since no aggravation could have resulted from wind, the offender must be condemned to exile. According to the second explanation he is exonerated, since it is possible that the convulsive movements of the victim brought on his death.

(4) Aggravation by wind is possible, while the bringing on of death by the victim himself cannot be assumed.

(5) While the first Tanna requires the evidence to be based on an examination of the corpse within three days of death, R. Judah allows it, in certain circumstances, even after three days.

(6) Disregarding the evidence under certain conditions even within three days.

(7) דיגלת, Heb הדקל cf. Targum on Gen. II, 14.

(8) [The bridge on the Southern Tigris connecting the great trading route between Khuzistan and Babylon during the persian period; v. Obermeyer pp. 68ff].
(9) Pl. of shoshbin, groomsman'. The shoshbin acted as best men or companions of the groom, to whom they also brought wedding gifts (shoshbinuth).
(10) R. Judah b. Baba.
(11) R. Dimi and Raba.
(12) Of the corpse, the decay of which consequently sets in later than in the case of a corpse on dry land. Hence it is possible in such circumstances to identify a person even after three days from the time of his death.
(13) And changes appearance.
(14) This is explained by Abaye infra.
(15) It being possible that the man was thrown up by the water after a day or two; and that he was restored to life. V. infra n. 8.
(16) Lit., 'and he went up'.
(17) In R. Meir's opinion it is possible for one to live in water for a day or two; and the first clause of our Mishnah is in agreement with this view.
(18) l.e., to waters 'that had a visible end' (cf. supra note 5).
(19) R. Jose is of the opinion that no human being can survive so long (v. p. 854, n. 8) in water, and death may, therefore, be regarded as a certainty. In the case of water 'that has no visible end', however, he agrees with R. Meir, since it is possible that the body was thrown up on a distant shore where it was restored to life.
(20) V. Sanh., Sonc. ed. p. 151, n. 1.
(21) V. supra p. 851, n. 17.
(22) V. p. 852, n. 1.
(23) V. p. 852, 11. 2.
(24) This is explained by Abaye infra.
(25) V. p. 854, n. 6.
(26) It being assumed that the man was not rescued from the water. Any rescue, had it been effected, since all the shores are visible, would have been observed from the point where the drowning occurred.
(27) This is explained by Abaye infra.
(28) Since the man might have been rescued on another shore which was not visible from the point where the drowning occurred.
(29) Lit., 'four winds'. A person observing a drowning accident would not depart as long as there was any hope of rescue, and, as all the shores were visible and no rescue was observed, it may be regarded as a certainty that the drowned man was dead, and his wife may, therefore, be permitted to marry again.
(30) For permitting a married woman to remarry.
(31) V. p.855 n. 12.
(32) Lit.. 'they lowered', and the man was rescued.
(33) Prov. XII, 21. Rab was spared the injustice of placing the innocent R. Shila under the ban.
(34) lbid. Xl, 24. The counsel of Samuel saved Rab from a wrong action.
(35) [Constructed on the shore to retain the fish washed into it by the overflowing river].
(36) Lit 'a great mourning in his house'.
(37) If such an incident as that related by Rabbi is possible.
(38) [There is not sufficient fish to warrant the construction of a pond (Me'iri)].
(39) Lit., 'that he went up'
(40) Lit, 'he has a voice'.
(41) Of his wife to another man.
(42) Talmud Hakam, v. Glos.
(43) R. Akiba.
(44) Thus avoiding its force.
(45) Cf. supra n. 6
(46) Lit., 'that was tossed in the sea'.
(47) Gr.** in Asia Minor.
(48) lit., 'vomited me out'.

(49) That he is dead.
(50) To enable his wife to marry again.

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that he might be a charmer.[1] But the first Tanna?[2] — Owing to the pressure[3] they[4] injure him.[5]

Our Rabbis taught: [If a man] fell into a burning furnace, evidence may be legally tendered concerning him, [and also if he fell] into a boiler that was full of [boiling][6] wine or oil, evidence may be legally tendered concerning him. In the name of R. Aha It was stated: [If the man fell into a hot boiler] of oil, evidence may legally be tendered concerning him, because it[7] adds fuel to the fire;[8] [but if into one] of wine, no evidence may legally be tendered concerning him, because it[9] extinguishes [the fire].[10] They,[11] however, said to him: At first it[9] extinguishes [the fire to a certain extent] but eventually it causes it to burn [with greater vehemence].[12]

SAID R. MEIR: IT ONCE HAPPENED THAT A MAN FELL INTO A LARGE CISTERN etc. It was taught: They said to R. Meir, 'Miracles cannot be mentioned [as proof]'.[13] What [did they mean by] 'miracles'?[14] If it be suggested because he neither eats nor drinks, surely [it may be pointed out], It is written in Scripture, And fast ye for me, and neither eat nor drink [three days]![15] — Rather because he does not sleep. For R. Johanan stated: [A man who said]. 'I take an oath that I will not sleep for three days' is to be flogged[16] and he may sleep at once.[17] What then is R. Meir's reason?[18] — R. Kahana replied: There were[19] arches above arches.[20] And the Rabbis?[21] — They[22] were of marble.[23]

And R. Meir? — It is hardly possible that the man did not hang[24] on to [the arches] and doze a while.

Our Rabbis taught: It once happened that the daughter of Nehonia the well[25] -digger[26] fell into a large cistern, and people went and reported [the accident] to R. Hanina b. Dosa.[27] During the first hour he said to them, 'All is well'.[28] In the second hour he again said, 'All is well'.[28] In the third he said to them, 'She is saved'.[29] 'My daughter', he asked her, 'who saved you?' — 'A ram[30] came to my help[31] with an aged man[32] leading it'. 'Are you', the people asked him, 'a prophet?' — 'I am', he replied, 'neither prophet nor the Son of a prophet; but should the [beneficent] work in which the righteous is engaged[33] be the cause of disaster[34] to his seed!' R. Abba stated: His[35] son nevertheless died of thirst; for it is said in Scripture, And round about Him it stormeth mightily,[36] which teaches that the Holy One, blessed be He, deals strictly with those round about Him even to a hair's[37] breadth. R. Hanina said, [Proof[38] may be adduced] from here: A God dreaded in the great council of the holy ones, and feared of all them that are round about Him.[39]

MISHNAH. EVEN [A MAN ONLY] HEARD WOMEN SAYING, 'SO-AND-SO IS DEAD', THIS SHOULD SUFFICE FOR HIM.[40] R. JUDAH SAID: EVEN IF HE ONLY HEARD CHILDREN SAY, 'BEHOLD WE ARE GOING TO MOURN FOR A MAN NAMED SO-AND-SO AND TO BURY HIM' [IT IS SUFFICIENT].[40] WHETHER [SUCH STATEMENT WAS MADE] WITH THE INTENTION [OF TENDERING EVIDENCE] OR WAS MADE WITH NO SUCH INTENTION [IT IS VALID]. R. JUDAH B. BABA SAID: WITH AN ISRAELITE [THE EVIDENCE IS VALID] EVEN IF THE MAN HAD THE INTENTION [OF ACTING AS WITNESS]. IN THE CASE OF AN IDOLATER, HOWEVER, THE EVIDENCE IS INVALID IF HIS INTENTION WAS [TO ACT AS WITNESS].

GEMARA. Is it not possible that they[41] did not go?[42] — Rab Judah replied in the name of Samuel: [Our Mishnah deals with a case] where they[41] Say, 'Behold we are returning from the mourning for, and the burial of So-and-so'.Is it not possible that a mere ant[43] had died and that the

children gave it the man's name?[44] — [It is a case] where they[45] say, ‘Such and such Rabbis were there’ or ‘such and such funeral orators were there’.

IN THE CASE OF AN IDOLATER, HOWEVER . . . IF HIS INTENTION WAS etc. Said Rab Judah in the name of Samuel: This[46] was taught only in the case where it was his[47] intention to enable [the woman] to be permitted,[48] but if his intention was merely to give evidence his testimony is valid. How could this[49] be ascertained? — R. Joseph replied: If he came to Beth din and stated. ‘So-and-so is dead, allow his wife to marry again’, such evidence is one where his intention was to enable [the woman] to be permitted,[48] [but if he stated], ‘He is dead’, and nothing more, his intention was merely to give evidence.

So It was also stated:[50] Resh Lakish said, This[46] was taught only in the case where it was his intention to enable [the woman] to be permitted,[48] but if his intention was merely to give evidence his testimony is valid.

Said R. Johanan to him:[51] Did it not happen with Oshaia Berabbi,[52] that he opposed[53] eighty-five elders saying to them that, ‘This[46] was taught Only in the case where it was his intention to enable [the woman] to be permitted[48] but if his intention was merely to give evidence his testimony is valid’, but the Sages did not agree with him![54]

But according to the ruling in our Mishnah, that:[55] IN THE CASE OF AN IDOLATER, HOWEVER, THE EVIDENCE IS INVALID IF HIS INTENTION WAS [TO ACT AS WITNESS],[56] how is it possible [for the idolater's testimony ever to be accepted]?[57] — Where he makes a statement at random;[58] as was the case where one went about saying, ‘Who of the family of Hiwai is here? Who is here of the family of Hiwai? Hiwai is dead!’, and R. Joseph allowed his[59] wife to marry again.

A man[60] once went about saying, ‘Alas for the valiant rider who was at Pumbeditha, for he is dead’; and R. Joseph, or it might be said, Raba, allowed his wife to marry again.

A man once went about saying, ‘Who of the family of Hasa is here? Hasa is drowned!’ [On hearing this] R. Nahman exclaimed, ‘By God, the fish must have eaten Hasa up!’ Relying on R. Nahman's exclamation, Hasa's wife went and married again, and no objection was raised against her action.[61]

Said R. Ashi: From this[62] it may be inferred that the ruling of the Rabbis[63] that [if a man had fallen into] water which had no [visible] end, his wife is forbidden [to marry again] applies only ab initio, but if someone had already married her, she is not to be taken away from him.

Others read: R. Nahman allowed his[64] wife to marry again; for he said, ‘Hasa was a great man, and had he come up [out of the water] his rescue would have become known’. The law, however, is not so. For there is no difference between a great man and one who is not great — [In either case] it is permitted[65] ex post facto and forbidden[66] ab initio.

A certain idolater ‘once said to an Israelite, ‘Cut some grass[67] and throw it to my cattle on the Sabbath; if not, I will kill you as I have killed So-and-so, that son of an Israelite, to whom I said, "Cook for me a dish on the Sabbath", and whom, as he did not cook for me, I killed’. His wife[68] heard this and came to Abaye.[69] As he kept her waiting

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(1) Tosef. Yeb. XIV.

(2) Why, in view of R. Judah b. Bathyra's reason, does he admit evidence of death in the latter case?

(3) Of the falling body.

(4) The serpents and scorpions.
(5) In a lion's den, however, there is much more space, and the body might sometimes fall to one side and the animals, if they happened to be full, would leave it untouched.
(6) Standing over the fire.
(7) The oil when, owing to the fall of the body, it flows over the sides of the boiler into the fire beneath it.
(8) Lit., 'it causes to burn'.
(9) The wine (cf. supra n. 9).
(10) And, owing to the cooling caused by the liquid, the man might be saved from actual death.
(11) The Rabbis, represented by the view of the first Tanna.
(12) Hence the ruling that evidence of death may be accepted in the case of a fall into a hot boiler whether the contents be oil or wine.
(13) In the natural course of events the man could not survive long in a cistern. If his death were not caused by the water, some other causes would inevitably bring it about. V. infra.
(14) I.e., why should not the man be able to survive if he could keep his head above the water?
(15) Esth. IV, 16, which shews that it is possible to live for a considerable time without food or drink.
(16) Malkoth (v. Glos.); for taking a false oath, It is impossible for a human being to live for three days without sleep.
(17) In three days' time, accordingly, a man who had fallen into a cistern would inevitably succumb to fatigue and the physical necessity for sleep, and would in the natural course of events be drowned.
(18) If no one can withstand the necessity for sleep. why does not R. Meir, in the circumstances mentioned, admit the evidence?
(19) In the cistern mentioned in our Mishnah.
(20) Where the man might have slept in comparative safety.
(21) Why do they, in such circumstances, admit the evidence?
(22) The arches.
(23) Too slippery for anyone to sleep upon them in safety.
(24) מסריך rt. סרך 'to clutch', 'to twist'.
(25) שחין 'wells' or 'ditches'. Cf. Rashi and Jast.
(26) He was engaged In the benevolent occupation of digging wells for the benefit of the pilgrims to Jerusalem who visited the Temple on the occasion of the three major Festivals of the year. The ordinary wells did not suffice for the large influx of men and cattle on these festive occasions.
(27) Famous for his miraculous powers of cure and rescue through the efficacy of his prayers. Cf. Ber. 34b, Ta'an. 24b. V. B.K., Sonc. ed. p. 287, n. 11.
(28) שלום, lit., 'peace'.
(29) Lit., 'she went up'.
(30) Lit., 'a male of ewes'. — The ram of Isaac (Rashi).
(31) Lit., 'was appointed for me'.
(32) Abraham (Rashi).
(33) Well-digging. V. supra p. 859, n. 13.
(34) Lit., 'shall stumble', 'come to grief'.
(35) Nehonia's.
(36) P5. L, 3, stormeth =נשערה rt. שער 'hair'. V. next note.
(37) Lit., 'like a thread of a hair', כחוט השערה (v. supra n. 4).
(38) Of God's strict dealing with the righteous.
(39) Ps. LXXXIX, 8; cf. parallel passage B.K. 50a.
(40) To tender evidence of death, and to enable the widow to marry again.
(41) The children spoken of in our Mishnah.
(42) To carry out what they said they were going to do, and that the man in question was in fact not dead. How then could such unreliable evidence be acted upon!
(43) Or 'locust'.
(44) For fun. Cf. supra n. 10.
(45) The children spoken of in our Mishnah.
(46) That the evidence is invalid.

(47) The idolater's.
(48) To marry again.
(49) The motive of the witness.
(50) By Amoraim.
(51) Resh Lakish.
(52) Cf. n. on ברבי supra 105b.
(53) שהתרים, so Aruk and Beth Joseph in Eben ha-Ezer XVII. Cur. edd., 'he permitted them with'.
(54) Maintaining that even in the latter case the evidence is invalid.
(55) Lit., 'our Mishnah wherein it was taught'.
(56) From which it follows that if his Intention was not to act as witness his testimony is accepted.
(57) How can one make a statement the object of which is not even to affirm (i.e., to give evidence) that a certain thing had happened, and such a statement nevertheless be accepted as legally reliable?
(58) מסיח לפי תומו lit., 'speaks according to his innocence'; he is merely reporting what he had seen.
(59) Hiwa's.
(60) An idolater.
(61) Lit., 'and they did not say anything to her'.
(62) The acquiescence in the action of Hasa's wife.
(63) Lit., 'that which the Rabbis said'.
(64) Hasa's
(65) Lit., 'yes'.
(66) Lit., 'not'.
(67) אספסתא, grass used as fodder for cattle.
(68) The wife of the Israelite whom the idolater claimed to have killed.
(69) To obtain his ruling as to whether she may marry again.

for three festivals,[1] R. Adda b. Ahabah said to her, 'Apply[2] to R. Joseph, whose knife is sharp'.[3] When she came to him he decided[4] [her case by deduction] from the following Baraitha:[5] If an idolater who was selling fruit in the market declared, 'These fruits are of 'orlah,[6] of a newly broken field,[7] or of a plantation in its fourth year',[8] his statement is disregarded,[9] for his intention was merely to raise the value[10] of his fruit.[11]

Abba Judah of Zaidar[12] related: It once happened that an Israelite and an idolater went on a journey together and when the idolater returned he said, 'Alas for the Jew who was with me on the journey, for he died on the way and I buried him', and [the Israelite's] wife [on this evidence] was allowed to marry again. And, again it happened that a group[13] of men were going to Antiochia[14] and an idolater came and stated, 'Alas for that group[13] of men, for they died and I buried them', and [on this evidence] their wives were permitted to marry again. Moreover, it happened that sixty men were going to the camp[15] of Bether,[16] and an idolater came and stated, 'Alas for sixty men who were on the way to Bether, for they died and I buried them', and [on the basis of this statement] their wives were permitted to marry again.

MISHNAH. EVIDENCE[17] MAY BE TENDERED [EVEN IF THE CORPSE WAS SEEN BY THE WITNESSES] IN CANDLE LIGHT OR IN MOONLIGHT; AND A WOMAN MAY BE GIVEN PERMISSION TO MARRY AGAIN ON THE EVIDENCE OF A MERE VOICE.[18] IT ONCE HAPPENED THAT A MAN WAS STANDING ON THE TOP OF A HILL AND CRIED, SO-AND-SO SON OF SO-AND-SO OF SUCH-AND-SUCH A PLACE IS DEAD', BUT WHEN THEY WENT [TO THE TOP OF THE HILL] THEY FOUND NO ONE THERE. HIS WIFE, HOWEVER, WAS PERMITTED TO REMARRY.[19] AGAIN, IT HAPPENED AT ZALMON[20] THAT A MAN DECLARED, 'I AM SO-AND-SO SON OF SO-AND-SO; A SERPENT HAS BITTEN ME, AND I AM DYING'; AND THOUGH WHEN THEY WENT [TO EXAMINE THE CORPSE] THEY DID NOT RECOGNIZE HIM, THEY NEVERTHELESS PERMITTED HIS WIFE TO REMARRY.

GEMARA. Rabbah b. Samuel stated: A Tanna taught that Beth Shammai ruled that a woman may not be permitted to marry again on the evidence of a mere voice[19] and Beth Hillel ruled that she may be permitted to marry again on the evidence of a mere voice.[21] What does he[22] teach us?[23] This,[24] surely, is the ruling in our Mishnah![25] — It is this that he teaches us: Should an anonymous statement be found that a woman [in such circumstances] is not permitted to marry again, that [statement would represent the view of] Beth Shammai.

BUT WHEN THEY WENT . . . THEY FOUND NO ONE. Is it not possible that it was a demon [that cried]?[26] — Rab Judah replied in the name of Rab: [This is a case] where they[27] saw in him the likeness of a man! But they[28] also are in the likeness of men! — They[27] saw his shadow. But these[28] also have a shadow! They[29] saw a shadow of his shadow. Is it not possible that these[28] also cast a shadow of a shadow? — R. Hanina replied: The demon Jonathan[29] told me that they[28] have a shadow but not a shadow of a shadow. Is it not possible that it was a rival [that cried]?[30] — A Tanna at the school of R. Ishmael taught that at a time of danger[31] [a letter of divorce] may be written and delivered [to the woman][32] even if [the husband who gave the instructions][33] is unknown [to the witnesses].[34]

MISHNAH. R. AKIBA STATED: WHEN I WENT DOWN TO NEHARDEA TO INTERCALATE[35] THE YEAR, I MET NEHEMIAH OF BETH DELI[36] WHO SAID TO ME, 'I HEARD THAT IN THE LAND OF ISRAEL NO ONE, WITH THE EXCEPTION OF R.[37] JUDAH B. BABA, PERMITS A [MARRIED] WOMAN TO MARRY AGAIN ON THE EVIDENCE OF ONE WITNESS'. 'THAT IS SO', I TOLD HIM. TELL THEM', HE SAID TO ME, 'IN MY

NAME: (YOU KNOW THAT THIS COUNTRY[38] IS IN CONFUSION BY REASON OF RAIDERs);[39] I HAVE THIS[40] TRADITION FROM R. GAMALIEL THE ELDER: THAT A [MARRIED] WOMAN MAY BE ALLOWED TO MARRY AGAIN ON THE EVIDENCE OF ONE WITNESS'.[41] AND WHEN I CAME AND RECOUNTED THE CONVERSATION IN THE PRESENCE OF R. GAMALIEL[42] HE REJOICED AT MY INFORMATION AND EXCLAIMED, 'WE HAVE FOUND A COLLEAGUE[43] FOR R. JUDAH B. BABA!' AS A RESULT OF THIS TALK[44] R. GAMALIEL RECOLLECTED THAT SOME MEN WERE ONCE KILLED AT TEL ARZA,[45] AND THAT R. GAMALIEL [THE ELDER] HAD ALLOWED THEIR WIVES TO MARRY AGAIN ON THE EVIDENCE OF ONE WITNESS.[46] AND THE LAW WAS ESTABLISHED THAT [A WOMAN] SHALL BE ALLOWED TO MARRY AGAIN [ON THE EVIDENCE OF ONE] WITNESS [WHO STATES THAT HE HAS HEARD THE REPORT] FROM[47] ANOTHER WITNESS, FROM[47] A SLAVE, FROM[47] A WOMAN OR FROM[47] A BONDWOMAN. R. ELIEZER AND R. JOSHUA RULED: A WOMAN MAY NOT BE ALLOWED TO MARRY AGAIN ON THE EVIDENCE OF ONE WITNESS.[48] R. AKIBA RULED: [A WOMAN IS NOT ALLOWED TO MARRY AGAIN] ON THE EVIDENCE OF[49] A WOMAN, ON THAT OF[50] A SLAVE, ON THAT[50] OF A BONDWOMAN OR ON THAT OF RELATIVES.

GEMARA. Is R. Akiba then[51] of the opinion that on the evidence of[50] a woman,[52] [a wife is] not [permitted to marry again]? Surely, It was taught: R. Simeon b. Eleazar stated in the name of R. Akiba, '[That] a woman is eligible[53] to bring her own letter of divorce[54] is Inferred a minori ad majus: If those women concerning whom the Rabbis ruled that they[55] are not believed when they state, "Her husband[56] is dead"[57] are nevertheless eligible[53] to bring[58] her a letter of divorce,[59] how much more reasonable is it that this woman, who is believed when she states that her own husband is dead, should be eligible[53] to bring her own letter of divorce.' [Thus it follows that only] those women of whom the Rabbis have spoken[57] are not believed[60] but any other[61] woman is believed![62] — This is no difficulty. One ruling[63] was made[64] before the law,[65] had been established; the other,[64] after the law[65] had been established.

MISHNAH. THEY[66] SAID TO HIM:[67] 'IT ONCE HAPPENED THAT A NUMBER OF LEVITES WENT TO ZOAR,[68] THE CITY OF PALMS, AND ONE OF THEM WHO FELL. ILL WAS TAKEN BY THEM INTO AN INN. WHEN THEY RETURNED THEY ASKED THE INNKEEPER[69] WHERE IS OUR FRIEND?" AND SHE REPLIED, HE IS DEAD AND i BURIED HIM". [AND IT WAS ON THIS EVIDENCE THAT] HIS WIFE WAS PERMITTED TO MARRY AGAIN. SHOULD NOT THEN A PRIEST'S WIFE[70] [BE BELIEVED AT LEAST AS MUCH] AS THE INNKEEPER!'[71] HE ANSWERED THEM, WHEN SHE WILL BE [GIVING SUCH EVIDENCE] AS THE INNKEEPER SHE WILL BE BELIEVED. THE INNKEEPER [AS A MATTER OF FACT] HAD BROUGHT OUT TO THEM HIS[72] STAFF, HIS BAG[73] AND THE SCROLL OF THE LAW WHICH HE HAD WITH HIM.[74]

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(1) רוגלי, when the scholars and students who were assembled for the purpose of listening to the festival discourses, were also asked to decide difficult points of law that had arisen during the preceding months. During these gatherings the woman had an opportunity of making enquiries about her vanished husband. According to תשובות בגאונים cited by Rashi, the רוגלי were the anniversaries of the deaths of distinguished men, when scholars from the surrounding localities as well as the general public assembled round the respective graves for study and for discussions of matters of law.

(2) Lit., 'go before'.

(3) Metaph., he is capable of acute logical reasoning and deduction. Cf. Rashi, Hul 77a.

(4) Lit., 'solved'.

(5) Cur. edd., 'Mishnah'.

(6) ערלה (v. Glos.). which are forbidden for consumption, though they may be superior in quality to those which come from old trees.

(7) עזיקה (cf. Jast. s.v.עזקה and Me'iri a.l.); such fruits being forbidden on the Sabbatical year though they may be of a high quality (v. previous note). 'Azeka may have been, according to Rashi (a.l. s.v.לא אמר כלום) a town in Judaea (cf. Josh. X, 10), that was famous for its choice fruit, the point in doubt being whether the fruit had originally belonged to an Israelite and whether It had been tithed. If this interpretation is to be followed the sale of the fruit mentioned presumably took place outside Palestine, where locally grown produce is free from tithe. For other interpretations cf. Tosaf. a.l. s.v. *שלי and Levy, s.v.עזק

(8) נטע רבעי which is holy for gibing praise unto the Lord (Lev. XIX, 24), forbidden to be consumed though they may be of a superior quality. Cf. supra note 5.

(9) Lit., 'he did not say anything'.

(10) להשביח, lit., 'to improve'.

(11) Tosef. Dem. IV. Lit 'purchase'. It is assumed that he merely lied, in order to praise his fruit, so that it might fetch a higher price. Similarly in the case under consideration, the idolater's statement that he killed the Israelite is regarded as an idle boast intended as a mere threat.

(12) The Biblical ציון Sidon, on the Western coast of Phoenicia, [or, Bethsaida in Galilee].

(13) קולר lit., 'chain'.

(14) Gr.'** Antioch, on the Orontes in Syria; or Antiochene, the region round Antioch.

(15) כרכום, a battleground, cf. castra.

(16) The town where in 135 C.E. Bar Kokeba fought his last battle against the Romans.

(17) That a man is dead.

(18) בת קול., 'daughter of the voice', 'echo', even if the person who uttered it was not seen, as in the case given infra.

(19) Cf. supra n. 4.

(20) [Identified with Selamin (Selame) in Galilee (v. Josephus Wars II, 20, 6), the modern Hirbet Selame, N.E of the El Battauf valley 20 km from Sepphoris, v. Klein S, MGWJ, 1927, p. 266].

(21) Tosef. Naz. I.

(22) Rabbah b. Samuel.

(23) By his statement that according to Beth Hillel, whose ruling is accepted as the established law, a mere voice is sufficient evidence.

(24) That such evidence is accepted.

(25) Which, being anonymous, is regarded as the established law.

(26) [Demons were believed to deceive men, causing divorces and other evils; v. Angus the Religious Quests of the Graeco-Roman World, p. 38; cf. Git. 66a].

(27) Who heard the voice.

(28) Demons.

(29) [Name of (a) a demon; (b) a man (Rashi). MS. M. and Git. 66a have, 'Jonathan my son'].

(30) Whom the man had married in another town, and who came for the specific purpose of misleading the woman to marry another man so that she might thereby become forbidden to her present husband. A rival is usually suspected of malice against her associate.

(31) When a man, for instance, was cast into a pit and his fate is in the balance.

(32) In order to release her thereby from perpetual doubt as to the ultimate fate of her husband and from the perpetual prohibition of marrying again.

(33) Calling them out, in the case presumed, from the bottom of the pit.

(34) Who have to execute the mission, v. Git. 66a. Similarly in the case dealt with in our Mishnah. Were not the voice to be relied upon the woman might have to remain all her life bereft of her own husband and unable ever to marry another man.

(35) To add another month. The Hebrew leap year contains thirteen, instead of the usual twelve months.

(36) [Dili, a village in Galilee, Horowitz, I, Palestine, p. 131].

(37) Wanting in cur. edd. Cf., however 115a and infra.

(38) Palestine.

(39) So that it is unsafe for one to undertake a journey to Palestine and to report the traditional ruling that follows, [or, in view of the unsettled conditions, it is difficult to obtain in every case two reliable witnesses].

(40) V. Bah.

(41) Who testifies that her husband is dead.
(42) Of Yabneh, a grandson of R. Gamaliel the Elder.
(43) One who is of the same opinion as he.
(44) Lit., 'from the midst of the thing'.
(45) תל ארזא (lit., 'cedar hill'). It is probably identical with the Biblical תל חרשא mentioned in Ezra II, 59 and Neh. VII, 61 for which the Septuagint reads,Gr.**.
(46) Who testified that their husbands were dead. [Some texts add: 'And the law was established that (a woman) shall be allowed to marry on the evidence if one witness'].
(47) Lit , 'from the mouth of'.
(48) Cf. supra n. 11.
(49) Lit., 'by the mouth of'.
(50) Lit., 'by the mouth of'.
(51) As is evident from the final clause of our Mishnah.
(52) Cf. p. 866, n. 11.
(53) Lit., 'believed'.
(54) From a foreign country, though she, like any other messenger who brings a letter of divorce from foreign parts, would have to make the declaration that the document was written and signed in her presence.
(55) Being suspected of hatred towards the woman in whose favour they pretend to give their evidence.
(56) The husband of the woman whom they are suspected of hating.
(57) Supra 117a.
(58) Cf. supra note 5.
(59) Lit., 'their letters of divorce', i.e., any such letters wherewith they might have been entrusted. V. Git. 23b.
(60) V. supra note 6.
(61) Lit., 'in the world'.
(62) How, then, could it be implied that R. Akiba does not allow the evidence of any woman who testifies to the death of another woman's husband?
(63) Of R. Akiba.
(64) Lit., 'here'.
(65) That a woman's evidence on a man's death shall be relied upon in permitting that man's wife to marry again.
(66) The Rabbis.
(67) R. Akiba. V. previous Mishnah.
(68) On the East or S.E. of the Dead Sea. Zoar is mentioned several times in the Bible. Cf., e.g., Gel. XIV, 2, 8 and XIX, 22.
(69) פונדקית (fem.) 'woman innkeeper'.
(70) כהנת V. n. 3.
(71) I.e., since a woman's evidence is ineligible, even that of a priest's wife would be ineligible. Is it then conceivable that the latter should be regarded as less trustworthy than an innkeeper! כהנת might perhaps be rendered 'princess', 'lady' as כהן is interpreted by the Targumim (cf. e.g., Gen. XLI, 45, ps. CX, 4) as רבא 'great man', 'prince'. 'Should not the lady enjoy the status of the innkeeper!' Another interpretation applies כהנת to all Jewish women since any of them might become a כהנת by marrying a priest. Cf. Golds.
(72) The dead man's.
(73) [Some texts add, 'his shoes'].
(74) It was on this proof, and not on the evidence of the innkeeper, that they acted.

Talmud - Mas. Yevamoth 122b

GEMARA. What was the inferiority of the innkeeper?[1] R. Kahana replied: She was an innkeeper who was an idolatress and she said at random,[2] 'This is his staff, and this is his bag and this is the grave wherein I buried him'. So it was also recited by Abba the son of R. Manyumi b. Hiyya: She was an innkeeper who was an idolatress and she said at random,[2] 'This is his staff, and this is his bag and this is the grave wherein I buried him'. But, surely, they had asked her, 'Where is our friend?'[3] — When she saw them she began to cry, and when they asked her, 'Where is our friend?' she

replied, ‘He died and l buried him’,[4]

Our Rabbis taught: It once occurred that a man came to give evidence on behalf of a woman[5] before R. Tarfon. ‘My son’, [the Master] said to him, ‘what[6] do you know concerning the evidence for this woman?’ — ‘I and he’, the other replied, ‘were going on the same road and when a raiding gang pursued us he grasped[7] the branch of an olive tree, pulled it down, and made the gang turn back. "Lion", I said to him, "I thank you".[8] "Whence did you know [he asked] that my name was Lion? So in fact I am called in my home town: Johanan son of R. Jonathan, the Lion of Kefar Shihaya",[9] and after some time he fell ill and died’. And [on this evidence] R. Tarfon permitted his[10] wife to marry again.

Does not R. Tarfon, however, hold that inquiry and examination[11] are necessary? Surely it was taught: It once happened that a man came before R. Tarfon to give evidence on behalf of a woman.[5] My son’, he said to him, ‘What[6] do you know concerning this evidence?’ ‘I and he’, the other replied, ‘were going on the same road, and when a raiding gang pursued us he grasped the branch of a fig tree, pulled it down, and drove[12] the gang back. "I thank you,[13] Lion", I said to him, and he replied, "You have correctly guessed my name, for so I am called in my home town: Johanan son of Jonathan, the Lion of Kefar Shihaya", and after some time he died’. The Master said to him: Did you not tell me thus, ‘Johanan son of Jonathan of Kefar Shihaya the Lion’?[14] — ‘No’, the other replied, ‘but it is this that I told you: Johanan son of Jonathan, the Lion of Kefar Shihaya’. Having examined him closely[15] two or three times and the man's replies invariably agreeing, R. Tarfon permitted his[16] wife to marry again![17] — This [is a point in dispute between] Tannaim. For it was taught: Witnesses on matrimonial matters[18] are not to be subjected[19] to enquiry and examination.[20] These are the words of R. Akiba;[21] R. Tarfon, however, ruled: They are to be subjected.[22] And they[23] differ [in respect of a ruling] of R. Hanina. For R. Hanina stated: Pentateuchally both monetary, and capital cases must be conducted with enquiry and examination,[20] for it is said, Ye shall have one manner of law,[24] what then is the reason why they have ordained that monetary cases do not require enquiry and examination?[20] In order that you should not lock the door in the face of borrowers —[25] And it is on this principle that[26] they[23] differ: One Master is of the opinion that since the woman has[27] a kethubah to receive[28] [such cases[29] are] on a par with those of monetary matters,[30] while the other Master is of the opinion that since we are thereby permitting a married woman to marry a stranger[31] [such cases[32] are] on a par with capital cases.[33]

R.Eleazar said in the name of R. Hanna: Scholars[34] increase peace in the world, for it is said in the Scriptures, And all thy children shall be to taught of the Lord; and great shall be the peace of thy children.[35]

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(1) Implied by the argument of the Sages, ‘SHOULD NOT THEN A PRIEST'S WIFE etc.’

(2) V. supra p. 861, n. 14.

(3) How then could it be said that she spoke at random?

(4) It was thus obvious that she had no ulterior motive in making her statement and that she was merely answering their enquiry. Such evidence may be regarded as given in all innocence (cf. supra p. 861, n. 14) and may be relied upon.

(5) Testifying that her husband was dead.

(6) Lit., ‘how’.

(7) Lit., ‘and suspended himself’.

(8) יישר כחך lit., ‘may thy strength be right (or firm)’.

(9) [שיהיא, Klein S. (v. E.J. Col. 1139) reads שיהליא Kefar Shihlayim, a village in ldumacea, Saallis (Chaalis) mentioned in Joseph. Wars III, 2.2].

(10) The dead man's.

(11) דרישה וחקירה. Cf. Deut. XIII, 15: Then shalt thou inquire and make search (ודרשת וחקרת). Before the evidence is accepted, witnesses are to be questioned and cross-examined as to the day, hour, and attendant circumstances, in order to test thereby the veracity of their statements. V. Sanh. 32a and 40a.

(12) Lit., ‘and caused to return’.
(13) V. supra note 4.
(14) R. Tarfon changed the order of the words to test the man's accuracy.
(15) דקדק rt. דקק (Pilpel) ‘to crush’.
(16) The dead man's.
(17) Which shews that R. Tarfon holds that ‘inquiry and examination’ are necessary!
(18) I.e., evidence on the death of a husband.
(19) אין בודקין rt. בדק Kal., ‘to search’, investigate’.
(20) V. supra p. 869, n. 7.
(21) Eben ha-Ezer XVIII, 79, Wilna Gaon Glosses and others read: ‘R. Akiba and p. Tarfon however etc’.
(22) Cf. supra note 5.
(23) R. Akiba and R. Tarfon.
(24) Lev. XXIV, 22. As capital cases are subject to such enquiry (v. Deut. XIII, is) so are also monetary cases.
(25) Sanh. 2b, 32a. Were difficulties to be placed in the way of creditors they would altogether decline to advance any loans.
(26) Lit., ‘and in what’.
(27) Lit., ‘there is’.
(28) From the estate of her dead husband. The terms of the marriage contract entitle a woman to her kethubah when she lawfully marries again.
(29) I.e., evidence on the death of a husband.
(30) Hence his opinion that no enquiry and examination of the witnesses is necessary.
(31) Lit., ‘to the world’.
(32) Since intercourse with a married woman is punishable by strangulation.
(33) Where full enquiry and examination is required.
(34) תלמידי חכמים v. Glos s.v. Talmid Hakam.
(35) lsa. LIV, 13. children = בניך (rt. בנה ’to build’). The conclusion of the passage in Ber. 64a is as follows: Read not, thy children(banayik) but thy builders (bonayik). Scholars are the builders of the world and it is their dissemination of true knowledge and enlightenment that preserves and promotes the ideals and blessings of peace.