

YEVOMOS – 41a-63b

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The Soncino Babylonian Talmud



YEVOMOS

BOOK III

Folios 41a-63b

TRANSLATED INTO ENGLISH WITH NOTES
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CHAPTERS IV-VI

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Yebamoth 41a

The Rabbis have enacted a preventive measure¹ in respect of her who accompanies the *Haluzah* to court;² in the case, however, of her who does not accompany her to court³ 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 WIDOW⁶ MUST PERFORM *HALIZAH* BUT MAY NOT BE TAKEN IN LEVIRATE MARRIAGE.⁷ SIMILARLY⁸ WHERE A MAN DIVORCED HIS WIFE AND HIS BROTHER MARRIED HER SISTER AND DIED⁵ 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, WAIT¹⁰ 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, HE¹² 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: Here¹⁵ it was taught by Rabbi¹⁶ 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 wife¹⁸ 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 permitted²⁰ then forbidden²¹ and then again permitted²² 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 brother²³ 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 regarded²⁸ as a deceased brother's wife who was permitted²⁹ then forbidden,³⁰ and then again permitted²² who reverts to her former state of permissibility!³¹ He remained silent. After the other went out he said: I should have told³² him that it³³ 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 fit³⁴ at the time she became subject to the levirate marriage;³⁵ did he express such an opinion, however, in the case where she was fit³⁴ 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 his³⁸ 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. Eleazar⁴⁰ only because from the time she became subject to the levirate marriage and

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onward she was no longer forbidden to him.⁴¹ Here,⁴² however, where she was so forbidden⁴³ even the Rabbis agree.⁴⁴

MISHNAH. THE DECEASED BROTHER'S WIFE⁴⁵ SHALL NEITHER PERFORM THE HALIZAH NOR CONTRACT LEVIRATE MARRIAGE BEFORE THREE MONTHS HAVE PASSED.⁴⁶ SIMILARLY ALL OTHER WOMEN⁴⁷ SHALL BE NEITHER BETROTHED NOR MARRIED BEFORE THREE MONTHS HAVE PASSED⁴⁸ WHETHER THEY WERE VIRGINS OR NON-VIRGINS, WHETHER DIVORCEES OR WIDOWS,⁴⁹ 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 INTIMATE⁵⁰ WITH HIS BRIDE.⁵¹ R. JOSE SAID: ALL [MARRIED] WOMEN⁵² MAY BE BETROTHED [FORTHWITH] EXCEPTING THE WIDOW⁵³

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*

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- 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.

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OWING TO HER MOURNING.¹

GEMARA. It is quite reasonable that she² 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 reason⁹ is this: The child might be viable;¹⁰ and you would in consequence subject her to the need for an announcement¹¹ 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 thereby¹⁵ 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 reason¹⁸ is rather the ruling of¹⁹ 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 up²² 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

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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 Yebamah³³ is maintained during the first three months out of the estate of her husband. Subsequently³⁴ 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 court³⁵ 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

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

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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.

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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 delivery³ and Samuel maintains [that it is to date] from the time of writing?⁴ — Raba replied: A *minori ad majus*, if you permitted marriage⁵ where a prohibition under the penalty of *Kareth* is involved,⁶ how much more so [should marriage be permitted⁵ where only] an ordinary prohibition⁷ [is involved]!⁸

SIMILARLY ALL OTHER WOMEN. The case of a sister-in-law² 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 proselyte¹³ 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: This¹⁵ is a preventive measure against the possibility of his¹⁶ marrying his paternal sister,¹⁷ contracting levirate marriage with the wife of his maternal brother,¹⁸ setting his mother free to marry anybody¹⁹ and releasing his sister-in-law to all the world.²⁰

R. Hanania raised an objection: In all these²¹ I read a provision against incest, but here²² it is a provision in favor of the child.²³ Now, if this²⁴ is tenable, all²⁵ would be due to a provision against incest! — The meaning of 'a provision in favor 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 first²⁷ 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

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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 little³⁴ and marry, and when the three months³⁵ 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 fact³⁸ in order that her child may inherit his share in her [second] husband's estate. Where, however, it has been ascertained that she³⁹ 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! — This⁴¹ is a preventive measure against the possibility of turning the fetus 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 uses⁴⁵ an absorbent; and if according to him who said, 'Mercy will be shown from heaven',⁴⁶ mercy will be shown from heaven. Here also⁴⁷ [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 shown from heaven', mercy will be shown from heaven! — [The prohibition]⁴⁸ is due, rather, to [the danger of abdominal] pressure.⁴⁹ If so, [this⁵⁰ applies in the case] of one's own wife also!⁵¹ — A man has consideration for his own.⁵² Here also⁵³ 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

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. [H] 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.

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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. [H] (rt. [H] 'lop off') 'incomplete number of months'.
31. I Sam. I, 20. E.V., When the time was come about.
32. [H], pl. of [H]. The year is divided in four cycles (Tekufoth), each consisting of three months. The pl. [H] 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. [H] '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 fetus.
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.

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might conceive again, her milk would become turbid, and she might thereby¹ 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 it² from the heirs!³ — Abaye replied: A woman would shrink from going to court⁴ 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 divorced⁷ either after betrothal or after marriage.⁸

R. Eleazar did not go one day² 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 opinion¹¹ is against him?¹² — Yes; and so it was taught: A [married woman] who was always anxious¹³ to spend her time¹⁴ at her paternal home,¹⁵ or who had some angry quarrel at her husband's home,¹⁶ or whose husband was in prison¹⁷ 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

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conception or in any other way incapacitated from procreation, must¹⁹ wait three months.²⁰ These are the words of R. Meir. R. Judah²¹ 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 Baraita'? 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 Baraita'? The other replied:

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 Judea (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 [H] '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'iltot, however, the reading is R. Jose.
22. Tosef. VI, 6; 'Er. 47a, Keth. 60b. Thus it has been shown that the opinion of the first Tanna who disagrees with R. Jose (or R. Judah) is

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- 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. [H], designation of the academy at Jabneh or Jamnia where the students' seats on the ground were arranged in rows 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. [H] Many of the Rabbis had a [H], Sham'a, who was both attendant and disciple of the Master and himself a scholar.

Yebamoth 43a

If Rabbi¹ has not taught it,² whence would R. Hiyya³ 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,⁴ but [if only] one [tooth remained,⁵ it is Levitically] clean.⁶ All the teeth, however, if they were removed one by one are individually [susceptible to Levitical] uncleanness.⁷ A wool [comb] whose alternate teeth⁸ are broken off is Levitically clean.⁹ If three consecutive¹⁰ teeth, however, remained, it is susceptible to Levitical uncleanness. If one of these was a side tooth,¹¹ [the comb] is Levitically clean.¹² 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,¹³ or as a spool,¹⁴ is susceptible to Levitical uncleanness.¹⁵ And we have it as a traditional ruling that the *Halachah* is not in agreement with this Mishnah!¹⁶ — The other replied, 'With the exception of this;¹⁷ 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 one¹⁸ refers to the internal,¹⁹ and the other²⁰ the external teeth!²¹

The contradiction, however, arises from the following:²² 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 handle²³ 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,²⁴ and the other to thick teeth.²⁵ [The reason]²⁶ is rather because accurate scholars add this conclusion: 'These are the words of R. Simeon'.²⁷

R. Hiyya b. Abin sent the following message: Betrothal may take place within the three months, and the practice [of the Sages]²⁸ 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.²⁹

Amemar permitted betrothal on the ninetieth day.³⁰ 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

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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.³¹ Did not, however, a man once arrange a betrothal feast on the ninetieth days³² and Raba spoil his feast!³³ — 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 law³⁴ be deduced by inference] from major to minor?³⁵ If when washing of clothes is forbidden,³⁶ betrothal is permitted, how much more should betrothal be permitted when the washing of clothes is permitted!³⁷ What is it?³⁸ — 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 honor of the Sabbath.³⁹ And [in connection with this Mishnah] it was taught: Before this time⁴⁰ 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!⁴¹ — That was taught in respect of the period before that time.⁴² Said Raba, Even in respect of the 'period before that time'⁴³ [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] WOMEN⁴⁴ MAY BE BETROTHED but read, 'ALL MARRIED WOMEN⁴⁴ may be married'.⁴⁵

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.
4. Since the hackle can still be used even though only two teeth remained. [H] '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 are always Levitically clean.
5. The hackle thus becoming unusable.
6. V. *supra* p. 277. n. 11 last clause.
7. Since each single broken tooth can be used for some purpose. V. *infra*.
8. Lit., 'one from between', i.e., one tooth between every three.
9. Its teeth are far apart. and the absence of every alternate tooth renders the instrument useless.
10. Lit., 'in one place'.
11. Which serves as a protection for the other teeth but is in itself useless for combing purposes.
12. V. *supra* p. 277. n. 11.
13. V. Jast.; or 'for picking a candlestick', v. Rashi a.l.
14. Lit., 'for stretching'. V. Jast.
15. Kelim XIII, 8.
16. Though it is anonymous.
17. Only here has the anonymous Mishnah been disregarded.
18. The first clause which implies that if only two teeth remained the comb is still susceptible to uncleanness.
19. With two teeth of which the comb may still be used.
20. The final clause, implying that if only two teeth remained the comb is no more susceptible to uncleanness.
21. 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).
22. Lit., 'but from here'.
23. When a part of the wooden base of the comb was broken off together with the tooth. In this case no adaptation is necessary.
24. Small teeth require a handle without which they cannot be used.
25. Which can be used without any adaptation.
26. Why the *Halachah* is not in agreement with that Mishnah.
27. The Mishnah thus is not at all anonymous.
28. Which he witnessed (v. Rashi a.l.).

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29. Constitute the required period of three months. Three full months are not necessary.
30. After divorce or husband's death.
31. Keth. 60b.
32. After divorce or husband's death.
33. By forbidding the betrothal on that day.
34. On a widow's betrothal within the period of the thirty days of mourning.
35. In a way contrary to the ruling of R. Jose.
36. During the week in which the fast of the Ninth of Ab occurs.
37. 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.
38. I.e., where does the law concerning washing and betrothal occur.
39. Ta'an. 26b.
40. This is now assumed to mean, before the Ninth of Ab and during the week in which the fast occurs.
41. Which shows 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).
42. 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.
43. V. *supra* p. 280, n. 12.
44. Whose husbands died.
45. 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.

Yebamoth 43b

Does not R. Jose, then, hold the view that it is necessary to make a distinction?¹ — If you wish I might say² 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, it⁵ is the same view as that of R. Judah!⁶ — The point at issue between them is the question of the betrothal⁷ 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 women⁸ 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 it¹¹ 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 Erusin¹⁴ widow? Surely R. Hiyya b. Ammi taught: In the case of a betrothed wife,¹⁵ the husband is neither subject to the laws of onan¹⁶ nor may he defile himself¹⁷ for her;¹⁸ and she, [in his case,] is likewise not subject to the laws of onan¹⁶ 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 this²¹ is a question in dispute between²² Tannaim. For it was taught: From the first day of the month²³ 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:

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Whence is it proved that betrothal means actual betrothal! Is it not possible that it is only forbidden to give²⁸ 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 mourning³² is different from ancient mourning,³³ and public mourning³³ is different from private mourning.³⁴

MISHNAH. WHERE FOUR BROTHERS WHO WERE MARRIED TO FOUR WOMEN DIED, THE ELDEST³⁵ 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.

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.

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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.

Yebamoth 44a

IF ONE OF THESE, HOWEVER, WAS ELIGIBLE¹ AND THE OTHER INELIGIBLE,¹ THEN IF HE² 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 she⁷ old, or if he was old and she was young, he is told, 'What would you with⁸ 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'!² — 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 house¹⁴ 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 built¹⁸ 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 up²⁰ to contract levirate marriage, may also go up to perform *Halizah* and whosoever may not go up¹⁷ to contract levirate marriage²¹ may not go up to perform *Halizah*. Furthermore, in order that it be not said that the same house²² 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 wife²⁶ widened the scope.²⁷

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IF ONE OF THEM, HOWEVER, WAS ELIGIBLE. Said R. Joseph: Here²⁸ it was taught by Rabbi²⁹ 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 CHILD³² 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 CHILD³² 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: Here³³ it was taught by Rabbi³⁴ [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 case³⁷ was under discussion one can well see the reason why the expression of THEY AGREE had been used; if you contend, however, that her case³⁷ was not under discussion what is the purport of THEY AGREE?³⁸

Is it not possible that we were informed³⁹ 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. Simeon⁴¹ 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 Tanna⁴³ intended to indicate by his anonymous statement that the

Halachah is according to Simeon⁴¹ 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 be inferred that this case⁴⁵ was under discussion. But is it not indeed possible to maintain that it⁴⁵ 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,

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.

YEVOMOS – 41a-63b

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.

Yebamoth 44b

the child¹ 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 son¹ 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 different⁶ 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

YEVOMOS – 41a-63b

If so, in respect of whom is she¹⁵ 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 This¹⁸ is also logically sound. For in the first clause¹⁹ 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 different²⁷ because she herself becomes²⁸ profaned'²⁹ — But [the fact is that] if any statement was made³⁰ 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 child³³ 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 son³⁷ 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 different³⁹ 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

1. The offspring of such a union.
2. [H] 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. [H] rendered by E.V., it; lit., 'she', is taken to refer to the woman. The Talmudic text here is

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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.

Yebamoth 45a

to the offspring of a union forbidden under the penalty of flogging, since the betrothal in such a case is valid¹ 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 agree'? It is Rabbi. Although Rabbi said, 'These words⁵ are applicable only according to the view of R. Akiba who regards a *Haluzah* as a forbidden relative',⁶ while he himself does not share the same view,⁷ he agrees⁸ in the case of an idolater and a slave. For when R. Dimi came⁹ he stated in the name of R. Isaac b. Abudimi in the name of our Master,¹⁰ '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,¹¹ and R. Tanhum son of R. Hiyya of Kefar Acco¹² once redeemed some captives who were brought from Armon to Tiberias,¹³ [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?¹⁴ 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 to¹⁵ the 'Elders of the South')¹⁶ — who stated that if

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an idolater or a slave had intercourse with a daughter of an Israelite, the child born is untainted! — No, said R. Joseph, it¹⁷ is [the opinion of] Rabbi.¹⁸ For when R. Dimi came² 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 child¹⁹ is tainted. In respect of what?²⁰ 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;²⁰ for all Amoraim who declare the child¹⁹ fit admit that he is ineligible for the priesthood.²¹ 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 all²² her son²³ is tainted,²⁴ how much more should the son of this woman²⁵ be tainted whose prohibition is equally applicable to all.²⁶ The case of a widow who was married to a High Priest may be different, since she herself becomes profaned!²⁷ — Here also,²⁸ as soon as cohabitation occurred the woman is disqualified;²⁹ for R. Johanan stated in the name of R. Simeon:³⁰ 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?³¹ It was stated But if a priest's daughter be a widow, or divorcee;³² Only in the case of a man in relation to whom widowhood or divorce is applicable;³³ an idolater and a slave are consequently excluded since in relation to them no widowhood or divorce is applicable.³⁴

Said Abaye to him:³⁵ What reason do you see for relying upon R. Dimi?³⁶ Rely rather on Rabin!³⁷ For when Rabin came³⁸ he reported that R. Nathan and R. Judah the Prince ruled that such a child is legitimate;³⁹ and⁴⁰ R. Judah the Prince is, of course, Rabbi!

And Rab also ruled that the child is legitimate.⁴¹ For once a man⁴² 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 Media⁴³ a camel can dance on a *Kab*;⁴⁴ here is the *Kab*, here is the camel and here is Media, but there is no dancing'!⁴⁵ 'Had he been⁴⁶ 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'.⁴⁷ 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.⁴⁸ Rab Judah also ruled that the child is legitimate.⁴⁸ For when one⁴⁹ came before Rab Judah, the latter told him, 'Go and conceal your identity⁵⁰ or marry one of your own kind'.⁵¹ When such a man⁵² appeared before Raba he told him, 'Either go abroad or marry one of your own kind'.⁵³

The men of Be-Mikse⁵⁴ 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 man⁵⁵ 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 ruling⁵⁶

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).
5. That cohabitation with a deceased brother's wife after *Halizah* with her rival has not the force of marriage and no divorce is required.

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The child from such a union would consequently be deemed a bastard.

6. *Infra* 52b.
7. But maintains that the child of such a union is no bastard.
8. With R. Akiba; and the child is consequently a bastard.
9. From Palestine to Babylon.
10. Rabbi, R. Judah the Prince.
11. Cf. Neh. VII, 2.
12. [H] in lower Galilee, v. Sanh., Sonc. ed. p. 484, n. 7.
13. [Rashi reads: Antioch. Armon has not been identified. V. Horowitz I.S. Palestine, s.v.].
14. 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.
15. Lit., 'and bring in'.
16. [With particular reference to the scholars of Lydda among whom Bar Kappara and R. Joshua b. Levi were included.]
17. The ruling that the child is a bastard.
18. 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.
19. Born from a union between a Jewish woman and an idolater or a slave.
20. 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.
21. V. *supra* note 2.
22. A widow is only forbidden to marry a High Priest but not an Israelite or an ordinary priest.
23. Born from her union with the High Priest.
24. If a male; and if a female she is ineligible to marry a priest.
25. Who had intercourse with an idolater or a slave.
26. The daughters of priests, of Levites and of Israelites are all equally forbidden to marry an idolater or a slave.
27. V. *supra* p. 288, n. 23.
28. Where intercourse took place between a Jewess and an idolater or a slave.
29. From ever marrying a priest.
30. Others, 'Ishmael'. V. BaH. a.l.; and Tosaf., *infra* 68b, s.v. [H].
31. 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.
32. 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*),
33. I.e., an Israelite. Only then does she regain her right of eating her father's bread. V. n. 14.
34. Their very betrothal and marriage having no validity.
35. R. Joseph.
36. Who, on the authority of Rabbi *supra*, declared the child to be a bastard.
37. Who, also on the authority of Rabbi, does not regard such a child as a bastard.
38. From Palestine to Babylon.
39. Lit., 'rule concerning it towards permissibility'.
40. Lit., 'and who'.
41. Cf. *supra* n. 6.
42. The offspring of union between a Jewess and an idolater.
43. I.e., in foreign lands where wonders occur, (Golds.).
44. The *Kab* is a small measure of capacity equal to four *Log* or a sixth of a *Se'ah*.
45. I.e., Rab had displayed originality and marvelous courage by his ruling, and yet stops short of carrying it into practice.
46. V. BaH a.l.
47. They would regard the Master's refusal as an indication that the man is really illegitimate.
48. Lit., 'rule concerning it towards permissibility'.
49. The issue of a union between a Jewess and an idolater.
50. 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 counseled 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.
51. V. *infra* n. 3.
52. Cf. *supra* p. 294, n. 7.
53. 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,
54. [A frontier town between Babylon and Arabia, v. Obermeyer, p. 334].
55. V. Git., Sonc. ed. pp, 175ff.
56. That the offspring of a union between a Jewess and an idolater or slave is legitimate.

YEVOMOS – 41a-63b

Yebamoth 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 ruling⁴ was made only in the case where he⁵ betrothed⁶ 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 both¹⁰ was made from none other than the wife of one's father.¹¹ He who regards the child⁹ 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 those¹² 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. Judah¹⁶ must have been made in respect of one¹⁷ who had intercourse with a married woman, so that his emancipated side¹⁸ cohabits with a married woman.¹⁹

Rabina said: R. Gaza told me, 'R. Jose b. Abin happened to be at our place when an incident²⁰ 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 Raba²² said to Rabina: Amemar once happened to be in our place and he declared the child²³ 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.²⁴

Raba declared R. Mari b. Rachel²⁴ to be a legitimate Israelite and appointed him among the pursers²⁵ 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 Jewess²⁹ and her daughter³⁰ 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 he³⁶ not bathe in connection with any mishap³⁷ of his'?'³⁸

YEVOMOS – 41a-63b

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?

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. [H], sing. [H], cf. [G], 'supervisor', 'purser' or 'collector'. The appointment gave its holder authority over the Jews under its jurisdiction.
26. Deut. XVII, 15. Cf. BaH a.l.
27. R. Mari.
28. The slave wished to take her as wife. Lit., 'wife', or 'wifehood'. He made her take a ritual bath in accordance 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 must 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.

YEVOMOS – 41a-63b

Yebamoth 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 food³ and manumission⁴ cancel a mortgage.⁵

R. Hisda raised an objection: It happened with the proselyte Valeria⁶ that her slaves forestalled her and performed ritual ablutions⁷ 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 taught¹⁴ applies only to one¹⁵ who buys¹⁶ from an idolater; but the idolater himself¹⁷ 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 labor, may not an idolater, [it may be asked,] buy an Israelite to do manual labor? 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: It²⁵ might be said [to refer to acquisition] by means of money and ritual ablution!²⁶ — This is a difficulty.

Samuel said: He²⁷ must be firmly held²⁸ 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 chain³² 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 people³⁷ 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 Gabla³⁹ 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 serving⁴¹ 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, because⁴⁵ they⁴⁶ are ignorant of the Torah.

'That their children are bastards', R. Johanan ruling in accordance with his view. For R.

YEVOMOS – 41a-63b

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 nazirite⁴⁷ 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 forefathers⁵² 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 mothers⁵³ 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 reply⁵⁴ that a possibility⁵⁵ 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 lamb⁵⁷ of later generations⁵⁸ may be brought from Hullin⁵⁹ only? Those in Egypt were commanded to bring⁶⁰ 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 Hullin⁵⁹ 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

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. [H].
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 shown that if the owner is an Israelite, ritual ablution does not procure the slave's

YEVOMOS – 41a-63b

- 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 labor 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. [H] '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. [H] v. Jast [H] '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 [H] (cf. [G] 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. [H] '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.

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58. Subsequent to the generation that brought the first Paschal lamb in Egypt.
59. [H] '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?

Yebamoth 46b

all agree¹ 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 he³ 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 required⁶ ablution is required,⁷ how much more should ablution be required where washing of the garments is required',⁸ [it may be retorted that] that⁹ 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 for¹⁸ '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 ablution¹⁹ 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 Hence²² it is permissible for a proselyte²³ 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 one²⁷ 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 taught³¹ 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 both³³ are required [ablution must be forbidden as] the improvement of a man³⁴ 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 there³⁵ is because the circumcision had not been performed in our presence³⁶ but where the circumcision had taken place in our presence³⁷ it might have been assumed that a proselyte in such circumstances³⁸ may perform the prescribed ablution even on the Sabbath, hence we were taught³⁹ that R. Jose requires both.³³

Rabbah stated: It happened at the court of R. Hiyya b. Rabbi — (and R. Joseph taught: R.

YEVOMOS – 41a-63b

Oshaia b.⁴⁰ Rabbi;⁴¹ and R. Safra taught: R. Oshaia b. Hiyya⁴¹ — 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 tomorrow⁴³ 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 inferred⁴⁵ 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 law⁴⁸ 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

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 must 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 shown 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.

YEVOMOS – 41a-63b

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 [H] (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 ([H] E.V., 'stranger') sojourn with thee.
52. *Ibid.*, i.e., as long 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.

Yebamoth 47a

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 Israel² proof must be produced;³ outside the Land of Israel⁴ 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 they⁶ state, 'We heard that he 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 thee¹¹ 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 attracted¹⁴ by the Gleanings,¹⁵ the Forgotten Sheaf,¹⁶ the Corner¹⁷ 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 produced¹⁹ 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,²¹ 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;²² from this text²³ did R. Judah deduce that a man who becomes a proselyte²⁴ in the presence of a *Beth din* is

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deemed to be a proper proselyte; but he who does so privately is no proselyte.²⁵

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.'²⁶

Did R. Judah, however, state that a proselyte is not trusted in respect of his children? Surely it was taught: He shall acknowledge²⁷ implies, 'he shall be entitled to acknowledge him before others?'²⁸ From this did R. Judah deduce that a man is believed when he declares, 'This son of mine is firstborn',²⁹ 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'.³⁰ But the Sages say: He³¹ is not believed!³² — R. Nahman b. Isaac replied: It is this that he³³ really told him,³⁴ 'According to your own statement you are an idolater, and no idolater is eligible to tender evidence'.³⁵

Rabina said: It is this that he³⁶ really told him,³⁷ '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 children³⁸ 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.³⁹ But, surely, [a Baraita] was taught

in agreement with Rabina!⁴⁰ — That statement was made with reference to the law of acknowledgement.⁴¹

Our Rabbis taught: If at the present time a man desires⁴² to become a proselyte, he is to be addressed as follows: 'What reason have you for desiring⁴³ 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',⁴⁴ 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,⁴⁵ the Forgotten Sheaf,⁴⁶ the Corner⁴⁷ and the Poor Man's Tithe.⁴⁸ 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 suet⁴⁹ 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 suet⁴⁹ 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 fulfillment. 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

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. ed., '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

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well known. How then could the same phrase be used for two different expositions?

11. [H] Lev. XIX, 33.
12. [H] *ibid.* 34. V. [H] a.l. and Torath Kohanim. Cur. edd. read, [H] '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. [H] 'gleaning': the gleanings of the harvest which must be left for the poor. V. Lev. XIX, 9, XXIII, 22, Peah IV, 10f.
16. [H] 'forgetting'; any sheaf forgotten when a field is reaped belongs to the poor. V. Deut. XXIV, 19, Peah V, 7f, VI.
17. [H], 'corner', sc. of the field, the produce of which must not be harvested by the owner, it being the portion of the poor. V. Lev. XIX, 9, XXIII, 22, Peah 1ff.
18. [H] 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.
21. 'With thee' and 'In your land'. V. *supra*.
22. Deut. I, 16. [H] 'proselyte' (E.V. 'stranger').
23. Since 'proselyte' was mentioned in the same context as 'judge'.
24. I.e., who had been circumcised and performed the prescribed ablution.
25. As a judicial matter requires a *Beth din* so does the initiation of a proselyte.
26. [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. *intb*].
27. Sc. the firstborn (Deut. XXI, 17).
28. [H] E.V., he shall acknowledge, being a Hif., may also be rendered as here, 'he shall make known', viz., to others.
29. Though another was hitherto reputed to be his firstborn son.
30. V. [Glos.](#)
31. If another son of his was reputed to be the firstborn.
32. 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?
33. R. Judah.
34. The proselyte.
35. As his children have hitherto been reputed to be legitimate, his ineligible evidence cannot disqualify them.
36. R. Judah.
37. The proselyte.
38. In accordance with the deduction from 'He shall acknowledge' in the Baraitha cited from Kid. and B.B. *supra*.
39. 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.
40. 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.
41. Lit., 'he shall acknowledge' (Deut. XXI, 17), i.e., the reference is not to a proselyte but to an Israelite whose word is accepted when he testifies that his son is either a firstborn, or the son 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.
42. Lit., 'who comes'.
43. Lit., 'what have you seen that you came'.
44. Of the privilege of membership of Israel.
45. V. *supra* p. 308. n. 8.
46. V. *loc. cit.* n. 9.
47. V. *loc. cit.* n. 10.
48. V. *loc. cit.* n. 11.
49. I.e., forbidden fat.

Yebamoth 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 shreds³ 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.

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The same law⁵ applies to a proselyte and to an emancipated slave; and only where a menstruant may perform her ablution⁶ may a proselyte and an emancipated slave perform this ablution;⁷ and whatever is deemed an interception in ritual bathing⁸ 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 proselyte¹² shall join himself with them, and they shall cleave¹³ 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 Noahide¹⁵ would rather be killed than spend so much as a *perutah*¹⁶ which is not returnable.¹⁷

'He¹⁸ 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', she²⁰ 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'²⁵

'We have been commanded six hundred and thirteen commandments'! — 'Thy people shall be my people'.²⁶

'We are forbidden idolatry'! — 'And thy God my God'.²⁷

'Four modes of death²⁸ were entrusted to Beth din'!²⁶ — 'Where thou diest, will I die'.²⁷

'Two graveyards²⁸ 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 this³⁴ to apply to the acceptance of the yoke of the commandments,³⁵ the following contradiction

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may be pointed out: This³⁶ 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 accept³⁹ 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

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 must 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. [H] cf. Lev. XIII, 2.
12. [H] (E.V., 'stranger').
13. [H] of the same rt. as [H] (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. [H], 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. [H] 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 Baraita 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 must 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.

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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

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a woman?⁴ But [this is the implication]: The slave⁵ of a man may be forcibly circumcised but no son of a man⁶ may be forcibly circumcised. And the Rabbis?⁷ — 'Ulla replied: As you, admittedly, may not by force circumcise the son of a man⁸ 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 proper¹¹ slave but he who is not under his master's control is not a proper¹¹ slave.¹²

R. Papa demurred: It might be suggested that the Rabbis were heard¹³ in respect of a woman of goodly form¹⁴ only,¹⁵ because she¹⁶ 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 make¹⁹ a declaration of acceptance'.²⁰ Thus it follows²¹ 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 acceptance²⁰ 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! — That²⁵ was taught only with reference to the ablution.²⁶

Our Rabbis taught: And she shall shave her head, and do²⁷ her nails,²⁸ R. Eliezer said,

'She shall cut them'.²⁹ R. Akiba said, 'She shall let them grow'. R. Eliezer said:³⁰ An act³¹ 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 act³¹ 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 done³³ 'his beard';³⁴ by 'doing'³⁵ removal was meant.

Our Rabbis taught: And bewail her father aid her mother;³⁶

1. Thus it has been 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 son of an idolater who is not a slave, or the son 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.

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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. [H]. 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. [H] E.V. 'trimmed'.
34. II Sam, XIX, 25.
35. [H]. V. *supra* n. 1.
36. Deut. XXI, 13.

Yebamoth 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 refreshed⁶ 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 so⁹ 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 stranger¹² 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 he¹⁷ 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 this¹⁹ applies when no definite consent has ever been given;²⁰ but where definite consent²¹ had once

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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 replying²⁴ 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 he²⁷ stated that [uncircumcised slaves] may not be retained! R. Papa answered: It may be said to be the view even of R. Akiba, for this²⁸ applies where he had made no stipulation with him,²⁹ but where a stipulation²⁹ 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 answer³¹ [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-chamber³⁴ 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 frontier³⁶ he must not be 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 Noahide³⁸ 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 it⁴² out of love⁴³ 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 come to take refuge.⁴⁶

1. The idol.
2. Jer. II, 27.
3. [H] 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, [H] may be performed on the Sabbath. Since circumcision of the slave could not be

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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, 14.
11. V. p. 317, n. 10.
12. Ex. XXIII, 12, [H].
13. Or, resident alien. [H], 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 [H] *infra*. Working on the Sabbath while in the employ of an Israelite (v. Tosaf. s.v. [H] 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. [H] '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. [H] and [H] 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. [H] '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.

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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 WAS⁴ MARRIED TO ANOTHER MAN AND DIED, HE IS PERMITTED TO MARRY HER SISTER. IF A MAN'S SISTER-IN-LAW⁵ 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 MARRIED⁶ 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

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father saw; and he⁸ holds the same opinion as R. Judah who said that this Scriptural text⁷ 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 not enter the assembly of the Lord,¹¹ it is obvious that the offspring of any such union¹² is deemed to be a bastard. According to R. Simai also who includes¹³ [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 includes¹⁵ even the offspring of a union forbidden under a positive commandment,¹⁵ the deduction¹⁶ is made from And ... not.¹⁷

And Simeon the Temanite?¹⁸ — He holds the same opinion as the Rabbis who stated that the text¹⁷ speaks of a woman¹⁹ awaiting the levirate decision of his father,²⁰ the union with such a woman²¹ 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 written²³ '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 others²⁸ are to be regarded as bastards.²⁹

Abaye said: All agree that if one cohabited with a menstruant

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 does 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, does 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 our 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 son by two negative precepts, those of Lev. XVIII, 24 and Deut.

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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.

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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 law⁸ 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 quantity¹⁰ but thoroughly sifted".¹¹ And in it was also written, "Manasseh slew Isaiah"'.¹²

Raba said: He¹² brought him to trial and then slew him. He¹² 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 fulfill'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 willful [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 other²⁴ 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 Year²⁵ and the Day of Atonement.²⁵ Concerning the number of thy days I will fulfill,²⁶ Tannaim are in disagreement. For it was taught: The number of thy days I will fulfill²⁶

1. [H], 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. [H] 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. [H] a small measure of capacity (v. *Glos.*). His rulings in the Mishnah and Baraitha ate only few.
11. [H] lit., 'clean', 'pure'. The *Halachah* is always in agreement with R. Eliezer b. Jacob's rulings.

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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.

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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 prophet⁷ stood up and prophesied: Behold, a son shall be born to the house of David, Josiah by name,⁸ while Manasseh⁹ 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 he¹² 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

CHAPTER 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'AMAR¹⁶ 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 BOND²² 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 DIVORCE²⁶ 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 ACT²⁹ 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 HALIZAH³⁰

1. The span of life allotted to every human being at his birth.

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2. The meaning of fulfill 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 son 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. [H] 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 not 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 be 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.

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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*.

Yebamoth 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 ONE² AND A MA'AMAR TO THE OTHER,² TWO LETTERS OF DIVORCE³ 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 DIVORCE⁶ 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 DIVORCE⁸ 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 DIVORCE¹² 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 LEVIR 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 HER¹⁸ 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 MIDDLE²¹ OR AT THE END²²

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SOMETHING VALID²³ 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 difference²⁶ 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 acquisition³⁴ and cohabitation serves the purpose of acquisition,³⁶ as a Ma'amar is of no effect,³⁷ so is cohabitation also of no effect³⁸ and one would thus consummate marriage³⁹ after an act of cohabitation.⁴⁰

And why did the Rabbis say that after an invalid cohabitation something⁴¹ lingers?⁴² — It might be replied that if it is a cohabitation⁴³ after a letter of divorce,⁴⁴ a preventive measure was made⁴⁵ against cohabitation after *Halizah*;⁴⁶ and if it is a cohabitation⁴³ after a Ma'amar⁴⁴ a preventive measure had to be made⁴⁷ 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:

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.

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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.

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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 first³ does set aside [the levirate bond], what purpose could the latter serve?⁴ If the first³ 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 first⁵ does effect a *Kinyan*, what purpose

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could the latter serve?⁴ And if the first⁵ 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 cohabitation¹¹ 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 this¹⁴ 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 act¹⁷ sets aside¹⁸ while the other¹⁹ 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 cohabitation²³ [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 both³² and he submits to *Halizah* from either of them. And the same law applies where there are two Ievirs³³ and one sister-in-law.

What did R. Gamaliel mean by his statement that³⁴ 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 gave³⁸ 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 one³⁹ who had been divorced,⁴⁰ her rival⁴¹ 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

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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,

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

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- 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. [H] and [H] 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.

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the Rabbis are presumably of the opinion that a levirate 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 made⁶ against

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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 wife¹⁰ [remains] with him¹¹ while the other is exempt¹² as being his wife's sister.¹³

R. Simeon? — For it was taught: R. Simeon said to the Sages: If the cohabitation of the first¹⁴ is a valid act,¹⁵ that of the second cannot have any validity¹⁶ if, however, the cohabitation of the first has no validity, then that of the second also has no validity.¹⁷ Now, the cohabitation of one who is nine years of age has been given by the Rabbis¹⁷ the same force as that of a Ma'amar¹⁸ and yet R. Simeon stated that such cohabitation¹⁹ has no validity.²⁰

Ben 'Azzai? — For it was taught: Ben 'Azzai stated, 'A Ma'amar is valid after another Ma'amar where it concerns two levirs²¹ and one sister-in-law,²² but no Ma'amar is valid after a Ma'amar where it concerns two sisters-in-law and one levir'.²³

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,²⁴ and yet it was stated, THERE IS NO VALIDITY IN ANY ACT THAT FOLLOWS IT.²⁵

HOW ... IF A LEVIR ADDRESSED A MA'AMAR, etc.

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. [H] *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.
14. 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.
15. Effecting a *Kinyan*.
16. The *Kinyan* of the first would not admit it.
17. *Infra* 96b.
18. V. *supra* p. 339, n. 10.
19. By the second levir.
20. Obviously because the *Kinyan* had been effected by the cohabitation of the first. Thus it

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follows that a Ma'amar also (cohabitation and Ma'amar having equal validity) effects *Kinyan*.

21. Each one of whom had addressed to the widow only one Ma'amar.
22. Since each levir is entitled to a Ma'amar. V. *supra* 51a.
23. The second Ma'amar has no validity, because by the first Ma'amar the levir had already effected the *Kinyan* of the sister-in-law to whom he had addressed it.
24. Since in both cases, divorce alone is not enough to sever the levirate bond, *Halizah* also being required.
25. Obviously because the cohabitation like a Ma'amar had constituted a *Kinyan*.

Yebamoth 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 but³ 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 he⁸ 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 flogging¹² is inflicted upon him?¹³ — Chastisement¹⁴ was meant, which is a Rabbinical penalty.¹⁵ For Rab ordered the chastisement¹⁶ 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 insolent²² 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 these²⁵ 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 her²⁶ 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 shard, although it was not worth even a *perutah*,²⁹ 'Behold thou art betrothed unto me'!³⁰ Abaye replied, It is this that was meant: How is the deed of the *Kethubah*³¹ in a levirate marriage

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[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 her³⁵ 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 here³⁸ 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 husband⁴⁵ 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 definitely⁴⁸ 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 power⁵⁰ to divorce her;⁵¹

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. [H] 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.](#)

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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.

Yebamoth 52b

if¹ 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 if⁴ for one's sister-in-law?⁵ Is she, because she is bound to him,⁶ regarded as his betrothed⁷ 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 he⁹ 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 action¹² 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 he¹⁵ gave her a letter of divorce in respect of his Ma'amar, her rival¹⁶ 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: This¹⁹ 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 it²⁰ 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

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Likewise it was also taught: Rabbi said, this statement²⁵ 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 proselyte³¹ believing it to be his own,³² which constitutes no *Kinyan*.³³ Said Abaye to him:³⁴ Are the two cases alike? There³⁵ he³⁶ had no intention at all of acquiring possession,³⁷ but here³⁸ 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 here⁴² 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 here⁴⁸ 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

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 write 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 levirate 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;

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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 levirate bond. Had it not annulled the Ma'amar, the widow would have been forbidden owing to the levirate 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.

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that a levirate bond does exist¹ 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 Master⁷ 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

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R. Ashi said: [No;] All agree that a *Halizah* of an impaired character provides no exemption. Here,² however, the dispute centers round the question whether a condition¹⁰ may affect the validity of *Halizah*.¹¹ The Masters hold that a condition¹¹ does affect the validity of a *Halizah*¹² and the Master¹³ 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,² however, the dispute is dependent on the question of the doubled condition.¹⁵ The Master¹³ holds that a doubled condition is essential¹⁶ 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 anyone²¹ was preferred by him.²²

THE LAW IS THE SAME WHETHER THERE IS ONE SISTER-IN LAW ... OR TWO SISTERS-IN-LAW. Our Mishnah²³ 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 levirs²⁴ 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 this²⁷ 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 this³⁰ 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 generally³² were meant.³³

IF HE GAVE A LETTER OF DIVORCE TO ONE AND SUBMITTED TO *HALIZAH* FROM THE OTHER. May it be suggested that this³⁴ provides support to the ruling of Samuel³⁵ 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 anyone⁴¹ 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 house⁴³ stands under the prohibition of a negative precept,⁴⁴ it is intelligible why it was necessary to inform us⁴⁵ 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 house⁴⁷ 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

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married woman?⁴⁹ But the fact is that as he taught concerning the permissibility⁵⁰ 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.

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. [H], 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. [H]
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 SISTER-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.

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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).

Yebamoth 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 rule¹ 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 made² 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 ruling⁵ 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 ruling⁷ 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 cohabitation⁸ as a preventive measure against a divorce that preceded cohabitation,² it was consequently necessary to tell us that no such preventive measure was required. But what need was there [for the ruling¹⁰ 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 PLACE¹³, 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 middle¹⁴ 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

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case of *Halizah* where no preventive measure is called for¹⁷ 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 Rabbis²² 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 ERROR²⁵ 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 NATURE²⁸ OF THE INTERCOURSE.²⁹ SIMILARLY, IF A MAN HAD INTERCOURSE³⁰ 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 NETHINAH³¹ 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 error³³ and her intention was the performance of the commandment³⁴ 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 or³⁷ he in presumption and she in error, so that the intention of neither of them was the fulfillment 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

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.

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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.

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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 is⁶ when, for instance, his intention was intercourse with his wife and⁷ 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 her⁹ 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 her¹¹ 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 it¹⁴ is a commandment!¹⁵ — That it¹⁴ is a commandment¹⁶ may be inferred from And if the man like not¹⁷ which implies that if he likes he contracts the levirate marriage;¹⁶ so that the other text¹¹ may serve the purpose of deducing,¹⁸ 'whether in error or in presumption, whether under compulsion or of his own free will'.¹⁹

Another [Baraita] 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 unto²¹ her,¹¹ only the cohabitation consummates her marriage, but neither money²² nor deed²² can consummate

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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 text¹¹ that it²⁵ 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 text¹¹ 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 awake³¹ 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 shoot³³ 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 fountain³⁷* it is deduced from this text that the first stage of contact³⁸ 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 deduction³⁹ 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 his⁴³ power to increase the number, for should he wish, he could go on betrothing as many as a thousand!⁴⁴ — The deduction⁴⁵ 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 it⁴⁵ cannot be deduced from one category⁴⁸ then let it⁴⁹ be deduced from the two categories.⁵⁰

From which⁵¹ however shall deduction be made? Were it made from a brother's wife⁵² and a father's sister⁵³ and a mother's sister,⁵³ [it might be objected that] those stand in a

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different category, since the prohibition of these is due to relationship!⁵⁴ — Deduction is rather made⁵⁵ from the menstruant⁵⁶ 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 deduction⁵⁵ is rather made from the menstruant and a brother's wife; since no⁵⁸ 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 R. 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,

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 willful. 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. [H], rendered by E.V. *ibid.*, *having her sickness*.
37. Lev. XX, 18.
38. [H] (first stage) is of the same rt. as [H] 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. XX, 21. [H] 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.

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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.

Yebamoth 54b

the prohibition depends on the number of days,¹ and with a brother's wife the All Merciful made her prohibition 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 about⁵ 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 there⁸ 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-law¹⁰ 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 forbidden¹² during the lifetime of her husband?¹³ But surely this is a logical inference: Since the All Merciful said that she¹⁴ is permitted to marry after the death of her husband, it may be inferred that during the lifetime of her husband¹⁵ she is forbidden! — [No] for is it not possible [to maintain] that after the death of her husband it¹⁵ is a commandment, and during the lifetime of her husband it¹⁵ 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 commandment¹⁸ that is derived from a positive one¹⁹ 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 text²⁷ in [forbidding] the first

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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 inferred³⁰ from a similar offence that is subject to the death penalty of a court! — Since the entire context³¹ was to serve the purpose of exposition,³² this thing³³ 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? — This³⁶ is only logical: A man is subject to a penalty³⁷ in this case and he is also subject to penalty³⁷ in the case of his sister; as with his sister it is the same whether she is paternal or maternal, so here also³⁸ it is the same whether she is paternal or maternal. But might it not be argued³⁹ in this way: A man is subject to a penalty³⁷ in this case and is also subject to a penalty³⁷ in the case of his aunt;⁴⁰ as his aunt is forbidden only when she is paternal⁴¹ but not when maternal,⁴² so here also³⁸ when she is paternal and not when maternal! — Let us consider whom it more closely resembles. A prohibition which is natural⁴³ ought to be inferred from a prohibition which is also natural⁴⁴ but let no proof be adduced from an aunt whose prohibition is not natural.⁴⁵ But might it not be argued⁴⁶ thus: The relatives of a father⁴⁷ should be inferred from the relatives of a father⁴⁰ 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 implying⁵⁰ 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 it⁵² 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 it⁵² 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 it⁵⁶ 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 paternal⁵⁸ 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] maternal⁶¹ so here also, he⁶² must be paternal⁶³ and not [necessarily] maternal. And whence is it⁶⁴ 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] 'She⁶⁶ also is dead', he married her maternal sister; 'She⁶⁷ too is dead', and he married her paternal sister; 'She⁶⁸ also is dead', and he married her maternal sister, he is permitted⁶⁹ to live with the first,⁷⁰ third⁷¹ and fifth⁷² 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

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is permitted to live with the second²⁵ and with the fourth²⁶ who also exempt their rivals,²³ but he is forbidden to live²⁷ with the third and with the fifth.²⁸

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 shown *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. [H] = [H] 'cease and go', similar to *apage*, [G].
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 shown 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.

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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.

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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 also² whether she is paternal or maternal. But let the deduction³ be made from one's aunt; as one's aunt [is forbidden only when she is] paternal⁴ and not when maternal, so here³ 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 relatives⁵ [should be inferred] from [laws concerning others of] his own relatives.⁶ On the contrary! Deduction⁷ should have been made from one's aunt, since a relationship effected through betrothal⁸ [should be inferred] from one effected through betrothal!⁹ — The deduction⁷ is rather made from a brother's wife, since her relationship¹⁰ 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 here¹² 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 also¹² [the prohibition applies] whether he¹³ was paternal or maternal. But might it not be argued¹⁴ thus: He is subject to a penalty here¹² and he is also subject to penalty [for intercourse] with his aunt. As therefore [the prohibition of] his aunt applies only when she is paternal¹⁵ and not when only maternal, so here¹² also [the prohibition applies only when he¹³ is] paternal and not when only maternal! Let us observe whom the case¹⁶ 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 betrothal¹⁶ 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 reason¹⁹ it was specifically stated in Scriptures, It is thy brother's nakedness,²⁰ implying²¹ whether he is paternal or only maternal.

Might it not be suggested that the one as well as the other²² 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 both²⁵ still speak of the wife of a paternal brother, the one referring to a

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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 commandment²⁶ but if she has children it is optional! Or else: [Though indeed] the levir may marry her if²⁷ she has no children but he may not if she has children, yet [as the prohibition²⁸ is] a negative commandment that is derived from a positive one²⁹ 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 permitted³³ after the death of her husband, so is also the wife of a maternal brother³⁴ 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 offences³⁸ 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 his⁴⁰ penalty is *Kareth* and not flogging',⁴¹ whence is the division⁴² 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 offence⁴⁹ 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 commandments⁵² to be inferred? — As the All Merciful specified carnally⁵³ in the case of a designated⁵⁴ 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

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Whence [is the prohibition⁶⁴ in respect of] those who are subject⁶⁵ to the penalty of a positive commandment⁶⁶ inferred?

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 [H] 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.

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54. [H] 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 be 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.

Yebamoth 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 it⁴ 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 it⁷ is a positive precept,⁸ [it would

be subject to the same restrictions as any other] positive precept.⁶ Whence, however, [its⁹ force¹⁰ in respect of] the *Yebamah* and the levir? — It is arrived at by the analogy between the two expressions of 'coming'.¹¹

Whence [its⁹ force¹² 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 that²² of the Sotah? — Such as was taught: Carnally²² 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 contact²⁶ is the insertion of the

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corona;²⁷ what can be said, however, according to him who maintains that it²⁸ is the superficial contact!²⁹ — The exclusion is rather the case where he warned her concerning lecherous contact of her limbs; but³⁰ it was necessary [to state it, because] it might have been assumed that, as the All Merciful has made the prohibition³¹ 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 came³⁴ 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: 'Carnally³⁵ 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 came³⁴ 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 storyteller³⁷ or I.³⁸

When Rabin came³⁴ 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 came³⁴ 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.

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 shown *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 fertilization 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.

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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. [H] 'friction', Syr.-Aram. rt. [H] 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.

Yebamoth 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 constituted 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 brother³ and to exempt her⁴ from the levirate marriage.⁵ If [she⁶ became subject to the levir] after her marriage⁷ 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 it¹¹ in so far only as to put him¹² 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 also¹⁵ 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 died¹⁷ 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 before²³ she may eat.

Others say: If [she²⁴ became subject to the levir] after her betrothal²⁵ all²⁶ 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

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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 cohabitation 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 died³⁰ 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 this³³ 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 eating⁴¹ before. Said Abaye to him: What now? would the daughter of an Israelite who was married to a priest who subsequently died⁴² be entitled to eat [*Terumah*] because she was eating it before? But⁴³ [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 prohibition⁴⁷ is to be made in respect of the marriage of a deaf priest⁴⁸ 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 Then⁵² 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

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

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- 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 Rabbinnically 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 be maintained any more that he was waiting until they had concluded their full statement, and the original difficulty consequently arises again.

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who enlightened us on the subject¹ 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

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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 refer⁵ 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 refers⁸ 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 refers⁸ to unnatural intercourse with those [cohabitation with whom is] subject to the penalty of negative precepts.¹¹

Rabbah¹² stated: If the wife of a priest had been outraged, her husband suffers the penalty of flogging on her account¹³ 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 seized¹⁸ she is permitted.¹⁹ But there is another woman who is forbidden¹⁹ even though she was seized.¹⁸ And who is that? The wife of a priest. Now, a negative precept²⁰ that is derived from a positive one²¹ has only the force of a positive precept!²² — Rabbah replied: All²³ 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 seized¹⁷ she is forbidden but if she was seized¹⁸ 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 flogging²⁶ 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 seized²⁹ she is permitted. But there is another woman who is forbidden³⁰ even though she was seized.²⁹ And who is that? The wife of a priest'. Now, a negative precept³¹ that is derived from a positive one³² has only the force of a positive precept!³³ — Rabbah³⁴ replied: All³⁵ 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 seized³⁷ she is forbidden, but if she was seized³⁸ 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 PRIEST⁴⁰ 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, [this⁴⁵ may be arrived at by an inference] a *minori ad majus*: If permissible betrothal⁴⁶ does not confer the right of eating *Terumah*, how much less forbidden betrothal.⁴⁷ They, however, replied: No; if you have said it⁴⁸ in respect of permissible betrothal⁴⁶ where the man may never confer the right of eating,⁴⁹ would you also say it⁴⁸ in respect of sinful betrothal⁴⁷

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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 stones⁵² 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 cohabitation⁵⁴ may not eat *Terumah*, this woman also⁵⁵ may not eat; but according to R. Eleazar and R. Simeon who maintain that a woman awaiting a Pentateuchally forbidden cohabitation⁵⁴ may eat

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 [H] = our Tanna (Rashi). [H] = and our Tanna also taught so. Others render [H] 'confirmation: [H] = and the Tanna is (or provides) confirmation (v. Jast.). [Or, [H] '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 אהרן a.l.) According to Tosaf. (s.v. in a.l.) the Mishnah refers to the daughters of priests only. Cf. also [H] 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,

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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.

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this woman also may eat.¹

Whence [is this² proved]? Is it not possible that R. Eleazar and R. Simeon maintain [their opinion] only there because in other circumstances³ 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 he⁵ is entitled

to confer upon the daughter of proselytes⁶ the right of eating, surely [it may be retorted] this very question was addressed by R. Johanan to R. Oshaia⁷ who gave him no answer!⁸

It was stated:⁹ Abaye said,¹⁰ Because¹¹ 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 Because¹¹ he may confer the right of eating¹⁴ [*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 there¹⁶ 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 he²⁹ does or does not retain his holiness. For if he retains his holiness she may not eat since the Master said³⁰ 'The daughter of a male proselyte is like

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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 he³⁵ 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 he³⁵ said that the assembly of proselytes is not called an 'assembly'.³⁷ It must rather be³⁸ 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 eligibility⁴⁰ increased⁴¹ and consequently she is entitled to eat *Terumah*⁴² or has perhaps her sanctity also increased⁴³ 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 money⁴⁵, 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 he⁴⁸ does or does not retain his holiness she⁴⁹ is not permitted to eat.⁵⁰ And if⁵¹ 'in accordance with the view of R. Jose', what need [it may be asked] was there for a Scriptural text? Surely, he⁵² stated that whether he⁴⁸ does or does not retain his holiness she⁴⁹ is permitted to eat! Must it not [consequently be assumed that it⁵³ is] in accordance with the view of R. Eliezer b. Jacob? And so it may be inferred that only her eligibility⁵⁴ had been increased and that she is consequently permitted to eat. This proves it.

It was stated: Rab said,

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. [H] so MS.M. (Cur. edd [H] '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?

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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. [H]. 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. [H] in the original seems to be a mistake for [H] 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.

Yebamoth 57b

'The bridal chamber¹ constitutes *Kinyan*² with ineligible women'³ and Samuel said, 'The bridal chamber⁴ does not constitute *Kinyan*² with ineligible women'.³ Said Samuel: Abba⁵ 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 chamber⁷ 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; she¹⁰ 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 ineligible¹² 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 chamber¹⁵ constitutes *Kinyan*¹⁶ with ineligible women,¹⁷ we arrive at a difference of opinion between R. Meir and R. Eleazar and R. Simeon.

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,

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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. [H].

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 honor 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 be 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.

Yebamoth 58a

According to R. Meir who holds that the betrothal causes ineligibility, the bridal chamber¹ 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 said³ [it is, that the question⁴ 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 money² 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

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on the subject¹⁰ from a Mishnah: The bridal chamber constitutes *Kinyan* with ineligible women.¹¹ And the following Tanna taught the same thing:¹² 'Amen¹³ that I¹⁴ have not gone aside¹⁵ 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 warned¹⁷ while she was betrothed, and then she secluded herself¹⁸ and is now made to drink¹⁹ 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 drinks²⁰ 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 [she²⁶ 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. Thus²⁷ it may be inferred that the bridal chamber alone constitutes *Kinyan*²⁸ with ineligible women.²⁹ Said Raba: Do you think that this³⁰ is an authenticated statement?³¹ Surely when R. Aha b. Hanina³² 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: This³⁴ is possible where, for instance, he³⁵ 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 levir³⁶ [it must obviously be a case] where the man cohabited with her in the house of her father-in-law!³⁷

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', [H] is to be understood as the equivalent of 'as for instance' [H], 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 shown 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. [H]. *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

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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. [H] (rt. [H], '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.

Yebamoth 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 this³ 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 he⁶ addressed to her a Ma'amar,⁷ and it³ 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'!² — 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: It¹² 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 drink¹⁴ 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 cohabitation²⁰ 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, came²² he stated: Where a levir addressed a Ma'amar to his Yebamah, all²³ agree that she is permitted to eat *Terumah*. If he has a profaned brother,²⁴ all²³ agree that she is not permitted to eat.²⁵ They only differ where he²⁶ gave her²⁷ a letter of divorce:²⁸ R. Johanan maintains that she may eat, and Resh Lakish maintains that she may

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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 right²⁹ to confer the privilege of eating, but not in this case,³⁰ since he has no right³¹ to confer the privilege elsewhere. And should you suggest that here also he has the right³¹ to confer the privilege of eating in the case where she returns,³² [it may be retorted that] one who returns³² severs her connection with him and resumes her relationship with her father's house;³³ but this woman³⁴ 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 adolescent³⁶ during her betrothal with him,³⁷

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. [H], 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.

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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. [H] 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'.

Yebamoth 59a

what [is the law]:¹ Are we guided by the marriage² 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 cohabitation⁶ 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 one¹³ 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 WIDOW¹⁷ 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] widow²¹ is to be inferred from widow²² in the case of Tamar; as there²² it was one after marriage, so here²¹ 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 virginity²⁶ 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 virgin²⁷ implies even [one who retains] some of her virginity; her virginity²⁸ implies only one who retains all her virginity;²⁹ in her virginity³⁰ 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

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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 widow³⁸ to a High Priest,³⁹ of a divorced woman³⁸ 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 widowhood⁴¹ 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 reason⁴³ [why the woman is forbidden⁴⁴ is] because she is a widow, and not because she had had carnal intercourse!⁴⁵

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. [H] one over twelve years and six months of age. Cf. *supra* p. 393, n. 5.
19. [H] 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. [H].
28. [H].
29. Which excludes the one who is adolescent, whose virginity has ended.
30. [H], (Lev. XXI, 13).
31. Is she forbidden to a High Priest.
32. The superfluous [H] (= in), in [H] 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?

Yebamoth 59b

— This¹ represents the view of² R. Meir,³ while Rab holds the same view as R. Eleazar.⁴ If [Rab holds the same view] as R. Eleazar,

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what was the object of pointing to her previous carnal intercourse⁵ 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 harlot¹¹ 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 wounded¹⁴ 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 came²¹ he related: It once happened at Haitalu²² that while a young woman was sweeping the floor²³ a village dog²⁴ 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 Parzakaia²⁷ 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 dog²⁹ and the price of a harlot³⁰ are

permitted³¹ 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

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. [H] 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

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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,

Yebamoth 60a

that he pays no fine¹ in the case of a seduced woman.²

R. Gebiha of Be Kathil³ came and repeated the reported ruling⁴ 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 adolescent⁵ 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 with⁷ him; here also⁸ [she should be permitted to live with him because] ultimately she would have become a Be'ulah by living with⁷ 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. Eliezer² 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. Amram¹⁴ stated that the *Halachah* is not in accordance with R. Eleazar!¹⁵ — This is a difficulty.

R. Ashi explained: They¹⁶ differ [on the question whether the offspring] of a union forbidden by a positive commandment¹⁷ 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 profane¹⁹ his seed among his people,²⁰ which refers to all.²¹ And the Rabbis?²² — [By the expression] these¹⁸ 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 these²⁵ 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 these²⁶ should have been written at the end!²⁷ — This is a difficulty.²⁸

YEVOMOS – 41a-63b

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 agree³⁵ 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 one⁴⁰ 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 virgin⁴³ shall be deduced from virgin elsewhere;⁴⁴ as there it refers to a na'arah⁴⁵ only, so here also it refers to a na'arah⁴⁵ 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';

1. Prescribed in Ex. XXII, 16.
2. The marriage exempts him from the fine (v. *ibid.* 15-16).

3. [On the Tigris N. of Baghdad, 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

YEVOMOS – 41a-63b

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. [H] one of the age of twelve to twelve and a half years.
46. V. our Mishnah.

Yebamoth 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 — There² it is different, because the All Merciful has included her [by the expression] near.³ If so, the 'wounded' also should be included! — Near³ 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 colleague⁵ 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 made⁹ from this text! — One⁸ is deduced from That hath had no and the other¹⁰ 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 Phinehas¹⁵ 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 day¹⁹ 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. Consequently²¹ it must be said that Scripture speaks of one who is fit²² for cohabitation.²³

It was also taught likewise: *And every woman that hath known man*;²⁰ Scripture speaks of one who is fit²³ 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. Hana²⁶ 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 pale²⁸ it was known that she was fit for cohabitation; if it did not turn pale²⁸ 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.

YEVOMOS – 41a-63b

Kahana replied: They made them sit upon the mouth of a wine-cask. [Through anyone who had] had previous intercourse, the odor penetrated; through a virgin, its odor 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 this³⁷ 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 other⁴⁰ replied:⁴¹ I heard it explicitly. And what [matters it] if it⁴² was learned by deduction?⁴³ — It is possible that there⁴⁴ 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 she⁴⁵ 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 harlot⁴⁷ while with him?⁴⁸ R. Safra taught [that he⁴⁰ 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

1. One divorced is not fit for a High Priest!
2. Defilement by a common priest.
3. [H] 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. [H] 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.

YEVOMOS – 41a-63b

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.

Yebamoth 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 men³ 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 them¹¹ 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 LEVIR¹⁵ 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 HIM¹⁷ 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 Jannai²⁰ a *tarkab*²¹ of *Dinarii* before he gave an appointment to Joshua b. Gamala among the High Priests.²²

MISHNAH. A HIGH PRIEST WHOSE BROTHER DIED²³ MUST SUBMIT TO HALIZAH BUT MAY NOT CONTRACT THE LEVIRATE MARRIAGE.²⁴

YEVOMOS – 41a-63b

GEMARA. He lays down a general rule implying²⁵ 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 positive²⁶ as well as by a negative commandment,²⁷ and no positive commandment²⁸ 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 cohabitation³¹ 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 WIFE³⁴ 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 SUCH³⁶ [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 BONDMAID³⁸ AND ONE WHO HAS BEEN SUBJECTED TO MERETRICIOUS INTERCOURSE.

GEMARA. Said the Exilarch³⁹ 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

1. [H], 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. [H] (Adam), in respect of Levitical uncleanness by Ohel. The expression [H] 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' ([H]), 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 appellation. V. also B.M. Sonc. ed. p. 651, n. 6].
4. Num. XXXI, 40. Here also the Heb. equivalent for persons is [H] 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 [H] 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. [H] Piel of [H] 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. [H] Nithpael of [H] 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.

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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. [H] 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. [H].
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.

Yebamoth 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 cases³ 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 he⁶ 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 section⁷ 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 marriage¹² 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 going¹⁸ 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. Eleazar²² 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 here²⁴ is to²⁵ 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 this³¹ then the view of R. Eliezer only³² and not that of the Rabbis!³³ No, explained Raba, it³⁴ refers indeed to a common priest, but [the prohibition to marry

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the minor] is a precaution against the possibility of her seduction³⁵ 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: [It³⁴ 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 damsel⁴² 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 RACE⁴⁴ 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: [This⁴⁸ 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

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 procreation, 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. [H] from rt. [H] '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.

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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 opinion 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. [H] (v. Rashi) without heart. [H] 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. [H], one between twelve and twelve and a half years of age.
42. [H].
43. [H], Gen. XXIV, 16.
44. [H]. V, Gen. I, 28: [H], 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.

Yebamoth 62a

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 Testimony⁴ 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 break¹⁰ 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-morrow¹³ [It implies that] to-day shall be the same as to-morrow; as to-morrow includes the previous night¹⁴ so to-day must include the previous night. As, however, to-day's

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previous night has already passed away,¹⁵ it must be inferred that two days exclusive of today must be observed'. And his view coincided with that of the Omnipresent, for the Revelation did not take place¹⁶ 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 Abel¹⁹ [which²⁰ 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 he²⁷ 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 they²⁸ 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 had³¹ 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 statements³³ were] necessary. For if the first only had been stated [it might have been assumed that] only in that statement did R. Johanan maintain his view, since formerly he³⁴ was also subject to the obligation of propagation,³⁵ but in respect of inheritance, 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.

Rab³⁷ said: All agree that a slave has no legally recognized relatives, since it is written, Abide ye here with³⁸ 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 his⁴⁴ own name as well as his father's⁴⁵ name, while here⁴⁶ [the son's names] were not specified. If you prefer I might say: They⁴⁷ 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. Assi⁴⁹ stated: The Son of David⁵⁰ will

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not come before all the souls in Guf⁵¹ 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 fulfillment of the text] He formed it to be inhabited,⁵³ which is not the case here.⁵⁴

An objection was raised:

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, [H].
11. [H], lit., 'may thy strength be firm'. [H] and [H] are regarded as coming from the same rt. [H].
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 fulfill the duty of the propagation of the race. V. Tosef. Yeb. VIII.
19. Gen. IV, 2.
20. [H], (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 propagation 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 shows that an offspring of an idolater is also described as a son!
37. Others, 'R. Abba', v. Alfasi and [H].
38. [H], the same consonants as [H] '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. [H], 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.

Yebamoth 62b

Grandchildren are like children!¹ — This was taught only in respect of supplementing.²

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An objection was raised: Grandchildren are like children. If one of them died or was found to be a saris³ 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 fulfillment of the text] He formed it to be inhabited,⁷ which is the case here.

All, at any rate, agree⁸ that two children of one⁹ 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 Mishnah¹⁷ 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 morning¹⁸ sow thy seed and in the evening¹⁹ withhold not

thy 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 Gabbatha²¹ to Antipatris;²² and all of them died at the same time because they did not treat each other with respect. The world remained desolate²³ 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 them²⁴ 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 West³⁰ it was stated:³¹ Without Torah and without a [protecting] wall. 'Without Torah', for it is written. Is it that I have no help³² in me, and that sound wisdom³³ 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 tent³⁶ is in peace; and thou shalt visit thy habitation and shalt miss nothing.³⁷

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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 peace³⁸, 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 this⁴⁰ deduced from here? Surely it is deduced from the following:⁴¹ And thy desire shall be to thy husband⁴² teaches that a woman yearns for her husband when he sets out on a journey! — R. Joseph replied: This⁴³ was required only in the case where her menstruation period was near.⁴⁴ And how near? Rabbah⁴⁵ replied: Twelve hours.⁴⁶ And this⁴⁷ 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 honors 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 neighbors, who befriends his relatives, marries his sister's⁵⁰ daughter,

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'iltot. 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. [H] (rt. [H]), 'stop', 'choke'.
26. *Supra*, that the duty of propagation never ceases.
27. Deut. XIV, 26. House, [H] 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. [H], 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 [H] as [H], '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

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away from his wife when the menstruation period is near. V. Shebu. 18b.

45. Cur. edd., 'Raba'.
46. [H] 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.

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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 engraft¹⁵ 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: No²⁰ occupation is inferior to that of agricultural labor; 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 swaying²⁴ 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 ground²⁸ and embroils him in strife.²⁹

R. Papa said, 'Sow³⁰ but do not buy,³¹ even if the cost is the same; there is a blessing in the former. Sell out³² to avoid disgrace;³³ but only

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mattresses, [not] however, a cloak, [since one] might not always again obtain [a suitable one].³⁴ Stop up³⁵ and you will need no repair;³⁶ repair³⁷ 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. Abina⁴⁰ 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

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 neighbors 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. [H], 'help'.
8. [H], *meet for him* may also be rendered 'against him'.
9. [H] (rt. [H]), 'to strike'.
10. [H] *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. [Genesis] XII, 3, [H].
15. [H] in Hif. is of the same rt. ([H]) as [H] 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. [H] 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

1. A coin. V. [Glos.](#)

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cloth and do not wind skeins' (read [H], for [H],); '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.

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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 happiness² 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 him⁶ a tray⁷ and has her tongue⁸ also ready for him. Raba said: One who prepares for him⁶ 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 obtaineth¹¹ favor 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 out¹⁷ 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 West²⁸ it was said: This refers to one whose maintenance depends on his money.²⁹

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*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*³⁴ is large.³⁴ R. Eliezer stated: This refers to the Sadducees;³⁵ for so it is said, *The fool*³⁶ *has said in his heart: 'There is no God', etc.*³⁶ In a Baraitha it was taught: This refers to the people of Barbaria³⁷ and the people of Mauretania³⁸ 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 Parsees⁴⁰ had come to Babylon, he reeled and fell.⁴¹ When however he was told that they accepted bribes he recovered⁴² and sat down again.⁴³

They⁴⁴ issued three decrees as a punishment for three [transgressions]:⁴⁵ They decreed against [ritually prepared] meat,⁴⁶ because the priestly gifts⁴⁷ [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 their⁴⁹ 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 that⁵¹ 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 neighbor'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 thou⁶⁵ 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 David⁶⁷ will not come before all the souls in Guf⁶⁸ 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 multiply.*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

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diminishes the Divine Image; since it is said,²³
*And you, be ye fruitful and multiply.*²¹

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!²⁴ 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 [Baraita] 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 man's blood,*²² and close upon it follows, *And you, be ye fruitful,* etc.²¹ R. Eleazar b. Azariah said: As though he diminished the Divine Image. Ben 'Azzai said, etc.²⁵ They said to Ben 'Azzai: Some preach well, etc.²⁵

Our Rabbis taught: And when it rested, he said: 'Return O Lord unto the ten thousands and²⁶ thousands of Israel',²⁷

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. [H] lit., 'stopped up'.
11. [H] regarded to have the same meaning as [H] *supra* n. 7.
12. Prov, XVIII, 22.
13. Palestine.
14. Hebr. Moze or Maza.
15. Eccl. VII, 26.
16. [H] rt. [H] v. *infra*.
17. [H] of the same rt. as *supra* n. 13.
18. Prov. XXII, 10.
19. V. [Glos.](#)
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. [H].
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.

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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.